

# Krakowskie Studia Międzynarodowe

DONALD TRUMP'S PRESIDENCY –  
THE UNFINISHED REBELLION

edited by  
ANDRZEJ BRYK

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numer 1 (XVIII) Kraków 2021



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### **DONALD TRUMP'S PRESIDENCY – AN IMPOSSIBLE AND STILL UNFINISHED REBELLION: INTRODUCTION**

Donald Trump's one term presidency is over. Its end coincided with the COVID-19 pandemic which shook not only the health but politics as well and forced everyone to ask a question how it warped perceptions of the American electorate as far as successes and failures of Trump's presidency were concerned. One could also easily define the election of 2020 as a referendum over Trump himself, a man who had, as someone said "an exhausting penchant for saying the wrong things" at the wrong time, including the pandemic time, in much the same way as his rival Joe Biden had a life-long penchant for gaffes. But whatever Trump's individual faults and merits, his victory was a consequence of a growing sense of destabilisation, breakdown of solidarity, growing 'homelessness' of millions of people in response to liberal globalism's dysfunctions and a corresponding rise of the so-called "populist" rebellions. They caught global liberal establishment firmly entrenched both internationally and in their own countries by surprise provoking vitriolic attacks causing deep polarizations especially in America divided against itself as never before.

#### **Deep divisions masked by liberal discourse**

Trump's presidency was defined, not necessarily by his furious opponents, but in certain respects by himself, as one of the most divisive presidencies in the

US history, comparable to the elections in 1800 in which Thomas Jefferson defeated John Adams or the election in 1828 with Andrew Jackson becoming the first president from the states beyond the Appalachia mountains. Such contests occur when the United States experience strategically significant changes reflecting deeper questioning of axioms existing until then, a shift of paradigm ready to be waiting for anyone who could grasp this fact and use it politically. Trump had a canny instinct to realize that it was not him who was divisive, but that America had been already divided and a large part of the electorate was in accelerating revolt against the sclerotic structure of the Democratic as well as the Republican establishments. Trump's personality, total disregard of the so far existing political etiquette and motives together with vanity and narcissistic inclinations, enabled him to shatter a complacency of the American elites. Additionally, he used shock tactics as a way of polarizing a conflict which had long been brewing in America. He also had a canny instinct to conduct presidency by means of the social media, especially Twitter. Occasional abusive language with which he loved to bait his equally brutal opponents was a real shock to many political pundits. But they misunderstood the situation. In the United States history, such conflicts have been common, a form of a populist revolt punishing the oligarchy for forgetting whom they should serve. If in the European tradition populism has nearly always used a battle cry "suck the rich", the American populist revolts have had on their banners another demand: "let us sit at the same table".

Trump instinctively defined the nature of the present conflict and its political potential, using to destroy mental categories in which the establishments of both parties were imprisoned. Additionally, he masterfully understood the American electoral system, knowing that one does not have to win the majority of the vote to win the election. It was enough to win the majority of the electoral college votes, and these reflected the logic of the federal system.

Both sides of a political contest suddenly realized that America was divided against itself in the most profound way, the fact sociological studies had been describing for some time, the fact which now manifested itself in a drastic political form. The election of 2020 did not change this. America is even more divided after Trump's defeat and it looks that it will remain so in the foreseeable future, because Trump personified a conflict tearing apart the United States and global in its implications. His policies tried to respond to the causes of this conflict. Inconsequential, haphazard and even messy, they were nevertheless far away from his critics' descriptions of Trump as a dilettante. He, most probably, will not be remembered so much for what he did as for what he personified for people who felt betrayed by the liberal elite and the problems he drastically defined are to persist.

His departure from office in 2020 could not be characterized as elegant, bringing some to a conclusion that Trump was even bordering on *coup d'état*. The election itself ended in a spectacular, unprecedented, and anarchistic way because of the pandemic and its use as a tool in a political game against Trump.



After defeat, his response to it was unclear while his followers understood it as an invitation to question a legality of the election itself and an instigation to violence. Trump lost the election but said he had won. Moreover, he claimed he won in a landslide maintaining that the Democrats had stolen the victory from him. A lot of Republicans followed this assertion. Polls showed that most Republican voters agreed that he had won the election, most Republicans in the House of Representatives seemed to support this claim, while most Republican state attorneys backed a lawsuit to overturn the actual results. It was this belief and a call of Trump to his followers to show their unity in a colorful, peaceful march in Pennsylvania Avenue which provoked the rioters to attack the Capitol Hill on January 6. In the same day, most Republicans in the House voted not to certify Joe Biden's victories in Arizona and Pennsylvania.

Such a behavior of a defeated party, including rioters getting into the Congressional chambers, was obviously defined, not only by the Democrats, as novel and outrageous.<sup>1</sup> But there is no doubt that even if election was not rigged, it was in a skillful way manipulated by extended and secret action with lobbying groups using all kinds of methods within ostensibly legal bounds, taking advantage of the pandemic emergencies and limitations to eject Trump from office. This included a coordination of rioters across America in the aftermath of George Floyd's death, one of the manifestations of the "cancel culture" movement. The movement was to remain dormant in case Biden had won and was to be unleashed against Trump, to create anarchy if Biden had lost.<sup>2</sup> Historians and constitutional lawyers, let alone politicians and voters, will debate for a long time whether this constituted a conspiracy and a breach of the Constitution.<sup>3</sup> But such events show that liberal democracy is definitely less and less transparent as far as its rules of operations are concerned and that oligarchy groups can manipulate it to the point of making it an empty shell. One has to add to this an unprecedented ban of Trump's comments on Twitter and then Facebook with a comment by Mark Zuckerberg that it was to last for two weeks "until the end of a peaceful transition of power". As one of the specialists in information technologies commented "it would be difficult to find more unequivocal presentation of the Big Tech's intention, aimed at taking over [political] power [...]. Big Tech [Corporations] in their fight for power de-

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<sup>1</sup> This prompted Democrats in Congress to begin the second, unsuccessful impeachment procedure against Trump, who thus became the only president in the US history to be tried twice this way.

<sup>2</sup> See on the Progressive camp's coordinated policy: M. Ball, *The History of the Shadow Campaign That Saved the 2020 Election*, February 4, 2021, <https://time.com/5936036/secret-2020-election-campaign/> [accessed: 5.06.2021].

<sup>3</sup> For the Progressive left supporters, including its main political arm that is the Democratic Party, such a "conspiracy" was just a corroboration of an excellent organization of a secret movement to eject "fascist" Trump, without which the 2020 victory would be impossible. For the Republican, conservative camp, divided against itself, the Molly Ball's article seemed to confirm real conspiracy they knew existed from the beginning to subvert a democratic verdict.

cided to break a constitutional guarantee of freedom of speech”, a symbolic move in this case. The Big Tech banned not an ordinary user, that had already happened regularly, but a president of the most powerful state in the world.<sup>4</sup>

Trump lost the election, but it does not mean that his attempt to change the rules of the global world was misguided even if his erratic personality, and messy politics made this effort nearly impossible. He was defeated, but problems which he communicated have remained and Joe Biden’s victory may exacerbate the crisis. Opponents of Trump voted for Biden not only because of his main pledge to make Trump go away. Being a politician with meager accomplishments, he is just a pawn in a larger game. People who voted for him wanted anyone to remove Trump from office and because Biden, 78 years old apparatchik of the Democratic Party, was in fact promising to go away, hinting that he might serve only one term making a way for a younger, more radical vice president Kamala Harris. This new generation of progressive politicians, the Democratic Party’s left, is bent on economic transformation of America as well as obsessed with revolutionary cultural changes, most likely making liberal democracy more oligarchic and totalitarian.<sup>5</sup> Such tendencies have been noticed even by the friendliest observers of liberal democracies.<sup>6</sup> Nevertheless, at the very same time they are unable to understand such events as, for instance, Trump’s presidency, for what they really signify and instead engage in abusive gestures and comments.<sup>7</sup>

Trump was not the best messenger to bring bad news about a state of the United States and a condition of liberal democracy. The easiest way for his opponents was to defeat him and pretend that he was a cause of all problems, a judgment being a colossal act of self-deception. His achievements might be modest, but his diagnosis stands as valid. It carried a simple message that glo-

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<sup>4</sup> G. Osiński, “Możemy walczyć o cyfrową wolność”, *Sieci*, May 10–16, 2020, p. 53.

<sup>5</sup> See on this: R. Legutko, *The Demon in Democracy: Totalitarian Temptation in Free Societies*, Encounter Books, New York 2016. In Legutko’s view liberal democracy has become an all-composing, that, behind a veil of tolerance, brooks little or no disagreement. In fact, it shows totalitarian tendencies compelling its citizens to accept only one way of thinking, including anthropology, commensurate with liberal principles, one omnipresent look, independent of the wills of individuals promoted by media, the arts and the education curriculum, with legislatures and judges making laws along the same lines. This resembles the General Will, reaching areas which, as Legutko states, not even Rousseau could dream about – language, gestures, and thoughts.

<sup>6</sup> See esp. J.D. Colgan, R.O. Keohane, “The Liberal Order Is Rigged: Fix It Now or Watch It Wither”, *Foreign Affairs*, May/June 2017, p. 39–40; D. Marusic, “The End of Liberalism?”, *American Interest*, November 2017; I. Krastev, “The Strange Death of the Liberal Consensus”, *Journal of Democracy* 2007, Vol. 18, No. 4, pp. 56–63.

<sup>7</sup> A typical example, even if still a mild one by comparison, is a comment by a professor at the United States Naval War College Stephen Knott, whose book *The Lost Soul of the American Presidency* ends with a vitriolic attack on Trump as “a demagogue who practices the ‘little arts of popularity’, a man lacking the attributes of a magnanimous soul, a purveyor of conspiracy theories” etc., quoted in *National Review*, February 24, 2020, p. 15.

balization and selfishness of political-economic American elites of the 21<sup>st</sup> century pushed the United States into a state of economic as well as social decline, and with it the liberal world order created and sustained by America's global rules was not working. Moreover, they have been challenged by authoritarian but economically efficient and technologically sophisticated China. Negative effects of globalization have shown themselves also in the flow of information monopolized by the Digital Corporations – located mainly in the US and China – taking control over people's mass imagination and consciousness as well as “open borders” immigration ideology with even the most powerful nation states impotent to challenge such tendencies. An intention to regain an ability to act successfully externally and internally stood behind one of Trump's slogan “Either we have a state, or we don't”.

Trump had to function in an extremely unfavorable conditions since during the last several decades liberal democracies have become increasingly governed by oligarchies, creating an entire network of state as well as private institutions preventing any changes which would challenge mechanisms of governance. To challenge the reigning liberal orthodoxy was a daring enterprise, defined by liberal elites by a derogatory and imprecise generic term ‘populism’. After Trump's victory the elites became hysterical refusing any discussion over mounting dysfunctions within liberal democracies flooding him with accusations ending in an unprecedented attempt to double impeach him. His main sin was to state in a straightforward words that liberal democracy, the emperor from Andersen's tale, was naked.

Trump's presidency constituted just one of the democratic rebellions against a process visible for a long time. Liberal democracy has been evolving into a post-democratic, oligarchic system of government while being defined by the liberal global elites as a final stage of human political and economic development to be spread all over the world after the defeat of communism. Its proponents refused to consider any alternatives to its dogmas turning out to become a kind of an elite, expert, technocratic regimen institutional guarantee of the liberal “end of history”.<sup>8</sup>

But history has been a cemetery of political and institutional models once thought to be eternal. Liberal democracy has been changing, abandoning its traditional institutional and political practices and moving towards liberal post-democracy. Its demise is to be long and plagued by unpredictable convulsions, pe-

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<sup>8</sup> This mental attitude was captured by a slogan “there is no alternative” (TINA). Its classical example was provided by a book by F. Fukuyama *End of History and the Last Man*, Free Press, New York 1992, written in a tradition of Hegel's historiography at the most optimistic moment of liberal democratic system after a defeat of communism. This thesis, simplistic and rejected even by many liberals, has been nevertheless guiding western elites till today. See on this process of oligarchisation of liberal democracy: M.A. Cichocki “Od końca historii do społeczeństwa kryzysu”, *Teologia Polityczna* 2018–2019, nr 11, pp. 49–65; and D. Karłowicz, “Reset czy rewolucja?”, *ibidem*, pp. 67–91.

riodic grass roots democratic rebellions and a deepening metaphysical boredom. But we undoubtedly observe power in liberal democracy moving from politically responsible institutions to administrative organs governing by regulations with courts defining arbitrarily the limits of democratic will.<sup>9</sup>

Elites of such institutions form a new ruling class, by its enemies called oligarchy, with main political parties being part of it and intellectual elites providing media and educational security shield for such an activity. Such elites become less and less democratic, recognizing formally results of democratic elections, but if they do not accord with how this liberal elite defines reality, these elite refuses to discuss real problems which prompted such a democratic protest, blocking a discussion by a mental politically correct media training and counter mobilization. Democracy as a process of electing a politically responsible majority with guarantees of minority rights has become just one, and not necessarily most important element of a liberal-democratic regime which might be called liberal post-democracy. Power moves gradually towards liberal elites and institutions governed by experts managing the economy and administration while trying to harmonize a growing avalanche of individual and group identity rights. This process go hand in hand with power being transferred to liberal transnational structures of governance beyond any democratic control.<sup>10</sup>

A liberal-democratic model built after the World War II, based on mutual solidarity and Christian anthropology has been destabilized. Liberal-democracy has become a carrier of the only approved postmodernist anthropology as a ubiquitous world view for all. In this process an individual has to be emancipated from all communal ties with individual rights as the only basis of common obligations freely negotiated in the market of fluid values. This is essentially a “negative liberty” regime limiting democratic control, breeding oligarchy. Within such an anthropology a proliferation of rights is unavoidable, since rights are essentially a province of a subjective autonomous choice of an individual, a choice by implication not possible to be subjected to any objective criteria of judging its validity or verity.<sup>11</sup> This choice is not directed to a truth of “what is” but to a “truth inside

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<sup>9</sup> See on this process: A. Bryk, “Orzecznictwo Sądu Najwyższego Stanów Zjednoczonych jako autonomiczne źródło tworzenia norm konstytucyjnych”, *Studia Iuridica Lublinensia* 2016, Vol. 25, No. 3, pp. 119–137; also R. Hirschl, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, Harvard University Press, Cambridge, Mass., 2004, esp. pp. 100–148.

<sup>10</sup> Many aspects of this process are being analyzed by Ch. Delsol, *Unjust Justice: Against the Tyranny of International Law*, ISI Books, Wilmington, DE 2008; R.H. Bork *Coercing Virtue: The Worldwide Rule of Judges*, The AEI Press, Washington, D.C. 2003.

<sup>11</sup> See in general on this shift from objective values to subjective choices and opinions as basis of rights: P. Manent *The City of Man*, Princeton University Press, Princeton 1998, esp. pp. 156–206; *idem*, *A World Beyond Politics? A Defense of the Nation-State*, Princeton University Press, Princeton 2006, pp. 192–206; also L.M. Friedman, *The Republic of Choice: Law, Authority, and Culture*, Harvard University Press, Cambridge, Mass. 1990.

me”, a totally voluntaristic action and as such demanding its full recognition in the public sphere.<sup>12</sup>

Democratic choice referring to republican values of the common good, and thus unavoidably to common, objective values, has begun to be treated as a populist nuisance on the road to the “open civil society”. Liberal ethic is being defined as an interpersonal skill of solving conflicts by the technocratic expert elites, thus democracy is tolerated only if it chooses according to the expectations of liberal elites about the only imaginable constitutional and political model. Any significant correction is treated as a menace to this eternally correct standard. But since elites cannot directly nullify elections, they endeavor to move all decisions towards uncontrolled technocratic bodies creating at the very same time a wider and wider, excluded from a democratic process, catalogue of rights with a crucial role of courts and judges trying to create an all-human ethic of justice based on them. The courts administering rights and creating them as well become one of the most important oligarchic institutions, the very essence of juristocracy.<sup>13</sup>

Not able to nullify unsatisfying election results, liberal elites consider them not so much illegal as morally bad, or even criminal, trying to define political opponents as pariahs and isolate them. This has become an internationally accepted language. Thus, Trump voters were branded “racists”, “white trash” and “deplorables”. No wonder that limitations imposed on democratic verdicts are resisted, since a ban on any corrections of a model of governance defined as non-negotiable by the technocratic-expert elites provokes resistance. This resistance is universal in a liberal-democratic world since although in principle it is presented as a global liberal model achieving justice for all, in fact it benefits only the global liberal elite destabilizing the political and social order. This fanaticism of global liberal universalism defines at the very same time as an enemy any community in which an individual choice is being limited by common responsibility, beginning with the nation state and ending with the family. Expertise is to be providing security with a conviction that all human existential problems are caused by wrong definitions of particular issues, always possible to be solved by technocratic means.

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<sup>12</sup> This is quintessentially a modern shift described in a classical work of L. Strauss, *Natural Right and History*, The University of Chicago Press, Chicago 1953; see also H. Arkes, *Natural Rights and the Right to Choose*, Cambridge University Press, Cambridge, 2002.

<sup>13</sup> The US Supreme Court Justice Robert H. Jackson defined this trend, even if not the long term consequences of it, in relation to a particular anthropology which is a basis of such rights. He declared that the very purpose of the American Bill of Rights, a statement which may be applied to all legal lists of rights in liberal democracy, “was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts”, [in:] *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943).

### **The importance of Trump's electoral success**

The election in 2016 constituted a symbolic ending of the American or in general Western post-1945 consensus built upon dogmas turning out to be ineffective.<sup>14</sup> The first of them was based on a neo-Keynesian belief in a continuous increase of wealth by technocratic-administrative management with a steady growth of the middle class and a successful assimilation of immigrants needed to sustain such a development in conditions of a Western demographic decline. When this model began to be questioned, American liberal elites wanted to galvanize it by gradually elevating its economic management to transnational global governance. Here the liberal-left variant of it wanted to turn this governance into a kind of a world government with the liberal human rights as its secular substitute of religion, along the lines of the European Union's model. The answer of the Right with its dominant cultural libertarianism and free market philosophy was essentially the same, but with a different controlling factor of this world governance. The liberal left wanted this world governance to be cosmopolitan with international management consisting of the liberal left administrators, legislators, judges and courts, with the US being subjected to this logic, and introducing their image of equality and non-discrimination. The Right wanted to replicate the American national strategy at the global level through free trade, open borders and export of democracy but with an assumption that the United States was capable of dictating the rules of this global game as it had done after 1945 without any challenge to its superpower status. Trump organized American voters who became redundant victims of such policies, trying to use a machinery of the nation state to mend growing dysfunctions of the global market with the US returning to a kind of the Westphalian model of power politics already employed by China and Russia.

Another shattered dogma of the post-1945 consensus was the idea of American exceptional status and its premise that one could impose Western-style liberal democracy on the non-western countries with entirely different cultures. This idea died in Afghanistan, Iraq and North Africa. Trump rejected in principle the costly and non-conclusive wars as a way of realizing this futile goal, quite conscious of the fact that such military endeavors were not acceptable politically and financially burdensome.

The third dogma wanted to build social cohesion and solidarity in the wake of the "emancipation" politics of the 1968 revolution which shattered the protestant WASP's cultural code. The new code was to be based on the ideas of diversity, multiculturalism, identity, non-judgmentalism and the new tolerance understood as total acceptance of any claim to social and political recognition.<sup>15</sup> Such

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<sup>14</sup> A wider explication of these dogmas see: A. Bryk, "Donald Trump as a response to a Global Post-Cold War Liberal World", *Krakowskie Studia Międzynarodowe* 2019, No. 3, pp. 17–39.

<sup>15</sup> P. Manent, *A World Beyond Politics?*, *op. cit.*, pp. 186–196.

a cultural consensus was to be supervised by ubiquitous legal and institutional structure operated by the new class of liberal elites and a language of mainly neo-Marxist political correctness. This model failed and Trump wanted to return to social solidarity based on traditional American patriotism of equal individual chances.<sup>16</sup>

Trump stood right at the very center of a conflict between global liberalism and democratic principle of sovereign people yearning for an alternative, or – put it another way – a conflict with the so called fluid, borderless, post-national “open society” of world citizens regulated by human rights, administrative and economic technocratic means on the one hand and the nation states being able to secure best their citizens’ interests and well-being, with political elites subjected to periodic democratic elections on the other hand.<sup>17</sup> Trump was stressing a unifying, citizenship-building role of classical American patriotism subverted by this “open society” approach, devastated additionally by a rebellion against the culture of the United States as essentially corrupt. This approach, strong in Western Europe as well, has been propelled by an ethic of self-flagellation, a gnawing guilt for all Western sins from the past, especially colonialism and racism requiring incessant atonement. One element of it is “open border immigration” and idealization of “the other” as well as a policy of total “emancipation” from the entire Western culture, defined by the neo-Marxist Frankfurt School, as the means of liberation from the past sins.<sup>18</sup> In the United States this attitude gradually morphed into the so called “cancel culture” revolution. For Trump this was a negative emotion sapping Western strength, the idea especially articulated in the Warsaw Speech of 2017.<sup>19</sup>

Trump, because of the American superpower status, decided to correct the rules of the liberal global game sensing its dangerous destabilizing tendency, the policy which had to affect every aspect of the post-Cold War international order. This was by definition an extremely polarizing policy, one of the reasons that the elections in 2016 and 2020, focused in large measure on Trump’s personality, turning to a referendum with one simple question whether one loved or hated

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<sup>16</sup> A good overview of this new cultural post-1968 failed dogma in the United States and consequences of this failure, usually not properly understood and diagnosed, can be found, from a conservative point of view, in R.R. Reno, *Resurrecting the Idea of a Christian Society*, Regnery, Washington, D.C. 2016; from a liberal-left point of view a comprehensive criticism can be found in: M. Lilla, *The Once and Future Liberal: After Identity Politics*, Harper Collins, New York 2017.

<sup>17</sup> This conflict is well presented, even if from a point of view of a defender of the nation state, by Y. Hazony, *The Virtue of Nationalism*, Basic Books, New York 2018. For Hazony, the nation state provides “the collective right of a free people to rule themselves”. See also J. Fonte, “In Defense of Nations”, *National Review*, <https://www.nationalreview.com/magazine/2018/10/01/in-defense-of-nations-book-review/> [accessed: 5.06.2021].

<sup>18</sup> See: P. Bruckner, *Tyrania skruchy: rozważania na temat samobiczowania Zachodu*, transl. by A. Szeptycki, PIW, Warszawa 2019.

<sup>19</sup> Both the Warsaw Speech and the “cancel culture” resolution will be dealt in detail later in the text.

him. This obscured a clear picture of political differences and made impossible an answer to a question why he won despite enormous opposition of both the Democratic and Republican party establishments as well as the dominant intellectual class, not only in the liberal but also in the conservative camp, both united by unmitigated “resistance” against him. Trump’s victory in 2016 revealed for them a neglected, treated as marginal, not politically relevant, and unpleasant problem of contemporary America, described by J.D. Vance bestseller of the same year *Hillbilly Elegy*, the book about economically, socially and culturally devastated and abandoned by the liberal elites “America on the other side of the tracks”.<sup>20</sup> When a similarly candid book *The Other America* was published by Michael Harrington in 1962, focused on the then invisible poverty in the United States, it described essentially its economic aspect. The book caused a shock in a country which was in the middle of the longest and stupefying period of prosperity in its history.<sup>21</sup> America’s elites responded then with “The War on Poverty” program initiated by President Lyndon Johnson. The program was ill conceived and betraying liberal elites’ sense of hubris of godly omnipotence, nevertheless it was a response to a problem defined as a scandal and a moral offence to the American promise. When a similar truth, in different sociological and cultural conditions of today’s America, described a much more devastated in every aspect of life “forgotten” part of its citizenry, was revealed it met with a totally different response: silence, despise towards “a basket of deplorables” or derision towards “rednecks”. But this time it was America governed by different liberal elites orienting themselves more to the global market irrespective of its cost for the weakest of Americans. A reaction of this elite towards Trump’s victory testified to this striking, immoral in its essence, difference.

Trump polarized a conflict between the cosmopolitan elites and, let us say, the populist-nationalist electorate in America. He sensed instinctively this rootless feeling of homelessness of a growing number of Americans devastated by global economy and social dysfunctions and many saw in him an advocate of their long forgotten hopes. Trump also realized that to win the nomination he had to risk head on conflict with the establishment of his own Party, since his potential winning electorate has been for quite a long time in conflict with this establishment. He knew that the electorate of the Republican Party has been moving for some time in this “populist” direction becoming “the natural home of those who suspect that America’s expert class lacks real expertise. Trump [also] showed that Republicans can make even more electoral gains in rural areas and

<sup>20</sup> A journalist of *The Globe and Mail* magazine made a telling observation in his review: “How to explain a phenomenon of Donald Trump? You will find an answer in ‘Hillbilly Elegy’, despite the fact that his name is not even mentioned in it. An extraordinary book”. Quoted on the cover of the Polish edition: J.D. Vance, *Elegia dla bidoków*, transl. by T.S. Gałązka, Marginesy, Warszawa 2020.

<sup>21</sup> M. Harrington, *The Other America: Poverty in the United States*, Macmillan, New York 1962.



economically struggling regions, and among minority voters, with a populist and nationalist message".<sup>22</sup>

That is why although Trump lost the election in 2020, he left the Republican Party in good shape making it more oriented towards American interests as more important than dreams of humanity under governance of cosmopolitan elites, and more "populist", that is democratic in an American, positive sense of the word. Contrary to the liberal-left accusations, the Party has become much more diverse and open to other, especially culturally conservative and working class electorates, abandoned by previous Republican administrations. That was especially true of George W. Bush, who after initial overtures to cultural conservatives with his "compassionate conservatism" idea, focused on his costly dream of transforming the undemocratic world in an American fashion neglecting the lower and the middle classes. It might be true that due to his erratic character and inability to establish a coherent policy Trump's term might be defined from a point of view of cultural conservatives and nationalists as a term of wasted opportunities. But the Republican Party has again become their "home". Republicans ceased to be entirely identified with managerial professionals and big money interests, the latter label stuck to the Party since F.D. Roosevelt times and only briefly and partially neutralized during Reagan's presidency. Republican politicians need now to orient themselves only more to blue collar workers abandoned by the elitist Democratic Party in alliance with different minorities, while keeping their old supporters in the same camp as well. For them the electoral loss in 2020 was not a disaster, but a beginning of a new coalition of the Right, a period of intellectual ferment.<sup>23</sup>

Donald Trump's election was not a fluke, he "did not come out of a clear blue sky. [...] Trump's emergence was a reaction to a generation of Republican leaders who had gradually lost touch with their own voters. The leaders had become too complacent: about the economy, about immigration, about their own defeats, and finally about their position atop the Republican Party".<sup>24</sup> Although for the Progressive camp Trump represented continuity with the past Republican Party's policies not winning exactly by challenging Republican traditional program but represented its policies beginning from the New Deal reforms until Obamacare. But this view was unwarranted, playing more a handy role of discrediting the Republican Party as a preparation for the next election. But in fact, such politicians as Mitt Romney or George W. Bush represented this very establishment of the Republican Party which Trump challenged appealing to a democratic vote dubbed by his opponents as the "populist". The Republican establish-

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<sup>22</sup> M.B. Dougherty, "Trump as Populist-Nationalist", *National Review*, November 30, 2020, p. 19.

<sup>23</sup> See a good analysis of this: R. Ponnuru, Y. Levin, "The Next Coalition of the Right", *National Review*, March 23, 2020, p. 28–31.

<sup>24</sup> R. Ponnuru, "Republican Riot", *National Review*, February 8, 2021, p. 14.

ment used here the same vocabulary as the Progressive-Democratic camp. They did not realize that Trump could truly be defined as “populist” but in the best sense of the American tradition of a rebellion against corruption, a phenomenon captured by an adage “to throw the rascals out”. His “populist movement”, if we use this word as a descriptive and not an abusive category of explanation, resembled a Jacksonian “revolutionary” election of 1828.<sup>25</sup> This “revolution” of 1828 made the United States more democratic and less oligarchical.<sup>26</sup>

Trump’s election was a shock for the liberal-left elites, still incapable of understanding that the Reagan’s coalition and legacy, its Holy Grail of political wisdom, is over. In the Republican camp Trump’s victory elicited heated and bitter debates with attempts to redefine the very meaning of conservatism and republicanism in America in every group of the Reagan’s coalition. This coalition once united by anticommunism since his presidency of 1981–89 had enormous difficulties to define itself anew in conditions of the 21<sup>st</sup> century.<sup>27</sup> It began to rip especially because of the increasingly “missionary” zeal of the neoconservatives in American international politics and an inability to stop the Progressive offensive for some part of the Republican coalition, mainly economic neoconservatives, libertarians and neoconservatives unimportant. For the former two it was the market which was important, for the latter the global democratization program and the war on terror by means of the state. Its truly culturally and religious conservative currents were pushed to the sides by the cultural revolution of the liberal-left and the Reagan’s coalition by the time of Trump’s victory was in a deep crisis

over learning certain lessons. The Republican Party prior to Trump had continued to extend the truths it discovered in the 1970s and 1980s past the point where they made sense. This inertia affected the party’s mood and habits, not just its policies. Conservatism always has a tendency to nostalgia [...] [b]ut the possibility of decline can also be exaggerated into the certainty of apocalypse, and conservatives are too prone to assuming it.<sup>28</sup>

This made them incapable of understanding who was a true carrier of conservative values and policies, but first of all what such policies should mean at the beginning of the 21<sup>st</sup> century. For instance, the neoliberal economic camp seemed not to realize that in a globalized context a role of the state was to be re-

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<sup>25</sup> On this see: W.R. Mead, “The Jacksonian Revolt: American Populism and the Liberal Order”, *Foreign Affairs* 2017, Vol. 96, No. 2, p. 2–7.

<sup>26</sup> It was this development which prompted Alexis de Tocqueville to write two volumes of *Democracy in America* in between 1835–1840, the best book on America and democracy ever written, and an astounding analysis of the American democratic changes and its dangers, a universal phenomenon soon to engulf Europe.

<sup>27</sup> For an analysis of the Reagan’s coalition see e.g.: A. Bryk, *Konserwatywizm amerykański od Ronalda Reagana do rewolucji Obamy*, [in:] *Ronald Reagan: Nowa odsłona w 100-lecie urodzin*, ed. P. Musiewicz, Ośrodek Myśli Politycznej, Krakow 2011, pp. 191–319.

<sup>28</sup> R. Ponnuru, “Republican Riot”, *op. cit.*

defined and its incessant limitation might play to the most oligarchical tendencies instead of securing the free market and democratic opportunities. The libertarians didn't understand how a deregulation of culture and morals devastated the traditional conservative base. The Republican establishment was unable to realize in this context that a vintage wing of the conservative movement in America, the neoliberal economy along the lines of the Chicago School aids the globalist oligarchy tendencies against the large chunks of the American society. Moreover, it became an ally of the "emancipatory left" with the same purpose to create an ideal individual, that is free floating consumer without any roots. In this sense the "cancel culture" crowds and the ideal consumer of the market economy today have become allied, with the former not so much understanding that their ideas are playing to the ideas of the liberal-left cultural oligarchy. The Progressive left tries to use the

ordinary angst [of] [...] youths, some blue-collared, many with useless baccalaureates, [by] sublimating anomie into smashed car windows and the odd bit of arson. It appeals to the adolescent appetite for transgression, the *épater les bourgeois* ethic of radical youth movements around the world. [But apart from it they reflect a deeper problem with an injunction.] Remember, you asked for this.<sup>29</sup>

Trump's anti-globalist rhetoric was pitting at this camp of the global market Republican coalition especially in the name of an abandoned "common man". This neo-liberal Republican establishment united itself with radical cultural left also having aims hitting at the very core of American identity and values dear to the "common man", abandoning the legacy of the Roosevelt's Democratic Party of the "little man". So Trump's victory in 2016 threw the entire Republican-conservative camp, especially its market and currently the most powerful current, into disarray forcing it to reconsider its most cherished principles, the problem which got even more exacerbated after his defeat in 2020, since they already learned a lesson from the opponents of Trump presidency, for whom the Republican conservative, religious and "common man" base were not just citizens but a hateful remnant to be eliminated.<sup>30</sup> For the Republican Party and its electorate, it was thus crucial to retain this Trump's powerful electoral basis.

If in general for the Republican establishment Trump's victory was a shock, for the progressive economic and cultural liberal left it was an Armageddon. It disrupted the "march of history" towards "emancipation" from all traditional patterns of life and institutions with its anthropology of maximizing individual autonomy and a definition of human relations in their existential complexity only on the basis of equal rights. In Trump times liberal civilization experienced a radical transformation of traditional, individualistic type of equal political rights liberal-

<sup>29</sup> D. Foster "Notes on an Underclass", *National Review*, February 8, 2021, p. 36.

<sup>30</sup> M. Tushnet, *Abandoning Defensive Crouch Liberal Constitutionalism*, May 6, 2016, <https://balkin.blogspot.com/2016/05/abandoning-defensive-crouch-liberal.html> [accessed: 5.06.2021].

ism into identity liberalism, a society of warring tribes oriented towards a realization of their subjectively chosen identities.<sup>31</sup>

Trump's slogan "America First" hit at the core of the globalist ideology of technocratic elites united with the cultural liberal elites in their pursuance of an ideal global market of consumers of goods and values in a totally autonomous, imperial way by an individualistic choice. Trump did not want America to withdraw from the world but to alter the globalization rules yet contrary to the establishment elites, both Republican and Democratic, questioned its logic as being favorable to America. This was a change the American globalizing elites did not notice, or at least were too paralyzed by inertia to counter them. Globalization rules created by the United States after the World War II and secured by its military and economic superpower status had ceased, argued Trump, to work in America's interests, although not necessarily in the interests of its global elites.<sup>32</sup> It is here that the major line of conflict was so easy to define, and Trump was not afraid to activate this in his political fight. This was done easily because he was an outsider in political establishment circles, playing more by the rules of economics than politics. Trump also realized that the electorate which gave him a chance to win, that is the working and lower middle classes as well as a much larger percentage of racial and ethnic minority groups supporting him that any Republican candidate before, was neglected if not abandoned by the United States elites captive to the ideology of globalization, disrupting in a profound way the very unity and solidarity of the society itself. His slogans "America First" and "Make America Great Again" were appealing to a classical idea of American republicanism which global liberalism treated as anachronistic. The most shocking realization was a fact that Trump saw enormous gains among Hispanic voters, who, for instance, were allegedly for immediate amnesty for illegal immigrants, a reduction in enforcement of immigration laws and expansion of immigration as a ram to dilute American identity. But in fact, Hispanics considered assimilation a preeminent goal for these who were coming, the word which is a "dirty" word on the left, because it is a political threat depriving them of a possible electoral block.<sup>33</sup>

### **Goals, aims and meanders of government: meaning and efficacy of Trump's policies**

Historians will debate how successful Trump turned out to be in his attempt to begin a strategic reorientation of the American global self-perception. It is doubt-

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<sup>31</sup> See on that: P. Manent, *A World Beyond Politics?*, *op. cit.*; Ch. Delsol, *Nienawiść do świata: totalitaryzmy i ponowoczesność*, transl. by M. Chojnacki, Pax, Warszawa 2017.

<sup>32</sup> See on this: K. Dadak, "Globalizacja w odwrocie – implikacje dla Polski", *ARCANA* 2019, No. 6, p. 50; from the European perspective see also: M.G. Bartoszewicz, *Festung Europa*, Ośrodek Myśli Politycznej, Kraków 2018.

<sup>33</sup> See: *National Review*, November 30, 2020, p. 6.

ful yet that his internal policies will have any long lasting consequence. Such an assessment has been complicated by the COVID-19 pandemic and its impact on the 2020 election and an unexpected “cancel culture” revolution in the wake of the police manslaughter of George Floyd in June 2020. But judging from the first moves of President Biden, a simple return to a pre-Trump era is not going to be easy, despite calls of his most radical supporters to totally eradicate his policies and marginalize his voters, a phenomenon showing that liberal society has been moving from a pluralistic sphere of diverse ideas and people agreeing to both win and give away power in a democratic way to a society animated by irreconcilable ideological differences.

Trump was not a president of great accomplishments if we judge him by the expectations of his electorate and his stated objectives. In a popular opinion he is known for some tax reforms, trade war with China, some pro-Israeli moves including the most spectacular recognition of Jerusalem as Israel's capital. At face value these seem to be his signature reforms. Nevertheless, some of his accomplishments despite many lost opportunities are real and, in some fields, may turn out to be lasting and having great consequences. What the Trump electorate and he himself considered great victories, the liberal-left treated as an existential threat, warning that this was a policy which was going to drive America back by centuries putting at the same time the world at risk. But neither America collapsed, nor the world “explod[ed] like a micro-waved potato”, as one observer remarked.<sup>34</sup> Additionally, there were some important moves by Trump in areas of economic liberty and due process of law being observed on campus where accusations of sexual misconduct or other politically incorrect “crimes” not confirmed by any credible evidence could destroy students life. He also defended color-blind admission criteria at the universities as well as tried to limit a widespread abuse of civil rights laws used to incapacitate rightful police activities.

But three areas seem to be especially important as far as Trump's accomplishments are concerned from a point of view of the conservative electorate. Several will probably be recognized even by the anti-Trump “deep state” establishment as necessary if American dominant global position was to be retained. Some if not successful, like immigration reform, exacerbated the crises to a point where it could no longer be ignored.

### **Responding to failed utopia of “eternal peace”**

Foreign policy occupied, out of necessity, a large portion of Trump's presidency. His accomplishments here were mixed. But he found himself in an extremely complicated situation rarely experienced by the US presidents. The old post-War II world order which seemed to become permanent especially after the fall

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<sup>34</sup> H. Wilhelm, “Stranger Than Fiction”, *National Review*, February 24, 2020, p. 48.

of communism, was by his time definitely over. The new global order was not yet born and Trump as a president of the still no. 1 superpower had to define and respond to the new challenges when all the sure axioms collapsed. Representing a growing consensus of its establishment, which hated Trump and sabotaged his decision by the “deep state” obstructions but in certain respects shared his pessimism, he understood that the *Pax Americana* is over and the “export of democracy” turned out to be a failure, thus a decision to get out of the Afghanistan and Iraq. Trump’s desire to get out of such places and to focus on American problems was shared already by Obama but this policy was additionally connected to a return to a Westphalian-type global game in which the United States suddenly began to be a weakened player. This return constituted a concession that the US lost its strategic objective with its “export of democracy” policy, a defeat of the same psychological magnitude as the Vietnam debacle. In both cases an ability to arrange the world according to America’s image turned out to be beyond its grab. The world turned out to be a motley of regional players influenced by bigger ones which had immediate interests in particular countries and a potential to stabilize or destabilize them. The US arbitrage was no longer needed and possible. This demise of the US as a global player not only in the political and military sense but also in economic and institutional sense forced the American elites to shift to a policy of balance of forces. The US had to abandon a dream of building a permanent order, a kind of international *perpetuum mobile* within the Cold War frozen bipolar world or under American guidance after 1990, and accepted a principle of a shaky international landscape, incessantly in need of corrections to restore a shattered balance again.<sup>35</sup> This *perpetuum mobile* mentality is over among American elites and Trump’s presidency constituted one response to this new situation which brought ordinary Americans bitter disillusionments. He especially seemed to stress, even if in an incoherent way, that this drive to establish permanent balance under American leadership was strategically impossible because the military and economic means of the United States were no longer up to this task but also that such a policy resulted in a colossal waste of national resources and its might, while sustaining an illusion that all external and internal dangers were under control. Trump recognized the fact that the United States overlooked some looming problems devoting too much energy to a fight with terrorism, in fact just a permanent police operation, and trying to spread liberal democracy by military means overlooking two major challenges, a geostrategic rise of China and an unraveling of the American social fabric. The latter problem had geopolitical causes as far as its economic dimension was concerned as well as cultural causes totally neglected by the American liberal elites focusing only on

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<sup>35</sup> In a certain sense that was Henry Kissinger’s idea, best expressed in his first book *A World Restored: Metternich, Castlereagh and the Problems of Peace 1812–1822*, Houghton Mifflin, New York 1957. The book is usually interpreted as a program for a permanent balance between superpowers after the age of upheaval, but Kissinger’s is a much more nuanced argument in which balance depended on several constantly changing factors in need of incessant corrections.

a development of the East and the West coasts and abandoning the entire interior, so called “fly-over country”. This abandonment had many causes with the economic globalization being an important one but here an important new phenomenon appeared. Wealth, contrary to historical experience was no longer produced by workers of any sorts and thus they became strategically redundant from the point of view of the global economic elites. But this process has been going on hand in hand with the liberal-left “emancipation” and “cancel culture” revolutions devastating the social fabric predominantly of the weak citizens, with no restorative means created as a response to this problem.

Trump's policies constituted a lame response both to this geostrategic challenge as well as to internal ripping of the social fabric of the United States. Nevertheless, he had some successes. His fierce stand against jihadist terrorism and annihilation of the ISIS caliphate was largely successful. But his drive to discipline North Korea as well as a new approach to Iran turned out to be failures, despite reinstating sanctions to squeeze Tehran's regime. His reorientation of the China policy, a definition of it as a strategic enemy menacing American interests and a corresponding straightforward demand towards the European Union look much more promising. The European Union got in fact an ultimatum from Trump: do not think about being an independent, symmetrical superpower, even if Russia dreams about this as a means of controlling Euro-Asian mainland, thus pushing Americans permanently out. If you allow Chinese together with Russia, argued Trump, to form an economic network of interests against American ones then you were to be our enemies. In fact, this was a message stating that the EU was too weak and decadent to think of itself as a prospective superpower. It had to choose whether it wants to stay within the Atlantic alliance or forcing the United States to treat the EU as an adversary. In was in this context that so much stress was put by Trump on the Europeans to share a burden of NATO expenses, the organization always treated as the surest guarantee of the American-European link. In this context he tried to revise trade agreements detrimental to American interests and withdrew from the Paris Accord on climate change, treating it as not only purely symbolic but too much ideologically influenced program, aims of it to be achieved by gradual technological change and cooperation of all the concerned parties.

Trump's evaluation of China as dangerous was linked to specific policies which were to be dealt with if this strategic danger was to be prevented. One was Trump's trade policy, not only with China. His electorate wanted to use it to achieve too many goals at the same time, some of them contradictory. Everybody agreed that American security and self-sufficiency was to be achieved and that trade should not allow essential supply chains to be controlled by hostile or rival powers, for instance a manufacturing of silicon chips necessary for advanced weaponry or medical supplies, an acute problem due to pandemics. But how to accomplish this goal was a difficult task. Some legal measures, as for instance

the Defense Production Act of 1950 could be immediately unfrozen, a standard procedure in every country in times of crisis, but this might be possible only if the industrial basis, that is factories, does physically exist. If they were moved to China or other countries, the time was needed to rebuild them. In this context it is also difficult to reconstruct a pool of specialists which might be necessary for a production of the aforementioned goods, with a massive shortage of engineers in the US and their abundance in China. The problem was essentially of the same magnitude when the Soviets sent Sputnik in cosmos and Americans realized that they do not have an educational basis to create R&D system quickly; the challenge solved only by the long term strategic investment in science by John F. Kennedy's administration. At that time the race for nuclear and space supremacy was won. But today to start the total reorientation of American economy so to match China's advantage in many fields once dominated by Americans is a gargantuan task for the entire generation, let alone a problem of properly defining fields of competition of which cyberspace security and space contest seem to be prominent as well.<sup>36</sup>

A retooling of trade policy to restore internal political consensus and a wider coalition building by means of implementing industrial America and rebuilding devastated working class regions seem to be a real challenge today. In these less educated places, a disappearance of it is not the only problem. Equally devastating are mass social pathologies never before encountered on such a massive scale in the United States. These include the messy consequences of the sexual revolution on the loose not disciplined by social and communal duties, with huge illegitimacy figures, deadly drug use, widespread deaths of despair, diminishing life expectancy. To implement any policy which might alleviate such problems seems to be a truly epochal challenge, requiring not only economic changes but also much more difficult to introduce cultural changes. And it was in this local world of working and lower middle class Americans, the most socially and culturally devastated group, that a large percentage of Trump's electorate was located. Lack of breadwinning salaries for men without college degrees mobilized in 2016 and 2020 this group behind Trump, but the loss of any hope might make them vulnerable to all kinds of demagogues from the Progressive camp advocating essentially two options for them: disappearance as soon as possible or permanent dole. A part of the economic policy of Donald Trump was a reduction of trade deficit, a perennial and hopeless topic of all presidential administrations of the last generation. But this was closely connected with other arguments of

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<sup>36</sup> As Tim Cook, Apple's CEO said, the times are long gone when China was perceived by his company as a place of cheap labor, instead it is already a country with enormous pool of skilled workforce. In the US, he remarked tooling engineers could hardly fill the average room, when in China they could fill several football fields. See on this R&D disparity in the general context of American-Chinese strategic competition: G. Allison, *Destined for War: Can America and China Escape Thucydides's Trap?*, Houghton Mifflin Hartcourt, New York 2017; also D.P. Goldman, "Must We Fight?", *Claremont Review of Books*, Fall 2017, p. 83–89.



rebuilding American economy and Trump was here pointing out the aforementioned unfavorable trade agreements stressing national competition more than international mutual cooperation, cherishing American patriotism as a way of social solidarity and promising jobs to devastated regions.

Trump's record on all above-mentioned economic reforms, densely mutually intertwined, turned out to be a mixed one. Economy under him became strong, even if eventually weakened by the coronavirus. The wage increases at the bottom of the economic ladder were also significant. But renegotiating trade agreements with China provoked tensions, half measures and threats of retaliation also in a military and political areas close to China like Taiwan or in general in the South-East Asian region. Renegotiations with the European Union of the Trade and Investment Partnership (TTIP) provoked its resistance, the same happened with attempts to renegotiate NAFTA with Canada and Mexico. Changes initially advocated to increase free trade turned out to be modest, incremental and essentially on the margins, additionally criticized as politically self-serving.<sup>37</sup>

Another factor might be crucial in the long run in this new geopolitical context and Trump, not an intellectual, tried somehow to grasp the problem in many of his public policy statements of which the most significant and spectacular seemed to be his Warsaw Speech on the 6<sup>th</sup> of July 2017. This message was straightforward and focused on culture as such, the Western culture.<sup>38</sup> This cultural dimension was connected with economic aspect, which despite constant cries of inequality is understood by the liberal left in a very narrow, utilitarian sense, while the neoliberal market economy is not able to alleviate structurally the permanent wealth differences.<sup>39</sup> This cultural dimension is connected with doubts about liberal-democracy in general. The self-hatred of the Western civilization seems to be probably the most important and at the end of Trump's presidency. This self-hatred showed its ugly face as "cancel culture" and "wokenism", even when using moral-sentimental phrases of equality as well as ideological

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<sup>37</sup> For instance, Trump was accused that an agreement to buy more US soybean by China was to help him during the election campaign in some rural swing states. Moreover, one can woe-fully argue that such trade victories, also with the EU, signify a further proof that the United States is being pushed down the value chain of production, worryingly similar to the traditional Third World economy pattern.

<sup>38</sup> This elicited a vitriolic reaction from the liberal-left opponents of Trump. A typical reaction to Trump's Warsaw speech was a comment by a liberal-left columnist of *The Atlantic* Peter Beinart for whom Trump's stress of Western values in his language represented only white and Christian values. Beinart stated that the use of a phrase Western values "only makes sense as a statement of racial and religious paranoia", P. Beinart, "The Racial and Religious Paranoia of Trump's Warsaw Speech", *The Atlantic*, July 6, 2017, <https://www.theatlantic.com/international/archive/2017/07/trump-speech-poland/532866/> [accessed: 5.11.2018].

<sup>39</sup> This is connected with the main argument of China, repeatedly being put forth and very influential in the global context, that its economy has done something extraordinary just within a relatively short time of one generation, that is it has lifted permanently billion of people out of utter poverty.

labels as “white supremacy” after George Floyd’s death.<sup>40</sup> This ideology of self-hatred branded “wokenism” or “cancel culture” did not spring out of the blue. It was long in gestation in American universities and its most visible theory is the so called critical theory with most prominent today its American variant of critical race theory, a theory of racial, material and cultural equality, or non-discrimination. This ideology, having little to do with liberalism although it captured it for its own purposes, is spreading intellectually and institutionally, forming a monopoly of opinion, suppressing free inquiry and spreading a practice of spying, condemning, and punishing in all forms. In such an atmosphere Trump was defined by “cancel culture” ideologues as the arch-villain, as someone defending nearly everything which they hated, including the goodness of principles upon which the United States was built and all the achievements of the Western civilization. He also condemned what the proponents of the “cancel culture” loved, mainly political correctness and the crazy aspects of the sexual revolution. No wonder that liberal oligarchy hating Trump used the “cancel culture” movement as a weapon against him preparing crowds to flood the street in case he would win the election in 2020 and no wonder that in such an atmosphere Twitter and Facebook could censor him. Trump defended Western culture since he understood that a vitality of any civilization depends as much on its economic and military might as on its cultural pride and self-esteem. This is first of all a belief that such a culture is worth loving and defending, a conviction without which in the long run it is not possible to sustain the former two conventional pillars of power. If defense of liberal democracy is to succeed, its citizens have to believe that it is worth defending and such an attitude has to accept that it has universal values which need to be worth fighting for, instead of being destroyed.<sup>41</sup> If this stance of self-hatred was to persist, then other civilizations, like for instance China, powerful and economically efficient, will have no problem convincing other countries of the world that Western values and Western culture is worthless.

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<sup>40</sup> In general, this is an attitude of suddenly waking up from false consciousness of not recognizing its mental and intellectual captivity preventing one from understanding a true nature of the United States as a “racist, patriarchal, imperialist, homophobic, transphobic”. The tactic is to name any ideologically devised phobia one come up with and define it as an ingrained characteristic of the Western civilization which needs to be restored to its proper moral perfect “point zero”. This final, properly moral “point zero” is a state from which there will be no longer possible to divert, the situation constantly supervised by the guardians of ideological – that is moral – purity. This totalitarian in its implications idea has its roots in the “emancipation” ideology of Marxism, developed into a modern program for a late bourgeois society by the German Frankfurt School. It has its European and the American wing, and the “cancel culture” is its latest version applied to the American context. See esp. Ch. Delsol, *Nienawiść do świata...*, *op. cit.*; also P. Bruckner, *Tyrania skruchy...*, *op. cit.*

<sup>41</sup> See an analysis of this suicidal evolution of liberalism: Y. Hazony, “The Challenge of Marxism”, *Quillette*, August 16, 2020, <https://quillette.com/2020/08/16/the-challenge-of-marxism/> [accessed: 5.06.2021]

### **Against hostile secularism of liberal-left technocratic oligarchy**

From the point of view of his conservative voters Trump's achievements were more spectacular in other areas, mainly invoking civil rights laws to safeguard religious freedom. The very question whether we observe the death of the Western Christian world as we have known it for sixteen centuries is definitely worth asking, although it does not mean the end of Christianity or Christians. Nevertheless, it might be possible to speculate that the world based on certain Christian anthropology and social practices and laws derived from it may cease to shape human mass consciousness. If such a demise would really come the imaginary world in which, as Remi Brague wrote, humans had their anchors in haven, that is in imaginations of supra-natural reality, which was a source of the final perpetration and sense, without which this world perishes, would not influence culture at all. America, traditionally a very religious country of many denominations, has been subjected right now to this challenge in the most acute form of secular fanaticism with its own gods, the major existential error of idolatry. The most important line of conflict, the one defined by one's approach to the sexual resolution, is being drawn between the creedal, orthodox religions whether Catholicism, Judaism, Orthodoxy or Evangelicalism and secular New Age, misty individualistic spiritual "religion" of oneself. This religion of "me" does not give a damn about any objective morality and is absolutely in tune both with consumer corporate capitalism and radical ecological religion. In such a situation religious orthodox people who want to defend their world of traditional normative morality are forced to use and accept this post-religious, or progressive religious language, knowing that liberal elites do not listen to them or anybody else, and that their moral world, including the world of their children, their education and their faith is not only being devastated but that this devastation is defined as Progress by people who hate their beliefs.<sup>42</sup> In other words, the world in which religious orthodox people, especially Christians "have to reconcile themselves to a kind of class status [...] preparing for relative deprivation and hardship [and] the aggressive secularization of mainstream society and its implications for the church [...] the long peace that has persisted in the West between church and state is at the end."<sup>43</sup> There are some who think that this new secular aggressive regime rooted in two pillars of the sexual revolution and psychotherapeutic culture is much weaker than it appears and that its tyranny and deception are more and more visible since

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<sup>42</sup> See R. Dreher, *The Benedict Option: A Strategy for Christians in a Post-Christian Nation*, Sentinel, New York 2017; A.M. Esolen, *Out of the Ashes: Rebuilding American Culture*, Regnery, Washington, D.C. 2017; Ch.J. Chaput, *Strangers in a Strange Land: Living the Catholic Faith in a post-Christian World*, Holt & Co., New York 2017; see also a classical book indicating the implications of this, then already visible trends: R.J. Neuhaus, *The Naked Public Square: Religion and Democracy in America*, Eerdmans, Grand Rapids 1984.

<sup>43</sup> J.D. Davidson, "New Life to a Dying World?", *Claremont Review of Books*, Fall 2017, p. 79.

they show an essential emptiness of their conception of freedom born out of the unbound sense of auto-creation, of being “like gods”<sup>44</sup>.

Before he became a president, Trump was not a part of this intellectual discussion. Moreover, one could even say that in all his adult life he totally represented this modern world. But by sentiment and by American instinct of freedom he sensed the danger of total intolerance and a threat of persecution of religious people and decided to use in their defense the only weapon the weak people can try to use against the strong that is the law, in the American case the Constitution, namely the First Amendment. And it is here that Trump left certain rhetorical and some lasting legal legacy.

During his administration some spectacular speeches concerning religious freedom by the prominent senior officials were reflecting Trump’s stance. In October 2019 secretary of state Mike Pompeo in an address to the American Association of Christian Counselors on “Being a Christian Leader”<sup>45</sup> and Attorney General William Barr speaking at Notre Dame’s Law School and de Nicola Center for Ethics and Culture gave the most remarkable expositions on a central role religion must play to sustain a healthy body politic, especially in a liberal democratic society.

Pompeo, expressing his evangelical background and convictions and at the same time a personal testimony from his experiences at West Point when he was invited by his soldier colleagues to join a Bible study group, as well as recalling his time when teaching fifth grade Sunday School with his wife, considered such experiences as crucial to shape enormously his future service as a public official. But he was also discussing an ethical side of the public service and universal ethical lessons which could be derived from the Bible, the very essence of the Western civilization. Pompeo, that was the most striking feature of his public stance, spoke both as a public official and as a Christian, something which in the post-1789 Europe seemed unimaginable. In America such a language of reference to religious imaginary is common among politicians provided that these are general formulas expressing a spirit of concord and not demanding any moral obligations. Whenever there is yet a hint of a concrete role of religion in a public sphere, as in case of Pompeo’s speech a specter of violating the anti-establishment clause of the First Amendment is immediately brought up. Thus, Pompeo’s speech was a shock among the liberal-left cognoscenti, the media and the universities. They already fear presence of religion in public life as contaminating the clear cut rules of public sphere, allegedly instigating to superstition and violence. Noticing that a secularist sentiment has taken root in America, Pompeo stated: “I know some

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<sup>44</sup> R.R. Reno, *Resurrecting the Idea...*, *op. cit.*

<sup>45</sup> Secretary Pompeo Speech on “Being a Christian Leader” at the 2019 American Association of Christian Counselors World Conference; <https://www.dvidshub.net/video/714742/secretary-pompeo-speech-being-christian-leader-2019-american-association-christian-counselors-world-conference> [accessed: 5.06.2021].

people in the media will break out the pitchforks when they hear that I ask God for direction in my work". And exactly this happened. Outcry erupted, and his speech was soon suppressed on the State Department website and the title of his speech "Being a Christian Leader" was changed to "Secretary Pompeo at the American Association of Christian Counselors."<sup>46</sup>

Sustained criticism of Pompeo's speech by "the chattering classes" was stopped only because at the same time Attorney General William Barr gave a speech at Notre Dame University arguing that religious faith of the American citizens can and must sustain liberal democracy.<sup>47</sup> Barr argued that decline of faith, elite hostility to it, especially to Christianity, was dangerous since it undermined freedom, an idea taken for granted by the Founders. They recognized that democratic government needed a self-governing citizenry with moral discipline and character to avoid misuses of freedom, a situation destabilizing society since lack of moral discipline and senseless passions force the state to intervene and impose its logic of governance. Barr's argument was not so much a religious but a political one, if not presented directly. What he was saying was that vigorous religious faith was defending free citizens from the most dangerous form of modern idolatry, the omnipotence of the bureaucratic state which tries to organize energies of its citizens along the certified ideological causes. For tyranny to be prevented "social order must flow up from the people themselves – freely obeying the dictates of inwardly-possessed and commonly-shared moral values." Those "moral values must rest on authority independent of men's will – they must flow from a transcendent Supreme Being."<sup>48</sup>

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<sup>46</sup> This reflected not only the antireligious animus among the "deep state" officials of the State Department but also a clear sign that America was moving in the European Enlightenment's post-1789 direction rejecting an original understanding of the I Amendment concerning religion. It consisted of two parts. The first anti-establishment clause stated that there could be no official, federal, in the European language state religion. The second, freedom of religion clause guaranteed public functioning of all religions in the US. The anti-establishment clause was put into the Constitution to prevent a situation in which one religious denomination was to use the state machinery, in this instance the federal one, to suppress other religions. It was not put there, to separate the public sphere from religion. It was put there exactly to guarantee that public sphere was to be open to a robust religious functioning.

<sup>47</sup> Attorney General William Barr on Religious Liberty, <https://www.youtube.com/watch?v=IM87WMrCWM> [accessed: 5.06.2021].

<sup>48</sup> Barr quotes Edmund Burke to drive this point home: "Society cannot exist unless a controlling power be placed somewhere; and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things that men of intemperate minds cannot be free. Their passions forge their fetters". This essentially Burkean argument was not supporting theocracy since the moral system which Barr considered to be the essence of the American republic, that is Judeo-Christian moral system is rooted in natural law which can be known by all men and women of good will. In practice such moral precepts are accessible through religious institutions and families where they can be successfully inculcated since disordered loves of imperfect men have to be countered by religion which "helps teach, train, and habituate people to want what is good", *ibidem*.

For Barr, aggressive stance against religion amounted to a new ideology of secularism, totalitarian in its implications.<sup>49</sup> This ideology tries to mask its conscious program of destruction of religion by claiming that its decline was due to a “maturation of humanity”, a necessary logic of “progress” but, said Barr, we experience an attack of “secular orthodoxy” being imposed on religion and religious people amounting to “organized destruction [...] [S]ecularists, and their allies among the ‘progressives,’ have marshaled all the force of mass communications [...] and academia in an unremitting assault on religion and traditional values. [...] Those who defy the creed risk a figurative burning at the stake – social, educational, and professional ostracism and exclusion waged through lawsuits and savage social-media campaigns.”<sup>50</sup>

Barr, the highest ranking legal official of the United States government, did not suggest any legal measures to be taken up to defend religion against secularists’ attacks in his capacity as the Attorney General, since the Constitution guarantees freedom of speech, but he adamantly indicated that legal measures can be used as a weapon by secularists to eliminate religion from public life and push it to a totally private, insignificant sphere or shape it according to the logic of the “secular orthodoxy”. This for him amounted to an “establishment of [secular] religion”, forbidden explicitly by the constitutional First Amendment. Barr pledged to defend religious freedom and thwart all government efforts to “compel religious individuals and entities to subscribe to practices, or to espouse viewpoints, that are incompatible with their religion.”<sup>51</sup> Barr but made it clear that in the ongoing culture war in the liberal world this was a pledge that the power of the administration and law will not be used to impose on religious institutions and people an ideology of the sexual revolution. He promised to ensure that anti-religious policies, especially these “designed to starve religious schools of generally-available funds and encourag[e] students to choose secular options” had to stop, especially policies still operating within a logical and ideological world which gave rise to the so called anti-Catholic “Blaine Amendments” enacted at the end of the 19<sup>th</sup> cent. These laws, ostensibly related to the anti-Establishment clause, constituted in fact its blatant perversion, an extremist Protestant establishment’s move to ensure its cultural and political monopoly.<sup>52</sup> To stop such a secular extremism, mainly of the activists of the sexual revolution, the Justice Department, filed a brief in the Supreme Court’s case arguing that Blaine Amendments violated the Freedom of Religion Clause. Tied to money and power of lobbying groups it aims to create the naked public square enforced by state laws

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<sup>49</sup> *Ibidem.*

<sup>50</sup> *Ibidem.*

<sup>51</sup> *Ibidem.*

<sup>52</sup> See on this perverted anti-Catholic reading of the anti-Establishment clause: P. Hamburger, *Separation of Church and State*, Harvard University Press, Cambridge, Mass. 2002; also: idem, “Against Separation”, *The Public Interest*, No. 155, Spring 2004, pp. 177–192.

and regulations. This extremism threatens the religious schools right to write their own curriculum, or churches teaching their faith or parental right to provide their children religious education when it clashes, for instance with the dogmas of the sexual revolution, especially the LGBT+ lobbying groups.<sup>53</sup>

Pompeo's and Barr's speeches appealed to "more disruptive conservatism" ready to challenge the "progressively dominated establishment". For Barr, religious people "cannot sit back and just hope the pendulum is going to swing back toward sanity", and although religion transcends politics, it does not mean that political action cannot be taken to defend religious freedom. Public officials should speak, indicated Barr, about moral truths constituting a free society having a right and a duty to defend a constitutional order "when the political and legal traditions of our country are hijacked by progressives, who are on a political crusade complete with dogmas and anathemas, our leaders need to fight back."<sup>54</sup>

Pompeo's and Barr's speeches were not Trump's speeches, but they reflected his stance on religion as one of the mainstays of a free society, a view forcefully explicated in his Warsaw Speech of 2017.

### **Weakening damages caused by *Roe v. Wade***

Another cause where Donald Trump distinguished himself is pro-life cause. He was defined "the most prolife president in history" as Kellyanne Conway, his high ranking aide tweeted. That was of course an exaggeration. Ronald Reagan as president (1981–1989), wrote a book *Abortion and the Conscience of the Nation* and uttered a famous sentence "I've noticed that everyone who is for abortion has already been born." Seven bills were vetoed by George H.W. Bush (1989–1993) on pro-life grounds, a very strong support for the pro-life movement at a time when it was politically at a low point. George W. Bush (2001–2009) signed a bill passed overwhelmingly by Congress to ban partial-birth abortion. He also signed a bill recognizing unborn children as victims of federal crimes against pregnant women, while another one provided extended protection for children who survived attempted abortion.<sup>55</sup>

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<sup>53</sup> Barr indicated that many administrative agencies in fact enact regulations which have a force of legal enactments without being authorized to do so by congressional legislation. On this independence of the administrative branch subverting constitutional government see: P. Hamburger, *Is Administrative Law Unlawful?*, University of Chicago Press, Chicago 2014.

