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Culture and Authority[2]

Abstract

Authority – even though the title of this paper may suggest so – is not a phenomenon opposing culture. It is actually a product of culture or, as sometimes said, of the achievements of civilisation. Since authority is a product of culture, it may not be treated as a phenomenon isolated from it, without any ties with cultural patterns, which may – as a result – act as determinants of the institutional and functional qualities of authority. Culture and its products (including knowledge, law, religion, morality, etc.), like other social phenomena, can become factors stimulating the exercise of authority, or act as factors to stabilise or curb this exercise within the framework of the patterns (norms) it has created. Societies make constant choices in terms of adopting, modifying, and rejecting various cultural patterns.

Keywords: authority, law, culture and civilisation, cultural patterns

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Foreword

Authority – even though the title of this paper may suggest so – is not a phenomenon opposing culture. It is actually a product of culture or, as sometimes said, of the achievements of civilisation. To elaborate on this thought, it seems reasonable to argue that because authority is a product of culture, it may not be treated as a phenomenon isolated from it, without any ties with cultural patterns, which may – as a result – act as determinants of the institutional and functional qualities of authority. The title of the paper thus involves certain conventionalities. The first implies that we are not going to analyse only those elements of exercise of authority that may be considered antagonistic to cultural patterns. We will also be trying to focus our attention on those elements that subject to cultural patterns have a positive impact on the exercise of authority. The implication of another conventionality is the fact that the subject of our discussion will not be the entirety of relationships between authority and culture, but only selected associations of authority with cultural patterns in the domain of governance. The said circumstance makes the problem of the relationship between culture and authority and/or civilisation – considered holistically – remain only one subject of our study. Therefore, the causative impact of culture on the emergence of the phenomenon of authority will not be the most important issue since our primary area of focus will be the attempt to determine the impact of culture and the patterns resulting therefrom on the exercise of political authority.

The effect of authority and culture exerted in the sphere of governance is quite different, which does not undermine the significance of culture as a factor of impact on governance. Because although state authority – understood as a set of authoritative competence – is materialised in contemporary political systems based on binding legal norms, culture and its patterns may be treated as alternative factors capable of affecting the manner in which authority is exercised.

Analysing the issue of relevance of authority to the activity of modern states, we have been driven by an assumption that state authority is not a product of nature – one that had existed before the appearance of man, but a unique creation of man, established as a product of intellect and reason. Assuming thus that authority and the organisational creations associated therewith were created artificially by humans and 'from scratch', it is possible to notice similarities between human activity pursued in the area of the creation of forms of collective organisation – evolving

with time into a state – and other expressions of human activity, resulting in taking advantage of nature and modifying it in an innovative way to benefit mankind – the outcome of which is referred to as culture. But whether a given type of human activity can be considered an expression of culture or a form of civilisation is a moot point nowadays because the notions of culture and civilisation sometimes tend to be regarded as synonyms. Before we consider the arguments for associating authority with culture or civilisation, let us start first from a more in-depth analysis of both notions.

Culture and civilisation

Both culture and civilisation are historical phenomena. As named man-made creations, they came to being as a fruit of separation of man from nature and of the former's becoming more and more autonomous in the surrounding environment.[3] There are arguments suggesting that the history of mankind began with some forms of primitive culture hundreds of thousands of years ago, when human mind was still within the confines of the most essential rudiments, and the cognitive system was not yet overly developed. Only with the development of reasoning did it become possible to take more advantage of intellect, which contributed to the improvement of the quality of human existence by utilising the existing natural circumstances and modifying them as necessary.[4] Human evolution is thus a result of the ability to accumulate knowledge, pass it on to further generations, and make creative use of it. In this sense, human evolution can be considered an outcome of cultural development, not of an organic change of mankind.[5]

The origin of notions of culture and civilisation can be traced to the age of ancient Rome. According to W. Tatarkiewicz, each of them comes from different disciplines; civilisation comes from administration, and culture from agriculture. Civilisation originates from the word *civis*, which meant a citizen enjoying full

3 Cf. E. Fromm: *Zdrowe społeczeństwo*, Kraków 2017, p. 30 et seq.

4 The presented point of view can imply that during its development, humankind encountered some existing state of nature, which was then taken advantage of – collectively as a community – with the use of reason in a creative way to adapt it to collective social needs. Human activity pursued in the domain of culture is thus not an effect of biological improvement transmitted through genes, but a result of social transformations, utilisation of reason, and learning. Cf. P. Mazurkiewicz, *Europeizacja Europy. Tożsamość kulturowa Europy w kontekście procesów integracji*, Warszawa 2001, p. 28.

5 Ibidem, p. 74.

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civil rights in Rome,[6] and culture comes from the word *cultura* – meaning cultivation of land (*cultus agrorum*).[7] While Cicero would write about cultivation of the soul in a metaphorical sense, comparing the act to agrotechnical activities,[8] it was not until the 17th century when Samuel Pufendorf, in his *De jure naturae et gentium* (1672), contrasted the state of culture understood as the supremacy of reason with the state of nature.[9] Immanuel Kant also discerned the significance of the human mind as a tool of "instituting order and harmony in irrational nature", and thus named the capability of a rational being to serve any purpose as culture.[10] Georg Jellinek, in turn, referring to human propensity for 'taming' and defying the forces of nature, argued that any culture was about "overcoming nature, or infusing it with spirituality".[11]

In the 18th century, the notions of civilisation and culture spread almost simultaneously in France, Germany, and England. W. Tatarkiewicz stresses that the notions were not equally common in each of those states. In France, some phenomena were described using mainly the term of *civilisation*;[12] in Germany, the more common form in use was *culture*, and in England, both notions were used equally frequently.[13] The English neologism of *civilisation* was not approved commonly as a designate of the expression of *culture* because the English concept of *civility*, understood as an expression of 'personal culture', i.e. good manners, courtesy, and politeness was used in some cases, although the word itself could sometimes be interpreted as a description of a state contrary to barbarism.[14] Timothy Garton Ash points to the fact that when the word *civility* is understood as politeness, it can then be inter-

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6 Cf. N. Ferguson, *Cywilizacja. Zachód i reszta świata*. Kraków 2013, p. 27. Recalling this circumstance is of crucial importance to cognition in the area of creating and popularising laws which established the status of an individual in the ancient society differently – and the canons of law associated therewith. It is also significant in the light of the specificity of the system of the time, where community life was lived in *poleis* (city-states), being the centres and a sort of manifestation of the civilisation of the time.

7 Cf. W. Tatarkiewicz, *Cywilizacja i kultura*, [in:] *Nauka w kulturze ogólnej*, Part I: *Problemy upowszechniania posławy naukowej*, Wrocław 1985, p. 15.

8 Cyceron, *Rozmowy tuskulańskie. O starości. O przyjaźni. O wróżbiarstwie*, Warszawa 2010, p. 69.

9 Cf. W. Tatarkiewicz, op. cit., p. 15.

10 I. Kant, *Krytyka władzy sądzenia*, Warszawa 1986, p. 424.

11 G. Jellinek, *Ogólna nauka o państwie*, Warszawa 1921, p. 62.

12 Niall Ferguson claims that the French word *civilisation* was first used in 1752 by a French economist named Anne-Robert-Jacques Turgot. Later on, the notion became an element of a work entitled *L'Ami des Hommes, ou Traité de la population*, written by Victor Riqueti, marquis de Mirabeau, published in France in 1756. Cf. N. Ferguson, op. cit., pp. 26–27 and W. Tatarkiewicz, op. cit., p. 15.

