

Cultural Heritage and Contemporary Change
Series IVA, Eastern and Central Europe, Volume 20

Liberalization and Transformation of Morality in Post-Communist Countries

Polish Philosophical Studies V

by
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The Council for Research in Values and Philosophy

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620 Michigan Avenue, NE
Washington, D.C. 20064

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Printed in the United States of America

Library of Congress Cataloging-in-Publication

Buksinski, Tadeusz.

Liberalization and transformation of morality in post-communist countries : Polish philosophical studies, IV / Tadeusz Buksinski

p.cm. – (Cultural heritage and contemporary change. Series IVA, Eastern and Central Europe, vol. 20)

Includes bibliographical references and index.

1. Poland—Moral conditions. 2. Post-communism-Poland. 3. Poland—Social conditions—1980.
I. Title. II. Series.

HN539.5.M6B85 2003
306'.09438—dc21

2003004040
CIP

ISBN 1-56518-178-6 (pbk.)

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Preface

Tadeusz Buksinski

The book presents a collection of essays on the transformations of the spiritual culture and attitudes of the people and, to a certain extent, the institutions of the postcommunist countries. These numerous and drastic transformations affect all realms of private and public life. It is very difficult to give an account of all of these changes in one volume. It is even harder to predict all of their consequences, which, as one may suppose, will include many that are far reaching and negative. The approach of the present volume is based on observations of everyday life and philosophical reflection rather than on empirical studies and statistics, for the interest is in only one aspect of the transformations, namely the moral one, which is hardly subject to empirical studies or to expression in quantitative terms. Not surprisingly sociologists and political scientists investigating the postcommunist transformations rarely address this issue, but focus instead on institutional evolution.

Nevertheless, the moral transformations are of fundamental importance. They promise to produce the most far-reaching effects in these societies for they constitute the backdrop and groundwork of the institutional evolution. The moral attitudes and beliefs may hinder or facilitate it. Mindful of the difficulties involved in studies of this nature, I have ventured to set down a summary of the main trends visible in the spiritual transformations of the postcommunist societies, what I will critique. In exposing and describing them, I hope to raise awareness of their importance for both the average citizens and the decision-making politicians, both in Central and Eastern Europe or in other parts of the world, for in the present period of globalization, regional phenomena and processes have a worldwide impact. I hope that by exposing negative developments, the present general response may be changed from indifference to the initiation of appropriate action that will prevent their expansion or at least alleviate their undesirable effects.

A sane and well functioning society has to rest upon clear and durable moral foundations. Individuals, especially if they hold public offices, must act honestly and responsibly, and apply long-term rationality in their thinking. No social and political system can function correctly without such individuals. Therefore it is necessary to develop an atmosphere conducive to the spread and strengthening of a morality that can face the challenges of the times. The present volume is conceived as a contribution to such a restoration of the morality undermined in postcommunist countries.

Introduction

George F. McLean

In 1989, Poland led the way out of the communist hegemony over all of Central and Eastern Europe.

The breakthrough was truly an amazing accomplishment, for during 150 years Poland had been partitioned between Russia, Prussia and the Austro-Hungarian Empire; politically it had ceased to exist. Yet, as described in another work in this series, *Values in the Polish Cultural Tradition*, ed. Leon Dyczewski (Washington: The Council for Research in Values and Philosophy, 1999) the very resistance of the Polish people to that denial of their identity deepened their commitment and nourished its spiritual roots. These were lived in their homes and Catholic Parishes, while the poets gave voice to their deepest national aspirations.

As a result the Poles alone among their neighbour were able to break the totalitarian grip of one of the two superpowers of the time – and they did so non-violently! At the time it was thought naively in the West that having achieved freedom, all would reorganized itself spontaneously according to democratic patterns; that, it was thought, was the inevitable path of freedom.

The present work of Tadeusz Buksinski, Chairperson of the Institute of Philosophy of Adam Mickiewicz University in Poznan, Poland, tells a different story. He was a University student in Warsaw during the 1960s and took part in the debates as his Marxist professors began to question the system. He shared deeply the Catholic traditions of his people, and their hopes for a free Poland.

Here he looks back to describe the social dynamics through which Poland passed in the years following 1989. While it may be hoped that Poland has now passed through the darkest part of this transition, participants from other, more easterly, European countries at a meeting of the Council for Research in Values and Philosophy (RVP) held in Poznan confirmed in dismay the disastrous decline described in this work to be a correct description of the state of affairs they themselves were experiencing, and with no escape in sight.

Part I, "Morality and Liberation," begins, in a sense, where the previous volume left off. It describes the moral resources by which Polish culture defeated the modern ideology of communism. But soon it moves on to the moral polemics which followed. In this the moral attitude of the Polish Church is described as "rigoristic". This attitude had held the nation together through the partitions and the cold war. It entered into the new and uncharted domain with somewhat ungainly strides.

Part II, in retrospect, is a description of what happened when that clear guidance became less operative and morality began to collapse. Some felt that a purely utilitarian ethics was sufficient for the public sphere. But Weber's pragmatic statesman could, and in Yugoslavia did, turn to "ethnic cleansing," which in some cities degenerated into genocide.

The story Buksinski tells is not that of emerging dictators – though such cases could be cited from the broader region – but of collapsing structures: of free market turned mafiosa, of imported liberal legislation used as a licence for crime, of a polity unable to respond, or even to avoid undermining its own authority, due to corruption.

And so Part III is left with a challenge. It is not sufficient to set morality and modernization as alternatives for, as the experience of the 20th century shows, modernization without morality has made it the bloodiest century of all. Moreover, the hope that the mere adoption of a European

identity will suffice seems to be contradicted by its collapse of family structures, the basic building blocks of society.

In this situation Poland may have a new calling. If it alone had the moral strength to break free from the totalitarian empire stretching from its Western border to the Pacific, it may yet have the moral strength and creativity to break beyond modern utilitarianism and moral relativism to contribute substantively to the creation of a morality for the post modern global age.

In the past its people found creative ways to affirm their identity without a nation, and moral ways to assert their freedom despite the suffocating immorality of control by a modern super power. There is reason to hope that Poland might manage to do so once again, for with the end of modernity the terrain has shifted. The terms are no longer the Enlightenment norms of self interest understood in terms of profit and power. Instead, there is now new sensibility to the interior work of the spirit which religious thinkers, whether Christian or Hindu, Islamic or African, have always seen as the divine.

It may even be that precisely because of all the problems cited in Part II Poland may be well situated to draw once again from the moral heritage of its rich cultural and religious roots to respond to the great challenge of revitalizing the societies of Central and Eastern Europe in these new times. If so Poland indeed may again lead the way not only for its neighboring post communist countries, but for the global society now emergent. While that chapter is being written others watch in fear, yet with hope.

Chapter I

The Moral Struggle Against Communism

Morality as Condition and Goal of Social Life

During the Communist period public and political activity in Central and East European countries was deeply rooted in values. Under the Communist regimes, the oppositionists considered their own ideological alternative to Communism to be mainly a moral project. They avoided not only direct political confrontation, but even formulating an alternative political program in the strict sense of the term. The strategy they suggested consisted mainly of ethical requirements and moral standards. They demanded, in the first place, that politics and public activities be based on moral norms, and insofar as feasible tried themselves to meet in practice their own requirements of morality by obeying the law and publicizing their own actions and those of the regime. Regarding the latter, the publicizing of the regime's failures to obey laws which they had passed and to observe human rights and other standards which applied in the civilized world had special impact on the popular opinion and attitude in these countries and abroad. Due to their honesty and integrity, opposition activists gained the confidence of society.

Communists, on the other hand, avoided the subject of morality. Although the founding fathers of the ideology of Socialism (Karl Marx and Friedrich Engels) were motivated by moral values and produced a conception of a social and political system whose implementation was to ensure the realization of such ideals as liberty, justice and welfare, yet the reality of the Communist regimes differed radically from the ideal vision. With time, moral values were replaced by an ideology, i.e., the set of rules of a system and a *Weltanschauung* which enabled certain discrete groups to stay in power and to remain united and immune from external criticism.

Critiques of Communism and the activity directed against the Communist system did not offer at that time clear definitions of morality. At least four approaches, which the parties seldom investigated in detail, seem to have emerged. First, everything democratic was considered moral: the democratic principles of the political, social and economic system: democratic views, action for democracy, voting rights and the free market economy. Democracy imparted a moral aspect to the human and civil rights, promoting them to the level of moral values. Reading the works of the opposition, one even may get the impression that they closely associated and in some cases actually identified the principle of democracy with human rights. In their view, a democratic system was, by definition, the realization of the rights of freedom, equality before the law, and justice. These allowed persons to fulfill themselves, and thus complied with the human essence and its preferred axiological order. This is *a morality of rights or a constitutional morality*, and may be constituted in many ways.

Second, a *rigoristic or deontological universal morality* was presupposed. This consisted in a set of universal standards to be applied in public and private life: a system of negative and positive norms that humans as such were supposed to observe. These included prohibitions against lying, cheating, killing, etc., and the corresponding injunctions to be truthful, honest, to respect life, etc. Such norms needed no further clarification of their content, although it was assumed that only those who observed them possessed human dignity or the specific value of human beings, while those who violated them stooped to the level of animals. In this sense, such norms were considered to reflect human nature or the human essence. They were treated as a condition of the good society and of the rightful political order.

Third, the *morality of tradition or community*, which may be called *the morality of customs and religion*, was postulated. This comprised the customs, ceremonies, rites, traditions and time-honored patterns of conduct to which a given community ascribed particular symbolic or axiological importance. In Middle and East European countries it features the standards of a rigorous morality. Its application was limited to the members of a given national or religious group, and was justified on a mythical or religious basis. In this approach, moral value was associated with participation in church or national ceremonies, the observance of holy days of obligation, certain patterns of family and sexual behaviour (care for children, marital fidelity, no divorce), the eschewal of abortion, the willingness to help one's neighbors, bringing children up in the tradition, etc. Popular, national, cultural and religious tradition is an essential part of this morality and is different in different countries. Thus, e. g., in Russia and Ukraine equality has been the fundamental moral value for many centuries: wealth was and still is associated there with stealing, and as such is morally condemned.¹

Fourth, a *felicific morality*, or *morality of interests*, was assumed, identifying the moral with what brings happiness to human beings in their earthly lives. This brand of morality is distinct from religion's or tradition's morality and need not be related to any specific society or to social and political system. In modern times, the scope of this morality has narrowed, as happiness has been reduced to the pleasure derived from the acquisition, possession and use of material goods. Moral positive value was prescribed to *utilitarian* activity. It was supposed to be beneficial to individual and to community, because it served the satisfaction of humans' natural needs: security, hunger, rest, entertainment, possession, power, and welfare. Accordingly, this was a morality of aims and goods, rather than of interestless norms. Such utilitarian aims and values were often termed "*interests*".

Broad strata of societies living under the communist regimes were dominated by the morality of custom and tradition. This provided the axiological basis for the passive resistance to Communism. The Church and the conservative opposition also presupposed this morality. The left and liberal dissidents active in eighties rather accepted constitutional morality as a weapon to critique the totalitarian regime.²

Protest in Defence of Spiritual Identity

There were three essential forms of opposition to the totalitarian system: covert passive resistance, overt non-violent protest, and armed struggle. The last kind of protest has not played the role in the second half of XX Century in Middle and East Europe. The first form of activity resulted, in a way, from a consideration of utilitarian and traditional morality. It consisted in a partly open cooperation with the regime, at the same time taking actions, which weakened or liberalized the system. The citizens took the edge off the dictatorship whenever this was possible, i.e., when not noticed by the authorities, legitimate, or when profitable in view of the mildness of the punishment faced by the offenders. Both individual and institutions followed this pattern. Under the Communist rule, even many persons holding public offices in the administration adopted the policy of passive resistance. This kind of activity was ambiguous. From one side, by putting up this opposition such people kept to their moral norms and values and risked a quiet life. From other side, in this rational compromise with the system, evil was tolerated in order to avoid punishment, and certain values, including moral values, were sacrificed for material security.

The second form entailed evident opposition or dissidence. Disagreement with the system's policies was declared, and an ideological stance, critical of the regime, was taken. This was the

level of political protest. In this case the opposition demonstrated publicly that there was a limit to utilitarian calculation and toleration of evil. Concessions were made to the system (in order to avoid confrontation and its aftermath), but when the limit was reached, no matter what the consequences, the opposition challenged the regime and declared its disagreement. Obviously this need not involve riots, as people may refrain from waging a struggle or setting up barricades while still protesting in a non-violent manner.

In 1953, Cardinal Stefan Wyszyński, the Primate of Poland's Catholic Church, formulated the concept of the limit of concessions to the totalitarian system by stating: "*non possumus* - we cannot yield any more". For this declaration he was punished by imprisonment.³ Since then the Church and some other opposition groups ceased to pretend that they were cooperating with the system, but neither were they openly contributing to overthrowing it. They only established the limits that the system must not exceed. When the level of required concession approached the limit, overt and direct confrontation ensued. Then the regime "took offense", persecuted and imprisoned some in the opposition, or even had them assassinated, striving to terrify the population lest it follow suit.

The limits of *non possumus* were the effective identity of the individuals, groups, communities and institutions making up the opposition: they could not give in any further without jeopardizing their spiritual identity. Identity was defined in terms of the moral, nonutilitarian values, principles and standards adhered to and implemented such as ideas of dignity, honor, respect, recognition and independence. It was conceived as the sum total of the qualities that made up the essence of the agents (subjects), allowing them to remain spiritually intact, in spite of the developments occurring within or without. Thus identity is the spiritual core that perseveres through changes, and maintains the unity and consistency of the subjects. An important factor that sustains identity is the self-consciousness of one's distinctness and individuality.

It seems that any dissident activity undertaken under a totalitarian system comprised, as its substantial and principal component, the concern over, or the intention of, preserving oneself as a spiritual and moral being. Thus, among other things, what was always at stake was remaining loyal to oneself, asserting one's identity and fashioning oneself as a spiritual being. One can discern two aspects of identity significant in political protest: the universal and the particular. The former is defined by universal values, rights and the good. The struggle for human dignity, justice, and liberty was an important facet of dissident activity. The concept of human rights, and the Charter of Civil Rights, adopted as the Final Act of the Conference of Security and Cooperation in Europe in 1975 (the Helsinki Accords), and signed by the Communist governments, were used by the opposition (specially by its left wing) as a legal basis of their activity. They referred to them and demanded that they be observed.⁴ To protect their particular identity, people cherished their national culture, religious values and the ties of community, founded on language, customs and tradition, and demanded the liberty of promoting this heritage. Dissidents identified themselves with the people and considered any relinquishing of the struggle for national identity to amount to self-betrayal. The communities of family, Church, and youth invariably defended these values.⁵ In the process of resistance, the moral identity was further confirmed, developed and fashioned. The younger generation was brought up in the spirit of freedom, tradition and the sense of solidarity with community because both individuals and community spiritual activity were awakened and stimulated.⁶

It was not true, as some claim, that dissidents were utilitarians or altruistic egoists, i.e., people driven by personal profit, different only in that it is in their nature to rejoice when they promote the happiness, liberty, and interests of others. If this were the case, dissident activity would be merely a case of egoism.⁷

In pure instrumental or utilitarian activity, the aims are replaceable and variable, and there is a price to pay for each of them. They may be "bought", as those who pursue them are induced to give them up or change them. These are relativistic aims, established with reference to actual or imaginary needs, and easily replaced by other aims equally suitable for the needs. But there are no alternatives to the values that define spiritual identity and which are implemented even when the cost of the implementation is higher than the expected profits and benefits. The dissidents did not seek profit or utility, either theirs or others'.

Those who opposed totalitarianism did not choose one of several available clear-cut options. Their position was one of risk and uncertainty. It was not a reckoning of cost and profit that made them protest, but anger, desperation and the realization that they had reached the limit beyond which they did not want to go and could not to be pushed. They protested because they felt that there was nothing else left to do and that they could not go on like this any longer, since it would entail the loss of material or moral dignity, as well as the right of self-determination and an independent life.

A low material standard of living alone never stirs up opposition against a totalitarian regime. It must be accompanied by - at least - a realization of its injustice or unsuitability for people, and by a willingness to struggle in order to demonstrate the validity of one's moral identity.

The limit at which the *non possumus* attitude emerges, varies with societies, nations, institutions, or individuals. It depends on the culture, tradition, upbringing, morality, and even the nature of individuals or groups. The philosophical consciousness and the ability to perceive the situations in general terms are significant factors affecting the establishment of limits to concession to the system.

When exposed to the danger of totalitarianism, the individual and collective identity tends to expand, i.e., to incorporate more and more new properties and values, considering them important components of itself, and to demand that they be acknowledged by others and the system. This expansion of identity and increase in its intensity and weight are particularly conspicuous when individuals, groups and institutions are expressly threatened with physical violence. On such occasions, more and more qualities, rites and facts become important and sacred for a nation, family, Church or individual, and in its defense they are ready to sacrifice all, including the lives of their members.

Representatives of the regime are themselves aware of the limits set by identity. Sometimes they provoke controlled confrontation to suppress it at an early stage. The provocation consists in producing facts or conditions that certain social groups would deem "insulting" or "unbearable" e.g., arresting a respected leader, paying "unjust" wages, or instituting dramatic price rises accompanied by wage-freezes. Such acts offend the sense of honor or dignity of many groups in society.

Practical Reasoning vs Calculation

As we tried to show, at the level of individuals, dissidents sacrificed personal happiness and interests, professional careers and a life of leisure for opposition activity and the struggle for the just and the good; they strived for the common good. This, however, does not mean that dissidents adhere to the rules of value-rational action, as defined by Max Weber. They take into account the advantages and drawbacks of each possible choice and consider using moral categories. Many instances of choice are a private trauma, as they require sacrificing one's own and one's family's happiness for community values, for good and for the principles of justice. But this choice is the

more traumatic and complex, because in order to struggle for principles and the common good, dissidents must maintain certain individual "benefits" and goods: their health, life, and intellectual and physical ability. Furthermore, action requires certain material facilities. Thus dissidents are and have to be prudent and not neglect the instrumental aspect of action. Rather than merely immolating themselves, they strive to make their activity as useful as possible within the framework of the accepted principles and values. Still this calculating of effectiveness is secondary to practical considerations of an axiological nature; it is not instrumental in Weber's categories.⁸

Protesters must daily make yet another choice of fundamental importance: between greater and lesser social good, and between greater and lesser moral evil. What provokes political protest is not any threat to values and the good, but only to values considered significant and essential which cannot be given up or traded. Therefore less significant values have to be sacrificed to preserve the former and dissidents have to make choices of which values are more and which less important, and for whom (family, nation, Church). The division into the more and the less significant is not always clear as goods and values are seldom ordered in an evident hierarchy but normally are assumed as obvious features of individual and collective activity. Only when they are in danger do we have to think them over, establishing priorities in their importance and for action. Moral decisions and actions are not as clear-cut as are utilitarian calculation and activities. Indeed, moral aims may be achieved only imperfectly and temporally, and have to be sustained through continuous effort; at the same time, a moral attitude requires that the fulfilled conditions be enhanced and expanded. The described reasoning and meditation concerning the aims and matter of action in given circumstances, resembles the mode of reasoning described by Aristotle in the *Nicomachean Ethics* when discussing what action is virtuous in a certain situation. In a similar way dissidents estimate whether in the current circumstances it would be wise to intensify protest (e.g., by calling strikes), or to content themselves with a verbal statement of the authorities' unjust treatment of a certain group. The purpose of such estimation is to determine a wise course of action or a long-term moral optimum, taking into account the facts of the situation, among which are the effectiveness of action.⁹ This concept may be found, e.g., in Solidarity's idea of self-contained revolution. Accordingly, dissidents usually did not call their activity "political" although it produced political results, and the regime very often considered it to be political. In fact the dissidents did not aspire to overthrow the totalitarian political system, which would be a hopeless and suicidal mission. Instead, they focused on combating extreme manifestations of evil, those that went beyond the limit of fortitude and demanded curbing the worst excesses, publicly exposing and resisting them. Still the "worst" does not cease to exist: as one opportunity for excess is banned, another automatically emerges and replaces it, becoming a new object of critique and negation.

Developing an Alternative Society

Besides the forms of opposition activity discussed above and that covertly or overtly denied the absolute power of the totalitarian system there existed also another, equally important realm of peaceful moral activity, which played a significant political role. This consisted in developing situations, relationships and communities based on such moral standards, norms and values as kindness, free cooperation, liberty, trust, friendship and religious beliefs. Such attitudes, actions and forms of community life were independent of the regime and confined its power by developing an alternative world. Society was thereby offered a different type of life lived within dissident or religious communities. This type of activity, as a specific way of "practicing virtue," spreads through imitation. Furthermore, it is difficult to fight, as it pretends to be neutral to the regime. It

questioned the system at the pragmatic rather than semantic level, and by means of its assumptions rather than of expressed manifestos or of the purposes it pursued. A new world emerged that competed with the official one and was inaccessible to the supporters of the regime. The inhabitants of this world considered themselves superior to the proponents of the system. They defied the absolute and ubiquitous supervision and control to which the system wished to reduce all social interaction. The very fact of creating an independent society provided a certain value, as it produced a place of liberty and highlighted moral values. Members of these communities found in them the recognition of their personalities, and did not allow themselves to be reduced to components of the authoritarian system.¹⁰

In totalitarian systems, protesting amounted to walking a tightrope between life and death, freedom and imprisonment, concession and defiance. The regime treated dissidents like lunatics. In the Soviet Union, thousands were committed to insane asylums, prisons and gulags. In fact, they may validly be called insane, as their actions did not take utilitarian calculation into account. They protested, although they knew in advance that they would not overthrow the system. In a way, they acted like court jesters, except that the rulers did not tolerate their vagaries.

On the other hand, by treating all protesters as lunatics and persecuting them, the system was proving itself to be irrational and certifying itself as insane. The very fact of a formal, public denouncement of the system's tyranny, material and spiritual robbery, disregard for human dignity and freedom, eradication of tradition, etc., pilloried it. This is because a totalitarian system essentially identifies itself with all of its actions, because it too (like traditional communists) bases itself on the logic of identity, rather than of profit and utility. But its identity is not a moral one. Thus, challenging a specific action of the system implies defying the entire system. The continuing operation of the regime was becoming increasingly expensive, both ideologically and economically. Accordingly, when the degree of protest unwittingly and gradually exceeded the limit of the system's endurance, the latter collapsed.

To conclude, when the totalitarian system of Communism was overthrown, it was not the result of conscious, organized effort expressly striving to defeat it, but a by-product of actions intended to establish limits for this system. Border skirmishes, such as not observing some orders, demands for better living conditions, the legalization of free trade unions, etc., on the one hand, established the limits and provisions. On the other hand, it blurred the limits altogether and involved both parties in ambiguous contentions that obfuscated the definition of the conflict, gave rise to doubts, and made certain officials willing to grant minor concessions, producing internal strife among the authorities.

Such skirmishes exposed the system's weakness, and especially its inability to cope with vague and complex situations. They revealed the strength of the opposition. This type of imperceptible friction undermined the essence of the system. At the turning point in the history of the Communist system at the end of the eighties when the trade union movement of *Solidarity* was at the peak of its influence, Jacek Kuron, a leading Polish dissident observed: "We wanted to discuss the nation's issues with the Communist Party, but then it turned out that the Party was already disintegrating, and no one was willing to represent it."¹¹

Notes

1 T. Aleksejeva's statement in , G. Skapska, *Etyka w polityce, (Ethics in Politics)* (Krakow 1997), pp.106-107.

2 Cf., J. Kuron, *Wiara i wina . Do i od komunizmu*, (*Faith and Guilt: Toward and Away from Communism*) (Warszawa, 1990); J. Kuron, *Polityka i odpowiedzialnosc*, (*Politics and Responsibility*) (London, 1984); V. Havel, *Sila bezsilnych*, (*Power of the Powerless*) (Berlin, 1987).