<sup>54</sup> R.R. Reno, "Failed Leaders", *First Things*, December 2019, <https://www.firstthings.com/article/2019/12/failed-leaders> [accessed: 5.06.2021].

<sup>55</sup> That such a bill protecting a value which seems to be the essence of any decent civilisation was necessary is shown by the fact that in 2000 in a case *Planned Parenthood v. Farmer* (762 A.2d 620, N.J. 2000) concerning partial birth abortion in the Federal Appellate Court a judge Maryanne Trump Barry stated that during such a birth no child was born, because a woman who wanted an abortion did not want it. Child's status as a human person protected by law was to depend, according to the judge, on its definition by a woman, a consequence of her moral auto-definition

George W. Bush also nominated two justices to the Supreme Court, John Roberts and Samuel Alito, who in cases they dealt with imposed certain limits on abortion. He also blocked a bipartisan bill in the House of Representatives to provide federal funding for research on stem cells derived from human embryos, allowing only such funding for research in specific, limited conditions.<sup>56</sup>

But Trump's administration could be defined as the most unapologetically pro-life American administration, at least at the time of the sexual revolution and the radical feminist movement when the pro-abortion culture has become an orthodoxy in the elite liberal circles. Today the abortion issue stands at the very center of political clashes, a dividing line between the Republican Party and the Democratic Party which wrote a right to abortion into its official program in 1972. In *Roe v. Wade* of 1973, the Supreme Court made in fact unrestricted abortion a constitutional right, a decision giving rise to a huge political pro-life movement in the United States. Many constitutionalists considered the verdict to be extremely voluntaristic, based on dubious legal principles and corrupting constitutional interpretation, while not only the pro-life movement was terrified by the very essence of this decision – but the fact also that several uncontrolled politically judges defined what life was and when it began.<sup>57</sup> Trump was of course in a much better situation than previous presidents because the public opinion had over the years become much more aware of the brutality of the abortion license and shocked by an adamant opposition of the pro-abortionists to any concessions, including a ban on the partial birth abortion. But his situation was nevertheless politically more difficult since the Republican elites lost interest in actively promoting a pro-life cause while the Democrats were in a process of elimination of their congressmen who showed any support for it. Despite an enormous institutional, financial and media support for the abortion culture in the United States and an imperial individual choice as a basis of liberal human rights, the young

of herself and her body captured by the so called “reproductive right”. Consequently, a child even if born alive could not be treated as a separate human being. The ontological and moral status of a child as a person was defined totally by a woman. Being born alive was not automatically giving a child a status of a human person protected by law. Reagan and G.W. Bush were decisively pro-life presidents, and both nominated five conservative judges to the Supreme Court hoping to overturn *Roe v. Wade*. But three of such allegedly conservative judges consistently enlarged the scope of abortion rights including a constitutional protection of partial-birth abortions in *Sienberg v. Carhart*, 530 U.S. 914 (2000), dealing with a Nebraska law outlawing “partial birth abortion” in all cases, ostensibly because it did not exclude a situation in which the ban could endanger the mother's health. The Court found the Nebraska violating the constitutional due process clause as interpreter in *Roe v. Wade* and uphold a decision in *Gonzales v. Carhart* (2007) in relation to the federal statute.

<sup>56</sup> This was a courageous move at a time when the general opinion was that embryonic stem-cell research was to lead to curing all illnesses beginning with Alzheimer to diabetes.

<sup>57</sup> The manipulated political and ideological context of the pro-abortion politics is well described in: F.J. Beckwith, *Defending Life. A Moral and Legal Case Against Abortion Choice*, Cambridge University Press, Cambridge 2007; also: B.N. Nathanson, *The Hand of God*, Regnery, Washington, D.C. 1996.



generation has nevertheless found itself with many negative consequences of sexual revolution and doubts about its blessings.<sup>58</sup>

Despite his personal life story, Trump openly advocated any pro-life cause with presidential executive orders making concrete legal moves while his opponents took it for granted that any changes in the abortion legal edifice were inconceivable and illegitimate. But Trump knew that he could deal with abortion issues in a much more courageous way because the moral and cultural climate had changed. The public opinion shifted against the most extreme abortion practices although also America was much more politically divided on many other issues than during the previous presidents' times. The pro-life movement was during his presidency much stronger. Polls are not clear on this point but some of them show, for instance Gallup, that if in the mid-1990 the pro-abortion opinion was dominant 2-1 over the pro-life one, the difference has steadily declined sometimes disappearing giving the pro-lifers advantage, in large measure due to the development of the USG technology and the truth about partial birth abortion being exposed to the public.

For this reason, the political cost of pro-life presidential stance was lower than before, while inaction could cost much more since the pro-life movement has gained considerable political influence. In general, Republican voters and politicians ceased to support Planned Parenthood since the pro-life movement managed to define it in public as the main pro-abortion organization engaging in horrid practices.

Although Trump's erratic statements were defended by conservatives who observed that he should be judged by what he did and not by what he said, in case of the abortion issue he was very consistent. During the March for Life in January 2020, a milestone since none of former presidents had ever appeared during it in person he declared "unborn children have never had a stronger defender in the White House". Such a support during an election in 2016 was thought to be impossible, thus many pro-life politicians and activists had doubts whether to support him. Marjorie Dannenfelser, the president of the Susan B. Anthony List, which works to elect pro-life candidates remarked that Trump was for her the least preferred option because when considering running for president in 1999 he called himself "very pro-choice [...] favour[ing] keeping partial-birth abortions legal" even if adding that "I hate the concept of abortion."<sup>59</sup> Trump's personal

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<sup>58</sup> The pro-life generation has abandoned to a large extent a language of classical liberal rights pitting the rights of children in the womb against the right of a woman and her choice, see e.g.: P. Jeffery, "Conservatism's Next Generation", *First Things*, August/September 2018, pp. 14–15.

<sup>59</sup> R. Ponnuru, "The Pro-Life President: A Look at Trump's record and the state of the movement", *National Review*, January 24, 2020, p. 15. Trump, asked many times in public whether any of his women partners performed abortion, consistently avoided an answer. See "Trump dodges question over whether any past partners had abortions", *The Guardian*, June 2016, <https://www.theguardian.com/us-news/2016/apr/02/donald-trump-marueen-dowd-interview-abortion-past-partners> [accessed: 5.06.2021].

and marital history was definitely not an example of a stellar moral character to become an icon of the pro-life cause. But during the 2016 campaign, Trump promised to nominate pro-life judges, chose as his running mate Mike Pence, the governor of Indiana and one of the most vocal pro-life politicians. Taking into consideration the brutal proabortion stance of Trump's adversary Hilary Clinton, the pro-life movement voting bloc had no hesitation to go overwhelmingly to his side.<sup>60</sup> Trump fulfilled nearly all pro-life promises: at the beginning he issued an executive order blocking federal funds for family planning organizations advocating or performing abortions abroad. Another executive order blocked money from the US family-planning programs, which hit mainly Planned Parenthood. Restrictions on funding fetal-tissue research and legal protections for medical pro-life personnel, doctor and nurses, were regulated by other executive orders.<sup>61</sup> When New York passed and other states began to discuss legislation to ensure that abortion was to remain legal throughout pregnancy including partial-birth abortions, Trump condemned the idea. Although he did not support the Alabama law attempting to ban abortion without any exceptions including incest or rape, exceptions he supported, the pro-life movement did not attack him, since many of its activists and pro-life politicians considered an Alabama move a tactical mistake.

But the most important pro-life Trump's action were his nominations to the Supreme Court, making possible to overturn *Roe v. Wade*. These nominations might constitute the most lasting legacy of his presidency as well as nominations of over two hundred federal judges whose role in interpreting laws, including the constitution has been increasing. They were nominated with a recommendation from conservative think tanks so one might assume that their judgments will temper the overtly voluntaristic and axiologically liberal-left interpretation of the majority of judges pitting already on the federal bench. Of course, the nominally conservative judges are independent in their judgments, and history has shown that they issue verdicts not necessarily in accord with their conservative, especially cultural, credentials. Nevertheless, such a huge number of judges nominated by Trump, together with the three Supreme Court nominations might make a difference.

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<sup>60</sup> During debates Trump expressed horror and disdain not only politically inspired but reflecting his convictions, that Clinton supported late term pregnancies. Also, voters for whom the most important was the prospective Trump's nominations to the Supreme Court of judges who might overturn *Roe v. Wade* overwhelmingly supported him.

<sup>61</sup> His opponents accused Trump of being an opportunist in hunt for voters and as journalist Richard Wolffe wrote in a title of his article from June 2018 concerning Trump's stance on abortion: "Donald Trump's only fixed position on abortion is his disdain for women", *The Guardian*, <https://www.theguardian.com/commentisfree/2018/jul/01/donald-trump-abortion-supreme-court> [accessed: 5.06.2021]. The article's argument is a classical *non sequitur*. Being disdainful on women does not exclude being an opponent of abortion, and being proabortion does not equal respect for women, the latter case being a typical taken for granted and absolutely ideological assumption.

His nominees to the Supreme Court were excellent judges known for their clearly articulated conservative credentials, differing here from the previous Republican nominations at least since Reagan. The nominations were to be fiercely opposed by the Democrats in the Senate, since the abortion issue has become the litmus test for them of justices' legitimacy.<sup>62</sup> It is difficult to "kill" the nominated judges as political opponents overtly by attacking their legal credentials and approaches to constitutional interpretations. A better tactics is to dig into the past writings or find statements which might compromise a candidate in the Senate confirmations and the public. The first candidate of Trump, judge Neil Gorsuch, was accepted without problems. But he fight for Brett Kavanaugh, a judge who could already tip the balance in the Supreme Court giving the majority to the conservative judges who might overturn *Roe v. Wade* verdict, was bitter. In his case an allegedly sexual assault in college, not corroborated by any credible witness, nearly derailed Kavanaugh's judgeship. The third nominee, Amy Coney Barrett, was attacked as a Catholic since her views on sexual morality, marriage or abortion were thought to be unacceptable, which immediately brought to the fore an issue of religious freedom and a ban on religious tests when being considered for a public office. This time religious constitutional rights trumped other arguments. Barrett was attacked because Trump disregarded an appeal of the Democrats not to nominate any judges at the end of his presidential term, mainly because of her overtly conservative views and her vow to stick to the letter of the Constitution and its original meaning. Nominally the Supreme Court has now 6 conservative judges to 3 liberal ones, a powerful check on any legislative or executive action of the Joe Biden's progressive administration. But whether this conservative advantage will amount to overturning *Roe v. Wade* is debatable, since the judges, once nominated are much more circumspect and independent from views of a political camp which supported them during a nomination process. It is quite possible that the conservative justices will be more willing to look to legislatures for protection of unborn children, slowly chipping away at the edges of *Roe v. Wade*, than to overturn it, even if they might be more prudent in their judgments then they were at the time of *Stenberg v. Carhart* or *Gonzales v. Carhart*.

Trump's pro-life support was viewed by some of the movement's activists, including the Republican politicians as a liability since his support, because of accusations of misogyny, could be defined by his opponents as a desire to "control women's bodies", an anti-women policy instead of being human rights

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<sup>62</sup> This is one of the instances showing how the nominating process in the United States has become politicized, or better to say ideologically "contaminated", when both sides try to nominate candidates who are in accord with their axiological and ideological axioms and ready to shape laws according to them. This process has become universal showing a growing political role of the judges, so called juristocracy, beyond any control of the democratic verdict of the electorate. The judges increasingly interpret constitutions on the basis of their convictions and justify them by constitutional text's interpretation. See on this, both from a conservative as well as liberal side: R.H. Bork, *op. cit.*; R. Hirschl, *op. cit.*

issue. This might be important taking into consideration the fact that the most recent polls show that again the young generation seems to be more pro-choice.<sup>63</sup> But there is no clear connection between this rise and Trump's behavior, it can also be connected with decline of religious practices, or any other reason not yet specified.<sup>64</sup> Even, if there are polls showing that this shift to the pro-choice camp is not unequivocal the pro-life politicians might be more circumspect. Whether such a change will influence also the conservative judges on the Supreme Court who might not be ready to overturn *Roe v. Wade* we will find out. It has also to be stressed that all Trump's pro-life changes were done by means of executive action, thus can immediately be changed again and Joe Biden has already done so with many of them.

Trump's stance on other culture war issues was also clear. Initially he did not oppose the same sex marriage which was made constitutional by the 5 to 4 votes of the Supreme Court justices in *Obergefell v. Hodges* in 2015. When asked about the issue at the beginning of his presidency, Trump remarked that it was the US law, a statement of fact but also a dodge, since abortion was also the law, but he was active on this point. But it seemed, that Trump was an opponent of the same-sex marriage, saying repeatedly that he was a "traditional guy", choosing to support domestic partnership benefits instead, although he later reversed himself stating that he also opposed civil unions stating that he would appoint Supreme Court judges who would be committed to overturning *Obergefell v. Hodges*. He put on his ticket Mike Pence, the opponent both of the verdict as well as the political aims of the LGBT movement. Pence supported, for instance, North Carolina HB2 law, which was thought to be curtailing privileges to the LGBT organizations, presented to the public by them as being allegedly against a constitutional "equal protection" clause. He also supported religious freedom clause of the First Amendment which by definition had to come in conflict with some of the sexual revolution postulates and the LGBT movement's political aims. Nevertheless, the President promised to sign if passed First Amendment Defense Act (FADA) (H.R. 2802), a bill introduced into the House of Representatives and the Senate on June 17, 2015. The bill stated that the federal government "shall not take discriminatory action against a person, wholly or partially on the basis that such person believes or acts in accordance with a religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman, or that sexual relations are properly reserved to such a marriage."<sup>65</sup> In addition,

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<sup>63</sup> General Social Survey during Trump's presidency showed that the number of Americans favouring abortion on a part of a woman for any reason is growing, even if they want a ban on abortion after the 20<sup>th</sup> week. Opposition to tax money being used for abortion is also dropping.

<sup>64</sup> The number of people who defined themselves as religious 'nones' in Pew's survey has risen in the latest poll to 20%, which by European standards is not significant but by American ones, in comparison to the 80s or 90s, is a real one.

<sup>65</sup> H.R. 2802 – First Amendment Defense Act, 114<sup>th</sup> Congress (2015–2016), *Congress.gov*.

Trump's executive action halted certain aspects of transgender revolution with its treatment of sexual identity as a mental state or social construct.

### **National borders as a response to the dogma of multiculturalism**

But it was probably Trump's immigration policy connected with a very inflammatory rhetoric which elicited the fiercest attacks. One may say that practical results turned out to be meager, nevertheless some fundamental changes have been implemented if not immediately visible and the very problem itself could no longer be avoided.

Trump had to face not only pragmatic issues of immigration law and related problems. He had to confront a powerful liberal globalist narrative what immigration meant and how it should be debated. Discussions were allowed only within certain limited, taken for granted axioms, defining any critical reservations outside of them as illegitimate and morally wrong. But a resistance to massive and very often illegal immigration was not caused by immorality or lack of sympathy on the part of Americans but because too many of them realized, as is the case in the European Union, that heroism demanded from them when encountering demographic and economic disaster in devastated countries, from which immigrants are coming, was done in the name of naive, ideologically charged humanism, instead of true morality, rooted in exigencies of life. Americans, like Europeans in a slightly different conditions, could sacrifice a lot but not to "satisfy ideological cheaters" who define the world according to their phantasies.<sup>66</sup> Such a democratic resistance required that politicians would not treat their own countries as redundant obstacles on the road to the abstract global justice without borders demanded in the name of some – true or imaginary, but never discussed – sins to be atoned for.<sup>67</sup> Americans, as Europeans, do not have any qualms to treat immigrants as unfortunate people in need of help who should be accepted in the name of the basic rules of hospitality, but on condition that they would accept the host country's rules, its laws and mores and when the state's polices are prudent. Otherwise, naive humanitarianism may give rise to extremism.<sup>68</sup>

Trump did not manage to reform immigration crisis but by exacerbating heated discussion about it made impossible to treat it as a festering issue without

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<sup>66</sup> See on this for instance: Ch. Hitchens, "In Praise of Borders", *First Things*, October 2017.

<sup>67</sup> This issue is well explained *in abstracto* but without any problem to be applied to a discussion about immigration in a contemporary liberal world in: P. Bruckner, *Tyrania skruchy...*, *op. cit.*, esp. pp. 151–152.

<sup>68</sup> See on all aspects of the present discussion about immigration and its pitfalls in the liberal world, but especially in Europe: Ch. Delsol's analysis in "Imigracja: gościnność a pożytek ogólny. Koszmarna antynomia", [in:] *Renovatio Europae: O hesperalistyczną reformę Europy*, ed. D. Engels, Instytut Zachodni, Poznań 2019, pp. 75–94, esp. 90–91.

decisive moves which would require also to confront immigration ideology of the liberal-left. This problem was urgent for a long time but politically a very volatile one.<sup>69</sup>

But the America has been growing more and more impatient both with the mess created by the illegal immigration as well as inability of politicians to confront the issue. Trump began to build *the Wall* on the border with Mexico, the funding of which was blocked by the House of Representatives, but Biden's administration which wanted to abandon it, was forced to continue the project since otherwise the Southern border would be considered a joke.<sup>70</sup> Still the Trump administration stopped its border crisis in the South from getting out of hand by skillfully negotiating with Mexico a new policy that had prevented caravan-style immigration and an abuse of the American asylum system as an alternative route for people coming to the US who "jump the line on immigration". Such a solution had of course a serious moral and political cost, which was evident in the child-separation policy.<sup>71</sup>

This policy tried to reconcile existing practices concerning children crossing the border illegally with a harsher law enforcement against adults. The latter under Obama's administration had learned that if parents crossed the Mexican border with a child, getting entry into the US was much easier. But child separation not only caused emotional distress in children, not guilty as their parents might be. This caused significant public protests and Trump decided to issue an executive order to end such separations in 2018, exacerbating administrative disarray with some children still not returned to their parents. But child-separation policy discussion was conducted in an atmosphere of hysteria, not eased by Trump's inflammatory comments on immigration, sometimes giving an impression of being callous and bigoted. Thus, large sectors of the American public opinion, so far recognizing the real problem of illegal immigration, began to favor a freer immigration again.<sup>72</sup> But Trump's supporters generally stuck with a postulate that immigration should be legal, based on skills and definitely "ending familial chain migration", while illegal influx should be halted. In general, despite the fact that the Republicans controlled both Chambers of Congress during the first two years

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<sup>69</sup> See esp.: *Mexican Immigration to the United States*, ed. G.J. Borjas, University of Chicago Press, Chicago 2007; Ch. Caldwell, *Reflections on the Revolution in Europe: Immigration, Islam and the West*, Anchor Books, New York, 2009; also D. Murray, *Przedziwna śmierć Europy: imigracja, tożsamość, islam*, transl. by T. Bieroń, Zysk i S-ka, Poznań 2017.

<sup>70</sup> One has to observe that meticulous and burdensome checking procedures of the incoming people at the American airports seem in comparison to the immigration failure at the Mexican border, a farce.

<sup>71</sup> See a recent study written from a liberal global perspective: V. Carty, *The Immigration Crisis in Europe and the U.S.-Mexico Border in the New Era of Heightened Nativism*, Lexington Books 2020.

<sup>72</sup> M.B. Dougherty, "Trump as Populist-Nationalist", *National Review*, November 30, 2020, p. 18.

of Trump's presidency no durable solution to the crisis was found and the immigration reform has become again a hot issue endlessly debated and never reaching any definite solution. The discussion has been revolving not so much around pragmatic means which might be enacted, but has been entangled in all kinds of emotional, ideological visions, mainly of the liberal-left pedigree, which treat any restriction immigration as essentially bordering on a violation of human rights and the conservative Right defends the nation state as having prerogatives which trump immigration rights without any prerequisites.

But another problem makes the immigration issue being pushed outside of any rational debate and the progressive side hits here against an assimilation policy supported by Trump, asking a question who was to be an American citizen. The problem was additionally complicated by a stupefying fact from a point of view of Trump's critics that he won a substantial share of the Hispanic votes. This turned out to be an unprecedented move in the Republican presidential election, weakening two of the most cherished myths. The first one was that for the Republican party to win Hispanic votes it was necessary not to push for assimilation. The second one understands "immigration reform" solely as the immediate amnesty for illegal immigrants, expansion of immigration and reduction in enforcement of immigration laws. But Trump's electoral success has shown that assimilated Hispanics were voting for Republicans as Americans, not supporting such a sweeping liberalization of immigration. In other words, "a lot of Hispanic voters have refused to conform to these expectations. The election also lends some support to the view that Hispanics, like most other immigrant groups in U.S. history, will not be a one-party voting bloc for long. If 'assimilation' is a dirty word on the left [and the Democratic Party – A.B.], it's in part because it's a political threat".<sup>73</sup>

It is not surprising that Trump's executive orders concerning immigration have been quickly undone by Joe Biden's administration. Nevertheless, a continuation of *the Wall* on the Mexican order proceeds since this policy is supported by the majority of Americans, including Biden's voters. Therefore at least a modicum of common sense prevailing over ideology is visible.

### **Common good and common values apart from liberal axioms**

The results of Trump's foreign policy "America First" approach are probably the most mixed bag. Critics called him "populist-nationalist" which is now a term of abuse among the globalist circles, and a reckless, incompetent politician, when in fact his field of maneuver was limited by strategic interests of the US, the "deep state" obstacles and the exigencies of reality as such. Definitely he forcefully announced the end of the globalist international utopia, realizing that this game, cre-

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<sup>73</sup> "The Week", *National Review*, November 20, 2020, p. 6.

ated by the United States after the World War II, is no longer advantageous to it and has been played for too long with marked cards by others to America's detriment. But his policy was a kind of "volcanic Jacksonianism" mixed with cutting the Gordian knots like recognizing Jerusalem as Israel's capital. He also loosened rules of engagement in America's foreign conflict, ordering an assassination strike on Iranian general Qasem Soleimani was the most spectacular example of this change. Additionally, Trump promised, in fact a bipartisan policy, to bring troops from Syria and Afghanistan and failed, but Biden will finish it, even if American troops pursuing anti-terrorist activities are still located in countries scattered all over the world as far away as Niger, Nigeria, Somalia or Djibouti.

But he also rejected a superficial multiculturalism and globalism pretending to form a human brotherhood under the "enlightened" leadership of global liberal elites, as well as their attitude of disdain towards Western culture soon to be named "cancel culture" movement in America. Trump reasserted the values and achievements of this civilization realizing that if the United States was to survive in the international scene it had to know what it was standing for. His stance was visible in his State of the Union Addresses but its most forceful presentation was given in the Warsaw Speech on July 6, 2017. Trump began with an immediate threat of international terrorism. He stressed that the West has always been open to people who would respect its values and borders and will remain so but will always confront extremism and powers that test its will, undermining confidence and subverting its interests by new forms of aggression, e.g., cyberwarfare and propaganda. Additionally, Trump pointed out a threat of the bureaucratic Leviathan state which saps people's vitality and prosperity, stating that "we became great not because of paperwork and regulations but because people were allowed to chase their dreams and pursue their destinies".

The Western nations value individual freedom and sovereignty, they wish to determine their destiny by democratic procedures and in defense of these values and, said Trump, forces threatening to destroy cultures, faiths and traditions sustaining them should be checked otherwise they "will undermine our courage, sap our spirit, and weaken our will to defend ourselves and our societies." Thus, he rejected utopian attempts to build rationalistic communities, perfect *in abstracto*, stressing a common sense observation that one cannot enter life outside of particular culture in which one was born. This assertion contains a veiled criticism of the European Union's created according to "the Wittgenstein's ladder" principle, or to put it another way as a project resembling a symbolic ship of Theseus.<sup>74</sup>

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<sup>74</sup> The Wittgenstein's ladder is a philosophical concept which, applied metaphorically to the European Union project, would treat European history, traditions, Christianity as rungs of a ladder to be cast away after its peak has been reached. This would mean that to create the final European Union one has to abandon its entire heritage. See on this: A. Bryk, "Polska narracja historyczna w czas hegemonii liberalnej, [in:] *Od niepodległości do niepodległości. Polska myśl*



Trump's criticism was directed, even if in a veiled form, against the European Union's utopia but was also applied to the American efforts to redefine its heritage as evil to be cast away. But, he said, such attempts would fail if the West had a will to confront them not only by political alliances or military power but because

[...] if we don't forget who we are, we just can't be beaten. Americans will never forget. The nations of Europe will never forget. [...] The world has never known anything like our community of nations. [...] We strive for excellence and cherish inspiring works of art that honor God. [...] We put faith and family, not government and bureaucracy, at the center of our lives. And we debate everything. We challenge everything. We seek to know everything so that we can better know ourselves. And above all, we value the dignity of every human life, protect the rights of every person, and share the hope of every soul to live in freedom. That is who we are [...]. What we have, what we inherited from [...] our ancestors has never existed to this extent before. And if we fail to preserve it, it will never, ever exist again. So, we cannot fail.<sup>75</sup>

Trump added that it is knowledge, wisdom and memory of one's heritage which teaches that strong alliance of free and independent nations is necessary, but the most potent shield against enemies is "a commitment of will". Pointing to Polish history he stressed that the West's defense is ultimately a spiritual not a material endeavor, a willingness to defend one's place in life and its freedom. For Trump the most fundamental question of the present time was

whether the West has the will to survive. Do we have the confidence in our values to defend them at any cost, [...] enough respect for our citizens to protect our borders, [...] the desire and the courage to preserve our civilization in the face of those who would subvert and destroy it? We can have the largest economies and the most lethal weapons [...], but if we do not have strong families and strong values, then we will be weak and we will not survive. [...] Our own fight for the West does not begin on the battlefield – it begins with our minds, our wills, and our souls. [and] our freedom, our civilization, and our survival depend on these bonds of history, culture, and memory [...], I declare today for the world to hear that the West will never, ever be broken. Our values will prevail. Our people will thrive. And our civilization will triumph. So, together, let us all fight [...] for family, for freedom, for country, and for God.<sup>76</sup>

The Warsaw speech was a programmatic speech with not only Trump's leading ideas but also his nerve to confront his ideological liberal-left opponents who immediately detected in it everything they were fighting against with such

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*polityczna i prawna 1918–2018*, eds. M. Maciejewski, M. Marszał, M. Sadowski, Wydawnictwo Uniwersytetu Wrocławskiego, Wrocław 2019, pp. 417–445. See on the European Union and its Ship of Theseus way of approaching its heritage: D. Murray, *Przedziwna śmierć Europy...*, *op. cit.*, pp. 402–403.

<sup>75</sup> "Here's the Full Text of Donald Trump's Speech in Poland", *NBC News*, <https://www.nbcnews.com/politics/donald-trump/here-s-full-text-donald-trump-s-speech-poland-n780046> [accessed: 5.06.2021].

<sup>76</sup> *Ibidem*.

values as e.g., patriotism, family, heroism and pride of one's own heritage treated as contradicting the stellar idea of the post-national, post-heroic and post-religion liberal societies. Trump accused the liberal elites of a nihilistic rebellion against family, community and the nation state, constituting true republican natural place of human strivings and solidarity necessary to muster stamina to fight modern barbarians of all sorts.

Moreover, Trump indicated a deeper logic of the Western civilization, which unlike other cultures was conceived and had always acted on ideas exposing and criticizing its own misdeeds and warped concepts without at the very same time renouncing its essential goodness. No other culture incorporated so much self-criticism into its logic of development or recognized a permanent difference between the ideal and its realization in practice. This civilization contains within its cultural code its own antidotes, rebellions against injustices and first of all freedom of speech and inquiry making such rebellions conceivable and successful, while at the very same time advancing personal freedom, rule of law, political democracy and a Christian, albeit secularized, idea of natural law and a person as inviolable being under a direct protection of God. Trump stressed that without these exclusively Western ideas, achievements of modernity were to be impossible. Discrediting them in the name of some real or imaginary historical sins to create sterile civilization based on false believe in rationalistic mechanisms is wrong and dangerous. Dangerous because such a project requires a tremendous dose of social engineering bordering on a totalitarian supervision in search of "heretics", the very essence of the liberal-left political correctness and "cancel culture".

The Warsaw speech is also interesting since Trump tied his political vision with a Polish idea of liberty. This was not only a courtesy with the United States geopolitical game at its background. He made a mental distinction between Eastern Europe and Western Europe or the elites of the European Union for whom history of Europe was a hell before the Union was established, thus beginning new era of prosperity. Trump seemed to send a signal to the European Union's elites that such "evil Europe" of their imagination never had been, and the utopian land of their dreams would never be. And East Central Europeans, victims of Nazism and communism know this truth by instinct.

The Warsaw speech was a speech about Western metaphysics, a definition of who we are as a civilization of liberty. Here Trump's distinction between a friend and a foe along a line of defense of some non-negotiable values was especially irritating for the liberal-left pieties. Trump defined a concept of a foe in a classical political sense as well as a drive to destroy a will to defend oneself because there was nothing anymore worth defending, sending a message, in fact fundamentally political, that if we reject God, wisdom of tradition and love of these who were before us, we will become slaves to the most immediate moment. This would amount to a destruction of truth without which it is impossible to cre-

ate a moral goal. This would constitute a moral disarmament, because one can defend and die only for something one loves. Trump spoke in a language of Chesterton for whom “A true soldier fights not because he hates what is in front of him, but because he loves what is behind him.” Not for an empire but for home.

There is no doubt that the speech was prepared by a ghost writer and Trump probably just glanced at it.<sup>77</sup> But the fact that he delivered it somehow touched a familiar nerve in him and he definitely identified with it. Its significance definitely went beyond immediate political goals, or courtesy towards his Polish hosts, and it will stand as a testimony to his legacy, the presidency which might have ended in a somehow not an elegant form, but which appealed to many people at this time of confusion, impending dangers and doubts. It is paradoxical that Trump, a true child of a postmodern culture, turned out to be a messenger of a harsh truth. Seeing it delivered in a straightforward way to the technocratic elites looking at themselves as hubristic demiurges of history, was in itself a fascinating and refreshing moment. Refreshing because Trump told scandalous things to the globalist elites, whether neoliberal economic or liberal-left cultural. Not the army, not the economy, but culture and a will to defend what one loves decides about civilizational greatness with patriotism, a love of the world worth defending, as a precondition *sine qua non* of solidarity. For the liberal, globalist elite, the cursed word ‘patriotism’ is equated with tribal nationalism, while freedom means just “liberation” from history, culture and religion. But to condemn patriotism because people fight in its name in a bad case is equally wise, noticed Chesterton, as condemning love, because some commit murders in its name. Trump was accused by the liberal global elites as a populist politician playing on people’s lowest instincts. They hated him because they could not discern their metaphysical boredom and emptiness against which a rebellion of the “populist” people takes place. Such “populism” is driven not by hatred but by despair in search of love bigger than love of oneself.

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Articles contained in this volume deal with many aspects of Donald Trump’s presidency and its legacy. They treat this problem from different perspectives and also from different methodological as well as philosophical and moral points of view. Trump’s presidency left America as much divided against itself as it had been before he won the office. He was not responsible for this state of affairs whatever his adamant critics might think and say. His major “sin” was to challenge the liberal, global orthodoxy which seems to be dysfunctional in many dimensions and affecting profoundly the Western social consensus in the post-World War II world, including the United States. His often erratic, chaotic

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<sup>77</sup> It is thought that the speech was written by a Polish historian and publicist living and teaching in America Marek Jan Chodakiewicz.

and vain style was easy to criticize. But this aspect of his presidency was not what Trump's presidency was all about. Whether his critics and presidents after him will be able to answer a basic question – why he won – is of course debatable. But the future of America and the Western world will probably depend on a proper answer to this question.

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## ARTICLES

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### **DONALD TRUMP AND AMERICA DIVIDED AGAINST ITSELF**

#### **Introduction**

One cannot explain a phenomenon of Donald Trump without understanding that he sensed something which the political pundits and politicians directed by them could not comprehend. This problem was named a “divided America” hating each other. It does not mean that Trump understood entirely the nature of the problem, or that he was even ready to try to comprehend it deeply, but he used it in a masterful way and in good will limited only by his innate flaws of character.

A political cunning of Trump manifested itself in his understanding that there was a huge political potential in activating this new “silent America” and to hit with it the complacent “ruling class”, the new oligarchy which comprised also both the establishment of the Democratic and the Republican parties. This “silent America” is not the same as “the silent majority” defined and used politically by Richard Nixon against the countercultural wave in 1968 because then and now America is different. For instance, even if the working class is part of this “silent” America, this is a different working class and different culture and economic scene where it operates. There existed then, still, the common American core, also in a deeper anthropological sense which made it possible to fight over politics, economy and even culture with some boundaries impossible to be crossed. Today’s America is divided between people who think that at the very essence

such boundaries do not exist, in a sense that America is a rotten country founded on sin and should be totally redefined anew, not by returning to its original, good principles as Martin Luther King or Robert Kennedy wanted it, but by rejecting them as corrupted beyond redemption.

Knowing that in America any Third Party stands no chance of being successful, Trump captured the Republican party, using a mechanism of democratic primary elections and won a nomination despite a powerful opposition of the so called “Never Trump” movement which could be “understandable, even honorable reaction to the startling victory of a Johnny-come-lately Republican who never enjoyed a deep allegiance to the conservative movement”.<sup>1</sup>

Trump organized also overwhelmingly the voters who were born on “the wrong side of a trail” and not only in economic sense of the world but in a profoundly cultural sense. People who understood that they were not only economic but cultural and social outcasts because anything they strongly believed in was defined by other America, as Hilary Clinton during a presidential contest said, “deplorable”, a language American liberal elites have so far never used. People who were mainly white, poor, without education and prospects for a better life as well as religious people being attacked for what they believed was true, parents terrified by new “political officers” considering their educational methods and values as reactionary, the people for whom a promise of America seemed to be a dream gone a long time ago.

Trump, with his instinct of a “common man” not because of his social and material status – he belonged to the richest stratum of the American society – but because he was a man close by a character of his business to “hard America” of workers, lower middle classes and rural, middle America, neglected and devastated by the “soft America” of the media, universities, political class more and more inbred in between themselves and obsessed with “identity liberalism” and political correctness securing it, as well as with globalized political visions at the expense of the forgotten America. Going into politics he knew that he had to demolish rules and procedures of “politics as usual” and appeal to populist revolt, but not against the system, but by taking over one of the existing parties, since in the US history the Third Parties has never stand a chance of winning elections since the middle of the 19<sup>th</sup> cent. Only such populism, to take over one of the existing parties, has been historically successful, the rebellion of “the people” against “the rascals” who forgot whom they were to serve and had to be “thrown out” of power.<sup>2</sup>

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<sup>1</sup> Ch. Kesler, “Donald Trump and the Conservative Cause”, *Claremont Review of Books*, Spring 2016, p. 10.

<sup>2</sup> This happened when, for instance, the Republicans took over the Whig Party in 1856, Bryan took over the Democratic Party in 1896 and Theodore Roosevelt the Republican Party in 1901, Ronald Reagan the Republican Party in 1980, or Trump the same party in 2016. See a good history of American populism: M. Kazin, *The Populist Persuasion: An American History*, Basic



When this “forgotten” America rallied around Trump, the “privileged” America was incapable of even a single moment of reflection why he won in a democratic election, what he saw and what they did not. The only response they could muster was hatred, abuse, and definition of him as a populist leader capturing the basic instincts of racist America and using it against enlightened America.<sup>3</sup> That liberal left progressive camp launched from the beginning an adamant critique of Trump, hysterical and not related to his conflicting policies.

For the liberal-left or the progressives, the loose motley of people defined as “the Resistance”, Trump was kind of an usurper, a tyrant to be stopped at all costs. As one of the commentators remarked: “I’m reminded of Winston Churchill’s line about the socialist Stafford Cripps: ‘He has all the virtues I dislike and none of the vices I admire.’ The Never Trumpers see no virtues in Trump and admire none of his vices. The resulting portrait is a caricature, a rough, unrevealing one. [...] The critics seem to prefer an explanation of Trump that is, as the cosmologists say, non-luminous.”<sup>4</sup>

### Democratic election and its liberal enemies

The liberal-left criticism, having little to do with immediate Trump’s policies showed a level of hostility rarely seen among political commentators or the public. This was especially visible on the predominantly liberal university campuses, which broke into hysteria, in itself a measure of immaturity of the “millennial” generation brought up on a melange of “tolerance”, “empathy” and a lack of any limitations. Protesters, especially at the elitist universities, were demanding special “safe spaces”, including psychotherapeutic help and cancellation of exams impossible to be conducted under such an unbearable stress.<sup>5</sup>

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Books, New York 1995; and an insightful review article of it: J.R. Coyne, Jr., *The American Spectator*, July 1995, pp. 73–74; on its recent significance see: D.T. Critchlow, *In Defense of Populism: Protest and American Democracy*, University of Pennsylvania Press, Philadelphia 2021; also: V.J. Cannato, “Our Populist Past”, *National Review*, June 1, 2021.

<sup>3</sup> This phenomenon which is characteristic for the entire Western liberal world gets a comprehensive account in: *Vox Populi: The Perils and Promises of Populism*, ed. R. Kimball, Encounter Books, New York 2017; see also A. Bryk, *Liberalna demokracja, oligarchizacja a tzw. rewolta populistyczna w Europie*, soon to be published in France; *idem*, “Odzyskać prawdziwy wybór”, *Rzeczpospolita*, Plus-Minus, October 19–20, 2019, pp. 8–9; see also: D. Murray, *The Strange Death of Europe: Immigration, Identity, Islam*, Bloomsbury, London 2017.

<sup>4</sup> Ch.R. Kesler, “Thinking About Trump”, *Claremont Review of Books*, Spring 2018, p. 10–11.

<sup>5</sup> For instance, at Georgetown post-election therapy was applied to shocked students who were “coming together” on campus. Tears were shed, and students were encouraged to hug those nearby in order to “take the love to a global level”. Many deans at Columbia University sent an email to faculty “after a long and highly charged Presidential campaign, our community has been deeply affected by the election results. Many of our students are experiencing anxiety and concern, such that they may find it particularly challenging to concentrate, study, complete course assign-

In general, an attitude among the liberal left or progressive of any sorts, also shared by some republican and conservative politicians and intellectuals, was that at stake was the entire liberal order and thus American democracy was in peril.<sup>6</sup>

For Trump's critics the election in 2016 was a symptom of the United States in danger of "backsliding", a favorite word of all progressives, towards authoritarianism. He was a man

who has praised dictators, encouraged violence among supporters, threatened to jail his rival, and labeled the mainstream media as "the enemy" – has raised fears that the United States may be heading toward authoritarianism. While predictions of a descent into fascism are overblown, the Trump presidency could push the United States into a mild form of what we call "competitive authoritarianism" – a system in which meaningful democratic institutions exist yet the government abuses state power to disadvantage its opponents.<sup>7</sup>

Such a danger allegedly had always been a possibility, claim the critics, since the 1970s when the Democratic Party became championing "progressive emancipatory" program and identity politics with the Republican Party conspiring to subvert foundations safeguarding the American democracy. Such a polarization both

facilitated Trump's rise and left democratic institutions more vulnerable to his autocratic behavior. The safeguards of democracy may not come from the quarters one might expect. American society's purported commitment to democracy is no guarantee against

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ments, and other responsibilities in this immediate aftermath of the election results. [...] You may receive requests from students for extra time on an assignment or for a later date for a quiz or exam. We ask that you consider the extenuating circumstances when considering such requests and that you offer as much flexibility as possible in accommodating students in distress." Theologians at Perkins School of Theology at Southern Methodist issued a peculiar statement as far as Christian point of view is concerned in which they "invite others into a larger conversation about life in a deeply divided country [expressing] grave concern". [...] The ascendancy of Trump to the Office of the Presidency reflects a politics of fear and loathing sustained by a misogynistic, xenophobic, and racist nationalist ideology that offends moral decency and distorts the deepest values of life and civil discourse in our constitutional democracy [...]", in: R.R. Reno, "While We're At It", *First Things*, January 2017, <https://www.firstthings.com/article/2017/01/while-were-at-it> [accessed: 05.06.2021].

<sup>6</sup> A symptomatic in this regard is a voice of a liberal columnist of the Washington Post Anne Applebaum: "For the first time since the Second World War, we have an American president who is sceptical of trade, of the value of Western institutions, and of the significance of the Western military alliance. He may not succeed in destroying the post-war order, but he has certainly put it in grave danger", quoted in *Foreign Affairs*, May/June 2017, p. 178. One has of course to be conscious that when using such general phrases as a "liberal order", a nebulous and imprecise term in itself, one may think about many different realities. Such an order is better defined without hysteria of Appelbaum by G.J. Ikenberry, "The Plot Against American Foreign Policy: Can the Liberal Order Survive?", *Foreign Affairs*, May/June 2017, pp. 2–9. Critical towards Trump's policies, the author at least understands this order's dysfunctional features to which Trump tried to respond.

<sup>7</sup> R. Mickey, S. Levitsky, L.A. Way, "Is America Still Safe for Democracy?", *Foreign Affairs* 2017, Vol. 96, No. 3 (May/June), p. 20.

backsliding; nor are constitutional checks and balances, the bureaucracy, or the free press. Ultimately, it may be Trump's ability to mobilize public support [...] that will determine American democracy's fate.<sup>8</sup>

This accusation of populism represented by Trump and his electorate subverting progressive American march towards just society united both the intellectual university elites, the media and corporations but also establishments of both the Democratic Party as well as part of the Republican Party which misunderstood its own political situation and took a defensive stance. This "populist" uprising terrified the liberal-left which could use its powerful means of communications having control of nearly all mainstream media and universities with business giving it nearly unanimous support. Moreover, for the first time in American history the liberal-left is richer than the conservative-right side with American billionaires donating huge sums to universities bribing them intellectually and pushing to auto-censorship with Big Tech censoring the social media. What these people could not stand was Trump's challenge to their vision of social engineering and they will make everything never to let such a danger be created again.

Populism, understood in a European way, may of course be dangerous, but it cannot be managed by resistance alone. But Trump's victory showed that if a sufficient number of voters hate what their party establishments do and what affects them, they will rebel against it either to make it politically insignificant or forcing it to accommodate its voters grievances. In this sense Trump separated Republican, including conservative voters, from their establishment leaders. "That's what populist politicians do. They say what is popular but prohibited."<sup>9</sup> Such a separation after the World War II happened once in 1980 when the Republican base rebelled against its Party rallying around Ronald Reagan. Trump's victory "has revealed, rather than caused, the weakness of the Republican Party and the conservative movement [...]. The great and powerful establishment turned out to be a group of weak, foolish men behind the curtain."<sup>10</sup>

Trump voters rebelled against their own Party even if at the beginning it was difficult to discern any clear, positive ideas behind his movement. But it was obvious that something ended in the Republican camp, a phenomenon of the fatigue coming from constant defeats and unfulfilled promises after many decades when Republican politicians

who extol the sacred mission of limiting government, but never seem to try very hard [...] to actually limit government [...]. [I]t becomes difficult to keep believing that GOP victories are a matter of any real urgency. This state of affairs leaves Republicans arguing that the strongest case for their party is the need to make it more difficult for Democrats to

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<sup>8</sup> *Ibidem*.

<sup>9</sup> R.R. Reno, "In Search of Populism: The ruling class ignored the people; the people struck back", *The American Mind*, November 7, 2018, <https://americanmind.org/features/thinking-about-thinking-about-trump/in-search-of-populism/> [accessed: 5.06.2021].

<sup>10</sup> W. Voegeli, "What's at Stake", *Claremont Review of Books*, Spring 2016, p. 32.

do their worst. [...] One reason that Trump has taken positions contrary to those in recent Republican platforms, but paid no political price, is that Republican voters disposed to care about such things find it hard, after decades of unfulfilled promises, to take fealty to the agenda all that seriously. [Many conservatives] [...] committed [themselves] to every item on the conservative agenda: social issues, taxes [etc.]. But the list is mostly a list of things that haven't gotten done for a long time and are unlikely to get done for an even longer time. [...] By contrast, Trump and his supporters are [...] "attitudinal conservatives." Their conservatism is more concerned with solidarity and reciprocity than programs and policies."<sup>11</sup>

Some commentators compare Trump's rise to the phenomenon of Sarah Palin, John McCain's vice-presidential nominee in 2008. She might be defined as a precursor of Trump not because she was clear or cared about what policies she endorsed, but because she was an instant "political magnet" attracting crowds for one reason that her voters had a perverse satisfaction in the disdain and contempt she got from the liberal media and academia. The latter disdain towards her was a disdain of her supporters, who stood behind her and enjoyed her celebrity or notoriety according to her opponents. This emotional attitude was not connected with what Palin thought or said, her ideology was not clearly articulated. But her emotional conservatism was in itself a yelling protest against political corruption in Washington and against denigration of religious people. This located her, an evangelical Christian, firmly on the social conservatism's side and right at the very center of culture war. Palin became "an embodiment of every dark fantasy the Left had ever held about the views of evangelical Christians and women who do not associate themselves with contemporary feminism, and all concern for clarity and truthfulness was left at the door". This paranoid reaction on the Left was caused by the fact that she represented a new countercultural conservative feminism, which combined cultural traditionalism with work-place egalitarianism. It was this combination which terrified the liberal and leftist feminists because they realized how powerful such an appeal can be for a new generation of young women led into wilderness by "emancipatory" left. For her supporters she became "the Joan of Arc of the American Right." The conflict had much to do with the old-age tension in America between populism and elitism in the public square, between the notion that Americans were

the best governed by the views, needs, and interests of the many and the conviction, that power can only be managed by a select few. In American politics, the distinction between populism and elitism is further subdivided into cultural and economic populism and elitism. And [since the 1950s] the two parties have broken down distinctly along this double axis. [...] Both [populisms] are politically potent but in America, unlike in Europe, cultural populism has always been much more powerful. Americans do not resent the success of others, but they do resent arrogance, and especially intellectual arrogance. [...] It was this sense, this feeling that Sarah Palin channeled so effectively.<sup>12</sup>

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<sup>11</sup> *Ibidem*, pp. 32–33.

<sup>12</sup> Y. Levin, "The Meaning of Sarah Palin", *Commentary*, February 2009, pp. 15–17.

Palin's provocations resembling those of Trump defined her as the arch-enemy of the America's intellectual elite which, as was the case with Trump, hated her. This was a kind of highbrow intellectual elitism traditionally not visible in America.<sup>13</sup> In fact, such an intellectual elitism is new in America although it has been European tradition today visible in radical form in the EU. Palin was anti-elitist in the American sense of the word which the liberal elite defined as anti-intellectual when she was only non-intellectual and those who reacted furiously against her "evinced [...] no appreciation for the essential premise of democracy: the practical wisdom matters as much as formal education and that leadership can emerge from utterly unexpected places. [...] Palin's populism was not her weakness, but her strength; her weakness was [as Trump's – A.B.] that she failed to tie her populism to anything deeper."<sup>14</sup> But during Palin's time, as well as during the first true rebellion against the establishments of both parties, that is the Tea Party, the voters who supported both phenomena believed that they represented the true American spirit corrupted by the treacherous elites. The same was and is still true with the Trump supporters who think that they represent the true American ethos, that is a certain silent assumption that the elites have power and prestige but they get this so the rest of America can prosper. In other words, Trump's voters do think that they have been faithful to the American social contract while the elites betrayed it orienting themselves towards the global economic market and its increasingly ideological dimension.<sup>15</sup>

Here we come to the most dramatic problem of the late liberal-democratic society, a split between the general public and the elites, the essence of populism. This split is increasingly connected with the fact that a contemporary American elite wants to be solely revered according to an individual merit of its members separated from any obligations towards the rest of their fellow Americans. They do not have any *noblesse oblige* features of character which in times of turmoil and hardships create a sense of mutual solidarity of all. However, large part of the American citizens is increasingly skeptical and suspicious whether merit should be a sole legitimate basis of power, a situation visible in other Western countries as well, one of the causes of today's populism, a rebellion against governing elites. The very word itself has become a widely circulated insult, mainly because the way these elites are formed and replenished has been losing legitimacy, that is a basis upon which power and status are recognized as justly achieved. Elites in democracy have always had to justify their authority and privileges, and any widely held doubts that power and wealth are distributed in a shadowy, unjust way is a deadly danger for such an elite to retain an authority, undermining solidarity and social cohesion. Thus,

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<sup>13</sup> G. Himmelfarb, *The Roads to Modernity: The British, French, and American enlightenments*, Vintage Books, New York 2013.

<sup>14</sup> Y. Levin, *The Meaning of Sarah Palin*, *op. cit.*, pp. 15–19.

<sup>15</sup> See e.g. W. Voegeli, "What's at Stake", *op. cit.*, pp. 32–33.

[w]hen we fail to find [...] a persuasive justification for the privileges of an elite, the tendency of the democratic public is to rebel against that elite [...]. But populists are not anarchists. They demand liberation from oppressive authority because they want legitimate authority. [...] [Such] elite authority is unavoidably channeled through elite institutions. This is why populist frustration with elite authority is so often expressed as a loss of faith in institutions [...]. Elite institutions [in a liberal society] [...] should be suited to constraining our elites and pressing them into the service of the public. But too often they are not, because they do not perceive themselves in these terms, [the] institutions increasingly understand themselves as expressive of the ethos of the people within them.<sup>16</sup>

There are two ways of establishing elite legitimacy, writes Yuval Levin. Elites have to assure an open, democratic access to the institutions which create tools of gaining power, prestige and money. But even more important is a sense that such privileges are exercised with restraint and promote common good. If contemporary American elites claim that they represent merit this does not really mean that such a claim is recognized by the general public. These elites are perceived as oligarchical, exclusive and inbred, becoming a democratic equivalent of the old time aristocracy with hereditary privileges. Democratic changes in the second half of the 20<sup>th</sup> cent. might have eliminated the dominance of the once true American WASP elite, but primacy of merit which allegedly was to follow has not been observed and a pool of meritocratic people has not enlarged. We may say that meritocracy has solidified itself into an oligarchy with the same background, cultural connections, political values and ideas. This new oligarchy is also more confident that they have a right to be where they are because they achieved such a position by right of merit. Thus, today when Western elites engage in public activity, they

tend not to see it as the fulfillment of an obligation to give back but rather as a demonstration of their own high-mindedness and merit. [...] [T]he idea at the core of our meritocracy is radically individualistic and dismally technocratic: Merit is demonstrated by test scores and a glittering resume rather than a service to the larger society [...]. The sort of elite this produces implicitly substitutes a cold and sterile notion of intellect for a warm and spirited understanding of character as its measure of worth [perceived] by society [as] an unjustifiable substitution. But rather than impose some standards of character on itself, our elite inclines to respond to these concerns with increasingly intense displays of social justice.<sup>17</sup>

### **Responsive populism against contemptuous technocracy**

Trump responded to the aforementioned mistrust towards governing elites, however critics mistook his brash style for the essence of his way of governance. He understood that since the end of the Bill Clinton presidency in 2001 the United States has deteriorated both internationally and internally. For the first time in

<sup>16</sup> Y. Levin, "Toward a Conservative Institutionalism", *National Review*, February 10, 2020, pp. 25–30.

<sup>17</sup> *Ibidem*.

American history a possibility that such a decline might be structural and difficult to reverse began to be widely discussed while the establishment seemed to be incapable of defining the problem, let alone take up decisive action demolishing traditional political pieties.<sup>18</sup>

Trump understood that a growing sense of unease revolved not only around endlessly debated traditional issues such as unfavourable trade agreements, mass illegal immigration or endless foreign wars.<sup>19</sup> These issues seem to be unsolvable because fundamental cultural problems have changed, with monopolistic language of political correctness and “identity” liberalism constituting an ideological framework suffocating open discussions, a public ritual in which, with disdainful complacency towards the voters, politicians of both parties, business interests, dominating liberal-left media and the university elites participated. Trump realized that there were two Americas, even if the losing one might not guarantee victory. His strategy was to use the logic of the Electoral College to win, if not numerical then the electoral majority, a phenomenon happening several times in American history.<sup>20</sup> But this electoral majority amounted to 85% of the United States territory, showing how deeply divided America had become. On the one hand there were affluent, culturally and politically liberal, with economic global mentality in the East and the West coasts, on the other the huge country in between, culturally mainly conservative, religious, poorer, socially devastated, abandoned and disdained by the elites who neither knew nor tried to understand them getting back similarly intense emotions. To such emotions appealed Trump with the liberal elite considering such an alliance to be naive, reactionary and doomed to failure.

These liberal elites were dubbed by Barack Obama’s deputy national security adviser David Rhodes as “an incestuous echo chamber”, a phrase referring to their inbred insularity making impossible any contact with real America.<sup>21</sup> These elites harbor contempt and disdain for Middle America with their allegedly unenlightened reactionary and counterproductive ways of living and mentalities to be reeducated. When Obama lost the primary election in Pennsylvania in 2008, he defined people who were losing *en masse* their jobs in huge regions devastated economically as people who did not understand his prophetic genius,

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<sup>18</sup> See: A.M. Codevilla *The Ruling Class: How they corrupted America and what we can do about it*, Beaufort Books, New York 2010. Even if the crisis of 1968–74 was perceived as devastating it did not structurally weaken the American military and economic potential which Reagan soon mobilized to win the Cold War.

<sup>19</sup> Here the situation of the United States may resemble a typical fate of a universal empire: they united everybody against them and threw around its forces too widely.

<sup>20</sup> Hilary Clinton won about 3 million votes more than Trump, the majority of them were from California.

<sup>21</sup> V.D. Hanson, “Presidential Payback For Media Hubris”, *Hoover Institution*, March 1, 2017, <https://www.hoover.org/research/presidential-payback-media-hubris> [accessed: 5.06.2021].

psychologically unable to withstand stress.<sup>22</sup> Hilary Clinton fighting Trump during the election in 2016 wrote off one fourth of the American electorate as “deplorables” stating “you could put half of Trump’s supporters into what I call the basket of deplorables. [...] The racist, sexist, homophobic, xenophobic, Islamophobic – you name it [...]. And he has lifted them up.”<sup>23</sup>

Such a rhetoric was the best indicator of utterly narcissistic language of the liberal elites abandoning large sections of the American people not realizing that they may be called to task for thinking that their values were or should be shared by all. Their values, Hillary Clinton’s opinion quoted above testified to this in the most devastating way, were the standard values of the post-1968 liberalism, or progressivism. This liberalism has as its operating principle an idea of “emancipation” from all “oppressive” (as defined by them) traditional institutions, systems of thoughts identified as “false consciousness”, including “religious superstitions” as well as patterns of life detrimental to human wellbeing according to the emancipators’ criteria. The “enlightened” liberal elite were thus to provide a definition of this truly “emancipated” society and to break a resistance of people in opposition to social engineering. This “emancipatory” ideology and its underlying anthropology annihilates all roles demanding a subordination of one’s imperial will to a higher authority of objective moral norms and duties limiting one’s own ego. This would require inculcation of virtues through autonomous institutions independent of any ideological social engineering. These virtues reach beyond a fleeting impulse of the self and a mere choice subjecting them to the truth higher than one’s own ego, the only basis of significant relational arrangement which can come only from authority outside of one’s own subjectivity.

The most striking contradiction within liberalism today, defined by different names such as postmodern or identity liberalism, is its inability to form any mutual lasting social obligations. With a diminishing force of the Christian anthropology and a social ethic built on it, liberal society tries to build moral responsibility on human rights incapable of forming social solidarity with minute pragmatic administrative rules of conduct, essentially means of crisis management among proliferating, competing rights at every social level. It is this dissolution of social cohesion which America began increasingly to experience. The countercultural revolution tries to build social solidarity on a motley stew of essentially psychologically defined categories like e.g. “authenticity” or “non-judgmentalism”, regulated by minute rules of mutual accommodation animated by human rights rhetoric which pushes them into a neo-Marxist dichotomy of

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<sup>22</sup> *Condescending to Tell People You’re Not Condescending is Still Condescending*, April 14, 2008, <https://stumplane.us/2008/04/14/condescending-to-tell-people-youre-not-condescending-is-still-condescending/> [accessed: 5.06.2021].

<sup>23</sup> Clinton gave this speech at an LGBT campaign fundraising event in New York City on September 9, 2016, see e.g. “Basket of deplorables”, *Wikipedia*, [https://en.wikipedia.org/wiki/Basket\\_of\\_deplorables](https://en.wikipedia.org/wiki/Basket_of_deplorables) [accessed: 5.06.2021].



“oppressors” versus “victims”. This is a basic framework within which contemporary “woke” movement and “cancel culture” operate. There is a paradox and contradiction in this moral deregulation which places a sole point of moral judgment in an autonomous individual. Acceptance of non-judgmentalism is a natural outcome of such an axiom since there are no criteria of judging different “opinions” when a category of truth relating to some stable ontological or anthropological structure of reality, something called natural law has been rejected. The only accepted anthropology is anthropology of the “self”, each truly legitimate. As a consequence, liberal human rights form the new public morality. This is a hopeless task going against historically confirmed fact that “everyone who has gotten any systemic morality in his or her life received it from a primal community [mainly] conceived religiously.”<sup>24</sup> Public morality created on the basis of human rights in principle aims at securing non-discrimination, equality and unbound individual freedom, of which the most blatant example is a right to choose subjectively any identity meaning rebelling against any historical, cultural let alone religious identity. In fact, the only identity is a constant potential of fluidity, an understanding of freedom secured by human rights scaffolding. Rights have to relate to any chosen identity without any judgment on its moral legitimacy, except pragmatic reasons of public safety or rules preventing “hate crimes” constituting in fact ideologically certified principles of non-judgmentalism.<sup>25</sup> But with such an anthropology demanding that a total content of any subjectively chosen identity be defined in a language of rights autonomous individuals “are inevitably unable to resist seeing all their rights become entitlements from the state. That is because none of these rights can be conceived to be ontologically prior to the authority of the state and therefore none of them are essentially outside its control. Furthermore, none of these entitlements are irrevocable.”<sup>26</sup>

Tyranny of identity politics began to define public discussion as legitimate only if conducted within prescribed ideological rules disregarding basic rules of logic or science, let alone common sense. This creates an illusion of true debate pushing out any predefined legitimate criticisms into a forbidden zone. As a consequence, not social solidarity has been created but loneliness and social dissolution.<sup>27</sup> America has become a country profoundly divided against itself. However, the major class line today is not so much racial or economic. They remain as sharp as ever but causes of contemporary divisions go deeper. Lower classes are affected by cultural dissolution and devastated by the sexual revolution, easy

<sup>24</sup> D. Novak, *In Defense of Religious Liberty*, ISI Books, Wilmington, DE 2009, p. 100.

<sup>25</sup> P. Manent, *A World Beyond Politics? A Defense of the Nation-State*, Princeton University Press, Princeton 2013.

<sup>26</sup> See on a process of development of identity politics: K. Kersten, “Adversary Culture in 2020”, *First Things*, February 2021, pp. 41–46; M. Eberstadt, *Primal Screams: How the Sexual Revolution Created Identity Politics*, Templeton Press, West Conshohocken, PA 2020.

<sup>27</sup> One of the first analyses of this process was given by a sociologist R.D. Putnam, *Bowling Alone: The Collapse and Revival of American Community*, Simon & Schuster, New York 2000.

divorces, drugs and alcoholism. These are phenomena separating economically, socially and morally the lower classes, especially the white working class, from the upper middle classes, a process of America “coming apart”.<sup>28</sup>

Benefits of globalization have affected this upper class but shattered the lower classes resisting more and more policies of the most culturally and politically influential, most wealthy Americans. When this half of America, predominantly Middle America in class and in geographic terms suddenly realized that they were

targeted by globalization and was culturally caricatured for its supposed irredeemable and deplorable habits by the smug winners of internationalism, [it was not surprising] that it looked desperately for a politician who promised to put them back to work and to honor rather than deride their manner of living [...]. A renegade Manhattan billionaire understood the angst of Middle and of the rural America far better than seasoned conservative professional politicians [from the Republican Party] (many of them from fly-over states), media and Hillary Clinton and Barack Obama – and then, like all successful populists, he crafted messages to make them feel they could be as prosperous and respected as were their critics who dismissed them.<sup>29</sup>

Trump message was addressed to all Americans as Americans, thus his target was the American “people”, while Clinton’s message was addressed to identity groups, very much dependent, as clients, on different government’s programs distributed by the liberal left. Within such a perspective, common America was just a pale shadow of group interests and identities addressed by Clinton. For Trump united America was more important than identity groups based on race, gender, class (except the workers) and of course middle-class intelligentsia connected with corporations, the media and academia. Trump appealed to a common-sense American patriotism, empowering huge groups treated by the liberal left, culturally and economically, as sites of the worst American vices. Here Trump’s program was closer to Bernie Sanders than Hilary Clinton, differing only by means of governance. Sanders appealed from the principles of social democracy never strong in America, Trump from the principles of patriotism and equal opportunity within the American model of economy.

Trump sensed something which Hilary Clinton was incapable of grasping: that it was impossible to win the election without groups defined by economic and social inequality. Identity groups allied with cultural liberal left and affluent upper class were not enough. The CNN’s exit polls showed that white working-class voters, usually defined as ‘whites without four-year college degrees’, constituted staggering 34% of the 2016 electorate totally neglected by the Democrats. 66% of their vote went to Trump, when only 29% voted for Clinton, a real

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<sup>28</sup> Ch. Murray, *Coming Apart: The State of White America 1960–2010*, Crown Forum/Random House, New York 2012.

<sup>29</sup> V.D. Hanson, *The Unlikeliest Populist*, [in:] *Vox Populi: The Perils and Promises of Populism*, ed. by R. Kimball, Encounter Books, New York 2017, p. 152.

landslide. This was not necessarily surprising since Trump just capitalized on a trend which began with John McCain who won 58% of the white working-class votes in 2008 and Mitt Romney who got 61% of their vote in 2012.<sup>30</sup> Neglecting over one third of the electorate in a two party system while polarizing American politics was a strategic mistake. The Democrats could not become the party of the working class as they were during the New Deal once they decided in the 1970s to focus on identity politics, but they could lose with a narrower margin. Clinton was rejected by the working class because she did not notice a rising tide of anger not so much visible yet during Obama's elections, but also because her campaign strategy rejected this class, thought by her advisers to be a winning strategy. But she also focused on identity groups because she thought she could not win the working class anyway, a strategic misjudgment. A symbolic end of her campaign were rallies in the inner cities and college towns, the numerically and intellectually very center of the rainbow coalition based exactly on identity criteria, minority groups like Blacks, Hispanics, gays etc., with whites with college degrees focused on advanced or professional degrees. Here in a nutshell was visible this alliance of the upper class with the identity groups.<sup>31</sup>

Of course, the white working class distanced itself from the Democratic Party anyway a long time ago and to win them back required an extra political effort. But Clinton's strategy rejected the class dimension of a conflict, both in its traditional economic aspect and this new cultural one in favor of identity politics, and lost. Clinton could have appealed both to the rainbow coalition and the workers if she tried to notice their economic hardships. But she renounced the latter *en masse* defining them as bigots, rednecks and xenophobes, racism *a rebours*, considering their culture and social ideas as illegitimate. Clinton showed a shocking disdain of the better off towards the poor not realizing that economics at the time of global dislocations mattered in the election of 2016 much more than often marginal identities. The Democrats did not notice this economic dimension coming back in American politics.<sup>32</sup>

But the Democratic Party and Clinton did not grasp the fact that a choice between their rainbow base and the white working class was real in yet another dimension, defined by their rainbow coalition as the only legitimate and by the working class or religious traditional groups as not acceptable. When the

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<sup>30</sup> W. Voegeli, "The Democrats' Dilemma", *Claremont Review of Books*, Fall 2017, p. 21.