13 Cf. W. Tatarkiewicz, op. cit., p. 15.

14 According to N. Ferguson, it has become common in the contemporary English-speaking environment to consider all tangible and intangible achievements as an expression of civilisation. Cf. N. Ferguson, op. cit., pp. 25–27.

preted in many ways. As politeness is not only courtesy, etiquette or narrowly understood good manners. It is also civic virtue useful in public relationships. He then quotes the words by T. Hobbes, who claimed that good manners were "those qualities of man-kind, that concern their living together in peace and unity".[15]

Elaborating on the view, T.G. Ash argues (based on the opinion of Edward Shils),[16] that civility is also an attribute of a civil society because it binds its members by an obligation to observe the adopted pleasantries.[17] Let us therefore note that it is possible to understand the idea of civilisation and its components in many ways, and these components – like in the case of civility – may take on a symbolic form because its content should not reflect the conventional behaviour, shaped in the course of human development, but be an expression of establishment of social relationships in the spirit of mutual understanding, agreement, and collaboration. The quoted example of civility (though as important in social relations as honesty, decency, reliability, righteousness[18] and other attributes proving one's faultless conduct) is not the only case leading to a dilemma in the form of the absence of clear criteria making it possible to tell precisely if a given instance of human activity can be considered an expression of civilisation or culture. The fact that civility in democratic social relationships is a minimum required and mandatory rule in the process of exercising authority by administrative authorities, as recommended for implementation by the European Council and the European Union, is a separate issue worth noting.[19]

Based on the above statements it can be argued that the notions of civilisation and culture were not common in the distant past, and that they were originally used to define the external forms of activity pursued by individuals and communities, encompassing good manners and customs (honesty, decency, etc.). In this respect, the said notions were understood in a similar way. With the passing of time – as pointed out by W. Tatarkiewicz – "the notions gained a deeper meaning; the

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15 T.G. Ash, *Wolne słowo. Dziesięć zasad dla połączonego świata*, Kraków 2018, p. 334.

16 E. Shils, *The Virtue of Civility Selected Essays on Liberalism, Tradition, and Civil Society*, Indianapolis 1997, p. 322. As cited in: T.G. Ash, op. cit., p. 335.

17 Ibidem.

18 Ludwig von Mises treats righteousness as the most fundamental standard in an individual's actions. Cf. L. von Mises, *Ludzkie działanie. Traktat o ekonomii*, Warszawa 2011, p. 612. Given such a view, it may be legitimate to assume that integrity (righteousness) is also a standard desired in the entirety of public relationships, also including the area of the relationships between the authorities and citizens (inhabitants).

19 Cf. W.J. Wołpiuk, *Standardy Rady Europy w zakresie dobrej administracji i niektóre problemy ich wdrażania*, [in:] J. Jaskiernia (ed.), *Rada Europy a przemiany demokratyczne w państwach Europy Środkowej i Wschodniej w latach 1989–2009*, Toruń 2010, pp. 520–541: Article 41 sections 1–2 of the Chapter of Fundamental Rights of the European Union. *OJ EU 2016 C 202.*

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essence of culture and civilisation shifted from the forms to the content of community life, especially to art and science". The 19th-century European studies of the problems of civilisation and culture contributed substantially to a more precise understanding of the notions in question. The author of the three-volume *History of Civilization in England. 1857–1861*, H.T. Buckle, claimed that there was only one civilisation, always the same. Meanwhile, J. Burckhardt, the author of *the Civilization of the Renaissance in Italy*, referred to civilisation as "a general frame of mind of a given era and a given nation". A British scholar named E.B. Tylor (living at the turn of the 19th and 20th century), in turn, studied the varieties of civilisation and culture, discovering the differences determined by e.g. the nature of the social formation, the place, and the time, which he believed had an impact on the condition, or state, of civilisation and culture.[20]

Tylor, deriving his arguments from the standpoint of social anthropology and ethnology, argued that civilisation was an expression and an equivalent of culture (the words: "culture or civilisation" opened his book), and that both civilisation and culture – considered in ethnographic terms – formed a complex whole including knowledge, beliefs, art, morality, laws, customs, and other talents and habits developed by members of the human community.[21]

In the 20th-century Europe it was more and more common to use both notions interchangeably to describe cultural and civilisational phenomena.[22] But equating civilisation with culture and attributing the same meaning to both notions was – and still is – not universally approved. S.T. Coleridge (a British philosopher and poet living at the turn of the 18th and 19th century) promoted the precedence of culture, i.e. that which is associated with the development of a person, over civilisation, where the material factor dominates over the spiritual domain.[23] In the common understanding, the concept of civilisation denotes e.g. the level of development in the sphere of material culture (mainly technology and scientific knowledge) as achieved by a given human community in a given place, in certain conditions,

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20 Cf. W. Tatarkiewicz, op. cit., p. 16.

21 E.B. Tylor, *Primitive Culture: Researches into the Development of Mythology, Philosophy, Religion, Language, Art, and Custom*, Vol. I, London 1871, p. 1.

22 In the 20th century, the European ideas of culture and civilisation was adopted in America, but almost entirely under the umbrella of the concept of civilisation only. As noticed by W. Tatarkiewicz, the edition of *Encyclopaedia Americana* of his time did not even feature an entry for "culture". Cf. W. Tatarkiewicz, op. cit., p. 16. Let us also bear in mind that other American encyclopaedias did not feature an entry for "culture" either, but the content of the entry for "civilization" included – apart from information describing various forms and stages of civilisation – information characteristic to culture-related themes (concerning e.g. art, science, lifestyles, etc.). Cf. *Collier's Encyclopedia*, ed. W.T. Couch, Vol. 5, New York 1957, pp. 295–302.

23 Cf. H. Izdebski, *Doktryny polityczno-prawne. Fundamenty współczesnych państw*, Warszawa 2010, p. 75.

and in a given era. In this sense, an expression of civilisation could be information about the level of humans' mastery in controlling the forces of nature and making use of its resources for one's own needs. In the 19th and 20th centuries, it was common to consider nations who could not only boast a significant level of material development but also implemented the models of the Western (usually Anglo-Saxon and French) culture civilised. This was reflected not only in academic publishing and statements but also in international normative acts.[24] It does not, however, settle many issues pertaining to the matter of the relationships between culture and civilisation. Literature points to e.g. the fact of the existence of several civilisations which developed through the ages thanks not only to the tangible achievements but also to intangible heritage,[25] which affected their religious orientations, philosophical and social views, art, literature, significance of law and other matters. This may mean that nonhomogeneous cultures may emerge within a given civilisation where different social, economic, and political phenomena as well as different traditions occur.[26] Especially because – following Huntington's line of argumentation – in great creations such as the phenomena of major civilisations an internal cultural diversification, for objective reasons, occurs.[27]

We have been trying so far to identify the differences between culture and civilisation. But let us accept that our efforts have not made it possible to arrive at a clear distinction between the two phenomena in a way that would enable us to

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24 An example can be the content of Article 38, item 3 of the Statute of the International Court of Justice, whose establishment was provided for in Article 14 of the Covenant of the League of Nations (OJ of 1923 No. 106, item 839). It was decided that the Court, in carrying out its duties, should apply "the general principles of law recognized by civilized nations". The idea of "civilized nations" implied thus – in the period of approval for colonialism – an uneven development of nations, not only in terms of material aspects but also with respect to the reached level of social culture.

25 Samuel P. Huntington believed that there were eight major civilisations in the world (Western, Orthodox, Latin American, Islamic, African, Hindu, Buddhist, Sinic and Japanese) and predicted a risk of conflict between them. He also claimed that the source of conflict would become the existing cultural (especially religious) differences existing between those major civilisations. Cf. S.P. Huntington, *Zderzenie cywilizacji*, Warszawa 2008, p. 49 et seq. The doctrine is not unanimous in the matter of distinguishing major civilisations. Roman Tokarczyk, for instance, speaks of nine civilisations: Egyptian, Babylonian, Middle Eastern, Sinic, Indian, Classical (Greek-Roman), Peruvian, Middle American, and Western European. At the same time, the quoted author argues that starting from the 19th century, "all civilisations were becoming marginal relative to the Western European civilisation". R. Tokarczyk, *Współczesne kultury prawne*, Warszawa 2012, p. 41.