3 Cf. S. Wyszynski, *Zapiski wiezienne*, (*The Prison Notes*) (Krakow, 1982); A. Micewski, *Kardynal Wyszynski. Prymas i maz stanu*, (*Cardinal Wyszynski: Primate and Statesman*) (Paris, 1982).

4 Cf. J. Kuron, *Wiara i wina*, op. cit.

5 Cf. S. Wyszynski, *Kosciol w sluzbie narodu*, (*The Church in the Nation's Service*) (Krakow, 1981).

6 Cf., R.T. Knowles, G.F. McLean [ed], *Psychological Foundation of Moral Education and Character Development* (Washington, D.C.: The Council for Research in Values and Philosophy, 1992).

7 The opinion of K-D. Opp and M. Taylor. Cf., K-D. Opp, "Repression and Revolutionary Action : East Germany in 1989," *Rationality and Society*, Vol. 6, No. 1, (1994), pp. 101-138; M. Taylor [ed], *Rationality and Revolution* (Cambridge, 1988).

8 M. Weber, *Gesammelte Aufsätze zur Wissenschaftslehre* (Tubingen, 1973), especially Chapters II and X.

9 Aristoteles [Aristotle], *Etyka nikomachejska*, (*Nicomachean Ethics*) (Warszawa, 1956), Books III and V.

10 T. Buksinski, "Die Kategorie der Sittlichkeit und die Wirklichkeit der postkommunistischen Staaten," *Hegel-Jahrbuch* (1997), s. 169-173; T. Buksinski, "Morality and Politics in Postcommunist Countries," in P. Kampits, K. Kokai and A. Weinberg [eds.], *Applied Ethics* (Kirchberg am Wechsel, 1998), pp. 109-115.

11 J. Kuron and J. Zakowski, *Siedmiolatka czyli kto ukradl Polske*, (*Seven Years Old or Who Has Stolen Poland*) (Wroclaw, 1997).

Chapter II

Moral Polemics after Communism

With the evolution of views and attitudes after the fall of Communism, the discussions of the function of morality in social life entered a new stage. It is only now realized that equivocal notions of morality and identity were being used, and that as various meanings thereof are now emerging, the former anti-Communist opposition has been divided in its approach to the practical application of morality in political and public activities, as well as in private life. The concept of morality which was being used was intrinsically contradictory, and its implementation after Communism has produced conflicting political programs and tension within society.

In particular, constitutional democratic morality has clashed with the traditional religious morality of customs and community. The rules of the former treat those of the latter as immoral, since the latter impose restrictions on liberty. Conversely, the traditional religious morality does not approve of certain behaviours which under constitutional morality would be considered admissible or morally neutral, e.g., divorce or abortion.

Although nobody denies the validity of the democratic system under which all authority derives from the will of the people, traditionalists and neoconservatives emphasize that citizens, when appointing their representatives, must apply criteria of the morality of religion and tradition. Thus, democracy should be governed by the moral norms of religion and customs, which should limit the will of the people in many important public and political issues. Above all, the political right wing imparts a moral dimension to all public activities, by demanding that moral foundations of democracy be built on a moral judgment of the Communist past. Whenever the excommunists manage to assume a position of power, the right-wing activists consider this a restoration of the immoral situation. The Polish cardinals and bishops before every election to parliament write letters to Catholics warning against voting for excommunists.¹

The liberals and excommunists, on the other hand, are convinced that a democratic state must be neutral in the matter of *Weltanschauung* and morality except for the constitutional morality. The state must observe rules and procedures which guarantee liberty, conceived as a plurality of different opinions, beliefs, customs, and private moralities, and must not dictate or overtly support any opinion or attitude in these matters. The constitutional morality inherent in the political system is sufficient legitimation of the state, as it is the only policy that may ensure liberty, legal protection of life and property, the participation of all citizens in the processes of government, and justice. The observance of the procedures, e.g., of institutions and rules of democracy at work, safeguards the unity of society. This brand of morality operates as a presupposition of rational cooperation and democratic institutions, rather than as a natural value that may provide a basis for formulating judgments and standards of conduct in a direct manner, i.e., bypassing the law.²

Furthermore, acute tension between the utilitarian morality, on the one hand, and the rigoristic (deontological) morality and the morality of religion and tradition, on the other, has become evident. Certain "liberal" interpretations of the former condone a contempt of customs, religion, and even universal moral standards, if they are not instrumental in gaining earthly advantages, and particularly in deriving material benefits. Liberals and excommunists stress the importance of material profit in collective and individual activity.³ This approach to the issue of goals and means in private and public life is unacceptable to the proponents of tradition and of rigorism. For them the moral norms have absolute value and have nothing to do with gaining material profits or

particular interests. As a result, two main approaches to the problems of morality have emerged: traditional-*cum*-rigoristic from the one side and constitutional-*cum*-utilitarian on the other.

The very notion of "the common good" has become ambiguous. The liberals and the excommunists speak about the public good and identify it with the procedure and institutions of a democratic political system and with the achievement of material goals and the satisfaction of material needs, while the neoconservatives use the term "common good" to denote, in the first place, spiritual and symbolic values: the cherishing and upholding of a community's tradition.

Still, symptoms of a weakening of the social impact of moral rhetoric may be noticed, due to both psychological and political reasons. Among the factors are the immoderate and the one-sided character of the criticism, as well as an instrumental approach to morality present in the attitudes of the proponents of moralism as a public policy. It consists in carefully selecting the accusations and publicizing them according to a time schedule devised to cut short their targets' careers.⁴ At the same time, the excommunists scrupulously observe the form and rules of democracy and human and civil rights, although they themselves seldom refer to their own conduct as moral. This is motivated by a proper understanding of their own interests, rather than by a love for democracy and freedom. Thus, morality is losing its absolute significance, and moral standards and values have been reduced through a process of relativization to particular standards and interests, which in turn degenerate into party or even personal interests.

Another factor that has contributed to weakening the importance of morality in public activities and in theoretical debates is the influence of Western democratic countries. Critics of moralism explain that in a democratic system the only basis of the right to hold office is the will of the majority of voters. The paradoxical character of the anti-Communist critiques has also been noted: after all, if one blames the evil on the Communist' system, one automatically exonerates the people who worked within the same system; while if one censures the people, this implies, to a degree, that the system was not entirely evil - if it offered a possibility of moral conduct.⁵

In the process of transformation, the controversy between the various approaches to morality and its function in public and political life results in a further narrowing of its application. Even among the neoconservatives and the groups related to the churches, moderation in pronouncing moral judgments is more and more advocated. Philosophers, ethicists and moralists, presupposing a distinction between the common good (which includes the goals, values and standards of a community) and the means of achieving this, admit certain limitations in the application of morality in the realm of means. It is emphasized that traditional or rigoristic moral criteria must not be the only gauges of governing and assessing social and public life. Sometimes the representatives of the people and the so-called ordinary people must act according to principles of instrumental rationality and conceal their thoughts, pretending to do a lesser evil to avoid a greater one.⁶

Most important of all, the social and political situation has changed to the disadvantage of the proponents of moralism. Having come to power, they have had to make decisions which were not always in accord with traditional or universal moral standards: thus, in the name of contemplated reforms, the standard of living is lowered without notifying society of this fact; embarrassing incidents are passed over in silence to ensure good internal or international relations; empty promises are made; and the immoral conduct of public servants is concealed. In practice, with regimes of all options, the prevailing factors are pragmatism, concern about the economy, and their own popularity and success. Consequently, moral conduct, which used to be of fundamental social importance and contributed to overthrowing the Communist regime, now has lost its ideological and factual footing; moralism has turned into mere tedious moralizing.

The evolution of such moral views and meta-ethical reflection may be interpreted as desirable symptoms of Central and Eastern Europe's rapid assimilation or convergence with Western Europe in the realms of morality, and especially of their awareness of the complications that arise when only one kind of morality is adopted in public and social life. To some degree this is true. The debate about the function of morality in society has now reached the level of the classics, i.e., its present subject matter are the issues which have been discussed in Western Europe in the theory of politics. The discussions first show that philosophers, moralists, politicians and other people in Central and Eastern Europe are interpreting the spiritual phenomena in postcommunist countries in categories well known from the discussions and works of Western philosophers.

Notes

1 C.f. M. Zieba, *Demokracja i antyewangelizacja*, (*Democracy and Anti-Evangelizing*) (Poznan 1997); J. Gowin, *Kosciol po komunizmie*, (*The Church After Communism*) (Krakow, 1995).

2 A. Walicki, "Moralnosc polityczna liberalizmu, narodowa moralistyka i idee kolektywistycznej prawicy," ["The Political Morality of Liberalism, National Morality and Ideas of the Collectivist Right"], *Znak*, No. 506 (1997), pp. 21-37.

3 L. Balcerowicz, *Wolnosc i rozwoj: Ekonomia wolnego rynku*, (*Freedom and Development: The Economy of the Free Market*) (Krakow, 1995).

4 H. Wozniakowski, "Polityka moralna czy polityczne moralizatorstwo," ("Moral Politics or Political Moralizig"), *Znak*, No. 506 (1997), pp. 59-64.

5 J. Tischner, "Kot pilnujacy myszy," (The Cat Watching the Mouse"), *Znak*, No.506 (1997), pp. 38-44.

6 A. Dylus, "Polityka i moralnosc. Typologia stanowisk," ("Politics and Moral. The Typology of Standpoints"), *Studia Theologica Varsoviensia*, No. 1, (1991), pp, 48-64; J. Tischner, "Kot pilnujacy myszy," op. cit.

Chapter III

Moral Dilemmas of Politicians and Political Activity

Ethics of Conviction and Ethics of Responsibility

Systems and institutions, though resulting from man's intentional or unintentional behaviour, gain an autonomous status, and influence the behaviour of individuals and whole groups of people. In the contemporary world an individual human being is more and more an element of various systems, institutions, or organisations; one acts within the framework of those systems and is conditioned by them. The human being takes part in such systems and institutions not so much as a person or unique individual in his own right, which is a characteristic feature of participation in traditional communities, but rather as performing certain roles or functions. This performance of a function is subject to the rules, norms and expectations of the systems and institutions. As a consequence, individuals performing specific roles are supposed to comply, at least up to a point, with values, norms, and patterns of behaviour different from those binding the same individuals privately or within communities. Hence members of systems and institutions are subject to a much more complex moral assessment than private persons or members of communities.

The previous chapter described in general terms the evolution of views concerning the role of personal or individual morality in public and political life. Here we shall analyze more systematically the problem of moral responsibility of politicians with reference to discussions taking place in recent years in Poland. Attention will be paid to the moral phenomena connected with the postcommunist period.

The complex character of moral issues related to members of systems has recently attracted attention by ethicists and moralists. The distinction between personal ethics and the professional ethics of clerks, administrators, entrepreneurs, medical doctors, etc., shows this heightened attention. As regards politics, the starting point for such considerations is most often an idea expressed by Machiavelli that it is not only justifiable but even right for an authority to make use of fraud, lies or murder, on condition they are instrumental for the acquisition or preservation of power, or are otherwise in the interest of the governed community.¹ Machiavelli's stance is referred to by Weber in his famous division into the ethics of convictions (*Gesinnungsethik*) and the ethics of responsibility (*Verantwortungsethik*).² The former is a specific unity of rigoristic and religious ethics; the latter is a specific branch of utilitarian ethics adapted to politics. According to Weber politicians are guided by the ethics of responsibility, upon which he commented favourably.

The ethics of convictions imposes the duty of following the dictates of one's conscience. It is in principle in accordance with the common moral awareness of a righteous person, even if in its model version it is more demanding and more deontological. The ethics of a righteous person allows the use of force for the eradication of evil within the limits set by norms and values of a universal and communal character. The ethics of conviction found its most ideal expression in Jesus' Sermon on the Mount and in the ethics of an evangelical love of one's brother. It forbids the use of force and the performance of any form of evil; one has to do good, irrespective of the consequences of those intentionally good deeds.

According to Weber, a politician following this ethics of conviction would lose his efficiency in three ways: a) the support of the voters the politician represents would decrease and as a result the politician loses popularity and may ultimately lose power; b) a politician would no longer be able to safeguard the security and well-being of the community; and c) he would provoke

ideological or religious conflicts because of his convictions and attempts to put them in practice. In contrast the norms that are binding within the ethics of responsibility would be immoral or at least morally indifferent from the point of view of the ethics of conviction. The above differences stem from the fact that the actions of a politician as a politician are by their nature directed towards the safety, well-being, integrity, or freedom of the whole. A politician does not so much represent himself as other people, and it is the good, values, and rights of those people that are essential for him. The whole has, then, a greater importance than a part. A politician cannot use particular or personal norms, values, beliefs, and goods as his guideposts. Neither can he be guided by a morality of a righteous person, since in that case his actions would not be adequately efficacious, and would be incommensurate with the objectives and tasks he is facing, especially in situations of crises or in confrontation with representatives of other communities. Hence, as long as this is indispensable for the security and well being of the whole, the ethics of responsibility requires the suspension of the norms of the morality of convictions. Thus, one cannot tell the truth if this truth would be used for the enslavement of a nation; a lie told to an opponent is a lesser evil than the loss of a nation's independence. The ethics of responsibility chooses an evil, that from the social point of view, is regarded as a lesser one. It demands countering evil by force. The one who does not use force and otherwise immoral means in a dangerous situation acts irresponsibly and thus immorally, since he jeopardizes the whole community.

This ethics is concerned with consequences as it is mostly effects that matter here. It exhibits some affinity with utilitarian ethics. Unlike Bentham, however, Weber does not reduce the interest of a community to material gain, but underscores the importance of security, independence, freedom, and the honour of a nation. Immoral actions are tolerated, or even encouraged, provided they serve the interest of a community and the objectives of national state. The followers the ethics of responsibility give the examples of action done according to this ethics, Roosevelt's alleged non-intervention during the Japanese attack on Pearl Harbour or Churchill's sacrifice of Coventry, destroyed in a German air raid. They are morally justified. The American President, some say, did not disclose the information about the planned attack in order to win the approval of American society for the country's involvement in the war on the side of the allied forces. Churchill did not evacuate Coventry's residents in order not to let Germans know that their secret code had been broken by Poles and was known to the English. In both cases a lesser good, i.e. the life and welfare of hundreds or even thousands of people was sacrificed in the name of a greater good of a larger community, in this case a now rapid defeat of Nazi Germany, which would save innumerable human lives.

At the same time, what is morally significant in the ethics of responsibility is different from that which is vital from the point of view of the ethics of a righteous person. Professional expertise, an ability to make decisions quickly, concern with the plight of the whole community, the management of human resources, the ability to strike a compromise, and actions directed towards the future are the most important features of the ethics of responsibility. On these rest the existence of a community, its success or failure. Other characteristics, including such essential attributes of the ethics of a righteous individual, marital fidelity, truthfulness, or avoidance of evil, are outside the sphere of interest of professional ethics. The latter features are regarded as characteristics of personal morality. People who are morally righteous are in principle ineffective politicians. They usually assume that all other people are moral, whereas a politician should act under the assumption that other people are evil.

Mutual relations between the two kinds of ethics are more complex, however, than Weber maintained. It seems that the ethics of conviction, especially in its weak version, as an ethics of a

righteous individual, plays a far greater role than would follow from the dichotomy sketched above. It also influences the marking of borderlines of political morality as well as specifying when a given action is a crime and when it can be regarded as a justified means for the avoidance of a greater evil. When taking immoral decisions, a politician himself has to decide whether these decisions are really justified. Subsequently, his decisions are assessed by other people. The morality of public persons is connected with the functions and roles they perform in politics, public life, and institutions. In order to be performed properly, public, including political functions, require compliance with the following: a) a certain form of the universal morality of a righteous individual; and b) a specific morality linked to particular roles and functions. The former includes general norms indispensable for the proper performance of any profession, including public functions. These norms are, for instance: incorruptibility, honesty, conscientiousness at the workplace, the integrity not to use one's position for personal gains, and objective judgement. The other group comprises particular requirements relating to the specific character of one's job. These are, for instance, keeping professional secrets in the State Protection Office, a sense of justice when giving a verdict if one is a judge, high organisational skills for an office manager. For a member of government the requirements include adequate knowledge, exceptional thinking skills, and the will to take action for the common good. Professional morality is not at variance here with the morality of a righteous individual, nor does it question the latter's norms. Rather it changes some of the norms in their particular applications in keeping with the principle of a lesser evil. In this way, an action, such as lying can be perceived within one and the same ethics, as both moral and immoral, depending on the functions it has from the point of view of the whole. The distinction should be made between the basic moral principles and moral norms. The principles have moral obligation for all people because they determine the basic values, for example: "save human life", or "respect human dignity". Moral norms are more particular and serve as a concretization of moral principles in particular societies and situations. They allow exceptions in observance - for example the norm: "do not lie" is suspended in totalitarian regime in situations when telling the truth to the authority threatens a human life.³

The complexity of moral issues becomes apparent when we examine in more detail the structure and functions of a politician.

(a) To use Talcott Parson's terminology, a certain universal set of characteristics and expectations is tied to this job, independently of the social and political background of the profession and people performing it. A politician makes decisions related to the whole state, and as a public servant he should exhibit a certain morality. Thus, he should not steal or use his position for the attainment of personal objectives, but should be concerned with the well-being of the whole society and be able to manage teams of people;

(b) The politician as a representative of the voters is under a political and moral obligation to represent the opinions, interests, and values essential to the community. He may be caught between conflicting emotions. On the one hand, he is to fulfil the short-term expectations of his voters which are often of a local and thus limited nature; on the other hand, he is a representative of the whole community (a parliamentary deputy represents the whole nation, rather than only a limited circle of his voters). While taking action for the good of the whole community, a politician has to make reasonable long-term decisions on his own. A simultaneous application of a multiple rules of conduct frequently leads to ethical conflicts.

(c) In addition, a politician is supposed to represent, adhere to, support, develop, and care about the future of a certain socio-political system. The values and interests of this system need

not necessarily coincide with the short or even long-term interests and values within a given community. Nor do they have to be identical with the politician's own interests: sometimes they even run contrary to those interests, as during Communist times.

(d) Likewise important is that a politician is supposed to take care of his own political interests, since he can only perform all the remaining functions provided he remains in power. The acquisition and preservation of power does not always proceed in an honest way. A politician makes many empty promises, supports his relatives and friends, unjustly accuses his opponents, offers bribes, or dishonestly acquires money for his election campaign. Interpretations of such actions vary. If one considers them to be part and parcel of the ethics of responsibility, as means for the attainment of socially beneficial aims, they can be regarded as morally justifiable by those who follow them. If, however, such actions are considered to be taken primarily for the fulfilment of the candidate's ambitions, personal gain or increased prestige, then they will become morally reprehensible also in the light of the ethics of responsibility. Oftentimes, however, the two spheres of activity, the private and the public, cannot be separated. More often than not, a good politician who cares about the good of a whole is forgiven irregularities and his taking advantage of his post, whereas a poor one is censured severely.

(e) What comes into play and what becomes of importance within this context is the politician's personal morality. It is the kind of morality he practices in his private life and is unrelated to the positions held or the struggle for power. We can mention such constituent elements here as marital fidelity or honesty in business. They, too, can constitute one's political capital and be taken advantage of in the struggle for power, as can be seen in Bill Clinton's transgressions.

In general, four criteria are used during a moral assessment of any political activity: (1) the principle of adequacy of evil to good (the evil perpetrated must be markedly less than the good of the community – not one's personal good – attained) in cases where it is impossible to avoid the evil; (2) the principle of choosing the least evil out of all the existing possibilities, especially in situations of crises, perilous for the safety of the whole; (3) not overstepping a certain threshold of acceptable evil established by above mentioned basic moral principles ; and (4) the efficient work for the good of the whole. The above principles are applied intuitively in action and during the assessment of behaviour. Usually, a transgression of morality in the name of the common good is definitely more acceptable in situations of crises than at times of peace. Nevertheless, certain moral limits or measures of acceptability of evil must be complied with even then.

Hence the crimes of genocide committed by Stalin and Hitler are considered immoral. In both cases the limits of the acceptability of evil were dramatically exceeded. The sheer amount of evil perpetrated by the two dictators cannot be offset by any good aim, such as a glorious future of humankind under communism, even were we to ascribe it to them. Moreover, the direct killing and other attacks on innocent people, no matter what the scale, cannot be justified as a means to a good end.

The issues related to the moral assessment of actions taken by ordinary citizens are by no means less complicated. Political systems regulate the behaviour of individuals. While some patterns of behaviour are preferred, others are eliminated, and still others are relegated to the margin. Political systems limit the aims adopted and the actions taken by individuals and groups, and monitor and regulate them institutionally through setting up of norms, protocols, patterns, sets of behaviour, or manners of problem solving. They likewise influence the behaviour of all individuals and groups involved. To a great extent they determine the modes of behaviour of individuals adopting certain roles as elements of the system. Within different systems we can

observe the existence of a number of roles, with which are tied various duties and patterns of exemplary behaviour. A division that merits our attention is that of representatives, directors, and performers. The first group, e.g. parliamentary deputies, are the trustees of the system and intermediaries in the relations between subsystems; sometimes they are also obliged to keep in touch with other systems. The second group, comprising among others, directors of various institutions, coordinate on an ongoing basis the activity of subsystems and their cooperation with the environment. The agents, such as administrators and functionaries, execute the orders of their superiors.⁴

No social system, not even a totalitarian regime such as Fascism or Communism, unconditionally determines the activities of the individuals and groups subordinated to it, nor does it totally determine the behaviour of its members. This is especially true of the systems forcibly superimposed on a given society, as well as those in which individuals participate solely with a view to the realization of their own private or group interests that are at variance with the interests of the system. The values and interests of individuals, including those of the functionaries of the system, never fully coincide with those of the system, and all subordinated to the system have a certain amount of leeway in the pursuit of their own interests and goals. The extent of this leeway is dependent in large measure on one's ability to stimulate modes of behaviour in keeping with certain requirements, on the ease of breaking formal arrangements, on the creation of informal interest or pressure groups, and on the "reciprocity of services". It would seem that in liberal systems it is easier to conduct this additional activity than in totalitarian ones, since the attached punishment is less severe, or this activity is within the range of actions tolerated by the system. In reality, however, this happens more often in totalitarian systems, since the clash of interests between the individuals and the system is greater and more frequent. When coerced, individuals are more prone to counteract, also because the discrepancies between the interests, convictions, and values are more significant, direct, and obvious than in situations of manipulation characteristic of non-totalitarian systems. Within the latter, the number of individuals voluntarily identifying with the system is greater. The principles, values, and patterns of a non-totalitarian system are internalized more rapidly and more easily. This is so because individuals have greater opportunities to implement their values and interests within the limits of the system.

As can be seen, the influence of each social system on individuals is limited. This stems from the fact that systems have to be in contact with individuals and groups. If the discrepancy between them is too great, the system is either inefficient or seriously jeopardized. In such situations, it is forced to create hierarchies of roles and to become diversified in the prestige, authority, possessions, or rewards between the different levels of the hierarchy in order to keep order among the performers and their spheres of action. In addition, a system creates special institutions, such as the police and the military, safeguarding its durability from within. Such actions are costly, however, and as a result debilitate the system. People are not inanimate objects, and even when treated as such will not be turned into things. They influence systems through their behavioural patterns, professed values, convictions, and norms. A prolonged resistance of individuals and communities subjected to the communist system, coupled with the system's increasing difficulty in interacting with the outside environment, i.e. with other systems due, for example, to the widening gap in technological progress, led to increased costs of its maintenance and ultimately was one of the causes of its fall.