<sup>31</sup> According to CNN "voters of all races with a postgraduate education accounted for 18% of the 2016 electorate and favored Clinton by a margin of 58% to 37%", *ibidem*.

<sup>32</sup> They should have noticed this connection and responded to "the [...] aspirations, anxieties, and resentments [of all working class people] with a newer, post-industrial New Deal. Both former Vice President Joe Biden and Senator Bernie Sanders, Clinton's opponent for the 2016 nomination, have insisted that the white working class voters who favored Donald Trump so decisively were not, by and large, bigots. Rather, Sanders said earlier this year, Trump understood 'that there's a lot of pain in this country' [...] Clinton could have defeated Trump if she had addressed that pain with the sort of economic populism that defined the Sanders campaign [...]", *ibidem*.

Democrats obsessively focused on even the most marginal, for instance transgender, aspects of the rainbow coalition, they totally disregarded the working class values let alone religious freedom. Clinton's disdain was just a consequence of a demand that the other side should totally accept the liberal-left ideology and anthropology which stood behind it as the essence of universal morality and it did not do this.<sup>33</sup> The Democratic Party and the liberal-left elites consider themselves to be carriers not only of political, economic and social strategy for America but guardians of the only civilized morality. As such they look at themselves as endowed with a mission of "enlightening" people with wrong morality and "false consciousness" and warriors in the culture wars without compromises nor taking prisoners. This is a zero sum "we against them" battle in which the liberal-left thinks that the democratic process, subject to populist and xenophobic sentiments, is faulty and should be curtailed and guarded against such sentiments by administrative "deep state" or the courts in which liberals have an advantage because they are coming from liberal law schools<sup>34</sup>. That is why for the liberal-left abandoning even the most drastic aspects of the morally right policy of the rainbow coalition and identity politics was in their judgment by definition politically wrong since

curtailing identity politics in order to emphasize greater economic security could result in a net loss for Democrats if the number of disaffected rainbow voters who stay home exceeds the number of white Trump voters attracted to a corner-cutting [since] economic populism has the capacity to attract significant numbers of white working-class voters, and over "the difficulty of luring [such] voters without turning away the Democratic Party's loyal base." And the moral wrong? [...]. [A]ny Democratic pivot to the white working class requires denying "the primacy of racism" – denying that Trump did so well with such voters because they were willing to accept, and in many cases eager to embrace, "the very real racism and sexism that [he] deliberately channeled" in 2016. In other words, retooling their message to make it more appealing to white working-class voters will probably leave Democrats worse off, due to more-than-offsetting losses from the rainbow base. [...] Political parties must determine how to win elections, but also remember why. To win by betraying the fundamental reason for contesting an election in the first place validates the other party's rejection of one's own principles.<sup>35</sup>

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<sup>33</sup> This is a thesis which was unequivocally put forth by J. Walsh, *What's the Matter with White People? Why we Long for a Golden Age that Never Was*, Wiley, New York 2012.

<sup>34</sup> This is a tactics suggested by Harvard Law School professor Mark Tushnet, who several months before the election of Trump, overtly advocated that all who do not agree with liberal-left Tushnet's views should be forced to do this by constitutional litigation. When Tushnet wrote that "the culture wars are over; they lost, we won" he did not think so much about politics but culture and morality, and thus a need to reeducate these who disagree and who happened to be voting for Trump. M. Tushnet, *Abandoning Defensive Crouch: Liberal Constitutionalism*, May 6, 2016, <https://balkin.blogspot.com/2016/05/abandoning-defensive-crouch-liberal.html> [accessed: 5.06.2021]. This brings to mind an observation by the foreign minister of Great Britain during the time of the Vienna Congress of 1815 that "the fundamental problem of politics [...] is not the control of wickedness but the limitation of righteousness".

<sup>35</sup> W. Voegeli, "The Democrats' Dilemma", *op. cit.*, pp. 21–22.

Hilary Clinton's strategy repudiated. Her husband's strategy of exactly doing what she considered an anathema, worked. Bill Clinton made very substantial compromises with the liberal identity politics dogma, even if at his time its rigidity was not so pronounced. It was Obama who made identity politics a cornerstone of his policy even if in practical terms such a policy contained many compromises. Hillary Clinton did not make any compromises, despite warnings of such liberal critics of identity politics as Mark Lilla<sup>36</sup>. But Lilla might be missing the point. His old time liberalism of the Democratic Party is gone not because it is not rational, but because its time has ended when ideology immune to any argument captured the Democratic consciousness. This identity liberalism is what opponents of Trump "desperately want to hold up as an alternative to Trumpism, not the old civic liberalism [...] but a more sacralized politics, a liberalism of transgression and transformation. Identity and ecstasy."<sup>37</sup>

Clinton was forced by radicals in her party to apologize for her husband's previous policies accepting Obama's definition of American politics in identity categories. But Obama also indirectly criticized Clinton and Bush for not being able to stop a decline of industrial America, adding that in fact one had to recognize this as a matter of reality impossible to be thwarted. That meant that the Democrats came to the conclusion that they "have run up against the limits of what they – or anyone else – can do to create and protect good jobs," as a result, "working-class whites seem more and more aware of the fact that Democrats have lost the ability to deliver stable, well-paying jobs [...] [thus] they will naturally gravitate to Republicans on the basis of national security, social issues, and cultural affinity."<sup>38</sup> This is exactly where the identity politics coalition and the Republican Party, appealing to the white working class, dramatically differ. The Democrats have nothing to offer the workers, the chasm between the white working class and them is colossal, and no economic populism was and is going to run traction among them.<sup>39</sup>

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<sup>36</sup> M. Lilla, *The Once and Future Liberal: After Identity Politics*, Harper, New York 2017.

<sup>37</sup> R. Douthat, "A Fishy Left-Wing Tale", *National Review*, March 5, 2018, p. 43, <https://www.nationalreview.com/magazine/2018/03/05/a-fishy-left-wing-tale/> [accessed: 05.06.2021]. It is symptomatic that after Trump's election the first Best Picture Oscar for 2017 year's film went exactly to a movie "The Shape of Water", a manifesto of identity politics as the highest stage of human development and morality.

<sup>38</sup> W. Voegeli, "The Democrats' Dilemma", *op. cit.*, p. 23.

<sup>39</sup> That was show by J.C. Williams, *White Working Class: Overcoming Class Cluelessness in America*, Harvard Business Review Press, Boston, Mass. 2017; R.V. Reeves, *Dream Hoarders: How the American Upper Middle Class Is Leaving Everyone Else in the Dust, Why that is a Problem and What to Do about it*, Brookings Institution Press, Washington, D.C. 2018.

## Real lines of division and alienation of liberal elitists

When in 2016 the Republicans nominated an American billionaire, the Democrats thought that the working class could not support such a person. But to assume that they would vote for Clinton was a wishful thinking, because the white working class, as Joan C. Williams argued resents professionals like Clinton and

the sort over-represented in the rainbow base coalition, “but admires the rich”. Members of the working class are not rich, of course, but find the desire to *be* rich entirely comprehensible. By contrast, why someone would want to be, say, a community organizer is baffling and more than a little disquieting. Worse, members of the working class have little direct contact with the rich, but a good deal with professionals – much of which consists of being bossed around, second-guessed, and condescended to.<sup>40</sup>

Efforts by the Democrats to woo automatically the white working-class when Trump was nominated turned out to be futile since they thought that the real cleavage was between 1% of the rich (just everyone over \$400,000) and the 99% of the rest. But the most important division in America, as Richard V. Reeves showed, is in fact between 20% at the top who earn above \$116,890 in 2015 and the 80% being the rest, in other words the upper middle class and everybody else. The electorate who supported Trump without big money

“have no problem with the rich,” but detest “upper middle-class professionals” [...]. This working-class attitude may reflect spite or resentment but is ultimately based on an accurate assessment of how modern America works. Through interlocking policies, especially ones affecting taxes, education, and real estate, the upper quintile has both fortified its advantages and steadily increased its ability to transmit them intergenerationally. [...] With all [the] advantages flowing to children who are already advantaged, it is easier for them to get into the selective colleges that play a large role in determining career paths and marriage prospects, the variables most likely to affect socioeconomic mobility.<sup>41</sup>

The problem of America today is thus not a class system as such, but an emergence of the caste system which goes against the very essence of what America wanted to be and how it has perceived itself since the beginning. In contemporary America the economic mobility has dramatically changed from absolute to a relative one.<sup>42</sup>

Trump sensed that the Democrats got into a trap. Having these two options: class politics or identity politics they invested too much in the latter figuring out that the first option is closed to them either because they could not win class oriented voters, or the collateral damage done to their identity supporters who view working class as “bigoted” would be too costly.<sup>43</sup> Whether by instinct or careful analysis of the polls in relation to the logic of the electoral system,

<sup>40</sup> W. Voegeli, “The Democrats’ Dilemma”, *op. cit.*, p. 23.

<sup>41</sup> *Ibidem*, p. 25.

<sup>42</sup> See esp. *ibidem*.

<sup>43</sup> The identity politics electorate still thinks that the revolution has not been finished and that any compromises with the opponents would amount to a betrayal of the “sacred cause”.

Trump realized that his chance depended on maintaining that sharp polarization.<sup>44</sup> The Democrats were yet captured not so much by identity politics, but identity politics as preached by the 1% perceiving themselves as both moral and not self-ish, disregarding the injustices of the economic distribution of wealth, since they listened only to themselves within their own narrow enclaves. Here we could observe the apparent use of the 19% of the upper income ladder by the 1% within this above mentioned 20% group.<sup>45</sup>

The affluent belonging to the 19% are of course aware that they are just below the level of the 1% and knowing that to achieve this level was within their reach. Their aim is in fact not to stick to the classical American way of keeping access to the mobility ladder open for all but to close the upper 20%, to live separately within their class – *caste milieu* – and to defend it against those aspiring to get to it. So, they are not interested in America as one society bound at least by basic rules of fairness and solidarity for all but as belonging to a new caste, sealed off from the 80% permanently. They realize that certain goods which are important to them and not so important to the rest below them are inherently scarce which might be available not only for the 1% but also for the next 19%, but never for the rest. These are so called positional goods, for instance residential areas or access to the top colleges because of the inherently good distribution of schools where the 20% live and permanently degraded schools where 80% live.<sup>46</sup>

These 19% thus treat identity politics, unlike class politics, as essentially morally good making them feel morally superior but requiring no sacrifices as this stance does not touch their interests. This enables them to explain emotional attitudes of the electorate which is “not like them” not in terms of class politics or economic terms of social policy but in psychological categories, as “bitter”, “disillusioned” or “resentful”. People living in devastated areas simply not only do not understand the objective situation for which the United States government is not responsible – they also direct their anger against groups which are not responsible for their bad situation so they can justify their frustrations. In other words, such anger has nothing to do with objective “dislocations” but is entirely a result of “white ethnic backlash”. “The successful” explained Trump’s rise exactly in

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<sup>44</sup> He saw a chance of winning enough electoral votes from smaller states where identity politics was not a dominant issue and giving up on the states where identity politics was a certified dogma of the majority of the electorate, like California or Massachusetts. That gave him geographic advantage of about 85% of the country, that is nearly the entire mainland except the East and the West coast states, but even there Pennsylvania voted for him.

<sup>45</sup> W. Voegeli, “The Democrats’ Dilemma”, *op. cit.*, p. 26.

<sup>46</sup> For instance, in 2015 a developer wanted to build 224 affordable housing units in Marin County in California, the most affluent place with a median house price of 1.25 million. The *ad hoc* organized civil movement pushed to stop the program arguing that it would be impossible to “protect and preserve the character of the area”. The movement turned out to be successful in 2017 when a Democratic state legislator from Marin County passed a bill preserving such areas. Hilary Clinton got 79% of the vote in Marin County as against 16% cast for Trump, R.R. Reno, “While We’re At It”, *op. cit.*

such terms.<sup>47</sup> The Democrats accepted this interpretation; therefore, their message was not so much political or economic but in large measure moral. Rebellion against identity politics was thus interpreted in terms of racial politics, with racial resentment captured by an idea of "white supremacy" with a corresponding fear that the number of white "deplorables" would dwindle to insignificance.

Only within such a psychological frame of mind a phenomenon as absurd as "cancel culture" could arise. Its basic premise is that since the "white backlash" is still a dominant feature of the American psyche, and racism as strong as ever, nothing in fact has changed since the times of the Founding Fathers. The United States is still a fundamentally racist, sexist, homophobic, name what you want, country despite all efforts to the contrary so there must be a systemic "original sin" impossible to be eradicated unless the entire heritage of America will be rejected. But such an approach by "the successful" 19% has here another aim as well. They use identity politics and racialist language not only to feel morally superior, but also to manipulate the identity groups telling them that they are vulnerable and without the elite's support and protection they would be open to the "white supremacist" attacks. This kind of paternalism enables liberal elites to sustain their own economic status, prevent any real discussion about social and economic consequences of cultural dislocations, while at the same time giving all minority identity groups a sense of belonging to the "elected".<sup>48</sup> The Democrats were unable to properly define the real causes of their defeat in 2016, thinking that identity politics, paternalism and a sense of urgency against a threat of rising racism, xenophobia and bigotry would enable them to cast aside as publicly illegitimate people whom they opposed, the "deplorables". For this reason, they neglected important issues of a large part of the electorate. Not only the economic dislocations and degradations but cultural and moral degradation and an acute sense of homelessness as well, all strictly interrelated.<sup>49</sup> The Democrats thought that identity politics substituted for "objective" dislocations of the modern "fluid" society, also a decline of religion, while at the same time the liberal-left was pushing religious people to the margins or even persecuting them for their resistance to the identity politics, especially sexual revolution.

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<sup>47</sup> This is a phenomenon comparable to Richard Nixon's "the great silent majority". Trump used this rhetoric of "the silent majority", today composed differently but sharing a sense of exclusion, disdain and lack of dignity denied them by allegedly morally "better" and "chosen". For the "successful", this attitude had nothing to do with objective economic and social degradation but with their psychological phobias.

<sup>48</sup> On this paternalism of the white liberal elites see books by a black scholar Sh. Steele, *White Guilt: How Blacks and Whites Together Destroyed the Promise of the Civil Rights Era*, Harper Collins, New York 2006, esp. pp. 25–28, 143–148, 167–181.

<sup>49</sup> In the latter case the liberal-left and their political home the Democratic Party thought that identity policies constituted truly successful base of the new "home" after the lost "home" of traditional communities was destroyed, when in fact the identity politics was just a lame substitute. See on this M. Eberstadt, *Primal Screams*, *op. cit.*



Trump realized that America was divided against itself with the huge “neglected” part of it in a rebellious stage. He grasped by instincts that the US experienced a unique transformative period at the center of which is “revolutionary anger”, arising from a sense of oppression or exclusion. It has dominated American politics in different forms for over a century. But it has now assumed a new form since during the last couple of decades when the liberal-progressive establishment, especially in the cultural sphere, was skillful in domesticating any political *causa* on the left. Every revolutionary *causa*, the moment it appeared, was domesticated. The counterrevolutionary impulse is different, airing in contemporary times from a sense of betrayal and abandonment, as was the case with a counterrevolutionary “silent majority” backlash during Nixon’s presidency. But although the anger which Trump organized stemmed from the same sense of betrayal and abandonment it had deeper causes because it takes place in a totally transformed cultural environment. Also, optimism of Nixon’s era, again sustained for some time after the fall of communism, evaporated. America has become in fact a post-religious society as moral authority stemming from traditional Christian anthropology being also a backbone of the humanist tradition collapsed and the ideologies trying to fill the void created in turn all kinds of pathologies.<sup>50</sup>

But rage itself is impotent and self-destructive politically if it does not have concrete targets to hit and politicians who will define enemies and lead the anger against them. Trump did exactly this, thus plunging the American political establishment on both sides of the public scene into a profound sense of horror on the liberal-left and bewilderment on the right which realized that he was the only one to organize that counterrevolutionary rage, telling in a straightforward words that a huge part of the American people were abandoned by the establishment politicians. On both parts of American politics this message was defined as a classical right-wing populism. True, Trump defined the enemies, organized and directed the anger refusing also to denounce right-wing extremism. But whatever one may think about his style of the campaign and politics, it cannot be said that he violated any constitutional norms, since, as R.R. Reno observed, the American Constitution does not forbid right-wing populism, let alone it is absurd to say that right-wing populism is an indication that authoritarian or “fascist” intentions are on the rise. Of course, such an angry, emotional political climate may pose a threat to constitutional stability. But this was not because of people like and support Trump. To portray him this way stems from the fact that American, and to certain extent European culture, depicts politics in categories mainly obsolete and worn out still coming from the post-WW II vocabulary. Communism was defeated many years ago, but Americans

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<sup>50</sup> See esp. R.R. Reno, “Anger-Politics on the Right”, *First Things*, February 2021, <https://www.firstthings.com/article/2021/02/anger-politics-on-the-right> [accessed: 05.06.2021].

still believe that legitimate and powerful anger [...] comes from the left – the excluded and oppressed. [...] But today the most potent anger comes from the right, from people who feel betrayed, not oppressed or excluded. And their rage is warranted. They have been misgoverned and misled. [...] Our governing mentality is dominated by the assumption that oppression and exclusion are the only sources of political rage. It cannot grasp the significance of counterrevolutionary anger. [...] [T]he establishment left makes radicalism part of the status quo, which by definition makes it something other than radical. This radicalism can be destructive, but it's unlikely to be destabilizing, which means the liberal-progressive establishment will stay on top. This is why BLM marches do not give elites nightmares.<sup>51</sup>

But a very narrow group of the university professors, the media or even corporations supported Trump, because it was there where the danger for the status quo was hiding itself, not on the left. What was shocking was the fact that even if more than 70 million people voted for Trump, dominating elites dismissed this as either insignificant or illegitimate. However, the causes of the rage which brought him to power have not disappeared. The most important question remains: who will organize and civilize that rage because its powerful fury will stay despite Trump's defeat. But this is a right-wing fury. Unlike the liberal-left anger managed by the liberal-left progressive establishment accepting many of its legitimate demands into the fabric of the American society, this right-wing fury – as Reno observed – has not only not been accommodated but was not even properly defined. This is because Biden refuses to confront problems which animate it, thinking that people who are its carriers cannot be treated as citizens and should be pushed into reservations or “sensitive” training programs. The 20<sup>th</sup> century was mainly a time in America of accommodation of the fury of the left but the 21<sup>st</sup> century differs. America's problems

arise from experiences of economic, cultural, and spiritual homelessness that now affect wide swaths of the [...] population. [...] But the anger runs deeper. Many are no longer sure they are allowed to say “Merry Christmas” or salute the flag. Their use of pronouns is monitored. They are subjected to “diversity training” and other rituals of self-abasement. In view of these experiences, a furious rage at real (and perceived) betrayals is certain to rock our society. [...] We are heading into a time of counterrevolution – the return of the strong gods.<sup>52</sup>

Trump was the first politician to address this right-wing conservative fury of today and he rode to his electoral victory on its waves. But he failed for many reasons not necessarily connected with his character flaws but also because of an adamant resistance of the liberal-left establishment and the administrative “deep state”, let alone unexpected events like COVID-19 pandemic.

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<sup>51</sup> *Ibidem.*

<sup>52</sup> *Ibidem.*

## Nature and purpose of political power

The aforementioned problem of the “deep state” has two aspects. One is a phenomenon of a gradual rise of the administrative state replacing democratic control of it.<sup>53</sup> The other is its response to confrontational executive power. Trump run on a slogan “either we have a state, or we do not”, but his view of this state was at the beginning peculiar, taken more from his corporate world than coming from his desire to use the state machinery in a more efficient way to solve problems at hand which political leaders avoid.

Presidents of the United States in recent times have refused in practice to run the government as the chief executive. The American federal state comprises today a maze of administrative agencies, making and enforcing regulations, creating and running innumerable social programs. This is a universal feature of all modern democratic governments with expanding bureaucratic tasks with more and more incomprehensible procedures and rules lacking transparency beyond any control of offices managing them. But in the United States this phenomenon of the vast bureaucracy, is relatively new, dating back at most to the Progressive era. This administrative state apparatus consists mainly of the middle-class bureaucrats who have no strong collective identity of belonging to an elite class. They do not have a particularly high social prestige as in Germany or France and their economic fortunes do not especially depend on their careers in government. In the US government agencies are overwhelmingly transparent and accessible but weak in a systemic way.<sup>54</sup>

We may thus say that the American bureaucratic state is transparent but collectively inefficient even if intrusive in all aspects of life in a negative way. Paradoxically, even if it's more transparent in relation to ordinary citizens it is more independent and inefficient acting within the constitutional limits.<sup>55</sup> If traditional European states have powerful bureaucratic elites with their own interests they nevertheless know that they are connected with the interest of the state and able to control the entire administrative apparatus, even if ministries are fighting each other for power and funds, in the United States that control is much less visible.<sup>56</sup> The constitutional system and dispersion of power is less efficient at

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<sup>53</sup> See on the evolution of American administrative state esp.: Ph. Hamburger *Is Administrative Law Unlawful?*, University of Chicago Press, Chicago 2014; R.A. Epstein, *The Dubious Morality of Modern Administrative Law*, Rowman & Littlefield, Manhattan Institute, New York 2020.

<sup>54</sup> J.D. Michaels, “Trump and the ‘Deep State’: The Government Strikes Back”, *Foreign Affairs*, September/October 2017, p. 54.

<sup>55</sup> See an excellent book on this problem: Ph. Hamburger, *Is Administrative Law Unlawful?*, *op. cit.*

<sup>56</sup> Of course, in Europe this may also have an adversarial effect when an elite is incapable of making any decisions and their insularity from political leaders may make the system incapable of action. This situation happens with immigration crisis in Europe. See D. Murray, *The Strange Death of Europe...*, *op. cit.*

controlling the workings of this huge administrative federal apparatus. The congressional control as well as interventions of the Supreme Court constitute more retroactive measures than day to day supervision operations, especially since Congress has delegated a lot of its legislative powers to the federal agencies. For this very reason if presidents abdicate their role of keeping the administrative state on a short leash and under their command, than it becomes an independent empire beyond any control.<sup>57</sup> This growth of independence, inefficiency and unaccountability goes hand in hand with a rising outsourcing and privatization of services subjected to their *de facto* monopolization by powerful lobbying groups changing civil officials into employees of private interests.<sup>58</sup>

Certain services may become more efficient, but this goes with the loss of accountability and democratic legitimacy since contractors act without any control and an ability to assess their measures in view of the overall system of governance.<sup>59</sup> Such a situation resulted with a loss of trust in the US political class and a growing delegitimization of politics as usual, both on the right, e.g., the Tea Party rebellion, and on the liberal-left side, e.g., the Occupy Wall Street movement. The situation might be compared to the turmoil years of 1968–1974<sup>60</sup>. The only means to control many dispersed separate agencies of the United States is the president and its “bully pulpit” including his legislative program imposed on Congress in his State of the Union Addresses. But such means are limited by law and custom.

This is one of the reasons that a maverick president like Trump could effectively challenge the incumbent political class and win the presidential office using an argument of the incompetent and corrupt government and arguing that what was needed to straighten things up is shoot from the hip business efficiency. But Trump did it in a shockingly confrontational way. A political amateur without any consistent ideas, or so it seemed at the beginning, no clear-cut program how to do certain of his proposals workable Trump nevertheless

took office as if orchestrating a hostile corporate takeover. In his first [...] months as president, he has followed his own counsel, displaying open contempt for much of the federal work force he now leads [...]. This has cost him allies in the executive branch, helped spur creative (and increasingly effective) bureaucratic opposition, and, thanks to that opposition, triggered multiple investigations that threaten to sap party and congressional support. [...] [T]he president and his surrogates have responded by borrowing a bit of political science jargon, claiming to be victims of the “deep state,” a conspiracy of powerful, unelected bureaucrats secretly pursuing their own agenda.<sup>61</sup>

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<sup>57</sup> Ph. Hamburger, *Is Administrative Law Unlawful?*, *op. cit.*, esp. pp. 129–174.

<sup>58</sup> See e.g. J.D. Michaels, “Trump and the ‘Deep State’...”, *op. cit.*, p. 56.

<sup>59</sup> Existing system of expertise assessment by the civil servants is rather a lame check.

<sup>60</sup> See an excellent study by J.T. Patterson, *Grand Expectations: The United States, 1945–1974*, Oxford University Press, Oxford 1996, pp.747–790.

<sup>61</sup> J.D. Michaels, “Trump and the ‘Deep State’...”, *op. cit.*, pp. 52–54. The concept of “the deep state” was applied first in the context of developing nations with lack of democratic culture

Trump's critics derided such an approach as totally incompetent and wasteful within complicated structures of government. Trump might have been correct, his critics argued, that there are intractable obstacles in governance, but they were to come not from any "deep state" conspiring against him but simply from the very essence of the bureaucratic logic of the complex modern state. Trump, if competent, would have used that bureaucracy as an asset. "It is the insecure presidents unable to hear honest technocratic feedback, who go to war with the state they nominally lead".<sup>62</sup>

This is true that Trump, the president coming outside of the establishment could effectively challenge an incumbent political class and win using an argument of a total incompetency of government while stressing his apparent business efficiency to straighten things up. But he did it in a confrontational way because he was a political amateur thrown into a maze of political and bureaucratic structures with set ways of operation trying to manage them without any consistent ideas or a program.<sup>63</sup> His effort to create a long-term convincing policy was from the beginning studded in practice with messy contradictions corroborated by his character flaws preventing long time stability against a powerful resistance of the Democratic but also Republican establishment.<sup>64</sup>

Whatever yet one might think about Trump as a personality including his vanity and chaotic presidential moves there is no doubt that he sensed something which the globalized American elite did not. Trump was definitely an American patriot which in case of public policy was strictly related to his economic nationalism and was connected with a vision of a country in which solidarity and different needs of different regions and people should not be harmed by globalism. To

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but with strong state and military elites, for instance Egypt, Pakistan, and Turkey where such elites were effectively capable of defying or thwarting democratic commands.

<sup>62</sup> *Ibidem*, pp. 54–56.

<sup>63</sup> See e.g. *ibidem*. p. 52, 56.

<sup>64</sup> This resistance was so fierce because Trump did not define a different policy, he defined a different vision of reality. "The stakes in any cultural clash are high. [...] The class that succeeds in consolidating its own culture and making it mandatory for anyone who wants to gain entry into the elite gets to sit at the top of the social hierarchy. Its class ethos becomes society's ethic, defining what is elevated versus what is base, what is natural versus what is abnormal, what is unquestioned versus what is questioned, what is rational versus what is irrational or even insane. The fight is over nothing less than who has the power to define reality. To lose such a fight is not just to be consigned to the wrong side of history or become the point of reference for 'that's not who we are.' It is to have the weight of the dominant culture pressed firmly against you, peeling away members of your side and undermining the ability and willingness of the remainder to resist. It is to be denied access to elite institutions and networks, and to all the material and social benefits they confer. It is even to have the force of law and thus ultimately the power of the state used against you [...]. Culture wars are never strictly cultural. They are always economic and political struggles as well. Elites rule through an interlocking political-economic-cultural system. [...] As American elites become increasingly integrated and culturally homogenous, they begin to treat their cultural rivals as subordinate classes." D.E. Paul, "Culture War as Class War", *First Things*, August/September 2018, pp. 43–44.

understand what was at stake one has to look at this problem in historical perspective so to point out certain, too often taken for granted assumptions concerning global economic development. In American history economic rearrangements in response to certain fundamental structural social and cultural dysfunctions have happened several times. At the turn of the 20<sup>th</sup> century, for instance, the main task during rapid industrialization was a harmonization of interests of farmers, urban capital and labor. This model challenged by globalization in a post-industrial society required a new rearrangement with all social groups benefiting, especially aiding the productive economy against the huge fictional economy of the bureaucratic administrators. This must be done not simply to sustain economic prosperity but because stable economic basis is necessary to sustain social cohesion and culture in which people can flourish, not only as individuals but in their communities, of which the most important are families. This is so because

culture comes first – but like a final cause or end in Aristotle’s philosophy, it is first in priority, not necessarily first in time or action. [...] [Not only – A.B.] conservatives have long believed that politics is downstream from culture [...]. As Irving Babbitt [wrote in 1924] “the economic problem will be found to run into the political problem, the political problem in turn into the philosophical problem, and the philosophical problem itself to be almost indissolubly bound up at last with the religious problem.” [...] [Today] cultural contexts created by news and entertainment media [...] largely define the limits of the possible in politics. These two views combine in the conviction that culture, in both the social and spiritual senses, takes precedence over politics or economics.<sup>65</sup>

But if culture is understood in its broadest sense as “the riverbed of politics, setting the course along which it flows”, then that course can be channeled in different ways by human action very much dependent on a particular economic policy as well, something which has been called political economy, which may produce

different dispensations of wealth and power but also profoundly shape family life, individual character, and the civic landscape. A political program therefore has to be an economic program, not just in the superficial sense of dealing with subjects like taxes and regulation but in the deeper sense of relating the nation’s economic way of life to its cultural fabric and the very conditions of its existence.<sup>66</sup>

In American history elections rarely were about fundamental issues going to the very definition of the American identity and structure of life. Abraham Lincoln’s election in 1860 as well as of F.D. Roosevelt in 1932 were such elections. They happen when Americans face certain dramatic and causing detrimental consequences changes and when such changes are conceptually defined as problematic. When a particular politician is able to provide an answer to them in such a way as to capture the imagination of the electorate, a fundamental change

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<sup>65</sup> D. McCarthy, “A New Conservative Agenda”, *First Things*, March 2019, p. 20.

<sup>66</sup> *Ibidem*.

might happen. Such changes might be internal, as in 1860, some external, they may be unrelated but sometimes they are acutely intertwined as they were during Trump's elections. Trump's challenge was so unnerving, and he was not given even a benefit of the doubt because the American establishment took for too long certain ideas for granted as if they were universal, immemorial truths. A rebellion against such a sclerotic paradigm took two radical forms. One was Trump's victory but another one was some kind of American socialism (represented by Bernie Sanders, also visible in the Democratic Party) gaining ground during 2016 and 2020 elections.

The United States faces now another epochal moment of choice. The social compact created after the Great Depression and in the years after the World War II and sustained for too long in the post-communist "end of history" illusion collapsed. The "welfare state" is in deep crisis, there is a noticeable decline of the stable middle class, a split between the affluent "hubs" and the rest of America and finally a corresponding collapse of cultural unity with widespread pathologies hitting the weak and the poor. But until 2016 both the Democrats and the Republicans were running their policies as if post-1945 social compact was still valid and thus, they concentrated on their global interests towards which they began to steer the United States. This liberal cosmopolitanism, similar in its philosophical and anthropologic roots to other ideological utopianisms, suddenly began to function "as surrogate of religion [...] [forgetting the biblical wisdom that] the end of history is in God's hands, not ours."<sup>67</sup>

Suddenly Americans found themselves to be totally divided, with the political class, the academy, the media and the corporate America totally unaware of the depth of this conflict defined by themselves either as marginal or reactionary revolt against the bright future. At the same time, they were building America as a global economic player not realizing that the terms of this competition radically changed, and the very interests of the United States began to be threatened with liberal establishment for too long in denial. If globalization was without costs in 1990s it became dramatically costly in the 21<sup>st</sup> cent. America became deindustrialized while political, business and cultural elites responded to a growing crisis with policy programs amounting

to shoring up its own privileges with respect to intellectual property and bureaucratic know-how, while fragmenting and buying off the urban service class with identity politics. For the unproductive, the elite prescribes what might be called "palliative liberalism," involving wage subsidies, tax credits, and other measures short of restoring inherent dignity and power to work. [...] Palliative liberalism [...] aims not to repair labor-capital relations but to euthanize, as humanely as possible, millions of economically unneeded and politically retrograde Americans. [...] The relief that church and family once provided is now supplied by fentanyl – another low-priced consumer product from China.<sup>68</sup>

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<sup>67</sup> R.R. Reno, "Saving Cosmopolitanism", *First Things*, January 2018, p. 66; see also: M. Rose, "Our Secular Theodicy", *First Things*, December 2017, pp. 37–43.

<sup>68</sup> D. McCarthy, "A New Conservative Agenda", *op. cit.*, pp. 21–22.

Meanwhile, the rigid class – or even caste – system began to solidify, with the upper class focusing on their privileges and the lower classes having a feeling, for the first time so clearly visible in American general consciousness, that there is no chance of climbing higher, increasingly depriving lower classes of a sense of basic dignity. Liberal elites neglected for too long a problem which had its origins in the 1960s when the federal government decided to solve once and for all, by expert social engineering, plethora of social ills such as racial injustice and poverty.<sup>69</sup> But this problem, if not new has become more acute today because at least in the 1960s an American cultural cohesion existed. But the major problem was then and now more or less the same. The issue was not hunger or abject hardship – the welfare state and modern technology can alleviate them. But the War on Poverty and other federal programs created since then failed because the US government began to treat people left behind by economic change “as liabilities to manage rather than as human assets to develop [...] This dignity deficit [...] [became] particularly acute among working-class men, most of whom are white and live in rural and ex-urban parts of the United States”.<sup>70</sup> This huge mass of millions of the white working class together with a growing number of the urban poor felt totally abandoned by contemptuous liberal elites.<sup>71</sup>

What McCarthy called “palliative liberalism” has yet been dying. The establishment had tried to manage discontent, but restoration of a viable political community turned out to be futile and Trump’s victory as well as sudden popularity of socialist ideas testified to that. The problem is that the liberal elites’ interests are best secured by a

completely atomized America, one in which states have not seceded, but individuals have. A heap of loose economic actors who have lost their cultural bearings allows itself to be managed benignly [...]. At the end of the eighteenth century, the French *ancien régime* paid the ultimate price for failing to mend its ways. Had nineteenth-century Britain not adjusted the balance of power and interests between landed lords, commercial magnates, and the growing urban working class, a similar fate would have awaited it. America’s fundamental political choice now is between mild nationalism, resurgent socialism, or suicide by liberalism, whether of the libertarian or palliative sort.<sup>72</sup>

However clumsily and chaotically, Trump tried to suggest such mild nationalism but failed. But if such moderate nationalism is to work it should first of all demolish intellectual pieties which have been the orthodoxy of globalization,

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<sup>69</sup> See e.g. A. Bryk, “Akcja Afirmatywna, doktryna różnorodności a plemienna koncepcja społeczeństwa liberalnego”, *Krakowskie Studia Międzynarodowe* 2004, No. 2, pp. 31–110.

<sup>70</sup> A.C. Brooks, *The Dignity Deficit: Reclaiming Americans’ Sense of Purpose*, Foreign Affairs, March/April 2017, p. 109.

<sup>71</sup> See on this contempt: Sh. Steele, *White Guilt...*, *op. cit.*; G. Loury, *One by One from the Inside Out: Essays and Reviews on Race and Responsibility in America*, Free Press, New York 1990.

<sup>72</sup> D. McCarthy, “A New Conservative Agenda”, *op. cit.*, pp. 21–22.



e.g., competitive global rules of trade and principle of open immigration. Trump was correct to claim that not economic efficiency of the American productivity should be its driving logic but the logic of citizenship with higher wages for workers and its additional demographic benefit. Economic nationalism creating steady working force and social stability is not contrary to free-market economics and history testifies to it, not only of the United States. Any way forward

requires refocusing on the American citizen as the basic unit of the economy. This is the essence of a nationalist political economy, which we very much need if our country's tradition of personal independence and limited government is to endure, a tradition in which government's primary economic role is not to provide welfare but to safeguard the conditions that make productive work possible.<sup>73</sup>

Trump's presidency put this issue at the very center of a political debate in the United States.

### **From businessman to people's tribune**

Economic decline since the 1960s has been slow and at the beginning not visible because exactly at that time America began to expand its messy welfare network. This decline has not been experienced solely by minorities.<sup>74</sup> Cultural and social problems were then also less visible although D.P. Moynihan showed its consequences in relation to the black community already in 1965.<sup>75</sup> Economic decline accelerated with the rise of globalization in the 1990s and has been experienced especially by millions of white working American and lower middle classes till today forming two major classes – the aforementioned lower strata and the “upper class” divided not only by economic and residential factors but also fundamentally cultural and social.

This newly created, predominantly white lower class is not only less educated or less likely to marry and have and bring up children in two-parent household, but in large part politically and socially alienated. As a consequence, percentage of working-age men outside the labor force – meaning neither working

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<sup>73</sup> *Ibidem*, pp. 23–25.

<sup>74</sup> This decline captured public opinion mainly within the context of the black degradation, but it was Michael Harrington's book *The Other America*, published in 1962, which exposed Americans to the fact of shocking poverty especially in the rural, white areas.

<sup>75</sup> A sociologist serving as Assistant Secretary of Labor under President Lyndon B. Johnson, Daniel Patrick Moynihan warned that a dissolution of the black family would devastate blacks, nullifying any economic benefits distributed by government. See *The Negro Family: The Case for National Action*, Office of Policy Planning and Research, US Department of Labor, Washington, D.C. 1965 (commonly known as the Moynihan Report); an extensive consequences of Moynihan's predictions in the United States till today are provided by J.T. Patterson, *Freedom is Not Enough: The Moynihan Report and America's Struggle over Black Family Life from LBJ to Obama*, Basic Books, New York 2010.

nor seeking work – more than tripled during the last 50 years, from 3.3% in 1965 to 11.6% in 2017.<sup>76</sup>

Disintegration of family life, with two thirds of them unmarried, normalized promiscuity and other pathologies together with their withdrawal from community life, religious activities and caring for family members has rapidly expanded.<sup>77</sup> This isolation and idleness produce additional pathologies of substance abuse and rising suicide rate with mortality among middle aged white Americans without college diploma sharply rising.<sup>78</sup> Other social institutions and community forms of organization disintegrated as well.<sup>79</sup> It is true that the upper class also experiences all the aforementioned pathologies, still its members have been able to cope with them in an incomparably better way with resources to neutralize their negative consequences at its disposal.

The modern liberal culture of “emancipation” got its present extreme form in the wake of the devastations of the 20<sup>th</sup> cent., which destroyed a sense of any absolutes and identified any strong truth as a totalitarian temptation.<sup>80</sup> For this reason, liberal culture of late modernity, erroneously equating power with authority, destroys all meanings, thus everything is permitted, and nothing makes sense. This constitutes the very mirror image of economic globalization, which favors predominantly the strong against the weak and vulnerable. The strong, rich “progressives” may play with different “styles of life” as expressions of unlimited personal freedom, but they can also cope with consequences of their choices, navigating through life without any rules and roles, capable of turning such choices to their own advantage. A destruction of marriage is just one example where drastic consequences of this difference have especially showed itself till today.<sup>81</sup> Abortion for the poor is another one, for instance blacks in the ghettos, being a useful tool of disposing of problems which may endanger privileges of the privileged. The consequences of such emancipation for the weak have been devastating alleviated solely by a wider distribution of wealth, a palliative given to people who live in chaos of moral decay. This rising inequality is very much generated by the sexual revolution, especially a subversion of parents’ authority.<sup>82</sup>

<sup>76</sup> See N. Eberstadt, *Men Without Work: America's Invisible Crisis*, Templeton Press, West Conshohocken, PA 2016.

<sup>77</sup> The first extended study of such a disintegration was provided by Ch. Murray, *Coming Apart...*, *op. cit.*

<sup>78</sup> A. Case, A. Deaton, “Rising morbidity and mortality in midlife among white non-Hispanic Americans in the 21<sup>st</sup> century”, *Proceedings of the National Academy of Sciences*, December 8, 2015, Vol. 112, No. 49, pp. 15078–15083.

<sup>79</sup> A pioneer study here is R.D. Putnam’s *Bowling Alone...*, *op. cit.*

<sup>80</sup> See Ch. Delsol, *Esej o człowieku późnej nowoczesności*, transl. by M. Kowalska, Znak, Kraków 2003, p. 105.

<sup>81</sup> See a devastating account of the marriage collapse: D. Blankenhorn, *Fatherless America: Confronting Our Most Urgent Social Problem*, Harper Collins, New York 1996.

<sup>82</sup> See the first comprehensive account of this process: D. Mack, *The Assault on Parenthood: How Our Culture Undermines the Family*, Simon & Schuster, New York 1997.

As R.R. Reno once wrote, this was an “attack on the basic moral competences of ordinary people”, an instance of a class war with the poor under a banner of fighting discrimination, having to do not only with economic injustice but with moral deregulation, including sexual deregulation. This constitutes an official public ideology propelled by a ubiquitous coercion to non-judgmentalism.<sup>83</sup> It is this moral deregulation which separates the strong and rich from the weak and the poor what becoming the most acute problem of justice in a liberal society today. This neglected dimension of justice is one of the causes of the so called “populist revolution”, an anti-oligarchical and egalitarian impulse with common people hating social engineers of the “progressive” state getting into every nut and corner of their life.<sup>84</sup>

This sorting out of classes by means of economic, cultural and first of all moral deregulation began in the 1960s with the countercultural revolution aimed at a destruction of a traditional American ethic of self-discipline, hard work, individual striving and a sense of social mobility open to all. Instead, it made “liberation” from all constraints and obligations its preeminent goal of personal achievement and creativity. The strong have benefited from this upheaval, the weak have been devastated. This oligarchical class starting out has been very much connected with college education translating into a chance of social advancement with the rest being left to their own world, marrying within the same class and living in areas surrounded largely by others in the same stratum.<sup>85</sup>

Such a divide has never before existed in America and it challenges the very essence of its cultural code, threatening social stability more profoundly than traditional political conflicts, a sign of dramatic dislocations. For many this conflict is comparable in its intensity to the conflict before the Civil War, even if its causes might be different. True, many of the problems visible in contemporary America are connected with causes having a much more complex and longer history but there is no doubt that globalization magnified such problems to an unprecedented, pathological dimension. A bitter personal literary account of this huge “silent”, abandoned America, a place of bleeding “open wound”, was given by James David Vance in a devastating book *Hillbilly Elegy*.<sup>86</sup> Vance wrote that

<sup>83</sup> See M. Eberstadt, “The New Intolerance”, *First Things*, March 2015, pp. 33–39.

<sup>84</sup> See R.R. Reno, *Resurrecting the Idea of a Christian Society*, Regnery, Washington, D.C. 2016, esp. pp. 39–64, 113–138.

<sup>85</sup> This process of oligarchisation is visible in all liberal-democratic societies; see J. Kotkin *The Coming of Neo-Feudalism: A Warning to the Global Middle Class*, Encounter Books, New York 2020. Kotkin argues that an epoch of an unprecedented wealth and opportunities and their more or less dispersion visible since the middle of the 20<sup>th</sup> c. is coming to an end. A new era is coming. It resembles more the feudal era characterized by a growing concentration of wealth and property, reduced upward mobility, demographic decline and increased dogmatism, economic as well as cultural.

<sup>86</sup> J.D. Vance, *Hillbilly Elegy: A Memoir of a Family and Culture in Crisis*, Harper Press, New York 2016; the Polish edition: *Elegia dla bidoków. Wspomnienia o rodzinie i kulturze w stanie krytycznym*, transl. by T.S. Gałązka, Marginesy, Warszawa 2020.

he “did not achieve in life anything great”, but that is not true, since as one of the reviewers remarked he “succeeded in something, about which the other writers could only dream about. He captured the spirit of America of our times. This America, which stopped dreaming. Because, to tell the truth, there is not much anymore to dream about”.<sup>87</sup> No other book on contemporary America has noticed the new substantial pathological phenomenon so vividly described by Vance as he depicts horrendous abyss between lower classes and a richer, oligarchical upper class. Here we have the essence of the United States metamorphosis into a kind of neo-caste society with the new ruling class abandoning the rest and orienting themselves to the global scene.<sup>88</sup>

This abandoned America was growing but it was also silent, so the privileged few pretended for too long it did not exist. Once crisis was noticed by the “upper class”, it was done with disdain, derision or barely concealed hatred towards “other America”. After Trump, this “better” America has been as usual busily tending to their own affairs and prattling about justice, tolerance etc., with a host of idiosyncratic minorities defined as saviors of humanity.

One dominating element of this emerging neo-caste society is a promotion of culture obsessed with identities as the only point of reference of one’s existence. This culture of identities is sustained by the entire network of state-sponsored regulations, anti-discrimination laws, “religion” of non-judgementalism and nihilistic tolerance.<sup>89</sup> But identities which promised fulfillment and a sense of belonging created a society of alienated individuals breeding self-hatred because this incessant search for utopia brings only disillusionment. The “woke” ideology and “cancel culture” movement reflect this existential crisis while at the very same time pretending to liquidate it. The most visible political edge of this movement was aimed against Trump, but its aims are revolutionary. Currents of this revolution form a striking alliance, for a long time seen as being impossible to be organized. It combines forces which want to destroy Western civilization with the global oligarchy, the new ruling class in a sense defined by Codevilla.<sup>90</sup> Both aim at destroying the existing Western civilization in the name of dynamic and ever-changing human condition, understanding human freedom as a right to unlimited autcreation searching for a perfect consumer of values and goods.<sup>91</sup>

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<sup>87</sup> M. Nogaś [in:] J.D. Vance, *Elegia...*, *op. cit.*, p. 3 of the cover [excerpt from the review].

<sup>88</sup> A good analysis of this process of emergence of the new ruling class see: A.M. Codevilla, *The Ruling Class...*, *op. cit.*

<sup>89</sup> See D. Murray, *The Madness of Crowds: Gender, Race and Identity*, Bloomsbury Continuum, New York 2019; also Ch. Caldwell, *The Age of Entitlement: America Since the Sixties*, Simon & Schuster, New York 2019.

<sup>90</sup> A.M. Codevilla, *The Ruling Class...*, *op. cit.*

<sup>91</sup> This left post-modern understanding of the truth as service to oneself constitutes the end stadium of a process which Leszek Kołakowski defined as the essence of radical secularization, disenchantment or demythologization, ‘emancipation’ *sensu proprio*. The revolution of 1968 was its most recent stage and its consequences, with the “cancel culture” forming its American variant,

This ironic alliance of the countercultural forces with oligarchical interests constitutes a new phenomenon because from the Middle Ages to more or less the middle of the 20<sup>th</sup> cent. revolutionary movements were battling ruling classes and did not seek friends among them. The 1968 revolution also had at the beginning such an assumption not realizing the consequences of its emancipatory axioms. But today's movements, like "cancel culture", have a much more nuanced, intertwined and thus problematic relations with the modern ruling classes while forming an alliance with them. The present ruling classes are not evil. They are not animated by any deep seated emotions of their moral superiority from which might flow their conviction that they have a hereditary right to rule. They are also not convinced that although they are privileged, they have a duty to take responsibility for the lower classes in a universe of common humanity, a medieval *noblesse oblige* rule still professed by a generation of Churchill or Roosevelt. Contemporary ruling classes are mainly

concerned with holding on to power, and shortsightedly regard the revolutionary movements as allies against their socio-political competitors. [...] Today it makes sense to consider the violent masses, and to some extent even the purified elite, as in effect pawns of the ruling classes [...]. The logic of millennialist revolution is very much alive [but] history teaches that the names of the evils – of the supposedly oppressed and their oppressors, as well as their grievances – are interchangeable and irrelevant. [...] Protagonists and pawns are part of a revolutionary avalanche that must flow by its own logic. The fires and desecrations, [...] have nothing to do with any truth or with the details of any particular event or accusation. [...] Alas, the millennialists and their mob do not need specific grievances against specific targets. The civilization itself is the only real target; its existence and the mob's lack of complete mastery over it are the only grievances that really matter.<sup>92</sup>

That is why Trump's victory in 2016 mobilizing abandoned classes in the name of American patriotism and "goodness" of its civilization as well as challenging a logic of globalization as beneficial to the United States was a shock and shameful perplexity for the liberal elites. But his victory also constituted an acute sense of perplexity and disorientation for the republican elites. They realized that their electorate was not with them but with this maverick politician, who knew something about America they did not even bother to think about.

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are still with us. For a very long time this process did not shatter the natural law idea, that is the idea that a difference between good and evil did not depend on our own will. Even agnostics and atheists, let alone deists were ready to accept this until Nietzsche "did [...] draw the final consequences from [the claim] that God was dead: there is no natural law, we alone decide what is good and evil. He said what others [Hobbes, Spinoza, Hume ] maybe, thought, but had no courage to say straightforwardly [...] therefore he laid the foundation for the new civilization; the name of this foundation was the abyss [...]. If the Kingdom does not exist, then life is a defeat – always, in every case. This is Nietzschean message, and also its premise – rarely expressed *explicite*, but unavoidable – of a civilization totally secularized or demythologized", L. Kołakowski, *Jezus ośmieszony: Esej apologetyczny i sceptyczny*, transl. by D. Zańko, Znak, Krakow 2014, pp. 54–56.

<sup>92</sup> A.M. Codevilla, "Millenarian Mobs", *Claremont Review of Books*, Summer 2020, pp. 10–12.

They understood that if they wanted to form a viable movement for the deeply polarized United States losing the global contest, they would have to reformulate its platform and find leaders understanding why they were rejected and restoring a sense of service to their potential electorate.

Trump's victory hit at the liberal-left progressive dogma and complacency of the "Never Trump" conservatives. Because of their refusal to engage in a dialogue, any alternative could not be subject to a rational analysis since both sides use different language and begin with different anthropologies. Trump's liberal-left critics use a language which sovietologists once used in relation to the communist language, the so called "wooden" language.<sup>93</sup> The user of it does not have an intent to describe reality but create a metaphor to secure a dogma, he performs a ritual saturated with fear that "orthodoxy" distorting reality in the light of uncompromising axioms might be shattered, an approach blocking any alternative vision.

As an American writer David Mamet wrote at the end of Trump's term, "the resistance movement" and hysteria characterizing it

began in the first hours of his presidency and has continued unabated by either reason or fatigue. There are no [alternative] voices on the left [...]. A comparison of Trump Psychosis with adoration of Hitler – though perhaps appropriate mechanically, that is, in terms of power exerted on the mob – is inexact in terms of utility. For the apotheosis of Hitler united the Germans behind a shared vision [...]. But the revanchist Left is not opposed to Trump as the avatar of the Right [...]. They cannot object to his policies *per se* because the policies, one by one, are demonstrably superior in practice to any the Left has employed [...]. Their objections are all *ad hominem* [...]."<sup>94</sup>

Trump was hated because he subverted dogma and in addition, he did not care what the liberal-left said of him. The liberal-left criticism of Trump may be irrational, total or brutal, but he was not afraid to subvert its dogmatic underlying assumptions with reasoned arguments met with derision and upheaval, not counterargument. Still, Trump seemed to love such a polarization, constantly ridiculing his critics.<sup>95</sup>

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<sup>93</sup> The "wooden language" phrase was probably coined for the first time by Georges Clemenceau in 1919. George Orwell's *1984* defined it in a literary form giving it wide circulation. Francois Thom characterized the "wooden language" by four characteristics: abstraction and the avoidance of the concrete, tautologies, bad metaphors and a division of the world into good and evil, a classical Manichaeic belief. See *Civil Society and the Security Sector: Concepts and Practices in New Democracies*, eds. by M. Caparini, Ph. Fluri, F. Molnár, LIT Verlag, Münster 2006.

<sup>94</sup> D. Mamet, "The Code and the Key", *National Review*, May 14, 2020, <https://www.nationalreview.com/magazine/2020/06/01/the-code-and-the-key> [accessed: 5.06.2021].

<sup>95</sup> This unabated hatred of Trump was only slightly justified by his crudeness, brutality and venality. He had an instinctual ability, "bordering on genius, to naming the weaknesses of enemies labelling them like 'Low-energy Jeb', 'Little Marco', 'Crooked Hillary', but at the same time he had an ability to create weaknesses in his supporters", R. Brookhiser, "WFB Today", *National Review*, March 5, 2018, <https://www.nationalreview.com/magazine/2018/03/05/wfb-today/> [accessed: 5.06.2021].

In fact, this vitriolic “resistance” was not focused on any of his policies, good or bad as they might be. Trump was a usurper in the deepest metaphysical sense for a simple reason that he had “the temerity to hold himself superior to the zeitgeist, [that is] the Decline of the West [...]. Trump’s presidency has lengthened the American experience by some number of years. [...] Trump is loathed because he is feared, and he is feared because he named the monster. The Monster is the zeitgeist, that is to say, the Left.”<sup>96</sup>

Trump’s presidency thus signified the very essence of a bitter cultural conflict which goes beyond mere politics. If such democratic verdicts as Trump’s election, or in Europe Brexit, victories of Viktor Orbán, Matteo Salvini or Jarosław Kaczyński, are defined as comparable with Putin’s, Erdogan’s or even Hitler’s rise to power, the language habitually used in the liberal-left mainstream, including the media, the academy and the leadership (*sic!*) of the largest corporations, then common citizenship based on a recognition of a modicum of the same values and public loyalties is barely possible. In other words, the liberal establishment and the large segment of the people not only do not understand each other but despise and hate each other wishing the other side to disappear, the very essence of the culture war.

Thus, for the liberal left Trump’s victory was not a political issue, but a metaphysical catastrophe. It was an existential threat since it constituted an impudent rejection of their exclusive right to define the reality. Trump, just like, e.g., Jarosław Kaczyński, by his very presence constituted a sign that such a vision might be anthropologically and axiologically wrong. At the very same time it was a blatant rejection of a claim of this liberal elites, economic and cultural, that they possess unique knowledge on how to organize for good a visible disorganized world, a secularized Christian eschatology, as cardinal John H. Newman called it. For the liberal elite it was their expertise which was to be substituted for democracy’s right to hold politicians and experts to account. This reduced democracy to a ritual confirming a choice certified earlier by the self-proclaimed cognoscenti. Enmity towards allegedly irrational democratic choices to be neutralized was a *sine qua non* condition of creating a rational, global world of prosperity, justice and human rights. Suddenly America began to be defined as just a part of the global cosmopolitan rational scheme, and its present shape as an obstacle to perfect deconstruction. That is why Trump’s slogan “America First” elicited such a horror as subverting this allegedly universal liberal-left global program. It is striking that this program united both neoliberal, global corporate capitalism and the cultural liberal-left. The latter focus on “emancipation” from all institutions of the *ancien régime* corresponded nicely with the neoliberal, global, corporate capitalism. Both aim at creation of a world of ideal consumers of goods and subjectively chosen values organized by incessant exchange of equal rights. This is a vision of the universal consumerist cliques and identity “tribes”, the essence of

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<sup>96</sup> D. Mamet, *op. cit.*

identity liberalism focused on maximization of individual autonomy as the only aim of a political community.

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## Donald Trump and America Divided against Itself

Donald Trump became the president of the United States because he was able to see the deep division of the American society into 80% of the population comprising the lower and middle classes and the caste-like oligarchic elite, which is made up of the richest 1% and 19% of the upper-middle class population. These 20% justifies its privileged social position by referring to meritocracy, the ideology of identity liberalism and to globalism, delegitimizing any opposition as a manifestation of ignorance, pathological aggression or social maladjustment (“the deplorables” of Hillary Clinton). Trump turned to the remaining 80% of society, angered not only by the effects of globalization implemented by the liberal elites as the only possible and rational economic policy, but also despised by the liberal upper middle class and forced by political elites to submit to the dictates of the ideology of emancipatory liberalism of personal autocreation, leading to the breakdown of social and family ties and the destruction of authorities. Trump won the support of angry voters because he raised issues that were very close to much of the electorate but were absent from the dominant discourse of political elites, both in the Democratic Party and the Republicans. This was his “populism”, which was in fact democratic and conservative patriotism or mild nationalism. Nevertheless, this provoked vehement opposition from both the liberal left, part of the federal administration (“deep state”) and cancel culture, and from some republicans (“Never Trumpers”). However, the “resistance movement” that emerged after Trump’s election was able to appeal only to ideological arguments, including the perception of America’s and the West’s civilizational heritage as a structure of immanent oppression that Trump wants to renew and strengthen. Thus, a narrative was born presenting Trump as a usurper in a metaphysical sense, an enemy of the only legitimate moral and social order, i.e., the order of identity liberalism with its axioms of emancipation and moral autocreation of individuals. The violation of this quasi-religious order is to cause an escalation of violence and oppression motivated by hatred, racism, xenophobia and religious fanaticism. Such a narrative, referring to the theory of the “end of history” by Francis Fukuyama, was not confirmed either in the politics or in the legislation of the Trump administration, demonstrating flaws in the liberal-left understanding of the so called “populism”.

**Key words:** Donald Trump’s Presidency, American Conservatism, liberal oligarchy, populism, identity liberalism, fragmentation of American society

## Donald Trump i Ameryka podzielona przeciw samej sobie

Donald Trump został prezydentem USA, gdyż zdołał dostrzec głęboki podział społeczeństwa amerykańskiego: na 80% ludności obejmujące klasę niższą i średnią oraz przypominającą kastę elitę oligarchiczną, na którą składa się 1% najbogatszych oraz 19% ludności zaliczanej do wyższej klasy średniej. Te 20% swą uprzywilejowaną pozycję społeczną uzasadnia, odwołując się do merytokracji, ideologii liberalizmu tożsamościowego oraz globalizmu, delegitymizując sprzeciw jako przejaw ignorancji, patologicznej agresji lub nieprzystosowania społecznego (“pozałowania godni” – Hillary Clinton). Trump zwrócił się do pozostałych 80% społeczeństwa, rozgniewanego nie tylko skutkami wdrażanej przez liberalne elity – jako jedyna możliwa i racjonalna polityka gospodarza – globalizacji, lecz również pogardzanego przez liberalną wyższą klasę średnią i zmuszanego przez elity polityczne do poddania się dyktatowi ideologii liberalizmu emancypacyjnego, prowadzącego do rozbicia więzi społecznych i rodzinnych oraz zniszczenia autorytetów. Trump zyskał poparcie rozgniewanych wyborców, gdyż poruszył tematy, które były bardzo bliskie znacznej części elektoratu, jednak nie były obecne w dominującym dyskursie elit politycznych – ani Partii Demokratycznej, ani republikanów. Na tym polegał jego “populizm”, będący w rzeczywistości demokratycznym i konserwatywnym patriotyzmem. Wywołało to gwałtowny sprzeciw, zarówno ze strony lewicy liberalnej, części administracji federalnej (*deep state*) i *cancel culture*, jak i ze strony części republikanów – zdeklarowanych przeciwników kandydatury Donalda Trumpa

na prezydenta. Jednakże “ruch oporu”, który uaktywnił się po wygranej wyborczej Trumpa, był w stanie odwołać się jedynie do argumentów ideologicznych, w tym postrzegania dorobku cywilizacyjnego Ameryki i Zachodu jako struktury opresji, którą Trump chce odnawiać i wzmacniać. Zrodziła się tym samym narracja prezentująca Trumpa jako uzurpatora w sensie metafizycznym, wroga jedynie legitymowanego porządku moralnego i społecznego, tj. porządku liberalizmu tożsamościowego i emancypacji. Naruszenie tego porządku ma doprowadzić do eskalacji nienawiści i motywowanej rasizmem, ksenofobią i fanatyzmem religijnym przemocy, czyli “populizmu” w negatywnym sensie. Narracja taka, odwołująca się do teorii “końca historii” Francisa Fukuyamy nie znalazła jednak potwierdzenia ani w polityce, ani w prawodawstwie czasów administracji Trumpa, wskazując na niedostatki w lewicowo-liberalnym pojmowaniu tzw. populizmu.

**Słowa kluczowe:** prezydentura Donalda Trumpa, konserwatyizm amerykański, oligarchia liberalna, populizm, globalizacja, liberalizm tożsamościowy, fragmentacja społeczeństwa amerykańskiego

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### **SOVEREIGNTY, NATIONALISM, POPULISM**

#### **Introduction**

“Populism” has been much in the news. When Britain’s referendum on EU membership yielded a majority for Brexit in June 2016, that was blamed on populism. When Donald Trump was elected President the following November, that was blamed on populism. When governments in Central Europe, notably in Hungary and Poland, voiced opposition to EU policies or rejected criticism from the European Court of Human Rights in 2017, that was also blamed on populism.

For a doctrine that does so much political work, there seems to be no agreed definition of what it means. It is, according to MEP Daniel Hannan, a term that in Brussels means, “something that other people like, but I don’t”.<sup>1</sup> In fact, it’s quite possible to endorse some trends called “populist” and feel anxious about others.

I offer my own feelings in evidence. I was pleased about Brexit. I am open-minded about populist governments in Central Europe. But I have great misgivings about Donald Trump as President – enough so that I could not bring myself to vote for him (though I couldn’t support Hillary Clinton, either). I have not become more confident after seeing his first year and a half in office. My views are not idiosyncratic. The most prominent conservative magazines and

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<sup>1</sup> D. Hannan, “Insects of the Hour”, [in:] *Vox Populi, The Perils And Promises Of Populism*, ed. R. Kimball, Encounter, New York–London 2017, p. 43.

conservative commentators welcomed Brexit, declined to condemn populist governments in Central Europe – but continually voice uneasiness (or outright disdain) for President Trump.<sup>2</sup>

We can be wrong, of course. But at the least it's worthwhile to distinguish the cases. What I want to argue here is that at the most basic level, these differing reactions correspond to different concerns or different doctrines. The EU is a threat to national sovereignty. One can be a strong advocate for national sovereignty without embracing nationalism. The latter seems to be the special irritant fueling resistance to European policies in Central Europe and raising hackles in Brussels and other western European capitals. But one can be a nationalist without embracing populism.

It's not that these doctrines or attitudes are unrelated. A good reason to try to disentangle them is that they are so readily confused because they do overlap in various ways.

### **The Appeal of Sovereignty**

Sovereignty sounds so general and abstract, one might think it is co-eval with political life. But the term did not enter western languages until the 16<sup>th</sup> or 17<sup>th</sup> centuries. It came into use with wider currents of “modern” thought.

Many political terms in modern languages derive from Latin – like “republic” or “senate” or “legislation”. Or they derive from Greek – like “democracy” and its companion, “demagoguery”. Such terms were knowingly adapted from ancient political writings commenting on practices or concepts familiar in the political life of ancient Rome or the Greek city states.

But “sovereignty” is a French term, which came into general use only when writers began to publish their political treatises in modern languages. The term was coined or at least popularized by the French jurist Jean Bodin, whose 1576 treatise, *Les Six Livres de la République*, first appeared in French and only later appeared in Latin and then, within a few decades, was translated into English and other modern languages. The impulse behind the word was also, from the outset, distinctively modern – or at least, anti-medieval. The term expresses, in a way, the most characteristic features of modern thought, along with the related term “state” which first entered western languages in this same era (as “the state” comes to be seen as the bearer of “sovereignty”).

To give a very brief summary, one could say sovereignty was launched to clarify political authority. It was directed, on the one hand, against the Church, insisting that, within its sphere, sovereign authority could not be countermanded by bishops or popes. On the other side, it was directed against feudal claims,

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<sup>2</sup> For useful survey, emphasizing Trump skepticism or opposition from major conservative magazines, T.A. Frank, “Welcome to the Golden Age of Conservative Magazines”, *Washington Post*, January 28, 2018.

insisting that the claims of large land-owners on their tenants were not simply a local variant of the claims that a king exercises over the entire realm. Advocates for sovereignty sought to isolate and protect political authority from competing claims in medieval Europe.