26 It is said, for example, that local cultures, depending on their similarities in terms of outlook may group and form civilisations. Cf. J. Oniszczuk, *Kultura i wartości państwa i prawa*, [in:] idem (ed.), *Współczesne państwo w teorii i praktyce*, Warszawa 2011, p. 491.

27 The difficulty in using S.P. Huntington's views in practice is a matter to be looked at separately. In his book, he does not make a clear distinction between the phenomena of culture and civilisation, and tends to use the notions interchangeably.

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draw a fine line between them and to name separate sources of each of them. Both notions not only tend to be equated with one another but they also interpenetrate and blend with each other in many different ways. Taking this fact into consideration, let us make use of Huntington's imperfect conclusion according to which many different cultures may exist within a given civilisation and hence a culture may be considered a raw material of civilisation and a phenomenon of a smaller scale than civilisation.[28] We are doing this to assert a claim that there may be various forms of authority emerging and existing within a specific civilisation, sometimes characterised by different – and sometimes by opposing – cultural attributes. Also, another issue that deserves our attention is the fact culture along with authority are phenomena subject to changes over the course of time.[29]

The origins of authority

Preceding the discussion on the origins of authority with the opinions on culture and civilisation present in science was to facilitate the formulation of the hypothesis suggesting that both the state authority and other forms thereof are products of human thought, like the phenomena labelled under culture and/or civilisation. We will be trying to prove that in the case of the phenomenon of authority, associating authority with culture is more legitimate than associating it with civilisation. To start with, we will quote the views of Ewa Nowicka, who claimed that culture was a way to regulate community life and to organise an individual's life in the community[30]. Let us also consider an early analysis of a couple of general issues concerning the origins of authority and its relationships with culture and civilisation as a good point of departure.

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28 By claiming that multiculturalism is a fact, P. Mazurkiewicz argues that the notion of "culture" shall not be limited to a given geographic area – which is the practice of the authors of the concepts of the world's division into individual civilisations. Instead, we should speak of culture – in the light of the existence of many cultures – in a plural form. Cf. P. Mazurkiewicz, op. cit., pp. 31–33.

29 Ludwig von Mises, for instance, was convinced that the cultural backwardness of the Germans, as discovered in the 18th century as compared to other countries representing the Western civilisation, could not be treated as *constans* because history showed that the cultural situation of Germany had changed. Similarly, the cultural situation of states and nations in a given civilisation changes constantly as well. Cf. L. von Mises, *Teoria a historia. Interpretacja procesów społeczno-gospodarczych*, Warszawa 2012, p. 219.

30 Cf. E. Nowicka, *Świat człowieka – świat kultury. Systematyczny wykład problemów antropologii kulturowej*, Warszawa 2000, p. 60. As cited in: P. Mazurkiewicz, op. cit., p. 28.

In the context of the relationships at issue, it is particularly noteworthy that both authority and state as a social organisation[31] as well as culture and civilisation alike are products developed intentionally by humans and as such, are artificial creations, i.e. not given by nature, not discovered by humans in the course of departing from nature and becoming more humanised. If the said view is universally accepted, it seems reasonable to recall that people used to be fed with a political orientation according to which authority was a heteronomous creation for thousands of years, brought to existence through supernatural forces governing the human world. It is thus a creation of nature, which humans should submit themselves to[32]. The standpoint contrasts strongly with the idea attributing creative qualities to culture as a causative force of humans. Since culture means that humans do not yield to the existing reality and modify nature as necessary instead[33], there are no rational reasons that could prevent human action from changing an existing system of authority – even though it may be legitimised by supernatural forces[34].

In 1762, in the Enlightenment era and at the dawn of revolution, Jean Jacques Rousseau published his book entitled "the Social Contract" (*Du contrat social ou principes de droit politique*), where he negated the natural origin of authority and state – as an organisation emerging upon the will of the society,[35] and offered an idea of establishing it on a legal foundation that would be arranged between the members of a state community and authority subjects formed by that very community. This foundation was to take the form of a legal contract. Let us bear in mind that J.J. Rousseau's concepts were made available to the public when his homeland was governed by absolutism that excluded an option of an agreement between the monarch and the subjects. Especially one that would be based on solid legal contractual standards. Thus, J.J. Rousseau's thought was not a historical reality[36] but one of important ideas that fuelled the modernist processes of social change and

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31 Leon Petrażycki believed that the phenomenon of authority "is connected with the nature of social organisation in general, not only with the nature of a state organisation". L. Petrażycki, *Teoria prawa i państwa w związku z teorią moralności*, Vol. 2, Warszawa 1960, p. 657. A similar view was shared by Ludwig von Mises, cf. L. von Mises, *Ludzkie działanie...*, p. 162.

32 Ibidem, p. 125.

33 E. Fromm, op. cit., Kraków 2017, pp. 31–33.

34 Georg Jellinek argued that human nature involved "not submitting oneself blindly to real or alleged forces of nature, but rather making an effort to see if human strength is capable of overcoming them first". He considered the concept of the relationship between authority and forces of nature as carrying a threat of separation of the subject of authority from the governed subjects, and as a source of hazard of "a continuous battle against the existing order". G. Jellinek, op. cit., pp. 62–63.

35 J.J. Rousseau: *Umowa społeczna*, Kęty 2009, p. 12.

36 Ibidem, p. 19.

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the organisation of forms of authority providing for participation of members of the state community in it.

Taking the concept of the legal-natural origin of authority into account, it would be reasonable to consider a significant aspect that made it possible to exercise authority effectively until the Age of Reason began in Europe. The aspect in question involved explaining all the unexplained and complex phenomena by mystical and supernatural factors. Not only the origin of authority but also the emergence of society and the formation of the state were named expressions of predestination or the will of forces which humans were not able to oppose or alter. According to such views, authority and other components of social being are not an outcome of man's intentional actions and are not related to human collaboration, division of tasks in a given community or other forms of the reality. They are rather an effect of some unfathomed, inexplicable decisions[37]. It would be wrong to assume that only the lack of knowledge and the unfamiliarity with the rules of social development underlay the naturalistic concept of authority because it can be gathered that it had its source in the need for an argument to legitimise the assumption and exercise of authority. It is unquestionable that the argument suggesting a supernatural origin of authority contributed to universal obedience to various types of rulers and prevented permanent social revolts for hundreds of years.