Condemnation and Justification of Communists

The issue raised above leads us directly to the problems of the demoralization of politics in postcommunist countries. As we already mentioned, after the fall of the Communist regime the political right treated the morality of the entire political life of the country in the spirit of a rigoristic religious ethics. Right-wing politicians favoured excommunists being held accountable for their past actions. The former also questioned the right of excommunists to participate in democratic governments on account of their earlier immoral behaviour.⁵ Since the immorality of communists consists in their serving an immoral system, the problem, then, was not of personal, but of professional morality, an immorality of roles. The system was immoral too since it did not respect human rights. Also, in most countries it was connected with limitations imposed on personal freedoms or with their liquidation altogether. The Communist regime imposed a political, ideological, and economic system which was not welcome by the people and was alien to the national tradition; it also made use of criminal methods of executing authority.

All who participated in the Communist regime, such as secretaries of communist parties, administrative personnel, militia and army officers and secret services agents, were held morally accountable. This was because through their work they contributed to strengthening the totalitarian system, even if they themselves did not take part in criminal and immoral acts. According to some, mainly conservative, moralists, mere participation in the system and its indirect acceptance was immoral in that it strengthened a morally evil system. "Those people could have countered the system", moralists say. Serious problems arise here: to what extent are those who themselves neither gave nor executed any criminal orders to be held accountable for the crimes of the totalitarian regime and the totalitarian system? To what extent can ordinary people from the street be regarded as immoral because they did not actively fight totalitarianism, but remained silent or passive? Were all people, then, under an obligation to engage in protests? Was the good inherent in the protest proportionate to the evil triggered by it, such as the persecution of the protesting individual and his family, or the increase of reprisals towards others? Is an action directed against evil which triggers an even greater evil, often against the intention of the individual taking action, not morally evil?

The moralists' radical assessment of political activity in the Communist period was directly governed by the moral criteria of a specifically understood rigoristic religious ethics. But on taking into account the aforementioned four principles of doing good, the assessment becomes more balanced. Unquestionable assessment concerns only those decision makers who gave orders to commit crimes as well as those officious executors of the orders (judges, prosecuting attorneys, functionaries of secret services, governors of jails for political prisoners) who through their actions violated the rights of people and perpetrated evil for evil's sake. But the mere fact of being a part or element of the system should not necessarily entail a morally negative assessment. A number of functionaries who belonged to the totalitarian system may have contributed, through their professional or private activity, to its dismantling. This may have been done through the promotion (whenever possible) of such common values, as tradition and culture, or through the resistance against policies of greater evil.

Many Communists, including prominent party activists of the period, nowadays justify their earlier support of the system with the words: "I was choosing a lesser evil". They also claim that if it had not been for them, their positions would have been taken by others, more ruthless and less liberal. In a great number of cases such justification is truthful. The Communist system was becoming more and more liberated with the promotions of representatives of younger generations in the hierarchy of power. Some of the functionaries deliberately and consciously contributed to the weakening of the system, while others did it in a more involuntary manner. After the Stalinist

period, many people deliberately collaborated with the system and performed important functions within it for opportunistic or utilitarian reasons, wanting to secure an easier life, a professional or a political career etc. They valued their personal good more than the good of the system. Paradoxically, their actions, which would be construed as immoral from the point of view of personal or professional ethics (corruption, nepotism, and professional negligence) had morally positive consequences in that they crumbled the system. In countries like Poland, the functionaries of the system were not especially eager. Once again we are made aware of the relativity of abstract moral judgements which do not take into account the entire context of particular actions and which do not use a variety of criteria for assessment.⁶

Demoralization of Political Life in the Liberal System

Now, however, we are living in a system of liberal democracy, struggled for and won by communities. After the fall of Communism we could observe two processes: moralization and demoralization. Moralization consisted in conducting moral propaganda, which sees all political activity through the prism of morality. Political actions seemingly motivated by moral concerns, for instance by the need to defend the poor, or by social justice were applauded, while actions of politicians at variance with the ethics of a righteous person (lies, fraud, alcohol abuse, etc.) were vociferously condemned. As we mentioned already most attention, however, was paid to the demoralization of the Communist system. The political right demanded bringing to justice the old Communists on moral grounds, which means in practice their public censure and ban on their performance of public functions.

The processes of verbal and legislative moralizing are concurrent with the processes of demoralization of the elite of political and public life. Aside from the kinds of demoralization characterised above, there are other noteworthy ones, which are specifically tied with the governing groups: (a) being morally double-faced, (b) being interested only in private gain, (c) incompetence, and (d) disrespect for the common good.

Ad. (a) *Moral double-face*. In spite of the vociferous anticommunist propaganda, we can observe a blurring of borderlines between the past and the present. Positions within legislature, administration, police, and the whole public sector, are being retaken by people who have already held them in the past. Institutional reforms consist basically in the liberalization of the very institutions, with no attendant changes of their internal structure or personnel. In Poland and elsewhere many prominent communist party members, including members of the central political bureaux of those parties, occupy significant state and public posts on the recommendation of anticommunist parties.⁷ Sometimes the position of a parliamentary deputy grants immunity to criminals. Formally nothing happens: the law is binding and so are the moral norms. Frequently, however, one turns a blind eye to the norms being constantly broken and the violators themselves are not brought to justice.

Ad. (b) *Private gain*. Politicians' hands get dirty only too often. Corruption, nepotism, and co-operation with the Mafia have reached epidemic proportions among politicians and civil servants in countries which emerged after the collapse of the Soviet Union. These phenomena have a decisive impact on the economy, the financial standing of a country, the efficacy of its governing bodies, and the direction of a country's policy. Participation in corruption and scandals or their being covered up have become the norm among many civil servants. Other postcommunist countries are no better. Taking care of one's own private business, be it a luxurious villa, a car, a foreign trip, or access to most desired consumer goods, was a hallmark of communist times, too.

Nevertheless, at that time the phenomenon was limited for a variety of reasons: general material poverty, injustice being too conspicuous in a system that promoted social equality, ban on the establishment of private companies that would employ a number of people, or the constant and strict monitoring of party, military, and militia members by one another. The society at large hoped that the pursuit of egoistic private ends in public sphere would disappear with the advent of democracy. What happened, however, ran contrary to expectations. While the corruption connected with the distribution and acquisition of sought-for goods died out, a new system of illegal "acquisition" of workplaces, positions, budget commissions, permits, or purchases of privatised companies at dramatically reduced prices came into being and flourished. These were the goods that have been in great demand now. Politicians take advantage of their public positions in order to multiply their personal possessions.

Terms traditionally used for the description of similar situations, such as bribery or corruption, have become obsolete on account of the vast scale of the phenomenon. One can safely speak about a plague of demoralization or social pathology, manifested in the organized ways of dodging the law and bending it to suit one's own personal interests, or even in creating legal acts with a view to furthering one's private ends. In front of our very eyes there comes into being a vast system of exchange of services that is not regulated by the law. This system bears a close resemblance to the black market or the illegal circulation of information associated with communist times. The system is composed of relatively permanent connections between people united by a common interest who form cliques ("If you obtain a permit for me to organise courses on Poland's preparation for EU regulations, I will secure a well-paid job in such courses for you or your family members"). Such relations can be found in political parties, in governmental offices, in the legislature, or in mass media. Those who are not members of the clique are treated as strangers and discriminated against. Decision-makers in Russia are capable of transferring billions of dollars obtained by their country as financial assistance from Western Europe into their personal bank accounts in foreign banks.

Ad. (c) *Incompetence*. Democratic relations, with the attendant liberalization of principles of conduct and competition for power between parties and groups, have led to a situation in which politicians exhibit loyalty mainly to their own interests and to their parties. The interests of voters are secondary in significance. Strange as it may seem, voters do not matter to their political representatives outside the campaign period. This stems from the fact that everybody knows that the election outcomes depends first and foremost on the control of the structures of power, as well as on financial means at the party's disposal, and "exchanges of services" rather than on the politicians' honesty or his or her representation of the voters' interests. Voters themselves are limited in their choices, as they are made to elect their representatives from among candidates belonging to the power elite. Voters do not have any say on the preparation of lists of candidates. Concurrent with the changes of the parties which gain the parliamentary majority are the changes not only of governments, but also of a substantial part of the administration personnel. More often than not, such changes have nothing to do with professional competence, as it is party recommendation and influential connections that play the decisive role. Such practices promote opportunists, people without "moral backbone" and lacking a strong personality, who readily adapt to existing connections. As a result we observe a widening sphere of incompetence. State offices are treated by the party dilettantes who are in power as spoils to be shared after an electoral victory. The degeneration of decision-makers proceeds at break neck pace, as they become beneficiaries and ordinary career-grabbers.

Moralists and moralizers pay attention chiefly to the immoral conduct of members of parliament and of politicians. Their immoral behaviour is perceived through the prism of the ethics

of a righteous individual, and thus little heed is taken of the demoralization of the whole political sphere as an integrated system. Equally little attention is paid to the impact of this demoralization on the fate of larger non-communist groups. As can be seen, we cannot fully characterize and assess the demoralization that is taking place before our eyes with only the morality of a righteous person. For this purpose we need the introduction of a public institutional ethics. In the public sphere, such phenomena as thoughtlessness, incompetence, lack of concern for the common good, creation of cliques, connections with the mafia, using one's position for the attainment of personal ends, as well as alienation from the interests and opinions of voters have their moral significance. Among the new democratic elite there is a conspicuous lack of organisational skills, political initiative and long-term planning. Decision-makers usually look toward the West and ineptly ape Western solutions introduced in administration and politics, blind to the fact that many of those solutions are long obsolete. Frequently, decision-makers would willingly entrust foreign companies with providing solutions to our problems. Interestingly, in order to cover up their lack of qualifications, people who are least competent often use moral rather than business terms. They frequently justify their decisions by means of platitudinous expressions, such as the interest of the state or concern with the family and with the interest of society. For them morality becomes a weapon used in a political fight.

Ad. (d) *Common Good*. It seems that the aforementioned phenomena are indicative of a certain more general tendency, which may be defined as a particularization of goods and values. Liberalism is not especially conducive to thinking in holistic terms, such as the state, nation, or society. Both ordinary citizens and decision-makers are supposed to think primarily about themselves and about those groups and organizations which support them. It is the government that is responsible for taking care of bigger entities, but the government, in turn, perceives its function as that of a mediator between various pressure groups. This results, in fact, in the implementation of the policy of the strongest group and in the abuse of the whole for the benefit of the few.

Notes

1 N. Machiavelli, *Ksiazki. Rozwazania na pierwszym dziesiecioksięgiem historii Rzymu Liwiusza*, (*The Considerations of the First Ten Books of the Livius History of Rome*) (Warszawa, 1984).

2 M. Weber, *Polityka jako zawód i powołanie*, (*Politics as a Profession*) (Krakow, 1998), pp.100-105.

3 H. Shue, *Basic Right: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton, 1996); J. Shklar, *The Faces of Injustice* (New Haven, 1990).

4 Cf., R. Gurt (ed.), "Persistence and Change in Political Systems 1800-1971," *American Political Science Review* (1974), No.68, pp. 482-504; J.G. Marek and H.A. Simon, *Teoria organizacji*, (*Theory of Organization*) (Warszawa, 1964).

5 See the opinions published in the *Znak*, catholic monthly, issues 506 (1997) and 517 (1998).

6 E. Gierek, *Przerwana dekada*, (*The Interrupted Decade*) (Warszawa, 1998); J. Rolicki and E. Gierek, *Replika*, (*Replic*) (Warszawa, 1990); M. Rakowski, *Jak to sie stalo*, (*How it Happened*) (Warszawa, 1991); W. Jaruzelski, paper read at Kansas University (March 11, 1996), manuscript C.Offe, *Der Tunnel am Ende des Lichts* (Frankfurt-New York, 1994), pp. 187-229.

7 G. Skapska, *Pustka normatywna sceny politycznej*, (*The Normative Vacuum of the Political Scene*), in: *Etyka w polityce*, (*Ethics in Politics*) (Krakow, 1999), pp, 120-129.

Chapter IV

Free Market and Business

The Liberal Idea of the Free Market

Many philosophers, sociologists, economists and politicians, West and East, have created complex positive theories of the market. Usually they used liberal concepts and terms as a basis for their analysis. Liberalism provided them also with a theoretical assumption for the complex critical analysis of Communism. According to this opinion, the absence of the free market in Communist societies constituted the basic disadvantage of the socialist system. The lack in Socialism of independent private proprietors whose interests support a rational economy left socialism ontologically incomplete, unnatural and degenerate. Socialism, deprived of the motive power of the market for its development was economically inefficient. The economy relied on politics; market laws were replaced by administrative controls of manufacture and distribution. Such controls were artificial, incomplete; they were exercised against the vital interests of individuals and according to the abstract interests of the state and the political party. Individuals became the employees of the sole employer, the state, and strove only for more salary without feeling responsibility for what or how they manufactured. The state and the party represented not the economic interests of the society, but the theoretical interests of the future implementation of the Communist system which considered itself responsible to history, not to society.¹ This criticism of the socialist economy is just and philosophical.

But it seems that the liberal theorists make an exceedingly optimistic assumption about the benefits of the free market. In summary they underline that the market activates individuals and increases their initiative, resourcefulness, and inventiveness, which in turn increases their property and the national wealth. The market has the natural mechanisms in the promotion and advancement of the most able and socially most useful individuals. They elicit moral and rational behaviour as well. Due to manufacture and exchange, individuals are compelled to observe contracts and general markets laws. They learn cooperation, reciprocity and trust. Market partners have to negotiate and calculate, which teach them rational behaviour. In order to remain in the "market game" they have to follow its rules. The market expresses and guarantees the personal liberties of individuals. It assures, *de jure* and *de facto*, the freedom of conscience, religion and speech. Tolerance for other opinions and the views of one's partners is a presupposition of the operation of the market. In order to manufacture or to trade, one must recognize that others have a different outlook that must be tolerated. Thus, a society in which the free market prevails forces itself, in its own interests, so to speak, to respect human rights and standards of universal morality.

"The invisible hand of the market" limits profits and assures an automatic adjustment and proper operation of the economy and of economic activities. The division of expenses and income is just and guarantees profit to everybody. Neither the state nor political power has the right to intervene in business. Only the conditions of the liberal free market may elicit constant inventiveness, creative activity and alertness: labor discipline becomes more severe, while competitiveness requires better performance and efficiency, and - most importantly- the continual development of new methods of manufacturing and organization, and of new products.²

In contrast to liberal opinion, postcommunist reality discredits the assumption of the liberals. The free market did not bring the expected benefits in Central and Eastern European countries. It is filled with competing and egoistic individuals who strive to satisfy their own interests. This

generates conflicts which lead to social chaos, to exploitation and oppression of weaker groups by the stronger, to the destitution of the poorest, and to their alienation from society. Because of this the free market is not capable of sustaining itself. In order to safeguard its existence, it requires the political structure of the state which administers justice and compensates for damages. But the state is unjust too, because it becomes the instrument of the rule of individuals and groups. The logic of profit produces unemployment, class struggle, benefits for only some groups, enormous differences in income which are not justified by the amount of labor invested or risk assumed. More importantly, the market mechanism does not elicit moral or rational behaviour. Numerous new companies get loans and don't pay them off. They breach contracts, import goods without paying customs duty, suborn officials, and break and circumvent the law. In fact, it makes people forget about morality and rationality, because the risk incurred in honest independent economic activity becomes too high.³

Two Kinds of Business

To underline the significance of morality in the free market, we shall try to describe the relations between morality (and immorality) and free market in postcommunist countries analyzing two kinds of business activity. This seems to fall into two general categories: criminal, on the one hand, and, on the other hand, bourgeois business. The former (clique, gang, mafioso-type of business) rejects universal moral standards, and embraces any methods that maximize profits, including those considered immoral: theft, perjury, fraud, bribery, intimidation, and even homicide. The immoral practices it applies can be restricted only by force.

Bourgeois business, on the other hand, adheres to certain moral standards for pragmatic reasons. A pragmatic choice of founding business activities on morality may be either temporary (pertaining to a specific situation) or long-range. The first attitude allows modifications of principles and rules of operation contingent on instantaneous profit, which is the supreme value for such a businessman. The latter however, consists of adhering to moral standards in the long run, even if this deprives one of immediate personal profits, confident that this strategy will generate long-range profits (finding new customers, associates, etc.).

Bourgeois business cannot function without assuming certain standards of internal long-range morality. All economic operations, e.g., acts of sale and purchase, entail a lapse of time between the transfer of money and of commodities. Thus, the contracting parties must trust each other if business is to be done. The application of industrial standards in a process of production guarantees that the products will conform to the specification and the establishment of employment relation is based on the conviction that the employer is solvent, etc. Adhering to internal moral standards makes it easier to transact business, cuts down costs and promotes expansion. In contrast, in gang (clique) business fear replace trust.⁴

Before proceeding with further analyses, let us consider a qualification that may be made about this view of internal business ethics. The qualification is that in the light of a Christian or Kantian definition of morality we may doubt the ethical or moral nature of the above mentioned norms and characteristics of bourgeois operation: an action should be considered moral only if it is disinterested, whereas the above examples may be regarded as instances of long-range selfishness. This is a serious accusation, which cannot be denied. Nevertheless, in these deliberations we will assume that the long range reasonable individual interest is morally good, and that a businessman who acts according to moral standards acts morally, whatever the intentions

of his actions, for his activity (at least the behaviour), concurs with universal norms or with communal customs and beliefs.

The moral aspect of the relations between business and society is even more complex. On the one hand, social morality is a prerequisite for engaging in any trade; on the other, trade affects the morality of individuals and entire groups which are outside the realm of business.

Gang business flourishes in a corrupt society with weak executive authorities. In fact, such society is a *sine qua non* of its existence. It condones gang and mafia business, participates in its swindles, encourages the proliferation of unreported economic activity and protects it from being supervised by penal prosecution agencies. Yet, this society cannot be totally corrupt, because then, gangs and mafias would derive no sustenance from their parasitism, and would have to devote all of their effort to fighting one another until one of them monopolized the market and established, in its own interests, its private "ethical order".

The practice of bourgeois business, in turn, suits a society in which lies, stealing and graft are only sporadic rather than characteristic of all or most dealings. Thus, we may assume that the development of bourgeois business is directly proportional to: (1) morale; (2) legal and organizational guarantees for honest business activities; and (3) civil and economic involvement. Diligence, honesty, sincerity, scrupulousness, lawfulness, respect for property, and a harmony of law with morality are prerequisites for the progression and universalization of bourgeois trade. Without an adequate public and individual morality, bourgeois economic activity has to overcome society's resistance by expending its efforts and means on bribes, guarding its property and making payoffs to the numerous lobbies and mafias. All these expenses increase the cost of production, make business less competitive with foreign companies, and cramp its expansion.⁵

Moreover, both categories of business affect society's morale, each in its own way. Clique and mafia business exploit the weaknesses of administrative and public agencies to further society's corruption by means of breaking the law, suborning or blackmailing officials, and exerting control over the national administration and the judiciary. At the same time, clique business abuses the market to attain its political and public objectives, e. g., the assumption or preservation of political power, the derivation of extra-market benefits, the establishment of relations of personal dependence, etc. The members of cliques set themselves apart from the rabble, and shut themselves up in their clubs, beaches, places of entertainment, and private schools. They make up the elite of wealth and power, pay for ancestry and tradition, and screen themselves from the crowd with lines of bodyguards, and the thick walls and gardens of their estates.

The impact of bourgeois business on social morality, however, is ambiguous. Most liberals claim, after Hayek, that trade strengthens the moral attitudes of a society, or even institutes them.⁶ It is trade, after all, that teaches us to carry out agreements and obey the rules of justice (e.g. the same pay for the same work), cooperation, reciprocity, responsibility for property and for people who are in our charge, and for the quality of their work and ours. But this is not the whole truth. One can observe the negative impact of bourgeois business on society too, because every large-scale business aims at monopolizing the market and dictating its own terms and laws to other enterprises. Moreover, monopolies strive to control politics, the public life and the mass media. Consequently, bourgeois business has positive influence on social morality only when it is monitored. It must be harnessed by appropriate legislation and by such institutions and procedures in public life as enhance adherence to moral standards. Otherwise it may become more like a lobby or clique business.⁷

The experience of the economic markets in Central and Eastern Europe and Latin America does not seem to corroborate the liberals' opinion. In these countries, companies focus on profits

from which no tax is collected. The establishments that become affluent and dominate the market are those that legally receive privileged orders from the government. Due to their ties with the ruling inner circles of the nation, such establishments may act semilegally or quite openly. In fact, a lot of them are owned by politicians or their families. In a country undergoing a period of dynamic transformation, it is not necessary for a company to heed many moral norms: which would hinder freedom of action, because it does not have much affect on the company's reputation or clientele, as it keeps changing its registered name, the field and scale of its production and trade, the territory of its operation, etc.

Why Postcommunist Business Is Clique Business

Popular opinion attributes the lobby or clique-like character of economic and political life in the postcommunist countries to the heritage of the totalitarian past and the difficulties of a period of transition: it believes that all such defects will soon disappear.⁸ These interpretations may be correct to a certain degree, but they fail to grasp the essence of the matter. In the period of Communism, corruption affected above all the exterior of social life, i.e., the political, party and economic system structures. The community structures of family, religion, friendship, neighborhood and national identity turned out to be in great degree immune to it (at least in countries other than the Soviets Republics). Moreover, corruption within the system itself was checked by the ubiquitous procedures of supervision and by the poverty of society. Thus, for example, the amounts of the bribes were ludicrously small if compared with what now changes hands.

Postcommunist corruption, however, transcends the political and party systems, invading community life: it breaks up families, dissolves the bonds of friendships and undermines national and religious values. Egoism, selfishness, fraud, theft, exploitation, and ruthless behaviour are becoming more and more conspicuous and customary.

There are many reasons for this situation. Above all one must mention the inadequate legislative, social and economic policy of the new administrations. After the downfall of Communism, the new establishment has concentrated its efforts on the implementation of a market economy. It has been carrying out this policy in an arbitrary and voluntaristic manner, without the participation of society and ignoring its moral attitudes and beliefs. No clear and durable legal regulations for the functioning of enterprises have been adopted, and those in force are not being enforced. This makes it possible for clique companies to wipe out honest companies and go unpunished. In fact, the slogans on the need to create a class of capitalists by any means, which are continually being coined, encourage clique and mafia operations.

What is more important, in the implementation of economic and political reforms, no regard has been paid to the social impact. Consequently, society feels that it has been denied participation in the transition, while being afflicted by the deleterious effects of the market economy: three million unemployed in Poland, impoverishment of society, increase in crime. All of this happens because the ruling circles have decided that the free market will advance economic prosperity, which in turn will automatically solve all social problems or make them irrelevant.

Yet, in fact, formal liberty does not always result in increasing real liberty. Poverty limits participation in civil and economic life. So far no civil society having political influence has emerged - there is the weak infrastructure of small-scale initiative and non-profit agencies, mutual-aid societies, local and self-government projects, which address common problems and issues independently of the national administration. Civil society could cut down on the detrimental

effects of free market by monitoring the market as well as the state and the politicians. When it emerges, it may substantially confine the mafia practices and corruption. It will also provide an arena for the activity and cooperation of citizens as emancipated individuals, independent of the state and free market. Such institutions will also promote community values and implement them in voluntary associations, affirming in this way a constructive liberty. To establish such a civil society there is need to produce an adequate legal, organizational and financial environment. Civil activities cannot be conducted without these fundamentals. So far, instead of the required legislative and institutional initiatives, a "do it yourself" principle is offered, which in practice sanctions the submission of the weak to the strong and condones clique-like operations. No legal or financial channels for expressing the citizens' public initiatives have been created.