The term “state” captures this purpose. It means most when contrasted with religion (as in “separation of church and state”) or with private life (as in the phrase, “state and society”). States can be sovereign but it is strange to say a religion or a market or network of voluntary relations could be sovereign.

Historically, the idea of sovereignty has close connections with legislative power. The term “legislature” was a new coinage of the same era and for the same reason: it implied a new kind of power or a new way of viewing it. Attributing laws to a legislature implies that law rests on choice or will, not mere adaptation or extension of existing rules. Law is not simply determined by social custom nor by divine ordinance as interpreted by clerics. If law can be remade, it matters who makes it.

So, by the mid-18<sup>th</sup> century, William Blackstone’s *Commentaries On The Laws Of England* asserted that the ultimate sovereign power is the power to make legislation: “Sovereignty and legislation are indeed convertible terms; one cannot subsist without the other”.<sup>3</sup> By this logic, the revolutionary leaders in America insisted that Parliament in London could not make law for the colonies because it was not hold sovereign authority over them. The ensuing war for independence made good on this claim.

But sovereignty was not simply about power or force. It sought to distinguish accepted or established authority from mere brute imposition. Even Bodin, the first writer to make sovereignty a theme (in late 16<sup>th</sup> century), distinguished a lawful sovereign from a usurper.<sup>4</sup>

The most basic question about government is who makes the law. Sovereignty, in trying to give a definitive answer, has a close kinship with constitutionalism. We can even say it requires some version of constitutionalism, because it presumes a settled authority to make and enforce law and a system of offices that connects these “powers”.

It doesn’t necessarily follow that sovereign power or powers must be accountable to citizens through regular, genuine elections. But the core idea – which we could call “legitimate” power or rightful authority – emphasizes at least the acceptance of sovereign power, which in turn might be characterized as “consent”. That is already explicit in Bodin’s account, that the sovereign’s duty to protect subjects follows from the agreement of subjects or citizens to obey. Bodin

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<sup>3</sup> W. Blackstone, *Commentaries on the Laws of England: a facsimile of the first edition of 1765–1769*, Vol. I: *Of the rights of persons (1765)*, introd. by S.N. Katz, University of Chicago Press, Chicago–London 1979, p. 46.

<sup>4</sup> J. Bodin, *Les Six Livres de la République* [reprinted], Fayard, Paris 1986, Bk I, Ch. 8, p. 197.

thought even taxes could not be rightly levied without agreement expressed by an elected, representative body.<sup>5</sup>

It hardly needs saying that anyone who cares about the historic aims of sovereignty would have great reservations about the European Union. At its heart is a wholesale transfer of lawmaking from elected parliaments in the member states to an amorphous supranational structure. Binding law somehow emerges from conferences among national ministers – different ones for different policy fields – which set general standards whose details are filled out by unelected commissioners and their administrative staffs.

The system is often described as an arrangement based on the “pooling of sovereignty”. The term is almost mystical in its obscurity, but seems to be a tacit acknowledgement that the ramshackle architecture of the EU is exceptional in our world. The EU has neither armed forces nor police, neither criminal courts nor prosecutors, neither a general, independent taxing power nor the general fiscal obligations of a modern state. It is not trusted to exercise basic sovereign power. But it has somehow acquired power to override and displace the legislative determinations of sovereign nations, most of which had maintained their sovereignties for centuries past.

Support for Brexit seems to have reflected, in a part, a protective feeling for Britain’s tradition of parliamentary sovereignty. It has been estimated that something like 70 per cent of new law in Britain emanated from EU directives, which British officials were still obligated to enforce. The encroachments of this system – by turns brazenly expansionist and coyly reticent – was seen as an affront to honest government.

The United States has never agreed to join an international organization which has independent law-making capacity. Certainly the North American Free Trade Association (NAFTA) and the World Trade Organization (WTO) lack the legislative organs that power the EU’s authority, nor do their arrangements for arbitration of disputes bind domestic courts, as is true for most judgments of the Court of Justice of the European Union.

Even for the United States, however, expectations for global governance sometimes seem to challenge traditional notions of national sovereignty. To cite a recent example, President Trump provoked a great deal of angry reaction, particularly among European leaders, when he announced that the United States would no longer be bound by the 2015 Iran nuclear deal (the so-called Joint Comprehensive Plan of Action) nor the 2016 Paris Climate Agreement (technically, implementing accords to the UN Framework Convention on Climate Change). Both agreements had been structured so that President Barack Obama could claim to commit the United States without any action by Congress (let alone ratification by a 2/3 majority in the Senate, as the Constitution requires for full treaties). To critics of President Trump’s withdrawals, it seemed perfectly reasonable that the

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<sup>5</sup> *Ibidem*, Bk I, Ch. 8, p. 201.



United States should be bound by the personal say-so of a previous president – since that is more or less how the EU operates. Not by coincidence, President Trump talks a great deal about sovereignty. His address to the UN General Assembly in September of 2017 mentioned the term seventeen times, approximately once on every page of the text.<sup>6</sup>

Of course, it is easier for a large, powerful state to insist on its sovereignty. The EU has gained strength by persuading members that it can do more for them than they can do for themselves. Just as people who feel helpless are often tempted to sacrifice their own rights to the supporting reach of an all-powerful state, so smaller states feel more dependent on supra-national authority. Sovereignty rests on more than formalities of consent. The claim to supreme political authority is necessarily entangled with a claim to independent capacity. The point is reflected in international law – sovereign authority depends on effective control and a government cannot expect others to respect its territorial claims where it does not exercise reliable control (at least in normal peacetime conditions).<sup>7</sup>

So sovereignty appeals to a spirit of self-confidence. Brexit advocates have bemoaned the way the British government let itself become bogged down in seemingly endless bargaining with EU authorities over the terms of future UK–EU relations. The critics see this display of incapacity as a new threat to sovereignty. As Conservative MP Jacob Rees-Mogg put it in the spring of 2018, the failure of these negotiations “would be the most almighty smash to the national psyche [...] an admission of abject failure, a view of our politicians, of our leaders, of our establishment that were were not fit, that were were too craven, that we were too weak to be able to govern ourselves”.<sup>8</sup>

Efficacy is important even if one thinks of sovereignty as an appeal to each individual citizen – is this a government (or a constitutional structure) you trust to govern you? But it is also an appeal to national pride. It rests on the confidence that the relevant political community can stand on its own amongst the other nations of the world. It is, at least, harder to sustain, without a spirit of attachment and solidarity often called nationalism.

## The Benefits of Nationalism

Nationalism does not have prominent theorists in the same way as sovereignty. The original theorists of sovereignty saw nothing at all odd in arguing for

<sup>6</sup> “Remarks by President Trump to the 72nd Session of the United Nations General Assembly”, September 19, 2017, available online at: <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-72nd-session-united-nations-general-assembly> [accessed: 20.08.2017].

<sup>7</sup> For a classic statement, *Island of Palmas Case (Netherlands v. U.S., 1928)*, Scott, *Hague Court Reports*, 2d 83 (1932), awarding sovereignty over a disputed Pacific island based on effective control in modern times, rather than claims founded in 17<sup>th</sup> century treaties.

<sup>8</sup> J. Rees-Mogg, “Failed Brexit would be biggest humiliation since Suez Crisis”, *Sunday Telegraph* (UK), March 26, 2018.

sovereignty in France or the Netherlands or England and also in every other country which could assert its independence. The most famous nationalist writers extolled the special merit or special destiny of their own people – notably, in the 19<sup>th</sup> and early 20<sup>th</sup> centuries, Germany or Russia and in our own time, North Korea.

So there is much less agreement on what “nationalism” means. Some writers see it as simply a more vehement version of patriotism, while others see it as a particularly deformed or noxious variant. Today, it is still often associated with the bellicose, predatory sentiments stirred up by fascist demagogues in the 1930s.

There is no point disputing abstract terminology here. There is surely a dangerous version of national feeling which threatens neighbors, by extolling one nation above all claims of other peoples. There is surely a version of patriotism which inspires devotion to one’s own country without much interest in others – as children may love their parents without much concern about whether they are better than other people’s parents.

What all kinds of nationalism have in common is an identification with a collective entity, with a people, rather than merely with a specific government. It is possible to have national feeling without a sovereign authority, as illustrated in our time by Scottish nationalists, Quebec nationalists, Catalan nationalists and in the early 20<sup>th</sup> century by nationalities submerged into the Habsburg, Romanov or Ottoman empires. But nationalists typically seek sovereign status for their nations, as these examples indicate.

Sovereignty adds a layer of confirmation to nationalism, giving it responsibility at home and a higher status abroad: we are not only people who feel loyalty to each other, but people capable of governing ourselves. The converse is also true. If you want to support sovereignty – as an anchor of constitutionalism, as a hedge against supranational encroachments – you should welcome national feelings as a support to sovereignty.

National feeling may help to stabilize a government or governing system when it runs into serious challenge. It can nurture patience or political ballast in stormy weather. As Burke pointed out, it is usually a “selfish temper” that inspires plans that completely disregard national traditions or institutions: “People will not look forward to posterity who never look backward to their ancestors”.<sup>9</sup> Some form of national feeling may generate a sense of fellow-feeling which softens other divisions and makes even those who are disappointed in current outcomes reluctant to challenge the established, sovereign authority. It is a resource which national states may draw on and which the European Union notably lacks (since Europe has never been a nation and the EU does nothing to inspire a sense of genuinely common undertakings).

If you care about your nation’s sovereignty, you have an instinctive aversion to having it undermined by neighboring states (or more distant but more

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<sup>9</sup> *Select Works of Edmund Burke*, Vol. II: *Reflections on the Revolution in France*, compiled and with a foreword and notes by F. Canavan, Liberty Fund, Indianapolis 1999, p. 121.

powerful states). You might be willing to accept hardships simply to maintain sovereignty. But you're much more likely to care about sovereignty if you feel loyalty or attachment to the people for whom the sovereign power claims to act – if you think of it as “our” government. Without some form of national feeling, it's hard to see why you wouldn't be inclined to favor concessions for the sake of peace or trade advantages and so finally negotiate away much of the sovereignty of what had been your nation, as the history of European integration in recent decades illustrates.

Finally, I think it is very much worth noticing that some form of national feeling – something which could very reasonably be called nationalism – has been a central element of politics and statecraft in nations which have also liberal constitutionalism. Nationalism (at least in some version) is not only compatible with liberalism or democratic governance in theory; they have often been closely associated in practice.

As far back as the late 17<sup>th</sup> century, the philosopher John Locke defended the claims of ethnic Greeks to revive their own national state, as if it were self-evident: “Who doubts but the Grecian Christians descendants of the ancient possessors of that country may justly cast off the Turkish yoke which they have so long groaned under when ever they have a power to do it?”<sup>10</sup>

A century later, when *The Federalist* urged Americans to replace their initial confederation with a national constitution, it appealed to the claims of common ancestry: “Providence has been pleased to give this one connected country to one united people – a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government [...]”<sup>11</sup> The author of this paper, John Jay (subsequently first chief justice of the US Supreme Court), saw no contradiction in the fact that the new Constitution contained an explicit prohibition on religious tests for office (Art. VI).

Nearly a century later, John Stuart Mill, with an eye to the seeming failure of parliamentary institutions in the Habsburg Empire, argued that representative government would have much better prospects in nation states: it is “a necessary condition of free institutions that the boundaries of government should coincide in the main with those of nationalities”<sup>12</sup> The author of *On Liberty* did not acknowledge this limitation as a tragic or paradoxical constraint.

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<sup>10</sup> J. Lock, *Second Treatise of Government*, 1689, Sect. 192.

<sup>11</sup> *The Federalist*, No. 2 *Concerning Dangers from Foreign Force and Influence*, [in:] A. Hamilton, J. Madison, J. Jay, *The Federalist Papers*, ed. C. Rossiter, introduction and notes by Ch.R. Kesler, Signet Classics, New York 2003, p. 32.

<sup>12</sup> J.S. Mills, *Considerations on Representative Government* (1861), [in:] *idem, Utilitarianism, On Liberty and Considerations on Representative Government*, ed. G. Williams, Everyman, London 1993, p. 394.

A nationalist does not have to insist that everyone be the same nor endorse persecution to make them so. But it is not inherently illiberal to want to preserve at least a solid majority in your country of people who are attached to its existing institutions, political principles, social norms. To say otherwise, is to say that there is nothing distinctive or particular about your own country. If that is true, then there is no good reason to defend your own country in any dispute. If you are fortunate to live in a nation that respects the rule of law and the rights of individuals, not to prefer your own country means not preferring these national achievements. Of course, you might imagine that they can all be just as well preserved by international human rights conventions. If you believe that, however, you must prefer not only a different nation but a different planet or a different era in human history.

So it was entirely reasonable, it seems to me, for Eastern European governments to resist Germany's plan for resettling millions of refugees from Muslim countries within their borders. Do such people share the same ideas about law, human rights, justice, as Europeans? Surely the experience of their home countries suggests quite otherwise, nor does recent experience with immigrant communities within Europe give much cause for optimism, at least in the short term or medium term.

Chancellor Angela Merkel's policy seems to have been driven by the determination to prove that Germany had overcome past demons and could now welcome an immigrant surge of people who are very different from most present-day Germans. But if Germany has "mastered its past", perhaps that owes something to shared national memories of a terrible past and decades of national effort to embrace principles suited to a liberal democratic state, living in peace with its neighbors. Would people coming from strife-torn tyrannies hold to the same views? Especially, people from Muslim states where Nazi-style hatreds have been preached for decades as official state doctrine?<sup>13</sup>

The Merkel policy seems to rest on the premise that history can be readily redirected by wise rulers. So the past – of this nation, of any other – means nothing. In today's world, where human rights conventions and international trade agreements and environmental commitments encompass almost all nations, people can be managed in similar ways, wherever they are. It is an outlook that suits the EU. It suits much opinion in today's Germany. It is not surprising that other sees it as an affront to their national pride.

A British columnist was rude enough to make the point when Germany's ambassador to the UK complained that British "national folklore" focused "only

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<sup>13</sup> See, e.g., documented episodes of state-sponsored television programs in depicting Jews using the blood of Christian children for "religious" rites: "The Blood Libel On Arab TV: Reports On Jews Using Christian Children's Blood For Passover Matzos – From The MEMRI TV Archives", *MEMRI*, April 3, 2015, <https://www.memri.org/reports/blood-libel-arab-tv-reports-jews-using-christian-childrens-blood-passover-matzos---memri-tv> [accessed: 2.06.2021].

on how Britain stood alone in 1940". Germans, he retorted, "dislike too much concentration on history because their recent past is such a shameful one" while Britain's "heroic stand [in 1940–1941] was the greatest moment in our island story [...]".<sup>14</sup>

Some commentators think the Brexit vote was as much about resistance to uncontrolled immigration as to anything else.<sup>15</sup> European authorities had overruled British government policies, even when it came to deporting suspected terrorists with foreign passports. To lose control of who comes into your country is to lose a fundamental element of sovereignty, as well as a basic safeguard of national identity.

Concerns about uncontrolled immigration also seem to have helped fuel Donald Trump's surprise victory in 2016. I think it was reasonable to talk about getting a grip on "who is coming into our country" and even to urge special controls on immigration from Muslim countries. Even liberal commentators have acknowledged that it is not inherently illiberal or irrational to want to control immigration.<sup>16</sup>

It was characteristic of Trump, however, to voice these concerns with extreme rhetoric and impulsive policies. The characteristic Trump style reflects the difference between nationalism and populism.

## The Dangers of Populism

Trends associated with populism have developed quite differently in different countries. In Britain, the Brexit referendum might have been seen as the triumph of the UK Independence Party (UKIP), the one party devoted to leaving the EU. In fact, the governing Conservatives embraced Brexit – at least in principle – and remained in power, though they lost seats in the 2017 elections. UKIP failed to elect a single MP to the national Parliament (though it retains three members of the House of Lords who previously affiliated with it).

In America, Donald Trump remains intensely controversial and candidates for office, even on the Republican side, have without exception failed to gain office by presenting themselves as Trump followers challenging the (Republican) "establishment". The actual Republican Congress has not enacted any distinctive Trump measures, or other large proposals of the new administration, apart from tax reductions already favored by establishment Republicans.

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<sup>14</sup> L. McKinstry, "Britain should be proud of its war record", *Daily Telegraph* (UK), January 31, 2018.

<sup>15</sup> D. Frum, "Why Britain Left", *The Atlantic*, June 24, 2016.

<sup>16</sup> J. Cogan, R. Keohane, "The Liberal Order is Rugged: Fix it Now or Watch It Wither", *Foreign Affairs*, May/June 2017, p. 44: "It is not bigotry to calibrate immigration levels to the ability of immigrants to assimilate and to society's ability to adjust".

In Poland and Hungary, by contrast, populists have very large majorities in parliament, repeatedly returned by voters. Indeed, critics complain that they are abusing their larger majorities to make changes in constitutional structures. They are not only more broadly based but more tied to long-term constituencies and institutions – most notably to Christian worship.

So it may well be that discussing all these political trends under the same rubric is a mistake. It may encourage mistaken associations, attributing to others what is only true of some. In what follows, therefore, I will concentrate on Trump, the case with which, as an American, I am most familiar and about which I have most fully formed opinions. I will then suggest some possible parallels – with caution.

As a candidate for the Republican nomination, Trump positioned himself as something new. He stressed issues – notably immigration control and protection from foreign trade – which were new to Republicans. So it was reasonable to think of him as an analogue to anti-EU populists in Europe, some of whom emphasized the same issues. Analysts afterwards attributed his victory to support from workers dispossessed by trade and immigration. But closer analyses raised doubts that Trump’s victory reflected economic dislocation.<sup>17</sup>

Several aspects of the Trump phenomenon remain notable. First, the reliance on confrontational, belligerent rhetoric. In the primary contests for the Republican nomination in the spring of 2016, Trump defied conventions of civility, mocking his rivals with sneering nick-names (“Low energy Jeb”, “Little Marco”, “Lyn’ Ted” etc). A regular feature of his election rallies in the fall of 2016 was the promise to put Hillary Clinton on trial for alleged crimes, with Trump beaming in approval as crowds chanted, “Lock her up!”. He repeatedly promised not just to stop illegal entry into the country (an entirely reasonable commitment) but to do so by building “a wall” across the border with Mexico (a dubious strategy) and then “make Mexico pay for it” (a preposterous promise – as if the blame for unlawful entry did not rest with American laxness but Mexico’s failure to keep its own people from leaving). Trump’s Inaugural Address in January of 2017 depicted America as a country devastated by past policies, as if it had been run by hostile foreign occupiers rather than the opposing party. As president, he has continued daily “tweets”, taunting rivals, critics, even fellow Republicans in Congress for their “sad” or “disgraceful” or “disloyal” resistance to his policies.

It is true, and important, that much of the Democratic Party has responded with rhetoric that is at least equally overheated. *The New Yorker*, one of the most widely read or widely cited American magazines, published an editorial comment

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<sup>17</sup> For review of conflicting evidence from economic surveys, concluding “survey research demonstrates that voters’ economic anxiety does not offer an adequate explanation of the 2016 elections”, see W.A. Galston, *Anti-Pluralism. The Populist Threat to Liberal Democracy*, foreword by J.D. Hunter and J.M. Owen IV, Yale, University Press, New Haven–London 2018, starting at pp. 76–77.

belaboring comparisons between Trump and the Roman emperor Nero – and pointedly noting that Nero’s crazed and chaotic reign was ended by assassination.<sup>18</sup> It is also true and relevant that political polarization was already quite evident under his predecessors, Barack Obama and George W. Bush. Cooperation or coalition building in Congress became increasingly difficult and rare – no Republicans at all, for example, voted for Obama’s signature legislation, the Affordable Care Act. More and more localities became overwhelmingly dominated by one party or the other, as people moved to neighborhoods where most neighbors would share their views. Recent surveys find that, in contrast to earlier times, majorities or near majorities in each party say they feel “afraid” of the opposing party and would be “somewhat or very unhappy” if their children married someone from the other party.<sup>19</sup>

But Trump seems to take pride in provoking his critics and rivals and stoking rancor in public life. He complains about media coverage but constantly taunts the media as “fake” – a term he uses so broadly and regularly, it has now come to refer to a multitude of otherwise quite differing mistakes (from sloppiness to bias, from willful misrepresentation to outright invention of “stories”). He derides mainstream media as “enemies of the American people” and has called for changes in law to “make them accountable” for their coverage. He regularly leaves Washington for events in different parts of the country, including “rallies” which have the intensity and partisan edge of campaign events – long after the campaign was supposed to have ended.

The second notable thing about this constant stoking of belligerence and resentment is that it does not focus on any well-defined grievance or remedial policy. During the campaign, Trump denounced trade agreements in general and NAFTA in particular as having “drained” vast wealth and millions of jobs from the US economy. But he did not rush to repudiate American commitments to NAFTA or the WTO. His efforts to renegotiate NAFTA focused on issues (like protection for foreign investment) that seemed to have no direct connection with plant closings in the United States and he made no effort to clarify his views. In fact, he appointed White House economic advisers (notable successive appointments to serve as Chairman of the Council of Economic Advisers) known to disagree with his views on international trade.

So with foreign policy. Denunciation of the Bush administration’s invasion of Iraq in 2003 was a staple of Trump rhetoric in the campaign and seemed to inspire his slogan, “America First” on the theory that Bush administration policy was primarily aimed at benefitting foreigners. In office, Trump appointed Bush administration veterans to key foreign policy posts, most notably John Bolton

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<sup>18</sup> D. Remnick, “The Lost Emperor”, *The New Yorker*, January 15, 2018.

<sup>19</sup> S. Levitsky, D. Ziblatt, *How Democracies Die*, Crown, New York 2018, pp. 167–168. Among “politically engaged” citizens, 70 per cent of Democrats and 62 per cent of Republicans say they “fear” the other party.

(Bush's UN ambassador) as National Security Adviser. Trump authorized US troops to keep fighting in Afghanistan and other troops to fight ISIS in Syria and then to stay on to help stabilize the situation.

Perhaps most notable was the retreat on immigration policy. Though it had been a major theme of Trump's campaign, it did not receive priority from the Trump White House. He did not lobby Congress to change immigration laws or even to appropriate money for the wall. The budget bill adopted in 2018 provided very little extra funding for border security, let alone for construction of a wall on the Mexican border. One of his most fervid defenders, columnist Ann Coulter, denounced the betrayal: "I knew he was a shallow, lazy ignoramus [in 2016]" but relied on "what he promised at every single campaign stop [...]. It kind of breaks my heart".<sup>20</sup> In 2016, she had published a book called, *In Trump We Trust* (playing on the national motto, "In God we Trust").

Meanwhile, Trump did not even bother to press his White House staff to gear up political appointments to major departments and agencies, where top posts are expected to be filled by the president's choices. The idea that the Trump administration aimed at a marked change from the past implied that federal agencies needed new leadership loyal to Trump's vision. Well into his second year, he was way behind his predecessors in installing new appointees at middle levels, even in the State Department and Defense Department – as if the details of policy implementation or policy analysis were not, after all, important compared to the daily drama of White House pronouncements.<sup>21</sup>

None of this, however, seemed to make much difference to Trump supporters. His public support, measured by polls, was down at the end of his first year but then rallied somewhat – on good news about the economy and seeming successes in foreign policy, as with initially promising negotiations over Korea's nuclear program. Trump rallies remained enthusiastic.

Yet the voters who support Trump do not seem interested in a Trump party or political formation beyond the man himself. Attempts to supplant mainstream Republicans with self-proclaimed "Trump candidates" have repeatedly failed at the polls. The one exception proves the rule. In a special Senate race in Alabama in 2017, the most bellicose, Trump-sounding candidate, Roy Moore, won the Republican nomination (even after Trump endorsed the mainstream Republican alternative as a likelier winner). In the ensuing general election, Moore went down to defeat – in a state so reliably conservative it had not elected a Democrat in decades. Moore, who often sounded confused about current issues, had been charged with pursuing teenaged girls decades earlier, a charge he denied and which Trump brushed away on the grounds that "he denies it". Trump was not

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<sup>20</sup> L. Grove, "Heart-broken Trump Critic Ann Coulter", *Daily Beast*, March 28, 2018.

<sup>21</sup> J. Fund, "Trump is Running 'Home Alone' Administration", *National Review*, March 25, 2018, <https://www.nationalreview.com/2018/03/trump-administration-staff-vacancies-leave-career-civil-servants-in-place> [accessed: 2.06.2021].



seen as the leader of a movement or at least not one who would necessarily be followed everywhere by his supporters.

There are two obvious explanations for this odd pattern, which might both apply, since they are not mutually exclusive. The first is that Trump supporters feel that they have been dismissed or disrespected by the political mainstream in both parties. They think liberals look down on their conservative values and that Republican leaders, solicitous of donations from big corporations and financiers, take them for granted. Trump expresses their resentment. They don't mind that Trump has failed to follow through on different policies because their complaint was not about actual policy – the details of which they don't follow and don't have very definite opinions about – but about civic status.

Trump sounds like an angry working guy (perhaps after a few beers), not like a polished, genteel insider who frequent elegant wine-and-cheese gatherings. It doesn't matter that Trump surrounds himself with luxury (and used to be a regular at New York “society” fund-raising dinners and receptions), nor that he never drinks alcohol in any form. Trump presents himself as a typical sort of crude guy who dares to embrace crude opinions in public. People who are made to feel like outsiders for their crude opinions are drawn to Trump for voicing them (as in thinking unlawful immigrants should just be “kicked out” or countries that export more to America than we export to them out to be “hit with higher tariffs”).

The other explanation is that Trump may reflect not so much rage and deep resentment or a kind of boredom and disaffection with conventional party politics. Voters have come to distrust the promises of politicians and don't expect it will make much difference who gets elected. But Trump is fun. He is entertaining. Before he ran for president, he had been host of a successful TV game show in which he pretended to be a hard-nosed but brilliant businessman helping young people (or later, Hollywood celebrities) launch business careers or commercial ventures. He knows about timing, holding an audience, generating a sense of drama. And he performs all the time as president, starting with his often outrageous morning tweets, which regularly provoke a full day of huffing from people who see themselves as the guardians of propriety and respectability (“political correctness”) – making them perfect foils for Trump's naughtiness.

It is possible that Trump will prove a successful president, leaving a stronger economy and a more stable world. People who find his daily antics in bad taste might then be told they should (or should have) swallowed their qualms because the diverting or dismaying side shows were a small price to pay for so much good policy.

For several reasons, I doubt things will turn out that well. The first is that Trump has provoked and sustained a level of rancor in national politics – bordering at times on hysteria – which is not likely to subside just because objective measures of performance suggest Trump has done well. His main theme is that he is the victim – of a legal investigation that is a “witch hunt”, of “fake news”, of

the “deep state” and of “nasty people” who want to reverse the results of the 2016 elections. He stirs up his followers to believe that dark forces are in a conspiracy against democracy and so against them.

It is hard to imagine that Democrats will learn to live with Trump – or that Trump followers would accept impeachment or even electoral repudiation with calm good will. Commentators who take the most dire view (mostly on the left) point out that extreme polarization is one of the developments that precedes collapse of democratic systems (as in military coups or revolutionary take-overs).<sup>22</sup> People so stirred up with rage and fear may readily conclude that thwarting their (domestic) enemies is more urgent than abiding by democratic process.

I think this is way too alarmist – Trump has not closed any media outlet, has not arrested any opponents, has not defied court orders, has not done any of the things that authoritarian regimes do to consolidate control. His main offenses have been rhetorical. But he does talk in very abusive ways – about journalists, about senators, even about judges. The American expression is “trash talk”. Even if neither he nor his followers take this to mean that democratic procedures no longer matter, his rhetoric devalues American institutions.

The premise of Trump’s campaign from the outset was that someone with no previous political experience of any kind – someone who had never held even appointive office in government – was a plausible candidate to be chief executive of the United States. Not one of his predecessors came to office with such a blank resume. Trump was not shy about presenting himself as a man of exceptional gifts, especially at “making deals”. But his main theme was that previous politicians had been so “stupid” and so corrupt, that none could be trusted.

It was Trump’s principal argument on trade. NAFTA was “the worst treaty in history” and America continues to import more than it exports due to “stupid politicians doing stupid things”.<sup>23</sup> That would include Ronald Reagan, George H.W. Bush, Bill Clinton and George W. Bush – were they all “so stupid”? The supporters of trade agreements over many decades have included leaders of both political parties. They could have made mistakes on some details, they could have overlooked some very important countervailing concerns – but stupid and corrupt, all of them, all the time?

Trump rhetoric plays to the conceit that the first impulse of the ordinary, uninformed voter is more likely to be right than the long-running judgment of the overwhelming majority of specialists (here, trade economists) and political actors (members of Congress and executive officials with trade responsibilities). It’s not impossible that this could be true, but it’s characteristic that Trump has never bothered to set out his account of why so many economists have the wrong understanding and has never bothered to explain why this should be

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<sup>22</sup> The theme of Levitsky and Ziblatt, *op. cit.*, pp. 72–117, citing examples from Latin America and eastern Europe.

<sup>23</sup> Speech in Pittsburgh, March 10, 2018.

true in this area – or whether it is also true across a broad range of government policies.

If out-of-control inflation were devouring the savings of ordinary Americans, if a huge proportion of the American workforce were unemployed, if crime were soaring in American cities or American soldiers dying in vast numbers in hopeless foreign wars – if there were such undeniable failures, it would make sense for a protest movement to say, “This is unacceptable!”. But none of those things is true. So the premise of the Trump candidacy and presidency is that somehow the existing political institutions and political figures cannot be trusted, because the American political system routinely puts incompetent fools and knaves into positions of trust.

One can’t say this must be false or could never be true. But a lot of voters seem quite open to the idea that is already true, without expressing the level of panic this conclusion would imply. Trump retains support (according to polls) from almost half the electorate. People who think the problems are severe enough for Trump to be the answer do not think the problems are severe enough to riot in the streets, to fire-bomb banks or foreign car dealerships, or even to stage large outdoor rallies (when not convened to see Trump himself).

So maybe it is not serious. A British commentator makes the point about the rhetoric of the extreme left in Britain – now in control of the Labour Party: “It’s not about ideology; it’s about drama and feeling. [...] like most of today’s sectarian movements, it prioritises entertainment over ideology. [...] The 21<sup>st</sup> Century is full of [...] showmen passing off old tricks as original thinking. They get away with it because there’s no appetite for sustained political argument. What we want is a dopamine hit”.<sup>24</sup>

Perhaps Trump’s antics are mostly appreciated in this spirit – as entertainment. But that is in itself dismaying – the background thought that politics can be left to slightly buffoonish showmen, who keep us entertained or at least distracted every day. Inevitably, there will come a time when economic conditions are more difficult and there are serious setbacks in foreign policy. America may face an epidemic disease or some terrible technology failure that generates mass casualties. A country that has been taught to regard its institutions as dysfunctional and its leaders as “stupid” or “corrupt” may not have an easy time keeping its balance.

How could it happen, after all, that the government continually defies obvious requirements of the situation to do something completely at odds with the real needs or interests of the country? For some people, this line of questioning has an inescapable answer: a conspiracy – of government officials (in the “deep state”) or “the political establishment” or investment bankers or more shady powers in the background. For some, inevitably, the conspiracy turns on Jews. I think that is a small fraction even of conspiracy theorists but the Internet helps them find each

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<sup>24</sup> D. Thompson, “Momentum isn’t hard left. It’s a theatrical cult”, *The Spectator* (UK), January 26, 2018.

other. It seems to me absurd to suspect Trump himself of secret anti-Semitism (among other things, he spent his entire life in New York City, doing real estate deals with Jewish investors, lawyers, accountants and none have indicated his ever voicing hostile opinions).

But one can't say the same about Trump and other conspiracy theories – which he seems to enjoy trading in. Among other things, he repeatedly warned that the primary elections and then the general election might be “rigged” – as if officials and procedures in dozens of states could be coordinated to the same effect by the same small group of conspirators without any of this coming to light. Conspiracy theories may be appealing, even entertaining (hence the wide readership of publications hinting that news of space aliens has been suppressed by government authorities). But conspiracy theories undermine confidence in constitutional government: they imply that the visible, law-bound, accountable structures are only a charade to cover the real forces that determine outcomes – in secret.

Political scientists distinguish parties that advocate for (or against) particular government policies from parties that demand revolutionary change in the entire political system – so-called anti-system parties.<sup>25</sup> There is no Trump political party in the United States and there is ongoing dispute about whether Trump is training Republicans in Congress to follow his lead or congressional Republicans are implementing their own agenda by invoking Trump's name.<sup>26</sup> But Trump himself is, in many ways, an anti-system politician or at least he often talks that way.

Is this a uniquely American phenomenon? Obviously it is unique to the extent that it turns on a separately elected chief executive. No European prime minister could take office without a reliable majority (or coalition) in Parliament and no one becomes party leader without any previous political experience. So Poland and Hungary are different.

What is probably similar, even in Central Europe (so far as one can judge from a distance), is the polarization and rancor between the governing parties and the opposition, with much of the news media aligning with the opposition. As in America, it may be that critics on the left are as much (or more) to blame, for refusing to accept election results, than the governments charged with “authoritarian” leanings. I am struck by this similarity: the governments seem to relish enraging opponents or at least, relish stirring up their own supporters to a high pitch of intense disdain for the opposition. The Orban campaign against George Soros looks like the sort of thing that was designed to enrage opponents and energize

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<sup>25</sup> For critical review of literature, G. Capoccia, “Anti-system parties: A Conceptual Reassessment”, *Journal of Theoretical Politics* 2002, Vol. 14, Issue 1, pp. 9–35, <https://doi.org/10.1177/095169280201400103>.

<sup>26</sup> For a particularly cogent statement of the latter view: B. Shapiro, “Conservative Policy, Populist Attitude”, *National Review*, December 27, 2017, <https://www.nationalreview.com/2017/12/2017-conservative-policy-trump-nationalism-populism-attitude> [accessed: 2.06.2021].

supporters just for that reason – that it sets up a conflict between the high-minded or liberal-minded and the national-minded. The Polish law criminalizing expression of opinions about Polish complicity in the Holocaust seems to have a similar character. The aim seems to be not merely to win elections and change concrete policies but to discredit opposing views or at least shift the cultural center of gravity a substantial distance from those views.

## Conclusion

I can sum up the argument – or at least, the perceptions or impressions – of this account in a few concise claims. Sovereignty is a device for ordering the political world. Sovereignty is to states what rights are to individuals, a way of delineating boundaries of control. Nationalism, at least in its better forms, can provide emotional, even spiritual support for political order. A healthy nationalism is what family ties or spiritual creeds are to individuals, inspiring and guiding sound choices about how to exercise rights. Populism seems to be an expression of frustration, which can easily be stoked into rage – where it becomes a threat to a healthy nationalism and even a stable sovereignty.

In some circumstances, populist passion might be an understandable, even effective protest against failing government policies and the smugness of governing circles (and their supporters) who would otherwise be blind to their own failings. But that sort of populism is unlikely to yield good results unless it has a relatively clear focus, so it could be satisfied with relatively concrete and quick responses. If populism merely builds on a generalized resentment at being disrespected, it does not point toward reforms. If it merely expresses rage, it invites demagogues to fill in the content – almost at random. Any policy might serve so long as it hits the targets of populist rage.

We have seen this for decades in leftwing advocacy, which claims to speak for various constituencies of “oppressed” people – racial minorities, unskilled workers, women, more recently homosexuals or transgendered people. The underlying appeal of such protests seems to reduce to a solipsistic syllogism: we are hurt, therefore we are angry – therefore you must give in to our demands. Otherwise, we will continue to disrupt your society: “No justice, no peace”. In the original Marxist doctrine, there was an elaborate historical and philosophic argument to demonstrate that the working class was the genuinely “universal class”, so the triumph of its interests would lead humanity to a classless utopia. It has been decades since leftwing advocates bothered with any of that. It is enough now that protestors are battering against an unjust society and that they are, right now, hurt and angry.

At its worst, what is called populism seems to be an appropriation of leftwing protest politics on behalf of a contrary constituency, a constituency that

sees itself as the dispossessed majority. It is hurt, therefore angry, therefore entitled, But the focus shifts from immigration to trade deals to drug companies to investment bankers and always back to some amorphous, all-encompassing “establishment” which stands against the happiness of the many. I am doubtful that this mood can be channeled into concrete reform policies, much less that these policies, when implemented, will give satisfaction.

In the meantime, populism seems to exacerbate social division, which generates a cloud of suspicion that overs over government and existing constitutional norms – which after all, failed to constrain the establishment. It is hard to sustain national pride when the nation seems so divided and its institutions so challenged. Trump’s slogan, “Make America Great Again”, implies that America has now fallen off quite considerably from what once made it great.

I would like to say that nationalism appeals to pride and populism to resentment. Of course, that is somewhat too simple. The nationalist is bound to feel affronted – and then resentful – when others disdain the honor of his country. Even in the heyday of the 18<sup>th</sup> century Enlightenment, affronts to national honor were regarded as justification for war: pride could be belligerent. Today, when elites are committed to supranational institutions, national pride may be inextricably entangled with resentment at disdainful treatment.

Still, it should be possible to defend national interests without extremely belligerent rhetoric or contemptuous gestures. It should be possible to acknowledge and pursue policies favored by the majority (as on immigration controls) with calm and reasonable arguments. At least, I hope political change can be driven by such argument. I hope so, first, because I think many of the policies which Trump voters seem to favor can be well defended by calm argument. Second, I put my hopes in argument because I fear that people who are stirred up by angry or extreme rhetoric will be too easily led from defensible policies to destructive lashing out. That is the danger of demagogic politics. It thrives on confrontation and becomes more focused on battling enemies than accumulating actual achievements.

The Founders of the American Constitution defended the importance of checks on popular leaders: “Enlightened statesmen will not always be at the helm”.<sup>27</sup> It is surely an understatement to say that Trump is not “enlightened” in the aims and methods of statesmanship. It seems unlikely to me that Trump’s angry, impulsive leadership style will be adequate to “make America great” amidst the challenges of our time. Populism of this kind does not seem to be a good strategy for national renovation. It may be a sign of deep problems (or bad alternatives) that so many Americans preferred someone like Trump. Perhaps it was

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<sup>27</sup> *The Federalist*, No. 10: *The Same Subject Continued: The Union as a Safeguard Against Domestic Faction and Insurrection*, [in:] A. Hamilton, J. Madison, J. Jay, *op. cit.*, p. 75.

a desperate recourse. But adopting a desperate recourse is an act of desperation because it does entail great risks.

My hope is that Americans and Europeans will grow tired of politics at fever pitch and then find they can agree on a great many compromise policies. I have no good argument for why this should be expected. But I think patience is not often the riskiest stance. It is, at any rate, quite consistent with respect for sovereign institutions and sentiments of national pride.

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## Sovereignty, Nationalism, Populism

Nationalists do not identify themselves with one particular political system, but they aim to create and sustain sovereign nation states. There is no doubt that European Union poses a threat to the sovereignty in a traditional sense due to the transfer of executive authority from the national parliaments to the amorphous supranational structure. It should be noted that United States have never acceded any organization with independent legislative power. Moreover, advocating the nation states does not have to go together with nationalism, while the latter not always occurs combined with the variously defined populism.

Populism can put on different forms. In Poland and Hungary populists have majorities in respective parliaments and are strongly affiliated with traditional institutions. Donald Trump gained support thanks to the creation of an image of an angry ‘ordinary fellow’, which citizens disdained by the elites could relate to. He was also attracting interest, because he ignored the rules of political correctness. But Trump’s rhetoric devaluates the most crucial institutions of the American political system. Furthermore, both Trump and his supporters gravitate towards conspiracy theories and the primacy of common-sense attitude, denying the value of expert’s opinions. Similar phenomena are taking place in Europe. Although there is no one consistent definition of ‘populism’, one could say that populism is a symptom of frustration melting into anger that is a threat to the wholesome nationalism and enduring sovereignty. It does not constitute a reform programme, and the ideological void is filled by demagogues, however posing as guardians protecting the “disinherited majority” from the amorphous “establishment”.

**Key words:** United States, Donald Trump, populism, sovereignty, nationalism



## **Suwerenność, nacjonalizm, populizm**

Nacjonaliści nie identyfikują się z jednym ustrojem, jednak dążą do tworzenia i utrzymania suwerennych państw narodowych. Nie budzi wątpliwości, że Unia Europejska jest zagrożeniem dla tradycyjnie rozumianej suwerenności ze względu na transfer władzy ustawodawczej z parlamentów krajowych do amorficznej struktury ponadnarodowej. Zwraca uwagę, że USA nigdy nie przystąpiły do organizacji dysponującej niezależną władzą prawodawczą. Ponadto obrona państw narodowych nie musi być powiązana z nacjonalizmem, ten zaś nie występuje zawsze obok tak czy inaczej definiowanego populizmu.

Populizm przybiera różne formy. W Polsce i na Węgrzech populiści mają większość w parlamentach i są mocno związani z tradycyjnymi instytucjami. Donald Trump miał poparcie dzięki kreacji wizerunku rozgniewanego „prostego chłopa”, z którym utożsamiali się lekceważeni przez elity obywatele. Był też interesujący dzięki ignorowaniu reguł politycznej poprawności. Jednakże retoryka Trumpa dewaluuje najważniejsze instytucje ustroju USA. Ponadto zarówno on sam, jak i jego zwolennicy skłaniają się ku teoriom spiskowym oraz prymatowi postawy zdroworozsądkowej, negującej wartość ekspertyz. Podobne zjawiska zachodzą w Europie. Choć brak jednolitej definicji, można powiedzieć, że populizm to przejaw frustracji przechodzącej w gniew, zagrażający zdrowemu nacjonalizmowi i stabilnej suwerenności. Nie tworzy on programu reform, a próżnię ideową zajmują demagodzy, kreujący się jednak na obrońców „wydziedziczonej większości” przed amorficznym „establishmentem”.

**Słowa kluczowe:** Stany Zjednoczone, Donald Trump, populizm, suwerenność, nacjonalizm



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**LAW AND COLLECTIVE MEMORY IN THE SERVICE  
OF ILLIBERALISM. THROUGH THE LOOKING-GLASS:  
TRANSFORMATION OR A REACTIONARY REVOLUTION?****Introduction**

Poland and Hungary, two countries hailed as success stories of the liberal transformation after 1989, have undergone another transition in the past several years, an illiberal one. From the ‘mosaic’ of changes, usually small, most often based on similar instruments functioning in liberal democracies,<sup>1</sup> a different regime emerges. As if walking through the looking-glass, while all seems similar to the liberal side, the legal institutions and the ways of governing are somehow different on the illiberal side of the mirror.

Having realised that “for the current generation in the region, liberalism is the god that failed,”<sup>2</sup> Viktor Orbán and Jarosław Kaczyński, leaders of the Hungarian and Polish illiberal parties, Fidesz and PiS (Prawo i Sprawiedliwość, Polish for: Law and Justice), respectively, linked the legal, “political and economic

<sup>1</sup> J. Kornai, “Hungary’s U-Turn: Retreating from Democracy”, *Journal of Democracy* 2015, Vol. 26, No. 3, p. 41.

<sup>2</sup> J. Feffer, cited in I. Krastev, “How liberalism became ‘the god that failed’ in eastern Europe”, *The Guardian*, 24.10.2019, <https://www.theguardian.com/world/2019/oct/24/western-liberalism-failed-post-communist-eastern-europe> [accessed: 29.10.2019].

meanings of ‘liberalism’,” promising a transition to an “‘illiberal state’ based on the values of work, family and nation,”<sup>3</sup> using, among other things, “the very instruments that the West once considered crucial for a transition from socialism to liberal democracy – law and the market” to achieve their goal.<sup>4</sup>

The fact that the transformation happened at this particular moment in these two countries has many reasons – social, political, economic – however the purpose of this article is to focus on the two contributing factors which not only made the transition more likely, but now are, in a particular case of *circulus vitiosus*, employed to foster the illiberal system: law and collective memory.

Before moving on to the main investigations I would like to briefly address the numerous calls claiming the rule of law in Poland and Hungary degraded due to their new illiberal systems (with the refugee question taken into account, Czechia and Slovakia have faced similar allegations), which while clearly linked to the main issue of the article, remain a separate matter than the one in hand, i.e. the analysis of the legal and social processes itself.

The backsliding of the rule of law has been defined as the “process through which elected public authorities deliberately implement governmental blueprints which aim to systematically weaken, annihilate or capture internal checks on power with the view of dismantling the liberal democratic state and entrenching the long-term rule of the dominant party.”<sup>5</sup> While problems with regards to the rule of law arise in all countries, Hungary and Poland are often regarded as special cases, since it is their governments’ ‘deliberate strategy’ to introduce changes leading to the perspective of the rule of law’s backsliding.<sup>6</sup>

At the end of 2017, the European Commission decided to initiate the so-called article 7 TEU procedure, as in their opinion some of the changes in Poland are in a ‘clear risk of a serious breach’ of the European values.<sup>7</sup> Moreover, the most recent EU budget has been to a certain degree tied with the respect for the rule of law, a solution which has been submitted to ECJ by Poland and Hungary.<sup>8</sup> While it remains to be seen what the final result of this ‘battle’ on the understanding of the rule of law is going to be, I would like to make four observations regarding the contentious issue.

<sup>3</sup> I. Krastev, *ibidem*.

<sup>4</sup> J.-W. Müller, “Homo Orbánicus”, *The New York Review of Books*, 5.04.2018, <https://www.nybooks.com/articles/2018/04/05/homo-orbanicus-hungary> [accessed: 29.10.2019].

<sup>5</sup> L. Pech and K.L. Scheppele, “Illiberalism Within: Rule of Law Backsliding in the EU”, *Cambridge Yearbook of European Legal Studies* 2017, Vol. 19, p. 7, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3009280](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3009280) [accessed: 6.08.2018].

<sup>6</sup> *Ibidem*, p. 8.

<sup>7</sup> K. Baca-Pogorzelska, “Art. 7, czyli Polska i Węgry trafiają do osłej ławki”, 26.06.2018, *Gazeta Prawna*, <https://www.gazetaprawna.pl/artykuly/1151538,wysluchanie-polski-w-brukseli-w-sprawie-wszczecia-procedury-art-7-bez-rewelacji.html> [accessed: 6.08.2018].

<sup>8</sup> “Dr Bonikowska o skardze Polski do TSUE”, 11.03.2021, *PolskieRadio24*, <https://www.polskieradio24.pl/130/5925/Artykul/2695070,Werdykt-bedzie-najwczesniej-za-kilka-miesiecy-Dr-Bonikowska-o-skardze-Polski-do-TSUE> [accessed: 11.03.2021].

First of all, the changes introduced by Orbán and Kaczyński are clearly in line with their illiberal programmes, which means that in most cases, they are not hiding what they are about to do – the question remains, however, whether or not there is a place for other-than-liberal policies within the EU. Importantly, the EU has already lost one battle against Central Europe, when it abandoned its forced relocation policy in 2018.<sup>9</sup>

Also, it is difficult to define what the rule of law actually is – for example, as Brian Z. Tamanaha notes, neither democracy, nor the human rights have a place in the rule of law’s definition – if they were, they would have the “effect of defining the rule of law in terms of institutions that match [only] liberal democracies”<sup>10</sup> – which potentially leaves the door open for illiberal democracies to uphold the rule of law in their own illiberal way.

And, perhaps most crucially, it has been observed that in Central Europe the post-1989 “reformers underestimated the local impediments to liberalisation and democratisation and overestimated the feasibility of importing fully worked-out western models.”<sup>11</sup> In this particular region the rule of law “doesn’t translate quite as crisply and neatly from the Western or the American concept as one might”<sup>12</sup> think – for example in Poland there is “a willingness to prosecute people for defamation of the nation or its leaders,” which in the US would be protected by the First Amendment<sup>13</sup> – and thus quite often what would be regarded by the Americans or the British as an infringement of the rule of law will not be seen as such by Poles or Hungarians.

With these pithy observations in mind – and leaving a profound analysis of the issue of the backsliding of the rule of law for another time and place – I would like to move to the matter in question, showing how law and collective memory contributed to the rise of illiberalism, ultimately becoming ‘cogs’ in the new system.

### **Illiberalism’s legal background**

When the new, liberal legal framework was established after 1989, it was modelled on the trusted Western patterns, with specialists from various countries of the European Union and the US ‘helping’ young, new democracies of Central Europe, sometimes up to the point of a farce – according to an allegedly true

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<sup>9</sup> M. Szuldrzyński, “Sukces Polski: UE bez relokacji uchodźców. Tylko co dalej?”, 29.06.2018, *Rzeczpospolita*, <https://www.rp.pl/Unia-Europejska/180629260-Sukces-Polski-UE-bez-relokacji-uchodzcow-Tylko-co-dalej.html> [accessed: 6.08. 2018].

<sup>10</sup> B.Z. Tamanaha, *On the Rule of Law. History, Politics, Theory*, Cambridge: Cambridge University Press 2000, p. 37.

<sup>11</sup> I. Krastev, *op. cit.*

<sup>12</sup> C. Grossman *et al.*, “Constitutional “Refolution” in the Ex-Communist World: The Rule of Law”, *American University International Law Review* 1997, Vol. 12, No. 1, p. 56.

<sup>13</sup> *Ibidem.*

anecdote, at one point half of the lawyers “in the Washington metropolitan area” were involved in drafting “the Czechoslovakian constitution.”<sup>14</sup>

Branded as “Americanisation, Europeanisation, democratisation, liberalisation, enlargement, integration, harmonisation, globalisation and so forth,” this process of “modernisation by imitation and integration by assimilation”<sup>15</sup> was often conducted with a complete disregard of the particularities of the region, which were bound to manifest themselves at one point.

Ultimately, as Paul Blokker argues in his 2014 study,<sup>16</sup> “democracy has been unevenly institutionalized in the new democracies” of Central Europe, because “a one-sided emphasis on the formal institutions of the rule of law and the entrenchment of democracy has meant a neglect of substantive, participatory, and legitimacy dimensions.” Constitutional democracy was neither well-designed, nor well-implemented,<sup>17</sup> as two regional tendencies emerged: a “judicialization of democratic politics” through the workings of Constitutional Tribunals; and “an unusually strong emphasis on a legal language [...] of fundamental rights and a legalistic view of constitutionalism.”<sup>18</sup> These in turn have resulted in “an overall depoliticized and essentialist view of democratic politics that denies any role of the larger demos and civil society,”<sup>19</sup> thus making it easier for the Central Europeans to be swayed by majoritarian illiberalism, which promises to ‘give the power back to the people’.

The circumstances and timeframes in which the post-1989 constitutions in Central Europe were adopted may also be linked to the rise of illiberalism, in particular in the case of Poland and Hungary – while Václav Havel said that he does “not agree with the view that the constitution is not the principal matter and that it can wait”<sup>20</sup> and Czech and Slovak constitutions were both adopted in 1992 – the new Polish constitution was adopted only in 1997, and the Hungarian one not until 2011 (the 1949 constitution was only amended during the transformation of 1989).<sup>21</sup>

Similar problems regarding new constitutions arose all over the region – as legislatures, instead of a version of an *assemblée nationale constituante* were responsible for drafting the documents. This meant that the new constitutions lacked the people’s legitimacy – when “the legislature has the final word, the legislature can always change the constitution. And even if the constitution they pass

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<sup>14</sup> *Ibidem*, p. 133.

<sup>15</sup> I. Krastev, *op. cit.*

<sup>16</sup> P. Blokker, *New Democracies in Crisis? A Comparative Constitutional Study of the Czech Republic, Hungary, Poland, Romania and Slovakia*, Oxon: Routledge 2014, p. 1.

<sup>17</sup> *Ibidem*, p. 2.

<sup>18</sup> *Ibidem*, pp. 3–4.

<sup>19</sup> *Ibidem*, pp. 5–6.

<sup>20</sup> C. Grossman *et al.*, *op. cit.*, p. 68.

<sup>21</sup> L.Y. Tartakoff, “Religion, Nationalism, History, and Politics in Hungary’s New Constitution”, *Global Society* 2012, Vol. 49, No. 4, p. 363.

says it takes a super majority to change it, that is not necessarily so in that kind of a system.”<sup>22</sup> Moreover, when legislature takes over the creating the constitution, it always means that parts of society are excluded from the process – this common problem was taken to another level in Poland, where when the constitution was adopted not only the president was from a left-wing party, there was also no major right-wing party in the parliament, due to a peculiar electoral law.<sup>23</sup> As a result, it lacks legitimacy to this day – less than 43% of voters participated in the referendum on its adoption<sup>24</sup> – which makes it easier for the government to introduce systematic illiberal changes, even if it lacks the majority to change the text of the constitution itself.

Polish constitution is also an interesting case from another reason – it is full of inherent contradictions and ambiguities, which often lead to conflicts between various institutions, for example over the direction of foreign policy between the government and the president – conflicts are bound to happen when they come from different political parties<sup>25</sup> – or between the Supreme Court and the Supreme Administrative Court.<sup>26</sup> These situations undermine the public’s trust in the institutions – for example in 2019 the parliament was regarded positively by 27% of Poles and negatively by 56%<sup>27</sup> while in 2017 the judiciary was regarded positively by 36% of Poles, and negatively by 51%, a lower result than in 2007.<sup>28</sup> With such negative views of major institutions, it is easier for the general public to support PiS’ programme of major illiberal reforms of the justice system, among other institutional changes. *Nota bene*, one of the reasons behind the problems concerning the Polish constitution may lie in the fact that the final corrections were introduced into its draft not by a group of lawyers, but by a linguist, Jerzy Bralczyk, who freely admits that he was the one to choose from several proposed

<sup>22</sup> C. Grossman *et al.*, *op. cit.*, p. 75.

<sup>23</sup> “Kluby i koła w Sejmie II kadencji”, Sejm RP, <http://www.sejm.gov.pl/archiwum/kluby/kadencja2/kluby.htm> [accessed: 29.10.2019].

<sup>24</sup> “25 maja 1997 r. Referendum konstytucyjne”, 25.05.2016, Interia.pl, <https://nowahistoria.interia.pl/kartka-z-kalendarza/news-25-maja-1997-r-referendum-konstytucyjne,nId,2207514> [accessed: 6.08.2018].

<sup>25</sup> P. Śmiłowicz, “Przydatny «spór o krzesło»”, 20.05.2009, *Newsweek*, <https://www.newsweek.pl/opinie/przydatny-spor-o-krzeslo/ssvps9j> [accessed: 29.10.2019].

<sup>26</sup> P. Słowik, “Bezprawie w Sądzie Najwyższym. Sędziowie nie chcą ujawnić wyciągów ze służbowych kart”, 8.02.2017, *Dziennik*, <https://wiadomosci.dziennik.pl/opinie/artykuly/542133,sad-najwyzszy-karty-sluzbowe-nsa.html> [accessed: 6.08.2018].

<sup>27</sup> “Opinie o działalności Sejmu, Senatu i prezydenta”, CBOS. *Komunikat z Badań* 2019, No. 24, [https://cbos.pl/PL/publikacje/raporty/open\\_file.php?url=2019/K\\_024\\_19.PDF&tytul=Opinie+o+dzia;322;alno;347;ci+Sejmu,+Senatu+i+prezydenta](https://cbos.pl/PL/publikacje/raporty/open_file.php?url=2019/K_024_19.PDF&tytul=Opinie+o+dzia;322;alno;347;ci+Sejmu,+Senatu+i+prezydenta) [accessed: 11.02.2021].

<sup>28</sup> “Społeczne oceny wymiaru sprawiedliwości”, CBOS. *Komunikat z Badań* 2017, No. 31, [https://cbos.pl/PL/publikacje/raporty/open\\_file.php?url=2017/K\\_031\\_17.PDF&tytul=Spo%C5%82eczne%20oceny%20wymiaru%20sprawiedliwo%C5%9Bci](https://cbos.pl/PL/publikacje/raporty/open_file.php?url=2017/K_031_17.PDF&tytul=Spo%C5%82eczne%20oceny%20wymiaru%20sprawiedliwo%C5%9Bci) [accessed: 6.08.2018].

variants of the phrasing of a large number of articles,<sup>29</sup> despite the lack of any professional legal experience.

With this myriad of issues surrounding the legal systems in the two countries, both in Poland and in Hungary the illiberal parties promised to change the law in such a way that it will serve the people, and no longer ‘the elites’ or ‘the system’ – the concept best put into words by the Senior Speaker of the Polish Sejm, Kornel Morawiecki, who, while not a member of the governing party, remarked during one of the parliamentary debates in 2015 that “law is an important thing, but it is not sacred [...] over the law stands the welfare of the nation.”<sup>30</sup> Thus, the reconstruction of the legal system became a vital part of the illiberal transformations. Once changed, various legal mechanisms were to be used to support the new illiberal regimes, as I will demonstrate in the next part of the paper.

### Law in the service of illiberalism

When Viktor Orbán won the 2010 Hungarian election by a landslide, he regarded the results “as a new social contract,” a “revolution”, even.<sup>31</sup> One year later, after PiS lost the parliamentary elections for the second time in a row, Jarosław Kaczyński promised that “there will come a day when there will be Budapest in Warsaw”<sup>32</sup> – referring to the illiberal changes already taking place in Hungary. His dream came true four years later, when PiS, while coming well short of the ability to change the constitution, won the first single-party majority in the Polish Parliament after the 1989 transformation.

Soon after their electoral wins, both Orbán and Kaczyński began the transition of Hungary and Poland into illiberal democracies, starting with the reconstructions of all the liberal democracy’s safety valves: Constitutional Tribunals, courts’ organisation, councils of judiciary, councils of the media, etc. Interestingly, in spite of different political realities in the two countries (constitutional majority in Hungary, regular majority in Poland), changes in both countries follow the same pattern, providing in a way a template for building an illiberal regime.

<sup>29</sup> *Kulisy powstania konstytucji z 1997 roku* [video], 2011, Dzień dobry TVN, <https://dziendobry.tvn.pl/wideo,2064,n/kulisy-powstania-konstytucji-z-1997-roku,11284.html> [accessed: 6.08.2018].

<sup>30</sup> “Kornel Morawiecki w Sejmie: Nad prawem jest dobro Narodu! «Prawo, które nie służy narodowi to bezprawie!» Reakcja? Owacja na stojąco”, 26.11.2015, wPolityce.pl, <https://wpolityce.pl/polityka/273101-kornel-morawiecki-w-sejmie-nad-prawem-jest-dobro-narodu-prawo-ktorenie-sluzy-narodowi-to-bezprawie-reakcja-owacja-na-stojaco-wideo> [accessed: 29.10.2019].

<sup>31</sup> A. Bozóki, “The Illusion of Inclusion: Configurations of Populism in Hungary”, *EUI Working Paper SPS* 2012/06, p. 16.

<sup>32</sup> “Przyjdzie dzień, że w Warszawie będzie Budapeszt”, 2011, TVN24, <https://www.tvn24.pl/wiadomosci-z-kraju,3/przyjdzie-dzien-ze-w-warszawie-bedzie-budapeszt,186922.html> [accessed: 29.10.2019].



## *Hungary*

In the 2010 elections Orbán's Fidesz received 53% of votes, which, according to the Hungarian electoral system, gave them 68% of seats in the parliament, allowing the party to change the constitution the way it saw fit with its two-thirds majority: during the first year there were twelve amendments changing over fifty provisions, including the one requiring four-fifths of the parliament to agree on a new constitution (as it could have been changed by a two-thirds majority).<sup>33</sup>

The fact that the government was not a coalition<sup>34</sup> for the first time in the modern Hungarian history<sup>35</sup> allowed Fidesz to easily pass all the legislation, using 'Blitzkrieg tactics',<sup>36</sup> such as the introduction of legislative proposals by individual motions, which allowed them not to hold public or specialist consultations or conduct impact assessments.<sup>37</sup> As a result, the parliament became 'a law factory': during the years 2010–2014 eighty-eight bills were voted on within a week of introduction, thirteen of which were voted on the same or next day.<sup>38</sup>

With a stable situation in the parliament Orbán could easily embark on his ultimate goal, the adoption of the long-overdue new Hungarian constitution. The initial four steps included choosing a suitable president, constraining the Constitutional Tribunal, changing the referendum process and altering the situation of the media market.<sup>39</sup>

The first of the tasks proved quite easy, since the Hungarian president is chosen by the parliament, which soon elected a former Fidesz member into the office.<sup>40</sup> Knowing well that the Constitutional Tribunal might easily hinder his plans (it found one of Fidesz's first major legislations, a retroactive tax on civil servants' departing bonuses, unconstitutional),<sup>41</sup> Orbán used his party's ability to amend the constitution and first changed the rules of choosing the Constitutional Tribunal's judges, then limited their powers, taking away the jurisdiction over fiscal matters in most cases, and ultimately increased the number of judges from eleven to fifteen, which, combined with the finishing of the term of some of the old judges, ultimately gave Fidesz the opportunity to choose seven new judges

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<sup>33</sup> M. Bánkuti, G. Halmai and K.L. Scheppele, "Hungary's Illiberal Turn: Disabling the Constitution", *Journal of Democracy* 2012, Vol. 23, No. 3, p. 139.

<sup>34</sup> Technically the government is a coalition of two parties, Fidesz and KDNP, but they run on the same list, see: N. Sitter, "Absolute Power? Hungary Twenty Years after the Fall of Communism", [in:] *20 Years since the Fall of the Berlin Wall*, eds. E. Bakke and I. Peters, Cambridge: Intersentia 2011, p. 254.

<sup>35</sup> *Ibidem*, p. 252.

<sup>36</sup> A. Bozóki, "Occupy the State: The Orbán Regime in Hungary", *Journal of Contemporary Central and Eastern Europe* 2011, Vol. 19, No. 3, p. 658.

<sup>37</sup> *Ibidem*.

<sup>38</sup> J. Kornai, *op. cit.*, p. 35.

<sup>39</sup> M. Bánkuti, G. Halmai and K.L. Scheppele, *op. cit.*, p. 141.

<sup>40</sup> *Ibidem*.