Let us now focus on the relationship between the said naturalistic concept of the origin of authority and the concept of the social contract. The relationship at issue manifests itself in the form of mysticism. Because J.J. Rousseau's vision speaks of an ideal, non-class, non-conflicted society with no individual interests, whose members make an agreement with each other, without any risk of objection, without a fear of consequences, based on a mutual understanding. An instance of mythological thinking may also be the assumption that there is some territory inhabited by people without identity, not subordinated to any kind of hegemony, without a past, social status, plans, ambition, driven only by a desire to enter into a treaty that makes it possible to create and develop a new social order and a new system of governance[38]. Such a situation can be well considered unreal. But what can be real is the possibility of changing the social order existing in the time of J.J. Rousseau. But is a change of a hegemonic rule based on obedience into an order where human collaboration is based on a contract possible at all? What would make

37 Cf. Ludwig von Mises: *Ludzkie działanie...*, pp. 125, 143.

38 J.J. Rousseau's concept of system formation was criticised by Carl Schmitt. His criticism focused, in particular, on the issue that the social contract was to include the people as an imagined collective entity as one party, and this entity was to emerge only as a result of the conclusion of the contract. C. Schmitt, *Nauka o konstytucji*, Warszawa 2013, p. 118.

rulers resign from their functions and privileges, and suffer losses on that account? These and other questions suggest that the "social contract" was a myth. Despite a fundamental difference between the naturalistic concept and the social contract concept, according to which the superior (supreme) and secular authority rested with the entirety of individuals in the latter case, the mystical nature of both concepts is indisputable. Especially because the foundation upon which both concepts are based can be considered a *non sequitur.*

Rationalism – a dominant feature of today – speaks in favour of abandoning both the arguments pointing to the natural origin of authority and the view of authority organised in the form of a utopian social contract. Instead, it proposes a praxeological justification of the establishment of authority, which appears particularly noteworthy. There are no material and credible sources describing the manner of establishment of leadership and authority in the simplest human collectives at the early stage of formation of societies. Alternatively, let us axiomatically accept a statement that thanks to having control, organised groups of people could not only exist in an unfriendly natural environment but also transform, evolve into higher social forms. The establishment of authority seems to be thus justified by social needs, especially by the purposes of providing for a community subordinated to a certain subject of authority, of ensuring consistency and inviolability of internal order, and of providing security against external threats, with all of these being the needs of human communities since their earliest days. An organised form of human existence and an authority created within its framework should therefore not be a purpose in itself but become a set of measures and actions that can easily explain the reason for its existence. They stem from the ideas, needs, and interests born in the human mind, materialising themselves in an appropriate system of social organisation. To limit our discussion to the praxeological domain, it can be argued that authority – as an institution *sui generis* – is a product of human thought, created to effectively achieve certain goals, determined by the existing social system[39]. But if we follow this line of argument, we have to consider the fact that

[39] L. von Mises, emphasising the causative significance of reason and ideology in the process of the establishment of authority, stressed individualism in the formation of the concept of human action and the praxeological aspects of the exercise of power. He claimed that "human thoughts and ideas are not the achievement of isolated individuals", and although thinking was e.g. possible "only through the cooperation of the thinkers", we owed the appearance of ideas only to the thinking of individuals because there was no such thing as collective thinking. According to Mises, "it is always the individual who thinks. Society does not think any more than it eats or drinks". Mises especially considered the causative power to influence action as the essence of authority. He referred to authority as might and believed that "might is the faculty or power of directing actions" and that "might is the power to direct other people's actions". Ludwig von Mises: *Ludzkie działanie...*, p. 163.

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authority, like other expressions of human culture, does not come into being only to satisfy noble and selfless intentions but more as a manifestation of aspirations towards materialising political, military, material, and other interests of a state and the political forces governing it, in a given geopolitical and economic situation. This means that if we treat authority as a product of culture, we should consider the existence of both the relatively permanent factors – typical of a given culture (e.g. stemming from the way in which a given political system is organised) – and a set of factors subject to fluctuation as a result of the political changes taking place in the state structure and in the area of interests of the governing entities[40].

From a praxeological perspective, a state can be treated as a kind of special-purpose association, established to carry out specific tasks[41]. In this sense, other special-purpose associations do not differ noticeably from a state and its bodies because every special-purpose unit wishing to exist and perform its duties needs to avail oneself of some form of organisation and authority, able to achieve the goals to be pursued by a given association (state, human organisation, etc.) The form of authority becomes secondary from the perspective of the pursuit of goals because it should address the needs resulting from the objectives of the state or another organisation exercising authority. Therefore taking the praxeological arguments into consideration, it may be argued that it can be justified to establish only such subjects of authority whose activity is to serve the purposes which a given authority is obliged to fulfil. We can say accordingly that state authority (understood as certain entities exercising it) is a component of the organisational structure of a state[42] and a part of the mechanism of its activity. As a result, let us acknowledge that a praxeological rule (i.e. not opposing the cultural standards) is not the fact of existence of some subject of authority but its effective serving of particular purposes.

But this is where we encounter a culture-derived problem of combining multiple goals as a phenomenon typical of a life of a community which is a multi-component

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40 According to L. Petrażycki, state authority is a sort of service for the common good, for law in general, and – most of all – for civil rights. Cf. L. Petrażycki, *Teoria prawa i państwa w związku z teorią moralności*, Vol. 1, Warszawa 1959, p. 302. Recalling this somewhat textbook definition, it seems reasonable to mention that sometimes the views defining the purpose of authority describe its objectives in a static, postulatory, and standard manner, without considering the fact that the state authority is a materialisation of politics. The latter, in turn, is not to serve the community but the interests of those in power.

41 As G. Jellinek remarked, every entity acting with some purpose in view requires guidance (management) ensuring that a uniform interest of a given entity is satisfied, translating into the achievement of common goals. This is why every special-purpose association is governed by some authority; G. Jellinek, op. cit., p. 288.

42 In his constitutional studies, C. Schmitt speaks of an "organisational authority" as a separate type of competence of state bodies. Cf. C. Schmitt, *Nauka*..., p. 461.

formation in terms of the ideas, needs, and interests that drive it[43]. Taking this into account, it is important to consider many goals in the process of governance, which involves a need to eliminate the preponderance of only one goal and to use it to apply governance measures in practice.

A brief analysis of the existing systems of authority shows that while any factor of purpose in the creation of authority plays a dominant role, there are also other factors involved in the process of the establishment and existence of authorities. In particular, we are dealing with a known phenomenon of transferring and adapting the institution of authority created and functioning in a given culture into a system characteristic of another culture. The practice this phenomenon involves may lead to both benefits and loss. We can speak of the latter especially when the 'import' of some institution is carried out somewhat automatically, for political reasons, without consideration of the system principles adopted and the goals pursued in a given state.

On the other hand, there are instances of the absence of institutions considered as a standard in one culture in a given 'target' system of authority. Also, the phenomenon of keeping certain institutions of authority – whose utility is questioned for certain reasons – is still 'alive'[44]. The above observation leads to the conclusion

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43 The multiple use of the notion of "society" in our discussion calls for an explanation that the reason of using it is most of all the fact of this notion being different from the category of the term of nation, and from the expression of all citizens and similar designations. For this reason, a society is a being different from other organisms created intentionally within the framework of a state, its structures, subject to its political authority and will. A society is thus a spontaneous being, formed with the needs and interests of individuals making up this collective entity in mind. Out of regard for the absence of rules of organisation, a society can be considered a fictitious being because of its uncountability and non-specificity given its personal composition. At the same time, a society is an odd being as its existence, nature, and form materialise in special circumstances: for instance, expressing views in the light of important events, in conditions of a threat to security, when public election or a referendum is ordered, or when political authorities are to take a decision of great importance for the society. Although E. Fromm's claim according to which "there is no "society" in general but only specific social structures which operate in different and ascertainable ways" (E. Fromm, op. cit., p. 83) can be considered valuable, extending our field of cognitive vision would go much beyond the area of our interest. This is why we will treat society as a being creating and absorbing culture, able to make use of cultural patterns and values in various forms of its activity – in its relationships with authority in this respect.

44 Without detailed examples of the said phenomena, let us just point out that in Eastern Europe (in the period of the political transformations in the 1990s) there were cases of establishing an institution of the head of state modelled after some solutions adopted in Western European states. The example of Poland proves that the adopted model of competence of the head of state is far from perfection and since the time of the enactment of the 1997 Constitution of the Republic of Poland, the issue of the competence of the head of state and its place in the structure of authority has been a subject of political debate. At the same time, the states of Eastern Europe established their respective upper chambers, which was not legitimised by their federal structures (Interesting critical remarks on the establishment of upper chambers in democratic systems are provided in

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that in some cases we are dealing with creating or maintaining bodies of authority, whose existence is not related to any specific purpose or utilitarian needs, but legitimised by political considerations instead.