Let me illustrate this need to create a legal and institutional framework for the proper transformation of property and for civil and economic activities. The implementation of market reforms designed by the American economist Jeffrey Sachs in Poland meant the ruin of virtually all State and collective farms, and many private farms. In numerous regions, farmers had no means of sustenance. In the province of Krosno (in southeast Poland), 4000 families of former workers of State Farms were unemployed, and 60,000 hectares of land lay fallow. To remedy this situation, the Association of Agricultural Engineers and Technicians established the Krosno Foundation for the Reorganization of Agriculture, which during three years obtained 6.5 billion *zlotys* (some \$1,625,000) from Polish and foreign sources. This was not enough to reconstruct the family farms (the investment necessary to launch a farm is 300,000 *zlotys*, or about \$75,000), but it stimulated citizens economic initiative. Small scale, dedicated aid for the purchase of seed-grain, farming implements or cattle enabled most unemployed families to start their private farms. Yet it turned out that under the new capitalist regulations, people who begin productive activities do not qualify for housing bonus, free medical care or long-term tax exemption, while the unemployed may enjoy all of these benefits and releases, as well as receive pecuniary compensation. As a result many farmers abandoned their farms and registered as unemployed in order to improve their financial situation.⁹

Public Morality as a Prerequisite for the Development of Business

My following argument may seem to contradict what I have said before; yet that is only seemingly so. As we stated in previous paragraphs what is important in economy is a morality of system as a whole (market economy) and morality of institutions (organizations, corporations, companies, firms conducting the economic system). The ethics of individual businessmen plays a secondary role. It is high time to give up the mood of self-righteousness which pervades many reflections on business in postcommunist countries. A businessman *qua* businessman has the right and duty to maximize profits in the long term. The reason for this is that business is an area of individual instrumental rationality. Even if businesspeople establish certain standards (called "ethical" or "cultural") for their groups, the function of such standards is first of all to increase the profits of the group.¹⁰

There is no justification, however, for pursuing clique and mafia policies in social and political life, and for corrupting these spheres by applying to them the rules of instrumental economic rationality, or by subordinating it to market objectives. The point is that when we are not transacting business, when engaged in political, civil, social or community life, we are obliged to observe not only a narrow-minded, individual instrumental rationality, but also perhaps in the first place - the substantial (practical-moral) reason and the morality of community. In the latter spheres

of reality, the general rule is to respect the common good, to observe and promote community and universal values rather than to act on one's selfish interests.

The prime function of the law, of public agencies and of the representatives of the administrative authorities is to stand for the universal morality and for the morality of community, and not to yield to the influence of lobbies, gangs or cliques. More importantly, it is the task of political and public life to establish an adequate institutional framework and regulations, and to enforce them in order to make clique and mafia business unproductive, and bourgeois business profitable. It is necessary to harmonize the ethical and moral precepts of community with the rules of instrumental effectiveness which prevail in business.

It makes sense than to speak of a public or institutional ethics and morality. The morality of business, on the other hand, is meaningful mainly as a component of institutional morality, i.e., when it aims at laying down such institutional rules of the market as the guarantee that a type of activity which is subjectively selfish brings in desirable profits to the entire community and does not corrupt the non-market spheres of life. Actually, in this sense we should call it the "ethics of capitalism" rather than the "ethics of business". In this point I agree with Hegel who emphasized the significance of the non-market sector for successful economic progress.¹¹

This is not to say, that nowadays businesspeople adhere subjectively and intentionally to no moral standards at all when they transact business, for they do, though mainly for pragmatic reasons. Firstly, as we have mentioned, they have to reckon with the morality which is generally accepted, provided that it is strong enough, and that society is able to make them observe it, e.g., by boycotting the commodities made or supplied by companies which have a bad moral reputation. Secondly, the law and other institutions do not regulate all the details of the rules of conduct. Free choice offers alternatives, some of which are less moral than others. In such a case, a businessman decides if and to what degree he wants to respect moral norms. If he is acting in a context of legal, economic and social stability, the moral choice is also the one which in the long run turns out to be the most profitable. This should be the ideal to strive for in Middle and Eastern Europe.

Society must believe that the rules which the market follows will prove to be honest, and that institutions enforce the shared standards and principles. Only then will we be able to make decisions which are moral and rational, both in the narrow and broad sense of the word. This is because only regulations, rules and norms which are durable and obeyed offer a channel for rational and useful human activity and make long-range schemes compatible with the interests of the community.¹²

Such regulations and their implementations are still absent in postcommunist countries. As a result, the free market destroys the moral norms, customs and traditions in society. The faster and more ruthlessly one can get rid of these the more one will succeed in business. The more mercilessly one exploits both friend and foe, turning all those who consent into targets or obedient pawns, the more successful he is. New businesspeople often pay their workers below the minimum wage; often they deal with the mafia, to which in fact they frequently owe their status and fortune. In this way they develop a new organization of business and power, operating beyond the law, official institutions and the very principle of the bourgeois economy. These people frame a new social reality. Those who have managed to elevate their status, conquer the world and assume control of it through the economic, technological or financial subjection of others. The illegal and semilegal accumulation of fortunes is a symptom of the desire to be superior to one's peers and to promote oneself. It produces a relationship of dependence in which others are debased and unable to act as free, rational beings.¹³

Notes

1 Cf., J. Staniszkis, *Ontologia socjalizmu, (The Ontology of Socialism)* (Warszawa, 1989); J. Staniszkis, *The Dynamics of the Breakthrough in Eastern Europe* (Berkeley, 1991); W. Wesolowski, "Czytajac Narojka: Wokol problematyki upanstwowionego spoleczenstwa," ("On Reading Narojek: The Issue of Nationalized Society"), *Krytyka*, No.26 (1987); P. Ogrodzinski, "Spoleczenstwo obywatelskie a rynek w realnym socjalizmie," ("Civil Society and the Market in Realsozialismus"), *ibid.*, No. 34/35 (1991), pp. 18-35.

2 M.R. Friedman, *Free to Choose* (New York, 1979); M. Friedman, *Capitalism and Freedom* (Chicago, 1962); R. Berger, *Government by Judiciary* (Cambridge, 1977).

3 T. Buksinski, "Civil Society, Democracy, and Philosophy in Post-Communist Poland", in D.R. Gordon [ed.], *Philosophy in Post-Communist Europe* (Amsterdam, 1998), pp. 43-53.

4 Cf., the articles in T.U. Beauchamp and N. Bovie [eds.], *Ethical Theory and Business* (New York, 1979); P.M. Minus, *The Ethics of Business in a Global Economy* (Amsterdam, 1993); F. Fukuyama, *Trust: The Social Virtues and the Creation of Prosperity* (New York, 1995).

5 T. Buksinski, "Spoleczenstwo obywatelskie a spoleczenstwo rynkowe," (Civil Society vs. Market Society"), in T. Buksinski (ed.), *Filozofia w dobie przemian, (Philosophy in Times of Changes)* (Poznan 1994), pp. 271-285; T. Buksinski, "Public Morality versus Business in Eastern Europe," in P. Koller and K. Puhl [ed.], *Aktuelle Probleme der Politischen Philosophie* (Kirchberg am Wechsel, 1996), pp. 62-69.

6 Cf., A.F. Hayek, *The Constitution of Liberty* (Chicago, 1960).

7 Cf., R.T. de George and J.A. Pichler [eds.], *Ethics: Free Enterprise and Public Policy* (New York, 1978), Part I, pp. 3-41,

8 Cf., J. Dietl, "Etyka biznesu w warunkach transformacji z gospodarki nakazowej do rynkowej," ("The Ethics of Business in the Conditions of Transition from Dictatorial to Market Economy") *Prakseologia*, No. 1-2, (1994), pp. 69-83.

9 The proceedings of the Senate's seminar: "Budowa spoleczenstwa obywatelskiego-rola organizacji pozarzadowych w Polsce", ["Building a Civil Society: the Function of Non-Government Agencies in Poland"] (June 12, 1995).

10 Similar view is presented by Georges Enderle. See G. Enderle, The Role of Corporate Ethics in a Market Economy and Civil Society, in: W. Miaoyang, Y Xuanmeng and M.B. Dy [eds.], *Civil Society in a Chinese Context* (Washington: The Council for Research in Values and Philosophy, 1997), pp. 203-228; See Y. Xuangmeng, L. Xiaohe, L. Fangtong, Z. Rulun and G. Enderle [eds.], *Economic Ethics and Chinese Culture* (Washington: The Council for Research in Values and Philosophy, 1997).

11 Cf., G.W.F. Hegel, *Grundlinien der Philosophie des Rechts* (Berlin, 1955), pp. 188-238.

12 Cf., P.L. Berger (ed.), *The Capitalist Spirit: Toward a Religious Ethics of Wealth Creation* (San Francisco, 1993).

13 T. Buksinski, The Human Being in the Liberal-Democratic Epoch, in: A-T. Tymieniecka (ed.), *Analecta Husserliana*, LXVII, pp. 499-508 (Amsterdam 2000).

Chapter V

Imported Legislation and Its Domestic Execution

Law and Morality

Let us try to characterize legislation and the execution of the law in postcommunist Poland in categories of justice. We shall restrict our analyses to the Constitution of the Republic of Poland and to criminal law. We shall not consider administrative, business, civil and family law or the economic and social policies of the successive governments.

The point of departure for our considerations will be Aristotle's conception of justice. Acts which come under the provisions of criminal law were analyzed by the Stagyrite in categories of compensatory justice. Compensatory justice was understood by him as a means of bringing equality between the profit of the one who caused damage and the loss of the one who suffered the damage. It does not take into consideration the persons who are parties to the judgment, but seeks to decrease the undue profit and to compensate the damage according to arithmetic proportion.¹ Compensation assumes a certain natural or determined conception of positive and negative goods (values) and criteria by which to compare them. So sentencing for the bodily harm of a defendant through punishment in money detention, forced labour or public apology assumes that health, life, bodily inviolability, freedom, possession of money, honour and every kind of unforced symbolic or productive activity are positive goods (values) and their opposite are negative goods. It also assumes that there is a criterion by which damage suffered by certain persons in one good (value) can be balanced by a profit in another good (value) by an other or the same person. Similar assumptions are adopted by such other specific kinds of justice as exchange and distributive justice.

That is, specific kinds of justice refer to general justice understood as a requirement of maintaining a certain equality or proportion in relations between people, and understand that these relations occur because of goods (values) or are connected with allocating, exchanging or changing them. General justice is formal because it is a principle of preservation of proportion between goods (values); in this sense it depends on goods (values). Although formal, it also has an autonomous value since it ensures hierarchy, order, and permanence of relations between goods (values). These states are valuable in themselves. The order of goods (values) expressed by general justice may be natural (i.e. may result from the cosmic order and properties of human nature) or may be established or artificial (i.e., dependent on social relations and human activities, and produced within societies and in cultures either instinctively or consciously).

Specific legal acts, e.g. court sentences, use these natural and social hierarchies of goods (values), without which they would be ineffective. They serve to strengthen these hierarchies. Justice applied in this way by law is in line with the common social sense of justice.

However, law may abstract to a greater or lesser extent from the system of natural or conventional goods (values) prevailing in the society and the common views on the proportion between them; in a more or less arbitrary manner it may establish another system of goods (values) and try to introduce it within a definite society. Modern law assumes such a character. Legislators establish a certain system of values for the community and distribute them among various social groups by means of legal instruments, according to the assumed vision of justice. Thus, distributive justice nowadays becomes almost more important than the compensatory justice which it conditions.²

In modern and most recent times the law has served in various countries as an instrument of protecting, promoting or imposing various kinds of values on society: negative freedoms (classical liberalism), material gain (democratic liberalism), equality (communism), domination of one nation over another (Nazism), and welfarism (welfare state). Nevertheless, in no country is the law totally arbitrary. As was shown by L. Fuller, it is always characterised by a certain degree of internal and external morality (justice).³ The former consists in the internal coherence of legal principles and regulations, and on their lucidity, generality and openness. The latter consists in the degree to which legal norms are compatible with the fundamental values important for the existence of the society and the development of human beings, such as dignity, freedom, equality, human rights and peace, order, safety, and the welfare of the whole society. Various laws realize these fundamental values to different degrees.

Values in the Constitution of the Republic of Poland

Having explained this relevant terminology, let us pass on to the characterization of justice as it is described in the Constitution of the Republic of Poland, proclaimed on April 2, 1997. In the Preamble to the Constitution, we find *expressis verbis* five principles (values) on which the Constitution is based: freedom, justice, cooperation of authorities, social dialogue and mutual assistance. At the same time the executors of the provisions of the Constitution were called to protect man's natural dignity, his right to be free and the duty of solidarity with others. A similar formulation is found in Article 30 in which man's dignity is considered to be inborn (i.e., natural) and as a source of freedom and human and citizen rights. Freedoms and rights flow from a natural source (i.e., dignity) so they are natural in the sense of being independent of the laws proclaimed. The Constitution of the Federal Republic of Germany, proclaimed in 1949, also treated dignity as a fundamental norm (*Grundnorm*), and not as one of the many laws or freedoms. It is one of the ways of ensuring external justice (morality) of the legal system.

There are 243 articles in the Constitution of the Republic of Poland; 149 concern the structure, functioning of institutions of central authorities of the state and implementation of the regulations of the Constitution. Of the 94 articles on the ideological principles and general values and norms, 56 either directly or indirectly define citizen freedoms and rights as independent of state institutions and authorities. Freedom is understood as a sphere which is protected from interference of the authorities (e.g. freedom of religion); so called positive rights are understood as citizen rights to claim certain services and actions from the state (e.g. providing good conditions for learning). The Constitution lists the freedoms and the personal, political, economic, social and cultural rights of citizens as well as the means to protect those rights. Personal rights are the first in rank. No article of the Constitution mentions the freedom of one citizen in relation to another. In articles 82-86 five duties of citizens are mentioned without reference to freedoms and rights. These are: to be faithful to the Republic of Poland and care for the common good, to observe the laws, pay taxes and other duties, to defend one's mother country and to protect the environment. In article 31, paragraph 3, six cases are mentioned in which the freedoms and rights of citizens may be curtailed: threat to the security of the democratic state or public order, protection of the environment, of health, of public morality and of the freedoms and rights of other people. A formal condition was imposed that such curtailment can be introduced only through a bill passed by the Parliament, and only if they are necessary and do not violate the very essence of freedom. They must be in proportion to the threat to freedoms and to laws.⁴

The space devoted to citizen freedoms and rights and the content of the articles of the Constitution which speak of freedoms and rights show that the Constitution is neo-liberal. The person, as an autonomous being, is considered as fundamental in social organization and his freedoms and rights in his mother country are the fundamental values. Equality, safety and other goods are mentioned only in general terms.

Material and Procedural Justice Based on Rights

The penal code and the code of penal proceedings, passed in 1997, refer to the principles and values found in the text of the Polish Constitution making them more specific through their detailed regulations. They serve first of all for the protection of citizen freedoms and rights. In the penal code, justice based on rights is expressed in the principle which says that resocialization is the main aim of punishment and that it should help offenders to rejoin normal social life. Therefore, punishment should be light and offenders should remain out of prison as much as possible. In the new code punishment has been reduced in comparison to the 1969 penal code. Both heavy and mild sanctions have been reduced and preference is given to sanctions without sentencing offenders to a stay in prison. Of the total of 324 types of offence, the maximum punishment of serving in prison was reduced in as many as 131 types; the minimum term of serving in prison was reduced in 203 kinds of offence, while in 50 types of offence both the minimum and the maximum penalty is now reduced. Sometimes the penalty has been reduced by as much as ninety percent, e.g., from 10 years imprisonment to one year for positive evaluation of felony. For offence committed during drunk driving, in which bodily harm was caused, the punishment was lowered from 10 years to four and a half years in prison, and for instigating murder from 10 to three years, for contamination of the natural environment the penalty was decreased from one year to three months, for trade in people from three to one year, for armed robbery from five to one year, for leadership in organized crime from two years to six months. In 17 cases crime stopped being a crime: including: cruel rape, robbery, and deliberate causing of a catastrophe. Conditional suspension of punishment is used more often (three times than before), extraordinary mitigation of punishment four times.⁵

Applying legal regulations and directives, Polish courts ruled in 1998 that only in 14 percent cases penalty be given without suspension. Half of those in prison served shorter they were supposed to. No one checked whether this approach works. As many as 40 percent of sentences for rape are suspended and the duties imposed on those given conditional stay of their punishment have not been controlled at all as the authorities are not capable of controlling them. Suspended imprisonment practically mean acquittal and performs no socializing goal. As a result, penalties have been separated from crime. Using any kind of criteria the proportion between crime and punishment has ceased. Thus, the retributive material justice has been abandoned. Criminal responsibility is not interpreted in categories of the evil done at all. Crimes are treated more like civil litigation between the parties.⁶

Liberal penal system also becomes one of the sources of poor execution of law. Policemen, victims and witnesses for the prosecution are afraid of defendants as they know that the latter will be released and will become a danger to them. So victims very often do not report crimes committed against them and do not demand prosecution of criminals, nor are witnesses willing to testify.⁷

The ideas which are the guiding principle of the liberal penal code are humane and admirable: respect for the dignity of those accused of crimes, providing them with as much freedom as

possible, emphasis on rehabilitation and resocialization. However, such ideas are rooted in an unrealistic view. They assume an outdated image of the criminal. Today criminals do not begin to commit crimes due to psychological factors, breakdowns and personal problems, or because of the particularly difficult circumstances in which they were brought up. That is why neither psychotherapy nor change of neighbourhood will make a difference. Nowadays, criminal action is a kind of business for a great many people; criminals are really professionals who literally calculate which crimes pay. The main aim of penal law should be not education through mild punishment of criminals, but making criminal business unprofitable. This means that its costs should increase. Liberal and utilitarian policy as represented in this penal code may compare favorably with trends in the most civilized countries, but in the postcommunist reality it is conducive to the spread of crime and the demoralization of the society.

To ensure order, security, freedom and a sense of justice among citizens procedural justice is of greater importance than substantive (material) justice. Still relevant are the 1953 remarks of J. Jackson of the US Supreme Court, in the *Shaugnessy* case, that justice and procedural stability are an indispensable foundation of freedom. One can bear severe material law if applied honestly and impartially. One who has a choice before him would surely prefer the Soviet substantive law applied honestly with American proceedings to American substantive law executed using Soviet proceedings.⁸

In postcommunist countries the regulations on court proceedings are the part of legislation which is not well-defined and can be interpreted in various ways, allowing partiality. The Polish penal proceeding code of 1997 is another proof of the thesis that good intentions bring poor results if they do not take account of the current reality.

The authors of this code tried to prepare perfect procedures which would protect the freedoms and rights of every man (based on the penal codes of Western countries). In practice they resulted in laws which actually protect criminals from the administration of justice. The code is an expression of concern for all the rights of suspects, defendants and those sentenced, but it does not provide protection, security and justice to victims, those harmed and to witnesses.⁹ The rights of victims are neglected and those of criminals are too extensive. Procedures are constantly expanded and more and more demanding, but they are also more and more unreal.

Both in Poland and in other postcommunist countries the police and prosecutors cannot provide evidence of the crimes committed as required by the regulations. The principle that the suspects are given the benefit of the doubt is used so often that any doubt whatever is sufficient to question the evidence provided by the prosecution. And doubts may always be made-up.¹⁰

Qualification of the offences depends on the type of intention the accused had when committing an offence, and many of those accused take advantage of this. For instance, courts are obliged to believe thieves who say that they have not stolen a car, but only borrowed it to take a ride. Detention is rarely used (the penal code gives only four cases where detention is required) and unrestricted access to court files results in victims and witnesses either being intimidated or offered bribes by the defendants. Trials carry on sometimes for years before sentences are given, resulting in witness fatigue. The procedures clearly privileges criminals while discriminating against the victims. The rights of the former are protected and those of the latter are ignored: procedural superrationality becomes irrationality. If the prosecutor does not want to find the culprit or to bring him before the court, it is enough for the prosecution to act exactly as is provided in the regulations. Sentences often depend on the opinion of experts, who often live off the services sold to the criminals or depend on them as experts' opinions are often ambiguous and raise doubts, responsibility for the crime is blurred. Knowledge is changed into ignorance. Everybody may

know very well who is the culprit, and some may even testify in public: but this is not enough for a sentence which sends the criminal to prison. This is particularly so when there is an "expert witness" who will cast doubt on previous testimony. Trials last longer and longer, sentences are given only when knowledge becomes ignorance, and justice becomes injustice. Law has become an ally of the enemies of the society, for it seems to make people disbelieve their own senses and minds.

Liberal procedures of penal proceedings have their own consequences. The number of those detained awaiting trial is smaller and smaller - both when compared with the number of suspects and those who are accused and tried. Crime detection is poor - in only about 20 percent of crimes reported are those who committed them found (in large cities it is only about 2 percent, e.g. in Warsaw out of 100 stolen cars only in two cases are the thieves found). In more than 50 percent of the cases where the culprits are found, legal proceedings are dropped due to insufficient evidence. Another 30 percent of the cases are discontinued because of the relatively small impact of the crime.¹¹

Law implementation in Poland and other postcommunist countries raises doubts about whether the thesis that law based on the idea of liberal law, which is morally neutral, ensures objectivity, freedom and neutrality. Law which is not adapted to local conditions appears to be imprecise in some and too demanding in other cases. It allows various interpretations and lets criminals use it for their own aims. It becomes criminogenic itself, and is used by the stronger party, i.e. criminals, for their own advantage. Obviously the rights of those accused should be protected, and there should not be any detentions and sentences passed in cases of innocent people. However, this protection should not go beyond rational limits and cause chaos in the administration of law. The new penal proceeding code does not protect the freedom of common citizens, but rather that of criminals. It was based on a model aimed protecting the suspects (Due Process Model) and not on a model aimed at reduction the crime rate (Crime Control Model). It provides neither security for the weaker nor the sense of justice. It is in contradiction to the spirit of the law, i.e. justice and preserving internal and external morality. The letter of the law should not kill the spirit of the law.

Growth of Crime and Its Intensification

The liberalization of the law occurs at a time when the increase in the number of crimes and their brutality is growing. More and more new and dangerous forms of criminality and juvenile delinquency are on the rise, threatening the property, life and freedom of citizens. Instead of preventing these acts, the law becomes one of the factors exacerbating them. True, the increased crime rate is to some extent independent of the new code. In general, the liberalization of social, economic and political life is conducive to this increase. One feature of the transformation of the political system is a rise in social anxiety and an unsettling of norms and values resulting in an increase in immorality and crime. However, it is worse when these phenomena become strong and prevalent and part of "normal" social life as we see in recent years. This is best illustrated by the numbers given below.

According to official estimates 427,217 criminal offences were committed in Poland in 1970 and in 1999 there were more than a million offences, i.e. 2.5 times more. According to police reports the increase in the number of some offences was particularly strong (compare the 1989 and 1997 data).