<sup>41</sup> *Ibidem*, p. 139.

in the first year and a half of its administration.<sup>42</sup> In the end the Tribunal, one of liberal democracy's key security mechanisms, became a 'cog in the illiberal machine', virtually "disappearing from the political landscape."<sup>43</sup>

Following a similar pattern, being well aware that the Election Commission in Hungary has the power to decide over proposals of referendums (the results of which might have hampered Orbán's plans), Fidesz went on to terminate its members' mandates early and choose new ones, giving the party a majority in the institution. The Commission's decisions may be appealed to the Constitutional Tribunal, but, as I noted above, the Tribunal had already been reformed and thus 'disabled'.<sup>44</sup> The government also reconstructed the Media Authority and created a new institution, the Media Council, appointing the head of the former and all the members of the latter. The Media Council received, among others, the power to fine the media for not providing a 'balanced' news coverage.<sup>45</sup>

All these changes prepared the ground for a new constitution, the adoption of which took place quickly and largely without consultations: first, in December 2010, a parliamentary committee (the proceedings of which were boycotted by the opposition) proposed the principles of a new constitution, not giving any room for debate until March of the following year, when parliamentarians had only one week to propose a draft constitution. While the opposition managed to present its own project, it was quickly dropped by the government, and the Fidesz's proposal was ultimately adopted after one month of public consultations (which in the end did not take place) and nine sessions of parliamentary debate – and signed by the president in April 2011, taking effect in 2012.<sup>46</sup>

While it is not the purpose of this paper to analyse the Hungarian constitutional order, it has to be remarked that the new constitution epitomises the illiberal system: it limits the access to the Constitutional Tribunal, with individuals only able to challenge laws directly affecting them and requiring at least 25% of members of parliament to challenge a law, thus forcing unlikely cooperation among the fragmented opposition;<sup>47</sup> changes the way judges are appointed, with the head of the new National Judicial Office being granted the power to select, promote or demote judges, choose the heads of all courts, and start disciplinary proceedings;<sup>48</sup> reconstructs the ombudsman system, from four separate ones to a single parliamentary commissioner for human rights;<sup>49</sup> gives

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<sup>42</sup> *Ibidem*, p. 140.

<sup>43</sup> *Ibidem*.

<sup>44</sup> *Ibidem*.

<sup>45</sup> *Ibidem*.

<sup>46</sup> *Ibidem*, pp. 141–142.

<sup>47</sup> *Ibidem*, p. 142.

<sup>48</sup> *Ibidem*, p. 143.

<sup>49</sup> *Ibidem*, p. 144.

the parliament-chosen chief public prosecutor the power to decide upon a court in which any criminal case will be heard;<sup>50</sup> and allows the new Budget Council to veto any public budget should it add to national debt.<sup>51</sup>

Other illiberal changes include the limitation of the powers of local authorities by centralising the administration of schools and hospitals;<sup>52</sup> unification of school curriculum<sup>53</sup> and textbooks;<sup>54</sup> and a visible distrust towards civil society,<sup>55</sup> including the Norwegian funds<sup>56</sup> and Central European University.<sup>57</sup>

It has also to be noted that many of the positions created or changed by the new laws have prolonged terms of office, now ranging from six to nine to twelve years, and a large number of the new laws on family protection, taxes and pensions were introduced as ‘cardinal laws’, thus requiring a two-thirds majority in the parliament to change them, further cementing Fidesz’s illiberal regime even if another party was to win an election.<sup>58</sup>

### ***Poland***

The Polish path to illiberalism also begun with an election victory: in 2015 PiS won the first single-party<sup>59</sup> majority in contemporary Polish history, as one party and one coalition almost managed to pass the threshold (but did not), meaning that the proportional electoral system transformed PiS’ 38% of the vote into 51% of the seats in the lower chamber of parliament.<sup>60</sup> While this slim majority did not allow for any changes to the constitution, the act’s peculiarities mentioned in the previous part of the paper, along with the fact that the party won the presidential elections earlier that year, allowed the government to begin the illiberal transformation, in many ways based on the Hungarian template.

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<sup>50</sup> *Ibidem*.

<sup>51</sup> *Ibidem*.

<sup>52</sup> J. Kornai, *op. cit.*, p. 36.

<sup>53</sup> A. Bozóki, “Occupy the State...”, *op. cit.*, p. 656.

<sup>54</sup> J. Kornai, *op. cit.*, p. 45.

<sup>55</sup> J.-W. Müller, *op. cit.*

<sup>56</sup> J. Kornai, *op. cit.*, p. 37.

<sup>57</sup> S. Walker, “‘Dark day for freedom’: Soros-affiliated university quits Hungary”, 3.12.2018, *The Guardian*, <https://www.theguardian.com/world/2018/dec/03/dark-day-freedom-george-soros-affiliated-central-european-university-quits-hungary> [accessed: 29.10.2019].

<sup>58</sup> M. Bánkuti, G. Halmai and K.L. Scheppele, *op. cit.*, pp. 143–145.

<sup>59</sup> Technically the government is composed of three parties: PiS, Solidarna Polska (Polish for: Solidary Poland) and Republikanie (Republicans), which have previously run on one list in the 2015 and 2019 elections as PiS, Solidarna Polska and Porozumienie (Consensus); Republikanie party has been created in 2021 on the basis of some of Porozumienie’s members, including MPs, with others leaving the government.

<sup>60</sup> “Wybory parlamentarne 2015. PKW podała ostateczne wyniki”, 27.10.2015, Onet.pl, <https://wiadomosci.onet.pl/kraj/wybory-parlamentarne-2015-pkw-podala-ostateczne-wyniki/zqe59j> [accessed: 29.10.2019].

The Polish parliament, just like its Hungarian counterpart, soon turned into a ‘law factory’,<sup>61</sup> with, for example, 17,440 pages of bills adopted in the first six months of 2017.<sup>62</sup> Legislation, from regular amendments to changes to flagship government programmes, was often adopted in the process of ‘express voting’, with both the lower and upper chambers of the parliament voting on the same act from the morning one day into the early hours of the morning the very next (from time to time resulting in blatant mistakes).<sup>63</sup> In order to speed up the legislative process even more – and not have to conduct lengthy social consultations – following preparations by the government, many bills were then introduced as proposals of members of parliament, sometimes with the names of their original civil service authors still embedded in the documents.<sup>64</sup>

Also as in the case of Hungary, one of the first steps of the illiberal transition in Poland was the remodelling of the Constitutional Tribunal. Kaczyński knew very well from his previous experience of governing Poland in the years 2005–2007 that a liberal Tribunal may easily hinder any illiberal changes his party would like to introduce. Lacking Orbán’s ability to easily amend the constitution, the head of the PiS was nonetheless presented with a unique opportunity by the previous government to change both the personal composition and the functioning of the Tribunal.

The Civic Platform changed the bill on the functioning of the Constitutional Tribunal in May 2015, after losing presidential elections, predicting that they might as well lose the parliamentary ones. The amendments allowed the parliament to elect new judges for all five positions in the Tribunal that would become empty by the end of 2015, even if the terms of these judges would run out only around and after the already planned October elections.<sup>65</sup>

This legislative Pandora’s box, once opened, was not to be shut by the new illiberal government, which (since they were not sworn in by the president yet) decided to deselect the ‘May amendment’ judges using rules of parliamentary procedure and then alter the law on the functioning of the Tribunal in such a way as to ensure that no decision may be taken without the new judges chosen by

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<sup>61</sup> It has to be noted that to a point this has changed after the October 2019 elections – while PiS won the majority in the lower chamber of the parliament, they lost the Senate, which, while not holding many powers, may – and often does – delay the adoption of new laws by a month.

<sup>62</sup> P. Trudnowski, “Szaleństwo produkcji prawa trwa. 5 pomysłów jak je zatrzymać”, 27.07.2017, Klub Jagielloński, <https://klubjagiellonski.pl/2017/07/27/szalenstwo-produkcji-prawa-trwa-5-pomyslow-jak-je-zatrzymac> [accessed: 29.10.2019].

<sup>63</sup> “Nocne głosowania w Sejmie, ustawy przyjmowane migiem”, 26.04.2019, Gazeta.pl, <http://wiadomosci.gazeta.pl/wiadomosci/7,114884,24701571,nocne-glosowania-w-sejmie-ustawy-przyjmowane-migiem-dwoje.html> [accessed: 29.10.2019].

<sup>64</sup> P. Trudnowski, *op. cit.*

<sup>65</sup> E. Siedlecka, “Platforma psuje Trybunał Konstytucyjny”, 29.05.2015, *Gazeta Wyborcza*, [http://wyborcza.pl/1,75968,18010846,Platforma\\_psuje\\_Trybunał\\_Konstytucyjny.html?disableRedirects=true](http://wyborcza.pl/1,75968,18010846,Platforma_psuje_Trybunał_Konstytucyjny.html?disableRedirects=true) [accessed: 29.10.2019].

PiS.<sup>66</sup> It is not the place of this paper to analyse the long constitutional crisis that was the aftermath of these actions, but it has to be noted that ultimately they were successful and had ‘the Hungarian effect’ on the Tribunal, which became largely dormant,<sup>67</sup> often ‘freezing’ more controversial cases which might force the government to take unpopular decisions for years, for example on the question of eugenic abortion.<sup>68</sup>

Similarly to Fidesz, PiS created a new media body, the National Media Council, responsible for choosing the heads of the public media.<sup>69</sup> This has allowed the government an easy takeover of the public TV, radio and press agency, which, while always politicised by consecutive governments, now became particularly heavily criticised for not being sufficiently objective, almost always supporting the government’s illiberal agenda.<sup>70</sup> While so far the changes concern only the public media, PiS proposed the ‘repolonization’ of the media (the concept that the media in Poland should be owned by Polish companies) as one of its tasks for the second term. How exactly such changes will look remains to be seen, apart from the promises that they will make the media market in Poland akin to the one in France and Germany;<sup>71</sup> so far, the state-owned oil company, Orlen, successfully took over one of the major press publishers,<sup>72</sup> while another attempt at a significant change, which proposed that any television station in Poland could only be owned by a company registered in the EU (thus directly impacting one of the main media groups), was vetoed by the President.<sup>73</sup>

<sup>66</sup> “Najważniejsze przepisy nowelizacji ustawy o TK w punktach”, 28.12.2015, TVN24, <https://www.tvn24.pl/wiadomosci-z-kraju,3/nowelizacja-ustawy-o-tk-najwazniejsze-zmiany-w-punktach,605298.html> [accessed: 29.10.2019].

<sup>67</sup> M. Kryszkiewicz, “Długie wakacje TK. Jest wyznaczonych coraz mniej rozpraw”, 1.10.2019, *Gazeta Prawna*, <https://prawo.gazetaprawna.pl/artykuly/1432580,tk-rozprawa-publickacja-ogloszenie-orzeczenia-przylebska.html> [accessed: 29.10.2019].

<sup>68</sup> M. Szuldrzyński, “Prezes woli pozostawić aborcję w TK”, 10.07.2018, *Rzeczpospolita*, <https://www.rp.pl/Analizy/180719958-Szuldrzynski-Prezes-woli-pozostawic-aborcje-w-TK.html> [accessed: 29.10.2019].

<sup>69</sup> “Ustawa o Radzie Mediów Narodowych już obowiązuje”, 7.07.2016, Sejm RP, [www.sejm.gov.pl/Sejm8.nsf/komunikat.xsp?documentId=D49AF4B1166B6550C1257FE100489A92](http://www.sejm.gov.pl/Sejm8.nsf/komunikat.xsp?documentId=D49AF4B1166B6550C1257FE100489A92) [accessed: 29.10.2019].

<sup>70</sup> M. Wrzos, “Media PiS. Narodowa TVP «dobrej zmiany»”, 10.10.2019, Onet.pl, <https://wiadomosci.onet.pl/tylko-w-onejcie/podsumowanie-rzadow-pis-tvp-jacka-kurskiego/t700495> [accessed: 29.10.2019].

<sup>71</sup> “Repolonizacja mediów. PiS chce wprowadzić przepisy, jakie mają Francja i Niemcy”, 21.06.2019, Salon24, <https://www.salon24.pl/newsroom/964871,repolonizacja-mediow-pis-chce-wprowadzic-przepisy-jakie-maja-francja-i-niemcy> [accessed: 29.10.2019].

<sup>72</sup> “Orlen właścicielem Polska Press. Sfinalizowano transakcję przejęcia”, 2.03.2021, Bankier.pl, <https://www.bankier.pl/wiadomosc/Orlen-wlascicielem-Polska-Press-Sfinalizowano-transakcje-przejecia-8066621.html> [accessed: 30.12.2021].

<sup>73</sup> “«Lex TVN»: Prezydent Andrzej Duda zawetował nowelizację ustawy o radiofonii i telewizji”, 27.12.2021, *Rzeczpospolita*, <https://www.rp.pl/polityka/art19232471-lex-tvn-prezydent-andrzej-duda-zawetowal-nowelizacje-ustawy-o-radiofonii-i-telewizji> [accessed: 30.12.2021].

Ultimately, and also similarly to Hungary, one of the final steps in the illiberal transformation, undertaken in particular in the years 2016–2018, was the reconstruction of the justice system: the return to the unification of the function of the minister of justice and attorney general,<sup>74</sup> giving him the power of choosing the heads of courts;<sup>75</sup> the personal and competence reform of the National Council of Judiciary;<sup>76</sup> the increase in the number of Supreme Court judges, along with the amendments to the functioning of the court and the way its judges are selected.<sup>77</sup>

Over the course of only several years, Fidesz and PiS managed to dismantle many legal institutions of liberal democracy – constitutional tribunals, national councils of judiciary, rules of parliamentary procedure – reconstructing them in a way to propel the new illiberal system, perhaps forever changing what after 1989 was supposed to be the “new, inescapable orthodoxy”<sup>78</sup> of liberalism. Law was not the only social instrument remodelled in such a way – collective memories were the other.

### Collective memory in the service of illiberalism

In his 1995 article *Central Europe: The Present Past* Timothy Garton Ash argued that Polish problems with the past constantly influencing the present could have been in all likelihood avoided: if after the fall of the Berlin Wall the members of the former regime were publicly exposed “in the well-trying Latin American shape of a state or parliamentary ‘truth commission’,” and not allowed to function in the public sphere, the Polish relationship with the pre-transition past could have been quite different.<sup>79</sup>

Returning to the observation four years later – only this time speaking about the whole region – he stressed again that the countries of Central Europe

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<sup>74</sup> “Minister sprawiedliwości znowu Prokuratorem Generalnym?”, 31.01.2016, Polskie Radio24, <https://www.polskieradio24.pl/7/4400/Artykul/1577089,Minister-sprawiedliwosci-znowu-Prokuratorem-Generalnym-Publicyisci-oceniaja> [accessed: 29.10.2019].

<sup>75</sup> A. Łukaszewicz, “Minister sprawiedliwości nie odwoła prezesa sądu bez opinii KRS i kolegium sądu”, 22.05.2018, *Rzeczpospolita*, <https://www.rp.pl/Sedziowie-i-sady/305229936-Minister-sprawiedliwosci-nie-odwola-prezesa-sadu-bez-opinii-KRS-i-kolegium-sadu.html> [accessed: 29.10.2019].

<sup>76</sup> “Weszła w życie nowelizacja ustawy o Krajowej Radzie Sądownictwa”, 17.01.2018, Polsat News, <https://www.polsatnews.pl/wiadomosc/2018-01-17/weszla-w-zycie-nowelizacja-ustawy-o-krajowej-radzie-sadownictwa> [accessed: 29.10.2019].

<sup>77</sup> “Prezydent zmienia sądownictwo”, 2017, TVN24, <https://www.tvn24.pl/raporty/sad-najwyzszy-i-krs-zmiany-w-sadownictwie-wedlug-pis-i-prezydenta,1198> [accessed: 29.10.2019].

<sup>78</sup> I. Krastev, *op. cit.*

<sup>79</sup> T.G. Ash, “Central Europe: The Present Past”, 13.07.1995, *New York Review of Books*, <https://www.nybooks.com/articles/1995/07/13/central-europe-the-present-past> [accessed: 30.09.2019].

should have dealt with the past in the form of truth commissions, as a truth commission “symbolically draws a line between the new era and the old, without calling for forgetting or even, necessarily, forgiving. It is probably the closest a non-revolutionary revolution can come to revolutionary catharsis.”<sup>80</sup>

Ultimately, however, neither Poland nor Hungary<sup>81</sup> had this sort of a revolutionary catharsis, with the collective memories of the communist past constantly influencing the post-communist present and contributing to the rise of illiberalism, as the lack of a real decommunization continuously kept getting back. While for many years “economic issues dominated” the elections, ultimately there came a time when “anti-communism and corruption took precedence.”<sup>82</sup>

The initial decommunization took place both in Poland and in Hungary in the 1990s. The illiberal parties, however, promised to go deeper than the previous governments, with their policies particularly affecting the collective memories in the cityscape: PiS ordered country-wide review (and potential change) of street names and monuments originating in the times of communism, often sparking wide social and legal debates;<sup>83</sup> in Hungary, among other memory policies, Fidesz decided to restore the Kossuth Square in front of the parliament in Budapest to its pre-1944 condition,<sup>84</sup> moving, *inter alia* Imre Nagy’s statue to a less prominent location<sup>85</sup> – while he is a hero to many, Orbán sees Nagy first and foremost as a communist.<sup>86</sup>

Another play of the illiberals on the already existing collective memory focuses on “exaggerating the dark sides of European liberalism,” knowing well that “the passage of time has erased from the collective memory the even darker sides of European illiberalism.”<sup>87</sup> With many researchers asking “whether it was

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<sup>80</sup> T.G. Ash, “Ten Years After”, 18.11.1999, *The New York Review of Books*, <https://nybooks.com/articles/1999/11/18/ten-years-after> [accessed: 6.08.2018].

<sup>81</sup> See: M.M. Sadowski, “Collective Memory and Historical Determinacy: The Shaping of the Polish Transition”, [in:] *Central and Eastern European Socio-Political and Legal Transition Revisited*, eds. B. Fekete and F. Gárdos-Orosz, Frankfurt am Main: Peter Lang 2018, p. 176 (Central and Eastern European Forum for Legal, Political, and Social Theory Yearbook, Vol. 7).

<sup>82</sup> N. Sitter, *op. cit.*, p. 258.

<sup>83</sup> R. Krupa-Dąbrowska, “Dekomunizacja ulic – co jest symbolem komunizmu”, 22.03.2019, *Rzeczpospolita*, <https://www.rp.pl/W-sadzie-i-urzedzie/303229943-Dekomunizacja-ulic---co-jest-symbolem-komunizmu.html> [accessed: 29.10.2019].

<sup>84</sup> P. Hajdu, “The memory of national literature in Budapest city centre”, *Neohelicon* 2014, Vol. 41, p. 44.

<sup>85</sup> S. Walker, “Hungarians remember Imre Nagy, hero of ‘56, as Orban tightens grip” 16.06.2019, *The Guardian*, <https://www.theguardian.com/world/2019/jun/16/hungarians-remember-imre-nagy-hero-of-56-as-orban-tightens-grip> [accessed: 29.10.2019].

<sup>86</sup> For an in-depth analysis of the second wave of decommunization in Poland and Hungary, as well as several other countries, see M.M. Sadowski, “City as a Locus of Collective Memory. Streets, Monuments and Human Rights”, *Zeitschrift für Rechtssoziologie – The German Journal of Law and Society* 2021, Vol. 40, No. 1–2, pp. 209–240.

<sup>87</sup> I. Krastev, *op. cit.*

possible to roll back history,<sup>88</sup> the large number of similarities between present day and interwar illiberal regimes in Poland and Hungary, Piłsudski's *sanacja*<sup>89</sup> and Miklós Horthy's regency,<sup>90</sup> respectively, are often remarked upon. They are brought to the forefront particularly in Hungary, with Fidesz "politically absolving individuals extolled during the Horthy regime by conferring new awards upon them"<sup>91</sup> and with Orbán's indirect invitations to revisit the 1920 Trianon Treaty (and thus European borders),<sup>92</sup> through, for example, declaring the anniversary of its signing the 'day of national unity'<sup>93</sup> and calls for a 'national unification' with Hungarians living in the pre-World War I parts of the country.<sup>94</sup>

Collective memories of the more recent past are also used to support the illiberal agenda. With many Poles and Hungarians feeling that the shortcomings of the post-communist transformation lie in the fact that "imitating the values, attitudes, institutions and practices of the West became imperative and obligatory,"<sup>95</sup> even though they do not necessarily fit Central European conditions, it seems only natural that "a nativist reaction in the region, a reassertion of 'authentic' national traditions allegedly suffocated by ill-fitting western forms"<sup>96</sup> took place. Thus, I agree with the recent observation that the 2015 refusal to cooperate with the Germany-led coalition of EU countries arguing for a division of refugees between all member states was the final tipping point, the Central Europe's illiberal "declaration of independence not only from Brussels but also, more dramatically, from western liberalism and its ethos of openness to the world."<sup>97</sup>

Playing on the centuries-old collective memories of both Poland and Hungary being the 'bulwark of Christianity', the illiberals turned the conflict about the interpretation of EU regulations into "one about ideals,"<sup>98</sup> promising to defend Christian values, which, as they argued, were under attack from 'Brussels and Africa'.<sup>99</sup> It has to be remembered that religion plays an important role in the illiberal regime, not for its ethics, but as a part of national identity, the "who we think we are"<sup>100</sup> – the 2011 Hungarian constitution, signed on Easter Monday,<sup>101</sup>

<sup>88</sup> A. Bozóki, "The Illusion of Inclusion...", *op. cit.*, p. 16.

<sup>89</sup> S. Zagórski, "Roman Giertych: PiS jest jak Sanacja", 1.09.2017, *Twoja Historia*, <https://twojahistoria.pl/2017/09/01/roman-giertych-pis-jest-jak-sanacja-analogie-sa-przerazajace> [accessed: 29.10.2019].

<sup>90</sup> J. Kornai, *op. cit.*, p. 45.

<sup>91</sup> A. Bozóki, "Occupy the State...", *op. cit.*, p. 656.

<sup>92</sup> M. Bánkuti, G. Halmai and K.L. Scheppele, *op. cit.*, p. 145.

<sup>93</sup> N. Sitter, *op. cit.*, p. 266.

<sup>94</sup> A. Bozóki, "Occupy the State...", *op. cit.*, pp. 649–650.

<sup>95</sup> I. Krastev, *op. cit.*

<sup>96</sup> I. Krastev, *op. cit.*

<sup>97</sup> I. Krastev, *op. cit.*

<sup>98</sup> J.-W. Müller, *op. cit.*

<sup>99</sup> I. Krastev, *op. cit.*

<sup>100</sup> J.-W. Müller, *op. cit.*

<sup>101</sup> A. Bozóki, "Occupy the State...", *op. cit.*, p. 661.



codifies “the nation’s Christian character in a preamble beginning with an appeal to God,”<sup>102</sup> stressing “the role of Christianity in gluing the nation together;”<sup>103</sup> PiS’ head, Jarosław Kaczyński, often speaks about family and religion being fundamental national values which have to be protected.<sup>104</sup>

In addition to these policies, the illiberal state began institutionalising collective memories in a number of ways: creating new institutions, such as Budapest’s Terror Háza (established during Fidesz’ first term), which presents a particular version of Hungarian history before and after the Second World War;<sup>105</sup> changing the already existing institutions, such as WWII Museum in Gdańsk, whose controversial exhibition presenting a variety points of view on the war was remodelled by PiS government in a way to fit the Polish war narrative;<sup>106</sup> changing the ways of funding of cultural projects by giving more power to institutions dependent on the government, such as the Hungarian Academy of Arts or the National Research, Development and Innovation Office (NRDIO), and undermining those independent from it, the Hungarian Academy of Sciences, for example;<sup>107</sup> and changing the personnel in various cultural institutions, for example in Hungarian theatres, whose directors were all replaced in a period of eighteen months.<sup>108</sup>

Law itself is also often used by the two illiberal regimes in order to directly shape collective memories: the new Hungarian constitution’s preamble provides a very distinctive narrative about the Hungarian history,<sup>109</sup> proclaiming that the legal document should “serve as a covenant between Hungarians of the past, the present, and the future;”<sup>110</sup> and the Polish government established a series of memory laws providing a certain viewpoint of Poland and Polish society during World War II, sparking internal and external tensions.<sup>111</sup>

Ultimately, as this and the previous chapter show, both law and collective memory (sometimes entangled together), once remodelled, enabled the passage

<sup>102</sup> J.-W. Müller, *op. cit.*

<sup>103</sup> A. Bozóki, “Occupy the State...”, *op. cit.*, p. 660.

<sup>104</sup> “Prezes PiS: naszym celem jest budowa polskiej wersji państwa dobrobytu”, 22.09.2019, Polskie Radio24, <https://www.polskieradio24.pl/5/1222/Artykul/2371707,Prezes-PiS-naszym-celem-jest-budowa-polskiej-wersji-panstwa-dobrobytu> [accessed: 29.10.2019].

<sup>105</sup> E. Palonen, “Millennial politics of architecture: myths and nationhood in Budapest”, *Nationalities Papers* 2013, Vol. 41, No. 4, p. 541.

<sup>106</sup> R. Zakrzewski, “PiS przerabia Muzeum II Wojny Światowej”, 1.11.2017, *Gazeta Wyborcza*, <http://wyborcza.pl/7,75968,22593766,pis-przerabia-muzeum-ii-wojny-swiatowej.html> [accessed: 29.10.2019].

<sup>107</sup> J. Kornai, *op. cit.*, p. 45.

<sup>108</sup> A. Bozóki, “Occupy the State...”, *op. cit.*, p. 658.

<sup>109</sup> L.Y. Tartakoff, *op. cit.*, p. 362.

<sup>110</sup> *Ibidem*, p. 363.

<sup>111</sup> “Sejm w ekspresowym tempie przegłosował nowelizację ustawy o IPN”, 27.06.2018, TVN24, <https://www.tvn24.pl/wiadomosci-z-kraju,3/nowelizacja-ustawy-o-ipn-przeglosowana,849046.html> [accessed: 29.10.2019].

to the illiberal side of the mirror, becoming instruments of the regime transformation. In the next, final part of the article I would like to establish whether this ‘walk through the looking-glass’ was a simple transition, another stop in the democratic journey, or a point of no return, a true revolution.

### **Conclusion: A walk through the looking-glass or a revolution**

“The reverse wave;”<sup>112</sup> “a sharp U-turn;”<sup>113</sup> “the ‘revolution in the polling booths’”<sup>114</sup> – these are just some of the expressions used to describe the illiberal changes in Central Europe. Viktor Orbán himself called his first electoral victory a “new social contract,”<sup>115</sup> comparing “2010 to 1956 and 1989”<sup>116</sup> – and his party “often refers to the ideas espoused in the 1848 Revolution led by Lajos Kossuth (i.e. ‘revolution and struggle for freedom’),”<sup>117</sup> which to this day remains the bedrock of Hungarian national identity.

It is easy to regard the changes which took place in Poland and Hungary as a revolution – a belated revolution some may say, because, to follow the words of Jürgen Habermas, those that happened in 1989 were not real revolutions, lacking ideas which would be “innovative or oriented towards the future,” being simply “rectifying revolutions” or “catch-up revolutions.”<sup>118</sup>

And, to continue this line of thought, when it turned out that there is simply too much to ‘catch up with’ and that there could never be enough ‘rectifying’ done to appease the Poles, the Hungarians (and in general all the other nations of the region), people blamed ‘Western liberalism’, demanding revenge. As Ivan Krastev argues in his 2019 piece for *The Guardian*, they are already having it, since Central Europe’s ‘ultimate revenge’

is not merely to reject the idea of imitating the west, but to invert it. We are the real Europeans, Orbán and Kaczyński repeatedly claim, and if the West will save itself, it will have to imitate the East. As Orbán said in a speech in July 2017: “Twenty-seven years ago here in Central Europe, we believed that Europe was our future; today we feel that we are the future of Europe.”<sup>119</sup>

The argument, while seemingly convincing, does not seem plausible to me. The idea of a reactionary revolution engulfing Central Europe, a will to return to the past so strong that it topples the principles of liberal democracy may be

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<sup>112</sup> A. Bozóki, “Occupy the State...”, *op. cit.*, p. 3.

<sup>113</sup> J. Kornai, *op. cit.*, p. 34.

<sup>114</sup> N. Sitter, *op. cit.*, p. 250.

<sup>115</sup> A. Bozóki, “The Illusion of Inclusion...”, *op. cit.*, p. 16

<sup>116</sup> N. Sitter, *op. cit.*, p. 249.

<sup>117</sup> A. Bozóki, “Occupy the State...”, *op. cit.*, p. 651.

<sup>118</sup> J. Habermas, cited in I. Krastev, *op. cit.*

<sup>119</sup> I. Krastev, *op. cit.*

a simple (and even romantic) explanation of a complex problem, but it ignores the fact that the changes in the region are part of a much longer and deeper process, and that they are in principle forward, not backward looking.

As this and my other paper regarding the transition<sup>120</sup> show, illiberalism was bound to take hold of Central Europe sooner or later; liberal democracy was just one point of the journey, illiberal is the other. I fully agree with András Bozóki's observation that "history does not end with the transition to democracy. Democracy is never a complete condition; rather, it is a dynamic process, full of tension."<sup>121</sup> Laura Y. Tartakoff remarks that in the case of Hungary "the new Constitution intends to close the book on the transition period."<sup>122</sup> After both Fidesz and PiS won consecutive elections in 2019, I would say that the period of transition is completed.

Where will the democratic journey take the region now? Through a different looking glass or back to the liberal one? The 2020 presidential elections in Poland showed that the pro-government president was re-elected only by a slim margin. The system which has been constructed over the past several years will most likely stay in place, however, as the country seems to be permanently anchored in the sea of illiberalism – it would take a legal revolution, one based on a new constitution, to make a meaningful change. The same is true for Hungary – even without Orbán at the helm, the system he constructed is bound to remain in place. But who knows – perhaps the region will surprise us yet again in 2020s? The April 2022 Hungarian elections are going to be a yet another test of the illiberal project's durability, giving researchers another chance to observe the inner details of its functioning.

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<sup>120</sup> M.M. Sadowski, "Central Europe in the Search of (Lost) Identity. The Illiberal Swerve", [in:] *Constitutional Identities in Central and Eastern Europe*, ed. A. Mercescu, Frankfurt am Main: Peter Lang 2020, p. 173 (Central and Eastern European Forum for Legal, Political, and Social Theory Yearbook, Vol. 8).

<sup>121</sup> A. Bozóki, "Occupy the State...", *op. cit.*, p. 662.

<sup>122</sup> L. Y. Tartakoff, *op. cit.*, p. 365.

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## **Law and Collective Memory in the Service of Illiberalism. Through the Looking-Glass: Transformation or a Reactionary Revolution?**

The past decade has seen profound changes take place in Central Europe, notably in Poland and Hungary. Countries once hailed as model liberal democracies have travelled through the looking glass, turning into their own illiberal reflections. Was it a transformation, or a revolution, a reactionary one, as some researchers argue? The purpose of this paper is to analyse these changes in the region, with a special focus on law and collective memory, which have been in a way turned into the instruments of the illiberal transition. In the introductory part of the paper the author provides the background of the transformation, briefly outlining the question of the rule of law in the region. The first part of the paper is devoted to the legal causes of the recent changes in Poland and Hungary, with the role played by their defective constitutions highlighted. In the second part of the paper the author focuses on the process of changes itself, showing how liberal legal mechanisms (e.g. constitutional tribunals, rules of parliamentary proceedings) were in a way hijacked and reemployed to serve the new illiberal system. The third part of the paper is devoted to the role played by collective memories in the current changes, with the author showing how the illiberal state uses a variety of methods, from renaming the streets to implementing memory laws, to foster certain version of the social perceptions of the past. Ultimately, in the concluding remarks the author poses the eponymous question pondering whether the journey through the looking glass was more of a transformation or a revolution for Poland and Hungary.

**Key words:** illiberalism, Poland, Hungary, collective memory, memory policies

## **Prawo oraz pamięć zbiorowa w służbie illiberalizmu. Po drugiej stronie lustra: transformacja czy reakcyjna rewolucja?**

Druga dekada dwudziestego pierwszego wieku to czas głębokich przemian w Europie Środkowej, w szczególności w Polsce i na Węgrzech. Państwa przedstawiane niegdyś jako modelowe demokracje liberalne przeszły na drugą stronę lustra, zmieniając się w swoje illiberalne odbicia. Czy był to proces transformacji, czy też może rewolucji – w tym wypadku reakcyjnej – jak twierdzą niektórzy badacze? Celem artykułu jest pochylenie się nad przemianami w regionie, ze zwróceniem

szczególnej uwagi na prawo oraz pamięć zbiorową, które zostały zmienione w narzędzia illiberalnych zmian. We wstępie autor przedstawia tło transformacji, krótko przybliżając kwestię praworządności w regionie. Pierwsza część artykułu poświęcona jest niedawnym zmianom w Polsce i na Węgrzech – koncentruje się na roli, jaką odegrały w nich konstytucyjne niedoskonałości. W drugiej części artykułu autor skupia się na samym procesie zmian, pokazując, w jaki sposób liberalne mechanizmy prawne (np. trybunały konstytucyjne, parlamentarne regulaminy i reguły postępowania) zostały przejęte, a następnie ponownie wykorzystane w illiberalnym systemie. Trzecia część artykułu dotyczy roli, jaką w procesie obecnych przemian odgrywa pamięć zbiorowa – autor pokazuje, w jaki sposób illiberalne państwa używają różnorodnych metod, od zmian nazw ulic po wprowadzanie tzw. praw pamięci (*memory laws*), w celu promowania konkretnej wizji przeszłości w społeczeństwie. Konkludując, autor stawia tytułowe pytanie, zastanawiając się, czy podróż na drugą stronę lustra była dla Polski i Węgier transformacją czy też rewolucją.

**Słowa kluczowe:** illiberalizm, Polska, Węgry, pamięć zbiorowa, polityka pamięci



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### **THE EMERGING SINO-AMERICAN COLD WAR**

#### **Introduction**

Donald Trump's policies towards China over the first three years of his presidency were full of twists and turns. On the presidential campaign trail, he painted Sino-America relations in dark terms and right after his inauguration he continued in the same vein. However, later he changed tack and seemed to develop good relations with his Chinese counterpart. This warming, however, did not last for long and eventually gave way to bitter economic confrontation. This paper discusses shifts in American policies towards the Asian giant under President Trump and highlights challenges in international affairs that China presents to American leadership. The economic war that started in the spring of 2018 is now quickly escalating into a new cold war that cuts across all aspects of global politics.

#### **Trump's evolving stance on China**

Trump's views as a presidential candidate were clearly shaped by advisers like Steve Bannon and Dr. Peter Navarro. The former assumed important positions in the Trump administration; he became a member of the Principals Commit-

tee of the U.S. National Security Council and White House Chief Strategist, and the latter was made Director of the White House National Trade Council. Before the 2016 presidential campaign, Bannon opined that there will be a war between the United States and China within a decade.<sup>1</sup> Professor Navarro co-authored a book in which he argued that China resorts to unfair economic policies aimed at the subversion of American dominance.<sup>2</sup>

In the months following the elections and after assuming the presidency, actions taken by Donald Trump and his administration indicated that the U.S. is sticking to these anti-Chinese views. For instance, on January 11, 2017, Rex Tillerson, the newly appointed Secretary of State, said during his confirmation hearings in the U.S. Senate that America should prevent the Middle Kingdom from accessing illegally constructed islands on the South China Sea.<sup>3</sup> Beijing was particularly angered with the relatively friendly relationships between the United States and Taiwan, an island that China considers its integral part. After winning the elections, President Trump accepted a congratulatory phone call from Tsai Ing-wen, president of Taiwan.<sup>4</sup> Also, the Taiwanese president made several stopovers on the American soil on her travels to third countries.<sup>5</sup>

However, after the early tough statements, the President's rhetoric calmed down. While the Chinese continue the construction of dual use facilities, including underground storage and administrative facilities and a "large radar and sensor arrays" totaling some 72 acres in the Spratly and Paracel Islands,<sup>6</sup>

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<sup>1</sup> B. Haas, "Steve Bannon: 'We're Going to War in the South China Sea... No Doubt'", *The Guardian*, 1.02.2017, <https://www.theguardian.com/us-news/2017/feb/02/steve-bannon-donald-trump-war-south-china-sea-no-doubt> [accessed: 11.01.2018].

<sup>2</sup> P. Navarro, G. Autry, *Death by China: Confronting the Dragon – A Global Call to Action*, Prentice Hall, Upper Saddle River, N.J., 2011.

<sup>3</sup> It is worth noting that Chinese activity in this region is nothing new. For instance, the Chinese have been constructing military installations on Fiery Cross Reef and Subi Reef since 1988 and by now the facilities boast deep-water ports, a 10,000 feet long runway and aircraft hangers among others. A. Macias, "China Quietly Installed Defensive Missile Systems on Strategic Spratly Islands in Hotly Contested South China Sea", CNBC, 2.05.2018, <https://www.cnbc.com/2018/05/02/china-added-missile-systems-on-spratly-islands-in-south-china-sea.html> [accessed: 14.01.2019].

<sup>4</sup> A. Gearan, Ph. Rucker, S. Denyer, "Trump's Taiwan Phone Call Was Long Planned, Say People Who Were Involved", *The Washington Post*, 4.12.2016, [https://www.washingtonpost.com/politics/trumps-taiwan-phone-call-was-weeks-in-the-planning-say-people-who-were-involved/2016/12/04/f8be4b0c-ba4e-11e6-94ac-3d324840106c\\_story.html?utm\\_term=.fd5e06c5ae86](https://www.washingtonpost.com/politics/trumps-taiwan-phone-call-was-weeks-in-the-planning-say-people-who-were-involved/2016/12/04/f8be4b0c-ba4e-11e6-94ac-3d324840106c_story.html?utm_term=.fd5e06c5ae86) [accessed: 11.01.2018].

<sup>5</sup> M.N. Maratita, "Taiwan President Visits U.S. Territory of Guam Despite Chinese Ire", Reuters, 3.11.2017, <http://www.reuters.com/article/us-usa-taiwan-guam/taiwan-president-visits-us-territory-of-guam-despite-chinese-ire-idUSKBN1D30J7> [accessed: 11.01.2018].

<sup>6</sup> "A Constructive Year for Chinese Base Building", Center for Strategic and International Studies, 14.12.2017, <https://amti.csis.org/constructive-year-chinese-building> [accessed: 15.01.2018].

developments confirmed by official Chinese sources,<sup>7</sup> the American response was restrained. The U.S. Navy is conducting freedom of navigation exercises in the South China Sea<sup>8</sup> and is moving assets from the eastern Pacific to Asia to meet obligations stemming from security arrangements,<sup>9</sup> and U.S. Navy commanders in the theatre speak out about the threats emanating from Beijing.<sup>10</sup> The U.S. also seems to be supportive of all other claimants to the disputed area building their own artificial islands and military installations on the until-recently uninhabited Spratly Islands.<sup>11</sup> Yet, the Trump administration refrained from taking firmer actions, for instance sanctioning Chinese entities involved in activities hostile to American interests.

In April 2017 President Xi Jinping visited the United States and prior to it, President Trump predicted “very difficult” discussions, especially regarding the alleged theft of American intellectual property and jobs by the Asian competitor. However, afterwards, the president declared that “we have made tremendous progress in our relationship with China.” Moreover, President Trump foresaw the American and the Chinese “making additional progress” and stated that “the relationship developed by President Xi and myself I think is outstanding.” This optimism came even though the Chinese leader made no specific promises to resolve American grievances. On the most prominent issue, the huge U.S. trade deficit, China only agreed to a 100-day plan for talks aimed at boosting American exports and reducing its surpluses in bilateral trade. China also invited the U.S. to join the One Belt One Road initiative, a program that is widely perceived as a way to expand Chinese influence in Asia and Africa.<sup>12</sup>

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<sup>7</sup> “S. China Sea Island Construction Strengthens Defense, Helps Locals”, *People's Daily Online*, 25.12.2017, <http://en.people.cn/n3/2017/1225/c90000-9307949.html> [accessed: 18.01.2018].

<sup>8</sup> F.-S. Gady, “South China Sea: US Navy Conducts Freedom of Navigation Operation”, *The Diplomat*, 10.08.2017, <https://thediplomat.com/2017/08/south-china-sea-us-navy-conducts-freedom-of-navigation-operation> [accessed: 19.01.2018].

<sup>9</sup> T. Kelly, “U.S. Navy Chief Says Forces in Asia May Be Reinforced with Warships from the Eastern Pacific”, *Reuters*, 19.12.2017, <https://www.reuters.com/article/us-usa-navy-northkorea-china/u-s-navy-chief-says-forces-in-asia-may-be-reinforced-with-warships-from-the-eastern-pacific-idUSKBN1ED0C0> [accessed: 12.01.2019].

<sup>10</sup> S. Miglani, “China Is a Disruptive Force, U.S. Pacific Military Chief Says”, *Reuters*, 18.01.2018, <https://www.reuters.com/article/us-india-security-china-us/china-is-a-disruptive-force-u-s-pacific-military-chief-says-idUSKBN1F71ZS> [accessed: 21.01.2019].

<sup>11</sup> G. Torode, B. Blanchard, “Beijing Seen Poised for Fresh South China Sea Assertiveness”, *Reuters*, 31.10.2017, <https://www.reuters.com/article/us-southchinasea-china/beijing-seen-poised-for-fresh-south-china-sea-assertiveness-idUSKBN1D00Y0>; “Philippines Starts Construction Near China’s Manmade Islands in Disputed Waters”, *Reuters*, 7.11.2017, <http://www.reuters.com/article/us-southchinasea-philippines/philippines-starts-construction-near-chinas-manmade-islands-in-disputed-waters-idUSKBN1D71F2> [accessed: 11.10.2018].

<sup>12</sup> S. Holland, Koh Gui Qing, “At U.S.-China Summit, Trump Presses Xi on Trade, North Korea; Progress Cited”, *Reuters*, 7.04.2017, <https://www.reuters.com/article/us-usa-china/at-u-s-china-summit-trump-presses-xi-on-trade-north-korea-progress-cited-idUSKBN1792KA> [accessed: 8.04.2017].

In November of 2017, President Trump, in turn, visited President Xi Jinping in Beijing and things went even smoother than back in April. During the presidential campaign Trump, often likened Chinese trade practices that resulted in huge trade deficits to “raping”, but in Beijing he completely reversed the position and stated that he does not blame China for the situation, but America’s own misguided economic policies of which China takes advantage for its own benefit. Apparently, President Trump developed very cordial personal relations with his Chinese counterpart, as his granddaughter sang in Chinese to “Grandpa Xi” and “Grandma Peng” (Xi’s wife). Consequently, some observers expressed concerns that Donald Trump is too deferential to his counterpart, a claim strongly denied by Secretary Tillerson.<sup>13</sup> Yet, the enthusiastic pronouncements made by the American President during both encounters masked deep distrust and bitter rivalry.

### **China as a global player**

China is positioning itself for global influence. During the 2015 speech at the United Nations’ General Assembly, President Xi Jinping announced a \$100 million donation to the African Union to set up a military unit responding to emergencies and promised to donate one billion dollars to the United Nations’ “peace and development fund”.<sup>14</sup> Symbolically, during that visit to New York President Xi Jinping stayed at the Waldorf Astoria hotel that had in the past decades served as the headquarters of the American delegation to the U.N., but it was bought by a Chinese conglomerate with strong ties to the government, the Anbang Insurance Group.<sup>15</sup> This was a prelude to more resolute steps.

Like the U.S. after the Second World War, China is setting up international organizations that aim at increasing its stature and sway. Asian Infrastructure Investment Bank (AIIB) is designed to become a global multilateral organization. At the end of 2019, it had 102 members and 26 prospective members –

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<sup>13</sup> T. Munroe, Ch. Shepherd, “Trump Heaps Praise on ‘Very Special’ Xi In China Visit”, Reuters, 9.11.2017, <https://www.reuters.com/article/us-trump-asia-china-bromance/trump-heaps-praise-on-very-special-xi-in-china-visit-idUSKBN1D91C8?il=0> [accessed: 17.12.2018].

<sup>14</sup> J. Perlez, “China Surprises U.N. with \$100 Million and Thousands of Troops for Peacekeeping”, *New York Times*, 28.09.2015, <https://www.nytimes.com/interactive/projects/cp/reporters-notebook/xi-jinping-visit/china-surprisesu-n-with-100-million-and-thousands-of-troops-for-peacekeeping> [accessed: 7.02.2018].

<sup>15</sup> Eadem, “Once the Haunt of American Presidents, Chinese Leaders Stay at Waldorf Astoria”, *New York Times*, 26.09.2015, <https://www.nytimes.com/interactive/projects/cp/reporters-notebook/xi-jinping-visit/once-the-haunt-of-american-presidents-chinas-leaders-moves-into-waldorf-astoria> [accessed: 14.12.2018].

most OECD members already joined the organization.<sup>16</sup> The notable exception is the U.S.

The U.S. heavily lobbied against the establishment of the bank and later against Western nations joining it, but the effort largely failed. Apart from Japan, all major American allies, including the United Kingdom, Canada, Australia, and New Zealand have joined the institution.<sup>17</sup> Lawrence Summers sees the emergence of this China-led institution combined with the participation in it of other major economic powers as a turning point in the post-Second World War economic architecture, the one that used to be dominated by the United States.<sup>18</sup> The author blames deep internal political divisions in the U.S. that lead to a dysfunctional political system for this development.

So far, most of the initial concerns regarding the AIIB being a blunt tool in the hands of Chinese communists' party bureaucrats turned out to be unfounded. Although, China wields veto power, its voting power is expected to decrease as more countries join.<sup>19</sup> Similarly, the institution attracts managerial talent from many nations, it collaborates with other multilateral institutions on projects to serve interests of other countries, and its activities are transparent.<sup>20</sup>

The U.S. blocked efforts to expand China's voting power at the International Monetary Fund (IMF) and in terms of the voting power China and India remain the most underrepresented countries at the fund – at purchasing power parity the countries account for, respectively, 18,6 and 7,1% of global GDP, but their voting power represents only, respectively, 6,2 and 2,7%.<sup>21</sup> So, the AIIB is China's response to that policy. The bank is also a direct challenge to the so-called Washington Consensus as its lending policies are based on the principle of non-interference, i.e. do not include typical conditions set by the World

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<sup>16</sup> "Members and Prospective Members of the Bank", Asian Infrastructure Investment Bank, <https://www.aiib.org/en/about-aiib/governance/members-of-bank/index.html> [accessed: 19.02.2019].

<sup>17</sup> S. Denyer, "China Gloats as Europeans Rush to Join Asian Bank", *The Washington Post*, 18.03.2015, [https://www.washingtonpost.com/world/china-gloats-as-europeans-rush-to-join-asian-bank/2015/03/18/82139f88-9915-4a81-81af-ae6eacf528c7\\_story.html?utm\\_term=.b0cb18fcd7f](https://www.washingtonpost.com/world/china-gloats-as-europeans-rush-to-join-asian-bank/2015/03/18/82139f88-9915-4a81-81af-ae6eacf528c7_story.html?utm_term=.b0cb18fcd7f) [accessed: 19.11.2018].

<sup>18</sup> L. Summers, "A Global Wake-up Call for the U.S.?", *The Washington Post*, 5.04.2015, [https://www.washingtonpost.com/opinions/a-global-wake-up-call-for-the-us/2015/04/05/6f847ca4-da34-11e4-b3f2-607bd612aeac\\_story.html?utm\\_term=.836a286ab455](https://www.washingtonpost.com/opinions/a-global-wake-up-call-for-the-us/2015/04/05/6f847ca4-da34-11e4-b3f2-607bd612aeac_story.html?utm_term=.836a286ab455) [accessed: 17.01.2019].

<sup>19</sup> J. Kyngé, D. Pilling, "China-led Investment Bank Attracts 25 New Members", *Financial Times*, 23.01.2017, <https://www.ft.com/content/671d8ac4-e18a-11e6-8405-9e5580d6e5fb> [accessed: 19.12.2018].

<sup>20</sup> S. Hsu, "How China's Asian Infrastructure Investment Bank Fared its First Year", *Forbes*, 14.01.2017, <https://www.forbes.com/sites/sarahsu/2017/01/14/how-chinas-asian-infrastructure-investment-bank-fared-its-first-year/#2dd9ab35a7f0> [accessed: 9.01.2019].

<sup>21</sup> M. Weisbrot, J. Johnston, *Voting Share Reform at the IMF: Will It Make a Difference?*, Center for Economic and Policy Research, Washington, April 2016, <http://cepr.net/images/stories/reports/IMF-voting-shares-2016-04.pdf> [accessed: 1.12.2016].

Bank (WB) and the IMF, for instance, concerning the environment, labor regulations, privatization of state enterprises, and transparency in governance.<sup>22</sup>

China is not only the largest economy in real terms, but its growth rate is much faster than that of the other major powers.<sup>23</sup> In the period of 2012–2016 China contributed over a third to the total increase in world's GDP, i.e. more than the U.S., European Union, and Japan combined.<sup>24</sup> As a fast-growing nation, it imports more and more commodities, and, for this reason, many other nations depend on the Chinese market. This is true not only of poorer nations, but also of highly advanced economies. In the 2016–2017 fiscal year China accounted for over 28% of Australia's total exports. Australia is a very large producer of raw materials, and in 2016 coal and iron ore, the two largest export goods that accounted for almost 30% of the nation's total value of exports, went almost exclusively to China.<sup>25</sup>

As China attempts to spread its economic influence farther, the One Belt One Road initiative may include Latin America and the Caribbean, too.<sup>26</sup> By mid-2018 the Middle Kingdom signed 118 cooperation agreements with 103 countries and international organizations and the total volume of trade along the Belt and Road exceeded \$5 trillion. The China-Europe railway links grow, they connect 43 cities in 15 European countries and as of August 26, 2018 10,000 cargo trains made a trip to the Continent.<sup>27</sup>

The U.S. dollar is the most important international reserve currency, and this offers the United States enormous economic and political power as most of international trade is conducted in the American currency. Every transaction conducted in the U.S. dollar must go through the American banking system and can be blocked at the request of the government. The United States has used this power in the past against its adversaries, not only terrorists, but also governments.<sup>28</sup> The 2017 National Security Strategy recognizes the significance of

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<sup>22</sup> D.C.K. Chow, "Why China Established the Asia Infrastructure Investment Bank", *Vanderbilt Journal of Transnational Law* 2016, Vol. 49, pp. 1255–1298.

<sup>23</sup> K. Dadak, „Donald Trump and the China Challenge”, *Krakowskie Studia Międzynarodowe* 2019, No. 3, pp. 75–93.

<sup>24</sup> "Economic Watch: China's High Quality Growth Underpins World Economic Recovery", Xinhua, 23.01.2018, [http://www.xinhuanet.com/english/2018-01/23/c\\_136918178.htm](http://www.xinhuanet.com/english/2018-01/23/c_136918178.htm) [accessed: 12.11.2018].

<sup>25</sup> M. Thirlwell, "Australia's Export Performance in 2016", Australian Government, Australian Trade and Investment Commission, 16.06.2017, <https://www.austrade.gov.au/news/economic-analysis/australias-export-performance-in-2016> [accessed: 12.12.2018].

<sup>26</sup> "One Belt and One Road, a Chinese Project of Global Benefit", Prensia Latina, 24.01.2018, <http://www.plenglish.com/index.php?o=rn&id=23664&SEO=one-belt-and-one-road-a-chinese-project-of-global-benefit> [accessed: 15.02.2018].

<sup>27</sup> "SCIO Briefing on Development of Belt and Road Initiative", The State Council Information Office, The People's Republic of China, 29.08.2018, [http://english.scio.gov.cn/pressroom/2018-08/29/content\\_60858744.htm](http://english.scio.gov.cn/pressroom/2018-08/29/content_60858744.htm) [accessed: 8.10.2018].

<sup>28</sup> D.C.K. Chow, *op. cit.*

the dollar's central position in international finance.<sup>29</sup> So, for a nation aspiring to global influence it is critical to establish a medium of exchange that is not under American control and China is in fact setting the stage for making its own money an international currency.

In 2016 the Chinese renminbi was included in the list of official reserve currencies.<sup>30</sup> Slowly, the renminbi is gaining international recognition. At the end of the third quarter of 2017 the currency made up 1.12% of total official reserves, but two years later the share grew to 2.1%. Although it is a far cry from the U.S. dollar's or the euro's share of, respectively, 61.8% and 20.1%<sup>31</sup>, the first step has been taken and China is by no means shy in promoting it. Immediately following the renminbi becoming a reserve currency, China issued its first international bond denominated in renminbi.<sup>32</sup> The issue was very well received. But, even more importantly, foreign nations started borrowing in renminbi in the Middle Kingdom.<sup>33</sup> Now, Pakistan and some nations in Africa are considering replacing the U.S. currency with renminbi in bilateral trade with China.<sup>34</sup>

## Economic war

China's rapid economic development and the establishment of international institutions competing with the American-led WB and IMF prompted a drastic reevaluation of Sino-American relations. The perception that market-oriented reforms will cause China's embracing Western standards and values gave way to the conclusion that rapid actions must be taken to confront the challenge.<sup>35</sup> How-

<sup>29</sup> White House, *National Security Strategy of the United States of America*, December 2017, <http://nssarchive.us/wp-content/uploads/2020/04/2017.pdf>, p. 34 [accessed: 2.01.2018].

<sup>30</sup> "Chinese Renminbi to be Identified in the IMF's Currency Composition of Foreign Exchange Reserves", International Monetary Fund, Press Release No. 16/90, 4.03.2016, <http://www.imf.org/en/News/Articles/2015/09/14/01/49/pr1690> [accessed: 9.11.2017].

<sup>31</sup> "Currency Composition of Official Currency Reserves, 3<sup>rd</sup> quarter of 2017", International Monetary Fund, <http://data.imf.org/?sk=E6A5F467-C14B-4AA8-9F6D-5A09EC4E62A4> [accessed: 19.12.2019].

<sup>32</sup> E. Moore, "China Issues its First Renminbi Sovereign Debt in London", *Financial Times*, 26.05.2016, <https://www.ft.com/content/f81c777a-233e-11e6-aa98-dbl1e01fab0c> [accessed: 15.10.2017].

<sup>33</sup> K. Allen, "Hungary Sells Renminbi Debt in China", *Financial Times*, 26.07.2017, <https://www.ft.com/content/0201afb8-7202-11e7-93ff-99f383b09ff9> [accessed: 14.12.2018].

<sup>34</sup> "Pakistan Considering Plan to Use Yuan in Trade with China", Reuters, 18.12.2017, <https://www.reuters.com/article/us-pakistan-china-currency/pakistan-considering-plan-to-use-yuan-in-trade-with-china-idUSKBN1ED0IB> [accessed: 19.12.2017]; "African Finance Leaders to Debate China's Yuan as a Reserve Currency – Xinhua", Reuters, 28.05.2018, <https://www.reuters.com/article/us-china-yuan-africa/african-finance-leaders-to-debate-chinas-yuan-as-a-reserve-currency-xinhua-idUSKCN1IU00N> [accessed: 19.12.2017].

<sup>35</sup> M. Martina, A. Shalal, "Trade Talks Seen as Unlikely to Mend U.S.-China Divide", Reuters, 17.09.2019, <https://www.reuters.com/article/us-usa-trade-china-analysis/trade-talks-seen-as-unlikely-to-mend-us-china-divide-idUSKBN1W20EB> [accessed: 18.09.2019].

ever, the initial tactics employed were rather peculiar, first in January of 2018 the U.S. imposed tariffs on the importation of large residential washing machines, 20% on the first 1.2 million machines and 50% on all subsequent units, and on the importation of solar panels, 30% on all modules and cells exceeding a total of 2.5 gigawatts per year.<sup>36</sup> In March the Trump administration followed with tariffs of 10 and 25% on the importation of, respectively, aluminum and steel.<sup>37</sup> Other nations retaliated, among them China responded with tariffs on American imports worth \$3 billion. However, soon after that the Middle Kingdom became the focus of the trade war as President Trump announced plans to impose tariffs on Chinese goods, especially high-technology products, worth tens of billions of dollars.<sup>38</sup> This threat was temporarily put on hold while top level negotiations took place in April and May.<sup>39</sup>

The aim of the Trump offensive was to end Chinese practices that harmed American interests, particularly forced technology and intellectual property transfer, theft of intellectual property, limited access to the Chinese market, and a dramatic increase in the trade surplus that China has been enjoying for many years.<sup>40</sup> Over the years 2000–2017 American trade deficit in goods exploded, in 2000 it was only \$83.8 billion and by 2017 it reached \$375.6 billion. Despite the trade war, the situation was deteriorating, in all of 2018 the U.S. deficit grew to \$419.5 billion. With time the duties took their toll and over the first nine months of 2019 the deficit stood at \$263.2 billion while during the same period of the year before it was \$301.7 billion.<sup>41</sup> However, the U.S. is running a trade surplus in trade in services, \$38.8 billion in 2018, and, therefore, total current account deficit for 2018 was only \$380.8 billion.<sup>42</sup>

<sup>36</sup> Office of the United States Trade Representative, “President Trump Approves Relief for U.S. Washing Machine and Solar Cell Manufacturers”, 22.01.2018, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/january/president-trump-approves-relief-us> [accessed: 25.03.2018].

<sup>37</sup> U.S. Department of Commerce, *U.S. Department of Commerce Announces Steel and Aluminum Tariff Exclusion Process*, 18.03.2018, <https://www.commerce.gov/news/press-releases/2018/03/us-department-commerce-announces-steel-and-aluminum-tariff-exclusion> [accessed: 25.03.2018].

<sup>38</sup> Ch. Buckley, Sui-Lee Wee, “Responding to Trump, China Plans New Tariffs on U.S. Goods”, *The New York Times*, 22.03.2018, <https://www.nytimes.com/2018/03/22/world/asia/china-trump-retaliatory-tariffs.html> [accessed: 25.03.2018].

<sup>39</sup> A. Mayeda, *U.S. Puts Tariffs Against China ‘On Hold,’ Mnuchin Says*, Bloomberg, 20.05.2018, <https://www.bloomberg.com/news/articles/2018-05-20/u-s-puts-tariffs-against-china-on-hold-mnuchin-says> [accessed: 20.05.2018].

<sup>40</sup> B. Davis, Lingling Wei, “China Rejects U.S. Target for Narrowing Trade Gap”, *The Wall Street Journal*, 19.05.2018, <https://www.wsj.com/articles/china-rejects-u-s-target-for-narrowing-trade-gap-1526756661> [accessed: 19.05.2018].

<sup>41</sup> U.S. Census Bureau, “Foreign Trade”, <https://www.census.gov/foreign-trade/balance/c5700.html> [accessed: 20.11.2019].

<sup>42</sup> U.S. Department of Commerce, “International Trade in Goods and Services”, Bureau of Economic Analysis, <https://www.bea.gov/data/intl-trade-investment/international-trade-goods-and-services> [accessed: 20.11.2019]. The difference is due to rounding.



China is also quickly increasing direct investments abroad. In the past, the focus of foreign investment was on the acquisition of raw materials, but now high-tech companies are also on the menu. In 2016 China stunned the world by taking over Kuka, the largest German robotics-maker.<sup>43</sup>

These developments resulted in the U.S. Congress taking countermeasures. The 2019 National Defense Authorization Act officially known as the “John S. McCain National Defense Authorization Act for Fiscal Year 2019” included Foreign Investment Risk Review Modernization Act (Title XVII, Section 1701 of the defense bill) which significantly increased the scope and power of the Committee on Foreign Investment in the United States (CFIUS), an inter-departmental panel assessing potential implications of foreign investment for national security.<sup>44</sup> This expanded legislation was fully supported by the Trump administration in general and in particular by Gen. James Mattis, the Secretary of Defense at the time.<sup>45</sup>

Another point of contention is China’s “Made in China 2025 strategy”. In order to accomplish its goals, Beijing provides generous support to selected sectors and, if successful, soon Chinese firms could threaten the dominance of American firms in many high-tech industries. For this reason, the Trump administration demands an end to this policy which for Beijing is a red line.<sup>46</sup>

To address the trade imbalance, President Trump set a target for an increase in Chinese imports from the U.S. at \$200 billion, but China refused to commit to a specific numeric target.<sup>47</sup> The Chinese side offered to increase imports of agricultural products and oil and liquified gas from the U.S., but these additional exports could shrink the deficit by only \$60–90 billion, a number far short of the President’s goal.<sup>48</sup> China argued that a larger increase in imports from the U.S. would require lifting of American export restrictions on high-technology exports to the country, but Washington seemed to be unwilling to relax these controls.<sup>49</sup>

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<sup>43</sup> “China’s Midea Receives U.S. Green Light for Kuka Takeover”, Reuters, 30.12.2016, <https://www.reuters.com/article/us-kuka-m-a-mideamidea-group/chinas-midea-receives-u-s-green-light-for-kuka-takeover-idUSKBN14J0SP> [accessed: 21.10.2018].

<sup>44</sup> John S. McCain National Defense Authorization Act for Fiscal Year 2019, H.R. 5515, One Hundred Fifteenth Congress of the United States of America, Second Session, <https://www.congress.gov/115/bills/hr5515/BILLS-115hr5515enr.pdf> [accessed: 19.12.2019].

<sup>45</sup> “Mattis Urges Anti-China Measure to be Included in U.S. Defense Bill”, Reuters, 7.05.2018, <https://www.reuters.com/article/us-usa-cfius-mattis/mattis-urges-anti-china-measure-to-be-included-in-u-s-defense-bill-idUSKBN1I827S> [accessed: 19.12.2018].

<sup>46</sup> “China Praises Positive Steps in U.S. Trade Row, Says Didn’t Give in”, Reuters, 20.05.2018, <https://www.reuters.com/article/us-usa-trade-china/china-praises-positive-steps-in-u-s-trade-row-says-didnt-give-in-idUSKCN1IM06R> [accessed: 20.05.2018].

<sup>47</sup> B. Davis L., Wei L., *op. cit.*

<sup>48</sup> “China May Buy \$90 Billion More U.S. Goods, Morgan Stanley Says”, Bloomberg, 22.05.2018, <https://www.bloomberg.com/news/articles/2018-05-23/china-may-buy-90-billion-more-u-s-goods-morgan-stanley-says> [accessed: 22.05.2018].

<sup>49</sup> *Ibidem.*

As a gesture of good will, Beijing announced a significant reduction of tariffs on cars to 15%, from 25%.<sup>50</sup> The government also promised to relax restrictions on foreign ownership of automobile manufacturers.<sup>51</sup> Additionally, China plans to open more its financial markets to foreign firms but expects reciprocity.<sup>52</sup>

But President Trump was unmoved and in June announced a 25% tariff on Chinese goods with the estimated value of \$50 billion.<sup>53</sup> This new round of levies was introduced in two phases, first on \$34 billion of goods in July and another one month later – in both cases Beijing responded with a dollar-for-dollar countermeasure.<sup>54</sup> It should be noted that in Washington these actions enjoyed a bipartisan support,<sup>55</sup> a rare development these days.

China exports to the U.S. more than three times as much as the U.S. to the Asian giant and this huge imbalance in trade is potentially China's weak spot and President Trump chose to take advantage of this disparity. Initially, he proposed a 10% tariff on additional \$200 billion of imports from the Asian nation, but it emerged soon that this might not cause sufficient pain to the adversary as the value of the Chinese currency substantially depreciated against the American dollar. So, in August of 2018 the President directed the Department of Commerce to consider imposing a 25% tariff instead.<sup>56</sup> A month later, President Trump stated that his administration has a plan to levy tariffs on all the remaining imports from the Asian rival valued at \$267 billion.<sup>57</sup>

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<sup>50</sup> "China Makes Massive Cut to Car Tariffs After Truce with Trump", Bloomberg, 22.05.2018, <https://www.bloomberg.com/news/articles/2018-05-22/china-is-said-to-cut-car-import-duty-in-boost-for-lexus-bmw> [accessed: 2.06.2018].