Let the claim that in certain circumstances the establishment and existence of some subject of authority is determined not only by a clearly explainable objective but also by the political will of the formation in power – thorough exerting an influence on the legislative decision-making – be our *résumé*. It can therefore be assumed that since political arguments determine the existence of some subjects of authority, the mission of each such subject shall be to materialise – at least to some extent – a specific political goal.

Legal competence and the exercise of authority

Although the legal competence of authority and the exercise thereof are inseparable, we will still try to separate some issues related thereto for the sake of our discussion. Especially the issues associated with culture (political and legal) and with the political nature of authority.

To start with, let us notice that the issue of legal competence involves a certain ambiguity. In particular, legal competence tends to be equated with entitlements or privileges. The fact that the former pertain to the domain of public authorities while the latter are addressed especially to natural persons seems to sometimes be disregarded[45]. Literature offers observations according to which the position of public authorities is radically different from that of individuals, which leads to a situation in which granting a state authority competence usually involves an order to make use of this competence, and providing a natural person with an entitlement, a right to perform certain legal acts mainly involves a freedom to choose the way in which such a right can be exercised[46]. Zygmunt Ziembiński – the author of the statements compressed herein – remarks that public authorities granted

C. Schmitt, *Nauka*..., p. 465). In Poland, the main factor behind forming an upper chamber of parliament was the desire to offer the opposition a way to have representation there. Since the factor lost its significance, the public debate has seen attempts made now and then to change the role of the upper chamber or to eliminate it from the political system. As a side note, the Constitutional Tribunal and other institutions not being an element of the political system of all of the democratic states of Europe were established in the course of the said transformations taking place in Poland and other countries.

45 On the difficulties in using and interpreting the notion of "competence" – cf. Z. Ziembiński, *Kompetencja i norma kompetencyjna*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 1969, 4(31), pp. 29–30.

46 Ibidem, p. 30.

certain legal competence on the basis of the applicable law are not only able but actually obliged to make use of it[47]. By emphasising the fact that legal competence granted to public authorities has to be absolutely grounded in the applicable sources of law, we intended to voice the principle that the exercise of authority in the form of the performance of legal acts requires them to be provided for in the awarded legal competence in order to be considered legitimate.

This means not only that an authority is given as much power as the range of the granted competence permits but also that legal competence may be neither presumed nor extended without any legal grounds. If we concentrated earlier on the matter of obligation arising from legal competence granted to a subject of public authority, let us underline the existence of a relationship between competence and its exercise. This is in particular about how we should understand the obligation arising from competence granted to a given type of authority. It can be noticed at first sight that different categories of duties occur within the scope of the granted competence. The content of legal regulations can feature both conventional duties and duties manifested in the implementation of a policy being the responsibility of a particular subject of authority[48]. While the case of the necessity to regulate

47 Ibidem, p. 32.

48 Using the example of regulation of some instances of competence in the 1997 Constitution of the Republic of Poland, we can point to the difference between an obligation of a conventional nature expressed in Article 122, section 1 ("After the completion of the procedure specified in Article 121, the Marshal of the Sejm shall submit an adopted bill to the President of the Republic for signature") and a competence norm manifested in Article 65, section 5 ("Public authorities shall pursue policies aiming at full, productive employment by implementing programmes to combat unemployment, including the organization of and support for occupational advice and training, as well as public works and economic intervention"). In the former case, there is an obligation to submit an adopted bill to the President of the Republic for signature after the procedure specified in Article 121 is finished. This is the responsibility of the Marshal of the Sejm, which is a competence norm, which can be considered implemented when the act referred to as the submission of "an adopted bill to the President of the Republic for signature" is performed. The constitutional legislator has only determined that the act shall come "after the completion of the procedure specified in Article 121", but has not provided for any other details defining the manner in which the competence norm shall be implemented. It can therefore be assumed that the procedure rests with the addressee of the competence, offering them a so-called "freedom of decision-making". Moreover, the determination of the manner in which the competence norm is implemented may be somewhat affected by the custom adopted in the area of the relationships between the subjects named in the content of the norm in question. The latter case includes competence awarded to an unspecified number of subjects defined as "public authorities". Based on the content of the competence norm it can be assumed that the addressees of the norm are intentionally not specified by name since the number and the names of the subjects responsible for the policy of employment under the competence they have been granted can change. The addressees of the competence norm in question are then probably the subjects who are in charge of the issues mentioned in Article 65, section 5 – based on appropriate acts. Their competence can be defined as continuous obligations, and the constitutional legislator mentions some measures to materialise the compe-

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the content of competence in the form of legal norms (competence norms[49]) should raise no questions, the matter of the form in which such competence should be exercised in practice is not entirely clear. Especially because not all actions being politically inspired can be expressed in sufficient detail in the form of legal norms. Plus, not all politically-inspired actions – leading to the exercise of certain competence – are predictable and thus possible to be regulated in the form of competence norms.

The issue raised herein is most certainly in an immanent relationship with the issue of the political nature of the state and its activity *versus* its legal foundation, as discussed in the doctrine, which has led to many opposing opinions[50]. While legislators refrained from standardising politics in the past, politics as a form of activity of the state authorities and as a form of political parties exerting impact on state policy has been reflected in the norms adopted as part of younger constitutions. Examples include the provisions of Poland's 1997 Constitution whose Article 146, section 1 clearly states that the Council of Ministers – one of the central bodies of the executive – shall conduct the internal affairs and foreign policy of the Republic of Poland. Its Article 11, in turn, establishes a principle according to which the purpose of political parties "shall be to influence the formulation of the policy of the State by democratic means". The quoted examples make it legitimate to claim that politics has not only been approved as a form of state activity but has also become a subject of constitutionalisation, which means that conducting politics may be regulated and that the resulting competence granted to authorities may be subject to judgement in the sphere of politics, legal culture, and especially the judiciary.

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tence norm as examples. But there are no grounds to claim that these measures are the most important (because such measures may be discovered in the course of the execution of the competence-related duties) or that the means to implement the competence norm as defined in Article 65, section 5 form a finite catalogue. To conclude, let us notice that the content of the provision of Article 65, section 5 implies a difficulty in expressive authority-related competence in normative terms in cases when it takes on the form of politics.

49 Z. Ziembiński differentiates legal norms from competence norms in terms of nomenclature, but does not name the differences between them and does not define the notion of "competence norm". Cf. Z. Ziembiński, *Kompetencja...*, p. 23 et seq. The examples of application of competence norms that he refers to in his article make it legitimate to claim that a competence norm is a legal norm that defines the type and the range of competence granted to a generally determined addressee and therefore prescriptively defines the norms of their conduct: ordering or prohibiting them to act in a certain manner in particular circumstances.

50 On the notion of political nature – cf. C. Schmitt, *Teologia polityczna i inne pisma*, Kraków 2000, pp. 191–198; Kazimierz Opałek claimed that a state together with its objectives, measures, and activity pursued in various areas, as well as the state authority – given its nature – were "the axis of politics". A state is "the axis of politics" because it enjoys a special position within the framework of the broadest – global – society. Apart from that, a state's activity is multifaceted. Also, a state has a range of competence at its disposal, including a monopoly on means of coercion. Cf. K. Opałek, *Zagadnienia teorii prawa i teorii polityki*, Warszawa 1986, p. 248 et passim.

The example of the Polish Constitution proves that constitutional regulation may not only shape the general principles of conducting state policy but can also become a subject of specific competence-related regulations of subjects of authority. The issue in question is related to the matter of extending the range of functions performed by democratic states as of today. This leads to a situation in which the speculative controversies surrounding the issues of the political nature of state activity are somewhat reduced and the model of state authorities conducting policies in certain areas (which means exercising authority) is an indisputable rule.

