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Culture and Authority II

Abstract

The subject matter of the second part of the article (the first part was published in issue 1/2019 of the "Critique of Law") is a continuation of the analysis of the impact of cultural patterns such as integrity, social dialogue, elimination of violence on the formation of the relationships between authorities and members of the state community.

Keywords: state authority, society, individual, legal norms, cultural norms, cultural patterns, integrity, violence, social dialogue, culture of dialogue and negotiation

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Formation of Cultural Patterns

It is said that although man is able to adapt to virtually any conditions, humanity "is not a blank sheet of paper on which culture can write its text."[2] People maturing to reach humanity and lead their life in conditions of primitive social organization were not an inert formation awaiting for changes to take place spontaneously. Rather, as a result of involvement in mutual relationships and interactions resulting therefrom, they felt a need to create a social bond in the form of cultural patterns that would prove capable of stabilising the said relationships and pinning these relationships to a relatively solid foundation.

One can therefore acknowledge that reasoning and thinking together with the development of a conscious social existence lay at the heart of the emergence of cultural patterns occurring in the early days of humanity.[3] The said factors have generated a range of legal and moral instruments serving societies and states in the Mediterranean culture. Some ancient Greek philosophers argued that violating *quasi*-legal norms established by man and acting to the benefit of a political community was just as harmful as violating moral norms.[4] People should aspire to be righteous motivated to the same extent by both material punishment and the fear of moral punishment in the form of losing one's face, one's honour. While the doctrine of ancient Greece focused on determining the objectives of the state as a community of citizens and the model of behaviour of such a community's member as a citizen, the attribute of the Judaic thought was shaping patterns defining the principles of mutual coexistence of individuals forming a community. Therefore, the contribution of the Judaic thought to the domain of establishment of moral patterns should be considered especially significant. The precepts and prohibitions defined in the biblical *Book of Exodus* may be treated not only as a set of religious values in the area of a single faith but also as a set of fundamental moral patterns or standards. Although

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[2] E. Fromm, *Zdrowe społeczeństwo...*, Kraków 2017, p. 84.

[3] Ibidem, p. 64 et seq.

[4] Jerzy Oniszczuk argues that abiding by moral norms meant – according to ancient Greeks – refraining as a citizen from misdeeds and acting in accordance with "measure", driven not by fear of material liability but by an awareness of a possibility of disgracing and dishonouring oneself. Integrity is aspired to not because of a potential material punishment, which emphasises the qualities of tangible goods, but because of fear of moral punishment since this type of fear inspires righteousness. Cf. J. Oniszczuk, *Sztuka rozumienia. Poszukiwania filozofii archaicznej*, Warszawa 2019, s. 154 i in.

the original wording of some of them has changed over time (under the influence of the content of the Acts of the Apostles and the Christian philosophy), their main value lies in that they have become universal standards, highly useful in the global dimension, manifested in multiple forms of social relationships. An example of the evolution of one of the fundamental standards may be the prohibition of bearing false testimony, which is expressed in the *Book of Exodus* in the following way: "You shall not bear false witness against your neighbour."[5] In the *Book of Leviticus*, in turn, the quoted message has been extended, taking the following wording: "Do not seek revenge or bear a grudge against anyone among your people, but love your neighbour as yourself."[6] This unilateral obligation arising from the principles of Judaic faith has transformed to become – in line with the Christian thought – a model of bilateral obligation obliging people to act in a fair and honest manner in their mutual relationships. The Gospel of Matthew points to one of the most important duties phrased as follows: "Therefore whatever you desire for men to do to you, you shall also do to them."[7] Thus, integrity, first treated as a religious value of one of many faiths, has – thanks to its social utility – not only become compatible with its original intention, which was to bond a religious community, but has also started functioning as a humane norm of ethics[8] and a cultural pattern in the domain of interpersonal relationships.

Exploring the plane of deliberations on the genesis of cultural patterns, one can notice that some cultural patterns have come to being by means of *usage*. Especially when a given solution turned out to be useful in the area of organisation of the public domain, in the area of arbitration proceedings, and in removing sources of various conflicts.