1989-1997

a crime was committed every 32 seconds
every minute (twice as many)

homicide every 16 hours every eight hours
(twice as many)

bodily harm every hour every 26 minutes
(twice as many)

a brawl every 3 hours every 40 and
a half minutes

(4,5 times as many)
a robbery every hour every 17.5 minutes
(more than 3 times as many)

burglary every 2 and every 1.6 minutes
a half hours (almost ten times as many)

7935 cars were stolen 56,871 cars were stolen
(seven times as many)¹²

Each year the number of offences against property grows by 14 percent. Though according to official statistics Poland is not one of the countries with the greatest number of offences; yet it is probably, since in Poland the number of unreported crimes is among the highest. According to international studies, Poland is among the countries with the least number of reports of crimes committed. Poles simply do not believe that the police would be effective in dealing with crimes they would otherwise report. It is said that only every third mugging and robbery, every second car theft and every fifth theft of other property are reported; these are dark numbers. Thus official data on criminal offences should be multiplied several times if we wanted to present the actual state of affairs.¹³

These data do not include numbers for economic crime. In 1994 a liberal law was passed for the protection of the circulation of goods. This was the legal basis for initial proceedings in 1760 cases from January 1st, 1995 to June 30, 1996, half of which were then discontinued and a quarter of which were brought to court with an indictment. These cases take years to complete. There are no longer police services dealing with economic crimes as it was thought they would restrict the freedom of economic activities. As a result, activities in the sphere of economy are not controlled. Institutions of penal prosecution are not prepared to prosecute those who commit offences in the economic sphere and courts are not prepared to decide on these matters. Yet losses suffered because of economic crime are much higher than those caused by common offences.¹⁴

To this should be added data on organized crime. The Organized Crime Bureau stated that in 1999 it had foiled 119 organized crime groups and arrested 1,260 of their members. Police operatives worked on cases of 5,260 people. The Main Police Headquarters report for 1999 said

that 436 groups of criminals had been under police surveillance and investigation, including 92 international crime groups. Criminal activities reported by the police are actually only a small part of crimes committed by organized crime and people involved in these activities. Criminals invest in criminal enterprises (drugs, alcohol, prostitution), in luxury goods, and in the entertainment industry. The bosses of these groups are increasingly supported by the police, have influence on politicians, and a greater and greater influence on state finances. They can even destabilize the country. In the meantime punishment for organized crime offences has diminished four times.¹⁵

Organized crime would be impossible without the cooperation of police and some authorities, or at least without their tacit permission. Corruption amongst public functionaries is greatest in the Czech Republic. Poland is second. It is seven times the level of France and Austria, sixteen times the level in the USA and Great Britain and fifty times that in Finland.¹⁶

So far we have concentrated our attention on criminal cases. The situation is no better as far as the civil and administrative cases are concerned. Judges are incompetent and legal regulations are ambiguous. Adaptation of the law to international standards has merely drained the effectiveness of the legal system.¹⁷ Another problem is acting "on the limits of the law" which was even propagated some time ago by one of the former presidents himself. This led to the so called "Falandisation" of the law, i.e. to its helplessness caused by finding more and more flaws in court proceedings which then made sentencing impossible. (The term "Falandisation" comes from the name of a professor of law and a counsel to former President, Lech Walesa).

It seems that more and more people and even whole groups who are politically or economically powerful are beyond the law. Prosecutors and police do not take on some cases or drop those which have started, "stretching" legal regulations when the case is connected with someone high on the social ladder. Avoidance of legal responsibility for breaking laws stopped being treated as immoral, even among members of parliament. At the time of Communism, law did not free people from despotic rule: in the liberal system it allows impunity of politically or economically powerful groups, or simply criminal ones. The situation in other countries is not better. For instance, in Bulgaria 5,878,000 offences were committed in 1997, but police records give their number as 240,000, which is about 4 percent. In Russia in 1992, 2,670,000 offences were reported, which was one third more than in 1991. In 1995-1998, criminals killed 15,000 people, so during those few years more people were murdered in Russia than there were the number of casualties among Russian soldiers during the war in Afghanistan. Murder has practically ceased to be punished in Russia, and it is not even prosecuted or investigated. People simply disappear and no one can help it. Business and political circles are even more connected with criminal circles than in Poland. In 1995, 40 percent of new millionaires in Russia officially confessed their criminal past, and 25 percent admitted that they still had contacts with criminal circles. According to the Russian press, more than half the criminal groups in Russia are closely connected with representatives of authorities. A report prepared for former Russian president, Boris Yeltsin in 1995 by Russian intelligence said that the mafia controlled between 70 to 89 percent of all the private businesses and banks.

According to estimates of Western experts, in the years 1994-1995 between US\$ 50 to 100 billion worth of state money and gold reserves were appropriated and transferred to unknown places or deposited in private and mafia bank accounts in Russia and abroad. Western experts estimate that only 2 percent of new enterprises may conduct their business in Russia without being dependent on organised crime.¹⁸

Conclusion

1. We might ask: what philosophy of law has in common with quoting data on crimes committed? In our opinion reflection on the law should be comprehensive, i.e. it should take into account not only constitutional laws, but also the legal code and the applications of laws in a concrete community, as well as the state of legal awareness of a given community and the extent to which the laws are observed. Only then can the sense of legal norms and non-legal norms and values (e.g. the moral or philosophical ones) assumed by the law be adequately understood. As is well known, the Stalinist Constitution of the Union of Soviet Socialist Republics of 1936 guaranteed to citizens all possible laws and freedoms, including freedom of association (gatherings); it imposed on the state the duty of ensuring places to congregate. Actually, freedom was ensured only for those who were followers of the Stalinist system. The Constitution of the Polish People's Republic assumed a whole system of humanist values, including: freedom, personal inviolability, comprehensive development of the human person, equality of rights, security, marriage, family, rest, social justice, science, culture, education, health care, participation in governing the state, social and private possessions, and a socialist political system. These values were also protected in the principles formulated in the codes. The penal code of the Polish People's Republic protected health, life, security, freedom, personal inviolability, morality, possessions, money, documents, public order, and state institutions. Yet the maneuvers of interpretation and execution of regulations meant that many of the values mentioned were either not protected at all or were protected very badly.¹⁹

2. It may sound paradoxical but the postcommunist legal system (understood as the whole complex of laws, regulations and their execution) has many negative features similar to the Communist legal system. The law is not adapted to social reality, to morality, culture, common customs and the sense of justice of the society. Similarly as in Communist times, law is used to impose foreign norms from above and transform the society. As in Communism, it is neither accepted by society nor efficient in managing it. What this legislation offers is just the opposite of what people expect.

3. Laws imported from Western countries were supposed to give freedoms and rights to citizens. However, this goal has been achieved only partly. It safeguards people against the arbitrary interference into citizens' private lives by public authorities. But at the same time it does not protect citizens against violence, cheating, and interference in one's own life by other citizens, especially thieves, cheats and criminals. It does not ensure the safety of one's living quarters, freedom of movement, health and life. And without safety there is no freedom.

4. Liberal and permissive laws were supposed to bring Poland closer to the European Union. Actually these laws cause an increase in criminal acts and corruption which discourages foreign investors, raise the costs of production, make management more difficult and discourage foreign tourists. Instead of helping economic and political development, the new laws have impeded it.

5. Liberal laws are used by political decision-makers for the arbitrary distribution of goods. This phenomenon is particularly visible in the privatization sector. Distribution criteria are practically dependent on political parties and fail to increase the prosperity of the country. These criteria do not fulfill the requirements of either internal or external morality of law. Toleration of this kind of phenomena by the legal system means that the law itself generates crimes.

6. The unfairness of the laws introduced is not compatible with the sense of justice of the societies for whom the laws are passed. The gap between the two is great. People feel that the laws are too permissive for criminals, cheats and those who ignore the moral and cultural norms which are cherished and considered important by society. Such laws have no authority among people and

are ignored by them. They fail to fulfill their normative function since society does not adopt or internalize their norms and does not identify with them. When laws are not considered as an authority, the state also suffers. A kind of anarchy arises: one part of society looks back to traditional authorities and norms (customs, religion, communities) and another part tries to introduce new order by force, in a manner which evades law and favours its own interests. Public life becomes more and more primitive, as the state ceases to be lawful. In this way beautiful ideas change into brutal reality.

7. In postcommunist countries law is still treated by political elites as a technique to introduce new political principles, new social structures, new values and the realization of their own or their party's interests. No one asks society to express an opinion. In this situation law has no autonomous value and does not become a way of just living for communities, but something alien to them. It appears that in spite of the views of legal theorists guaranteeing universal values and human and citizen rights, the constitution and legal codes do not ensure the external morality of law. Such law may still have a purely instrumental character and be used by political authorities, interest groups and criminals for their own goals in a manner which destroys the values the laws were supposed to protect and for which they was passed.

8. For these reasons given the fundamental role by Western politicians and lawyers in adaptation of the law of postcommunist countries to that of Western countries, in the sense of making it similar in form as a condition of integration with Western Europe, seems in many ways ill considered in the situation where the power of law over people's behaviour is not great. What is more important is adapting laws to the mentality, morality and problems encountered by the communities. It must be recognized that the values to which modern man attaches importance, such as freedom, equality, security, dignity and the like, may be protected in different societies by legal regulations which vary in their form and content. Legal regulations must be compatible with the morality, customs and culture of a given community, in order actually to protect the values important to a given society.

Notes

1 Arystoteles, [*Aristotle*] *Etyka nikomachejska, (Nicomachean Ethics)* (Warszawa, 1956), Book V, p. 159.

2 Cf., P. Perelman, *O sprawiedliwosci, (Of Justice)* (Warszawa, 1959).

3 L. Fuller, *The Morality of Law* (New Haven, 1969).

4 *Konstytucja Rzeczypospolitej Polskiej, (Constitution of the Republic Poland)* (1997); L. Garlicki, *Polskie prawo konstytucyjne. Zarys wykladu, (The Polish Constitutional Law)* (Warszawa, 1998).

5 *Gazeta Wyborcza*, 27 II (1999); J. Kochanowski, *Redukcja odpowiedzialnosci karnej, (The Reduction of the Penal Responsibility)* (Warszawa, 2000), p. 45; K. Buchala and A. Zoll, *Kodeks karny, (The Penal Code)*, vol.1, General Remarks (Zakamycze, 1998).

6 *Ibid.*, vol.1, p. 358ff.

7 A. Peyrefitte, *Wymiar sprawiedliwosci-miedzy idealem a rzeczywistoscia, (Administration Between the Ideal and the Reality)* (Warszawa, 1987).

8 S. Frankowski, R. Goldman and E. Letowska, *Sad Najwyzszy USA. Prawa i wolnosci obywateli, (The US Supreme Court . The Rights and Freedoms of the Citizens)* (Warszawa, 1996), p. 25.

9 Cf., *Nowa kodyfikacja karna. Kodeks postępowania karnego. Krótkie komentarze*, (The New Penal Codification, The Penal Proceeding Code), Zeszyt 14 (Warszawa, 1998).

10 *Ibid.*, p. 187-206; J. Kochanowski, *Redukcja odpowiedzialności karnej*, op.cit., p. 70.

11 *Atlas Przestępczości w Polsce 2*, (*Atlas of Criminality in Poland 2*) (Warszawa, 1999), p. 173.

12 *Ibid.*

13 *Ibid.*, p.167-174.

14 *Ibid.*, p.169.

15 Cf., *Prawo i życie* (Februar 2000), No. 2 (1770), p. 52.

16 *Atlas przestępczości w Polsce*, op.cit, p. 162; J. Kochanowski, *Redukcja odpowiedzialności karnej*, op.cit., p. 24.

17 M. Jaskowska, "Europeizacja prawa administracyjnego," ("Europeanization of Administrative Law"), *Panstwo i prawo* (1999), No.1, p. 18-27.

18 Ch. Schmid-Hauser, *Russland in Aufruhr. Innenansichten aus einen rechtlosen Reich* (München, 1993), p. 9.

19 W. Lang, *Prawo i moralność*, (*Law and Morality*) (Warszawa, 1989).

Chapter VI

Political and Social Pathology

Political Indifference

By definition the democratic system differs from other systems, among other things, in that it expresses the will of the people and creates possibilities for the expression and realization of this will. At least it was understood in this way, according to a tradition that goes back to ancient times. After direct democracy was abandoned, the influence of the people on governments was restricted. The introduction of the modern system of representatives rising from a renewed interest in democratic ideas, limited the power of citizens to the election of representatives at specific times. These representatives are supposed to make decisions in the name of citizens and according to their interests and views. Pure democracy, understood as government of the people, was replaced by procedural democracy, the important features of which are: a system of procedures (elections, appointing representatives, majority principle when decisions are made, division of power) and a collection of human and citizen rights.

Procedures and observation of individual rights legitimize the system without referring to external factors such as God, natural law, the will of the people or the positive (valuable) results of the rule. In contemporary democracy, participation in elections should not be the only form of influence of citizens on the system and government. Local self-government, public organizations and institutions, mass media, political parties, pressure groups, and trade unions offer various platforms for expressing the opinions of citizens and for the realization of their interests or the public good. The legal framework assuring democratic rights and freedoms create the conditions for economic activity which allow citizens to create and preserve material resources. One of the popular slogans of the postcommunist authorities was, "Take your life in your own hands." It should be added here that in this interpretation citizens are not treated as people whose will, values and views on specific problems are the same, but as groups of individuals whose views and values are different and who are united only by constitutional morality, that is faithfulness to the idea of peaceful solutions of conflicts using rational and legal methods.

Even in its procedural and centralized form, democracy expresses the individual freedoms of citizens in formulating goals and selecting efficient means to achieve them. Laying and satisfying one's claims in the public forum, as well as views, principles, values, interests and norms, must take a rational form for universally valid justification, i.e. they must be formulated in agreement with the procedures for the presentation of views and the solution of conflicts. In this sense procedural democracy has no content (it ceases to express the particular will of the people in concrete matters). However, it remains a commonly accepted forum for solving conflicts and for avoiding armed conflicts as it creates conditions for changing them into rational conflicts. In its procedural form it also gives different groups and organizations the possibility to influence the shape of social and political reality, including the form of the democratic system. It ensures social consensus and compromise. Faithfulness to its principles and rules is defined as constitutional or political morality. In this interpretation democracy does not assume an unanimity of views, interests or values; just the opposite: it assumes their irreducible dissimilarity. But at the same time it offers ways of expressing them which do not threaten the existence of the society. Parties, pressure, interest, ideological and regional groups fill in the democratic forum with the particular content, lending vividness to procedures and rules.

Every system requires apt individuals and groups who are leaders and who implement their own assumptions and take advantage of the rights which the system offers, that is, they give it life. Thanks to them the system becomes lively, stable and efficient. De Tocqueville remarked that the process of democratization in America was connected with the activities of its citizens within different organizations. At that time organizations, self-government, associations on the local and regional level were set up, and supposed to solve the specific problems of local communities.¹ According to Arendt, this local democracy was a model and foundation for the creation of the central democratic structures after the Revolution.² At the same time it was an expression of positive freedom and of grassroot initiatives. Citizens participated in the government, made decisions regarding the form of the political system and felt they were responsible for the future of the country, although centralization of power after the Revolution limited their activities and local self-government.

In Central and Eastern Europe, however, the democratic system has not brought the positive results expected. In particular, it did not stimulate brisk activity among the citizens as was observed by the French aristocrat in America. Advocates of liberalism blame individuals who have not adapted to the system and are not yet capable of taking advantage of its possibilities. Such an opinion has been briefly described in the epithet "homo sovieticus", used by liberals to describe the population of the postcommunist countries. However, it seems that the passivity of citizens cannot be explained only by the influence of, and habits formed during the time of, Communism. Most of its causes are quite recent and connected with the way the new system functions.

During the Communist period, self-government in Eastern and Central Europe had been abolished or had been under the control of the central authority of the Communist parties. Independent activities on a larger scale either in the field of politics or economics were forbidden. Yet interestingly informal relations still developed at the level of the community and at the level of interest groups in the economic field. The character of these informal relations was neither that of self-government nor that of a political organization, but they were important from the political point of view since they limited the control of the party authorities and diminished the extent of communist rule. They constituted the beginning of organizations and a source of activists for the mass resistance movement and of demonstrations and strikes against low standards of living and against economic and political oppression. This grassroots protest movement was institutionalized in the form of semi-legal organizations such as KOR (Committee for Defense of Workers), flying universities, and later in mass social and trade union organizations such as Solidarity in Poland, Charter 77 in Czechoslovakia and others. These were democratic movements and organizations launched at a low level of society and based on communal values. They formed structures for horizontal inter-branch cooperation across professional divisions and political and religious differences.

When the new movements took power the situation changed totally. Political parties were formed on their basis, and leaders of those parties severed their links with their roots. It appeared that they had no ideas of their own for the new democracy. They looked to Western liberal party-based democracies as models and began to form democracy under their influence. As a result, the grassroots movements, organized at the time of Communism, began to be inconvenient and even dangerous to those newly in power. Consequently, they started to hush them up. Strikes and demonstrations destabilized the new order, and threatened the authority of those in power, because the activists demanded that power be shared with them and decision making consult with people at the bottom of the social ladder.

After they had come to power, opposition leaders opened one channel for spontaneous activities, i.e. economic. In the first stage (the beginning of the 90s) they allowed people to start any sort of trade or business activity, with no control on the part of the state not even on the part of tax offices, without any permits, control of hygiene, quality, cleanliness or order in the streets. This programmed mess led to weakening the state and legal structures inherited from Communism and changing people's mentality. It encouraged the poorly educated in services, trade, smuggling and those who readily ignored legal regulations and the orders of state authorities. This distracted people's attention from politics to trade. But this was not a permanent alternative to large companies and could not for long replace programs of political change. This period of postcommunist rule was characterized largely by attempts at doing away with people's democracy, which comes from the bottom up and is spontaneous, self-governing and represented by mass organizations and social movements. In its stead came liberal and party democracy in which the people's influence is limited to participation in the elections of candidates representing the central authorities of large political parties. Mass, active participation in the political and public life appeared to be dangerous for the stabilization of new relations. Despite one party (AWS-Election Action Solidarity) being formed from the rightist post-Solidarity organizations in Poland in 1997, the situation has not changed. The fight within the AWS, in power from 1997 to 2001, was mainly between its party and trade union factions. The goal was to get rid of both the old and new leaders of the working class for fear of their social radicalism, which shook the foundations of the structure of capitalism (discouraging foreign business from investing in the country) and liberalism (impairing the role of negative freedoms and the importance of political parties). Democracy had to lose in the competition with liberalism and capitalism.³

The phenomena discussed here and the processes that may be observed in Central and Eastern Europe discussed above are not untypical of liberal democracy. They can also be observed in Western countries, although perhaps they occur less frequently and over a longer period of time. Sooner or later the liberal system imposes political passivity on its citizens. Practically, it restricts their political activity to participation in elections, which do not guarantee real influence of citizens on politics or even on the election of their representatives. In large societies the influence of individual members of the electorate in selecting representatives is insignificant. Those who elect do not see the consequences of their choice in the realization of their interests or opinions. The differences between programs of different parties often appears to be minimal; even where there are differences voters realize that these are only programs: actually they are to a large extent propaganda, and will be carried out only to a very small extent. This is true of all the programs. If we add to all this the influence of propaganda, mass media and pressure groups on decisions making, then the view on elections assumes a darker shape.

The phenomena mentioned here question the opinion, often quoted in the literature, concerning the moral dimension of elections as a legitimization of authorities, an expression of autonomy, and freedom and the sovereignty of individuals over their representatives. Voters become more and more indifferent to programs and less and less interested in them. The authorities and the whole system become alienated from problems, interests, values and norms accepted by common citizens. We observe a paradoxical situation in which democratic procedures and rights are in principle accepted by citizens of Central and Eastern Europe, who than become indifferent to them. This is because the real problems, interests and opinions of citizens are not reflected in the laws that are passed, in orders and recommendations of the authorities, in the legal regulations of social, economic and cultural life. Citizens do not identify with the politics of the ruling elites. Their views on cuts in the workforce, the profitability of companies, customs regulations, security

and punishment are different from these of the rulers. The solution is not that democratic representation must precisely reflect all the views, interests, values and norms of all citizens or of the majority of citizens: this would destroy democracy. However, democracy should fulfill in practice the postulate of representing socially important problems and interests (those concerning cooperation, citizen participation in governing, prospects of material and spiritual development) and rational claims which are expounded in public discourse. In Eastern Europe it even does not always create a forum for turning particular demands into public claims. Liberal democracy is today by its very essence paradoxical. As a system created for expressing of the will of the majority of the citizens, it is failing. It function only when it reduces to unawareness, ignorance and privacy the problems which are vital to common people. Liberal governments can rule only when the average citizen does not take part in governing, and remains passive. Masses of people may legitimize this system only through their passivity and participation in elections which take place every few years. The system of majority rule actually becomes the rule of minorities who are politically active. They gain power and wield it permanently, becoming independent of control from below. Conflicts and problems of fundamental importance, that are part of the majority's experience are removed from the political sphere because they might mobilize the masses against the political elites, threatening them and the whole democratic system. That is why elites rarely allow the masses to articulate such conflicts and problems or to carry out actions to solve them.

In contrast to Communism, the democratic system formally safeguards the political rights of average citizens. But in order actually to influence the authorities, citizens have to organize their own political party and set up an organization or pressure group. That is, they must stop being average citizens and, in order to start an organization, they must have a lot of time, money and energy, and no moral scruples. Few citizens can afford this. As a rule people become followers of the authorities and soon stop representing the opinions and interests of the people. As a result true representatives of the communities lose the political battle because they share the norms and values of the whole community, and so have few resources left over to carry on the political battle. Changes in the ruling class are made within the political elites, the exception being only the periods of revolution or sudden transformation and crisis. Both governing and opposition parties represent the same general line, sharing power and manipulating the electorate.

The extent of freedom and tolerance in parted to citizens should not be the only sign of the influence exerted by the citizens on the system and of its importance. What is also important is the structure of the political system and the ideological principles on which its identity is based. The Communist system assuming as the principle of its existence the logic of identity was identified with all its segments, elements and activities. It considered all of them to be important and fundamental. That is why any critical opinions about the operation of this system, even of some of its parts, functions or representatives undermined the system as a whole. Hence, the whole system trembled at any accusation since each accusation offended and challenged its essence, which consisted in its content and axiology. In contrast, the essence of the liberal system is narrow and devoid of content. It is formed at the metalevel, i.e. the level of structures and procedures of electing representatives and maintaining formal restrictions on activities through abstract human and citizen rights, or, in another version, ensuring the welfare of individuals. Everything else is of less importance. Most of the activities of the citizens, including criticism of the system, is of minor importance to it and does not impair its essence. Properly functioning elections and human rights is sufficient legitimization. That is why in spite of the freedoms of speech and action, it is difficult to influence change in the liberal system, and the opinions of individual citizens do not count much.

Rules of Parties

During the time of Communism, the real nightmare of public and private life was that everything depended on whether one was or was not a party member. The Communist party ruled and wanted to control everything, the private lives of citizens included. The state and its organs were used as tools for ruling. Making everything dependent on party membership meant that all domains of life were political. All behaviours and citizens' opinions were politically significant and were interpreted as being either "for" or "against" the party and the Communist system. To fight Communism meant to fight, among other things, the dependence of everything on party membership, and thus to gain freedom from politics, from ideological pressure, from labels such as "public enemy", "reactionary", and the like.

Yet unfortunately, almost immediately after the fall of Communism a new process of dependence on political parties began. This new process is co-responsible for the above mentioned alienation from the democratic system. This time many parties fight for the domination of political, public and economic life, and do it efficiently. It is impossible to gain a prominent position in the state or local administration or in public institutions without belonging to some political party. Various trade unions, youth and regional organizations appear to be only outposts depending on the large political parties. They are created to strengthen the power of these parties and to camouflage their influence. These parties allocate positions, give information, and influence political and economic decisions. The characteristic features of the activities and opinions of the press, radio and TV are determined by the political parties.

Party activities, particularly election campaigns, are expensive. Parties ensure the influx of money for their campaigns from the economic sector. However, enterprisers do not sponsor political parties for free. Political parties provide vital information, organize legal counseling or defense when some enterprise violates the law, tolerate activities which violate laws, arrange cheap credit, tax exemptions, and government concessions. In Poland, among other spectacular examples of the relations between politicians and businessmen was the case of the state tolerating some companies smuggling hundreds of millions of tons of alcohol at the beginning of the 90s. The police and prosecutors knew well which companies smuggled alcohol and how much, but no investigations were conducted.

Observation of social life in Central and Eastern Europe and in other countries leads to the conclusion that relationships between various spheres of social reality are complex. For example the economy becomes dependent on politics, particularly on the politics of parties, so that we can speak simply about a party-dependent economy. Commissions from the government and from local authorities (self-governments) are sent mainly to companies and factories which are managed by politicians, members of their families, members of the ruling parties or businessmen who sponsor political parties. These companies and factories are prosperous thanks to state or self-government money. Many companies and factories are either clandestinely or openly "party" businesses. They use part of their profits to pay for the running of these political parties and for this they receive a kind of protective umbrella which is spread over tax exemptions, cheap credits and commissions which are paid from the state budget.

Privatization becomes a place of political conflict. Each party tries to have its own members in management and on the board of directors of the privatized companies. Gaining positions in management and on boards of directors makes it possible to become the majority shareholder and to pass on parts of the profits for party expenses, either openly or secretly. Indeed, the capitalist economy becomes a political economy in a very real sense of the word.

