


11-2016

# An Imperium of Rights: Consequences of our Cultural Revolution

Steven Alan Samson

Follow this and additional works at: [http://digitalcommons.liberty.edu/gov\\_fac\\_pubs](http://digitalcommons.liberty.edu/gov_fac_pubs)

 Part of the [Other Social and Behavioral Sciences Commons](#), [Political Science Commons](#), and the [Public Affairs, Public Policy and Public Administration Commons](#)

---

## Recommended Citation

Samson, Steven Alan, "An Imperium of Rights: Consequences of our Cultural Revolution" (2016). *Faculty Publications and Presentations*. Paper 451.

[http://digitalcommons.liberty.edu/gov\\_fac\\_pubs/451](http://digitalcommons.liberty.edu/gov_fac_pubs/451)

This Article is brought to you for free and open access by the Helms School of Government at DigitalCommons@Liberty University. It has been accepted for inclusion in Faculty Publications and Presentations by an authorized administrator of DigitalCommons@Liberty University. For more information, please contact [scholarlycommunication@liberty.edu](mailto:scholarlycommunication@liberty.edu).

## AN IMPERIUM OF RIGHTS: CONSEQUENCES OF OUR CULTURAL REVOLUTION

Steven Alan Samson\*

### ABSTRACT

*The 'empowerment of rights', whether domestically or globally, presents itself in at least a double aspect: both as a cultural revolution and as a political strategy. The strategy pursued by cultural revolutionaries who equate liberalism with secularism is to turn the basic values of the West into weapons against it so that its inherent defense mechanisms will be rendered ineffective. This strategy is most apt to succeed by provoking crises of conscience through redefinitions of human rights that, in the end, lead from to individual and institutional conversion. But, as Marcello Pera notes, political liberalism itself suffers from an 'ethical deficit'. Torn from its religious roots, it lacks the requisite thickness of moral authority needed to protect the rights of persons and resist threats to the very existence of civil society. Thus have we come to confuse despotism with liberty and undercut our capacity for self-government.*

### I INTRODUCTION

In *Democracy without Nations?* Pierre Manent describes the challenge facing the West:

Philippe Raynaud has recently underscored the following important point: the original understanding on which the modern state was founded strongly linked individual rights and public authority or power. Today, however, rights have invaded every field of reflection and even every aspect of consciousness. They have broken their alliance with power and have even become its implacable enemy. From an alliance between rights and power we have moved to the

---

\* Helms School of Government, Liberty University, Virginia, USA. E-mail: ssamson@liberty.edu.

demand for an empowerment of rights. The well-known sovereign ‘power of judges’ claiming to act in the name of human rights is the most visible manifestation of this trend.<sup>1</sup>

Manent sees this elevation of rights over power as ‘an increasingly decisive and debilitating factor at work in the political life of the European nations.’<sup>2</sup> This is the latest philosophical wrinkle in the use of individualism and identity politics to dissolve the cultural and civilizational structures that support ‘civil liberty and self-government.’<sup>3</sup> Accordingly, international law and the concept of global governance have been among the major transmission belts driving this imperium of ‘human rights’ during the past generation.

What then becomes of individuals and their traditional liberties? This is the age-old problem of ‘the one and the many’: unity vs. diversity. We live particular lives at particular times and in particular places. We cannot go beyond this, as Chantal Delsol warns: ‘The identification of the singular human being with a universal culture therefore would be equivalent to lessening him, perhaps even to destroying him.’<sup>4</sup> She notes

---

<sup>1</sup> Pierre Manent, *Democracy without Nations? The Fate of Self-Government in Europe* (ISI Books, 2007) 16.

<sup>2</sup> Ibid 16. And not just in: ‘Those keeping score on the new diplomacy game should watch for expansions of international law in three areas: (1) treaty-based law; (2) universal jurisdiction, as part of customary international law; and (3) international organizations and global governance. New diplomacy players are working for breakthroughs in all these aspects of international law. Taken together, these reforms could well revolutionize international law at the expense of national sovereignty.’ David Davenport, ‘The New Diplomacy Threatens American Sovereignty and Values’, in *A Country I Do Not Recognize: The Legal Assault on American Values* (Hoover Institution Press, 2006) 124.

<sup>3</sup> Francis Lieber, *On Civil Liberty and Self-Government* (J.B. Lippincott, 3<sup>rd</sup> ed, 1877). Lieber held the first chair of political science in America, launched the first encyclopedia, developed a code of military conduct that shaped the later Hague and Geneva conventions, and corresponded with Alexis de Tocqueville.

<sup>4</sup> Chantal Delsol, *Unjust Justice: Against the Tyranny of International Law* (ISI Books, 2008) 84. At the beginning of his study of the Leftist ideologies and movements, Erik von Kuehnelt-Leddihn noted: ‘we share with the beast the instinct to seek identity with another; we become fully human only through our drive and enthusiasm for diversity.’ Erik von Kuehnelt-Leddihn, *Leftism*

that earlier bids for universal unity through ancient empires and Christendom left diversity in place. The real danger, instead, arose with the French Revolution with its ‘notion of a world government deployed throughout the entire earth with all the prerogatives of what Christians called “temporal government.”’<sup>5</sup>

## II CULTURAL REVOLUTIONS

The ‘empowerment of rights’, whether domestically or globally, presents itself in at least a double aspect: both as a cultural revolution and as a political strategy.<sup>6</sup> The fundamental principle of the long-term strategies advocated by Antonio Gramsci, along with the Fabian Society, the Progressive movement, and the Frankfurt School, consists in turning the basic values of the West, along with its institutional supports, into weapons against it so that its inherent defense mechanisms will not work effectively.<sup>7</sup>

This process, of course, is not confined to Europe. In the American context, appeals are made increasingly to humanity at large, especially by the American political class.<sup>8</sup> As early as 2002 the United States

---

*Revisited: From de Sade and Marx to Hitler and Pol Pot* (Regnery Gateway, 1990) 4.