Since we have decided to focus on integrity from among many other cultural patterns, it is necessary to see that this attribute plays a significant part in both interpersonal relationships and the relationships existing between authorities and individuals – or between some community and authorities. But if we take into account the fact that materialisation of social relationships involves materialisation of specific aspirations and interests, we should expect that the parties to such relationships may not abide by the rule of integrity because it weakens their bargaining power or makes it impossible to achieve the intended objective. The history of social

[5] *Millennium Bible. Holy Scriptures of the Old Testament and the New Testament*, http://biblia.deon.pl/2010/rozdzial.php?id=70&werset=8#W8 (Exodus 20, 16) (access: 15.10.2018).

[6] Ibidem, (Leviticus 19, 18) (access: 15.10.2018). In a commentary to the above passage from the *Millennium Bible* there is a point made that while in the Old Testament the notion of 'neighbour' meant an Israelite, a follower of Judaism, the Christian idea thereof encompassed all people.

[7] Ibidem, (Matthew 7, 12) (access: 15.10.2018).

[8] Cf. E. Fromm, op. cit., p. 169.

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relationships proves that absence of integrity in such relationships, especially absence of integrity in the practice of authorities – as the better organised and more powerful party – usually leads to tensions and conflicts. The crucial issue in this area of discussion is the way of making use of cultural patterns capable of contributing to solving the conflicts occurring between authorities and society. The known ways to solve conflicts range from mediation, arbitration, and reaching an agreement to quelling conflicts by means of force and violent measures.

Nowadays, the culture of dialogue,[9] which may encompass many forms of community life and employ both cultural patterns and legal instruments as means of reaching an understanding, has become a much appreciated and valued way of solving conflicts and reaching an agreement in the domain of social relationships. An important fact to mention here is that conciliatory ways of solving conflicts between authorities and society have been occasionally applied in different periods, but a distinguishing example of a single resolution turning into the culture of dialogue may be the case of settling the dispute between English lords and King John Lackland.

The dispute was preceded by a series of events that had a severe impact not only on the wealthy but also on the entirety of Great Britain's population. The events were both internal and external in nature. These events – and related circumstances – included: political organisation instability caused by invasions by various peoples from Continental Europe; ethnic conflicts between Norman descendants and Anglo-Saxons; no mature and stable legal framework and system of justice; common anarchy caused by succession of the English throne; England's engagement of human, material, and economic resources into military action aimed at restoring or maintaining the power over continental provinces.[10] All this was coupled with greed and cruelty of both monarchs and noblemen alike, who readily exploited, tortured, and robbed their subjects, lieges, and serfs. A deeper look into the history of England of the 11th, 12th, and early 13th centuries offers a gloomy vision of a country torn by violence, anarchy, and a general disillusion. One that has little to do with the cultural patterns discussed here, especially when it comes to the concern of those in power for their subjects, for integrity and empathy. But one particular reason for dissatisfaction, especially amongst the upper classes, was the increasing number of taxes collected collected to finance the king's futile military activities.[11]

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9 Cf. H. Izdebski, *Doktryny polityczno-prawne. Fundamenty współczesnych państw*, Warszawa 2010, pp. 94, 176 and 178.

10 The issues in question are analysed in detail by W. Lipoński in: *Narodziny cywilizacji wysp brytyjskich*, Poznań 2017, p. 629 et seq.

11 Ibidem, p. 644.

Wojciech Lipoński stresses that King John Lackland's ineffectual pursuits, which cost England much of the collected taxes, made the country lose most of its continental provinces and fall victim to French invasions, which led to a political collapse.[12] The events posing a threat to the interest of England and its nobles became a sort of *punctum saliens* of feeling of discontent and opposition against King John's rule. This led in January 1215 to a public address of a group of rebel barons, who drew up a list of written demands, which took the form of the document referred to later on as the Great Charter of the Liberties (*Magna Carta Libertatum*).[13]

It is not our objective to analyse the form and the content of the Charter, especially since it is interpreted in many different ways.[14] Let us take into account, however, that it it is considered most of all a victory of progress in the field of normative regulation of human rights.[15] We should not discard its significance in this respect, but it is important to stress the fact that the Charter did not establish any equal and commonly applicable norms to protect the rights of an individual – after all, it was first and foremost a form of a bilateral agreement made between the country's ruler and noblemen.[16] The king – as a body of the state authority – was not bound by any other act of law to reach an agreement with the rebel barons, to give his consent to their ultimatums, or to obligate himself to abide by the provisions of the Charter. He took advantage of his freedom to decide on how to solve an existing social conflict, but we can gather that this freedom was not complete as it involved a necessity to yield to the pressure of barons in order to retain his power as a monarch – even in a weakened form – as a result of accepting the obligations imposed on him by the normative content of the Charter.