Party democracy represents neither people nor their needs and opinions. Parties stopped being a "transmission belt" between people and the authorities: in some countries they became instead an instrument of political manipulation and political integration at the central and local level. Their activities are formally and officially considered as signs of citizens' activities. Actually, they represent interests and opinions of the party oligarchy of bosses and cliques within parties and outside of them. Liberal democracy is based on activities and activists of large parties. They provide political elites, prepare programs, and organize political life at the state or local level. They organize propaganda among the electorate, and influence opinions, wishes and views. What the masses of people do at most is to confirm once every four years which party was more efficient in its propaganda before the elections. It is known beforehand that only those candidates nominated by large political parties can be elected. Party activists play the role demagogues played in ancient societies; the general party line is becoming obligatory for every member. Parties, especially large ones, try either to influence or to soften opinions and eliminate ways of forming both people's minds and reality which differ from what they consider desirable. Citizens have no other possibility of significantly expressing their opinions publicly. In the party forum only such opinions and interests as agree with the general party line or its interests may be formulated.⁴

These are the party preferences that an average citizen shows. Most often they are not shown publicly, but rather indirectly through voting for representatives of the central and local authorities who have been selected by political parties. Parties seek to expand; they have their own apparatus for organization, their own officials, press and jurisdiction. The interests of a party take clear priority over the interests of the electorate, which are treated instrumentally.

Alienation of Local Self-Government

One of the more paradoxical phenomena observed in the liberal system is the alienation of local self-governments in their relations with local communities; this alienation begins almost at the moment self-governments are established. Candidates for counsels and representatives are nominated by large political parties or their local chapters. Party propaganda activities and the statistical domination of those who vote for the main parties ensures that the nominated candidates win elections. As a result self-government policies are set according to the directives of the central parties and are often against the interests and needs of local communities. Elections give self-governments their power and exclude them from any control by those at the bottom of the social structure. Almost from the moment they take office, many democratically elected representatives and officials begin to organize within their circle and form independent interest groups, concerned mainly to ensure their own political welfare through manipulation, support of the party and of the organizers of elections. Largely neglected are attempts at helping to solve the vital problems of their electorate. Positions and offices are treated as an occasion for severing ties with the masses and joining the social and financial elite. This kind of cynicism is widespread and based on a cool and effective calculation. Most of the electorate are generally not well-organised, and their orientation in the technical matters of administration is insufficient. As they concentrate their attention on their work and on their own and their family's everyday troubles they can devote very little time to public matters. Thus they become dependent on the elected organs and susceptible to their manipulation.

An example of the alienation and helplessness of both the central and the local administration is the economic situation in small and large towns. Small towns are rundown, the vitality of past times is disappearing, and unemployment is growing. Both small manufacturers and petty trade

have gone bankrupt. Large towns with the influx of foreign goods, especially cars, become congested, dirty and less and less friendly to their inhabitants. The streets are not prepared for the increased traffic. City parks and places for leisure are razed to give place for supermarkets, warehouses and the headquarters of large companies. Deterioration of the material infrastructure in cities can be easily seen "on the street."

Television and other media almost exclusively show the "power triangle": parliament, government and president and all the in-fighting that goes on among them. Other people are noticed by the media only when they are noticed by the decision-makers. This usually happens when they demonstrate in front of the decision-makers' offices or go on strike. This too is a characteristic feature of postcommunist democracy that decisions which would be in favour of the masses and according to their opinions must be coerced by them through strikes, hunger strikes and demonstrations. Other manifestations of the people's will are ignored. Liberal democracy as a party system has ceased to take care of people. It takes care of the privileged groups who are active in the field of economics and politics, and who are capable of articulating their demands and setting up political parties, associations and organizations to defend them. They are the political power with which authorities have to reckon and which they want to have on their side. As a result politics and public life in the country are dominated by small but well-organized groups who live off politics and for politics. Participation in political life is now for professionals. But since these groups are dependent on politics and the political and economic establishment they are not capable of formulating independent opinions and cannot represent citizens honestly. Democratic procedures and structures appear to be good channels through which well-organized groups may legally govern the masses.⁵ It is interesting that in postcommunist countries from the first days of their existence the new democratic authorities isolated themselves from society by their program. They considered themselves that due to being elected democratically to the parliament and to their fight with communism they were the only legal representatives of society. What is even more important, they knew better than society what was best for country, what kind of reforms should be introduced, how to develop the economy of the country, and which policies were the most appropriate

The Phenomena of Cliques and the Mafia

It has been emphasized before that liberal democracy constitutes only the organizational and legal framework for political, economic, public and private activities as well as all other kinds of activities. It prepares legal and formal conditions which provide citizens with the possibility of acting. But it also prepares conditions for the distribution of goods and for establishing rules for this distribution. In politics a fundamental struggle is: to obtain access to goods, and to establish the rules according to which goods are distributed. There are three main forms of this fight: (a) within the formally and officially accepted institutions and organizations such as political parties, trade unions, local self-governments, parliament and government; (b) unofficial networks of relationships, pressure groups, ideological groups and interest groups whose activities are legal and which act on the border of law or evade laws; and (c) criminal groups such as the mafia, robbers, blackmailers, thieves and cheats.

When we speak about phenomena connected with cliques and the mafia in democratic social relations, we have the last two forms of activity in mind as forms of social and political pathology. Cliques are found in business, politics, public life (local government, and mass media). They are associated with organized activities in which the law is evaded, but not to the extent of becoming

fundamentally illegal. This kind of activity is at least tolerated by law. This system comprises a whole network of relations and activities which are not forbidden as such and are not punishable, but they break the officially accepted rules of the political system and weaken moral and cultural values. This is a network of unofficial relationships, acquaintances, mutual services and mutual assistance. It comprises various activities from petty nepotism (arranging positions for members of one's family thanks to one's acquaintances or position), to the formation of permanent well-organized groups who mutually offer services and support and whose aim is to get and keep positions in politics and business. In the Old Polish language such a network was called "sitwa" (a gang). The difference between such networks and the mafia is that they avoid committing crimes such as murder. A clique usually consists of a patron, members, followers, those who support it and those who are manipulated by it. The relations within a clique and partly outside the clique are personal ties and contacts. Every clique tries to exert influence on as many people as possible. Also every clique tries to be invisible. Its members act behind the backs of other people or behind their own backs, i.e. they perform functions in the official structures and at the same time they are members of cliques and act according to the orders given by their clique.⁶

Cliques penetrate official associations, organizations, political parties and are also active within the government and parliament. Through these institutions cliques influence politics, economy, public life, the press and television. They act as unofficial pressure groups or groups of mutual support or influence. They form semilegal networks and systems of relations. Cliques decide nominations for lucrative positions, control offices, nationwide businesses and other activities. Without unofficial support, without relationships, or mutual services (and such may be offered when one has at his disposal a position, power, money or other attractive good) no one is offered a good position, well-paid job, commission for services, or permits; no one wins a competition for a building financed from the government budget. Cliques create a class of people who live well, thanks to informal ties without which this class is worthless and unable to function.

Cliques consists of small-scale people, without distinct personality, focused on material gains, who are able to arrange everything through "private" channels, personal relations and ties. Cliques fight among themselves for influence. The range of activities and interests of cliques vary; however, all are interested in maintaining democratic institutions and political authorities in as weak a state as possible. This makes it possible for them to continue activities on their own and to create and stick to their own norms, which although unofficial, are well-known and observed. In Eastern Europe democracy made citizens more active, but their activity is focused on creating such legal or illegal organizations and structures which restrict and weaken the democratic system rather than strengthening it and making it more lively. This is another difference between the process of democratization analysed here and that democratization in America as described by Tocqueville.

Domination by cliques in political, economic and public life indicates the troubling character of democracy in many contemporary regimes. In many cases democracy ceases to be a platform for the realization of the common good and becomes a battlefield for influence among organized non-legal groups and a tool of the most powerful groups in the ranks of unofficial structures. When we consider the non-legal dimension of democracy, it appears once more that the political rights to participate in elections both as voters and as candidates are of no great importance to citizens, since only those candidates may win elections who have been nominated and supported by organized unofficial cliques. And such candidates will surely not undermine the foundation on which the existing system of ties and relations is based. Cliques restrict the competition in the field of politics and other domains to themselves. Their conflicts concern not differences in ideas or programs, but their share in power, prestige and wealth.

Cliques prey on the official system and take goods which do not belong to them. They are in opposition to the honest strata of the society who work hard and act according to moral principles: peasants, workers and churches. The instrumental rationality of the members of cliques deprives them of their respect for faith, principles, norms, traditions, customs, law and institutions. Thanks to this they dominate and manipulate others. Their cooperation is based on their own short and long-term interests; they are parasitic toward others. Family relations and other kinds of ties play a great role within cliques. Mutual interests, values, attitudes and life styles differentiate them from others. In face of the growing instrumental rationality among the members of society they use more and more sophisticated methods of manipulating other people: blackmail, threats, propaganda, pretending to be very moral. Belonging to a clique offers privileges. Domination by cliques of political and public life means that the official legal and political system is only an external crust which makes governing possible by those not formally authorised to do so. The system is governed by the supersystem.

At the same time care is taken so that certain limits of instrumentalization of the system are not transgressed and the whole system is not completely destroyed. In activities two different rationalities are used at the same time: the short-term and long-term. Cliques are formed within all social strata and in all institutions, but only those cliques which caught political power and the market become dominant, and places in them are hereditary. A clique may be fought efficiently only by another clique or the mafia. On the one hand, cliques weaken the political and economic system since they replace the rules of competition with paracommunal systems. On the other hand, however, they give it some vitality, make it more dynamic, and make the decision-making system more efficient. Cliques provide professionals in the field of organization and decision-making. These professionals are skillful at organizing personal relations with influential persons or groups of persons, at arranging mutual services, at bringing other people under their influence, and at manipulating people. Competencies in specific areas are no longer important when important positions are manned. Paradoxically, it appears again that liberal democracy cannot do without antidemocratic elements within it. These elements are part of its essence. The background appear to be more important than the facade. Official representatives in this system are merely puppets. The strings are pulled by decision-makers who are hidden behind the stage.⁷

The mafia is similarly parasitic - like cliques. It also ensures for itself some internal coherence (compatibility), thanks to shared interests and loyalties based on privilege and ties of support when members are in danger. Of particular importance is the principle of absolute obedience and subordination, and the fear of revenge from other members of the mafia. In the postcommunist countries the mafia grew from the friendly relations between criminals or from legal relations between the former functionaries of the administrative and economic management. It uses them for the creation of new types of ties and structures, based on financial calculations, power, illegal transactions, crimes and fear. In the mafia are relations connected with some interest and others not connected with any interests. For their obedience members of the mafia obtain not only financial remuneration, but also protection, security, privileges and participation in the authority of the mafia over others. Two kinds of rules of behaviour are used within the mafia: "family," i.e., paracommunal, in relation to other members of the mafia, and extremely instrumental toward those who are not its members. The mafia differs from cliques mostly in its methods of achieving its goals, using physical violence and sometimes committing murder. It attempts to replace the official state authority in a given area of life by its own power and to replace competition with monopoly. Though an illegal and criminal organization, it is tolerated by the state and party organs. In some countries, particularly in Russia, the mafia plays a greater role in some fields, e.g. the economy,

than the cliques: it extorts money, and exerts control over many fields of industry, small businesses and services (entertainment, hotels, restaurants, foreign exchange of goods, smuggling). When brought before courts, mafia members are usually acquitted for lack of evidence or are given short sentences. These trials are in effect show trials which do not impair the power of the mafia. The mafia weakens the state, democratic relations and the free market. Its activity increases the costs and risks of enterprises and economic activity in general. Foreign investors are afraid of the mafia and avoid countries where it is strong. In Russia, the mafia became the main factor and motive power (motor) of political and economic changes. It created a network of private banks, mass media, set up trade, and manipulated political parties and state institutions. It created a whole illegal system which manipulates the official and legal one, making it more dynamic, but also weakening it.⁸

Interest groups are different from cliques and mafia. Two types are worth attention: the official interest groups (associations of employers and of employees, lobbies) and unofficial, acting against the laws (smugglers, black marketeers, producers of some goods). Interest groups, like cliques, serve to develop and defend long-term cooperation profitable for these groups. But in contradistinction to cliques, they do not have to be parasitic toward an official organizations and institutions, nor to manipulative of them. Their interests are open to the public and well -defined as objective interests of a definite professional group.

Apart from cliques, the mafia and interest groups, elites should be distinguished. They are found in all domains of social life. Power elites are of particular importance. The chief politicians, heads of parties, different groups in the parliament, members of the government, high-ranking officials are all power elites. These are officially recognized groups of decision-makers and experts. They are visible and act on the surface of social life. They consist of people who have become prominent in their respective professions. They work toward the long-term future and feel responsible for the society as a whole. They see themselves as representatives of their country in the fields of culture, economics or politics, though this may be an informal representation. They feel superior to other social groups and strata, and take care to appear objective. They actually are guided by generally accepted norms and principles, and the interests of all people (they do not merely pretend to be so, as is the case of cliques). Nevertheless, this attachment to laws and norms has its limits. It is abandoned when there is an obvious conflict between an important interest of the elite and the interest of the people or with the generally accepted norm. But even within them some cliques are formed, and they are also influenced by cliques from without. Elites are sometimes formed from cliques and ensure continuity of positions achieved within their families and groups of relatives, using methods characteristic of cliques. In the postcommunist countries elites are controlled by cliques or mafias and may be created by them as well.⁹

Cliques and the mafia not only weaken democratic institutions, the state and officially elected authorities, they also impair the fundamental values and individual rights considered to be the achievements of the modern epoch: freedom, equality, justice, and even rationality. It appears that the democratic system and free market do not typify these values since social, economic and political status and position are not determined by rational arguments, competencies, individual effort, or labour input, but rather by relationships with other people, worldviews, or membership in illegal groups. Freedom is given in doses, depending on the interests of some invisible groups, and free individuals are submitted to uncontrolled manipulation. Part of the essence of these groups (cliques, mafia, elites, interest groups) is also that their members must receive additional stimuli, i.e. special profit for being part of them, without which they will disintegrate. They may obtain them only at a cost to other people, by exploiting or discriminating against them.

However paradoxical the thesis that not only cliques and elites, but also the mafia are today a part of the essence of the liberal democratic system, it is still true. They even perform a positive function stabilising the system, as they are in favour of maintaining the existing political relations. For instance, the Italian government in the 70s and 80s was supported by the Italian mafia since the mafia efficiently fought against communists for the influence among the poor. But their role does not end here. Apart from their "positive" functions for liberal democracy other functions were noted by S.M. Lipset. According to him masses are not inclined by their nature to compromises and concessions; their attitude is not "democratic" in the liberal sense, but authoritarian.¹⁰ On the other hand, cliques, elites, interest groups and even mafias, are flexible, ready for business negotiations, contracts, which is why they appear as proper (appropriate) political subjects and guarantors of democracy. Competition between them is the essence of democratic political life, as competition between economic subjects is the main nerve of the free market economy. When interpreted in such a way, political participation by the people only makes the democratic system weaker and decreases the efficiency of the authorities' activities. The people are by their nature apolitical. The rule of the representatives of the people may function only then when the people are removed from power and from making decisions. Not citizens' participation, but its lack guarantee good functioning of democracy.

Cliques, the mafia and interest groups fight with one another for the best possible position to realize their own group interests. In this fight they use political parties, trade unions, associations of employers, mass media and other legal institutions and organizations.

Corruption

Corruption is an illegal system of exchange of goods and services for the profit of both parties in which at least one side deviates from the proper execution of duties connected with the public role they play in order to gain either material profit or greater status, or influence for themselves, their families or group. Corruption includes bribery, protection, nepotism, exchange of services, illegal enrichment while holding some office, and illegal improvement in one's status or influence. What is public is used for private purposes in a manner which transgresses the laws. Particular people and whole organizations and institutions are subject to corruption. Corruption replaces the free market with relations of non-legal structures in which parties obtain profits while breaking the prevailing rules of the game.

Corruption has various causes. During communist times, corruption was growing due to the tradition and dysfunctionality of the system, as the functioning of the system and its economic results were so below the expectations of the citizens; corruption actually helped to make the difficult everyday life a bit easier. At that time it was even positively assessed from the moral point of view as it made arranging various private matters easier and alleviated the hostility of communities. It made the system tamer and instrumentalized it. Corruption was a form of defense by communities against the system. In this way the system was used for the benefit of the different communities: traditional and conventional. It served, to some degree, the system too as the people became more satisfied and less hostile to system. However, at that time material profits obtained by the functionaries of the system were not large due to the prohibition of owning great wealth.

After the fall of Communism, corruption by no means disappeared. Just the opposite, it has been developing and assuming monstrous proportions. Now we can speak about a whole system of corruption. Rates are set that are to be paid for nominations to positions at various levels of power, and for helping to arrange all kinds of matters. There are tariffs determining the amounts

of money to pay as a bribe (for example for a big TIR truck full of smuggled cigarettes to cross the border customs officers were paid 10 000 USD in 1999 in Poland). On 27 January 1999 Poland signed a European anticorruption law. Corruption is discussed in the parliament, in the reports on domestic and foreign control, but the authorities are not doing anything to eliminate it. State property is being sold for money much of which goes to either private pockets or to the coffers of political parties. Corruption seems to be an inherent (immanent, even indispensable) part of the democratic system in postcommunist countries.

It is necessary because of the activities of political parties, particularly elections campaigns, which cost a lot of money. Thus must be received from sponsors (donors groups which support them). However, nobody gives money for nothing; they demand services which are either legal or illegal, and they receive such services: lower taxes, credits that do not have to be repaid, favourable bills (laws) and government commissions.

The group of parasites is growing, as all the functionaries of the system take part in it. The cost of maintaining this system is also growing. In the democratic system, corruption means the betrayal of responsibility and honesty. It diminishes people's trust that the laws of the country, though formally objective and universal, are at the disposition the representatives of the nation. The system then ceases to be of value and everybody discards the long-term rationality for short-term advantage. Like the decision-makers, average citizens take advantage of offices, positions, institutions, banks, and insurance companies for their private or party goals in a manner which is not always illegal, but which is always at the cost of the common good. Employers stop identifying themselves with the common, public, institutional interest. They treat their offices and posts as their own goods and trade them. A black market of services and profits is created, and cliques and the mafia are their main clients. In this way public offices, functions and institutions are illegally privatized and instrumentalized. The official legal system is treated as something alien. Such attitudes and activities may lead to a total dysfunction of the system. Seemingly, a revolution or assistance from abroad would be needed "to put everything in order".¹¹ Corruption practiced for a long time and on a mass scale also destroys communal life, good customs and mutual trust. It becomes one of the reasons for great social inequality, and causes the energy of society to be expended not for production and work, but for forming good acquaintances, relationships and influencing decision-makers.

However, one can look at corruption (like for cliques) in a less critical way, and some theoreticians of democratic systems also see its positive features. It provides additional and huge profits beyond the official system of competition and endeavours, and this motivates people to become more active in political and economic life. It forces changes in the impracticable legal regulations which restrict economic activities or at least makes it possible to avoid them. Thanks to corruption new acquaintances are made, and ties of trust are forged, which helps both political and economic activities. When corruption is interpreted in this way, what is dangerous to the system and morally reprehensible is only a too great and widespread corruption.

It is obvious that corruption has always occurred in all political systems. However, it is also obvious that its widespread occurrence leads to the fall of political and economic systems, as well as states and communities. It is both the sign and one of the reasons of such a fall.

Changes in Moral Consciousness

To conclude these considerations we shall recapitulate the most frequent types of demoralization in the lives of individuals and groups during the processes of political and

economic transformation. Demoralization in its individual dimension has two components: axiological consciousness and attitudes and activities, one dependent upon the other. Transformations made in one of them are followed by transformations in the other. Below are types of changes in axiological consciousness and typical phenomena of demoralization of attitudes and activities, both individual and collective.

1. *Amoralization of evil and norms forbidding certain activities.* Many norms which previously were obligatory in the moral consciousness of the people ceased to have a moral character. As a result character traits, attitudes and activities which previously were thought to be negative from the moral point of view came to be treated as morally indifferent, e.g. divorce, neglect of parents or children, corruption, graft, bribery, nepotism, transgressing laws, taking advantage of public functions for private goals.

Processes of amoralization occur in the consciousness of the so-called man in the street as well as politicians, legislators, artists and cultural workers. This was followed by legalization and amoralization of whole groups of professions and life styles such as prostitution, black marketing, profiteering, speculating, smuggling, tax evasion and cheating. They simply began to be considered forms of business which are morally indifferent. In the time of Communism, manipulation of prices, raising them without an appropriate expenditure of labour or increase in quality was considered dishonest. Workers went on strikes to protest price raises. Now this kind of behaviour (rising prices) is considered to be one of the fundamental rules of business activities. The skills one has in this domain are evidence of one's cleverness and resourcefulness. Those who were cheats in the past now become some of the most respected citizens as they know how to multiply profits efficiently.

What followed was the amoralization of the whole sphere of property relations. As a result of this process stealing stopped being a moral issue and become at most a legal or a private problem of citizens. If one is robbed or cheated it is only he who is to blame for it. After all, in some countries stealing is considered to be simply a kind of profession by a large part of society, and thefts done in some other countries are even considered to be morally positive by many people. Governments seem to share this opinion as they create an atmosphere of tolerance and impunity for thieves.

2. *Amoralization of good and norms which order doing good.* Many positive norms which order certain activities lost their moral character. In this connection, attitudes, character traits and activities which were positively assessed before are now morally indifferent, e.g. adequately fulfilling one's duties. At present they are well fulfilled only due to the coercion exerted by employers or for one's own sake, not because good work is one's moral obligation. The whole sphere of interpersonal relations has been submitted to the process of amoralization: neighbourly help, help to strangers, friendship, altruism, impartiality, unselfishness. If you help others then that is your business, you have no moral obligation to do so. No one expects unselfish behaviour or attitudes from his compatriots.

3. *Remoralization of evil and norms (rules) forbidding certain activities* is more radical evidence of demoralization. That which previously was considered as a moral evil is now thought to be good. Activities, attitudes, rules for activity, character traits which previously were condemned and censured or branded have become positive qualities: greed, ambitiousness, arrogance, boastfulness, cunning, lust for power, desire for wealth at any price, and egoism. There

are also processes of remoralization of certain phenomena which previously were considered to be morally indifferent such as, for instance, care of one's own interest. However, these processes are socially morally less significant than the remoralisation of evil.

4. *Moral depreciation of good and norms which order certain behaviours.* This consists in ascribing a negative moral value to these features, phenomena and attitudes which were previously assessed as morally good, e.g. observing customs of a particular community or national and religious traditions. A conviction that traditional attitudes and traditional awareness are an obstacle to effective action has become more and more common. It is thought that they impede personal success and also hinder the economic development of the society and the processes of modernization and post-modernization. Almost all traditional theological and moral virtues whose source is Christianity are depreciated, including simplicity, veracity, moderation and modesty. Also most of the bourgeois features which were at the foundation of capitalism, such as honesty in business, dignity, diligence, conscientiousness, adhering to contracts, keeping engagements, and long-term planning are on the wane. Although to a lesser degree some norms, attitudes and behaviours, which were considered to be morally indifferent, now also have been depreciated.

5. *Moralization as a change in axiological consciousness is a process of self-deception.* Here individuals sense that the goals set, the values selected or means to achieve them are bad, but they justify their choice as due to coercion, or they reinterpret their endeavours as good. Against their previous conviction that the goals and means to achieve them are immoral, they introduce notions which adjust matters in such a way that their activities now have the appearance of a moral enterprise. This process is similar to post factum rationalization of some activities. For instance, we explain our egoism or ruthlessness to others by the pressure of coping with competition or the overall situation ("Such is life!") or by the nobility of future goals (good of the nation, race, society in the future). Thanks to the rationalization one can enjoy well-being, and have psychic and moral comfort since one presents oneself as an individual building a bright future for the community ("by beating my competitors, I give work to people"). The process of moral self-illusion most often occurs unintentionally and even unconsciously. Very often it occurs as a result of humiliating experiences, lack of mercy on the part of others, brutal treatment by the authorities, competition or close relations.