<sup>5</sup> Ibid 2.

<sup>6</sup> Helmut Schelsky, ‘The New Strategy of Revolution: The “Long March” through the Institutions’, (Fall, 1974) 345-355.  
<[http://www.mmisi.org/ma/18\\_04/schelsky.pdf](http://www.mmisi.org/ma/18_04/schelsky.pdf)>.

<sup>7</sup> This strategy systematizes a Nietzschean ‘transvaluation of all values.’ Ralph de Toledano, *Cry Havoc! The Great American Bring-down and How It Happened* (Anthem Books, 2006); Paul Kengor, *Takedown: From Communists to Progressives, How the Left Has Sabotaged Family and Marriage* (WND Books, 2015); and John Fonte, *Why There Is a Culture War: Gramsci and Tocqueville in America*, Orthodox Today  
<<http://www.orthodoxytoday.org/articles/FonteCultureWar.php?/articles/FonteCultureWar.shtml>>.

<sup>8</sup> It is a habit that was clearly on display in the Declaration of Independence: ‘a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.’

Supreme Court began to cite international laws and decisions as constitutional precedents in specific cases.<sup>9</sup> James Kurth sought to analyze the impact of an increasingly secular humanitarianism on American foreign policy by identifying a series of six stages of declension exhibited by what he called the ‘Protestant Deformation’, culminating in ‘universal human rights.’<sup>10</sup> David Sehat made a similar observation about the use of the social sciences to develop a Progressive replacement for the Protestant ‘moral philosophy’ that was once a standard undergraduate capstone course in nineteenth century American colleges.<sup>11</sup>

J. Budziszewski captures much of the subtlety of the process of changing from a Christian to a more secular ethic in his book, *The Revenge of Conscience*:

As any sin passes through its stages from temptation, to toleration, to approval, its name is first euphemized, then avoided, then forgotten. A colleague tells me that some scholars call child molestation ‘inter-generational intimacy’: that’s euphemism. A good-hearted editor tried to talk me out of using the term

---

<sup>9</sup> Julian Ku and John Yoo cite four examples of this practice, while adding: ‘Foreign courts, of course, are usually interpreting their own constitutions or international law, not the U.S. Constitution.’ Julian Ku and John Yoo, *Taming Globalization: International Law, the U.S. Constitution, and the New World Order* (Oxford, 2012) 228.

<sup>10</sup> James Kurth, ‘The Protestant Deformation and American Foreign Policy’ (Paper presented at The Philadelphia Society 37th National Meeting, 22 April 2001). <<http://phillysoc.org/kurth-the-protestant-deformation-and-american-foreign-policy/>>.

<sup>11</sup> See Peter J. Leithart, *Social Science v. Theology* (11 August 2015) First Things <<http://www.firstthings.com/blogs/leithart/2015/08/social-science-v-theology-1>>. An early study of the tradition of moral philosophy, which was typically taught by the college president, is D. H. Meyer, *The Instructed Conscience: The Shaping of the American National Ethic* (University of Pennsylvania Press, 1972).

‘sodomy’: that’s avoidance. My students don’t know the word ‘fornication’: that’s forgetfulness.<sup>12</sup>

Breaking down the sacred/social interdicts<sup>13</sup> and conscientious barriers that inhibit social and sexual misconduct provokes crises of conscience and authority that may lead to demoralization and, under mounting social pressure, conversion from one side to another in the ensuing cultural revolution.<sup>14</sup> Using a natural law analysis, Budziszewski has summarized this dynamic process by identifying an attribute or mechanism by which a hostile takeover of the conscience may favor such a conversion:

If the law written on the heart can be repressed, then we cannot count on it to *restrain* us from doing wrong; that much is obvious. I have made the more paradoxical claim that repressing it hurls us into *further* wrong. Holding conscience down does not deprive it of its force; it merely distorts and redirects that force ...

Here is how it works. Guilt, guilty knowledge, and guilty feelings are not the same thing; men and women can have the knowledge without the feelings, and they can have the feelings without the fact. Even when suppressed, however, the knowledge of guilt always produces certain objective needs, which make their own demand for satisfaction irrespective of the state of the feelings. These needs include confession, atonement, reconciliation, and justification.<sup>15</sup>

---

<sup>12</sup> J. Budziszewski, *The Revenge of Conscience: Politics and the Fall of Man* (Spence, 1999) 20.

<sup>13</sup> Philip Rieff was one of the most profound thinkers upon our social science-promoted cultural revolution (*kulturkampf*) against the older sacred order with its system of moral obligations (interdicts), frequently by endorsing transgressions against it. Philip Rieff, *Sacred Order/Social Order, vol. 1: My Life among the Deathworks: Illustrations of the Aesthetics of Authority* (University of Virginia Press, 2006) xix.

<sup>14</sup> A sampling of the relevant literature would include Mary Eberstadt, *It’s Dangerous to Believe: Religious Freedom and Its Enemies* (Harper, 2016); David Gelernter, *America-Lite: How Imperial Academia Dismantled Our Culture (and Ushered in the Obamacrats)* (Encounter, 2012); as well as the Toledano and Kengor books noted above.