<sup>51</sup> T. Moss, M. Colias, "China to Ease Rules on Foreign Auto Makers", *The Wall Street Journal*, 17.04.2018, <https://www.wsj.com/articles/china-to-ease-rules-on-foreign-auto-makers-1523963345> [accessed: 17.04.2018].

<sup>52</sup> "China Says Opening up of Financial Sector Will Need Reciprocity", Reuters, 18.05.2018, <https://www.reuters.com/article/us-china-banks/china-says-opening-up-of-financial-sector-will-need-reciprocity-idUSKCN1IK03K> [accessed: 18.05.2018].

<sup>53</sup> D. Lawder, B. Blanchard, "Trump Sets Tariffs on \$50 Billion in Chinese Goods; Beijing Strikes Back", Reuters, 15.06.2018, <https://www.reuters.com/article/us-usa-trade-china-ministry/trump-sets-tariffs-on-50-billion-in-chinese-goods-beijing-strikes-back-idUSKBN1JB0KC> [accessed: 15.06.2018].

<sup>54</sup> Huileng Tan, "Beijing Retaliates as New US Tariffs Kick in on \$16 Billion of Chinese Goods", CNBC, 22.08.2018, <https://www.cnbc.com/2018/08/23/us-china-trade-war-new-round-of-american-tariffs-on-chinese-imports.html> [accessed: 15.09.2018].

<sup>55</sup> "Trump's China Tariffs Could be Imposed in June", BBC News, 29.05.2018, <http://www.bbc.com/news/business-44294131> [accessed: 15.06.2018].

<sup>56</sup> A. Mayeda, "Ross Signals More Tariff Pain Ahead in China Trade Battle", Bloomberg, 2.08.2018, <https://www.bloomberg.com/news/articles/2018-08-03/ross-signals-more-tariff-pain-ahead-in-china-trade-battle> [accessed: 15.08.2018].

<sup>57</sup> S. Holland, D. Lawder, "Trump Ups Ante on China, Threatens Duties on Nearly All its Imports", Reuters, 7.09.2018, <https://www.reuters.com/article/us-usa-trade-china/trump-ups-ante-on-china-threatens-duties-on-nearly-all-its-imports-idUSKCN1LN1TH> [accessed: 18.09.2018].

The additional tariffs could impact the lives of average Americans much more than the initial \$50 billion in levies because they involve a wide range of consumer goods. Many of the goods are not produced in the U.S. or cannot be easily sourced from other countries and the cost of tariffs would be borne by American consumers. The United States Trade Representative sought “comments” from the public and American businesses overwhelmingly argued against the tariffs.<sup>58</sup>

The notion of taxing all Chinese imports caused a stir among majority of U.S. technology firms that manufacture products in China for the American market. Apple Inc. issued a letter stressing the negative sides of the proposed taxation of Chinese goods concluding that “the burden of the proposed tariffs will fall much more heavily on the United States than on China.”<sup>59</sup> The views expressed by Apple are shared by a wide range of business, from retailers,<sup>60</sup> to manufacturers, and to consumer technology firms.<sup>61</sup>

Even the initial \$50 billion in tariffs made a majority of affected American businesses report pressure on profits, higher costs and lower demand for their products.<sup>62</sup> About three quarters of firms felt that the additional tariffs would cause further damage. Many American firms also reported negative effects stemming from Chinese retaliatory levies. Consequently, over 60 U.S. industry groups formed a coalition to convince the Trump administration to seek other means than tariffs to accomplish its goals.<sup>63</sup>

The Chinese market has been important to U.S. technology firms for many years and leaders of American corporations were by no means shy about this. For instance, during President Xi Jinping’s trip to America in September of 2015 most important chief executive officers in the field, including the ten top ones, showed up to listen to President Xi Jinping’s short speech combined with a brief

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<sup>58</sup> D. Shepardson, D. Lawder, “U.S. Firms Warn Next China Tariffs to Cost Americans from Cradle to Grave, Reuters, 19.08.2018, <https://www.reuters.com/article/us-usa-trade-china-hearing/u-s-firms-warn-next-china-tariffs-to-cost-americans-from-cradle-to-grave-idUSKCN1L50C1> [accessed: 18.09.2018].

<sup>59</sup> “Trump Tells Apple to Make Products in U.S. to Avoid China Tariffs”, Reuters, 8.09.2018, <https://www.reuters.com/article/us-usa-trade-china-apple/trump-tells-apple-to-make-products-in-u-s-to-avoid-china-tariffs-idUSKCN1LO0SX> [accessed: 18.09.2018].

<sup>60</sup> D. Lawder, J. Mason, “Trump Slaps Tariffs on \$200 Billion in Chinese Goods, Spares some Consumer Tech”, Reuters, 17.09.2018, <https://www.reuters.com/article/us-usa-trade-china-tariffs/trump-slaps-tariffs-on-200-billion-in-chinese-goods-spare-some-consumer-tech-idUSKCN1LX2M3> [accessed: 18.09.2018].

<sup>61</sup> J. Tankersley, K. Bradsher, “Trump Hits China with Tariffs on \$200 Billion in Goods, Escalating Trade War”, *The New York Times*, 17.09.2018, <https://www.nytimes.com/2018/09/17/us/politics/trump-china-tariffs-trade.html> [accessed: 18.09.2018].

<sup>62</sup> “U.S. firms in China Feeling ‘Clear and Far Reaching’ Trade War Pinch: Survey”, Reuters, 12.09.2018, <https://www.reuters.com/article/us-usa-trade-china-survey/u-s-firms-in-china-feeling-clear-and-far-reaching-trade-war-pinch-survey-idUSKCN1LT049> [accessed: 18.09.2018].

<sup>63</sup> *Ibidem*.

photo session.<sup>64</sup> This happened in spite of the long-standing complaints about the theft of intellectual property that by some estimates costs the U.S. hundreds of billions of dollars and hurts those very corporations.<sup>65</sup>

The U.S. exports much less to China, so Beijing is in no position any more to retaliate dollar-for-dollar, but it can make life difficult for U.S. firms producing in China for the local market.<sup>66</sup> This could be a major issue for American firms as they sell approximately twice as much in China as are worth U.S. exports to the country.<sup>67</sup> Also, China is the dominant producer of minor metals and rare earth minerals that are critical in the production of many most advanced electronic products and could impose restrictions on their exports.<sup>68</sup>

In spite of the protests, the Trump administration moved forward with the threat, on September 24, 2018 a 10% tariff went into effect on imports from China worth \$200 billion and the rate was scheduled to increase to twenty-five as of January 1, 2019.<sup>69</sup> Beijing responded with tariffs of between 5 and 10% on imports worth \$60 billion.<sup>70</sup>

On December 1, 2018 presidents Trump and Xi had a working dinner after the G20 meeting in Buenos Aires and according to the Chinese Ministry of Foreign Affairs agreed not to impose new tariffs and have their economic teams start negotiations to “reach a concrete agreement that would result in win-win results.”<sup>71</sup> However, this was not exactly how the American side saw the outcome, the White House press release made it clear that the tariff increase is suspended for 90 days and that during this period the parties will conduct “negotiations on

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<sup>64</sup> J. Perlez, “The Most Memorable Moment of Xi’s America Trip”, *The New York Times*, 29.09.2015, <https://www.nytimes.com/interactive/projects/cp/reporters-notebook/xi-jinping-visit/china-tech-market> [accessed: 8.04.2017].

<sup>65</sup> D.C. Blair, K. Alexander, “China’s Intellectual Property Theft Must Stop”, *The New York Times*, 15.08.2017, <https://www.nytimes.com/2017/08/15/opinion/china-us-intellectual-property-trump.html> [accessed: 21.06.2019].

<sup>66</sup> *Ibidem*.

<sup>67</sup> OECD, *Interim Economic Outlook*, 19.09.2019, p. 7, <http://www.oecd.org/economy/outlook/> [accessed: 29.09.2019].

<sup>68</sup> Ministry of Commerce, People’s Republic of China, *Regular Press Conference of the Ministry of Commerce (May 30, 2019)*, 31.05.2019, <http://english.mofcom.gov.cn/article/newsrelease/press/201906/20190602873161.shtml> [accessed: 3.06.2019].

<sup>69</sup> Office of the United States Trade Representative, “Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation”, *Federal Register*, 21.09.2018, Vol. 83, No. 184, pp. 47974–48192, <https://ustr.gov/sites/default/files/enforcement/301Investigations/83%20FR%2047974.pdf> [accessed: 23.04.2019].

<sup>70</sup> Se Young Lee, Min Zhang, “China Says U.S. Trying to Force it to Submit on Trade as New Tariffs Kick in”, *Reuters*, 23.09.2018, <https://www.reuters.com/article/us-usa-trade-china/china-says-u-s-trying-to-force-it-to-submit-on-trade-as-new-tariffs-kick-in-idUSKCN1M404F> [accessed: 25.09.2018].

<sup>71</sup> Ministry of Foreign Affairs of the People’s Republic of China, “Xi, Trump Hold ‘Very Successful’ Meeting on Ties, Trade”, 2.12.2018, [https://www.fmprc.gov.cn/mfa\\_eng/zxxx\\_662805/t1618238.shtml](https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1618238.shtml) [accessed: 3.12.2018].

structural changes with respect to forced technology transfer, intellectual property protection, non-tariff barriers, cyber intrusions and cyber theft, services and agriculture” and that China “will agree to purchase a not yet agreed upon, but very substantial, amount of agricultural, energy, industrial, and other products from the United States to reduce the trade imbalance between our two countries.”<sup>72</sup> The significant differences in perceptions of what actually transpired during that working dinner foreshadowed the difficulties that laid ahead.

Negotiations dragged on beyond the 90-day deadline, but President Trump citing progress in the talks decided to extend it.<sup>73</sup> Negotiators shuttled between Beijing and Washington and after the April 30 – May 1 session Secretary of the Treasury Steven Mnuchin proclaimed that the talks were productive and announced that another meeting, hopefully final, will take place in Washington in a week time.<sup>74</sup> But early morning on May 5, President Trump stunned the world tweeting that China is trying to renegotiate the deal and threatened to institute the 25% tariffs on \$200 billion worth of Chinese imports on the coming Friday.<sup>75</sup> The American President made good on his threat.<sup>76</sup> Beijing responded in kind with a tariff hike to 25% on American imports worth \$60 billion. The stock market did not take this escalation in Sino-American trade tensions lightly.<sup>77</sup>

In response to the Chinese counter, the Trump administration opened another chapter in the trade war – technology war. On May 16, 2019 the U.S. Government included Huawei, the Chinese telecommunication giant, and its numerous affiliates in the so-called Entity List. Washington took this step, because the company and its subsidiaries allegedly “pose a significant risk of involvement in activities contrary to the national security or foreign policy interests of the United

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<sup>72</sup> White House, “Statement from the Press Secretary Regarding the President’s Working Dinner with China”, 1.12.2018, <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-regarding-presidents-working-dinner-china/> [accessed: 3.12.2018].

<sup>73</sup> Office of the United States Trade Representative, “Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation”, *Federal Register*, 5.03.2019, Vol. 84, No. 43, pp. 7966–7967, [https://ustr.gov/sites/default/files/enforcement/301Investigations/84\\_FR\\_7966.pdf](https://ustr.gov/sites/default/files/enforcement/301Investigations/84_FR_7966.pdf) [accessed: 4.06.2019].

<sup>74</sup> D. Boyer, “Mnuchin Concludes ‘Productive’ Round of Trade Talks in China”, *The Washington Times*, 1.05.2019, <https://www.washingtontimes.com/news/2019/may/1/mnuchin-concludes-productive-round-trade-talks-chi/> [accessed: 2.05.2019].

<sup>75</sup> A. Swanson, K. Bradsher, “Trump Threatens China with More Tariffs Ahead of Final Trade Talks”, *The New York Times*, 5.05.2019, <https://www.nytimes.com/2019/05/05/business/trump-tariffs-china-trade-talks.html> [accessed: 5.05.2019].

<sup>76</sup> Office of the United States Trade Representative, “Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation”, *Federal Register*, 9.05.2018, Vol. 84, No. 90, pp. 20459–20460, [https://ustr.gov/sites/default/files/enforcement/301Investigations/84\\_FR\\_20459.pdf](https://ustr.gov/sites/default/files/enforcement/301Investigations/84_FR_20459.pdf) [accessed: 15.08.2019].

<sup>77</sup> G. Wearden, “Trade War: Wall Street Suffers Biggest Selloff since January after China Hits Back – As It Happened”, *The Guardian*, 13.05.2019, <https://www.theguardian.com/business/live/2019/may/13/trade-war-investors-china-retaliation-us-tariffs-growth-stock-markets-business-live> [accessed: 20.05.2019].

States.”<sup>78</sup> As a result, American businesses need a special license to sell goods to the Chinese firms, a privilege not likely to be easily granted. Unlike in the ZTE case, this action did not cause Huawei’s collapse, but the firm estimated that it could lose as much as \$30 billion in revenues over the next two years.<sup>79</sup> Also, on May 17, the U.S. Trade Representative initiated consultations concerning duties of up to 25% on additional \$300 billion of imports from China.<sup>80</sup> These new levies could affect practically all remaining goods brought in from the Asian nation and not taxed yet.

Facing these new threats, Beijing established an equivalent to Entity List called Unreliable Entities List that would include “foreign companies, organizations or individuals that violate market rules, break the contractual spirit, boycott or cut off supplies to Chinese companies for non-commercial reasons, and causing serious damages to the legitimate rights and interests of Chinese companies”. The criteria were vague and Gao Feng, the ministry’s spokesperson, clarified that further details will be released later.<sup>81</sup> To convey its determination in defending its interests, the Chinese government invited representatives of foreign, American and non-American, major technology firms and forewarned them of “permanent consequences”, if they follow American restrictions and stop selling components to Chinese corporations.<sup>82</sup>

The Chinese government also embarked on a propaganda counteroffensive and published a white paper on Sino-American economic relations. In the paper the Chinese side on one hand highlighted benefits that the trade between the two nations provides to the U.S. economy and on the other provided evidence showing harm that the tariffs inflicted on American consumers. The paper also vehemently denied claims of technology theft, laid blame for the failure

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<sup>78</sup> Department of Commerce, “Addition of Entities to the Entity List”, Bureau of Industry and Security, 15 CFR Part 744 [Docket No. 190513445–9445–01] RIN 0694–AH86, *Federal Register*, 21.05.2019, Vol. 84, No. 98, pp. 22961–22968, <https://www.govinfo.gov/content/pkg/FR-2019-05-21/pdf/2019-10616.pdf> [accessed: 18.06.2019].

<sup>79</sup> D. Strumpf, “Huawei Expects \$30 Billion Revenue Hit From U.S. Clampdown”, *The Wall Street Journal*, 17.06.2019, <https://www.wsj.com/articles/u-s-clampdown-to-cost-huawei-30-billion-in-revenue-founder-says-11560766359> [accessed: 25.06.2019].

<sup>80</sup> Office of the United States Trade Representative, “Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, [Docket Number USTR–2019–0004]”, *Federal Register*, 17.05.2019, Vol. 84, No. 96, pp. 22564–22639, <https://www.govinfo.gov/content/pkg/FR-2019-05-17/pdf/2019-10191.pdf> [accessed: 2.06.2019].

<sup>81</sup> People’s Republic of China, “MOFCOM Spokesman Meets the Press on China’s Introduction of ‘Unreliable Entities List’ regime”, Ministry of Commerce, 1.06.2019, <http://english.mofcom.gov.cn/article/newsrelease/press/201906/20190602873151.shtml> [accessed: 3.06.2019].

<sup>82</sup> “China Summons Tech Giants to Warn Against Cooperating With Trump Ban”, *The New York Times*, 7.06.2019, <https://www.nytimes.com/2019/06/08/business/economy/china-huawei-trump.html> [accessed: 25.06.2019].

of recent negotiations at the other side's doorstep, but left the door open for further negotiations.<sup>83</sup>

On June 18 the American and Chinese presidents talked on the phone and agreed to meet in Osaka on the sidelines of the upcoming G20 meeting. At the meeting held on June 29, the leaders agreed, among other things, to restart talks aimed at resolving trade issues.<sup>84</sup> On July 9, the Office of the U.S. Trade Representative made decision to exclude 110 Chinese products from the 25% tariff imposed a year earlier.<sup>85</sup> However, just after one round of discussions President Trump announced on August 1 that on September 1, 2019 a 10% tariff will be put on the remaining untaxed Chinese imports estimated to total \$300 billion.<sup>86</sup> Two weeks later, the U.S. Trade Representative Office implemented tariffs only on a subset of the goods, deferred taxation of some (electronics in particular) until December 15, and excluded others from the list.<sup>87</sup>

In response to this new development China stated that it was a "serious departure" from the understanding reached in Osaka, that the country will safeguard its "core interests" and undertake "necessary countermeasures," and repeated its standard line that "we do not want a trade war, but we are not afraid and will have to fight one when necessary."<sup>88</sup> On August 7, Beijing took a more specific action, it announced that Chinese firms suspended new purchases of American farm products.<sup>89</sup> On August 23, China upped the ante and announced additional

<sup>83</sup> "Full text: China's Position on the China-US Economic and Trade Consultations", Xinhua, 2.06.2019, [http://www.xinhuanet.com/english/2019-06/02/c\\_138110404.htm](http://www.xinhuanet.com/english/2019-06/02/c_138110404.htm) [accessed: 3.06.2019].

<sup>84</sup> White House, "Remarks by President Trump in Press Conference", Imperial Hotel Osaka, Osaka, Japan, 29.06.2019, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-press-conference-osaka-japan> [accessed: 30.06.2019].

<sup>85</sup> Office of the United States Trade Representative, "Notice of Product Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation", *Federal Register*, 9.07.2019, Vol. 84, No. 131, pp. 32821–32826, <https://www.govinfo.gov/content/pkg/FR-2019-07-09/pdf/2019-14562.pdf> [accessed: 25.08.2019].

<sup>86</sup> A. Rappoport, "China Reacts to Trade Tariffs and Hong Kong Protests by Blaming U.S.", *The New York Times*, 1.08.2019, <https://www.nytimes.com/2019/08/01/us/politics/trump-tariffs-china.html> [accessed: 1.08.2019].

<sup>87</sup> Office of the United States Trade Representative, "USTR Announces Next Steps on Proposed 10 Percent Tariff on Imports from China", 13.08.2019, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/august/ustr-announces-next-steps-proposed> [accessed: 14.08.2019].

<sup>88</sup> People's Republic of China, "MOFCOM Spokesperson Responds to the Planned 10% Tariff on USD300 Billion Worth of Chinese Goods", Ministry of Commerce, 3.08.2019, <http://english.mofcom.gov.cn/article/newsrelease/policyreleasing/201908/20190802892224.shtml> [accessed: 7.08.2019].

<sup>89</sup> People's Republic of China, "Chinese Companies Suspend Purchase of Additional US Agricultural Products", Ministry of Commerce, 7.08.2019, <http://english.mofcom.gov.cn/article/newsrelease/policyreleasing/201908/20190802892226.shtml> [accessed: 8.08.2019].

tariffs on American goods valued at \$75 billion.<sup>90</sup> On the same day, the Trump administration retaliated by increasing tariffs to 30% on the \$250 billion of Chinese imports already taxed at a 25% rate starting on October 1 and increasing tariffs to 15% on goods that were scheduled to carry a 10% levy.<sup>91</sup> Amidst these heavy blows Chinese vice premier called for calm and Donald Trump responded saying that trade negotiations should continue.<sup>92</sup>

Although the threatened tariffs went into effect as scheduled on September 1, both sides agreed to start high level discussions in early October.<sup>93</sup> The talks proceeded at a fast pace and on October 11, 2019 President Trump announced that both parties agreed on general terms of a partial agreement, “Phase One” deal, that required China to substantially increase purchases of American commodities, improve protection for intellectual property and open its financial services industry to foreign firms, while the U.S. committed to the delaying of the imposition of tariffs that were to go into effect in just a few days.<sup>94</sup>

The rounds of tariffs and retaliation measures resulted in significant increases in average tariff rates. The IMF estimates that if all announced in May and August tariffs go into effect the average U.S. levy on Chinese imports would go to 24%, from 12.25% that was in effect in April and the rate on American imports in China would rise to 26%, compared to an average of 16.5% that was in force in April.<sup>95</sup> After China joined the WTO, the average American tariff on Chinese goods was just 4%.<sup>96</sup>

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<sup>90</sup> People’s Republic of China, “China to Impose Additional Tariffs on US Imports Worth \$75b”, The State Council, 23.08.2019, Xinhua, [http://english.www.gov.cn/statecouncil/ministries/201908/23/content\\_WS5d5fec43c6d0c6695ff7f339.html](http://english.www.gov.cn/statecouncil/ministries/201908/23/content_WS5d5fec43c6d0c6695ff7f339.html) [accessed: 25.08.2019].

<sup>91</sup> Office of the United States Trade Representative, “USTR Statement on Section 301 Tariff Action Regarding China”, 23.08.2019, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/august/ustr-statement-section-301-tariff> [accessed: 1.09.2019].

<sup>92</sup> J. Mason, Yawen Chen, “Trump Says China Trade Deal Coming, Beijing Calls for Resolution of Dispute”, Reuters, 26.08.2019, <https://www.reuters.com/article/us-usa-trade-china-trump-idUSKCN1VG0HK> [accessed: 27.08.2019].

<sup>93</sup> “Stocks Jump on Word U.S.-China Trade Talks to Resume in October”, CBS News, 5.09.2019, <https://www.cbsnews.com/news/u-s-china-trade-talks-scheduled-for-october-beijing-says-2019-09-05/> [accessed: 5.09.2019].

<sup>94</sup> J. Leonard, S. Mohsin, J. Wingrove, S. Donnan, “Trump Touts U.S.-China Phase One Trade Deal, Delays Tariffs”, Bloomberg, 11.10.2019, <https://www.bloomberg.com/news/articles/2019-10-11/u-s-china-said-to-reach-partial-deal-could-set-up-trade-truce-klmelw60> [accessed: 11.10.2019].

<sup>95</sup> International Monetary Fund, *World Economic Outlook*, October 2019: *Global Manufacturing Downturn, Rising Trade Barriers*, p. 41, <https://www.imf.org/en/Publications/WEO/Issues/2019/10/01/world-economic-outlook-october-2019> [accessed 10.10.2019].

<sup>96</sup> G. Ip, “Despite Trade Truce, U.S.-China Cold War Edges Closer”, *The Wall Street Journal*, 16.10.2019, <https://www.wsj.com/articles/despite-trade-truce-u-s-china-cold-war-edges-closer-11571227090> [accessed: 16.10.2019].



OECD blamed an expected decrease in world economic growth of 0.3 and 0.4 percentage points in, respectively, 2019 and 2020 on “escalating trade policy tensions” that increase risk and hence hinder investment.<sup>97</sup>

So far, the burden of U.S. tariffs has fallen almost entirely on the American consumer and importer.<sup>98</sup> The cost of the 2018 tariffs to an average American household is estimated at \$414 and the May 2019 tariffs increase it to \$831.<sup>99</sup> The Congressional Budget Office estimates a smaller burden on the consumer, only \$580 (in 2019 dollars) in 2020.<sup>100</sup> The Congressional Budget Office also predicts mild effects of the trade war and other tariffs imposed since January of 2018 on the U.S. economy, a GDP decline of about 0.3 percentage points by 2020.<sup>101</sup>

### A new Cold War declared?

The 1946 Winston Churchill speech at Westminster College is considered the starting point in the U.S.-Soviet Cold War<sup>102</sup>. The recent Vice President Mike Pence’s speech at the Hudson Institute may mark the beginning of the emerging U.S.-Sino Cold War. Most significantly, the Vice President accused China of:

employing a whole-of-government approach to advance its influence and benefit its interests. It’s employing this power in more proactive and coercive ways to interfere in the domestic policies of this country and to interfere in the politics of the United States. [...]

The Chinese Communist Party is rewarding or coercing American businesses, movie studios, universities, think tanks, scholars, journalists, and local, state, and federal officials. [...]

And worst of all, China has initiated an unprecedented effort to influence American public opinion, the 2018 elections, and the environment leading into the 2020 presidential elections. [...] China is meddling in America’s democracy. As President Trump said just last week, we have, in his words, “found that China has been attempting to interfere in our upcoming [midterm] election[s]”.<sup>103</sup>

<sup>97</sup> OECD, *op. cit.*, pp. 1–2.

<sup>98</sup> M. Amiti, S.J. Redding, D.E. Weinstein, “The Impact of the 2018 Trade War on U.S. Prices and Welfare”, *NBER Working Paper*, No. 25672, March 2019, <http://www.nber.org/papers/w25672> [accessed: 15.07.2019].

<sup>99</sup> Eidem, “New China Tariffs Increase Costs to U.S. Households”, *Liberty Street Economics*, 23.05.2019, <https://libertystreeteconomics.newyorkfed.org/2019/05/new-china-tariffs-increase-costs-to-us-households.html> [accessed: 25.06.2019].

<sup>100</sup> D. Fried, “The Effects of Tariffs and Trade Barriers in CBO’s Projections”, Congressional Budget Office, 22.08.2019, <https://www.cbo.gov/publication/55576> [accessed: 21.09.2019].

<sup>101</sup> Congressional Budget Office, “An Update to the Budget and Economic Outlook: 2019 to 2029”, August 2019, [https://www.cbo.gov/system/files/2019-08/55551-CBO-outlook-update\\_0.pdf](https://www.cbo.gov/system/files/2019-08/55551-CBO-outlook-update_0.pdf) [accessed: 21.09.2019].

<sup>102</sup> W. Churchill, “The Sinews of Peace (‘Iron Curtain Speech’)”, Westminster College, Fulton, Missouri, 5.03.1946, <https://winstonchurchill.org/resources/speeches/1946-1963-elder-statesman/the-sinews-of-peace> [accessed: 8.09.2019].

<sup>103</sup> M. Pence, “Remarks by Vice President Pence on the Administration’s Policy Toward China”, The Hudson Institute, Washington, D.C., 4.10.2018, <https://trumpwhitehouse.archives>.

Vice President Pence also charged Chinese officials with efforts to influence American business leaders into “condemn[ing] our trade actions” by “leveraging their desire to maintain their operations in China” and observed that fewer and fewer managers are interested in entering the Chinese market and encouraged those who still continue in the old ways to reverse course. He singled out Google for developing the “Dragonfly” app that allegedly aids Communist Party censorship and asked the company to immediately terminate the program.<sup>104</sup>

The Vice President also repeated accusations of the Chinese security services’ engagement in “the wholesale theft of American technology – including cutting-edge military blueprints”. He condemned Chinese designs to push the U.S. from the Western Pacific to prevent America from aiding its allies and assured the listeners that this effort “will fail”. To support this last claim the Vice President stated that the U.S. Navy will continue to “operate wherever international law allows and our national interests demand” and added “we will not be intimidated, and we will not stand down”. Mike Pence also pointed out that the recent federal budget included the largest surge in military expenditures since the presidency of Ronald Reagan to “extend the strength of the American military to every domain” including the Indo-Pacific region and outer space.<sup>105</sup>

The Vice President did not fail to condemn the ubiquitous One Belt One Road initiative that expands Chinese influence in Asia, Africa, Europe, and even Latin America. He labelled it “debt diplomacy” and forewarned countries against falling into the trap.<sup>106</sup>

Mike Pence highlighted the fact that the most recent National Security Strategy marks “a new approach to China” and concluded that the U.S. “will not relent until our relationship with China is grounded in fairness, reciprocity, and respect for our sovereignty”. He also extended an olive branch to China saying that America “want[s] a constructive relationship with Beijing where our prosperity and security grow together, not apart” and emphasized that “China’s rulers can still change course and return to the spirit of reform and opening that characterize the beginning of this relationship decades ago”, yet he could not miss the fact that the trade war has “had a major impact. China’s largest stock exchange fell by 25% in the first nine months of this year”.<sup>107</sup>

The Pence speech marks a significant expansion of the scope of the American-Sino confrontation. Other members of the Trump administration quickly followed suit. Secretary of State, Mike Pompeo, continued the offensive against the

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gov/briefings-statements/remarks-vice-president-pence-administrations-policy-toward-china [accessed: 8.10.2019].

<sup>104</sup> *Ibidem.*

<sup>105</sup> *Ibidem.*

<sup>106</sup> *Ibidem.*

<sup>107</sup> *Ibidem.*

One Belt One Road program.<sup>108</sup> Secretary of Defense, James Mattis, at a security conference in Singapore rallied Japan and South Korea to the U.S. side quoting verbatim Mike Pence's words that "we will not be intimidated, and we will not stand down" and added that the U.S. cannot accede to the Chinese militarization of the South China Sea.<sup>109</sup> The efforts to form a global anti-Chinese alliance are not limited to America's Asian allies. The Five Eye coalition that besides the U.S. includes Canada, the United Kingdom, Australia and New Zealand, is engaged in a limited collaboration with German and Japanese and, to a lesser degree, with French intelligence services to counter Chinese influences.<sup>110</sup>

Almost a year later President Trump echoed the sentiments expressed by his Deputy in a speech at the United Nations. The American leader proclaimed that since China entered the World Trade Organization in 2001 the U.S. lost 60,000 factories. This was so because rather than liberalize and open its markets to foreign firms China erected "massive market barriers", offered heavy state subsidies to its firms, engaged in currency manipulation, forced foreign firms to transfer technology to their local partners, and resorted to the theft of intellectual property and trade secrets "on a grand scale". To support his claims, President Trump gave the example of Micron Technologies, a major American technology firm that allegedly lost \$8.7 billion as a result of theft committed by a state-controlled Chinese company.<sup>111</sup>

Experts also believe that Chinese espionage activities are not limited to commercial interests, but encompass American defense industrial base, including national laboratories and universities and defense contractors and subcontractors engaged in the development and production of most advanced military programs, for instance, the F-35 fighter, Aegis Combat System, and the Patriot missile system.<sup>112</sup>

The pronouncements and actions taken by the leaders in Washington seem to confirm the hypothesis that at the heart of the disagreement are not economic grievances, but that instead, as former U.S. Secretary of State, Henry Kissinger, put it, we are "in the foothills of a Cold War" and, if there is no quick resolution

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<sup>108</sup> K. Vaswani, "China v the US: Not Just a Trade War", BBC News, 22.10.2018, <https://www.bbc.com/news/business-45937741> [accessed: 8.11.2019].

<sup>109</sup> T. Axelrod, "Mattis: US, Japan, South Korea Must Work Together against China on South China Sea", The Hill, 19.10.2018, <https://thehill.com/policy/international/china/412190-mattis-us-japan-south-korea-must-work-together-against-china-on> [accessed: 8.11.2019].

<sup>110</sup> N. Barkin, "Exclusive: Five Eyes Intelligence Alliance Builds Coalition to Counter China", Reuters, 11.10.2018, <https://www.reuters.com/article/us-china-fiveeyes/exclusive-five-eyes-intelligence-alliance-builds-coalition-to-counter-china-idUSKCN1MM0GH> [accessed: 28.10.2019].

<sup>111</sup> White House, "Remarks by President Trump to the 74<sup>th</sup> Session of the United Nations General Assembly", United Nations Headquarters, New York, New York, 24.09.2019, issued on 25.09.2019, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-74th-session-united-nations-general-assembly> [accessed: 25.09.2019]

<sup>112</sup> D.C. Blair, K. Alexander, *op. cit.*

to the conflict, “the outcome could be even worse than” the damage suffered by European countries as a result of the First World War.<sup>113</sup> The trade war is a mean to “decouple” American and Chinese economies and force multinational corporations to leave China and so hinder its development.<sup>114</sup>

The de-escalation of tensions that led to the October 2019 “Phase One” agreement is probably more of a temporary truce than a new long-term strategy. Donald Trump probably realized that trade tensions with China are inconsistent with strong economic growth and improving standards of living at home.<sup>115</sup> In about a year pivotal presidential and congressional elections will be taking place and the state of the economy is among the most prominent factors determining electoral outcomes and there is every indication that President Trump is cognizant of this. But, the continuation of “the war of attrition”, as John Kemp put it, is just a matter of time for some policymakers in both governments.<sup>116</sup> For instance, Larry Kudlow, Director of National Economic Council, is predicting a struggle that may last 50 or even 100 years.<sup>117</sup> If this is to materialize, the global economy is likely to experience an extended period of slow growth.<sup>118</sup>

### An uphill battle ahead?

If we are to believe H. Kissinger, the stakes are extremely high and the fundamental question arises – what are the prospects of America winning the war?

Some believe that the U.S. has a good chance of coming out on top. John Woods, Credit Suisse’s chief investment officer, believes that Beijing is keen to find a solution, because China has much more at stake than the U.S.<sup>119</sup> Gregory Ip thinks that at this moment the U.S. seems to have the upper hand, but the long

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<sup>113</sup> E. Cheng, “Fallout from US-China Trade Conflict Could Be ‘Even Worse’ than WWI, Kissinger says”, CNBC, 22.11.2019, <https://www.cnbc.com/2019/11/22/us-china-economic-conflict-could-be-worse-than-wwi-henry-kissinger-says.html> [accessed: 22.11.2019].

<sup>114</sup> G. Ip, “An Economic Cold War Looms between the U.S. and China”, *The Wall Street Journal*, 26.09.2018, <https://www.wsj.com/articles/an-economic-cold-war-looms-between-the-u-s-and-china-1537968600> [accessed: 27.09.2018].

<sup>115</sup> J. Kemp, “Trump Must Choose between Economy and Trade War: Kemp”, Reuters, 23.08.2019, <https://www.reuters.com/article/us-usa-economy-kemp-column/trump-must-choose-between-economy-and-trade-war-kemp-idUSKCN1VD1SJ> [accessed: 24.08.2019].

<sup>116</sup> J. Kemp, “China Has Replaced U.S. as Locomotive of Global Economy: Kemp”, Reuters, 5.11.2019, <https://www.reuters.com/article/us-economy-global-kemp-column/china-has-replaced-u-s-as-locomotive-of-global-economy-kemp-idUSKBN1XF211> [accessed: 5.11.2019].

<sup>117</sup> J. Fabian, “Kudlow Sees Long Road to Resolution in U.S.-China Trade Dispute”, Bloomberg, 6.09.2019, <https://www.bloomberg.com/news/articles/2019-09-06/kudlow-sees-long-road-to-resolution-in-u-s-china-trade-dispute> [accessed: 6.09.2019].

<sup>118</sup> J. Kemp, “China Has Replaced U.S....”, *op. cit.*

<sup>119</sup> Ch. Bray, “China Has a lot More to Lose than the US in Trade War, Says Credit Suisse”, *South China Morning Post*, 14.01.2019, <https://www.scmp.com/business/companies/article/2181878/china-has-lot-more-lose-us-trade-war-says-credit-suisse> [accessed: 15.01.2019].

run outcome is less obvious as China may be able to form a dominant Asia-based trading block.<sup>120</sup> The view that Beijing is deeply concerned with the outcome seems to be shared by some in the Chinese leadership, too. For instance, Wang Yi, State Councilor and Foreign Minister, proclaimed that “for now and for the foreseeable future, the United States is and will still be the strongest country in the world”.<sup>121</sup> However, it is not clear what the phrase “foreseeable future” really means, because two years earlier, at the 19<sup>th</sup> Communist Party National Congress, President Xi Jinping declared that since the last such an event in 2012 the communist party’s policies propelled China “into a leading position in terms of economic and technological strength, defense capabilities, and composite national strength. China’s international standing has risen as never before” and that “the Chinese nation, with an entirely new posture, now stands tall and firm in the East”. The Chinese leader also outlined his vision for the next thirty years, according to him it “will be an era that sees China moving closer to center stage and making greater contributions to mankind” and predicted that by the middle of this century a goal of China becoming “a global leader in terms of composite national strength and international influence” will have been met.<sup>122</sup>

Some Western leading experts believe that Beijing is likely to realize its grand strategy. Alex Younger, the head of MI6, the British Secret Intelligence Service, opined that “basically, power, money and politics is going east” and encouraged his audience to “dwell on the opportunities inherent in that as well as the threats”.<sup>123</sup> Beijing is in fact striving to establish a major trading bloc, in November of 2019 China and 14 countries, all ten ASEAN members and Australia, Japan, New Zealand, and South Korea, agreed to form Regional Comprehensive Economic Partnership (RCEP). The partnership will encompass almost a third of world population and will generate about the same proportion of global GDP.<sup>124</sup>

In a 2018 speech Henry M. Paulson, Jr., Secretary of the Treasury, warned the U.S. against drawing down an “Economic Iron Curtain”, because he did not

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<sup>120</sup> G. Ip, “An Economic Cold War...”, *op. cit.*

<sup>121</sup> E. Cheng, “China Wants the US to ‘Remove All Unreasonable Restrictions,’ Foreign Minister Says”, CNBC, 25.09.2019, <https://www.cnbc.com/2019/09/25/china-expects-us-to-remove-unreasonable-restrictions-foreign-minister.html> [accessed: 25.09.2019].

<sup>122</sup> Xi Jinping, “Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era Delivered at the 19<sup>th</sup> National Congress of the Communist Party of China, October 18, 2017”, Xinhua, 3.11.2017, [http://www.xinhuanet.com/english/download/Xi\\_Jinping’s\\_report\\_at\\_19th\\_CPC\\_National\\_Congress.pdf](http://www.xinhuanet.com/english/download/Xi_Jinping’s_report_at_19th_CPC_National_Congress.pdf) [accessed: 11.03.2019].

<sup>123</sup> “The Future is Tilting East toward China, British Spymaster Says”, Reuters, 3.12.2018, <https://www.reuters.com/article/us-britain-security-china/the-future-is-tilting-east-toward-china-british-spymaster-says-idUSKBN1O219E> [accessed: 3.12.2019].

<sup>124</sup> P. Wongcha-um, P. Tanakasempipat, L. Lee, “India Rejects China-backed Asian Trade Deal, As Others Move Ahead”, Reuters, 3.11.2019, <https://www.reuters.com/article/us-asean-summit/india-rejects-china-backed-asian-trade-deal-as-others-move-ahead-idUSKBN1XE09T> [accessed: 3.11.2019].

“believe that any country in Asia can afford to divorce China, or even wishes to” do so. In his view “China does not pose an existential threat to American civilization”, it is rather a strategic competitor and called for “de-integration” based on national security grounds, “carefully calibrated” rather than wholesale decoupling, and forewarned that the latter could lead to self-isolation.<sup>125</sup> A year later Henry M. Paulson stressed that a technology war could gravely harm both nations, likewise a division of the world into technology blocs would prevent American and Chinese firms from doing business on global scale, make them less competitive and, thus, harm national security goals. In his view, in the long-run an across the board de-integration could harm the U.S. more, because he is unaware “of any country that is prepared to abandon a commercial and technology relationship with China.”<sup>126</sup>

On both occasions the former Treasury Secretary presented a long list of steps that both nations need to take to resolve contentious issues and rebuild lost trust. He also highlighted potential benefits to both sides from the abandoning of a cold war attitude and the returning to strategic competition. For instance, Paulson recalled the time of the 2008 financial crisis and emphasized the benefits of Sino-American cooperation in overcoming the calamity. Similarly, he outlined potential benefits from China opening its financial markets to foreign financial firms that offer superior know-how and technologies.<sup>127</sup>

Robert B. Zoellick, former U.S. Trade Representative and World Bank president, shares Paulson’s views. Like Paulson, he expresses significant reservations concerning China’s behavior, but at the same time debunks the notion that Sino-American relations failed to produce benefits to the U.S. and that China is “only a disrupter”. Zoellick quotes Kevin Rudd’s, Australia’s former prime minister, warning that a world divided into two camps would be “deeply destabilizing” and would undermine the global order that underpinned economic growth during the previous 40 years. Such a world would most likely result in a new arms race and, thus, increased risk. Zoellick, like Kissinger, cautions that a clash between China and America could result in a catastrophe equal, if not greater than those that the 20<sup>th</sup> century brought to humanity.<sup>128</sup> On another occasion Zoellick explicitly said that “you can’t contain China” and that President Trump’s attempt

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<sup>125</sup> H.M. Paulson, Jr., “Remarks by Henry M. Paulson, Jr., on the United States and China at a Crossroads”, Paulson Institute, 7.11.2018, [https://www.paulsoninstitute.org/press\\_release/remarks-by-henry-m-paulson-jr-on-the-united-states-and-china-at-a-crossroads](https://www.paulsoninstitute.org/press_release/remarks-by-henry-m-paulson-jr-on-the-united-states-and-china-at-a-crossroads) [accessed: 4.05.2019].

<sup>126</sup> Idem, “Remarks by Henry M. Paulson, Jr., on the Delusions of Decoupling”, Paulson Institute, 21.11.2019, [https://www.paulsoninstitute.org/press\\_release/remarks-by-henry-m-paulson-jr-on-the-delusions-of-decoupling](https://www.paulsoninstitute.org/press_release/remarks-by-henry-m-paulson-jr-on-the-delusions-of-decoupling) [accessed: 25.11.2019].

<sup>127</sup> *Ibidem.*

<sup>128</sup> R.B. Zoellick, “Can America and China Be Stakeholders?”, Carnegie Endowment for International Peace, U.S.-China Business Council, 04.12.2019, <https://carnegieendowment.org/2019/12/04/can-america-and-china-be-stakeholders-pub-80510> [accessed: 7.12.2019].

to decouple the two economies was not going to succeed.<sup>129</sup> It is also worth noting that both Paulson and Zoellick lament America's foreign policies that alienate friends and allies.<sup>130</sup> Overall, many arguments raised by Paulson and Zoellick beg two questions – is the war in the American national interest and is the U.S. likely to win?

A major issue is America's ability to muster economic resources necessary to withstand a long-term struggle against the rising Asian power. In real terms the Chinese economy is now larger than that of the U.S. and America has little fiscal space to allocate significantly more for military build-up or R&D effort.<sup>131</sup> Official forecasts show that without any additional major government expenditures or significant economic problems the U.S. is going to run budget deficits to the tune of 4.4 to 4.8% of GDP over the coming decade and, consequently, federal debt held by the public is going to balloon to 95% of GDP, from 79% in 2019. The U.S. has not had such a huge debt burden since the period just after the end of the Second World War.<sup>132</sup> On the other hand, Beijing does not face such major constraints and the Chinese leadership is gearing up for an “epochal, systemic contest”.<sup>133</sup> Allegedly, in a closed session President Xi said to members of the politburo that a 30-year long struggle with the U.S. is awaiting China.<sup>134</sup>

## Conclusions

In 2013, after 140 years, the United States lost to China the top position on the list of largest economies<sup>135</sup>. Just three years later, China established AIIB, a multilateral institution that rivals the U.S.-dominated WB and IMF. Now, China is setting the stage for the renminbi to depose the American dollar as the most important reserve currency. The One Belt One Road initiative has every hallmark of making China the focal point of international trade and, hence, politics. The Chinese government is using its formidable resources and power to make its economy

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<sup>129</sup> F. Bermingham, “You Can't Contain China: Former US Trade Chief Robert Zoellick Warns Donald Trump”, *South China Morning Post*, 15.01.2019, <https://www.scmp.com/economy/china-economy/article/2182022/you-cant-contain-china-former-us-trade-chief-robert-zoellick> [accessed: 20.01.2019].

<sup>130</sup> H.M. Paulson, Jr., “Remarks by Henry M. Paulson, Jr., on the United States and China at a Crossroads”, *op. cit.*; idem, “Remarks by Henry M. Paulson, Jr., on the Delusions of Decoupling”, *op. cit.*; and R.B. Zoellick, *op. cit.*

<sup>131</sup> K. Dadak, *op. cit.*

<sup>132</sup> Congressional Budget Office, *op. cit.*

<sup>133</sup> F. Kempe, “The US-China Trade War Has Set in Motion an Unstoppable Global Economic Transformation”, CNBC, 14.09.2019, <https://www.cnbc.com/2019/09/14/us-china-trade-wars-unstoppable-global-economic-transformation.html?recirc=taboolainternal> [accessed: 14.09.2019].

<sup>134</sup> R.B. Zoellick, *op. cit.*

<sup>135</sup> B. Carter, “Is China's Economy Really the Largest in the World?”, BBC News, 16.12.2014, <http://www.bbc.com/news/magazine-30483762> [accessed: 17.01.2019].

the most technologically advanced in the world. Robert W. Fogel's prediction made in 2007 that the center of gravity is moving to Asia is taking shape.<sup>136</sup> Alex Younger, MI6 chief, confirms this forecast.<sup>137</sup>

The National Security Strategy announced in December of 2017 and the National Defense Strategy published in January of 2018 took full account of the challenges that China poses to American dominant position in the world.<sup>138</sup> In the spring of 2018, the Trump administration took a leap into a trade war with China and in October of that year Vice President Pence proclaimed that the U.S. is not ready to vacate the leading role in world affairs. Yet, in less than two years after the introduction of tariffs on Chinese imports, when it seemed that the administration had embarked on a war of attrition with China, President Trump decided to take a break and announced a "Phase One" agreement.

The victory in the American-Soviet Cold War was a result of a joint effort of the entire West. It was led by the U.S., but without NATO and close American-Japanese cooperation the victory would have been much harder, if possible at all. This should be even more true in the emerging Sino-American Cold War, because the Chinese challenge is by far more serious.

During the American-Soviet Cold War, the U.S. successfully projected not only the image of the ultimate protector of the free and democratic world against communist tyranny, but also of a benevolent superpower working for the common good. This superiority in soft power was instrumental in containing and defeating the Soviet Union. Soft power will likely prove to be decisive in overcoming China's challenge, too.

But President Trump promised his electorate to "make America great again" and the motto underlying his political platform is "America First". In line with these assurances he renegotiated NAFTA on American terms, imposed high duties on products imported from close allies, and withdraw from the Trans-Pacific Partnership. These steps, together with sudden changes in American policies towards China that seem to have more in common with the U.S. political calendar than reflect any long-term strategy, do not bode well for the prospect of the West forming a united front towards China. It may take more than just words to convince allies and partners that "America First doesn't mean America Alone."<sup>139</sup>

The path taken by the Trump administration is risky, especially when the opponent does exactly the opposite by forming a large trading bloc, the RCEP,

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<sup>136</sup> R.W. Fogel, "Capitalism and Democracy in 2040: Forecasts and Speculations", *NBER Working Paper*, No. 13184, 2007, <http://www.nber.org/papers/w13184> [accessed: 2.12.2019].

<sup>137</sup> "The Future is Tilting East toward China, British Spymaster Says", *op. cit.*

<sup>138</sup> K. Dadak, *op. cit.*

<sup>139</sup> H.R. McMaster, G.D. Cohn, "America First Doesn't Mean America Alone", *The Wall Street Journal*, 30.05.2017, <https://www.wsj.com/articles/america-first-doesnt-mean-america-alone-1496187426> [accessed: 13.12.2018].



as well as expands the list of nations with which it has free trade agreements.<sup>140</sup> Additionally, China established AIIB that undermines the attractiveness of the WB and the IMF.

The United States is still a very powerful nation, the most innovative and advanced major economy, but it is facing an adversary that has a population over four times bigger. China has the potential to continue expanding its economy at a much faster rate than the U.S. does. China's sheer size is a potent magnet; consumer spending in the nation is equal, if not larger than that in the U.S.<sup>141</sup> Moreover, the drastic increase in the standard of living that the population has experienced over the past forty years makes it an attractive template to follow. In sum, the United States is facing a challenge like it has never faced before.

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<sup>140</sup> “China Piles Up Free Trade Deals as Trump Abandons Them”, Bloomberg, 24.01.2018, <https://www.bloomberg.com/news/articles/2018-01-24/china-wants-to-rack-up-free-trade-deals-as-trump-tramples-them> [accessed: 4.02.2018].

<sup>141</sup> “Chinese Now Buying as Much as Americans”, *The Straits Times*, 13.01.2018, <https://www.straitstimes.com/asia/east-asia/chinese-now-buying-as-much-as-americans> [accessed: 14.01.2018].

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## The Emerging Sino-American Cold War

The Donald Trump presidency ushered in a new era of Sino-American relations. Under Trump, American policies towards the Asian Giant evolved from antagonistic and confrontational to seemingly close and warm to eventually turn into an open economic and political conflict. The present “decoupling” of the two economies initiated by the Trump administration may be seen as an attempt to divide the world into two camps and this process may shape global politics, economics, and military affairs for decades to come. The emerging struggle for world dominance has features resembling the Soviet-American cold war. But the Soviet Union posed only a major military and ideological threat while China is quickly becoming an economic superpower and uses this strength

to pry out entire regions from the American sphere of influence. China has created international trade and financial structures that challenge the dominance of the American-led World Bank and the International Monetary Fund. The Asian competitor is also taking steps to replace the U.S. dollar with its own currency in international markets.

**Key words:** world dominance, tariffs, global economic competition, cold war, U.S.-China relations

## **Rozpoczynająca się chińsko-amerykańska zimna wojna**

Prezydentura Donalda Trumpa rozpoczęła nową erę w stosunkach amerykańsko-chińskich. Pod rządami Trumpa amerykański kurs w stosunku do tego azjatyckiego giganta ulegał częstym zmianom, od nieprzyjaznego i konfrontacyjnego poprzez na pozór bliski i ciepły – aż w końcu przybrał postać otwartego politycznego i gospodarczego konfliktu. Obecna, zapoczątkowana przez administrację Trumpa faza sporu, mająca na celu „rozdzielenie” obu gospodarek, może być postrzegana jako próba dokonania podziału świata na dwa obozy i ten proces w najbliższych dekadach może kształtować światową politykę, kwestie gospodarcze i wojskowe. Te wyłaniające się zmagania o dominację nad światem mają wiele podobieństw do amerykańsko-sowieckiej zimnej wojny, z tym że ZSRR stanowił tylko zagrożenie wojskowe i ideologiczne, podczas gdy Chiny w szybkim tempie stają się gospodarczą superpotęgą i używają tego czynnika, by wyrwać całe regiony z amerykańskiej strefy wpływów. W sferze obrotów i finansów międzynarodowych Chiny stworzyły struktury, które stanowią wyzwanie dla dominacji kierowanych przez USA Międzynarodowego Funduszu Walutowego i Banku Światowego. Azjatycki rywal podejmuje także kroki mające na celu zastąpienie na światowych rynkach amerykańskiego dolara przez swoją własną walutę.

**Słowa kluczowe:** dominacja nad światem, wojna celna, współzawodnictwo gospodarcze na arenie światowej, zimna wojna, stosunki amerykańsko-chińskie



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### **FROM ENDURING TO DEVELOPMENT. TRUMP'S FOREIGN POLICY AND CENTRAL AND EASTERN EUROPE**

#### **Introduction**

Unpredictable – this seemed to be the dominant descriptor of President Donald Trump's foreign policy. One explanation of his unpredictability was the lack of any previous political experience and the unclear ideological backbone. Although, he won the Presidency with the Republican ticket, many of the GOP members questioned his ideological credentials. Others deducted his unpredictability from the nature of his “tweeter communication”, aggressive and often politically incorrect behavior or controversial statements.<sup>1</sup> Undoubtedly, these preconditions do not make the analysis of his foreign policy any easier. They also do not release researchers from reflecting on the nature of Trump's foreign policy. For most observers, the challenge to understand and correctly predict his foreign policy simply becomes more difficult. Relying on Trump's tweets or speeches

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<sup>1</sup> The influence of his tweets was discussed briefly by A. Banka, “How the Baltic States Can Win Trump Over on NATO”, *World Politics Review*, May 25, 2017, <https://www.worldpoliticsreview.com/articles/22268/how-the-baltic-states-can-win-trump-over-on-nato> [accessed: 2.06.2021].

seems to be like walking on a thin ice, since the president himself can change his mind between the tweet and the preceding or subsequent meeting. Especially that, as in the case of NATO, Trump is able to tweet, revise or completely rebut his own statements.

Regardless of these difficulties, this paper will aim to analyze the policy of Trump's administration towards the countries of Central and Eastern Europe (CEE). The paper will aim to verify Zbigniew Lewicki's argument that in the case of Trump "we deal not so much with a fundamental revolution as with functional continuity" of the American foreign policy.<sup>2</sup> In order to verify this hypothesis the paper will conduct a comparative analysis of the change and continuity of the US policies towards CEE from the Barack Obama to Donald Trump administrations. However firstly, the paper will accent on the specific conditions in which CEE faced the 2016 US presidential elections.

### **Trump's election and Central Europe**

The European Union's political elites accepted with mixed feelings the election of Donald Trump as the 45<sup>th</sup> president of the United States. Unlike the Eurocratic elites and some of the western governments, most of the Central and Eastern European countries reacted with much more temper. Particularly, Poland and Hungary recognized many common arguments in Trump's election rhetoric that fitted their own political narratives towards the elites in Brussels, the EU integration, the migrant's crisis and political opponents at national level.

President Obama's "celebrity" type of presidency had a profound impact on CEE. During most of his first term, Obama sacrificed the region on the Reset policy altar with Russia. Only after the economic crisis was over and his administration signed the new START treaty, Obama changed his approach towards the region. Although his administration intensified relations after 2011, the turning point was the Ukrainian Revolution of Dignity that started in late 2013. Overall, Obama's foreign policy led to substantial deterioration of the US position across the world and the rise of authoritarian assertiveness in Russia and Turkey. In that context, the countries from CEE were looking for clearer and more active US presence in the region. It was obvious that the democrat candidate Hilary Clinton was not going to bring any "new opening" towards the region. Although, under the pressure of the events in Ukraine, President Obama agreed to strengthen NATO's military presence in Europe, Poland, Romania and the Baltic states required further engagement.

Donald Trump's election campaign was replete of inconsistent, provocative and controversial statements. His anti-immigrants and protectionist tones

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<sup>2</sup> Z. Lewicki, "Od Baracka Obamy do Donalda Trumpa: fundamentalna rewolucja czy funkcjonalna rewolucja?", *Sprawy Międzynarodowe* 2017, No. 1, pp. 7–24.

seemed to be pure unreliable rhetoric with little reference to the European migration crisis, but his argument on the reassessment of the NATO brought not only confusion, but also silent hysteria among the members of the Alliance. Trump was also quite ambiguous on Russia and President Vladimir Putin himself sending inconsistent signals of enthusiasm for Putin that collided with his campaign slogan "Make America great again". Hence, when he won the elections, the big question mark was what CEE should expect from him? Especially, that despite the general post Euromaidan hard security consolidation among the countries from the region, the particular capitals still accent substantial differences in their approaches towards Moscow. Whereas the Baltic States, Warsaw and Bucharest insist on the reinforcement of NATO's eastern flank, Prague, Bratislava and Sofia does not consider this a burning priority. In the meantime, Budapest's approach towards the Russian federation remains much more flexible, despite the sanctions and political pressure that the EU tries to exert on Moscow.

The next aspect that deserves attention before focusing on the substance of the US relations with the Central European countries is the silent political revolution, taking place in some of the Central European states. After a quarter of a century of blind quest for Europeanization the political elites sensed the growing popular frustration with the slow pace of catching-up and the uneven distribution of wealth as a result of the economic transition.<sup>3</sup> Building a new political narrative based on renationalization, regain of control and nationalism rebellious political elites took over in Hungary in 2010 and in Poland five years later. Both of them rejected the silent Berlin–Brussels domination and promoted much more interventionist role of the state braking up with the neoliberal dogma of the EU's political mainstream.<sup>4</sup> Thus, Viktor Orbán's Hungary and Jarosław Kaczyński's Poland enthusiastically embraced Donald Trump's presidential campaign political narrative contesting many of the dominant globalist assumptions. Consciously or not, Trump became their main political ally. Especially, that his controversial and offensive style irritated western European political elites keeping their fingers crossed for Hilary Clinton's victory in the quest for the White House. This silent "marriage" will open another avenue for enhanced cooperation.

Thirdly, during the election campaign Trump's ambiguous comments on Russia and president Putin painted him as a pro-Russian and subconsciously anti-American. These claims resonated in CEE narrowing the political discourse between the options whether Trump's win will mean worst or the same, unsatisfactory type of relations with Washington as during the Obama administration.

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<sup>3</sup> This argument is further developed in the inspiring essay of J. Feffer, "Who Could Have Predicted Trump? Poland, and Hungary, and Slovakia", *The Nation*, December 5, 2017, <https://www.thenation.com/article/who-could-have-predicted-trump-poland-and-hungary-and-slovakia> [accessed: 2.06.2021].

<sup>4</sup> *Ibidem*.

## Trump and the NATO controversy

Donald Trump's criticism of NATO's reliance on the United States during the election campaign calling it "obsolete" undermined this undisputed importance of the Alliance.<sup>5</sup> Trump argued that member states have to pay their share for common security claiming that substantial renegotiation of the security arrangements will take place when in office. Although Trump's arguments were devoted to those countries spending less than 2% of their GDP for defense the European allies started wondering what the consequences of Trump's election for the structure of the transatlantic security will be.

However, beyond the lousy political rhetoric exploited by the media, the argument on the uneven security share between the United States and its European allies is not new. Presidents George W. Bush and Barack Obama insisted repeatedly on the same without much success.<sup>6</sup> Hence, Trump's shocking approach turned more attention to this matter, but did not lead to any drastic changes in defense spending.<sup>7</sup> The Eastern flank members started increasing their defense spending because of the war in Ukraine and the annexation of Crimea, most of which before Trump came to power.<sup>8</sup>

## United States, Ukraine and the security environment in Central and Eastern Europe

The war in Ukraine is a turning point in the relations between Moscow and the western world. Until 2014, the dominant model of relations between the United States, NATO and the Russian Federation was grounded in the NATO-Russia

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<sup>5</sup> I. Kottasova, "NATO in the crosshairs: Who's not paying their bills", CNN, January 24, 2017, <http://money.cnn.com/2017/01/24/news/donald-trump-nato-spending/index.html> [accessed: 2.06.2021].

<sup>6</sup> See: "Bush to Press Allies for More Defense Spending at NATO Summit", Fox News, November 27, 2006, <http://www.foxnews.com/story/2006/11/27/bush-to-press-allies-for-more-defense-spending-at-nato-summit.html>; E. MacAskill, "US presses Nato members to increase defence spending", *The Guardian*, June 23, 2014, <https://www.theguardian.com/world/2014/jun/23/us-nato-members-increase-defence-spending> [accessed: 2.06.2021].

<sup>7</sup> For more data on the NATO defense spending in the period 2010–2017 see: NATO, Defence Expenditure of NATO Countries (2010–2017), Communique PR/CP(2017)111, June 29, 2017, [https://www.nato.int/nato\\_static\\_fl2014/assets/pdf/pdf\\_2017\\_06/20170629\\_170629-pr2017-111-en.pdf](https://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2017_06/20170629_170629-pr2017-111-en.pdf) [accessed: 2.06.2021].

<sup>8</sup> R. Browne, "NATO members to increase defense spending", CNN, June 29, 2017, <http://edition.cnn.com/2017/06/29/politics/nato-members-increase-defense-spending/index.html> [accessed: 2.06.2021]. Romanian President Klaus Iohannis also made explicit commitments during his visit to United States in June 2017, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-president-iohannis-romania-joint-press-conference> [accessed: 30.01.2018].



Founding Act<sup>9</sup> which in practical terms approved the nominal enlargement of NATO to the East, simultaneously *de facto* retaining the no man's land status of the territory between Oder and Bug rivers. This silent agreement forced those CEE countries particularly exposed to potential Russian intervention to mobilize their efforts in order to obtain NATO military presence, thus challenging the agreement with Russia. Only after the Ukrainian crisis and the Russian annexation of Crimea, both the Obama administration and the western European allies had to acknowledge that the CEE countries "Russophobia" was reasonable.

The hybrid nature of the war in Ukraine and the annexation of Crimea required sound and united response from the West. The emergence of little green people, the skillful disintegration of Ukrainian territorial integrity and the conscious denial of facts defined the battlefields of this confrontation. The war in Ukraine has severe consequences for the US, EU and NATO relations with the Russian Federation, but also for the whole CEE regardless whether being part of the Western Alliance or not. In this context, what seems to be important for this paper is the level of consistence of the commitments made by the Obama administration to the countries from the NATO's eastern flank and the attitude towards Russia in comparison with the subsequent actions of the Trump administration.

NATO remains the main structure of regional security in CEE. The Ukrainian Revolution of Dignity and the following Russian aggression underlined the importance of the Alliance. During the first summit after the war in Ukraine sparked, held in Wales in September 2014 Allies acknowledged the need for credible deterrence and defense. In the shadow of Russian aggression, the Alliance finally agreed to reconsider its policy towards its post-communist member states and to supplant their formal membership with tangible military presence able to respond to the new security challenges inspired in Kremlin. A part of it became the Readiness Action Plan (RAP) aiming to strengthen NATO's collective defense. As Louisa Brooke-Holland and Claire Mills summarized, the RAP is "primarily geared towards the Eastern part of the Alliance, this includes plans to establish a Very High Readiness Joint Task Force that can deploy within a few days, and an enhanced military presence involving exercises and a continued military presence on a rotational basis."<sup>10</sup> The answer to the hybrid warfare was NATO's decision to establish NATO response force, part of which is the Spearhead Force ready to move in as little as 48 hours.<sup>11</sup>

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<sup>9</sup> Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation signed in Paris, France, May 27, 1997, [https://www.nato.int/cps/en/natohq/official\\_texts\\_25468.htm](https://www.nato.int/cps/en/natohq/official_texts_25468.htm) [accessed: 2.06.2021].

<sup>10</sup> See: L. Brooke-Holland, C. Mills, "NATO Wales Summit 2014: Outcomes", House of Commons Library, SN06981, September 12, 2014, p. 1, <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06981#fullreport> [accessed: 2.06.2021].

<sup>11</sup> "NATO's new spearhead force conducts first exercise", April 7, 2015, [https://www.nato.int/cps/en/natohq/news\\_118667.htm](https://www.nato.int/cps/en/natohq/news_118667.htm) [accessed: 2.06.2021].

Two years later, during the NATO Warsaw Summit the Alliance further strengthened this policy by adopting the, unfortunately labelled, Enhanced Forward Presence (EFP). Within this policy the Alliance planned to deploy four battalions in Estonia, Latvia, Lithuania and Poland, on a rotational basis, Romanian framework brigade and strengthening the readiness and interoperability of air and maritime forces in the Black Sea region.<sup>12</sup> The United States<sup>13</sup> offered to serve as one of the framework nations for the multinational presence in Latvia, Lithuania, Estonia and Poland respectively.<sup>14</sup> Within the EFP, the United States agreed to contribute a US Army battalion stationed in Poland with heavy equipment. Since 2012 US Air Force are also present in Poland on a rotational basis since 2012. As Grzegorz Kostrzewa-Zorbas points out, in practical terms all three main branches of the US (Navy, Army, Air Force) are present in Poland and the Baltic states.<sup>15</sup> The United States actively participate in the NATO led reinforcement of its Eastern flank with over 6000 soldiers deployed only in Poland in two, infantry and air, brigades.<sup>16</sup> American troops are also present in Romania and Bulgaria and the United States actively participate in all NATO exercises from the Black Sea to Norway. Notwithstanding the US antimissile installation in northern Poland the picture of the enhanced American military presence is complete. More importantly, it was the Obama administration taking all these decisions. After the change in the White House, the implementation of the deterrence and defense strategy continued as scheduled. The American involvement in the rotational deployment of military units within the EFP, prospective contract with the Polish army of Patriot missile system and the cyclical joint military exercises show continuity and persistence in the American commitments towards its Eastern European allies and a growing number of contracts for military equipment. Hence, Trump's ambiguous remarks on Putin and Russia during the election campaign did not affect the US strategic position towards Russia, and particularly, towards the Eastern flank allies. An aspect of significant importance, if one recalls Obama's neglect for the Central European partners in the context of the Russian reset.