The existence of such circumstances does not, however, eliminate the attempts to regulate politics with norms or to find other forms of combining politics with law on the grounds of competence norms. But it is necessary to consider the fact that a prescriptive specification of competence in the domain of politics is not an easy task. The main reason is the conviction that politics is an example of dynamic phenomena, stimulated by variable factors, and thus is a *sui generis* art that falls outside strict rules. Both these and other circumstances make constitutions and acts regulations that are unable to regulate the matters falling within the scope of social, economic, military policies and other issues in a prescriptive way to a sufficient extent. It is also necessary to point to legislative difficulties that may appear when a normative act regulates not only the competence in the domain of a given policy but also the details of the manner in which the policy is to be conducted.

If we use the Polish Constitution of 1997 as an example, we should especially consider the fact that authority-related competence is sometimes expressed in a very general way, using notions whose meaning may be interpreted in different ways on the grounds of the law. These notions include: activity, duties[51], obligations, decisions, and classification (as a form of decision[52]). But this cannot be considered a reprehensible phenomenon as constitutions are, in general, not designed to regulate the details of executive issues, but to govern matters of fundamental significance from the point of view of the state's activity. A constitution should not substitute ordinary

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51 In Article 167, section 4 of the Polish Constitution of 1997, the legislator regulates the share of public revenues of units of local governments by deciding that duties are a different form of regulation than competence since they constitute different normative categories in the quoted provision.

52 Article 123, section 1 of the Polish Constitution of 1997 establishes non-specific competence addressed only to the Council of Ministers. The content of this competence is the ability to "classify" a bill adopted by the Council of Ministers as urgent. Pursuant to the quoted provision, the scope of this competence does not include some bills. The finite catalogue of exclusions has been provided in the quoted regulation. Let us notice that this highly significant competence in the area of the relationships between the executive and the legislative branches, highlighting the priority significance of the government, has simply been defined simply a classification. More on the subject: W.J. Wołpiuk, *Pozycja Rady Ministrów w zakresie inicjatywy ustawodawczej*, [in:] P. Radziewicz, J. Wawrzyniak (eds.), *Konstytucja, rząd, parlament*, Warszawa 2014, pp. 388–389.

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laws, orders, and other normative acts intended to regulate the specifics of norms making up the legal framework. Focusing on this issue in more detail, it is necessary to recall that the political atmosphere of the process of drawing up the Polish Constitution of 1997 made this set of fundamental principles regulate too many matters directly. Apart from that, as a result of an aspiration to establish a mechanism ensuring a political balance between the bodies of authority, there was a need to split the competence in the content of the constitution, which was not fully successful[53]. The said factors had an impact not only on the volume of the constitutional regulations but also no the range of regulation of the competence of particular authorities.

We are focusing our attention on this aspect because the Polish constitution features a number of security norms offering protection against a possibility of abuse of competence by public authorities. Sometimes such content may raise doubts as to whether their application – apart from serving the main purpose of protecting against the abuse of authority – does not lead to an excessive limitation of a particular subject's freedom to exercise its competence. It does happen that a constitutional or an ordinary legislator, aiming at providing protection against authority abuse, formulates competence norms or other norms which provide for authority-related competence in an over-detailed manner, driven by the conviction that regulations made more specific offer better protection against their violation and are more effective in formulating the legislator's intentions[54]. It can be questionable whether such practice offers a sufficient remedy to prevent the abuse of authority, especially because an excessive number of regulations and level of detail of the formulated laws usually increase the risk of ambiguous interpretation thereof[55].

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53 Cf. idem, *Inwentarium współtworzenia przez społeczeństwo Konstytucji RP z 1997 roku*, [in:] J. Kuciński (ed.), *Piętnaście lat Konstytucji RP z 1997 roku. Inspiracje, uregulowania, trwałość*, Warszawa 2012, p. 59.

54 An example of such type of limitations can be the result of the amendment of the original text of Article 55 of the 1997 Polish Constitution. While the original text of the provision featured a principle that courts should adjudicate on the admissibility of the extradition of Polish citizens, the post-amendment text retained it but with a limitation expressed in sections 1–4 (after the amendment) regarding specific provisions binding upon the courts, which have remained indisputable by being constitutional. Although the amendment of Article 55 may not be questioned in its original form because it stemmed from a change of the legal framework of the European Union (introduction of the institution of the so-called European Arrest Warrant) and an obligation to adapt the Polish legal framework thereto, the provisions established as a result of the amendment of the quoted article could have become a statutory-like matter instead of a constitutional matter. This led to a situation that the competence of courts, formulated in a general manner in the constitution, became elaborated in this specific area (of adjudication on the admissibility of the extradition of Polish citizens).

55 Social thought has long voiced convictions that the effectiveness of the legal order does not depend on the number of normative regulations. Descartes, for instance, believed that "as a multitude of laws often only hampers justice, so that a state is best governed when, with few laws, these are rigidly

The issue of the way to regulate authority-related competence is strictly connected to the issues of "hard" and "soft" law and of the culture of trust. The doctrine is well familiar with the phenomenon of frequent substitution of "hard law" norms with "soft law" norms. This does not happen too often on the European continent because of the deep-rooted practice of expressing legal norms in the form of "hard law"[56]. There are many factors that decide whether social relationships, including the relationships with authorities, are regulated by "hard law" or "soft law" norms. The culture of trust, emerging as a result of the participation of citizens and inhabitants of a state in the exercise of authority, is one – but not the only – such factor. Therefore, formulating any rules in this domain involves at least some risk. But let us notice that a lack of trust, typical of authoritarian relationships, requiring a strict obedience to authority, may cause a preference for "hard law" in the sphere of the multiplication of laws and regulation of social relationships. Yet, if there were favourable conditions for a civil society to develop, where there is a culture of trust between authorities and the society, "hard law" norms can successfully be replaced with "soft law" norms. It may happen, of course, only when such practice does not encounter an obstacle in the form of ideology, politics, interests of groups in power, and the instability of social relationships based on the foundation of the common good.

Culture, authority, society

Culture and its products (including knowledge, law, religion, morality, etc.), like other social phenomena, can become factors stimulating the exercise of authority, or act as factors to stabilise or curb this exercise within the framework of the patterns (norms) it has created[57]. We proceed in our discussion using the non-adjectival

administered". Descartes, *Rozprawa o metodzie. Rozprawa nad zasadami filozofii i inne pisma*, Warszawa 2008, p. 57.

56 Cf. H. Izdebski, op. cit., p. 246.

57 Leszek Kołakowski believed that there were certain value-type patterns developed in every civilisation and that they were some sort of "deposit". He also claimed that every civilisation was a collection of means designed "to reproduce and pass them on to others". Another of his observations was that the resource included both particular values, i.e. values that were "acceptable within fragmentary collectives relative to the entirety of people taking part in a given civilisation", but also values that could be described as common or universal because they could somehow be negated. Since a set of values is formed by heterogeneous components, the consequences are – according to L. Kołakowski – constant changes in the resource of values. According to Kołakowski, they do not interfere with "the presence of some deposit, which is stored next to unusually long dying out components, and which makes it possible – not without questions, of course – to ensure a multi-generational and multi-national cultural continuity over centuries". Continuing his argument, L. Kołakowski concluded that the existence of a set of universal values "always entitled

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notion of culture although science makes efforts to condense the cognitive spheres encompassing e.g. the political culture and the legal culture. According to what we know today, these empirical facts have never successfully materialised, which is why it may be misleading to think that it is possible to separate the said spheres from each other, especially taking the multitude of relationships between politics and law into consideration. Let us therefore consider this opinion permission not to overly separate and categorise the phenomena of culture[58].