<sup>15</sup> Budziszewski, above n 12, 27-28.

Where the ‘force of conscience’ leads with regard to the larger culture becomes evident when Budziszewski unpacks the four objective needs produced by a guilty conscience that lives in a state of denial: ‘The need for *reconciliation* arises from the fact that guilt cuts us off from God and Man. Without repentance, intimacy must be simulated precisely by sharing with others in the guilty act ...’.<sup>16</sup> Thus step-by-step does the transgressive become empowered as a right.

In *What Is Secular Humanism?* (1982) James Hitchcock summarizes the West’s transition from a Bible-based moral and political culture as follows:

The moral revolution was achieved in a variety of ways. On the simplest level, it consisted merely of talking about what was hitherto unmentionable. Subjects previously forbidden in the popular media (abortion, incest) were presented for the first time.<sup>17</sup>

Resistance was gradually broken down by making these subjects increasingly familiar.<sup>18</sup> Marshall Kirk and Hunter Madsen, who developed a public relations campaign for gay rights, called this first stage ‘desensitization’.<sup>19</sup> Similar stages of development are also identified by Hitchcock:

---

<sup>16</sup> Ibid 29. Thus a guilty conscience may be captured and converted; so, likewise, may an institution that faces a cognitive dissonance or crisis of confidence that leads it to abandon or modify its mission.

<sup>17</sup> James Hitchcock, *What Is Secular Humanism? Why Humanism Became Secular and How It Is Changing Our World* (Servant Books, 1982) 83.

<sup>18</sup> Familiarity has a disarming effect. Here is an excerpt from Aleksandr Solzhenitsyn’s 1983 Templeton Lecture: ‘Today’s world has reached a stage which, if it had been described to preceding centuries, would have called forth the cry: “This is the Apocalypse!” Yet we have grown used to this kind of world; we even feel at home in it.’ Edward E. Ericson, Jr., and Daniel J. Mahoney (eds) *The Solzhenitsyn Reader: New and Essential Writings, 1947-2005* (ISI Books, 2006) 578.

<sup>19</sup> David Kupelian, *The Marketing of Evil: How Radicals, Elitists, and Pseudo-Experts Sell Us Corruption Disguised as Freedom* (WND Books, 2005) 25-26.

The second stage of the revolution is ridicule, the single most powerful weapon in any attempt to discredit accepted beliefs. Within a remarkably brief time, values the media had celebrated during the 1950s (family, religion, patriotism) were subjected to a merciless and constant barrage of satire. Only people with an exceptionally strong commitment to their beliefs could withstand being depicted as buffoons ... Negative stereotypes were created, and people who believed in traditional values were kept busy avoiding being trapped in those stereotypes.<sup>20</sup>

This corresponds with ‘jamming’ in the Kirk-Madsen strategy.<sup>21</sup> It can be quite effective. Mary Eberstadt begins her new book, *It’s Dangerous to Believe*, by citing numerous examples of it, culminating in the bewildered question: ‘Where will we go?’<sup>22</sup> Of course, the culmination of the process should be familiar enough with the literature on ‘brainwashing’, the Stockholm syndrome, and related phenomena. Again, Hitchcock:

The final stage of the moral revolution is the media’s exploitation of traditional American sympathy for the underdog. Judaeo-Christian morality, although eroding for a long time and on the defensive almost everywhere in the Western

---

<sup>20</sup> Hitchcock, *What Is Secular Humanism? Why Humanism Became Secular and How It Is Changing Our World* (Servant Books, 1982) 83-84. Kenneth Minogue similarly offered a tripartite simplification of Marxism as a model or formula for developing an ideology: 1) ‘the past is the history of the *oppression* of some abstract class of person’; 2) ‘the duty of the present is thus to mobilize the oppressed class in the *struggle* against the oppressive system’; and 3) ‘the aim of this struggle is to attain a fully just society, a process generally called *liberation*.’ Kenneth Minogue, *Politics: A Very Short Introduction* (Oxford, 2000) 101.

<sup>21</sup> David Kupelian, *The Marketing of Evil: How Radicals, Elitists, and Pseudo-Experts Sell Us Corruption Disguised as Freedom* (WND Books, 2005) 26. Tom Wolfe reported on a similar practice in *Mau-Mauing the Flak Catchers*, (Cosmopolitan, April 1971).

<sup>22</sup> Mary Eberstadt, *It’s Dangerous to Believe: Religious Freedom and Its Enemies* (Harper, 2016) ix-xvi.



world, is presented as a powerful, dominant, and even tyrannical system against which only a few brave souls make a heroic stand on behalf of freedom.<sup>23</sup>

But a campaign of mounting pressure and growing public sympathy may finally elicit a ‘bandwagon’ effect that culminates in the Kirk-Madsen strategy’s third stage: ‘conversion’.<sup>24</sup> Above all, all of this illustrates J. Budziszewski’s point about objective needs, such as the distortion of people’s need for reconciliation that occurs when they substitute a new bond to compensate for a broken one:

The need for reconciliation has a public dimension, too. Isolated from the community of moral judgment, transgressors strive to gather a substitute around themselves. They do not sin privately; they recruit. The more ambitious among them go further. Refusing to go to the mountain, they require the mountain to come to them: society must be transformed so that it no longer stands in awful judgment. So it is that they can change the laws, infiltrate the schools, and create intrusive social-welfare bureaucracies.<sup>25</sup>