This closer relationship does not seem to be a conscious pursuit of better relations of Washington with particular countries from the region, but a part of

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<sup>12</sup> Warsaw Summit Key Decisions, NATO Fact Sheet, February 2017, [https://www.nato.int/nato\\_static\\_fl2014/assets/pdf/pdf\\_2017\\_02/20170206\\_1702-factsheet-warsaw-summit-key-en.pdf](https://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2017_02/20170206_1702-factsheet-warsaw-summit-key-en.pdf) [accessed: 2.06.2021].

<sup>13</sup> Together with Canada, Great Britain and Germany.

<sup>14</sup> Warsaw Summit Communiqué, July 9, 2016, [https://www.nato.int/cps/en/natohq/official\\_texts\\_133169.htm#rap](https://www.nato.int/cps/en/natohq/official_texts_133169.htm#rap) [accessed: 2.06.2021].

<sup>15</sup> See: G. Kostrzewa-Zorbas, "Amerykańskie siły lądowe, powietrzne i morskie w Polsce – krajobraz w dniu zmiany władzy w USA", wPolityce, January 20, 2017, <https://wpolityce.pl/swiat/324151-amerykanskie-sily-ladowe-powietrzne-i-morskie-w-polsce-krajobraz-w-dniu-zmiany-wladzy-w-usa?strona=2> [accessed: 2.06.2021].

<sup>16</sup> W. Waszczykowski, "Witając Rexa Tillersona", Onet, January 26, 2018, <https://wiadomosci.onet.pl/tylko-w-onego/witajac-rexa-tillersona/bwc2gq1> [accessed: 2.06.2021].

a larger strategy against the Russian Federation. The first argument in support of this statement is the fact that diplomats from different countries from the region admit that they face enhanced and much more focused cooperation with the Trump administration on various levels.<sup>17</sup> Furthermore, right before the deadline, the Trump administration extended the US sanctions on Russia related to Crimea and the situation in Eastern Ukraine. The Congress also adopted a law obliging the White House to impose additional sanctions on Russia for its interference in the last US elections. A bill that Trump signed regardless of his fierce opposition towards it.<sup>18</sup>

Additional minor and yet important differences between the Trump and Obama administrations support this argument. Although generally Washington's position towards Ukraine, Russia and the war in Ukraine did not change, the Trump administration made it clear that it will harden the course towards Moscow. First, Trump did not hesitate to respond with power to the use of gas in Syria and recently the United States started openly accusing Moscow for the use of chemical weapons in this war. Second, although numerous voices advocated the support of the Ukrainian army with defensive weapons, Obama's administration was firmly against it. Only recently, the Ukrainian president Petro Poroshenko informed that Kiev would obtain the long-hoped Javelin missiles that can substantially increase the costs of Russian military involvement.<sup>19</sup> Thus, Washington's course towards Russia is hardening in line with the NATO's eastern flank allies.

### Trump's visit to Poland

President Obama visited Poland for the first time in 2011 during his seventh trip to Europe and on the third year of his first term. Unlike him, President Trump visited Warsaw less than six months after taking office during his second trip to Europe. Two dominant narratives emerged around his visit. The first one, largely replicated by the media, argued that president Trump's decision to visit Poland as a first stop in Europe was a PR move in order to secure a more friendly welcome before his next stop at the G20 summit in Hamburg.<sup>20</sup> The second one,

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<sup>17</sup> See: A. Banka, *op. cit.* and K. O'Donnell, "Hungarian minister: We prefer Trump to Obama, or Europe", *Politico*, January 20, 2018, <https://www.politico.eu/article/hungarian-minister-we-prefer-trump-team-over-obama-team> [accessed: 2.06.2021].

<sup>18</sup> L. Koran, "Trump admin announces fresh Russia sanctions", CNN, January 26, 2018, <https://edition.cnn.com/2018/01/26/politics/us-russia-sanctions-ukraine/index.html> [accessed: 2.06.2021].

<sup>19</sup> "Poroszenko: nowa broń od USA zmieniła nastawienie Rosji", WP, January 26, 2018, <https://wiadomosci.wp.pl/poroszenko-nowa-bron-od-usa-zmienila-nastawienie-rosji-6213632642443393a> [accessed: 2.06.2021].

<sup>20</sup> See: W. Przybylski, "Poland Is Way Too Happy About Donald Trump's Visit", *Foreign Policy*, July 5, 2017, <http://foreignpolicy.com/2017/07/05/poland-is-way-too-happy-about-donald-trumps-visit> or K. Ponniah, "Trump in Poland: Five reasons why he is going there", BBC, July 5, 2017, <http://www.bbc.com/news/world-europe-40497732> [accessed: 2.06.2021].

largely exploited by the Polish government accented on the opportunity to meet the regional leaders gathered in Warsaw for the Three Seas Initiative summit.<sup>21</sup> Supporters of the recent government in Poland saw it as another confirmation of the growing role of Poland in international relations, whereas critics saw it as a rubberstamping of the anti-democratic alliance between anti-liberal populists from the both sides of the Atlantic. Regardless of the reason, President Trump's visit was of significant importance for the region.

President Trump's speech at Krasiński Square in Warsaw provided important guidelines of Trump's administration priorities in global and domestic affairs. For CEE, the speech was important since it accented the defense of the Western civilization as a highest priority. Trump also clearly identified Russia as a destabilizer of regional peace and security, replicating the arguments of most of the Eastern flank NATO allies. His reconfirmation of Article 5 of the Washington Treaty cut any further discussion on the future not only of the American attitude towards CEE, but also towards the Alliance itself.<sup>22</sup> His soundly conservative and much more hawkish rhetoric also highlighted the question of migration, thus backing the Visegrad Group (V4) countries in their clash with the European Commission on the policy of forceful relocation of migrants within the EU member states.

The Polish and Hungarian governments promptly welcomed Trump's political credo. The shared perception of the contemporary challenges is concentrated around Christian values and migration. Beyond the diplomatic correctness, the Hungarian foreign minister Péter Szijjártó emphasized the substantially different approach towards the countries from the region by the Trump administration emphasizing partnership relations instead of internal matters related to the rule of law.<sup>23</sup> The leader of Poland's Law and Justice Jarosław Kaczyński made similar comments after his meeting with the US State Secretary Rex Tillerson, arguing that the question of rule of law was discussed only in the context of US investments in Poland.<sup>24</sup>

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<sup>21</sup> One should not forget that the preliminary venue for the Three Seas Summit was Wrocław and the venue was changed few weeks before the summit after Trump's administration confirmation that he will visit Poland at the same time.

<sup>22</sup> Remarks by President Trump to the People of Poland, July 6, 2017, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-people-poland> [accessed: 8.07.2017].

<sup>23</sup> See: K. O'Donnell, *op. cit.*

<sup>24</sup> dbd, "Spotkanie Tillerson-Kaczyński. Szef Amerykańskiej dyplomacji przy stoliku na Nowogrodzkiej", *Gazeta.pl*, January 27, 2018, <http://wiadomosci.gazeta.pl/wiadomosci/7,114883,22950134,spotkanie-tillerson-kaczynski-szef-amerykanskiej-dyplomacji.html> [accessed: 2.06.2021].

### Three Seas Initiative

Even more importantly from purely business perspective, Trump's visit to Poland played well for the both, the US and the Polish President Andrzej Duda's Three Seas Initiative (TSI). While portrayed as geopolitical endeavor<sup>25</sup>, this initiative accents primarily on infrastructural projects aiming at security gains and increased regional integration. As Grzegorz Lewicki points out, TSI's "goal is to modernise technologically the eastern wall of the European Union."<sup>26</sup> On the one hand, the presence of the US president at the TSI summit held in Warsaw at the same day increased its publicity. On the other, Donald Trump treated the US support in purely economic terms. As the American president emphasized in his speech at the summit, "Greater access to energy markets, fewer barriers to energy trade and development, and strengthening energy security is what we're looking to do".<sup>27</sup> The initiative opened completely new perspectives for energy cooperation in CEE fostered by the rapid changes in the energy infrastructure of the region.<sup>28</sup> Although the participating states present TSI as an internal EU initiative, they do not want to rely solely on EU funding. Thus, new opportunities appeared for American companies and capital to participate in energy, road and railway projects across CEE.

The rationale behind the TSI has several root causes. Firstly, the CEE is comparatively more dependent on Russian energy supplies. Secondly, the growing Russian assertiveness requires reconsideration of the existing bonds with Moscow. Thirdly, the countries from the region still lack good road connections in comparison to the western part of the EU. Paradoxically the CEE has better road connections on the East-West axis than on the North-South. Fourthly, such a project can significantly boost the economic potential of the region and further integrate CEE into the EU.

Firstly, despite these sound arguments, the future of this initiative is not clear since there is genuine skepticism among the non-participating EU members among which are all net payers to the EU budget. Secondly, this initiative is rather presidential than governmental and as such can easily become a hostage of internal political trade-offs. Thirdly, it has the potential to become a hostage in the political confrontation between the EU and the Polish and Hungarian

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<sup>25</sup> P. Kowal, A. Orzelska-Stączek, *Inicjatywa Trójmorza: geneza, cele i funkcjonowanie*, ISP PAN, Warszawa 2019.

<sup>26</sup> G. Lewicki, "The Three Seas Initiative will strengthen Europe", *Visegrad Insight*, July 3, 2017, <http://visegradinsight.eu/the-three-seas-initiative-will-strengthen-europe> [accessed: 2.06.2021].

<sup>27</sup> M. Farber, "Read Donald Trump's Remarks at the Three Seas Initiative Summit in Poland", *Time*, July 6, 2017, <http://time.com/4846780/read-donald-trump-speech-warsaw-poland-transcript> [accessed: 2.06.2021].

<sup>28</sup> The opening of the Polish LNG terminal in Świnoujście, the floating LNG terminal in Krk and the interconnector between Bulgaria and Greece.

governments on the rule of law, migrants and the German energy interests related to Nord Stream 2.

Hence, Trump's participation in the summit can be twofold. Firstly, for Trump and his administration TSI is nothing else but a good business opportunity that deserves closer observation for its tangible benefits and as such silent support. Secondly, it can be a good chance to strengthen the US presence in the region, which in the context of Brexit might be necessary both towards the EU and towards Russia. Although these two options do not exclude each other, it is obvious that most of the CEE EU member states on this particular issue are closer to Washington than Brussels.

The American support for the TSI has both geopolitical and purely economic reasons. The quest of the largely dependent on Russian fossil fuels CEE countries matches with the growing export potential of American companies. The practical diversification of the Polish energy infrastructure caused by the Świnoujście LNG terminal opened new possibilities for American companies not only in Poland but also in the entire region. The regional demands for energy security have apparently attracted the attention of the US government. For the first time, the US State Secretary Rex Tillerson made an explicit comment that the Russian-German energy project Nord Stream II is a threat to Europe's energy security.<sup>29</sup>

## Conclusions

After a year in office, Trump's foreign policy obtains a clearer shape. The analysis of his administration activities not only towards CEE, but also towards Iran, Israel and Russia itself prove that his administration is much more hawkish, conservative and hard power-oriented comparing to his predecessor. Trump's narrative became part of the contemporary ideological clash between the globalized elites and the growing national and community discontent. Since this transition is most visible in Central Europe, it naturally brought it closer to the Trump's administration. Furthermore, in the context of the ongoing geopolitical clash with Russia, the region's importance has further increased.

Finally, after a year in office, there is a need to reflect on Zbigniew Lewicki's argument that instead of fundamental revolution so far, we face functional continuity.<sup>30</sup> So far, there is a noticeable intensification of cooperation between the United States and Central Europe. Behind the, correctly acknowledged functional continuity, there is a vast potential of opportunities that seems to be

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<sup>29</sup> R. Tillerson, "Polska wyjdzie z tego o wiele silniejsza", Onet, January 27, 2018, <https://wiadomosci.onet.pl/kraj/rex-tillerson-polska-wyjdzie-z-tego-o-wiele-silniejsza/hj2etkj> [accessed: 29.01.2018].

<sup>30</sup> Z. Lewicki, *op. cit.*

beneficial for the United States and the countries from the region. Indeed, in the area of hard security and multilateral cooperation with NATO we surely observe continuity, but it goes beyond the functional dynamic. As already mentioned, the US government is much more open and supportive of the Polish ideas for further rearmament and improvement of its military capacities through the purchase of newest US military equipment. In other words, the US–Polish relations moved from endurance towards development.

In purely economic terms, the energy diversification of CEE opens new perspectives for American companies. The uneasy relations with the western part of the EU and the lack of criticism towards president Trump from its Eastern side increase the political attractiveness of the region. Central European states see the US as a natural and sole ally in their attempts to contain Russian expansion. So far, the dynamics between CEE during the Trump administration proves that there is a substantial intensification of relations with the countries from the region.

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Addendum: The publishing road of this article outlived Trump's term in the White House. Now, four years after its submission, there is no sense to revise its concept and arguments. Today, when looking back at Trump's legacy in the region, and in the eve of the most severe confrontation between Russia and the West since the Cuban Missile Crisis, Trump's legacy in the region endures. The TSI, which was considered by many (including one of the reviewers of this paper) a seasonal initiative endures until today and was endorsed also by Joe Biden's administration. The NATO driven military build up in the region is driven by the need to counterbalance Russia's ambition to modify or destroy the existing international order. Interestingly, in the face of Russia's invasion to Ukraine, also Biden is hesitant to use rule of law considerations in his relations with Warsaw. Hence, as Zbigniew Lewicki pointed out already at the beginning of Trump's term in office, there is a consistent approach towards the region hidden behind the lofty political rhetoric. Since the war in Ukraine, the strongest bond between the United States and CEE remains security considerations.

Today, this article serves more as a modest attempt to capture the Central and Eastern European hopes and concerns related to the early days of the Trump administration than a comprehensive analysis of Trump's presidency. Still, despite the time that passed since its coming into being, I still stand behind my judgements. (Warsaw, 14.02.2022)

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## **From Enduring to Development. Trump’s Foreign Policy and Central and Eastern Europe**

Donald Trump is probably the most controversial American president after the end of the Cold War. Until now, any journalist attempt for analysis of his foreign policy falls in the immediate trap of ideological and emotional bias. The aim of this paper is to avoid (as much as it is possible) this trap and to focus on the nature and essence of Trump’s administration foreign policy towards the countries of Central and Eastern Europe. The paper conducts qualitative and comparative analysis of the Barack Obama and Donald Trump administrations towards the region in pursuit of the elements of change and continuity between the two administrations. Based on the research findings the author argues that during the Trump administration the region plays more important role in the American Foreign Policy.

**Key words:** Central Europe, Donald Trump, American Foreign Policy, Central and Eastern Europe, Change, Continuity

## **Od trwania do rozwoju. Polityka Donalda Trumpa wobec Europy Środkowo-Wschodniej**

Donald Trump to zapewne najbardziej kontrowersyjny prezydent Stanów Zjednoczonych od końca zimnej wojny. Do tej pory wszelkie próby publicystycznej analizy jego polityki zagranicznej wpadają w pułapkę ideologicznego i emocjonalnego subiektywizmu. Celem artykułu jest uniknięcie (na tyle, na ile jest to możliwe) tej pułapki i skoncentrowanie się na istocie polityki zagranicznej Trumpa wobec państw Europy Środkowo-Wschodniej. Artykuł oparty jest na jakościowej i porównawczej analizie polityki administracji Baracka Obamy i Donalda Trumpa wobec tego regionu w poszukiwaniu elementów zmiany i kontynuacji między tymi dwoma administracjami. W oparciu o wyniki badań autor dochodzi do wniosku, że za czasów administracji Trumpa region odgrywa ważniejszą rolę w amerykańskiej polityce zagranicznej.

**Słowa kluczowe:** Europa Środkowa, Donald Trump, amerykańska polityka zagraniczna, Europa Środkowo-Wschodnia, zmiana, ciągłość

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### **THE TRUMP PRESIDENCY, FEDERAL JUDGES, AND AMERICAN LAW**

#### **Introduction**

The election of Donald Trump as US president – a populist-nationalist sharply at odds with elite opinion in the United States – was a shocking event. There were many people (some conservatives, as well as liberals) who believed that Trump was extreme, dangerous, and utterly without the necessary qualities to make an acceptable, much less a good, president. (His election in part reflected that not a few people on the other side viewed Hilary Clinton much the same way, though perhaps with less emphasis on personal psychology.)

This paper will not provide an overall evaluation of President Trump, his person, and his policies. It will focus, rather, on one area of American political life: the judiciary. It will become clear that, in this area at least, Trump is anything but extreme, and that he has, in fact, done an unusually fine job in his selection of judges, with a view to re-orienting constitutional law in important and necessary ways.

#### **The Trump Judicial Selection Process**

The first thing to note about Trump's judicial selection process is that he has relied to a great extent on expert opinion, rather than simply relying on himself.

These experts are not, however, from mainstream law schools and legal scholarship. They are from a group of people who constitute a distinct minority in legal academia, but whose legal qualifications and understanding are excellent.

In particular, President Trump has relied on two groups: the Federalist Society (and especially its Executive Vice President, Leonard Leo) and the Heritage Foundation. They have thoroughly vetted possible candidates for judicial appointments, especially for the most influential courts, the Supreme Court and the Courts of Appeal.<sup>1</sup>

During his presidential campaign, Trump had done something unprecedented: he publicly announced a list of 21 potential Supreme Court nominees (in two stages), and committed himself to choosing one of those names to fill the position left vacant by the death of Justice Antonin Scalia (whom Trump praised as a “great judge”). The list had been compiled by the Federalist Society and Heritage Foundation, and it contained people of undoubtedly high legal qualifications.

Trump’s list was attacked for being “ideological”. This is a key issue. To understand this charge, it is necessary to provide some extensive background about the history of the modern Supreme Court in American politics.

### **A Thumbnail Sketch of Modern Supreme Court History**

From the end of the 19<sup>th</sup> century until 1937, the Supreme Court was dominated by justices committed to the protection of economic and property rights. To achieve this protection the Court gave a broad reading to the Due Process clause – one that went far beyond legal procedure (its original meaning) and focused on the substantive content of the law. The Court frequently held that various forms of state legal regulation of economic matters were “arbitrary” and therefore unconstitutional under the “substantive due process” doctrine.

In 1937, the Court switched its position on economic regulation, and subsequently upheld virtually all regulations of economic affairs for at least the next generation or two. The Court’s new deference, paradoxically, reflected the dominance in legal scholarship and practice of legal realism – the view that judges make law, rather than simply interpreting it. This legal realism, born and nurtured in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, under the guidance of Justice Oliver Wendell Holmes, Jr., held that courts inevitably legislated “in the gaps of the law” and it viewed the evolution of the law, through “judicial statesmanship”, to fit the changing circumstances of new times as both inevitable and desirable.

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<sup>1</sup> L. Bauman, N. Devins, “Federalist Court: How the Federalist Society became the de facto selector of Republican Supreme Court justices”, *Slate*, January 31, 2017, <https://slate.com/news-and-politics/2017/01/how-the-federalist-society-became-the-de-facto-selector-of-republican-supreme-court-justices.html> [accessed: 4.06.2021].

While the Roosevelt Court (Franklin Delano Roosevelt had eight appointments to the Court between 1938 and 1944) undid economic due process and adopted a completely deferential stance on economic regulation, it began to expand Court supervision of laws touching on civil liberties. In the 1940s, the Court expanded its First Amendment jurisprudence, adopting a more separationist position on Church and State, expanding protection of religious minorities and widening the scope of freedom of speech. In the 1950s, the Court decided *Brown v. Board of Education*, which helped to begin the process of undoing legal segregation, especially in the South, and resulted in a significant increase in the Court's prestige and its confidence that it could lead important social reform movements. In the 1960s, the Warren Court engaged in wide-ranging judicial activism, including criminal justice reform, court-mandated reapportionment of federal and state legislative districts, the prohibition of prayer in the public schools, the evisceration of obscenity regulation, and the invention of a new constitutional privacy right.

The 1960s Warren Court decisions led to a political backlash, and Richard Nixon had the opportunity to appoint four Supreme Court justices between 1969 and 1972. These new justices were generally more conservative (especially on the criminal justice decisions Nixon was most interested in), but it did not overturn many Warren Court decisions. Its conservatism was manifested as much in its adherence to precedent as in its frequent refusal to extend the logic of those precedents. At the same time, it was the more "conservative" Burger Court that handed down the notorious abortion decision in *Roe v. Wade* in 1973.

Since the 1970s, Supreme Court jurisprudence has been an eclectic mixture of conservative, liberal, and mixed decisions. It has outraged conservatives by reaffirming the core of the abortion right in 1992 (while allowing some regulation at the margins) in *Planned Parenthood v. Casey*, by imposing gay marriage on the entire country in 2015 in *Obergefell v. Hodges*, by continuing a constitutional ban on school prayers, and by upholding local government power to condemn property and give it to private companies for economic development. It has outraged liberals by reinstating some limits on Congress' powers under the commerce clause in *U.S. v. Lopez* in 1995, by expanding property rights protections under the takings clause, by upholding bans on certain late-term ("partial-birth") abortions, by striking down campaign finance regulations of corporate contributions in *Citizens United v. FEC*, and by striking down certain federal and state gun control laws. The Court has displeased both liberals and conservatives by mixed decisions on racial voting cases, in its affirmative action decisions, and by expansive free speech decisions that limit regulation of both online obscenity and hate speech.

Most political observers look at this pattern (and perhaps lack of a pattern) of cases and see it as confirmation that the Supreme Court is indeed

a political body that advances, within certain political limits, its own conceptions of good public policies.

There is another way of looking at the Court's more recent history, however – one that focuses not on the policy implications of Court decisions, but rather on the conception of constitutional interpretation and judicial review on which justices' decisions are based.

From 1937 on, the Court has been dominated by justices who have reflected the dominant legal realism of the law schools. Even the appointment of more “conservative” justices in the Nixon years made no significant change of this situation. With the possible exception of Justice William H. Rehnquist, the Nixon appointees (Warren E. Burger, Harry A. Blackmun, and Lewis F. Powell Jr.) were not originalists – justices who sought to return to a form of constitutional interpretation that focused on the actual meaning of its provisions, as understood by those who wrote and ratified them, and to a form of judicial review that was limited to striking down acts contrary to the (original public) meaning of the Constitution. They were legal realists who were somewhat more conservative politically, and reluctant to extend activist precedents and reluctant also to overrule them. They were “modern” justices, who were judicially and politically moderate.

The appointment of Justice Antonin Scalia in 1986 by President Ronald Reagan was a major event. That appointment was the result of a significant reform movement in the legal profession: the re-birth of originalism. Reagan's Attorney-General, Edwin Meese, in a series of speeches had called for a “Jurisprudence of Original Intention”.<sup>2</sup> The Federalist Society, established by law students at Chicago, Harvard, and Yale in the early 1980s, became an organizational center for conservative law faculty and students and gave a secure platform to originalist thinkers in the legal community for the first time in generations.<sup>3</sup>

Rather than being another innovative “ism”, originalism was simply a return to the interpretive principles of the common law and early American history.<sup>4</sup> It wasn't so much an “ism” as it was simple, straight-forward

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<sup>2</sup> “A Speech by Attorney General Edwin Meese III before the American Bar Association on July 9, 1985”, [in:] *The Great Debate: Interpreting Our Written Constitution*, The Federalist Society, <https://www.ruleoflawus.info/Constitutional%20Interpretation/Federalist%20Soc.-Great%20Debate-Interpreting%20Our%20Constitution.pdf> [accessed: 4.06.2021].

<sup>3</sup> Justice requires the acknowledgment that a key figure in the resuscitation of originalism in American law was Raoul Berger, whose *Government by Judiciary: the transformation of the Fourteenth Amendment*, Harvard University Press, Cambridge, MA–London 1977, was a strong call for interpretation based on original intent – in this case, the original intent of the framers of the Fourteenth Amendment. Berger's original intent, however, in the opinion of many later originalists, was too grounded in historical research, using sources extrinsic to the constitutional text, into the specific intentions in the minds of those who wrote the document, rather than the text of the document itself.

<sup>4</sup> For a detailed account of the transformation of constitutional interpretation and judicial review in American history, see Ch. Wolfe, *The Rise of Modern Judicial Review: From Judicial*

interpretation of legal documents. The originalist/non-originalist distinction is actually the successor to an earlier distinction in modern legal literature: namely, “interpretivism”/“non-interpretivism”. But originalists rightly rejected the characterization of their position of an “ism”, arguing that what they espoused and practiced was simply interpretation, rather than some other sort of act. (I would characterize the alternative to interpretation as “specification of allegedly vague constitutional generalities”.)

Scalia was the first clear-cut originalist justice on the modern Court (though Justice Rehnquist often, but less consistently, used originalist principles in his jurisprudence). He was followed by others who shared an originalist approach: Justices Clarence Thomas, Samuel A. Alito, and Neil M. Gorsuch. (Chief Justice John G. Roberts is at least sympathetic to originalism in many ways, but his stronger commitment to precedent, to deciding cases on as narrow a ground as possible, and to overarching political considerations seem to limit the applicability of that term to him.) And, as others have noted, Scalia’s emphasis on originalism has had an impact even on the Supreme Court’s non-originalists and legal scholars more generally. The textual original intention of constitutional provisions became a much more central issue to modern Supreme Court constitutional interpretation because of Scalia’s articulate and powerful arguments for its priority.

Against this background, what does it mean when political liberals (e.g., Democrats, or political scientists, who are overwhelmingly politically liberal) argue that conservative (Republican) court appointments are “ideological”? For example, well-known judicial scholars Lawrence Baum and Neal Devins argue that President Barack Obama’s nomination of Merrick Garland “[...] reflects the practice of recent Democratic presidents to balance ideology with other goals by appointing moderate liberals. In sharp contrast, our research shows that Republican presidents over the past 25 years have put ideology first by appointing strong conservatives to the court”.<sup>5</sup>

What does “ideology” mean here? On the one hand it means that Republicans have generally aimed (not always successfully) to appoint justices who are strongly committed to originalism, that is, not legislating from the bench. Republicans have not aimed to appoint “moderates”, that is, judges who only legislate somewhat, or do so in politically moderate ways. They are said to have been ideological, because they have not sought to appoint judges who are willing to bring their political ideology to bear on their judicial

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*Interpretation to Judge-Made Law*, revised and expanded edition, Rowman and Littlefield, Maryland–London 1994.

<sup>5</sup> B. Lawrence, N. Devins, “Ideological Imbalance: Why Democrats usually pick moderate-liberal justices and Republicans usually pick conservative ones”, *Slate*, March 17, 2016, <https://slate.com/news-and-politics/2016/03/democrats-always-pick-moderates-like-merrick-garland.html> [accessed: 4.06.2021].

decision-making. They are ideological, because they have sought to appoint non-ideological judges.

Democrats, on the other hand, are said to have appointed “moderates” such as Ruth Bader Ginsburg, Stephen G. Breyer, Elena Kagan, and Sonia Sotomayor – justices whose votes in controversial cases have been consistently liberal, e.g., pro-gay marriage, pro-abortion, strongly separationist in Church-State issues, pro-campaign finance regulation (which reliably benefits political liberals, especially due to the differential treatment of unions), pro-gun control, and so forth. It is true that Democrats could have appointed judges who were even more liberal and more political, but that doesn’t make the ones they have appointed politically “moderate”.

### **The Contemporary Judicial Selection Process**

What I have described so far makes it clear that the politicization of the judicial selection process is virtually inevitable. If many judges rather self-consciously view themselves (and others view them) as having the legitimate authority to determine significant swaths of public policy, then it is only natural that their selection will occasion political divisions.

#### ***Supreme Court Nominations***

In the modern era, the first major political battle over Supreme Court nominations came in the late 1960s, when Chief Justice Earl Warren retired and President Lyndon Johnson nominated Abe Fortas to be his successor. Fortas had been an active member of the Warren Court’s liberal activist majority for several years and had been a political advisor to President Johnson. The end of the decade saw a political backlash against the Warren Court, and Republicans made the Fortas nomination an occasion to attack some of the Warren Court’s decisions. Moreover, as is typical, a presidential judicial nomination in the last year of a president’s final term faces an uphill struggle in the light of the opposition’s hope to win the next presidential election and obtain that Court appointment for itself. Republicans filibustered the nomination successfully, in part because of some questions about the ethical propriety of some of Fortas’ financial activity. (Similar questions the following year led him to resign from the Court.)

Democrats got some payback when they rejected Richard Nixon’s nominations of G. Harrold Carswell and Clement Haynsworth, Jr. (for Justice Fortas’ seat) in 1970, before the appointment of Justice Harry A. Blackmun (who was initially conservative in various ways, but eventually joined the Court’s liberal wing).



But the event that transformed the modern Supreme Court nomination process was the battle over Judge Robert Bork's nomination by President Reagan in 1987. Bork was a leading conservative legal scholar and an originalist, and it was recognized on both sides that his nomination could have great impact on the Court (at that time dominated by swing-vote justices who were political moderates on many issues, but still committed to a non-originalist approach to constitutional adjudication). Democrats had recently taken control of the Senate and a sophisticated and powerful campaign against Bork was organized by a variety of political groups. In the end, due especially to an article he had written much earlier that was critical of the Civil Rights Act of 1964 on constitutional grounds (which mobilized black southern voters to put pressure on Southern Democrat Senators), Bork's nomination was defeated. This was a turning point, as it turned out, in the history of the modern Court, since Justice Anthony M. Kennedy, nominated in the wake of Bork's defeat, went on to become a non-originalist swing vote that preserved many important liberal Court decisions (most notably, *Roe v. Wade*, the abortion decision) and authored new ones (e.g., in the area of gay rights).

Justice Clarence Thomas' nomination to the Supreme Court in 1991 was similarly controversial from the start, perhaps especially because Thomas was a black conservative who was sceptical of affirmation action and other liberal jurisprudence. But the nomination debate reached a new level of acrimony when leaking of an FBI interview led to public allegations of sexual harassment by a former staff person, Anita Hill, which Thomas vociferously denied. After a bitter debate, Thomas was narrowly confirmed by the Senate.

Subsequent judicial confirmations (Ginsburg, Breyer, Roberts, Alito, Sotomayor, Kagan, and Gorsuch) have not been as heated, but there has been frequent strong opposition, and often high numbers of dissenting votes (e.g., the vote on Trump's nomination of Neil M. Gorsuch was 54–45). In addition, the Republican-controlled Senate simply refused to act on President Obama's nomination of Merrick Garland, in view of the impending presidential election and its hope (which was realized) to reserve the nomination for a new Republican president, who turned out to be Donald Trump.

### *Lower Court Nominations*

Presidential nominations to lower federal courts are complicated by the historical practice of "Senatorial courtesy" and by modern "blue slip" policies.

Under Senatorial courtesy, the Senate has traditionally voted against any presidential judicial nomination for a district court position that is declared "personally obnoxious" by a Senator of the president's party for that state. The willingness of the Senate to do this effectively gave each Senator (of the president's party) control over judicial appointments to district courts in his state. This was described by one Attorney-General (Robert F. Kennedy) as effectively creating

a reverse appointment process: Senatorial appointment with the advice and consent of the President.<sup>6</sup>

But the blue slip policy of the modern Senate has been even more consequential, because it is not limited to senators of the president's own party. The history of the practice is somewhat complicated, because it has changed over time, being modified by the chair of the Senate Judiciary Committee at the beginning of each session of Congress. But, in general, it states that the Committee usually will not go forward with a presidential nomination unless the Senators from the state for which the appointment is made return "blue slips" that are sent to them regarding the appointment. Different factors in application of the policy have included whether the president has consulted (seriously) with the senators involved before the appointment, whether both senators or only one senator from the state has failed to return a blue slip, and whether the absence of a returned blue slip is conclusive or only one factor to be considered by the chair in taking action on the nomination.<sup>7</sup>

In addition to Senatorial courtesy and the blue slip policy (in its various forms), judicial nominations have been greatly influenced by the Senatorial filibuster. This practice stems from the Senate's original policy of "unlimited debate". At one time, members of the Senate could prevent a vote on a matter simply by continuing to debate it indefinitely. In 1917, this practice was modified to permit a "cloture" vote to end debate. The requirement for cloture over time have been modified, and now is set at 60 votes. Even when a cloture vote passes, however, there are ways to draw out the debate and delay the vote.

In 2013, Senate Democrats, under the leadership of Harry Reid, passed a motion (often referred to as "the nuclear option") whose practical effect was to end the filibuster for lower court nominations. And in 2017, when Neil M. Gorsuch's nomination to the Supreme Court was filibustered by Democrats, Republicans likewise invoked the nuclear option to eliminate filibusters for Supreme Court nominations. But, again, it is necessary to remember that, even with the elimination of the filibuster as a weapon to kill nominations, the rules regarding post-cloture debate (which can continue for 30 hours) still make it possible to delay the pace of confirmations significantly.

## **The Trump Judges (So Far)**

Trump's nominations of federal judges have to be considered by looking at the three different levels of federal judges.

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<sup>6</sup> D.M. O'Brien, *Storm Center: The Supreme Court in American Politics*, 8<sup>th</sup> ed., W.W. Norton, New York 2008, p. 40.

<sup>7</sup> M.A. Sollenberger, "CSR Report for Congress: The History of the Blue Slip in the Senate Committee on the Judiciary, 1917-Present", updated October 22, 2003, <https://sgp.fas.org/crs/misc/RL32013.pdf> [accessed: 4.06.2021].

### *The Supreme Court*

Trump has had two Supreme Court nominations. Neil M. Gorsuch was successfully confirmed for the first position, Brett M. Kavanaugh for the second one. The campaign to get Gorsuch's nomination through the Senate was well-run and successful. Due to the Democrat filibuster against the nomination, however, Republicans followed the lead of Harry Reid, who (as discussed above) had employed the nuclear option to eliminate filibusters for lower court federal nominations, and they eliminated the filibuster for Supreme Court nominations as well. That Democrats were so opposed to Trump's nominee was not surprising. Gorsuch is very much in the mold of the late Antonin Scalia, whom he replaced on the Court, and Democrats are deeply opposed to originalist judges, largely because of their refusal to produce activist decisions Democrats would like to see. Kavanaugh's nomination faced the same intense political opposition from Democrats, but was eventually successful.

### *The Courts of Appeals*

At the Court of Appeals level (on which there are 179 judges, not including judges on senior status who are still working), Trump has had 22 nominations confirmed (approximately 12% of the total number of Court of Appeals judges). There are now 22 vacancies (14 current and 8 known future vacancies), for 12 of which Trump has nominated someone.<sup>8</sup> The confirmation process has moved very slowly, due to the effect of the blue slip policy (especially for nominees from states with Democrat senators) and routine use of the full post-cloture debate time of 30 hours by Democrats.

At the district court level (on which there are 677 judges, not counting judges on senior status), Trump has had much less success so far. He has had 20 nominations confirmed (less than 3% of federal district court judges). There are now 152 vacancies (129 current and 23 future), for 76 of which Trump has made nominations. Again, the confirmation process is moving very slowly, due to the higher priority accorded Court of Appeals nominations and due to the Democratic senators' use of the blue slip policy and routine filibusters with full post-cloture debate.

Trump has only been in office about 17 months, and so there is still considerable time left in his term, and he will have a greater impact on the courts than he has had at this point. How much is the question.

(After this article was originally written, Trump had many other opportunities to fill judicial appointments. For the US Supreme Court, he also successfully

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<sup>8</sup> United States Courts, Current Judicial Vacancies, <http://www.uscourts.gov/judges-judgeships/judicial-vacancies/current-judicial-vacancies>, and Future Judicial Vacancies, <http://www.uscourts.gov/judges-judgeships/judicial-vacancies/future-judicial-vacancies> [accessed: 14.07.2018].

appointed Amy Coney Barrett. He finished by appointing 54 members of the federal Courts of Appeal and 174 district court judges.)

### **Future Prospects**

Trump's judicial nominations will certainly transform the federal courts, especially due to his appointment of two Supreme Court justices, Neil M. Gorsuch and Brett M. Kavanaugh, (and, eventually a third, Amy Coney Barrett) and due to his appointment of a significant number of Appeals Court judges. How radical the transformation is will be determined by: first, the death or retirement of other Supreme Court justices, second, the future political complexion of the Senate, and third, whether Trump wins reelection in 2020.

First, Justice Anthony M. Kennedy's retirement was a very fortunate event for Trump, because of the possible future of the Senate (see below). Justice Ginsburg is 85 and has had health problems in the past – she will surely hang on as long as she can, to avoid giving Trump another nomination to the Court. (As Justice Thurgood Marshall said, during a Republican presidency, when he was asked whether he had any plans to retire, "I plan to serve out my term" – i.e., life.) Justice Breyer is 79, and Chief Justice Roberts is younger, but has had health problems in the past, but neither seems likely to leave soon. (Eventually, Justice Ginsburg did pass away, and this gave Trump the opportunity to appoint Amy Coney Barrett.)

Second, what will happen in the 2018 elections, especially for the Senate? The Republicans currently hold a narrow 51–49 edge in the Senate (with a few Republicans who are less reliably conservative and are by no means "automatic" votes for a Republican president's court nominees; and with Senator John McCain not in Washington, due to brain cancer).

The landscape of the Senate elections in November, 2018 seems, on its face, to favor the Republicans: there are 35 elections, and 26 of them are currently Democrat seats (including two independents who caucus with the Democrats), 10 of which are in states carried by Trump in the 2016 election. (There are only nine currently Republican seats and only one of those is in a state won by Hillary Clinton.) But 2018 is an off-year election and the president's party usually does poorly in such elections. And Trump's current popularity ratings are unusually low for a first-term president.

On the one hand, should the Democrats pick up two Senate seats, the entire nomination process would change dramatically. With Democrats controlling the Senate Judiciary Committee, it would probably slow down even further the already very slow pace of the confirmation process for judges. And a Democrat chair of that committee might apply the blue slip policy in ways that prevent committee consideration of more nominees, and a Democrat Senate

Majority Leader would likely slow down floor action on judicial nominations. And, most important, any Supreme Court nomination would likely not be acted on in 2019, unless Trump were to choose a person unusually acceptable to Democrats (unlikely), and a vacancy in 2020 would almost certainly not be acted on at all (just as Republicans refused to act on Merrick Garland's nomination in President Obama's last year in office). These results of Democrat control of the Senate would minimize the likelihood of Trump nominations transforming the judiciary.

On the other hand, if Republicans hold the Senate in 2018, and especially if Trump wins re-election in 2020 (and Republicans keep the Senate – though that is a year when Republicans will have 22 currently Republican seats at stake, while Democrats will only have 11), the likelihood of an even more profound transformation of the US judiciary is great.

(As it turned out, in 2018 the Republicans did retain control of the Senate, which is key, in light of Justice Ginsburg's subsequent death and Trump's appointment of her successor, Justice Barrett. But Trump lost the election of 2020.)

### **Implications of Trump Nominations for Judicial Review**

The first thing that needs to be emphasized is the enormous importance of Trump because he is not Hillary Clinton. A Clinton victory in the 2016 election would likely have led to a dramatic shift of the Supreme Court, and to a new round of judicial activism similar to the Warren Court activism of the 1960s. The replacement of Justice Scalia by a Democrat appointment, who would almost certainly have had a more liberal activist vision of judicial power, would have swung the balance of the Court toward such a vision. The implications of that would have been extraordinary, including dramatic reversals of important Supreme Court precedents in many areas – precedents that have served as a limit on judicial intervention into many public policy issues. So, irrespective of Trump's own nominations, at least in the short run, Trump's election had profound consequences for American constitutional jurisprudence.

It is unsurprising that Trump's judicial nominations have been condemned by his opponents (political and academic) as ideological appointments. If "ideological" means a commitment to judging without respect to political ideology, on the basis of the law's original public understanding (as it does in this somewhat Alice-in-Wonderland world we live in<sup>9</sup>), then Trump's appointments have indeed been ideological – because, with the assistance of the Federalist Society

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<sup>9</sup> "When I use a word," Humpty Dumpty said in rather a scornful tone, "it means just what I choose it to mean — neither more nor less."

"The question is," said Alice, "whether you can make words mean so many different things."

"The question is," said Humpty Dumpty, "which is to be master — that's all."

and Heritage Foundation, Trump's appointments have been strongly originalist, which is to say, non-ideological.

Of course, another Supreme Court nomination would be the most important opportunity for the president, since the Court typically has the final say on constitutional questions. Trump's two appointments to the Supreme Court (assuming the Senate confirmation of Kavanaugh or someone similar to him), brings about a great change in the Court. The swing vote in the middle of the Court changes from Anthony M. Kennedy to Chief Justice John G. Roberts, which is a significant shift to the right – that is to say (in today's situation), a jurisprudence more closely tied to some form of originalism. But the impact will still be limited by the Chief Justice's strong preference for relatively narrow decisions. For example, he will be much more likely to write opinions narrowing *Roe v. Wade* rather than overruling it. (The eventual appointment of Justice Amy Coney Barrett was even more significant, since the swing vote on the Court is now someone more originalist than Chief Justice Roberts – there is a fairly solid majority of originalists on the Court after her appointment.)

If Trump were to get another nomination to the Supreme Court (replacing a more liberal justice), that would be transformational (assuming that Trump were to continue to follow his current policy regarding judicial nominations). Under those circumstances, the Court could have a genuine originalist majority for the first time since the 19<sup>th</sup> century. The key question would be the attitude of these originalists toward precedent. This is an issue on which Justices Scalia and Thomas sometimes parted company, with Justice Thomas giving much less weight to precedent than Justice Scalia. It is not easy to anticipate exactly how much a Court majority composed of Justices Thomas, Alito, Gorsuch, and Kavanaugh with one other Trump appointment (and with Chief Justice Roberts sometimes joining them), would be willing to uproot earlier Court precedents. Were they willing to do so, this would likely lead to significant shifts in Court doctrine on a variety of issues, including, for example, abortion rights, gay marriage, and the First Amendment Establishment Clause.

Lower court nominations, while not as important as the Supreme Court, are also very important. Many lower court decisions, after all, are never reviewed by the Supreme Court. And Courts of Appeals, in particular, hand down rulings covering significant parts of the country, and these courts are often the place to which presidents look for Supreme Court nominees.

### **Lessons for Poland?**

The conflict over judges in Poland for the last several years has been an international news story. Unfortunately, the news coverage has been distressingly poor.

On the one hand, there is the portrayal that comes largely through the prism of the EU elites that are very hostile to actions in Poland regarding judges. There is a great deal of talk about the “rule of law” and “judicial independence”. EU elites show striking similarities to American Progressivists (e.g., Woodrow Wilson), who view government as a largely technocratic undertaking best controlled by experts (namely, themselves<sup>10</sup>). But there is no apparent willingness to admit that the scope of legitimate judicial power – and how to enforce limits – might even be a legitimate question. The experience of the United States shows, in my opinion, that “judicial independence” is an equivocal term: it could mean a legitimate right of judges to decide cases according to law or it could mean an illegitimate power of judges to make the law themselves.

On the other hand, the Law and Justice Party in Poland, whose moves regarding judges on the Constitutional Court have created such controversy, has claimed the right of the current Parliamentary majority to control the appointment of judges, in the face of fears about potential obstruction of its program, invalidating judicial appointments by the previous government. And, in addition, it has taken steps to assert government regulation of the media and public gatherings that have spurred serious opposition. In ways that seem to me quite like some of the Trump administration’s actions (e.g., its initial immigration ban on people from certain countries), some of its actions seem not to have been thought out or promulgated carefully.<sup>11</sup>

While a concern about judicial obstruction of legislation, based not on clear constitutional commands but rather the judges’ broad policy views, is reasonable, one must ask whether direct measures to control judicial appointments is a prudent response. In this respect, one might recall an event in early American history, when President Thomas Jefferson, upset at the packing of the judiciary by the Federalist Party just before it left office in 1801, ultimately induced his allies in Congress to begin impeachment proceedings against Supreme Court Justice Samuel Chase. Although the House impeached him, the

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<sup>10</sup> “Nowadays, when people say Europe, they do not mean Sophocles, or Descartes, or Bach, or Roman law”, Mr. Ryszard Legutko said in a telephone interview. “What they mean is a very particular set of institutions,” a self-perpetuating alphabet soup of bodies “more experienced in social engineering” than groundbreaking thoughts. Legutko, a member of the European Parliament and also the Law and Justice Party, as quoted in the A. Smale, “‘We Don’t Need to Be Alone’: A Political Shift Has Poland Assessing Its Values”, *New York Times*, August 10, 2016, <https://www.nytimes.com/2016/08/11/world/europe/poland-debate-values.html> [accessed: 4.06.2021].

<sup>11</sup> For example, “under [a] bill passed in early December [2016] by the lower house of Parliament, applicants could reserve a specific site for regular gatherings for up to three years while any counter-demonstrations had to be kept 100 meters away. In addition, government and church organizations were to be given priority for the use of any site”. Only after protests at home and abroad was the measure amended by removing the provision giving the government and the Catholic Church priority at any protest site. R. Lyman, J. Berendt, “Protests Erupt in Poland Over New Law on Public Gatherings”, *The New York Times*, December 13, 2016, <https://www.nytimes.com/2016/12/13/world/europe/poland-protests.html> [accessed: 4.06.2021].

Senate – controlled by members of Jefferson’s Republican Party – balked at convicting him in the subsequent impeachment trial. The reason was not any sympathy for Chase himself (a rabid Federalist) but a fear that using impeachment for this purpose would set a precedent that would permanently and fatally undermine the legitimate independence of the judiciary. That example of resisting short-term (and even somewhat understandable) political passions, subordinating them to long-term, overarching considerations of principle, strikes me as an admirable example. (And the Republicans were, over time, able to moderate the judiciary through the appointment process.) Defensible ends don’t always justify un-nuanced means.

## Conclusion

The larger problem (both in the US and in Poland) is not the short-term question of judicial appointments, in my opinion. The key question is how to change the legal culture to establish norms of judicial action that confine the judges to judicial action, rather than permitting them to become actively involved in political or policymaking decisions. There are no easy answers to this question, I think, because the formation of that legal culture is dominated by legal elites, and re-establishing a legal culture that confines judicial powers is an example of asking a class of human beings to curtail their own powers. And, as the founders of American government rightly understood, that is no small task.

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## The Trump Presidency, Federal Judges, and American Law

President Donald Trump’s appointments to the US federal judiciary were a major accomplishment of his presidency (in particular, his three Supreme Court appointments). They are likely to have a significant impact on American political and legal life for a long time to come. The appointments have been criticized by some, on ideological grounds, but they represent a significant and beneficial return to the original understanding in American constitutionalism of the proper role of judges and judicial review.

**Key words:** Trump, judicial appointments, originalism, ideological criticism

## Prezydentura Trumpa, sędziowie federalni i prawo amerykańskie

Nominacje sędziów federalnych dokonane przez prezydenta Donalda Trumpa były ważnym osiągnięciem jego prezydentury (w szczególności chodzi o trzy nominacje sędziów Sądu Najwyższego). Będą one miały znaczący wpływ na amerykańską rzeczywistość polityczną i prawną na długo. Nominacje te bywają krytykowane z pozycji ideologicznych, ale reprezentują znaczący i pozytywny powrót do oryginalnego rozumienia w amerykańskim konstytucjonalizmie właściwej roli sędziów i sądowej kontroli działalności agencji administracyjnych.

**Słowa kluczowe:** Trump, intencje twórców konstytucji, nominacje sędziowskie, krytyka ideologiczna



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### **TRUMP AND THE CONSERVATIVE MOVEMENT**

#### **Introduction**

Trump's victory in 2016 shocked the liberal elites. But it constituted also disoriented the republican elites. Both were already by the time of his victory in a kind of informal alliance being part of the ruling class with global consciousness battling each other in fact on the margins of real political issues. Although the Republican Party is not tantamount to the conservative movement, the latter is in general today part of the Republican camp. For the Republican Party trying to select a challenger to the post-Obama democratic opponent, Trump's rise despite its adamant sabotage by the majority of its establishment was especially bitter. It had to confront the truth that their traditional voters were not with them but with a maverick usurper who decided "to run on the Republican ticket". They realized that Trump knew something about America they did not know locked in their insular, increasingly oligarchical world and politics as usual. The Republican establishment realized that in a deeply polarized America winning an election required a coalition with a different platform responding to the global contest which the United States was losing. In relation to this immediate political problem within the Republican establishment Trump's victory also constituted a challenge to the American conservative movement. This movement, deeply heterogeneous and divided against itself till today has always had

a complicated relationship to the Party. Not only in terms of tactics but also strategic aims. But Trump's spectacular rise forced the movement once again to confront some of its basic assumptions about what it was and what should be the conservative movement in America, including an immediate problem how to respond to Trump himself and his program.

### **Introductory remarks**

The modern American conservative movement emerging after the World War II became a powerful and important part of the Republican Party's electoral coalition in the 60's. At the beginning it was formed in opposition to the overtly interventionist and powerful rise of the government since the New Deal. But it crystallized in the 70's when the Democratic Party's electoral coalition formed during the New Deal was shattered and the Party adopted a radical "emancipatory" program of the countercultural revolution of 1968 and moved from traditional American individualistic understanding of liberalism into its new form of identity liberalism. It was then that a large part of the Party's traditional working class base moved to a new Republican conservative coalition organized politically by Ronald Reagan, president from 1981–1989, and forming its important part. This new conservative movement was organized intellectually in the fifties by the conservative milieu formed around the *National Review* magazine founded by William F. Buckley Jr. in 1955. But from the beginning it consisted of many different axiological currents, often contradicting each other and politically difficult to organize. The conservative camp since then has always been perceived as a huge, unruly archipelago of movements and ideas sometimes living separate to each other, sometimes fighting each other but rarely being animated by a common unifying idea. In a negative sense the enemy of the conservative movement in America has always been progressive ideology and politics animated by it, especially its reformulation in the wake of the 60's of traditional liberalism into identity liberalism. But different aspects of progressive ideology and politics have been important for different currents of the conservative movements in rapidly changing America. Tactics with whom and on what terms different alliances were to be formed also varied. Thus, libertarians and free market conservatives have always had a very uneasy relationship with the cultural or religious conservatives. Today the working class forms in substantial numbers part of the conservative coalition battling globalism. They fight not only with the liberal-left progressives but also with the libertarians of the Right not only because of their economic policies but also because of their countercultural, radical emancipatory ideologies devastating their communities.

All currents of the conservative movement have always had a complicated and stormy relationship with the Republican Party which has many times

disregarded conservative causes, although not necessarily all of them at the very same time. The Party – as all political parties – has always been tempted to become a typical party of power politics alienating itself from large sections of its natural conservative base. Therefore, to create one viable political block capable of winning elections has always been a difficult, if not a herculean task. Ronald Reagan managed to do this masterfully organizing and leading to political victory diverse branches of the conservative coalition under a unifying common denominator of anticommunism, the glue holding the conservative movement together.<sup>1</sup> But a definition what was conservatism after President Ronald Reagan left the office in 1989 and the Soviet Union collapsed in 1990 has slowly become unclear and eventually the coalition collapsed. This was so because new problems to which conservatives had to respond such as recession, loss of jobs in the manufacturing sector, challenge of Islam, liberal-left culture war and war on America's heritage either did not exist then or their intensity was rather low. Conservative intellectuals may be faithful to Reagan's legacy and his policies, but conservative voters have been escaping from the camp for a long time. When Trump appeared, a candidate so radically different from any conventional American politics, it seemed unlikely that such a candidate in almost every respect different from what the conservative orthodoxy of any persuasion believed in would capture the conservative imagination, let alone the vote. His personal history challenged anything cultural or religious conservative held true while his political pronouncements challenged all pieties which the conservative opponents of Trump defended in public debates.<sup>2</sup>

Nevertheless, conservative voters finally went with Trump, testifying to the fact that the conservative movement rebelled against the Republican Party establishment which after such a humiliation found itself conceptually and politically in disarray, trying again to come out with a unifying formula to win conservative voters back. Trump was not the most appealing face of conservatism, even after a large part of the conservatives sided with him and even if he was defined that way by his liberal-left opponents who wanted to pin his vices to the movement

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<sup>1</sup> See a comprehensive analysis of this development: A. Bryk, "Konserwatyzm amerykański od Ronalda Reagana do rewolucji Obamy", [in:] *Ronald Reagan: nowa odsłona w 100-lecie urodzin*, ed. P. Musiewicz, Ośrodek Myśli Politycznej, Kraków 2011, pp. 191–319; N. Bjerre-Poulsen, *Right Face: Organizing the American Conservative Movement 1945–65*, Museum Tusulanum Press, Copenhagen 2002; also an excellent book by J. Micklethwait, A. Wooldridge, *The Right Nation: Conservative Power in America*, Penguin Press, New York 2004; G. Hodgson, *The World Turned Right Side Up: A History of Conservative Ascendancy in America*, Houghton Mifflin, Boston–New York 1996; a classical G.H. Nash, *The Conservative Intellectual Movement in America since 1945*, 30<sup>th</sup> anniversary edition, ISI Books, Wilmington, DE 2006.

<sup>2</sup> For instance, Jeb Bush represented a classical Republican establishment, Marco Rubio the newest version of the worn out neoconservative perspective, Rand Paul was a classical libertarian talking endlessly about markets and taxes, while Ted Cruz, being the most orthodox conservative seemed to be too politically timid to challenge the new problems of America considered by the establishment to be nonexistent and when touched upon as reactionary.

itself. But Trump's showmanship did not differ much from other politicians in this media saturated age. His personality cult on the part of his followers was just a consequence of his ability to use his showmanship to define a clear alternative to the elite consensus of both parties, the consensus in favor of global liberalism which has taken over American political establishment, the media and intellectual elites since the fall of communism in 1991. He favored economic nationalism and nationalism in general, or to put it another way economic and international Westphalian approach. In the United States history that tradition has been visible incessantly till today as far as the Republican Party policy was concerned and a success of this approach created for America a comfortable geopolitical situation and the rules of the global game. This global game began at a certain point to be no longer favoring the United States and the dream of the universal liberal order created by it turned out to be chimera. The American interests were at stake, and they coincided with the interests of a large part of the Trump voters who expected to stand up for them. But this was not an aberration or "turning the clock back" as Trump's detractors defined such a change, because this was "a return, in however haphazard a fashion, to the policy orientation that once really did make America great and the GOP grand".<sup>3</sup>

### **American conservatism from George H.W. Bush to Donald Trump**

From the time of Ronald Reagan's presidency (1981–1989) until Trump the conservative movement passed through two phases. The first one was a time when Reagan's legacy took the place of irrelevant after the fall of the Soviet Union anticommunism. But that proved to be a short lived phenomenon even if politically this stance carried the movement to successive presidencies of both George H.W. Bush (1989–1993) and George W. Bush (2001–2009) as well as congressional Republican victories. But when the memory of communism receded and new generations not remembering it were born the conservative political movement began to unravel with its three major parts that is libertarians, religious conservatives and especially neoconservatives going their separate ways. In the meantime, cultural climate in America, especially in the media and university circles began to change becoming more radically "progressive" and this ideological offensive did not much concern the Republican Party, which began to be the party of the establishment. It left in general the negative economic consequences of globalism to its own logic not realizing how the Republican elites began to lose part of their traditional working class and parts of the middle class. The Tea Party movement was the first serious harbinger of trouble for the Republican elites perceived increasingly as an oligarchical cartel in alliance with its equivalent in the Democratic Party. In the meantime, the media and the university circles began to

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<sup>3</sup> D. McCarthy, "A New Conservative Agenda", *First Things*, March 2019, pp. 19–20.

be taken over by the neo-Marxist ideologies, including its American variant, the critical race theory, while socialist ideas began to prepare a stage for questioning the very essence of the American political system.<sup>4</sup> Nevertheless, despite all such new developments and challenges to a cohesion of the conservative movement, officially all its currents stood behind the Republican Party during elections, especially presidential ones. For this reason, Reagan's legacy, interpreted in different, sometimes very bizarre forms prevented the "conservative crackup" incessantly possible taking into consideration festering conflicts between different currents of the conservative coalition. Reagan's legacy was constantly invoked although political programs put forth by the Republican presidential candidates contained little substance let alone real Reagan's ideas, while the conservative movement could not find any unifying intellectual formula. Its different parts trying to do this showed constant inconsistencies, policy reversals and deviations from "true" conservative movement which could not be properly defined. But this was not in fact a new situation. Reagan's legacy kept the movement together mainly by the fact that he was spectacularly successful only in one field of foreign policy, ending the Cold War.<sup>5</sup> But there was a strong dissent and conflict within the Reagan camp both during his presidency and long after the end of his presidency.<sup>6</sup> A sense of uneasiness that the movement was sputtering and going nowhere was very much visible already at a time of Reagan's death.<sup>7</sup> Different currents of the conservative movements during his times were also blind to the fact that he himself despite everything which was expected from him by people who wanted their hopes realized was, apart from his anticommunism, more rhetorical than ideological conservative. He was resembling a traditional American pragmatic conservatism, "to get things done". Consistency in politics, as Winston Churchill famously explained in his classical essay in 1932 is rarely a virtue, and policy reversals are often not only justified but even necessary if a rule *rebus sic stantibus* requires flexibility in pursuance of "the same dominating purpose".<sup>8</sup>

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<sup>4</sup> Bernie Sander's presidential campaigns, very popular among the Democratic electorate in 2016 and 2020 or nomination of Kamala Harris to a post of vice-presidency by Joe Biden in 2020 testified to this shift.

<sup>5</sup> A history of Reagan's conservative legacy written from the liberal side, conceding yet the Reagan's defeat of communism is given a comprehensive treatment in, for instance, S. Wilentz, *The Age of Reagan. A History, 1974–2008*, Harper Collins, New York 2008.

<sup>6</sup> From the libertarian, economic side a good account was done by M.D. Tanner, *Leviathan on the Right: How Big-Government Conservatism Brought Down the Republican Revolution*, Cato Institute, Washington, D.C. 2007, esp. pp. 19–60, 77–98, 229–234; from the religious conservative point of view see: R.A. Viguerie, *Conservatives Betrayed: How George W. Bush and Other Big Government Republicans Hijacked the Conservative Cause*, Bonus Books, Los Angeles [cop. 2006], esp. pp. 101–114.

<sup>7</sup> See a good account of this mood the entire number of *National Review*, June 28, 2004.

<sup>8</sup> W.S. Churchill, *Consistency in Politics*, [1932], <https://archive.org/details/W.S.ChurchillConsistencyInPolitics1932> [accessed: 8.06.2021].

This observation fit Reagan's policies perfectly, if we define his "dominating purpose" as a defeat of communism, "we win, they lose".

### **Fragmentation of conservative movement after the end of the Cold War**

One could not say that this crisis of the Reagan's legacy was not recognized by many within the conservative camp. Efforts to give this legacy more intellectual credibility in the new, rapidly changing conditions were visible long before Trump. Attempts to create a viable common conservative unifying idea were of course taken up. One of the most curious was a coalition of the pro-life movement with the neoconservatives who treated Islamic terrorism as a new threat to America. This seemed bizarre but somehow the Islamic terrorism began to function as a new equivalent of the once existing anti-communism. This adventurous foreign policy was risky because many conservatives could credibly claim that this equivalent was weak and in fact compromised by too many narrow lobbying interests, especially Jewish neoconservative lobby, far away from truly conservative cultural and religious concerns which once could be accommodated within the anticommunist camp. The enemy then was truly totalitarian and strong, the new one was in fact marginal, subject more to police operations than huge global conflict. Of course, the opponents of abortion or euthanasia could say that there are truths about human life and dignity which had to be defended at all costs in internal politics while the opponents of "Islamofascism" claimed that sharia law and terror were opposite to human life and dignity in international context. They formed as time showed a very tenuous alliance. International politics turned out to be much more complicated. But the alliance showed a deep desire to find a common cause again and revive the spirit and exhilaration of the Reagan years in an entirely new context. This was in fact

[...] the shotgun marriage of ex-socialists and modern puritans, the cynical political joining of imperial adventurers with reactionary Catholics and backwoods Evangelicals. These facts still remain: The sense of national purpose regained by forceful response to the attacks of September 11 could help summon the will to halt the slaughter of a million unborn children a year. And the energy of the pro-life fight "the fundamental moral cause of our time" may revitalize belief in the great American experiment.<sup>9</sup>

This new alliance had its own not so much edifying spectacles and soon turned out to be shaky and short-lived. What was left as Joseph Bottum observed already in 2005 was a worn out mosaic of different conservative factions fighting each other in search of a unifying idea. This was nothing new since

one of the least edifying spectacles in American conservatism over the years has been the apparent determination, among later converts, to disparage earlier converts. [...] It seems

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<sup>9</sup> J. Bottum, "The New Fusionism", *First Things*, June/July 2005, p. 36.



necessary to nearly everyone on the Right to find a more Rightist group *against* which to set themselves. If “No Enemies on the Left” is more or less the motto of liberals in America, “Only Enemies to the Right” seems to be the motto of conservatives.<sup>10</sup>

All unifying efforts turned out to be sterile, without any visible consequences.<sup>11</sup> Some more promising experiments in rejuvenation of the conservative movement were of course taken up. George W. Bush’s presidency brought his idea of “compassionate conservatism” policy.<sup>12</sup> But the idea did not inspire much following. A challenge from a rather unexpected direction after Bush came again in 2008 when Sarah Palin got vice-presidential nomination on the John McCain’s Republican ticket and the Tea Party movement, at the surface conservative-libertarian, exploded in 2009. Both Palin and the Tea Party movement constituted the first “populist” challenge on the part of the Republican electorate to the economic consequences of globalization uniting cultural conservatives and libertarians together. Despite being harbingers of a new unifying idea both movements were not properly defined and organized. Some Republican politicians began also to organize themselves around the idea of “constitutional conservatism” showing how perversions of the Constitution by courts’ loose interpretations, activities of administrative agencies without any oversight and executive mistakes began to create oligarchical pathologies, including the financial crisis giving rise to the Tea Party movement. But this narrowly tailored “constitutional conservative” movement also did not succeed.

As Bottum wrote all historical camps of the conservative movement from the 50’s and 60’s thought to be once more or less cohesive now lost their clear definition and were drifting with numerous currents and cross currents battling each other. Thus,

[...] it must seem as though there are more ways to sort conservatives in America than there are actual conservatives to be sorted. And what about the issues for which these different conservatives care? [From] [a]bortion [and] [...] homosexual marriage, [to] the creation of democracies in the Middle East [...] [it goes] on and on. They bear no more than the vaguest family resemblance [...]. Back during the Cold War, conservatives could all be counted upon at least to share an opposition to communism, while various writers [...] sought something resembling a unifying theory through the rich pages of Adam Smith’s economics and the deep prose of Edmund Burke’s traditionalism.<sup>13</sup>

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<sup>10</sup> *Ibidem*, p. 34.

<sup>11</sup> See *Crisis of Conservatism? The Republican Party, the Conservative Movement and American Politics after Bush*, eds. J.D. Aberbach, G. Peele, Oxford University Press, New York 2011, esp. pp. 3–14, 259–278, 379–390.