Since we have earlier found that authority may be identified with competence stemming from legal norms, there is nothing to prevent us from assuming that there are also some other considerations apart from law that may affect the way in which authority is interpreted and executed in social relationships. Culture may certainly not be deemed as a consideration of fundamental significance in the said domain. But it does not mean that the impact of culture can be ignored. If all kind of activity of a given society is a product of its culture, the authority-related activity can be, in fact, harmonised with the values and patterns of culture. Let us agree that the participation of culture in this domain is additional, supplementary to the norms regulating the competence of authority. After all, culture cannot be denied its impact either on the creation of legal norms or on the application of law[59]. Both phenomena are public and are thus materialised as an expression of social relationships existing at a given time, in a given place and in certain conditions. Although culture does not have a direct impact on the creation and execution of law (including e.g. in the area of governance) in the way authorised state bodies do, it may affect law by the norms and patterns it develops[60]. It thus performs functions which can

historians to assume that the continuity between the Mediterranean culture and the Christian culture and the culture of the contemporary industrial societies emerging from the Latin Middle Ages is so significant that we are really dealing with one diachronic society. The continuity is glued by the said resources of values, which despite their gradual and mutational transformations of all sorts can be considered alive since the age of classical Greece". L. Kołakowski, *Kultura i fetysze*, Warszawa 1967, p. 191.

58 More on the subject: W.J. Wołpiuk, *Prawo. Kultura prawna. Zaufanie do prawa*, Wrocław 2016, p. 145 et seq.

59 Literature emphasises not only the phenomenon of impact of cultural patterns on law but also the existence of a contrary process, manifested by the influence of law on the emergence of cultural patterns. Cf. R. Tokarczyk, op. cit., p. 62.

60 For the sake of this paper, we will be using the notion of pattern, which can be treated as a designation of a set of qualities in a given sphere of culture, values, or principles worthy of being acknowledged, respected, and followed. In certain circumstances, it may be more appropriate to use the idea of norm or standard instead of the notion of pattern. Sometimes the status of a pattern can be attributed to an idea, especially when it is a universally known idea, regarded as a foundation of social relationships. It needs to be remarked that the separation of powers as originating from the thought of Aristotle and Montesquieu was an idea before it became a subject of practical authority, a legal-constitutional principle, and a pattern of a political system.

be referred to as regulatory given their nature[61]. Adopting patterns can cause differences within societies. This may mean that a society which has created and encoded patterns in the area of the utility of law in public transactions within its culture is much more ready to trust a legal order and to respect its values than a society whose members do not treat law as a foundation of public relationships and a source of civicness or moral and mental experiences, which are all building blocks of a state community.

Societies make constant choices in terms of adopting, modifying, and rejecting various cultural patterns. This occurs because of an awareness that a given choice is motivated by an interest supported by solid knowledge, but there are also situations where choices are made for many other reasons: because of propaganda, exposure to misinformation limiting one's freedom to think and make decisions, because of economic pressure, fashion trends, low level of education, and lack of political freedom[62]. Hence, if we acknowledge making changes to the catalogue of cultural patterns a *custom* in the area of the behaviour of societies, we should also treat the phenomenon of absence of absolute constancy of known or practiced cultural patterns as a consequence thereof. It should also be mentioned that the sources of societies' attitudes to particular cultural patterns may not only be current but also diachronic events and views. This is why the raw material for the emergence of cultural patterns can be both new and past events, especially those which are deeply ingrained in the consciousness of particular social classes in the form of various myths and stereotypes[63].

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61 Cf. A.K. Koźmiński, *Zarządzanie w warunkach niepewności. Podręcznik dla zaawansowanych*, Warszawa 2004, p. 181.

62 As Erich Fromm observes: "Man is a unit; his thinking, feeling, and his practice of life are inseparably connected. He cannot be free in his thought when he is not free emotionally; and he cannot be free emotionally if he is dependent and unfree in his practice of life, in his economic and social relations." E. Fromm, op. cit., p. 258.

63 Literature knows quite many cases of the opinion that e.g. the source of the lack of support for some freedom-oriented patterns in Poland, which have been approved and accepted in other countries, may be the phenomenon of long-term enslavement of the lowest social class – peasants subject to the institution of serfdom. An additional observation is that some values that originate from the attributes of the institution of state, personal liberty, political freedoms, participation in public decision-making, and economic freedom are underappreciated and considered alien in a society living in a top-down command-and-control system for a long time. No practical experience with democracy and autonomy, or with bearing the consequences of actions resulting from taking advantage of one's freedom have given rise to negative instincts in the form of submissiveness to authority, admiration of authority-related agency among people in power, and expectations of being taken care of and provided material aid by those in power if necessary. Published sources stress also that relationships originating from tradition and custom usually do not make it necessary to apply legal norms. It would thus be hard not to accept that the consequence of a low utility of law may be a lack of respect for it and a low level of awareness of its utility in social trans-

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Culture is understood not only as something being an outcome of collective activity in the behaviour and features of members of human societies but as a projection of patterns of conduct in certain disciplines, in particular circumstances. The specific nature of culture and of the patterns it creates is e.g. that they are not petrified creations, but ones subject to various changes. Therefore, some elements of culture may be treated as permanent or relatively permanent, while others remain changeable. Another important thing is that culture is a complex phenomenon, emerging as a result of a painstaking and long process. Some of the emerging elements of culture are adopted by the society that has created them. They become preserved and cultivated almost inclusively. Others, in turn, are not adopted and preserved for some reasons, becoming episodic phenomena in the life of a society. Not every value is treated as equally valuable in all societies. Culture may not be imposed by force[64]. Sometimes pressure and other factors make societies apparently accept the patterns imposed upon them. It can be said that an apparent adoption of unwanted patterns leads to a gap between the external symptoms of apparent approval of the implanted patterns and the social reality. This state is expressed through the official manifestation of approval of unwanted patterns with a simultaneous concealment of their disapproval. This way we arrive at a situation of fictitious adoption of patterns which are actually not approved in reality. Literature is familiar with the opinion that a simulated approval of patterns tends to be a form of a society's defence against the authority's oppression and other threats[65]. A fake support of unwanted patterns tends to last until the pressure exerted as part of the efforts made to implement them ceases. The history of mankind shows that cultural patterns imposed by force have rarely survived after the pressure exerted by the entity determined to promote them stopped. But it is possible that when the

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actions. More on the matter – cf. J. Podgórska, *Gen suwerena*, "Polityka" 14.08–21.08.2018, 33(3173), pp. 26–28.

64 Analysing the impact of migration on the culture of the European continent, Agnieszka Krzemińska argues that "in Europe, there have been a great many of cases of getting rid of the traces of the culture of those defeated and thinking differently". A. Krzemińska, *Wszyscy jesteśmy biegunami*, "Polityka" 24.10–29.10.2018, 43(3183), p. 62.

The quoted opinion is not only valuable in terms a perspective on the past but is also relevant to the sphere of politics and governance because the more recent history – especially of authoritarian systems – seem to prove that authorities tend to be interested in erasing the traces of cultural past, or at least in downgrading their significance. Since ancient times, authorities have been making efforts to instil a sense of fear of strangers, of contempt for their cultural patterns, and to create own patterns as an integrating factor bringing their subordinates together. Cf. Thucydides, *Wojna peloponeska*, translation, preface, and footnotes by K. Kumaniecki, Warszawa 1988, passim. Apart from other identity-building processes, integration has played a significant part in facilitating influencing people's mindsets and in making governance more effective.

65 Cf. a collection of essays by Czesław Miłosz, *Zniewolony umysł*, Kraków 2009.

pressure aimed at implementing unwanted patterns ceases, some of such patterns became adopted and cultivated for some reasons, while others cease to be and disappear from the domain of social transactions.