This trend should be abundantly evident through the ideological conversion and transformation of the American culture into its present post-modern, post-Christian form. Alexander Salter notes:

---

<sup>23</sup> Hitchcock, *What Is Secular Humanism? Why Humanism Became Secular and How It Is Changing Our World* (Servant Books, 1982) 84. Mary Eberstadt updates this metanarrative: ‘The faithful have been on the losing end of skirmish after skirmish for decades now—some would say centuries. Yet their adversaries nevertheless continue to treat them as practically omnipotent, and perpetually malevolent, social forces, even as one cherished cause after another—nearly all the vaunted issues of the so-called culture wars—chalks up as a loss.’ Mary Eberstadt, *It’s Dangerous to Believe: Religious Freedom and Its Enemies* (Harper, 2016) xxviii.

<sup>24</sup> David Kupelian, *The Marketing of Evil: How Radicals, Elitists, and Pseudo-Experts Sell Us Corruption Disguised as Freedom* (WND Books, 2005) 27.

<sup>25</sup> Budziszewski, above n 12, 29-30. Frederic Bastiat’s concept of legal plunder – the ability to acquire ill-gotten gains under color of law – offers a parallel, especially when it is converted into ‘universal plunder’ so that the plundered classes become complicit in picking their own pockets. Bastiat, Frederic. *The Law* (Foundation for Economic Education, 1972). See also <<http://bastiat.org/>>.

Progressivism manifested itself in the United States first as a desire for the alleviation of social ills, then in the educational establishment for discovering solutions to eliminate these ills, and finally culminated in the offices of the government for implementing these solutions. The importance of the two institutional categories, Academy and State, cannot be overstated when considering how Progressivism won the battle of world views.<sup>26</sup>

What Sherif Girgis calls the New Gnosticism is providing ideological tools for seizing Lenin's proverbial 'commanding heights' of public influence. Writing of the U.S. Supreme Court's decision in *Obergefell v. Hodges* (2015) to recognize gay marriage as the law of the land, Girgis contends that

the Court implicitly made a number of other assumptions: that one-flesh union has no distinct value in itself, only the feelings fostered by any kind of consensual sex; that there is nothing special about knowing the love of the two people whose union gave you life, whose bodies gave you yours, so long as you have two sources of care and support; that what children need is parenting in some disembodied sense, and not mothering and fathering. It effectively had to treat contrary views as irrational.

That conclusion suggests that the body doesn't matter. When it comes to what fulfills us, we are not personal animals – mammalian thinkers, to put it starkly – who come in two basic forms that complete each other. We are subjects of desire and consent, who use bodily equipment for spiritual

---

<sup>26</sup> Alexander Salter, *Why Progressivism Will Win*, (June 26, 2016) The Imaginative Conservative <<http://www.theimaginativeconservative.org/2016/06/why-progressivism-will-win.html>>.

and emotional expression. Fittingly, then, has this new doctrine been called the New Gnosticism.<sup>27</sup>

### III REVOLUTIONARY FAITHS

Eric Voegelin specifically used the term Gnosticism to stand for the ‘ersatz religion’ of modern mass movements, turning to Joachim of Flora’s historical speculation of great three ages as a model. Voegelin identified four Joachitic symbols which he claimed to be characteristic of these mass movements: 1) the third realm, 2) the leader (or *dux*), 3) the prophet, and 4) the community of the chosen. Particularly relevant here is the third symbol: that of the prophet or precursor. ‘With the creation of the symbol of the precursor, a new type emerges in Western history: the intellectual who knows the formula for salvation from the misfortunes of the world and can predict how world history will take its course in the future.’<sup>28</sup>

This third symbol, which plays a crucial role in the ‘empowerment of rights’, corresponds to what Joel Kotkin calls the Clerisy, ‘which is based largely in the worlds of academia, media, government, and the nonprofit sector ... The power of the Clerisy stems primarily not from money or the

---

<sup>27</sup> Sherif Girgis, *Obergefell and the New Gnosticism* (6 June 2016) First Things <<http://www.firstthings.com/web-exclusives/2016/06/obergefell-and-the-new-gnosticism>>. Some of the early church heresies, such as Docetism, abhorred the gross physicality of embodiment. The great irony is that the authority of political bodies must be captured in order to denigrate the importance of the human body.

<sup>28</sup> Eric Voegelin, *Science, Politics, and Gnosticism: Two Essays* (Henry Regnery, 1968) 97. Three ages, three stages: a secular trinitarianism has become formulaic, whether in terms of a Third Reich, a Third Way, or Auguste Comte’s Law of the Three Stages. Voegelin here applies this template to an analysis of Marx and Engels, Dante, Hitler and Mussolini, Lenin and Stalin, Thomas More, Thomas Hobbes, and G. W. F. Hegel.

control of technology, but from persuading, instructing, and regulating the rest of society.’<sup>29</sup>

The U.S. Supreme Court is perhaps first among these arbiters of the prevailing public philosophy. Its chief role in the past was to act as a guardian of the Constitution of Limitations, as Edward S. Corwin characterized it, as it was devised by its framers in 1787. With the rise of the Progressive movement in the late nineteenth and early twentieth century, the academic establishment began to convert to Progressivism as an expression of what John Dewey called ‘a common faith.’ The Supreme Court took its plunge into this faith around 1937 when it began to uphold the vast restructuring of the federal government known as the New Deal.<sup>30</sup> Subsequent battles contributed to the further concentration of governing powers at the national level. Although Corwin called it a *Constitutional Revolution, Ltd.*, the revolution continues.<sup>31</sup> Indeed, revolutions follow their own logic, as Alexis de Tocqueville, Crane Brinton, and others have observed.