6. *Moral indifference.* In general, we can observe the diminishing of moral sensitivity, the increasing indifference to harm and evil committed by others and by ourselves, and growing cynicism towards those who have been harmed or who are suffering, poor or weak. They are made responsible for their predicament. This is accompanied by a growing indifference to higher values and aims. On the one hand, this state of affairs is caused by the fact that evil is common and, on the other hand, by propagation of the ideology of success at any price. Unemployment and lack of the adequate minimum wage make many people live below the level of human dignity. The homeless, drunkards, and drug addicts are increasingly numerous, and they live in ever worse circumstances. They are treated by others as a lower class of people, and, eventually treat themselves as such. All these phenomena also occurred under communism, but they were considered to be immoral and were not so frequent.

7. *Naturalization of offences.* Criminal activities slowly lose their immoral character. As interpreted by state authorities they become exclusively a judicial category. In social consciousness

these activities are increasingly seen as a model of natural phenomena, i.e. as a natural, objective threat to possessions, health or life. Crimes are considered akin to natural disasters caused by typhoons, floods, wild animals or some other natural phenomena. In principle, the state does not want to take notice of a great many criminal activities. Citizens and companies are supposed to protect and defend themselves and both citizens and companies do hire guards to ensure security for themselves. The paradox is that guards are often members of criminal groups. Actually, some robberies and thefts are committed only to force those robbed to pay extortion money for "the care" or for robbers and thieves to get "work" as guards. This is one more way to legalize criminal activities.

The Coerced Demoralization

The mechanism for the expansion of immoral attitudes, activities and convictions and of gaining domination through them is quite simple. It consists of three stages:

(1) At the time of violent changes in the political system and ideology, especially notions of freedoms, plurality of values and attitudes are propagated, whole social groups, particularly among the young, lose their axiological orientation and worldview. They lose their trust in the rightness of the values and norms they previously held, and are unable to define the sense and aim of life by themselves. Hence, they are in a state of moral doubt or axiological relativism, sometimes even sliding into nihilism or cynicism;

(2) Among the individuals and groups who discard the previous morality, domination (and authority) is achieved by those of an immoral or amoral preservation. This is due to a simple reason: their activities are more effective than those of others. Morality restricts and limits the choice of goals and means, hence moral activities are not as effective as immoral and amoral ones.

(3) The obvious effectiveness of immoral (or amoral) activity exerts an influence in many ways. It becomes psychologically attractive by itself and attracts as a visible manifestation of power and strength. Each individual wants to achieve his or her goals, independent of what they are. Trying to achieve these goals is always accompanied by a certain effort and tension.

Success or lack of success in efforts creates an opinion that one is either a hero or a failure in one's own eyes as well as others and can determine one's social status. Moreover, immoral activities, including criminal ones, bring quite calculable profits for those who perform these activities. The very fact of going unpunished is thought to legitimize the profits which the culprits gained through their activities. And the awareness of this fact influences the attitudes of other people. Finally, immoral activities replace moral behaviour in social life due to the fact that persons who are not efficient are overshadowed, become invisible, frightened, subordinated and ridiculed. If the state and law do not protect morality, then immoral activities become more and more profitable and began to dominate. In such a situation being moral means being irrational.

This process of the instrumentalization of public life has led to the domination of the goals and interests of those who appear to be most efficient, who obtain the most powerful positions in the economic or political spheres of everyday life, or the life of the illegal groups. The consequence of this process is the loss of freedom by individuals because formally free people stop being actually free in their decisions and activities. This is because either powerful or strong people by means of the media, propaganda, advertisements, or threats manipulate the weaker ones, determine their choices, life styles, endeavours and desires, and direct their thinking, interests, attitudes and

values. The appearance of choice (e.g. concerning the purchase of some good, way of dressing, spending free time) is only an apparent freedom, since all choices are imposed from the outside and felt as something artificial or strange. They do not come from one's own motivation, nor suit the preferences of truly free individuals. The lack of true freedom becomes apparent when untypical choices - different from what is "fashionable" and concerning important questions in one's life, not unfrequently lead to loss of social position. In such a situation, actual pluralism increasingly involves the trivial, while in matters of fundamental importance, especially those concerning the authorities or multiplication of profits, there is a unification of attitudes guided by the interests of those which are most powerful. Thus negative freedom leads individuals to the loss of internal freedom; people lose the possibility of independent decisions concerning their behaviour.

Nolens volens people whose aims are noble and want to observe moral norms become demoralized. They experience conflicting emotions since they lose to those who are immoral and as a result cannot achieve their goals. Hence, in certain situations for the sake of effectiveness they give up observing moral norms. In the course of time these compromises become more and more frequent and increasingly concern more essential moral problems, and finally become a habit. Morality loses; it is rationalized away. The perfidy of the prevailing relations consists in this: if the highly moral individuals want to be recognised as moral and maintain and propagate moral attitudes, they must reach for means that are at least amoral, they must use the weapons of their enemies, thereby negating their own moral premises.

As a result, morality is privatized, subjectivised and functionalized. Society becomes neurotic, for people cannot find constant, stable material and spiritual support. Competition and struggle for survival force them to constant vigilance in the attempt to climb ever higher up the social and economic ladder and than to fight to keep from being pushed down again; to achieve such a position and at the same time to preserve one's own identity is not an easy task.

The system of spiritual goods and values constitutes the centre of culture. It determines to the greatest degree the identity of individuals and groups and it creates one's spiritual environment. Of fundamental importance for the range, vividness and character of each new socio-political system is the change of the system of values and attitudes according to which people are evaluated. These changes evoke spiritual crises for particular people and for whole groups. The reasons for feeling lost, whether by individuals or whole social groups, are most often not economic, but moral and spiritual. Individuals whose system of values and moral norms have been established usually do not discard it since this raises the danger not only of a crisis in identity, but of spiritual death. They would have to abandon their spiritual home for another which they value little. They either cannot or do not want to change their ego. This is particularly true in the case of older people and those who are deeply religious. They are described as passive and not very flexible. *Homo catholicus* experiences the greatest perplexity in the new system as he falls to the very bottom of the newly formed hierarchy of wealth and prestige.

Due to his permanent axiological attitudes he is doomed to remain on the margin of the new system and the new society. Three social groups are best prepared for the new liberal times. The first group is composed of the previous *apparatchiks* - communists, i.e. real *homo sovieticus*. Even under Communism, they hold few solid convictions or moral principles. They usually were careerists guided in their lives by the principles of profitability and instrumental rationality. They adapted quickly to the new situation and took key positions in the new economic and political system. Actually this system was created for such utilitarians who know mechanisms of institutional and commercial activity well and can manage it.

The second group profiting under the new system are those who under Communism were at the margin of society and carried out their activities in the so called gray-sphere: criminals, smugglers, black marketeers, traffickers, speculators and cheats. Now they have found freedom to expand their activities and conditions have helped legalize these activities. They divided into two groups. One group formed large private enterprises which were based on credit granted by the state as well as on repayable and not-repayable loans and bribes; the other group is part of organized crime which controls the entertainment industry, trade and even politics and the police. Ruthless in their behaviour, they set terms of competition and divide spheres of influence. These two became the leading groups assuming the dominant position fastest, as they had already formed the attitudes and values compatible with the new system. Other groups must adapt themselves to the rules of the games imposed by these two groups. Subsequently the third group merged, namely activists of the former anti-communist opposition, especially those who became part of it with profit in mind.

Notes

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Chapter VII

Morality Versus Modernization

Objective Issues

As we can see, the focal points of the contemporary discussions among the intellectuals and journalists in Central and Eastern European countries in the postcommunist times are such issues as "the individual vs. the community," "tradition vs. progress," "identity vs. Westernization," "fundamentalism vs. liberalism," "being national vs. being European," "morality vs. immorality," "freedom vs. order," "truth vs. liberty," etc. The basic principle behind all these issues is the dichotomy between the durability of tradition and liberal change. We will not give summaries of the individual debates in the present chapter. We believe that the oppositions to which all of them refer, are by many opponents exaggerated and biased. For example, liberals hysterically overstate the dangers of nationalism and fundamentalism, and are prejudiced in their interpretation of the tendency to preserve the identity and the culture of a community (which incidentally is noticeable in all the nations of the world) as a menace to liberty and democracy.¹ They fail to realize that collective identity is in fact a prerequisite of liberty and democracy, protecting individuals against ideological confusion and preventing chaos and the anomie of societies. Conservatives and the traditionalists, in turn, disproportionately construe any modification of tradition as betrayal of the nation, any emulation of the West as loss of identity, and any extension of liberty as demoralization.²

Such extremist reactions may be justified as warnings against the radicalism of certain political persuasions, tendencies or developments, or as a way of emphasizing the importance of the issues discussed. Still, they cannot replace objective and sober inquiry. So far, such debates have contributed only negligibly to an explanation of the substantial problems encountered in the postcommunist countries, not to mention the solution of these problems. This is because usually the liberal faction assumes that slavish imitation of the most developed Western nations is the obvious aim, while the traditional faction advocates maintaining a separate identity at any price. The former accept the means to their end imposed by the Western agencies and organizations as equally obvious, while the latter consider them symptoms of an imperialist policy.

We believe the exaggerations to be misleading since they produce false dilemmas. We have stressed until now the processes of demoralization, but we believe that, contrary to what the radical opponents maintain, the postcommunist countries are not facing the simple choice between any of the above pairs of issues, for individuals cannot exist without the community, progress implies tradition, identity is subject to continual influences, and no signs of fundamentalism are visible in the countries in question. The brand of liberalism which is being implemented here is defective for freedom is impossible without a certain degree of order and feeling of security and truth. The truly significant point in these countries is to determine the type and manner of living in the present times. In other words, we must decide *the type* of community for which we are to strive and what modifications it is to undergo (rather than whether we are to oppose the community to the individual), *to what degree* and *in which way* tradition is to change (rather than whether we are to abandon it or to preserve it), *how* our values and the national identity are to alter, *what* scope of liberty and freedom is to be granted, *what* morality is necessary, etc. These are open questions rather than final decisions, and in order to answer them, new ideas and new forms must be posited.

This approach to the social issues assumes that the postcommunist countries are facing very specific problems. *These are objective problems produced by the historical circumstances* rather than by anyone's subjective views or intentions; these countries are now challenged to overcome them. If they manage to do so, they will benefit from development, otherwise they will stagnate. Each country must find its own answer or solution to the problems, compatible with its potential, tradition, aspirations, predictions and expectations.

The essential task the postcommunist countries are facing consists *in their very self-definition in the context of global modernity*. These countries must meet its challenges.³ Theoretically, many responses are possible: nations may withdraw from the processes of globalization, join them, modify them, accept selected ones only, oppose them, etc. In practice, however, the number of viable answers to this question is limited. Countries located near the vanguard of civilization cannot avoid globalization. They may only choose *how* to join the processes of globalization in the best and most efficient way, playing their trumps to their advantage and being aware of their weaknesses. The answer to this question will provide a basis for formulating further, more specific questions - the "what questions (for example: what morality?)" which we list above - and finding answers to them.

These questions are in fact ambiguous. On the one hand, they address themselves to defining the actual current facts: societies, their products and their spiritual or material environments. On the other hand, the questions require normative answers, or determining what the present societies, their products and their spiritual or material environments should be like. Yet another ambiguity is noticeable: answers to such questions must be based on specific values and norms, since the latter are components of the condition of social reality, and objective issues are raised if certain values and norms are assumed to be valid, either generally or in the specific instance of the situation in question.

Whatever the case, the factors to be taken into consideration include the current condition and normative aspirations of Western societies whose influence contributes to the issues of the postcommunist societies and determines both the extent of their aspirations and the assessment of their current condition - as more or less progressive, retarded, civilized, poor, parochial, etc. Thus, it is impossible to answer our "What questions" without taking the current developments in other societies into account. The issues of Eastern Europe result from omissions and lagging behind, and differences between the evolution of these societies and those of the Western countries. As a consequence of these countries opening themselves to the world and undergoing globalization, their problems become very conspicuous. An objective confrontation of societies representing different levels of economic, technological and civilizational development is taking place, in which less advanced nations are being discriminated against, made dependent on the more mature ones, or ousted. These processes generate the objective issues that we have discussed earlier. Thus, to bridge the development gap is the essential aim of such societies, superior to any other aims. If the present technological, economic and political condition of the societies at the highest level of the material and civilizational development is considered a principal aim of progress, this is, among other factors, because such societies have the most physical strength and are the most aggressive. Accordingly, even if a society wishes to pursue different values and maintain its specific identity, it must nevertheless compete with the most developed nations, at least in terms of technology and economy; otherwise it will be forcibly subordinated to such nations and lose its power of self-determination. As we can see, in order to preserve its identity and specificity, a society must, to a certain degree, imitate the strongest. This is an irrefutable fact which even the champions of maintaining a maximum of national or cultural separateness have to take into account.

This does not mean that the condition of the societies representing the highest level of technology is to become an absolute reference for the characteristics and normative regulations and determinations of postcommunist societies. It is merely a pragmatic benchmark. We must also realize that certain developments occurring in the most affluent societies are dangerous to humanity. Any self-definition must take this into consideration, including questions about the direction and purpose of the desired evolution of the whole of humanity.

To conclude, a descriptive discussion and the prescriptive norms concerning the Central and Eastern European societies must take into account both the positive and the negative characteristics of the well-developed societies and the objective problems with which the latter are coping. Consequently, its basis must include the essential values, in whose context these problems are considered generally relevant and some results undesirable

A Crisis of Traditional Morality

As we see the nature of social issues and aspirations and aims depends on values and norms. In fact, however, these latter factors determine many other aspects of societies as well. The actual achieved level of civilizational and technological development results also from the applied values and norms, or, speaking more generally, from the spiritual, cultural and moral life of a society. The latter generate the specific traditions of the community. They vary from one cultural realm to another, and even from one nation to another, and exert varying influences on modernization sometimes facilitating it, sometimes hindering it, but always imparting peculiar characteristics. The relationship is mutual, as economic, technological and political developments, and the changing organization and quality of work affect spiritual, cultural and moral activities as well.

Proceeding now to investigate the function of morality in the processes of modernization, we make the general assumption that in Eastern and Central Europe, the more traditional, popular, conservative and religious the morality, the more limitations it puts on political, economic and technological initiative, and at the same time, the less it changes due to the effect of modernizing innovation. In these phenomena, the prevailing morality is that of the country's leading and most active social groups, as well as that of its institutions, customs and public attitudes.

The traditional morality of community ethics was predominant in the populations of the Communist countries. Under the traditional morality, the common good was superior to that of the individual: people were obliged to provide generous help to their neighbors who were in need; honesty, frankness and sincerity were appreciated; the values, norms, customs and rules of the community were to be adhered to, while egotism, showing off, careerism and quick accumulation of riches to the detriment of others were condemned. In Poland, this type of morality had a religious sanction, while in other Communist countries it was justified by the importance of tradition. Throughout the ages it ensured a disinterested coherence of families, villages communities, cities, neighborhoods and friends, ethnic groups and nations. It regulated their ways of life and efficiently united people in their resistance to the Communist system.

As described in the first chapter, the Communists attempted to suppress the religious justification of this morality and some of its norms: the adherence to rites, customs and tradition. They attempted to disorganize the traditional communities, replacing loyalty to their norms and values with loyalty to institutions, the national administration, the Party, the principles of the political system and the work teams. Such attempts were usually futile. The citizens embraced the new morality only superficially. In many respects, the two types of morality were similar, e.g., in

respect for equality, the importance of communities, the requirement of individuals' disinterested sacrifices for the community, and the principle of collective self-sufficiency.⁴

The traditional collective (popular) morality was not conducive to a rapid modernization. It was critical of changes, innovation, egotist behaviour and the emerging new phenomena of inequality. Even now, it does not contribute to the processes of modernization in the Western manner, i.e., implementing the practices of the free market and liberalism. It turns out that the basic concepts, ideas, values and norms of social activity, including honesty, justice, trust, equality, liberty, honor, interest and the law, are different between members of the postcommunist societies and individuals raised in the Western system. Consequently, the systems and institutions imported from the West to the postcommunist countries function in the latter in a different, usually inferior, manner, and produce results different from those expected. Individuals in the Central and Eastern European communities adopt (or used to adopt) as their essential and basic policies disinterest and integrity toward members of their own communities and toward other persons considered honest. Under such policies, the right, true, good, moral and sincere is more important than the profitable. In this approach, a human being is perceived first of all in his holistic aspect, as a member of the community, and only secondarily as a performer of a social role. The opposite policy has been pursued in Western societies for many centuries. Policies of interest have prevailed and been considered essential, while those of disinterest may, at most, be pursued as exceptions to the rules. A human being is always perceived as, and reduced to, a collection of social roles. Therefore, the right, good, true and moral is made relative to (and dependent on) the views and interests of individuals or organized social institutions and systems, and is conferred an institutional (e.g., legal) meaning and significance within the framework of such organized arrangements. The rationale of such procedures of determination of meaning and significance are the interests (profits) of the individuals and the organized systems of societies.⁵

A specific example should illustrate the importance of such differences in the meanings of ideas, which are external symptoms of different modes of perceiving human life and social intercourse. After the collapse of Communism, many Polish enterprises entered into trade relations with Western businesspeople and companies, and were often deceived by the latter when they believed in their honesty. A famous case concerns a Canadian company which acted as an agent in the sale of Polish potatoes to Russia several years ago, guaranteeing that the Russians would pay for the merchandise. Eventually, however, the money paid by the Russian buyers went to the Canadian company's bank account rather than to Polish peasants. The latter, asked why they had not requested that their Canadian agent deposit a suitable amount of money in a bank or give another warranty, explained: "We thought that Canadians were honest people. We trusted them." To make the case even more distasteful, the Canadian authorities refused to extradite the swindlers to Poland when a lawsuit was instituted.

At the same time, Western businesspeople also complain of their East-European partners' dishonesty: the latter do not carry out contracts, are unreliable and deceive. The point is that Western businesspeople define honesty and reliability as the abiding by the terms of formal contracts under specific penalties. Such policy is profitable in the long term, results from respect for the applicable provisions of the law, and ensures a good reputation. If, however, in terms of long-term utilitarian rationality it is profitable to cheat, then one may, e.g., cheat one's Eastern partners unfamiliar with Western legal regulations. Conversely, Central and Eastern European societies have never been very interested in or respectful of the legal system (regulations and law enforcement), and continue not to be. Accordingly, even businesspeople of these countries (not to mention ordinary citizens) have preferred until the last decades to apply the morality of the

community to their fellows and to other people considered honest. Short-term rationality applied only in relations with aliens and with people of bad reputation. Disinterested policies of honesty and trust prevailed, and the actual clauses of a contract were of secondary importance only. The traditional morality is renounced only in cases when the norms of extremely short-term utilitarianism are being adopted. We observe this process just now.

In the present period, after the collapse of Communism, we are witnessing a weakening of traditional morality as it turns out to be without force in relations with the citizens of the Western countries and in the processes of modernization of the Central and Eastern European countries. Hence, it is being increasingly renounced by businesspeople, politicians, public figures and even ordinary citizens. So far, demoralization is spreading. People feel less and less secure, as unemployment and the impoverishment of society creates an environment favorable for the pathological phenomena. Morality is being replaced by short-term rationality. Communities have opened themselves to a new economic and political system which is eroding the traditional morality. The latter ceases to provide norms and identities to individuals or to integrate societies. But neither does this demoralization contribute to a capitalist or liberal modernization. Instead, it poses obstacles to management, the carrying out of contracts, the observance of law, politics and the settling of public issues.

The Transformations of Morality in the West

To decide what type of morality is needed in Poland and other postcommunist countries, one must first consider the forms of morality which prevailed in the Western countries in the period of modernization and what forms such countries need at present. The processes of modernization began in Western European countries within the framework of a predominantly traditional morality. Fairly soon, however, the long-term utilitarian morality became widely spread, codified as a collection of bourgeois virtues. It favored the development of industry and of a liberal political system in the eighteenth and nineteenth centuries. Its characteristics were the ascribing of positive value to an individual's aspiration for one's own interest and profit, as long as one took into account the interests of others, observance of the norms of honesty, observance of laws and the carrying out of contracts. It also comprised respect for work, initiative, order, long-term calculation, frugality and precaution. Before Western Europe's political and public activities began to be judged on subjective or aesthetic criteria, and before its morality was made a private domain, it passed through a long process of the modern moralization. This lasted several centuries and consisted in internalizing morality in both their private lives (attitudes and patterns of conduct and thinking) and public roles (institutions, organizations, and procedures). It included universal standards of honesty, integrity, justice, impartiality, equality of citizens in the context of public activity, and the observance of the law. It included also planning in terms of long-range individual interests and profits conforming with collective profits. Blending of the two brands of morality (deontological rigoristic and utilitarian) produced the bourgeoisethos. This ethos permeated the life of societies with the characteristic modern-age bourgeois morality and mentality, whose distinguishing features are honesty in business, dependability in matters of finance, frugality, industriousness, love of order, foresight (i.e., a concern for one's interests), caution, and moderation in expressing one's emotions, aspirations and goals. This is the morality of moderate individual egoism compatible with the egoism of the entire society; it advocates striving for personal profits while observing certain universal standards and rules.⁶

In the twentieth century, this type of morality evolved into constitutional morality, which considered the observance of the principles of the political system, legal norms and administrative regulations as the essential priority. Utilitarianism did not disappear, but morality was split into the individual and the institutional. Institutions were taken as moral entities, obliged to take care of the good of the whole, of the long-term interests, of the poor and of the proper functioning of the system. This attitude gave rise to the democratic political system, the welfare state and the affluent state. Institutions undertook to take care of the whole of society, its future, the citizens' standard of living, their education and health. Citizens enjoy certain material rights (old-age and disability pensions, limited working time, a guaranteed minimum standard of living) and political rights (universal suffrage). They are also required to observe certain laws, which regulate increasingly extensive areas of public and private activity. Still, it is assumed that individuals have the right to be governed by their short-term interests and egotism, within the framework specified by the law, the state and the principles of the political system; personal morality is reduced to the duty of abiding by the laws and the fundamental political principles. The citizens have achieved certain rights, and at the same time have been relieved of their duties of caring for others (the poor or the handicapped) and of applying a long-term approach in their judgments.⁷

This morality of constitution and rights has encouraged further economic, civilizational and technological development, and the growth of welfare in the twentieth century. In the present period of globalization, countries with the highest level of economic development have adopted consumerism and short-term utilitarianism, while preserving the morality of constitution and rights. Frugality has been replaced by extravagant consumption and a general availability of financial credit, prudence by consumerism, hard work by shrewdness, and honesty by mere abiding by the letter of the law. Such attitudes promote economic progress today, but also have such negative effects as the devastation of the natural environment, the threat of nuclear warfare, the poverty of entire continents and pathological social phenomena in the richest countries. Increasingly these negative effects are seen as jeopardizing the future of humanity.

Because of these dangers, the need for a new morality is being stressed. This will be a global morality, whose fundamental imperative is the defense of the vital values (life, health, environment) and the existential values (the meaning of life, dignity and self-fulfillment). It will entail reckoning with the long-term effects of an individual's, group's, organization's or institution's activity in the context of the entire globe, including unpredictable effects. So far such a morality remains a mere postulate. The values it will promote are becoming increasingly endangered, although they are elementary ones which ensure the achievement of all other values.⁸

The Postcommunist Dilemmas

In postcommunist countries, neither the average citizens, nor the moralists asked what type of morality is to replace the traditional one. As we have described, the type of morality that was spreading was that of mafias and cliques: "Para-communities" (mafias, cliques and other groups of organized crime) were emerging, developing a "para-morality" of their own and modifying modernization. This type of "para-morality" certainly is not what the postcommunist countries need.