<sup>12</sup> See on this especially: M. Olasky, *Compassionate Conservatism: What It Is, What It Does, and How It Can Transform America*, foreword by G.W. Bush, Free Press, New York 2000, and A.C. Brooks, *Who Really Cares: The Surprising Truth About Compassionate Conservatism. America’s Charity Divide – Who Gives, Who Doesn’t, and Why It Matters*, Hachette, United Kingdom 2007.

<sup>13</sup> J. Bottum, *op. cit.*, p. 32.

But it was visible, noticed Bottum, that nothing of that old intellectual viability remained and no single common theme could be discerned and defined among them as truly conservative, the term which became absolutely nebulous. Conservatives were neither a well-defined political party, definitely not commensurate with the Republican Party any more, nor there was any intellectual common idea uniting all who by instinct associated with this sentiment. A “crack-up waiting to happen” was always imminent. In general, the American politicians and intellectuals were tearing the edifice of the conservative coalition apart trying to distinguish themselves from each other with the Republican establishment drifting together with the Democratic establishment towards the globalist perspective, even if thinking that this globalist perspective would be commensurate with the American rules of the game, unlike the Democrats for whom, at least many of them, this globalist perspective was much more appealing in the form of the post-national internationalism.

### **Fragile alliance against the “New Brave World” of the liberal left**

The recent most promising attempt among the generation of the so-called millennials to form a common conservative cause, especially between the most potent, probably, libertarian camp and the social conservatism camp might be formed in relation to recent transformations of liberalism. If classical, individual liberalism gave little promise of forming one common cause because of nearly impossible to overcome philosophical, anthropological difference between the libertarianism and social conservatism, especially religious, a common denominator can be found today. This difference is overcome or can be overcome because of „the existence of a common enemy. Before, that enemy was communism. Today, that enemy is identity politics”.<sup>14</sup> Today social conservatives, especially the millennial conservatives, adamantly claim that in today’s authenticity obsessed world they have enormous difficulty forming a natural alliance with economic and cultural libertarians, especially at a time when the libertarians seem to influence the Republican Party most. This is mainly visible in case of two issues that is free speech and abortion. There is an enormous offensive to legislate guarantees, mainly among Republican circles, to the free speech officially protected by the First Amendment of the American Constitution. This is especially visible in a crusade against the so-called speech codes at the universities (less so in corporations) aimed against a movement to protect “the environment” from hate speech.<sup>15</sup> But social conservatives are reluctant to be enthusiastic about supporting this crusade

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<sup>14</sup> Ph. Jeffery, “Conservatism’s Next Generation”, *First Things*, August/September 2018, <https://www.firstthings.com/article/2018/08/conservatism-next-generation> [accessed: 8.06.2021].

<sup>15</sup> This “hate speech” is usually defined by the most vocal progressive circles and lobbying groups which aim at eliminating any criticism to their cause.

since they realize that essentially this is a libertarian cause revolving around its notion of tolerance as indifference. For libertarians as Gilbert K. Chesterton observed “tolerance is the virtue of the man without convictions” and the virtue of free academic life without convictions is today free speech. Everybody can speak but with no sense of the fact that free speech is for something. Free speech facilitators want to position themselves as neutral in a market place of idea without requiring any commitment to real values or any social issues. So according to social conservatives the libertarian crusade for free speech amounted to libertarian Identitarianism as

“both reject the community in favor of ‘autonomous’ individual preferences.” In a university culture where rules are broken left and right in the name of personal freedom, it takes no special bravery to flout rules and spark controversy.<sup>16</sup>

For social millennial conservatives this is a quarrel essentially between liberal-left progressivists and libertarians conducted totally outside of community oriented context and disregarding the very real sense of substantive notions of good. That unacceptable difference is visible even more as far as conversations about abortion, much more important to social conservatives than free speech movement of the libertarian type. For this reason,

the self-proclaimed “pro-life generation” is cooling on classical liberal arguments for life that focus on the individual rights of children in the womb in favor of arguments that an ethic of life promotes the common good of mother and child. [...] They saw at the core of the abortion problem a false view of family life as “contractual” or “transactional,” as consisting of rights and preferences mutually recognized by all members, to be dropped if the relation proves inconvenient or otherwise undesirable. [...] “[N]either side’s [libertarians and liberal-left progressive] liberal arguments are especially convincing.” Even when [libertarian arguments are] employed against abortion, “pro-life ‘rights’ language doesn’t do what [...] [social conservatives] want [...]. A framework in which we view the fetus as a stranger allows the mother to treat the fetus in an unacceptably shabby way”.<sup>17</sup>

For this reason, the logic of the liberal rhetoric of rights and autonomy is rejected among the young social conservative millennials exactly at a time when the Republican establishment elites lost interest in the pro-life causes, as if giving up on a chance of moving the majority of the public opinion to their side on this issue. The Republicans officially support the pro-life movement to get its votes, but this electoral power of it was not reciprocated. For this reason, the pro-life millennials as part of the conservative movement distrust the Republican and in general conservative establishments. They do not want to be used for other’s agendas, instead they expect a common ground clearly articulated or searched for. But for the pro-life movement the bigger problem is important. It is “political impotence” of the Republicans even when they are presented with

<sup>16</sup> Ph. Jeffery, *op. cit.*

<sup>17</sup> *Ibidem.*

the most horrid examples of abortion industry and do not take any decisive action to try to stop it. But this stems from the fact that such a political failure is connected with a deeper philosophical failure, that is a fissure between conservative values and the Republican establishment. The conservative base is deeply suspicious whether this establishment still wants to act politically in the name of conservative principles or whether it has become a typical party of power. If there is any visible sign of conservative principles believed in by the Republican establishment it is connected solely with economic libertarianism which at the same time translates to social libertarianism. Conservative millennials consider such a stance to be self-serving and unacceptable, especially when they saw how the Republican establishment abandoned a defense of traditional marriage before 2015 using all kinds of ridiculous arguments why they could not be more outspoken against it and in fact accepting the liberal definition of love and thus marriage as the only basis of this institution. That was especially infuriating for the social conservatives because they argued for years that the same-sex marriage was not value-neutral concept, and the change is anthropological, not just legal.<sup>18</sup> But such a change of anthropology which the Republican politicians in fact accepted without any resistance paralleled the logic of identity liberalism. If they criticized a dominant version of identity liberalism it was criticized from different principles than social conservative did this.<sup>19</sup>

Identity politics resembles a religion, and many showed the bastard similarities of such politics to it.<sup>20</sup> The “new faithful” operate on the assumption that they need something to believe in, although that assumption cannot be applied to libertarian and that is why the new millennial social conservatives distrust libertarians’ resistance to identity policies battles on American campuses in the name of free speech. Libertarians’ resistance is similar to their resistance to “right wing” students, that is social conservatives which make them odd allies of the conservative camp. Visible recent attempt to revive the coalition between the social conservatives and libertarians seems to be thus a difficult task, although the old guard of the social conservatives, including the protestant fundamentalist religious groups supported Trump who from a point of view of libertarians on many issues was sparing their approach. But the young social conservatives attempting to form a new fusionism are vary since for them

the first fact of fusion conservatism – the fault line that runs beneath it – has not disappeared and will ultimately prove more important than any Trump-induced drama. The extent of

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<sup>18</sup> See in general: H. Arkes, *Natural Rights and the Right to Choose*, Cambridge University Press, Cambridge 2002; Sh. Girgis, R.T. Anderson, R.P. George, *What Is Marriage? Man and Woman: A Defense*, Encounter Books, New York–London 2012.

<sup>19</sup> See e.g.: Ph. Jeffery, *op. cit.*

<sup>20</sup> See for instance: M. Eberstadt, *Primal Screams: How the Sexual Revolution Created Identity Politics*, Barnes & Noble, New York 2019 and Ch. Caldwell, *The Age of Entitlements: America Since the Sixties*, Simon & Schuster, New York 2020.

their influence on the future can't be determined yet, but if they have their way, the establishment donors, politicians, commentators, and experts who spend much of their energy tallying tariffs and House seats could find themselves facing a tough question: Who's driving this bus, and who should?<sup>21</sup>

### **Will Donald's Trump presidency serve as a basis for conservative renewal?**

Whatever turbulences one could observe as far as the conservative movement was concerned there could be no doubt that Trump's victory constituted a final blow to the more and more artificial efforts to sustain a modicum of credibility to the strategy of keeping Reagan's legacy viable.<sup>22</sup> But at the very same time he galvanized this sleepy drifting of the conservative movement habitually sticking to the Republican Party putting an end to an indefensible task of keeping the Reagan myth alive, even if certain reformulations of that myth, too powerful to be dismissed easily, have been visible all the time and might even be necessary as a starting point of the new conservative opening.<sup>23</sup> This was especially evident within the religious conservatives. They were conscious of a threat to religious freedom posed by the liberal-left radical program of "emancipation". The religious conservative movement is of course very diverse; thus, Trump's program elicited all kinds of reservations. Nevertheless, they were suppressed for the sake of forming a common ground against the liberal-left. Opposition to abortion was just one of such contested issues here, because its prominence in the conservative religious program was not shared by all conservative religious groups, for instance Jews.<sup>24</sup>

But what might constitute a new conservative fusionism, a common program of any lasting consequence is not clear. The second Trump's term could have clarified the issue, but his defeat in 2020 left it in disarray, divided against itself with the Republican Party still searching for a clear political program to challenge more and more radical Democratic, progressive camp. But Trump's ephemeral triumph in 2016 could constitute a reorientation moment for the conservative movement in search of any uniting idea, despite the fact that his personality and confrontational style of presidency did not, and does not now, make him a possible leader of this new wave of the conservative movement when a substantial part

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<sup>21</sup> Ph. Jeffery, *op. cit.*

<sup>22</sup> S.F. Hayward, "The Ronald and the Donald", *Claremont Review of Books*, Spring 2020, p. 38.

<sup>23</sup> A comprehensive analysis what might happen with the conservative movement in America after the Reagan's myth collapsed and what consequences Trump's victory might bring to it is provided by M.M. Witcher, *Getting Right with Reagan: The Struggle for True Conservatism, 1980–2016*, University Press of Kansas, Lawrence 2019.

<sup>24</sup> See: R. Moore, "Fragmentation of the Soul", *National Review*, December 5, 2016, pp. 45–46.

of the traditional Reagan style conservative elites were against him.<sup>25</sup> But they are unconvincing since they could never explain why despite the fact that

after two decades of Republican resurgence at the state and local level, the party still managed to lose five out of the six national popular votes prior to Trump. [...] Few Never Trumpers can fathom why millions of culturally conservative working voters [so far] [...] either stayed home or voted Democrat until Trump brought them back into the fold [...] ignoring [...] [these often] populist voter would mean a near-permanent Democratic White House<sup>26</sup>.

This clearly showed that there was not only a strong separation between establishment Republican elites, the party of non-ideological power politics, a phenomenon which in the 50's and 60's was called liberal Republicans, or RINO (Republicans In Name Only) and the more conservative Republican leadership. There was also a visible separation between conservative Never Trumpers and the populist conservatives who supported Trump in millions. Never Trumpers are much more opportunistic and more loyal to their class than to their supposedly conservative principles. Populist conservatives are closer to social, including religious conservatives by instincts even if they are devastated by pathologies of the liberal-left policies. Trump kicked a table of the conservative Never Trumpers in Washington D.C. and refused during his presidency to court them, something to which they were accustomed to during all previous Republican administrations. But they opposed Trump not seeing where his real basis of support was and how their opposition turned out to be impotent and irrelevant. This resistance, provoking a question what conservatism meant for them, was so adamant that they did not want to wait until the election of 2020 but tried to overthrow Trump by any means including an attempt to impeach him.

### **Alternative to liberal technocracy**

Trump proved to be a perfect manager of anger and a brilliant player of the federal logic of the American electoral system. Despite his personality and fuzzy principles, he was a leader able to organize and deliver into the ballot box millions of voters without which the conservative coalition could not be politically victorious. The Republican establishment never grasped the moment when their voters rejected its leadership, a situation „when the rich few privatize public goods and capture them for themselves”.<sup>27</sup> Therefore, Trump might still be – even after los-

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<sup>25</sup> See: R.P. Saldin, S.M. Teles, *Never Trump: The Revolt of the Conservative elites*, Oxford University Press, Oxford 2020; also J. Kelly, *Disloyal Opposition: How the #Never Trump Right Tried – and Failed – to Take Down the President*, Encounter Books, New York–London 2020.

<sup>26</sup> V.D. Hanson, “Always Never Trump”, *Claremont Review of Books*, Fall 2020, p. 23.

<sup>27</sup> R.R. Reno, “Manufacturing Hate”, *First Things*, April 2019, <https://www.firstthings.com/article/2019/04/manufacturing-hate> [accessed: 8.06.2021].

ing an election – a serious political player. What his phenomenon truly showed was a truth which Kevin Philips exposed in 1969 that the future of the Republican Party and conservative politics as well depended on moving the party away from the northeastern establishment and toward the middle and working classes and the emerging power of the Sunbelt religious voter. Philips argued that social and cultural issues would define future elections with downscale voters being attracted more to the Republicans not to the Democrats who had their unquestioned support since Franklin D. Roosevelt's times.<sup>28</sup> The Republican establishment forgot this and was faced with the populist revolt of its own electoral basis which Trump organized. This was a grass root rebellion against the elites which forgot whom they were supposed to serve, the same rebellion from the times of Sarah Palin and the Tea Party movement. What changed was the fact that unlike Palin or the Tea Party Trump was smart enough to find a successful means of communications to mobilize the victims of globalization and cultural devastation while at the very same time trying to formulate a viable policy agenda.

Trump's confrontational style together with political and bureaucratic inexperience was definitely a problem. But unlike Palin and the Tea Party, he had a gift to appeal to "unprotected" and turn them into an effective political force, trying to formulate a sensible policy to respond to their interests and worries. Trump proved that its anger was well-founded socially and economically but a very substantial part of it had also to do with "attitudinal conservatives". His electorate's social, cultural and religious beliefs were incessantly attacked by liberal-left politics united in its universalist global ideology with the Right's economic global policy. The Republican Party, the "party of the rich" as the Democratic Party has become, had to confront the truth that its electorate is not big business any more but another target group which could not be duped indefinitely. Trump's great achievement was to show that any winning Republican coalition was no longer possible without this group which he organized and gave their ideas a full and fair hearing.

Therefore, Trump opened a new chapter in a process of a gradual realignment of the conservative coalition after its wandering in the woods during the futile effort to turn it into a lasting and viable political movement. He recognized a problem the Republican and conservative establishments ignored for too long, that is a structural problem of globalism hitting a large chunk of the electorate totally abandoned by the libertarian economic Right and subjected to social engineering by the cultural liberal-left. He was able to identify this dimension of the American crisis which touched upon such qualities as patriotism, social solidarity

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<sup>28</sup> K. Philips, *The Emerging Republican Majority*, Princeton University Press, Princeton NJ 1969. See also J. Kotkin, W. Cox, "Joe Biden's Imaginary America", *National Review*, June 14, 2021, <https://www.nationalreview.com/magazine/2021/06/14/joe-bidens-imaginary-america> [accessed: 15.06.2021] and D.E. Paul, "Culture War as Class War", *First Things*, August/September 2018, pp. 39–44.

or responsibility of elites for the weak in their care understanding the fears and grievances of his voters animated by

“a perceived failure on the part of government to protect vulnerable Americans from threats to their way of life.” The “American way of life” may sound like the most leaden of clichés, but the rise of Trump means that it again poses resonant, contested questions. [John O’Sullivan captured this sense of belonging arguing that] [...] America’s political life is animated by its founding principles, but the nation’s civilization rests on the fact that “Americans are a distinct people, with their own history, traditions, institutions, and common culture.” This richer, enveloping sense of Americanism means that the United States has assimilated people from around the world not simply by getting free agents who happen to share one patch of land to abide by certain rules of citizenship, but by getting them to commit to a way of life that makes them part of the unfolding heritage of a particular people. “[...] and above all Lincoln’s ‘mystic chords of memory’”.<sup>29</sup>

Trump had instinctively if not conceptually the basic conservative disposition that “politics is downstream from culture”, meaning not only the fact that conservatives always should pay attention to culture which shapes sensibilities of the general public. If liberals, as one of the observers noticed perceptively, impose their narratives and effectively make them ingrained into people’s souls, no reasoned argument can un lodge the public from this frame of mind. The statement that politics is downstream from culture has its broader, anthropological sense because of unavoidable junction between political institutions and believes present in the society which shape and influence the former incessantly.<sup>30</sup> Therefore, Trump’s slogan “Make America Great Again” should be interpreted as a call to rebuild social solidarity and republican responsibility for all and to counter the liberal-left’s “narrative of American depravity”. This was not a slogan to make America more chauvinistic, racist or exclusivist, but it was a call to restore social bonds without which any chance of taking responsibility for all the excluded would be impossible.

A profound question of aesthetics is involved here, and this poses an enormous challenge to the American conservative elites. For many conservative

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<sup>29</sup> W. Voegeli, “What’s at Stake”, *Claremont Review of Books*, Spring 2016, pp. 33–34; a good account of this delegitimization of patriotism by the liberal elites and its role in Trump’s electorate see: S.B. Smith, *Reclaiming Patriotism in an Age of Extremes*, Yale University Press, New Haven–London 2021. In this sense the cancel culture movement and post-patriotism of the liberal-left elites constitute one of the instances of illiberalism, an attack on human liberty. It is unable, because of ideological prejudices, “to understand and cherish a humane national loyalty and how its civic foods uphold a free and dignified life for citizens with different religious, political, and ethnic loyalties and attributes. Before the ‘widening gyre’ delivers us to a ‘blood-dimmed tide’, we might seek a sober knowledge of why patriotism is something we are predisposed to and how it can order our affections property ... We can’t then label the illiberal enthusiasms that masquerade as justice for what they really are: ideological fronts that would impose a dogmatic re construction of political, economic, and social reality”, R.M. Reinsch II, “To Recover Patriotism. America Needs Mishpocheh”, *National Review*, June 14, 2020, p. 39.

<sup>30</sup> See e.g.: W. Voegeli, *op. cit.*, p. 34.



pundits Trump to a large degree truly represented this electorate which Hilary Clinton called “the basket of deplorables” that is people described by J.D. Vance in his *Hillbilly Elegy* as devastated economically, socially and culturally by the liberal elites’ policies. For the upper-class conservative elites, the greatest challenge is to find a connection to these “deplorables” and find a common cause with them. Trump tried, with success, to do this. Still, many within traditional conservative elites, let alone the oligarchical elites of the Republican Party treated his ascendancy as a political “accident”, not understanding that he found such a common denominator. Some efforts at realignment had nevertheless been taken even before Trump’s defeat in 2020. In turn the Democratic Party establishment realized that it unwisely disregarded Trump and during the election a plot to eject him from office was concocted, the plot which was ready to employ illegal means and social unrest to destabilize the political system. And they decided after gaining power in 2020 in both chambers of Congress to think about changing the electoral law so possibility of Trump’s “recidivism” or nothing similar would not happen again.<sup>31</sup> Another plan is to enlarge by congressional law the number of liberal-left judges in the Supreme Court to neutralize Trump’s three conservative nominations.<sup>32</sup>

### **American conservatism after Trump’s rise and fall**

After the defeat in 2020 some conservatives, mainly the libertarians and neo-conservatives have focused on traditional economic and foreign policy issues, criticizing the liberal-left to which the establishment of the Republican Party and the conservative elites capitulated. One of the conservative libertarian intellectuals Ramesh Ponnuru observed that Trump’s victory was both a challenge to conservatism and a chance, and all currents of the conservative Reagan’s coalition needed to reassess their goals and find an accommodation with

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<sup>31</sup> The aim is to change electoral laws in many states, the process which the Democratic Party has been doing for years, to make the postal election more available (favoring younger people more inclined to vote for the Democrats) and a verification of voting rights less rigid, so a bigger number of its supporters could vote, including possible illegal immigrants. Such measures were questioned during the last elections. That is why after Joe Biden’s victory the conservative states enacted laws to improve honesty of the electoral voting so to diminish a possibility of a fraud. But this is not a simple political feud but a bitter fight. That is why the Democrats prepared a bill in Congress limiting an autonomy of the states as far as their right to enact electoral laws, a move liquidating state prerogatives and introducing unifying federal measures.

<sup>32</sup> This would be a truly revolutionary change which nevertheless has a small chance to be introduced. Although Congress has such a right, since the middle of the 19<sup>th</sup> century such a move was tried once during Roosevelt’s New Deal times and met with bipartisan, let alone the public resistance. Moreover, such a law could easily be changed by the next Republican majority, so it is a double-edged move.

a new reality. First of all, they should try to understand the Trump phenomenon and his presidency in terms of conservative principles instead of focusing on his personality. He pointed out that debates revolving around a question whether his presidency was a kind of a hostile takeover of the conservative movement and the Republican party were useless and senseless. Trump won in a democratic election and his presidency did not signify any national crisis. Conservatives should not debate over Trump's "unaesthetic" personality but should focus on the vital question what was to be the conservative agenda in the "age of Trump" and what he understood about the voters the conservative establishment was incapable of grasping. But the most important question was which strategic and immediate political aims should be formulated for the times in which the inherited Reagan agenda is obsolete.

Ponnuru was right to conclude that although Trump recognized irrelevance of the old agenda, he was

unable or unwilling to supply a new one of his own that fleshed out his instincts and themes. [...] [But] even his biggest fans must admit that [Trump's] [...] talents do not include policy development. This is not an entirely bad thing. The idea that the president should set the policy agenda is not in the Constitution, was not the American practice for much of our history, and was introduced into [...] [American] politics by progressives in order to promote their vision of government".<sup>33</sup>

Ponnuru delineated several areas where conservatives should propose distinctive reforms, intellectually and politically, getting out of "politics as usual" mode practiced in the Congress. No president representing a radical change can accomplish this by his action. For Ponnuru these areas are health care, different from costly and inefficient Obama's reform but available to all, the area where the Republicans and Democrats were unfortunately acting in tandem increasing the federal government's power to deal with it. Conservatives should focus on the market forces overseen by government ensuring its justness. The second area should be a destruction of "the higher-education cartel" with tuition costs and dropouts exorbitantly raising, when obtained skills do not match market needs any more, and debts are killing chances of normal life.<sup>34</sup> The third area should bring federal spending under control by moving "toward a more rational system that guarantees against poverty – by setting a minimum benefit at or higher than the poverty level [...] [and] change the way benefits are calculated". Finally, conservatives should focus on immigration reform in a situation when "around 40 percent of illegal immigrants to [America] [...] came here legally but overstayed their visas. A wall, whatever its merits, would not address this problem. If we want to instill respect for the law and have control

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<sup>33</sup> R. Ponnuru, "Right to Where?", *National Review*, June 25, 2018, p. 14.

<sup>34</sup> America has a system that "supposed to be a ladder for upward mobility has become to a significant degree a bottleneck in it", *ibidem*.

over whom we let in, we have to make employers verify the legal status of new hires – and give them the tools to do so”.<sup>35</sup>

These are definitely grave problems to be considered by the conservative camp. The concrete policy measures would activate its electoral base and draw to it many undecided voters. But strikingly absent from Ponnuru’s diagnosis is a total absence of cultural and religious issues standing at the very center of the American culture war.<sup>36</sup> Thus, conservatives who consider such issues paramount for their sense of security and freedom come with their agenda. Such conservatives know that America of the Reagan times was an utterly different country in which they had a much more friendly elite environment than today, especially at universities, in media and in big business. Even a large part of the liberal churches of different denominations are now overtly hostile to them refusing to grant them equal citizenship. This is mainly because both the conservative and the liberal-left now argue, unlike still in Reagan times, from entirely different anthropological principles. The conflict is thus much deeper, in fact existential with liberal anthropological principles being defined as the only legitimate.<sup>37</sup> The liberal-left elites, dominating the above mentioned institutions, want to shape the American cultural and social code including a redefinition of institutions and rights and refusing legitimacy to people thinking differently, mainly religious ones. This is the outcome of a phenomenon called sometimes technocratic liberalism, where the liberal-left “emancipation” ideology was connected with the most aggressive economic oligarchy in search of a perfect, totally controlled consumer operating on the market. Here the sharpest dividing line is a boundary between an increasingly aggressive agenda of the sexual revolution and beliefs of the religious people, a clear cut refusal to recognize a principle of religious freedom of the First Amendment, with liberal faith becoming a surrogate of state religion. Therefore, to have a theocratic form of government, you do not need to believe in God.<sup>38</sup>

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<sup>35</sup> For Ponnuru legal immigration should also be reformed, orienting itself “more toward the recruitment of high-skilled immigrants and less toward the reunification of extended families. We don’t have a national interest in low-skilled immigration on the scale we have allowed it, and low-skilled immigration puts unnecessary pressure on people at the low end of the labor market. The price is paid by many low-skilled immigrants themselves. [...] These ideas are very far from a complete agenda, and some of them might well make politicians blanch. Doubtless there are many other ideas that conservatives can and should pursue. [...] [But if] [t]he conservative themes of decentralization, local control, markets, accountability, national self-confidence: [...] are not to be lifeless abstractions, they must be put into practice and shown to work. Wherever they stand on Trump, conservatives have to engage in this tasks, and support Trump whenever he wants to tackle such issues even after his loss in 2020”, *ibidem*.

<sup>36</sup> See: J. Dys, “Trump and Religious Liberty”, *First Things*, May 2019, pp. 9–12.

<sup>37</sup> See on this R.P. Kraynack, *Christian Faith and Modern Democracy. God and Politics in the Fallen World*, University of Notre Dame Press, Notre Dame, IN 2001.

<sup>38</sup> The most notorious case was a statement by Professor Mark Tushnet of Harvard University who several months before Trump’s win declared that in case of his success, the “enlightened” liberal elites should hit at him with all possible force refusing him any political, social and moral

Trump's victory in 2016 was both a challenge to conservatism and a chance amidst the ruins of the Reagan's conservative coalition and his legacy. Ponnuru's diagnosis was at the level of concrete politics, but this is not enough. To start with one has to realize that for the first time there is a new fusion possible to be formed in the republican-conservative camp and Trump sensed it. The first fusion was formulated in 1950's and 60's by the *National Review* editor Frank Meyer stitching together under a banner of anticommunism all different strands of the conservative movement. After the World War II conservatives

[...] never marched in lockstep. Just as they oppose centralized economic planning, so do they oppose centralized political planning. The conservative movement is a loosely bound movement made up of, in Morton Blackwell's words, "activists, scholars, donors, and organizational entrepreneurs held together by ... shared philosophy, shared enemies, and shared experiences." And it is a movement that comes together when confronted with a common foe.<sup>39</sup>

The Soviet Union and its vow to communize the world was the main enemy of conservative anticommunism, but it was rooted in a deeper truth that became the fundamental principle of fusionism that "the freedom of the person [is] the central and primary end of political society". For Meyer, a former communist,

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legitimacy, and his electorate including religious and cultural conservatives should be, in principle pushed and herded into ghettos, M. Tushnet, "Abandoning Defensive Crouch Liberal Constitutionalism", May 6, 2016, Balkinization, <https://balkin.blogspot.com/2016/05/abandoning-defensive-crouch-liberal.html> [accessed: 8.06.2021]. Subject to "thought crimes" Trump's voters, have to go through "reeducation", as without any restraint were saying the most prominent politicians of the Democratic Party or professors at the elitist universities after Biden's victory. They ceased to be citizens and become enemy subject to "annihilation". This Manichean project is a variant of the Marxist class war for propaganda and disinformation purposes defined in a language of "progress", "antiracism" as well as identified with diverse theories such as: critical theory of race, identity politics, "cancel culture" or such organizations as "Black Lives Matter" or Antifa. This project as Yoram Hazony captured it, is based on few simple principles. Society is divided between the oppressors who control all the instruments of power (bourgeoisie, "whites") and "oppressed" who often possess false consciousness, a kind of dominant ideology from which they have to emancipate themselves to recognize a true nature of oppression. Change is only possible through a revolution, a destruction of the oppressor class, introduction of universal equality, not only economic but ideological and mental as well, and uniformization of thinking as a form of justice, with the aim of abolition of human existential alienation and the end of its history. But Marxism's problem is that it treats all unequal human relations as exploitation, not hierarchy. Hierarchy as authority is morally suspect in the age of "equality", strengthened additionally by oligarchisation of liberal democracy and a lack of responsibility of the strong for the weak in a post-national. But Marxism itself does not possess any reasonable definition of the state and power, changing only one oppressed class for another with an assumption that these class antagonisms disappear. In turn liberalism treats evil in categories of still not yet perfected system of equal rights, education and psychotherapy. See: Y. Hazony, "The Challenge of Marxism", *Quillette*, August 16, 2020, <https://quillette.com/2020/08/16/the-challenge-of-marxism> [accessed: 8.06.2021].

<sup>39</sup> L. Edwards, "We Need a New Fusionism", *The American Conservative*, September 17, 2020, <https://www.theamericanconservative.com/articles/we-need-a-new-fusionism> [accessed: 8.06.2021].

especially sensitive to its totalitarian anti-freedom message, a human being was a rational, autonomous individual, and freedom was “the essence of his being, indispensable to his pursuit of happiness”.<sup>40</sup> But making this observation Meyer also distinguished such conservatism from classical American liberalism which for him was tainted by inherent utilitarianism and secularism bound together by power of autcreation which excluded per se any notion of a stable human nature or its normative core, the natural law. Thus, conservatives had to save the Christian understanding of “the nature and destiny of man”. For Meyer this approach was nothing new, but just a reiteration of the existing consensus formulated in fact by the Founding Fathers in the US Constitution.<sup>41</sup>

### **Democratic republicanism as an alternative to liberal oligarchy**

The new coalition, while rejecting its once dominant but now moribund anti-communism, even if not anti-Marxism or its current variant of neo-Marxism, has to take into consideration what should be the basis of a common cause between social and cultural conservatism and economic populism. Definitely, after Trump American conservatism – however much it was in disarray at the time of his victory – can never be the same and had to be redefined anew. In July 2019 during the National Conservatism Conference a discussion began about the future of conservatism in the Age of Trump. What was striking was a nearly unanimous agreement that the old coalition between Big Business and social conservatives was over. A new coalition had to start with a simple recognition that Trump’s victory was not a fluke but a sign of a profound realignment, exposing also growing and fundamental fault lines within the Democratic Party electoral base. Whatever one might think about Trump’s personality and his behavior during the election in 2020 there was, as many commentators named it “no blue wave”, no Democratic landslide, with Trump winning the highest number of non-white voters of any Republican presidential candidate since Nixon in 1960.<sup>42</sup> It is thus apparent that the realignment has been real and as Robert P. George, a professor at Princeton and a leading voice of the conservative camp, observed, that during elections in 2016 and 2020 a huge constituency existed to combine social conservatives and economic populism into one block, and Trump aired exactly such a message and it obviously was successful.

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<sup>40</sup> *Ibidem*.

<sup>41</sup> See in general: G.H. Nash, *op. cit.*; also a good account of Meyer’s effort see: K.J. Smant, *Principles and Heresies: Frank S. Meyer and the Shaping of the American Conservative Movement*, ISI Books, Wilmington, DE 2002, esp. pp. 93–110, also J.P. East, *The American Conservative Movement: The Philosophical Founders*, Regnery Books, Chicago–Washington, DC [cop. 1986], pp. 69–104.

<sup>42</sup> He doubled Mitt Romney’s result in 2012 and nearly tripled George W. Bush’s result in 2000.

Trump – as far as this coalition was concerned – outperformed himself in 2020 in comparison with 2016. The Republican Party

is becoming a working (and small business) class party. Its supporters are saying: ‘Uphold our moral and religious values; protect our industries against unfair practices and unfair competition [...]’. “So far, the big inroads against the Democrats – who are now the party of the professional classes, ‘Woke’ corporate America, and the super-rich – have been with the white working class [...]. The obvious goal for Republicans now is to win over *minority* working class voters. Their values and concerns line up well with those of the white working class. [...]” For years, the political arm of the pro-life movement has known that large numbers of Hispanic and Black voters are socially conservative, but still consistently vote Democrat. Many of these voters have grown increasingly turned off by gender ideology, Drag Queen Storytime, and other boutique social issues that have become so front and centre in the increasingly progressive Democratic Party. This [...] indicates that a realignment is possible “[...]”. Republican candidates of all backgrounds need to compete vigorously for the votes of socially conservative, economically populist voters, including minority voters”.<sup>43</sup>

This realignment had been visible for long before 2016 and advised as an electoral strategy for the Republicans by many scholars.<sup>44</sup>

This observation contradicted conventional political wisdom in the United States that, minorities would always be within the Democratic Party camp, that they would be “wholly owned” by them as “demography is destiny”. But this turned out not to be true during the election in 2016 and 2020. Trump’s many personal faults including some reckless and irresponsible comments during the 2020 election made him a danger to himself which hurt him badly among some sectors of the electorate. But, as George observed he “pulled back the curtain on American elites – including economic elites – and he revealed that there is a yawning gap between elites and working-class Americans”.<sup>45</sup> Thus, Trump not only destroyed the Republican establishment’s control over the Party but reconstructed it into a machinery loyal to him causing problems for the Democratic Party as well which, despite its electoral victory in 2020, is in a total disarray with visible signs of a panic. Joe Biden was accepted for the party establishment only because he was used as a means to oust Trump. Apart from this his value is purely instrumental, to give cover to radical progressive politics with possible exception of foreign policy. This creates an enormous chance for the conservative coalition but differently constructed.

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<sup>43</sup> J. Van Maren, “The Realignment is Real”, *The American Conservative*, November 12, 2020, <https://www.theamericanconservative.com/articles/the-realignment-is-real> [accessed: 8.06.2021].

<sup>44</sup> For instance, Charles C. Camosy. See his *Resisting Throwaway Culture: How a Consistent Life Ethic Can Unite a Fractured People*, New City Press, Hyde Park, NY 2019, and *Beyond the Abortion Wars: A Way Forward for a New Generation*, William B. Eerdmans Publishing, Grand Rapids, MI 2016.

<sup>45</sup> J. Van Maren, *op. cit.*

“Gone is the classic left/right binary around big and small government [...]. Instead, there is a party – the Democrats – who seem to be becoming the party supported by elite money, elite ideology, and Big Tech. The GOP, by contrast, seems to be becoming the party of populism and the working class. [...] Being associated with Trump himself is toxic, especially for young people, but the fault lines his ‘blowing up the system’ have uncovered are incredible [...]. For many decades now, [for instance] pro-lifers have been part of a political coalition in which small-government mindsets dominated. If massive government intrusion into private life regulating pregnancy seemed counter-intuitive in this coalition, social welfare programs to support mothers, children, and broader families were generally off the table. But now, in the new realignment, pro-lifers need not choose between resisting abortion on both the demand and supply side. [...] There is an amazing opportunity to put our libertarian past behind us and build an ‘all of the above’ approach to protecting and supporting life. The GOP should immediately move to build on the gains with Blacks and Latinos, especially with an eye to religious beliefs, social welfare for families and education, and life issues. [...] What it does mean is [not hubristic anti-intellectualism, but] listening to the wisdom of the working classes as a contrast to the censorious and extremist monied and elite class who ignore or castigate as regressive the views of the very people they claim to support”.<sup>46</sup>

Whether this potential will be used to create a new fusionism, a conservative coalition with minorities will be seen. But there is no doubt that Trump destroyed a conventional wisdom among the Republicans and Democrats, creating total political chaos and posing questions which both parties will have to confront. Trump seems not to be what the Democrats and the liberal-left wanted him to be, that is a “mistake”, an irritating political event but marginal anyway, incapable of stopping the march of progressive America represented by the elites. A rejection of this “minority alliance” with liberal-left progressivism created a new fusion of economic populism with social and cultural conservatism or better to say social solidarity and conservatism.

Trump forced a disintegrated conservative to redefine itself anew, especially when his huge conservative electoral base rejected the Republican Party establishment. It was obvious that even after the defeat in 2020, the new conservative coalition which Trump organized was to persist and to define it more precisely in the new conditions was an urgent task. The question was what this conservative movement in the Trump era wanted to achieve. Discussions about this have been going on incessantly. For instance, the subject was comprehensively taken up already right before the election of 2020 by an influential *The American Conservative* with representatives of all currents of conservatism trying to answer a question what united them and what the Trump’s movement relation to this core principle of American conservatism was.<sup>47</sup> The discussion was heated, with some even claiming that conservatism was an insignificant movement consisting of “bizarre little cults [...] no longer capable of anything but reflexive spasms” and

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<sup>46</sup> Ch.C. Camosy in: *ibidem*.

<sup>47</sup> “What is American Conservatism?”, *The American Conservative*, June 29, 2020, <https://www.theamericanconservative.com/articles/tac-symposium-what-is-american-conservatism> [accessed: 8.06.2021].

declaring that “American conservatism ... is a failure”.<sup>48</sup> Still, the majority tried to devise tactics to rejuvenate the conservative movement which Trump’s presidency gave such a unique chance. Yuval Lewin argued that conservatives should start with a simple observation corroborated by Trump’s success that although the market economy was important to free society, any dogmatism in this regard was suicidal. The market was “dangerously inadequate” since it totally disregarded the common good about which it had nothing to say when left to its own logic but may bring social upheaval of which Trump’s success was one of the most blatant examples. Conservatives should understand that the underlying question, in the light of which all other issues including the free market, should be looked at is a question of “how best to apply a complex view of the human person to the politics of a free nation”. Daniel McCarthy, editor of the traditionalist journal *Modern Age*, pointed out that conservatives live in an age of ideological revolution and therefore are and must be by definition “a counter-revolutionary force which, despite its flaws, is worthy of our loyalty”. In case of America that means a deep commitment to the sources of our civilization “‘if we are to prevail again,’ as we did following the French Revolution and during the Cold War”.<sup>49</sup> Some supported “constitutional conservatism” in response to internal and external threats to America’s very existence. This constitutional conservatism means a preservation of constitutional government and “commitment to ordered liberty”. All authors understand that a new fusionism should devise a strategy to win back libertarian conservatives and find a common cause around the pro-life issue and other cultural matters. Nearly all agreed that American conservatism was

not dead, as [some] [...] once proclaimed, but is very much alive and the object of constant examination, proof of its ability to impact the body politic. [...] [it] is at its best when it practices fusionism. The historic successes of the Reagan years, including the implementation of supply-side economics and ending the Cold War at the bargaining table and not on the battlefield, proved that. Today’s trifecta of crises – the coronavirus pandemic, the struggling economy, and the challenge of persistent racism – calls for a New Fusionism encompassing the major strains of conservatism. [...] [but] American conservatism is just that – American, not European, confident and optimistic, reliant on the founding truths of the Republic and on Western civilization. What should conservatives do in this testing time? Be radical in thought and action. Educate the Millennials about the myths and realities of [their own Times] [...]. [...] Take the lead in demonstrating that the American Spirit still lives, America remains an exceptional nation, and “We the People” still govern”.<sup>50</sup>

### **Fate of core conservative believes in the liberal world**

One has to say that the most important challenge to conservatism today, especially to its intellectual class, in the Republican Party and in a society in general

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<sup>48</sup> L. Edwards, *op. cit.*

<sup>49</sup> *Ibidem.*

<sup>50</sup> *Ibidem.*



as a minority group in the media, universities, corporate business is a situation which was not even contemplated during Reagan times. This challenge is not immediately polemical, political, or economic but fundamentally anthropological. Behind confusing and changing lines of alliances, friendships, skirmishes or even hostilities among American conservative intellectual class, or the wider Right camp, the real question, and the very crucial one is whether they will accept as a minority group in the media, universities, corporate business the ubiquitous and culturally reigning liberal anthropology of non-negotiable subjective individual choice as a basis of moral obligation and rights. For libertarians or foreign policy conservative nationalists this is not a question of life or death. But for cultural conservatives, including religious ones of all denominations this is a question to be or not to be. The question whether, to what extent and within what spheres to

make peace with today's autonomy-maximizing, technocratic arrangement? Or does our moment require a more combative posture toward that arrangement? Is conservatism merely an adjunct to liberalism – liberalism, but a little less? Or is it something else? Does the conservative vocation involve aggressively defending and expanding the empire of liberal norms and proceduralism? Or, is it about offering a substantive vision of the common good, one in which autonomy and liberal norms and procedures take their rightful place but are neither fetishized nor treated as ends in themselves?<sup>51</sup>

There has been a large current within the traditional conservative Reagan coalition, mainly libertarian and neoconservative, market oriented Chicago school currents, which treated this anthropological dimension of the Reagan times as given, taken for granted and not considering it important for their goals, making it possible to form such a coalition. But with the advent and aggressive imposition of this liberal-left anthropology on the American society and its institution due to political victory among the establishment of the “emancipation” ideology corresponding nicely with the civil rights revolution and changing of individual liberalism into identity liberalism, the conservative coalition was forced to confront this anthropological shift. Its consequences began to be visible once the media and the universities were captured by it, corporate capitalism sensed its profit potential and technocratic liberalism which captured the Democratic party, and the bureaucratic establishment began to implement it. It was then that the large part of the conservative movement of the traditional Reagan coalition began to see conservatism as an addition to the hegemonic liberalism becoming at most its friendly critic from inside. This included the most aggressive implementation of the liberal anthropology – the sexual revolution. Such technocratic liberalism and such Republican Party wanted to sign a peace treaty with the sexual revolution, not realizing that this is not a question of tolerance but a brutal imposition of

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<sup>51</sup> S. Ahmari, “Giving the Boot”, *First Things*, April 2019, <https://www.firstthings.com/article/2019/04/giving-the-boot> [accessed: 8.06.2021].

another vision of the world. Such liberalism refuses to license “the conviction that human beings have a natural end, and to speak in this way puts one in violation of the canons of public reason”.<sup>52</sup> It was another embodiment of the “end of history” ideology. Politically it meant that liberal democracy was the end of political development, its Hegelian highest stage, economically it implied global liberal free market, culturally acceptance of the liberal anthropology of an individual. This individual in a process of autocreation chooses its own values, the very essence of the liberal human rights endlessly, for reason, expanding.<sup>53</sup> This global hegemonic outlook encompassing its political, economic and cultural dimensions, including educational one as far as interpretation of history is concerned, supported by the military and economic might of the West is digesting anyone who encounters its full-fledged force. It is evident that only conservatism capitulating to this anthropology can be recognized as morally legitimate in a liberal world. Recognition can be granted only if the axioms of this anthropology are accepted without question, with a definition of any other social movement, religion or idea rejecting it as illegitimate politically and morally. That is what justifies use of such terms as “populism”, “chauvinism”, “racism”, “blood and soil”, or as in case of Hilary Clinton “deplorable”, against anyone who challenges the orthodoxy of such a liberal world even in the slightest way. It is this current of the conservative movement which comprises mainly the “Never Trump” people.<sup>54</sup>

Trump for all imaginable reasons was an ideal target for this type of attack in which many conservatives of the libertarian or neoconservative or in general

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<sup>52</sup> This applied especially to attempts to subvert religious freedom. Any attempt “to restore religious freedom to its proper *philosophical* place, as something like the sine qua non of freedom itself, presupposes just the view of human nature and reason that our post-Christian liberalism rejects from the outset”, M. Hanby, “The Civic Project of American Christianity”, *First Things*, February 2015, p. 39; on this making peace with the sexual revolution: R.R. Reno, “Liberal Tradition, Yes; Liberal Ideology, No”, *First Things*, December 2017, <https://www.firstthings.com/article/2017/12/liberal-tradition-yes-liberal-ideology-no> [accessed: 8.06.2021].

<sup>53</sup> See: P. Manent, *A world beyond politics?: a defense of the nation-state*, transl. by M. LePain, Princeton University Press, Princeton 2013.

<sup>54</sup> Such conservatives seem to be writing themselves into a classical American division visible in nearly entire 20<sup>th</sup> century, that is a division between two forms of liberalism, the classical one and the progressive one, created at the beginning of the century by such people as a journalist Herbert Croly with his book *The Promise of American Life*, The Macmillan Company, New York 1909, Woodrow Wilson’s administrative science of government as professor of Princeton and then president, then F.D. Roosevelt and his New Deal, who used the machinery of the state to introduce liberalism’s goals. This American progressive liberalism had its European equivalent in the Oxford School of liberalism as represented mainly by a Hegelian Thomas Hill Green which wanted to square classical liberalism with the imperial aims of the British empire and the welfare state. The classical-progressive division disappeared today because both share the same common goals, both are enemies of all forms of human solidarity and relational and communal life based on moral obligations not subjective rights. See for instance: P.J. Deneen, *Why Liberalism Failed*, Yale University Press, New Haven 2018; on the English wing of Progressive liberalism see: R. Hudelson, *Modern Political Philosophy*, M.E. Scharpe, London–New York 1999, pp. 59–70.

Republican political mold began to participate, accepting this liberal orthodoxy and questioning only its marginal issues at best.<sup>55</sup> It seems that such conservatives realized that power rests now with liberals and wanted to be part of it engaging in rituals and using a language making them part of the elite. An important element of such a narrative, having a long history going at least to Henry L. Mencken and the Scopes Trial of 1925, is strong and deep antipathy for religion, especially for the “deplorables”, protagonists of the *Hillbilly Elegy*, unsophisticated “red-necks” who seek solace in biblical faith.<sup>56</sup>

For such “Never Trump” conservatives who made peace with liberalism’s hegemony religious conservatives who supported Trump are despicable, fearful people incapable of understanding the “signs of time” represented by the liberal progressive reforms. For this type of “liberal” conservatism politics is a prudent and incremental action with limited government, individual freedoms and policies which avoid harm and are subject to consent, the only legitimate objectives. But such liberal conservatives are incapable of raising the most principled questions about purposes and origins of human communities, exactly the questions Trump and his “populist” electorate raised, not only in America but in Europe as well. Trump’s electorate forced conservative camp to face the nature and purpose of common life after decades of compromise with liberalism, not realizing that its logic begins to attack and define anew according to its ideological assumptions every nut and corner of human life. Of course, these principles seemed to work and until recently had brought spectacular successes, including material prosperity for all. This consensus, which might be defined as a secular-liberal-technocratic consensus became a hegemonic world-view. It began to radicalize itself especially after the 1968 revolution, was to be introduced globally organized by endlessly expanding liberal human rights. At its center stood a conception of human freedom as a radical emancipation of individuals from so far existing culture, religion, traditions and even sexuality in the name of maximizing their potential as consumer of material goods and values. This was the essence of liberal globalism.

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<sup>55</sup> Reagan was also attacked without a pardon but as “ignorant”, “half-wit”, “incompetent”, “warmonger” etc., but not, at least so brutally and widely, as morally evil, except in his foreign policy ideas connected with the Star Wars program.

<sup>56</sup> During The Scopes Trial (1925), so-called Monkey Trial, Mencken, at that time the most influential and “progressive” publicist portrayed in such a way the people of the Bible Belt as “despicable trash”, because they resisted evolution as a scientific theory contradicting the Biblical account understood in the most literal way. This contributed to a cultural division of the US into two groups, first, the people who defined themselves as progressives and the second one as reactionaries in a constant battle for the future. This cultural division goes back to a split in American Protestantism into the so-called Social Gospel Protestantism, influenced by modernism, and the Fundamentalists. See: R.M. Gamble, *The War for Righteousness: Progressive Christianity, the Great War, and the Rise of the Messianic Nation*, ISI Books, Wilmington, DE 2004.

## Fusion of conservatism with liberal monism

The conservative thinkers and politicians in the United States after Reagan's era were pretending to live by his principles but not realizing how they were gradually subjecting themselves to a logic of life dictated by global liberalism. In this way they were abandoning traditional American liberal values and accepting their new modern liberal-left version promoted politically by the Democratic Party, corrected only on the margins. They did not realize that the conservative electorate did not accept this stance of "politics as usual" and did not anticipate a rebellion thinking that all discontents would be neutralized by enormous, also global, economic and technological successes of the technocratic development. But the conservative electorate began to rebel because its negative consequences affected a large part of it, the problem ignored by the establishment of the Republican Party, including its conservative politicians. They seemed to accept easily the main premise of the technocratic liberalism that any shared idea of the common good was illiberal, not realizing that it itself began to be repressive. Without a vision of the common good shared by all society

devolves into consumerist cliques and warring tribal factions. With the eclipse of the metaphysical ideals that underlie their conception of reason, America and the West can barely address other civilizations, much less win them over. And it turns out that the consent principle, without more, can authorize all manner of degradation [of a human being] [...]. The liberal consensus, then, has emerged as a profoundly illiberal, repressive force – precisely because it grants the autonomous individual such wide berth to define what is good and true.<sup>57</sup>

Such "liberal" conservatives were unable to understand Trump's "populism" and his rise to power and sided with liberal-left camp in a spectacle of hate, not noticing how profound illiberal the allegedly free liberal technocratic regime became and how much discontent it generated. The liberal elites defending its orthodoxy and blind to its rising dysfunctions were engaged in a process of punishing any "heretic" contemplating a deviation from it. Any serious concerns raised over some dramatic developments affecting millions of people such as unrestricted mass immigration, a state sponsored "emancipation" from all communal religious or family structures in the name of radical autonomy or criticism of economic growth treated as an idol were defined as phobias, as if history of the world and human thought truly ended. This hubristic liberalism also claimed that one can replicate the western model in any given foreign culture. Some conservatives who supported this approach, especially the neoconservative camp, were blind, noticed Sohrab Ahmari to powerful traditions, history, concepts of order, community, authority of other civilizations, which are incompatible with the Western liberal model. They did not realize that such events as the Trump's

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<sup>57</sup> S. Ahmari, *op. cit.*

election, Brexit, rise of the “populist” parties were direct outcomes of this blindness, a legitimate, desperate attempt to correct a liberal system. Such events

should have mugged, or re-mugged, the conservative movement, in the same way that the disorders of 1968 awakened an earlier generation of thinkers to the limits of abstract idealism. Instead, [some conservatives] [...] doubled down. [...] [their efforts to stay the liberal course without] reflection on the unaddressed malaises and internal contradictions that made Trump, as distasteful as he often was (and is), a plausible choice for 63 million of his compatriots. Instead, [...] [such] coterie of die-hard Never Trumpers cast the election [of Trump] as an evil anomaly, a plot concocted by the Kremlin and a replay of the 1930s and '40s. [...] [with the] hotheaded rhetoric about Trumpian “fascism” and “despotism.” [...] [But] [i]f Trump’s election really is a Hitlerian-scale catastrophe for the West, then civic friendship between Trump America and non-Trump America is impossible. And indeed, that is a premise shared by the #Resistance and the most hysterical of the Never Trumpers [...]. They speak of “defending democracy,” [...] but what they really mean is defending the technocratic liberal consensus [...]. [...] [But] [o]ne needn’t make himself comfortable with Trump to appreciate the space he has opened up to ask basic questions once more.<sup>58</sup>

The problems of or with the American conservative movement did not originate with Donald Trump’s election in 2016 and they will not go away after his defeat. In fact, his unexpected to the Republican and conservative establishment victory exacerbated only the perennial problem of the American conservatism, so different from historical or nearly not existing contemporary European conservatism. It is a problem of a constant vacillation whether the movement is and wants to be a part of the original liberal American *novus ordo saeculorum* or whether it wants to stand outside of it. Today this problem is especially visible, since liberalism has become a hegemonic ideological current with a distinctive anthropology to be imposed on all different thinking people, especially Christians. Whether this outcome was written into a logic of classical, also American liberalism has been recently hotly debated.<sup>59</sup> But equally important problem is the American pragmatic approach to reality and a blatant disregard of deeper philosophical, let alone metaphysical questions, which in conditions of inherent pluralism of American politics and society was not a problem. But with the hegemonic, also in an anthropological sense, modern liberalism, disguised under different names of identity liberalism, progressivism, liberal-left or liberal democracy, this traditional conservative American approach has proved to be totally inadequate, subject to capitulation on the hegemonic liberalism’s terms, with only marginal differences being tolerated and being pushed into insignificance. This does not really mean that the American politics will become monopolistic. The Democrats and the Republicans are going to battle each other but only within alternatives prescribed by monistic liberalism.<sup>60</sup>

<sup>58</sup> *Ibidem*.

<sup>59</sup> See for instance: P Deneen, *op. cit.*, who argues that such an outcome had to happen.

<sup>60</sup> See for instance on this liberal monism in relation to religious liberty J.B. Elshtain, “The Bright Line: Liberalism and Religion”, [in:] *The Betrayal of Liberalism: How the Disciples of*

Conservatism forgot about first principles what for a long time was not dangerous because liberalism has not shown its totalitarian potential, especially in confrontation with its true enemy, that is communism. But now conservatives in America have no more place to retreat to, the truth the European conservatism disregarded and lost the battle. To do this American conservatism, historically never a very cohesive movement, must confront monistic liberalism by returning first of all to metaphysics, a challenge for pragmatically inclined American frame of mind. This was done during the anticommunist chase of conservatism but today the first axioms, its philosophical premises have been “lost in politics; its politics confused with policies; and its policies subsumed into personality”.<sup>61</sup> But American conservatism never accepted traditional European conservative principle that tradition, preservation or, exactly conservation of it, is the very essence of conservatism. American conservatism, so much obsessed with the Founding Fathers, the Constitution and national grandeur placed within its core a revolutionary idea of liberty understood as metaphysical liberty ontologically grounded in a source which was not human autonomous will. This was visible clearly in the Sharon Statement, the founding statement of principles for Young Americans for Freedom written by M. Stanton Evans and ratified by William F. Buckley Jr. This document written in 1960 was at the very same time American modern conservatism’s founding document. It stated “[t]hat foremost among the transcendent values is the individual’s use of his God-given free will, whence derives his right to be free from the restrictions of arbitrary force”.<sup>62</sup> The statement espoused five core principles which have directed the conservative movement since its adoption: individual freedom and the right of governing originate with God; political freedom is impossible without economic freedom; limited government and strict interpretation of the Constitution is crucial; the free market system is preferable over all others; communism must be defeated, not contained. This was in fact Frank Meyer’s “fusionism” in its fullness combining traditional conservatism, libertarianism and anti-communism, the three major camps of conservatism at the time. Some of the Sharon Statements’ principles have become dated as for instance an adulation of the free market, a word of God was controversial for many, but whatever its wording the basic idea defining conservatism was metaphysical.

Man is created in the image and likeness of God. This is essentially the basic conservative axiom, from which stems an idea that nature has definite limitations because it has definite moral ends. For this reason man as free and infused with a sense of moral conscience should strive to achieve moral ends as his best

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*Freedom and Equality Helped Foster the Illiberal Politics of Coercion and Control*, eds. and introduction by H. Kramer, R. Kimball, Ivan R. Dee, Chicago 1999, pp. 139–155.

<sup>61</sup> Ch.G. Long, “Conservatives Must Return To Metaphysics”, *The American Conservative*, August 27, 2020, <https://www.theamericanconservative.com/articles/conservatives-must-return-to-metaphysics> [accessed: 8.06.2021].

<sup>62</sup> *Ibidem*.

judgment dictates. This judgment also should constitute a barrier against utopian ends pursued by human means, the very essence of conservative realism. As Christopher Long observed, conservatives should be especially suspicious of the radicals, whether in the left or in the liberal-left camp, who try incessantly, in the words of Eric Voegelin “to immanentize the eschaton”. By doing this they create hell on earth by using totalitarian political means to eliminate evil from this world. They focus today mainly on obliteration of any form of inequality or discrimination, treated as crucial criteria of moral judgment without regard to natural laws’ limitations, let alone unintended consequences. Within this perspective the preeminent goal of American conservatism, as of any true conservatism, amounts to persistent resistance to any gnostic and antinomian temptations which disregard human nature and its true place in the order of creation. True, a metaphysical dimension does not contradict individual autonomy, in fact, as M. Stanton Evans observed, the former is a precondition of the latter, thus making possible the very idea of political liberty to be born. That is why liberty and a pursuit of virtue are not opposite, they flourish or perish together, and that is why they should never be dealt with independently. This should be the main goal of any true conservative program, whether cultural or political. In contemporary America it means, for instance, that conservatives should battle “woke” or “gender” utopianism which captured large sectors of the American institutional as well as mental life. As Evans wrote true conservatives should be first of all realists communicating to the Americans proper ideas about liberty,

virtue and the happiness derived from a well-ordered life. The key to achieving this goal lies in promoting conservative politics, policies and personalities in accord with a proper understanding of nature and its laws while opposing with fervor the secularists working in the service of disorder and error – including those among us.<sup>63</sup>

It is hard to doubt that Donald Trump was as far away from this sensibility as one could imagine a politician to be, may be with one instinctual pro-life stance. He did not formulate anything resembling such metaphysical contours. However, one may argue that he successfully shattered the prevailing complacency of the oligarchical tendencies within the conservative movement as well as within the Republican Party. That is not much, but neither it is little.

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<sup>63</sup> Evans as quoted in *ibidem*.

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## Trump and the Conservative Movement

United under Regan by anti-communism, the US Conservative movement is now deeply divided. This division was already visible in the so-called Sarah Palin’s conservative populism and the Tea Party movement. However, it showed itself in full force when the Republican party elite, living in symbiosis with liberals from the Democratic Party, had to respond to Donald Trump’s electoral success. It turned out that the traditional Republican electorate did not back the party’s globalist elite, but an outsider. Trump gained the support of that section of conservatives who rejected integration into the hegemonic ideology of leftist liberalism with its destructive narrative of “American iniquity” and the adoption of the technocratic global oligarchy model as the only possible “end of history”. Conservatives supporting Trump’s candidacy referred to the tradition of American conservatism, appealing to the Founding Fathers, the Constitution and national pride and supporting the idea of metaphysical freedom, ontologically rooted in being greater than the autonomous will of the individual. Thus, the possibility of agreement with the oligarchic elite professing identity liberalism is very limited. However, it is possible to create a tactical alliance between conservatives, especially religious ones, and libertarians. Despite fundamental anthropological and philosophical differences, the link is a common enemy – liberal identity politics. Additionally, Trump’s victory forces all currents in Regan’s conservative coalition to revise their goals and adjust to the new reality, as Trump did not appeal to economic globalism but called for the restoration of social solidarity and republican responsibility for all. He was aware of the possibility of creating a new coalition in the camp of conservatives and republicans, which must find a new common political goal, combining social and cultural conservatism with economic populism. Donald Trump, however, met with stiff opposition from conservatives who accept the technocratic hegemony of leftist liberalism along with the sexual revolution and new anthropology.

**Key words:** Trump’s presidency, American Conservatism in the 21<sup>st</sup> century, culture wars, populism, liberal oligarchy, technocracy, identity politics

## Donald Trump i ruch konserwatywny

Zjednoczony za czasów Regana, dzięki antykomunizmowi, amerykański ruch konserwatywny jest obecnie głęboko podzielony. Podział ten widać było jeszcze w tzw. konserwatywnym populizmie Sary Palin oraz ruchu Tea Party. Uwidocznili się on jednak z całą mocą, gdy żyjące w symbiozie z liberałami z Partii Demokratycznej elity Partii Republikańskiej musiały zareagować na sukces wyborczy Trumpa. Okazało się, że tradycyjny elektorat Republikanów nie poparł globalistycznie nastawionych elit partii, lecz człowieka „z zewnątrz”. Trump zyskał poparcie tej części konserwatystów, którzy odrzucali integrację z hegemoniczną ideologią lewicowego liberalizmu wraz z jego narracją „amerykańskiej nieprawości” oraz przyjęcie modelu technokratycznej, globalnej oligarchii jako jedynego możliwego „końca historii”. Konserwatyści popierający Trumpa odwoływali się do tradycji konserwatyzmu amerykańskiego, stale odnoszącego się do ojców założycieli, Konstytucji i narodowej dumy, popierającego ideę wolności metafizycznej, ontologicznie zakorzenionej w bycie większym niż autonomiczna wola jednostki. Tym samym płaszczyzna porozumienia z wyznającą liberalizm tożsamościową elitą oligarchiczną jest bardzo niewielka. Możliwe okazuje się jednak stworzenie taktycznego sojuszu konserwatystów, zwłaszcza religijnych, z libertarianami. Mimo zasadniczych różnic antropologicznych i filozoficznych łącznikiem jest wspólny wróg – liberalna polityka tożsamościowa. Zwycięstwo Trumpa sprawia, że wszystkie nurty konserwatywnej koalicji Regana muszą zrewidować swe cele i dostosować się do nowej rzeczywistości, tym bardziej że Trump nie odwoływał się do globalizmu ekonomicznego, lecz wzywał do odbudowy solidarności społecznej i republikańskiej odpowiedzialności za wszystkich. Był świadom możliwości stworzenia nowej koalicji w obozie konserwatystów i republikanów, która musi znaleźć nowy wspólny cel polityczny, łączący konserwatyzm społeczny i kulturowy z populizmem gospodarczym. Donald Trump spotkał się jednak ze zdecydowanym sprzeciwem konserwatystów akceptujących technokratyczną hegemonię lewicowego liberalizmu wraz z rewolucją seksualną i nową antropologią.

**Słowa kluczowe:** prezydentura Donalda Trumpa, konserwatyzm amerykański w XXI wieku, wojny kulturowe, populizm, oligarchia liberalna, technokracja, polityka tożsamościowa



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Tabele należy umieszczać możliwie blisko powołania i numerować kolejno. Tabele tworzy się, stosując polecenie: *Wstaw – Tabela*. Wskazane jest unikanie skrótów w rubrykach (kolumnach) tabel. Tekst w tabeli powinien być złożony pismem mniejszym niż podstawowy. Ewentualne objaśnienia należy umieścić bezpośrednio pod tabelą, a nie w samej tabeli.

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S. Waltoś, *Świadek koronny – o brzeża odpowiedzialności karnej*, „Państwo i Prawo” 1993, z. 2, s. 16.

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M. Arnold, *China, Russia Plan \$242 Billion Beijing–Moscow Rail Link*, Bloomberg, 22.01.2015, <http://www.bloomberg.com/news/articles/2015-01-22/china-russia-plan-242-billion-rail-link-from-beijing-to-moscow> [dostęp: 10.07.2015].

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4. W innych rozwiązaniach recenzent musi podpisać deklarację o niewystępowaniu konfliktu interesów; za konflikt interesów uznaje się zachodzące między recenzentem a autorem:
  - bezpośrednie relacje osobiste (pokrewieństwo, związki prawne, konflikt),
  - relacje podległości zawodowej,
  - bezpośrednia współpraca naukowa w ciągu ostatnich dwóch lat poprzedzających przygotowanie recenzji.
5. Recenzja musi mieć formę pisemną i kończyć się jednoznacznym wnioskiem co do dopuszczenia artykułu do publikacji lub jego odrzucenia.
6. Zasady kwalifikowania lub odrzucenia publikacji i ewentualny formularz recenzencki są podane do publicznej wiadomości na stronie internetowej czasopisma lub w każdym numerze czasopisma.
7. Nazwiska recenzentów poszczególnych publikacji/numerów nie są ujawniane; raz w roku czasopismo podaje do publicznej wiadomości listę recenzentów współpracujących.

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<sup>1</sup> Zgodnie z wytycznymi Ministerstwa Nauki i Szkolnictwa Wyższego obowiązują od roku 2012.