Girgis unpacks the logic of the situation in the wake of the Court’s ruling in *Obergefell*: ‘For decades, the Sexual Revolution was supposed to be about freedom. Today, it is about coercion. Once, it sought to free our sexual choices from restrictive laws and unwanted consequences. Now, it seeks to free our sexual choices from other people’s disapproval.’<sup>32</sup> The

---

<sup>29</sup> Joel Kotkin, *The New Class Conflict* (Telos Press, 2014) 8.

<sup>30</sup> Following President Roosevelt’s failed attempt to ‘pack’ the Court with new members, this ‘conversion’ of the Court was humorously described as ‘the switch in time that saved Nine.’

<sup>31</sup> All of ‘these developments spell a diminished importance for . . . Liberty against Government.’ Edward S. Corwin, *Constitutional Revolution, Ltd.* (Claremont Colleges, 1941) 114.

<sup>32</sup> Sherif Girgis, *Obergefell and the New Gnosticism* (6 June 2016) First Things <<http://www.firstthings.com/web-exclusives/2016/06/obergefell-and-the-new-gnosticism>>.

Court has arrogated to itself the role of theologian-in-chief, which Thomas Hobbes had earlier wished to reserve to the Crown:

*Obergefell* is thus best seen as a religious bull from our national Magisterium, the Supreme Court, by the pen of its high priest, Justice Kennedy. With all the solemnity of a Chalcedon or Trent, it formalized new doctrines for our nation's civil religion—Gnostic ideas about the human person. Ideas that, *by their very nature*, create an obligation to recruit new adherents. (And ideas that—unlike true religion—could serve their purpose whether or not they were accepted *freely*.)<sup>33</sup>

One strategy that Girgis has identified for empowering rights is the awkwardly denominated concept of ‘dignitary harms’, which has roots that date back to the Civil Rights Act of 1964. The U.S. Supreme Court held in *Heart of Atlanta Motel, Inc. v. United States*, 379 US 241, 250 (1964) that ‘the fundamental object of Title II was to vindicate “the deprivation of personal dignity that surely accompanies denials of equal access to public establishments.”’

Unsurprisingly, given the tenets of the New Gnosticism, it has been invoked only in connection with conscience claims in the sex-and-reproduction culture wars. Until now free speech claims have been safe against such erosions, by a virtual consensus of our legal culture that political speech needs most protection precisely when it offends. But the consensus may soon be shattered by efforts to fight offensive speech on sex and marriage.<sup>34</sup>

As James Hitchcock anticipated more than three decades earlier, Girgis notes that the logic of the latest phase of the sexual revolution is to require the affirmative approval of behaviour that is censured in the Bible.

---

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

It's not that the New Gnostics are an especially vindictive bunch. It's that a certain kind of coercion is built into their view from the start. If your most valuable, defining core just *is* the self that you choose to express, there can be no real difference between you as a person, and your acts of self-expression; I can't affirm you and oppose those acts. Not to embrace *self-expressive* acts is to despise the self those acts express. I don't simply err by gainsaying your sense of self. I deny *your* existence, and do *you* an injustice. For the New Gnostic, then, a just society cannot live and let live, when it comes to sex. Sooner or later, the common good—respect for people as self-defining subjects—will require *social approval* of their self-definition and -expression.<sup>35</sup>

#### IV COSMOPOLITAN AS AN ELITE STRATEGY OF DIVIDE AND RULE

Human rights remain a fluid category, subject to negotiation and redefinition, both domestically and internationally.<sup>36</sup> The idea of global governance is associated with cosmopolitanism, but it can be characterized, as Ross Douthat does, as 'liberal Christianity without Christ.'<sup>37</sup> What passes for cosmopolitanism these days is the self-conceit of a rising power elite that has hitched its wagon to multinational corporations and transnational institutions.<sup>38</sup> Vilfredo Pareto's concept of the 'circulation of elites' offers some insights into how these processes work with respect to the flow of elite membership. Pareto drew upon

---

<sup>35</sup> Ibid.

<sup>36</sup> *The Universal Declaration of Human Rights* (1948) added economic, social, and cultural rights (Art 22-28) to the earlier civil and political rights.

<sup>37</sup> Ross Douthat, 'The Myth of Cosmopolitanism' *The New York Times* (online), 2 July 2016 <[http://www.nytimes.com/2016/07/03/opinion/sunday/the-myth-of-cosmopolitanism.html?smprod=nytcore-iphone&smid=nytcore-iphone-share&\\_r=0](http://www.nytimes.com/2016/07/03/opinion/sunday/the-myth-of-cosmopolitanism.html?smprod=nytcore-iphone&smid=nytcore-iphone-share&_r=0)>.

<sup>38</sup> Compare James Kurth above n 10. The economist Thomas Sowell characterizes this public ideology as a 'quest for cosmic justice' in a book by that title. His critical summary is wonderfully succinct: '1. The impossible is not going to be achieved. 2. It is a waste of precious resources to try to achieve it. 3. The devastating costs and social dangers which go with these attempts to achieve the impossible should be taken into account.' <<http://tsowell.com/spquestc.html>>.