The reformers were attempting to base the newly implemented system on a constitutional morality, promoting the policy: "Whatever is not forbidden, is admissible." Yet, when the law was defective, failed to ensure security and justice, and was enforced in a slipshod manner, it was viewed with more and more contempt. Short-term utilitarianism, egotism and consumerism were

spreading. The policy of "everybody doing things on their own hook," advocated immediately after the collapse of Communism, is now being construed as a sanction for using any means in order to achieve one's end. This is another brand of pseudo-morality which hinders the general development of the Central-and Eastern European countries.

Societies of the postcommunist countries must address many difficult issues, which the better-developed countries addressed step by step and over long periods: in Central and Eastern Europe they have to be settled quickly and all of them simultaneously. These include a quickening of the pace of economic development, increasing the national product, stabilizing currencies, strengthening the institutions of the state and democracy, observing human and civil rights, providing a legal system compatible with world standards, protecting the natural environment, intensifying the citizens' public activity and remedying the pathological social phenomena.

The postcommunist countries are now attempting to implement an economic and political modernization by following the Western example. At the same time, at the present stage of their development they must also make up for the omissions of the previous periods of modernization, providing for accumulation, industrialization, services, efficiency, competent operation of their institutions, etc. Bearing in mind the experience of the Western countries during the modern period, one realizes that in order to modernize Eastern Europe needs several types of morality at once: a utilitarian one, a constitutional one, a morality of rights, and a global morality. On the one hand, care must also be taken to avoid the possible negative consequences of a simplified application of these moralities. On the other hand, in the present world of international pressure and global competition it is difficult to implement and promote only the principles of global morality for they do not favor a rapid modernization of this part of the planet, since they limit manufacturing and consumption in the name of the protecting the environment and human self-fulfillment.

The situation turns out to be even more complex if we remember the fact which we have already discussed, viz., that certain terms denote different concepts for Western and Eastern Europe. Thus, one may say that such phenomena as consumerism, egotism, short-term rationality and social pathology occur and are spreading in both parts of the continent, but at the same time one must appreciate the difference in the living conditions, tradition, mentality and social organization which provide the contexts for these developments in the West and in the East. Due to the growing impoverishment of the peoples of Central and Eastern Europe and their not having internalized the norms and values of the bourgeois and constitutional morality, the negative social phenomena are much more critical and have more dangerous effects; in fact, they must be considered scourges of society. In the contemporary West, egotism, short-term rationality, fraud or corruption are alleviated by the strength of public opinion, a greater respect for the law and the state, and a wider application of long-term rationality. These vestiges of the old morality, which originally produced modernization, are noticeable in social attitudes, customs and traditions, preventing social pathology from taking its most extreme forms. The brand of bourgeois morality is still to some degree inherent in the attitudes and patterns of conduct and thinking of the citizens of Western Europe and North America and in the institutions of the liberal democracies, providing an axiological foundation for democratic and free market activity. Thus, it need not be imposed by the authorities or even explicitly professed or acknowledged as the model governing public and political activities: it is an incontestable fact whose existence even such theories as those claiming that morality is declining and that political activity is being aestheticized assume as an obvious premises. Besides, the Western countries boast a stable social organization, a more efficient legal system and stronger institutions.⁹ In these conditions, institutions which nominally are

counterparts, operate in the postcommunist countries in different ways than in the West, since they have different content; in some instances, they function in a manner opposite to that originally conceived. As we showed in chapter five the liberal law imported from the West was intended to promote and advance the citizens' liberty and rights. In fact, however, as we remarked, it is encouraging criminal and illegal activity, corruption and the flouting of the law. Instead of protecting the citizens' liberty, it is ensuring impunity to criminals. Such practical application of the law, contrary to the legislators' intentions, also negatively affects economic development: taxes are not paid, and foreign investors are afraid of putting their money into countries with abundant criminal activity (mafias, cliques and constant changes of the regulations).¹⁰

As we can see, the morality needed is one that will ensure modernization, individual initiative and liberty, as well as social and political stability integrated with the continuing identity of groups and individuals. In order to meet all these requirements, a morality must be: (1) composed of general principles, rather than specific directives and prohibitions; (2) internalized, or inherent; (3) universal, and not limited to the membership of a group; (4) individual; and (5) institutional. It must combine certain norms of long-term utilitarian morality, constitutional morality and global morality. These norms must apply to individuals, who must embrace them as internalized determinants of their attitudes. Thus, e.g., in countries where the law is traditionally respected, no particular "respect for the authorities" is necessary, while in those where the law has always been disdained and where the public activity follows mafia practices, a postulate of "respect for the authorities" need not be a symptom of conservative views or attitudes, as Western journalists often construe. Such a morality may be conducive to the continuous improvement of societies and individuals, provided that institutions are stable and efficient, and the law is just and competently enforced. If these conditions are not met, then the moral conduct of individuals will continue to have negative effects on both the individuals concerned and entire societies. Still, only rational and moral individuals may develop, implement and maintain such institutions and laws. Demoralization creates a vicious circle, and the only solution to demoralization is to initiate a process of moral recovery. Such a process will most likely be successful if it is begun and realized by the institutions of the state, i.e., if it affects the political decision-makers in the first place.

All of these reasons contribute to the continuing paramount importance for laying moral foundations for a democratic political system and the free market in this region. Political authorities must participate in carrying out this task. Politicians must act as paragons of patterns of morality which focus on the principle of the coincidence of private profit with the common good. Unless this brand of morality becomes generally accepted there likely will be no viable democracy or free market.

Traditional morality may also play a part in this process. We have concluded that it has declined. Nevertheless, it managed to undergo a "modernization" in the modern history of the Western nations. We are also witnessing certain signs of its "modernization" in the Central and Eastern European countries, as its norms are subjected to a formal universalization, individualization, and openness to others. An important condition of this modification is that the resulting morality continue to constitute a factor of integration and axiological orientation. Traditional morality is weakening under the strong pressure exerted by Western economic, political and cultural modernization. This need not imply that the preservation of traditional community values must always hinder economic or political development. The example of Japan and other Asian "tigers" shows that in certain instances these values may even aid modernization - after all, they facilitate cooperation within and among enterprises, contribute to survival in crises and are favorable to establishing family businesses. It must, however, be emphasized that

traditional morality is beneficial to modernization only if its specific norms are congruous with the universal ones, and if it ensures a compatibility of individual interests with the common good. Such a morality ceases to be a mere external manifestation of custom or ritual, and becomes reflexive, conscious, internalized, flexible, and open to new challenges. It turns into a morality of general principles, of life, security, liberty, justice, solidarity and human dignity. In this version, it approaches the global morality with its cult of vital and existential values, reconciling integrity and truth with business. Its principles limit the pathological phenomena of modernization, and are put into practice by individuals, who observe them by applying them to the specific situations they encounter.¹¹

To paraphrase Hegel's statement in *The Philosophy of Right*, in Central and Eastern Europe the state cannot overcome the alienation typical of modern civil society and reconcile the citizen with the generality, without having recourse to the morality of religion, community and customs. Yet, if this morality is used in the process of developing a new political order, we must expect that a specific form of the democracy may appear in Eastern Europe peculiar in its explicit and continual influence of traditional morality in the public realm. Apparently the political elite of certain East European countries is aware of this paradoxical situation.

We have proposed a concept of morality for the postcommunist countries which seems to maintain an equilibrium between the requirements of modernization, on the one hand, and those of individual activity and collective identity, on the other. The emergence of a new morality is a difficult, lengthy and unpredictable process. Nevertheless, it must not be allowed to continue to develop only spontaneously, as it has so far. This may result in demoralization, anomie, axiological disorientation, and ultimately in increasing pathology. At the same time, we must also be aware of the disadvantages of a traditional morality of customs and religion which so far has prevailed among the peoples of Central and Eastern Europe. In the conditions of the contemporary world, it turns out to be too particularistic and to put excessive limitations on individuals' creative liberty, independent decision-making and responsibility for their actions. A new morality cannot be developed without a conscious effort of creative groups. The whole world is on the threshold of a new epoch, and must face new challenges. A new economic order is emerging. If humanity fails to supplement it with an appropriate spiritual order as a regulating and controlling factor, a global catastrophe may occur instead. The issues of the Central and Eastern European countries are all the more complex because they result from both the global and the specific problems caused by their own economic and political retardation. A study of these issues is most illuminating, but, unfortunately, the conclusions of such a study do not warrant optimism; instead, they reveal the enormous scale of the difficulties that must be surmounted, in both developing the normative curricula and in applying the moral principles and norms in practice. It turns out once more that spiritual life is closely related with economic and political activity on the level of nations and states, as well as of entire continents. The relationships are multifaceted. Proper social development is possible only if equilibrium and commensurability are maintained among the various sectors and areas of social activity. So far, the decision-making politicians, in both Eastern and Western Europe, have been focusing reductionistically on economic and political reforms, neglecting the spiritual (moral) aspect. It is no wonder then that the reforms have had so many negative effects in the postcommunist countries (unemployment, disparities of income, corruption, increasing crime, mafias, etc.). What is surprising, though, is that despite this unquestionably detrimental outcome, the politicians' choices do not change: the worse the economic and political results, the more determinedly and blindly the politicians advocate their preferred course of reforms, altogether failing to notice the axiological, moral and spiritual conditions on which the

functioning and consequences of the reforms depend. Contrary to popular opinion, humans cannot change "overnight"; a human being is not a machine. Thus, an economic and political system must be adapted to human expectations, potential, and axiological and normative beliefs. Not all people are rational utilitarians, and not all can be turned into such over a short period. Still, economic expansion and social stability can also be achieved in societies adhering to traditional morality, provided due attention is paid to their norms and principles in legislation, politics, public activity and education, and provided the social élites have a clear vision of the necessary directions for changes, not only in the economy but also in spiritual (moral) activity, as well as a will to work for ensuring a harmonious development of the whole society.

Notes

1 Cf., A. Szahaj, *Jednostka czy wspólnota? (The Individual or the Community?)* (Warszawa, 2000).

2 Cf., H. Pajak, *Piaty rozbiór Polski, 1990-2000, (The Fifth Partition of Poland, 1990-2000)* (Lublin, 1998). J.M. Jackowski, *Bitwa o prawdę, (The Battle for the Truth)* (Warszawa, 1997).

3 T. Buksinski, "Europa srodkowowschodnia wobec globalizacji" ("Central and Eastern Europe Facing Globalization"), in E. Nowak-Juchacz [ed.], *Transcendentalna filozofia praktyczna, (Transcendental Practical Philosophy)* (Poznan, 2000), pp. 155–168.

4 T. Buksinski, "The Collective Identity in the Period of Transformation," in Z. Zdybicka (ed.), *Freedom in Contemporary Culture* (Lublin, 1999), vol. II, pp. 411-419.

5 A.O. Hirschman, *Namiętnosci i interesy. U intelektualnych zrodel kapitalizmu, (Passions and Interests. The Intellectual Origins of Capitalism)* (Krakow, 1997).

6 M. Ossowska, *Moralnosc mieszczańska, (Bourgeois Morality)* (Lodz, 1956).

7 T. Buksinski, *Modernosc, (Modernity)* (Poznan, 2001).

8 H. Jonas, *Zasada odpowiedzialności, (The Responsibility Principle)* (Krakow, 1995); K.O. Apel, "Problem universalnej makroetyki wspólodpowiedzialności," ("The Issue of the Universal Macroethics of Joint Responsibility"), in T. Buksiński [ed.], *Wspolnotowosc wobec wyznan liberalizmu, (The Community Facing the Challenges of Liberalism)* (Poznan, 1995); U. Beck, *Risikogesellschaft. Auf dem Weg in eine andere Moderne* (Frankfurt/Main, 1986); A. Honneth [ed.], *Pathologien des Sozialen* (Frankfurt/Main, 1994).

9 Cf., A. Sulek and J. Styk [eds.], *Ludzie i instytucje. Stawanie sie ladu spolecznego. Pamietnik IX Zjazdu Socjologicznego, (People and Institutions. The Emergence of a Social Order. The Proceedings of the 9th Sociological Congress)* (Lublin, 1995).

10 Cf. *Atlas przestepczosci w Polsce 2, (Atlas of Crime in Poland 2)*, op.cit.

11 Cf. G.F. McLean, *Ethics at the Crossroads. Vol. 1: Normative Ethics and Objective Reason. Vol. 2: Personalist Ethics and Human Subjectivity* (Washington, The Council for Research in Values and Philosophy, 1991).

Chapter VIII

From Communitarian to European Identity

Thus far we have described the disintegration of the traditional morality in new democratic countries in the central and eastern regions of Europe. The processes are really dramatic and have far-reaching consequences. They have happened because the countries are in the period of transition from a totalitarian to a democratic system. Every essential transition brings about the crisis of fundamental norms, values and convictions of societies. We hope that the moral and spiritual crisis cannot last forever.

In the last chapter we tried to summarize the main characteristics of the processes using the categories of identity and indicating the newest tendencies of changes in mentality in these countries. As already remarked in the first chapter, under *Realsozialismus* each citizen lived in two societies: in the official system personified by the State and the Communist party and in communities, comprising the family, the Church and other groups united by links of consanguinity, neighborhood, friendship or socializing. The community and the system fought each other. The system aspiring to promote interests of certain social classes and represent the future of society, opposed the community, its standards of ethics, hallowed traditions, customs and values. Conversely, the community resisted the social and political system, and the prevailing materialistic ideology, deeming them to be hostile, alien and forcefully imposed from outside. The community epitomized a national ethos.

Every citizen had two main collective identities: public and communitarian. When performing their social roles in the context of their institutional employment, the citizens were more or less loyal to the authorities and the State. Their public identity was artificial, simulated, superficial. The genuine authentic identity was non-public and non-official. It developed in communities, based on a reverence for tradition, customs, religion and national values. Individuals felt "at ease" and free when they were with their communities. The nebulous public identity provided a protective layer for the communitarian identity, a disguise which shielded the genuine identity.

The collapse of Communism entailed the manifestation of the genuine inclusive identity and a rejection of the former dual identity. It was a demonstration of reverence for tradition, religion, national and local customs, moral norms and the freedom of speech and action. Nations and individuals affirmed, for themselves and for others, their immutability and the age-long continuity of their identity. To illustrate the importance of this issue, let us cite the fact that wherever the opposition came to power in the 1980s, observers were surprised to see that it gave priority to such action as reinterpretation or even reinstatement of certain historical developments, rather than to economic reforms. Thus, one of the first actions of the restored Hungarian parliament was to reestablish State insignia similar to those from before World War II. The Polish parliament passed similar laws regarding the restitution of the prewar coat of arms, official names of the State and administrative agencies, national holidays, etc. In the same spirit, the Czechoslovak parliament reestablished the State insignia from the period of Tomas Masaryk's presidency, and the people of Estonia, Latvia and Lithuania demanded that the Ribbentrop-Molotov treaty from August 26, 1939 be denounced.

The struggle for the past restored the importance of ideals and values which were significant for nations and individuals: independence, democracy, truth, liberty, tolerance, justice, respect and morality. The revolution made that the authentic individual and collective identity be recognized at the political level and in the principles of the organization of the state.

When the communitarian identity was able to express itself the borders between states and nations were obliterated. East European nations, who considered their identity to be essentially akin to that of Western Europe, felt united to all free and democratic peoples.

Still, the long-awaited encounter of the East and West turned out to be a disappointment. It appeared that the extended period of liberal freedom had destroyed in West the traditional communities and the sense of identity based on them. The Western identity has proven only "legal" and formal. What West Europeans regard as significant were not spiritual values and moral norms, but rather negative freedoms, laws, materialistic interests, rationality.

This Western identity expanded to the postcommunist countries destroying the traditional communities and their spiritual life. They were more effective in the confrontation with the Communist system as it worked from inside, being accepted as personification of freedom and prosperity. As a result there developed the new personal and collective identities in postcommunist countries, which we described above: radically materialistic, immoral, clique and mafia.

But there are symptoms of rise the new moral convictions and attitudes, which could play a positive role in the development of these societies. They are connected with the unification within the European Union. The countries of Western Europe united in one political organism because they wanted to control and direct the processes of globalization; they laid down the laws and rules regulating the new economic and political activity. In this way the European macroregional organism is being created by states and elites. The power of the central organs of the European Union is growing, advanced by the liquidation of internal border controls, by a common foreign policy and aid structures. The European Supreme Court, Ministers Council and European Commission play the role of institutions of European governance. The citizens of European countries elect the European parliament. The European union in 2001 issued more than 75 percent of the laws regulating the economic activity in Europe and more than 50 percent of legislation concerning such other kinds of activity as criminal procedures. The legislation has obligatory force not only in West European countries, but also in postcommunist countries striving to become members of the European Union. The unification was furthered by the completion of the monetary union and the introduction of European money. In the last twenty years the prosperity of Western European countries has risen about 50-70 percent.

This does not mean, that the differences between the nations are disappearing, for this process hides a lot of conflict. The talks between Western European governments and representatives of postcommunist countries have given risen to many new problems. Inequalities increase between capital income and wage income, on the one hand, and between wage income levels, on the other hand, and there is growing unemployment. The gap between winners and losers of globalization and regionalization is widening in all countries, but it seems, that the gap in wealth between particular European countries as wholes is diminishing in recent years. The new countries from Central and Eastern Europe feel that they are being treated unfairly as West European countries still privilege their agriculture and industry at cost of the East Europeans. Discussions are continuing concerning such problems as: what is the role of nations and states in the European Union? Should Europe be a Federation of States or of countries (Heimats)? Should we build one state? In what way should democracy be changed to answer the new transnational transformation?

The national elites of different countries suggest the specific national definitions of Europe and the variety of positions and opinions concerning common problems increases in nations. But as long as a discursive process takes place there is hope of keeping the Union vital. The confrontation of national perspectives tends to produce a nationally specific European view as well

as a national view of the world enriched with European aspects. In the future Europe will probably have one government with many nations.

In the face of weakening national state and social unity the question arises: what form is needed for social integration and identity in order to keep pace with political and economic change. The view is more and more common, that belonging to Europe is not only a matter of large scale political participation. The project of the political union of the region requires not only common economic and political interests, but also a common culture and morality which underpin the creation and reproduction of laws, institutions and organizations. The European intellectuals and elites try to build a common civil society and public life as a condition for common political and economic activities. Civil society comprising the sphere of citizens' nonpolitical and nonprofit activity striving for the common good, plays an important role because in this sphere the political and social culture is created and social solidarity constituted. We observe the emergence of a transnational civil society in the form of the Movement of NonGovernmental Organizations cooperating across borders, in the self-organizing relationships of citizens of different countries, as well as in some common disputes and polemics in the public media creating an European public opinion. Step by step, the elites of European politics and culture develop a common European view of the world in their public discourses.

Regional policy and institutions depend on political commitments and social solidarity, which, in turn depend on a common collective culture and morality. The political and economic Europeanization requires a presuppositions or background of an effective internalization of some norms, values, attitudes and ways of thinking and being. One asks, what ethical and cultural conditions are needed that make the new political constellation stable? Over time, besides the economic and political interests, the notion of a common European identity has expanded in Western and Eastern Europe. It is precisely the question of identity, that produces some strong feeling of specific solidarity with the members of the regional community.

We witness that the differences between Western European countries are diminishing because each particular nation is adopting some elements of other nation's way of thinking and being: for example behavior, culture, educational style, and ideas of justice and freedom. Similar process of assimilation are happening in Central and Eastern Europe.¹ But how can cultural differences be preserved in a new organism?

The impact of Western liberal democracy on Eastern European countries changes. After the collapse of Communism, the so-called popular model of liberal democracy and Western Europe was attractive, including such components as: democracy, economic prosperity, negative freedoms, tolerance, moral permissivism and utilitarianism. In the view of ordinary man on the street and many active economically and politically groups (entrepreneurs, managers, youth, gang members) marketing, attractive product designs and leisure activities also conveyed images of European identity. This model has expanded and threatened tradition, religion, national culture and spiritual life in postcommunist countries - as we described in previous chapters.

With time and closer participation in European Union the new aspects and elements of democratic and liberal tradition become important and influence the attitudes of population in postcommunist countries. One can see symptoms of the new stage of social and mental transformation. We mention three of them as the most transparent elements of the formation the new moral identity.

(1) Observation of laws. In Eastern European countries law and the rules of political system were never much appreciated by people. Europeanization means the rule of laws and strong

institutions. West European countries, sooner or later, compel the political elites in Eastern Europe to regulate public behaviour and limit corruption, nepotism and the mafia in public and political life. The formally imported laws have to be implemented in a way assuring the security of people. These institutional changes impact the mentality of people and bring about a new political identity. In fact, with Europeanization citizens get new instruments to fight for their rights, because they can appeal from the internal or states court to the European Supreme Court; and they do so. Persons with this constitutional morality are more closely attached to the legal framework and better able to fulfill their functions in institutional life.²

(2) Rationalization. The new rational identity raises, calling in question many components of traditional identity accepted until now as given and sacred, and adopting intentionally the new components, such as: calculation, self-interest, kindness, cautiousness, distance to foreigner, cunning, future orientation, material prosperity, spirit of enterprise, flexibility. This new mentality is similar to the mentality of Western people and enables the people to succeed in a new reality without transgressing the law. Some people try to combine it with patriotic and religious attitudes. Under the new impact the traditional identity modernises: is more open, tolerant, individualistic, and less ritualized (customs do not play so important a role as before).

(3) Abstractness. The new morality is not only different substantially from the old in the sense that it has different norms and values. It is a new in the sense of being thin and not thick (to use M.Walzers terms).³ It is more formal and consists of more universal principles and values, giving persons more freedom in interpretation and application. The principles of behaviour are less concrete than those of traditional morality. In this sense they enable persons to determine their life more independently of communities giving individuals greater possibility to apply the principles to a new context. At the same time the individual can determine in a less concrete way what makes him different from the members of other nations than this was possible with differentiation of national or local identities.

The new identity should overcome the demoralization in public life and at the same time modernize the traditional communitarian identity, still alive in some strata of societies. Both in Poland and in other east European countries, the community life is still more extensive than in Western countries, and cannot be dismissed as a mere personal pastime. It must be recognize as an element of the public life. Obviously, the reconciliation of the community with the liberal system will not be easy. Modernizing the traditional identity will cause many internal conflicts and tension. Different principles and different parts of old and new identities will infiltrate individual minds and collective mentalities causing evolution in spiritual life. Nevertheless, in the present circumstances the only reasonable solution of the problem seems to be a reconciliation of communities and systems and also of the European and communitarian identity.

These considerations show that all the speculation concerning the danger of nationalism in Central and Eastern Europe - so popular in recent years in West - are unproductive and unjustified. The mentality and identity of nations change faster than anyone expected. Joining the European Union may be more difficult for the countries which once were Republics of Soviet Union because they highly value the sovereignty of their national state. They fought for sovereignty for a long time and want to keep it and their traditional national identity. An uncompromising belief in the specific value of the state and nation seem characteristic of the new states. Perhaps another reason for this strong national feeling and attitude is that nationalism is needed by these societies in transformation as successor states of the old empire. These societies are faced with the task of introducing private property and market forces, in some cases for the first time in history.

Moreover, this task has to be performed in the midst of economic disaster. Nationalism plays the role of background and glue for the countries needed a high degree of fellow feeling and community solidarity.

Notes

1 R. Munch, "Otwarte przestrzenie: integracja społeczna w ramach państwa narodowego i ponad jego poziomem," [Open Spaces: Social Integration in Nation State and beyond], in T. Buksinski [ed.], *Postkomunistyczne transformacje* (Poznan, 2002), pp. 145-177.

2 K. Muller, "Countries in Transition," in *ibid*, pp. 15-50.

3 M. Walzer, *Thick and Thin: Moral Argument at Home and Abroad* (Notre Dame and London, 1994).