Little or no success in the field of foreign cultural patterns taking root in a local culture may stem not only from social resistance against foreignness but also from faults in the process of adaptation or deficiencies arising from a society being unprepared for cultural changes. And it is not only foreignness that can be the cause of failure in the field of the absorption of certain cultural patterns. It may also be the lack of understanding of their nature, and especially the inability to see the social benefits coming from the adoption of such new patterns. If we considered the line of argument of Leon Petrażycki relevant to this part of our discussion, we should pay particular attention to his statements regarding the experience of individuals in connection to morality and law[66]. Let us stress that L. Petrażycki's arguments were to e.g. indicate that the effectiveness of legal norms did not depend on the fact that they were components of a binding legal framework, secured by sanctions guaranteed by state coercion; it also depended on the way in which an individual adopted the norms of the binding legal framework[67]. According to L. Petrażycki, acknowledging and obeying norms of conduct depends largely on how an individual "experiences" the content of legal regulations in the moral sphere and on whether such an individual is able to discern right from wrong. Exploring the issue of adopting cultural patterns further, we could consider Petrażycki's arguments promoting the attributes of moral experiences as the "reasons"[68] to acknowledge and accept not only legal norms but also other phenomena – like cultural patterns and the codes of conduct related thereto – especially creative. Let us make a point that as long as certain cultural patterns are not regarded 'adoption-worthy' in a given society – on account of some specific needs, interests or axiological reasons – and do not become a subject of a universal social experience, we can speak of only verbal adoption and acceptance. But it does not exclude an option to regard an appearance a social reality. Such phenomena occur for many reasons, but it happens especially when authorities are intent on popularising subjective judgments regarding the society's acknowledgment of certain cultural patterns in the public domain because it may be an element of the policy they have adopted.

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66 L. Petrażycki, *O nauce, prawie i moralności: pisma wybrane*, Warszawa 1985, pp. 146–148, 243–249, 253 and other pages.

67 On other reasons for obedience to legal norms – cf. Z. Ziembiński, *Normy postępowania*, [in:] S. Wronkowska, Z. Ziembiński (eds.), *Zarys teorii prawa*, Poznań 2001, p. 42.

68 L. Petrażycki, *O nauce, prawie...*, pp. 220, 226–227 et seq.

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Politics may thus be both a factor promoting certain cultural patterns and a driving force behind counteracting patterns that are against its intentions. An existing relationship between particular cultural patterns and politics may lead to various social consequences. It may – depending on the attitude of certain parts of a society to particular types of politics and its relationships with particular cultural patterns – translate into support, disapproval or indifference. This means that in a politically pluralised society divisions may exist – significant on account of political views – in terms of the attitude to certain cultural patterns. Yet, these divisions are not constant, given the existence of phenomena triggering changes in the policies conducted by authorities and other politically-active subjects, and changes in the society's attitude towards authority, politicians, and politics. The emerging line between approval and negation of certain cultural patterns is thus fluid. Moreover, it runs not only inside a society. It may actually run between authorities and the part of the society that supports the political orientation of the authorities and the part of the society that is against this orientation.

A society's attitude to cultural patterns may be determined not only by political considerations but also by other factors, including in particular: the history and experience of a given society, the level of social development and education, the type of social structure, the degree of development of the consciousness of society members as free beings, responsible for their individual and collective existence, the extent of adoption of universal values, e.g. respect for democracy, liberty, human rights, and state of law, the level of approval for political system, the degree of readiness to participate in the exercise of public authority, the attitude to public institutions as the organiser of the society, the level of trust in the state and the law it establishes[69]. The presence of these and other factors in a society and their impact on human attitudes can become a source of internal differences in and among societies, and make some cultural patterns regarded as in line with a given society's needs and interests – and thus approved and adopted, with others – considered otherwise – being rejected. Differences in the attitudes of particular societies to cultural patterns may lead to situations in which some patterns that have been approved in one society can meet with disapproval in another society.

Another noteworthy matter is that certain patterns, promoted by authorities in some societies – because they are considered standards and elements of human identity, are not endorsed by authorities of other societies, nor are they a welcome component of local social transactions. For instance, when published sources raise an argument that the freedom of expression is a fundamental substratum of humanity, an effective mechanism of determining the truth, and what defines an indivi-

[69] Cf. W.J. Wołpiuk, *Prawo. Kultura prawna*..., pp. 160–181, 260–275.

dual's position in the society, such a view raises doubts as to whether it can pertain to internally-heterogeneous societies to the same extent. Especially societies that have negative experience with materialising the freedom of expression, or societies where freedom of expression is not a deep-rooted tradition. It may be doubtful if references to the patterns – or models – of freedom from the times of ancient Greece, or to contemporary practices of states cultivating the principles of liberal democracy may be considered universal on account of being generally useful[70]. This is mainly because societies have emerged and developed not as homogeneous but heterogeneous beings, and still remain highly diversified creations. It may become a basis to explain the causes of the different attitudes of some societies to commonly accepted values. Interesting information on this issue can be found in T.G. Ash's book[71]. According to this information, societies governed non-democratically display a larger preference for the maintenance of public order and the provision for personal existence than for the freedom of expression, which is preferred by societies governed in conditions of advanced democracy.

We are focusing on the attitudes of societies to culture and its patterns (norms) because societies not only are their beneficiaries but are also able to use cultural patterns as tools to shape their relationships with authorities. This may involve evaluating and monitoring the compliance of authorities' intentions and activity with cultural patterns and making sure that the activity of authorities remains in line with the cultural patterns approved by the society.

Adaptation and consolidation of cultural patterns in a society's consciousness may have a certain significance to both vertical relationships between the society and the authority and to horizontal relationships between the members of the society.

Both a real and an apparent compromise may occur in the relationships between a society and authority But it may not occur as well. A real compromise appears when authorities accept the same patterns as those approved by the society. An apparent compromise happens when e.g. both parties work at reaching an agreement but display different attitudes to cultural patterns. Reaching one of the said forms of compromise may mean that cultural patterns have had some impact on the decisions made by authorities. The lack of compromise may usually be caused by significant differences between the authorities' and the societies' attitude towards cultural patterns. This attitude is not fixed, though, because it is e.g. shaped by the extent to which certain cultural patterns are rooted in and supported by the society. When the level of support is high, the authorities' decision to ignore it may lead to a considerable social resistance. It can therefore be said that the degree to which

70 Cf. T.G. Ash, op. cit., p. 128 et seq.

71 Ibidem, pp. 168–170.

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cultural patterns are ingrained in and supported by a society affects both their impact on the relationships between authorities and the society and the activity of the authorities.

The issue of the attitude to cultural patterns within a society shall be considered separately. It does not have a direct relationship with the activity of authorities. But if we consider that the level of social support for the cultural patterns endorsed by authorities may influence the effectiveness of governance, we will see that authorities may be intent on making the majority of the society approve the same patterns as those supported by the centre of power. Given that there can be different attitudes to cultural patterns within a society, one can assume that approving of certain patterns may require an elimination of sources causing conflicts of interest between the members of the society. Literature has long stressed both the benefits arising from political pluralism in a society and the effectiveness of the mutual influence that particular social groups have on each other, which may lead to a phenomenon of despotism of the majority against the minority as well as warp the attitudes of individuals and restrict their liberty[72].

The history of mankind can serve to prove that the preservation of positive cultural patterns in some society does not make them permanent and resistant to change. The 20th-century genocidal practices of Nazism and Stalinism give a particularly drastic evidence of the destructive impact of politics, violence, and terror resorted to by authorities, ready to erase the cultural patterns rooted in the society only to achieve their goals.

[72] J.S. Mill, *O wolności*, [in:] S. Filipowicz et al. (eds.), *Historia idei politycznych*, Warszawa 2012, p. 702.