Machiavelli to identify two ‘residues’ or types of individuals admitted to or excluded from elite status: Class I (Foxes) and Class II (Lions). As James Burnham summarizes: Individuals marked by Class I (Combinations) residues are Foxes that ‘live by their wits; they put their reliance on fraud, deceit, and shrewdness. They do not have strong attachment to family, church, nation, and traditions (though they may exploit these attachments in others)’. On the other hand,

Individuals marked by Class II (Group-Persistences) residues are Machiavelli’s “Lions.” They are able and ready to use force, relying on it rather than brains to solve their problems. They are conservative, patriotic, loyal to tradition, and solidly tied to supra-individual groups like family or Church or nation. They are concerned for posterity and the future. In economic affairs they are cautious, saving and orthodox. They distrust the new, and praise “character” and “duty” rather than wits.<sup>39</sup>

Pareto analyzed both the United States and European nations just prior to the First World War and found that the circulation of elites during the previous century had ‘brought most of these nations into a condition where the ruling classes were heavily over-weighted with Class I residues, and were subject to debilitating humanitarian beliefs.’<sup>40</sup> Under the increasing dominance of the Foxes, the “individual comes to prevail, and by far, over family, community, nation ... The impulse is to enjoy the present without too much thought for the morrow.”<sup>41</sup> Moreover, Foxes

---

<sup>39</sup> James Burnham, *The Machiavellians: Defenders of Freedom* (Henry Regnery, 1943) 238.

<sup>40</sup> Ibid 245-46. ‘Residues’ are ‘constant or only very slowly changing psychic tendencies, much like instincts.’ Daniel Kelly, *James Burnham and the Struggle for the World* (ISI Books, 2002) 105-06.

<sup>41</sup> Ibid 247. Such improvidence is evident in political liberalism’s use of entitlement spending (similar to Bastiat’s universal plunder) to weaken resistance to the wholesale transformation of society. It is also evident in its inability to seriously address threats to the survival of the West. By 1960, Burnham characterized liberalism as ‘the ideology of Western suicide.’ Daniel Kelly, *James Burnham and the Struggle for the World* (ISI Books, 2002) 287.

protect their positions by hamstringing possible sources of opposition via red tape. One consequence is what Paul Rahe has called a ‘politics of distrust’,<sup>42</sup> which tends to favor a strategy of ‘divide and rule.’

We see a counterpart to this Machiavellian politics of distrust in American foreign policy with the ‘secession of elites’, which Walter Russell Mead noted with regard to alliances, referring to it as ‘a loss of support from this key class of opinion leaders.’<sup>43</sup>

During the Cold War, and even subsequently, the political elites of American

Allies performed a critical task that Americans cannot do: they argued the case for the American alliance and for cooperating with the United States in their own countries ... Even when from time to time such leaders disagreed with specific aspects of American policy, they were a force for mutual understanding, for limiting the fallout of policy disagreements and, in the last analysis, for doing the hard and necessary work to keep the alliances strong.<sup>44</sup>

The prospects for such a fallout are compounded when these elites adopt what Michael Polanyi called the principle of ‘moral inversion’<sup>45</sup> and

---

<sup>42</sup> Unpublished paper: ‘Don Corleone, Multiculturalist.’

<sup>43</sup> Walter Russell Mead, *Power, Terror, Peace, and War: American Grand Strategy in a World at Risk* (Alfred A. Knopf, 2004) 150.

<sup>44</sup> Ibid 149-50.

<sup>45</sup> Michael Polanyi, *Personal Knowledge: Towards a Post-Critical Philosophy* (Harper Torchbooks, 1964) 231-35. Polanyi described Marxism as ‘a fanatical cult of power’ (231). Roger Scruton used the phrase ‘culture of repudiation’ to characterize the phenomenon:

The message of the media, the academy, and the opinion-forming elite is feminist, anti-patriarchal, and opposed to traditional sexual prohibitions such as those governing abortion, homosexuality, and sex outside marriage. More importantly, the culture of the elite has undergone a kind of ‘moral inversion,’ to use Michael Polanyi’s idiom. Permission turns to prohibition, as the advocacy of alternatives gives way to a war against the former orthodoxy. The family, far from enjoying the status of a legitimate alternative to the various ‘transgressive’ postures lauded by the elite, is dismissed out of hand as a form of oppression.



promote the making of a counterculture. In *Silent Revolution* (2014) Barry Rubin showed how what he called the ‘Third Left’ was able to ‘manufacture false consciousness as an asset for the cause.’

By such methods, the Third Left proved Marx wrong. It convinced people by a cultlike total immersion in its own doctrine. The children of corporate executives could be turned into revolutionaries in the classroom. Ideas could overcome material conditions; getting people to read the right books might have more effect on them than the surrounding reality because the surrounding reality would be interpreted through the left’s ideas.<sup>46</sup>

By now it should be evident that something much larger than a sexual revolution or a mere political movement is at work. So let us now apply these observations to the European project as the Italian philosopher Marcello Pera has described it.

As Pera notes in *Why We Should Call Ourselves Christians*, the ‘positive’ values that are proposed by Jürgen Habermas (his ‘constitutional patriotism’ toward the European Charter) to replace religion and nationality are democracy, welfare state, environment, and peace.<sup>47</sup> This is an updating of Immanuel Kant’s prescription of ‘liberal

---

Roger Scruton, *The West and the Rest: Globalization and the Terrorist Threat* (Intercollegiate Studies Institute, 2002) 71.

<sup>46</sup> Barry Rubin, *Silent Revolution: How the Left Rose to Political Power and Cultural Dominance* (Broadside Books, 2014) 82-83. Theodore Dalrymple has stated the dynamic very clearly:

Political correctness is communist propaganda writ small. In my study of communist societies, I came to the conclusion that the purpose of communist propaganda was not to persuade or convince, nor to inform, but to humiliate; and therefore, the less it corresponded to reality the better. When people are forced to remain silent when they are being told the most obvious lies, or even worse when they are forced to repeat the lies themselves, they lose once and for all their sense of probity. To assent to obvious lies is to co-operate with evil, and in some small way to become evil oneself. One's standing to resist anything is thus eroded, and even destroyed. A society of emasculated liars is easy to control. I think if you examine political correctness, it has the same effect and is intended to.

<sup>47</sup> <<http://archive.frontpagemag.com/readArticle.aspx?ARTID=7445>>. Marcello Pera, *Why We Should Call Ourselves Christians: The Religious Roots of Free Societies* (Encounter Books, 2011) 89. It revives on a much larger scale the ideal of the classical republic with its own civil religion.

cosmopolitanism': the disappearance of traditional national boundaries, citizenship extended to everyone (such transnationalism shapes the immigration debate), the 'kingdom of ends of ends in themselves', and a vision of perpetual peace.<sup>48</sup>

But Pera finds this program to be too generic and abstract. It divorces itself from its historical foundation in Christianity. The 'secular equation' of liberalism with secularism – with its rejection of Christianity – breeds what he calls the 'ethical deficit of constitutional patriotism.'<sup>49</sup> Pera argues that constitutional patriotism is no substitute for Christianity because it, likewise, contains a deficit or vacuum it cannot fill:

Here we draw closer to the crux of constitutional patriotism, political liberalism, and secular Europe. Where does the concept of the person originate? It does not derive from the practice of argumentation, because it is a presupposition for that practice. It does not derive from democratic procedures allowed by institutions, because these take the idea of the person as their point of reference. Clearly it derives from *outside* the practice of argumentation or democratic procedures. The concept of the person, or the end in itself, i.e. that each individual must be respected because as an individual he is endowed with dignity, is a *pre-political* and obviously *non-political* concept. It is a concept of an *ethical-religious* nature, and more precisely it is a *Christian* concept. It follows that, just as liberalism cannot be self-sufficient, constitutional patriotism cannot separate itself from pre-political elements. If constitutional patriotism is

---

<sup>48</sup> Ibid 86-87. At the outset of his analysis, Pera warns of the dangers of secular liberalism:

For the destinies of Europe and the West, this ideology is no less dangerous [than Nazism or communism]; it is far more insidious. It does not wear the brutal face of violence, but the alluring smile of culture. With its words, liberal secularism preaches freedom, tolerance, and democracy, but with its deeds it attacks precisely that Christian religion which prevents freedom from deteriorating into license, tolerance into indifference, democracy into anarchy.

Ibid 5.

<sup>49</sup> Ibid 94-95.

to support the European Charter, it cannot set aside the pre-political elements of European history, and particularly its ethical Christian and religious elements.<sup>50</sup>

Rather than recognize Christianity, however, ‘liberal European culture accepts the secular equation and rejects Christianity.’ As Pera concludes: ‘[L]iberal European culture can produce no notion of European identity, either religious or secular. In the end, it opposes the very thing it wishes to promote: the unification of Europe.’<sup>51</sup>

Amidst a long and anguished identity crisis, the West suffers a deficit in the moral character – a loss of the requisite thickness of authority – that is required to protect the rights of persons and to resist militant ideologies and their shock troops. The West instead has chosen to unilaterally disarm itself. Even in the early nineteenth century, Alexis de Tocqueville already had a sense of the danger – early during the democratic experiment – of what is variously called tyranny of the majority (or by those ruling in the name of the majority) and soft despotism.<sup>52</sup>

So, today, the French revolutionary nationalism that broke with the Old Regime has at last given way more recently to yet another secular faith: the revolutionary cosmopolitanism of global governance erected and managed by a Rousseauan Legislator that has given rise to complaints about a ‘deficit of democracy’ and, most recently, ‘Brexit.’ At its heart lies a contradiction, as Chantal Delsol describes:

---

<sup>50</sup> Ibid.

<sup>51</sup> Ibid. Pascal Bruckner offers further insight into the impetus toward denial while ironically echoing Edward Said’s notion of Orientalism: ‘Europe against itself: anti-Occidentalism, as we know it, is a European tradition that stretches from Montaigne to Sartre and instills relativism and doubt in a serene conscience sure that it is in the right.’ Pascal Bruckner, *The Tyranny of Guilt: An Essay on Western Masochism* (Princeton University Press, 2010) 9.

<sup>52</sup> See Alexis de Tocqueville, *Democracy in America* (University of Chicago Press, 2000) 239-42, 661-65; Paul Rahe, *Soft Despotism, Democracy’s Drift: Montesquieu, Rousseau, Tocqueville, and the Modern Prospect* (Yale University Press, 2009) 173-74.

International justice is de-localized, de-temporalized. Where then will the international law it proclaims be renewed, debated, qualified, or amended? In fact, international justice merely lives an artificial life among a small coterie of cosmopolitan intellectuals. But can one judge real human beings who committed crimes in particular places and times, in particular circumstances, with laws written in Heaven? To want to realize the universal, to grant it real existence, to establish it as a policy and a tribunal—this is to dis-incarnate humanity, to compel it to live in abstract kingdoms.<sup>53</sup>

Delsol's complaint appears likewise to be about a New Gnosticism. Perhaps this is a key to understanding the challenges we face. The problem is not 'the universal.' The real danger arises from a spurious utopian sort of universality promoted by ideologues.<sup>54</sup> We have chosen to embrace utopian abstractions that tend to dissolve the human dimension even as our would-be benefactors seek to bring heaven down to earth.<sup>55</sup> The result has too often been what R. J. Rummel has called

---

<sup>53</sup> Chantal Delsol, *Unjust Justice: Against the Tyranny of International Law* (ISI Books, 2008) 86. Julien Benda, Thomas Molnar, and Robert Nisbet wrote earlier indictments of betrayal by a clerisy of intellectuals. See also Thomas Sowell, *The Vision of the Anointed: Self-Congratulation as a Basis for Social Policy* (Basic Books, 1995).

<sup>54</sup> René Girard's concept of mimetic desire is helpful to an understanding of utopian schemes and other types of spurious universality. Girard contends that in mythology and history, persecutors covered their tracks by blaming their victims, as with the Oedipus story, the Dreyfus affair, and various founding myths. It is the Bible that repeatedly exposes what he calls a victim mechanism that conceals the violent truth, such as the persecution of the prophets, behind a bodyguard of lies.

The victim mechanism is not a literary theme like many others; it is a principle of illusion ... To be a victim of illusion [that is, to believe the lie] is to take it for true, so it means that one is unable to express it as such, an illusion. By being the first to point out persecutory illusion, the Bible initiates a revolution that, through Christianity, spreads little by little to all humanity without really being understood by those whose profession and pride are to understand everything.

<sup>55</sup> René Girard, *I See Satan Fall Like Lightning* (Orbis Books, 2001) 146, 47. 'The attempt at constructing an eidolon of history will lead to a fallacious immanentization of the Christian eschaton.' Eric Voegelin, *The New Science of Politics: An Introduction* (University of Chicago Press, 1952) 121.

‘democide’.<sup>56</sup> Aleksandr Solzhenitsyn, who was exiled by one of these utopias, stated the problem in universal terms:

[T]he events of the Russian Revolution can only be understood now, at the end of the century, against the background of what has occurred in the rest of the world. What emerges here is a process of universal significance. And if I were called upon to identify briefly the principal trait of the *entire* twentieth century, here too I would be unable to find anything more precise or pithy than to repeat once again: “Men have forgotten God.”<sup>57</sup>

## V FINAL CONSIDERATIONS: ABSOLUTISM DRAPES ITSELF IN THE MANTLE OF LIBERTY

Global governance and the human rights movement are likewise part of this ‘process of universal significance.’ As Todd Huizinga has put it: ‘Neither the global governance movement nor the human rights movement associated with it accepts, in principle, any limits handed down by tradition or by the human experience of reality.’<sup>58</sup> Once custom is converted into law, your right becomes my duty. Politics today may be most aptly characterized as the hue and cry of ‘gusts of passion’ that dream of world peace and soft utopias. As Shelley said of the sculptor in ‘Ozymandias’, we may say that Francis Lieber ‘well those passions read.’ We would do well to take his counsel and heed his warning: ‘Absolutism in our age is daringly draping itself in the mantle of liberty, both in Europe and here. What we suffer in this respect is in many cases the

<sup>56</sup> See R. J. Rummel, *Death by Government* (Transaction, 1997).

<sup>57</sup> Solzhenitsyn’s Templeton Lecture, 10 May 1983, is reprinted in Edward Ericson Jr and Daniel Mahoney (eds), *The Solzhenitsyn Reader: New and Essential Writings, 1947-2005* (ISI Books, 2006) 577.

<sup>58</sup> Todd Huizinga, *The New Totalitarian Temptation: Global Governance and the Crisis of Democracy in Europe* (Encounter Books, 2016) xiv.

after-pain of Rousseauism, which itself was nothing but democratic absolutism.<sup>59</sup>

We have forgotten our creaturely limits. Our utopian aspirations, which threaten civil society and our capacity for self-government, can only dehumanize and spiritually imprison us. Writing at a time of what he called ‘depressed public min’ on the cusp of the American Civil War, Francis Lieber acknowledged that ‘Truth becomes irksome, and while it is deemed heroic boldly to speak to a monarch, he who censures the sovereign in a republic is looked upon as no friend of the country.’ What he said in his inaugural lecture at what is now Columbia University is just as true today:

[I]t is a characteristic of our present public life that almost every conceivable question is drawn within the spheres of politics ... Fair and frank discussion has thus become emasculated and the people submit to dictation. There is a wide class of topics of high importance which cannot be taken in hand even by the most upright thinker without its being suspected that he is in the service of one party or section of the country and hostile to the other.<sup>60</sup>

---

<sup>59</sup> Francis Lieber, ‘The Ancient and Modern Teacher of Politics’ in *Reminiscences, Addresses, and Essays, vol. 1, Miscellaneous Writings* (J. B. Lippincott, 1880) 383.

<sup>60</sup> Ibid 385. The confusion of political with despotic means in the form of ‘political moralism’ is the thread that runs through Kenneth Minogue’s *Politics* and, for that matter, the growing imperium of rights: ‘It can be seen working in a number of different areas, and we may illustrate the way it works by looking at the project that the nationally sovereign state should be replaced by the emerging international moral order.’ Kenneth Minogue, *Politics: A Very Short Introduction* (Oxford, 2000) 104.