It is important to bear in mind that the success of a dialogue between two parties pursuing different interests requires certain conditions to occur and be met. In the event of the conflict between barons and the king, the circumstance that led to the king's opting for dialogue as the right solution to solve the said conflict was the decreasing power of monarchy. This could have been the reason for the king's

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12 Ibidem, p. 642.

13 The exact circumstances of the document coming into being, its content, form, and date of public presentation are not known. W. Lipoński mentions that there are "many hypotheses regarding the chronology of development and final publication of the Charter. The one accepted most often suggests that a delegation of rebel barons met with King John at Runnymede on 15 June, handing him their *Capitula* – the Articles, the first version of the Charter. The document supposedly opened with the following words 'These are the articles which the barons seek and the lord king grants'". Ibidem, p. 644.

14 Ibidem, p. 645.

15 More on the matter: W.J. Wołpiuk, *Władza a wolność. Droga do normatywności*, "Państwo Prawne" 2014, 1(4), pp. 21–22.

16 Ibidem.

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decision to make concessions and not to turn to violence as the way to exercise his power – which was a solution taken advantage of readily by his successors.[17] Opting for dialogue was, in fact, in the king's interest, which was to maintain power and – in the long run – to retain the landed property in Continental Europe. In the light of the above, we should consider a more general conclusion according to which making attempts to solve conflicts between authorities and society by means of dialogue may not always turn out to be effective. One of the essential conditions for dialogue to work may be a depolarisation of specific interests of the conflicted parties and opting for dialogue as a way to reach an agreement within the framework of cultural patterns known in a given region.

Let us notice, therefore, that the objective behind reaching an agreement – based on the provisions of the Charter – was mainly to gain immediate benefits that both of the conflicted parties found advantageous, and the more permanent positive effects materialised on account of the fact that the Charter became a monumental document that made an attempt to regulate the status of individuals and communities in their relationships with authorities.[18] Taking into account the standards of the time applied in the area of social dialogue, we should appreciate the fact that the process leading to reaching an understanding was successful thanks to obedience to the principle of good faith (*bona fides*), equality of parties (subjectification of social partners and making their subjective significance equal), and establishment of a mechanism ensuring the materialisation of the terms and conditions of the agreement.[19]

The observations made by looking back into the past aptly highlight the utilitarian nature of the Charter. The Charter – as an agreement and sort of a class privilege – appeared to be a document effective in the territory of England and a local model to follow in the scope of solving social conflicts by means of dialogue between authorities and a part of or an entire society.[20] The Charter has surely initiated the

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[17] Cf. W. Lipoński, op. cit., p. 530 et seq. On a side note, weakness is not a sufficient argument for authorities to resign from violence to defend their position. History provides a range of evidence proving that authorities have turned to violence to defend their interest much more readily than considering rational arguments for reaching an understanding without violent measures instead. Jan Baszkiewicz, alluding to Montesquieu speaking of measures of prevention against abuse of authority, has argued that every authority is ready to cross the line demarcating its competence and move as far as to reach a border characterised by resistance impossible to overcome. Cf. J. Baszkiewicz, *Władza*, Wrocław 1999, p. 92.

[18] On the effects of *Magna Carta* on England's society and on the common awareness of freedom as well as on the many interpretations of its origin and nature, see: W. Lipoński, op. cit., p. 645.

[19] Article 61 of the Charter specified the manner of supervision of the king's obedience to the terms and conditions of the agreement and defined sanctions in the form of organised resistance against monarchical authority. Cf. W. Lipoński, op. cit., p. 651.

[20] This is why the Charter has not become a cultural pattern of a greater range of influence in Continental Europe. Only later on, in the course of further efforts to legally regulate human rights,

process of subjecting the king to the law, making particular areas of his activity dependent on the consent of certain social agents. While there are no grounds to claim that the Charter's provisions have become the foundation for the formation of the relationships between authorities and society, it has remained a significant part of English identity and a cultural pattern. An analysis of the history of England that followed proves that turning to measures of violence to solve internal conflicts has not been that frequent and that unreasonable. It is worth mentioning here that barbaric ways involving acts of violence and destroying the existing works of culture, as practised by Oliver Cromwell, are not regarded as acts of revolution in the English historiography, which instead refers to them as acts of rebellion. Unlike in the case of the above, major political changes that led to the abolition of absolutism in the 17th century and the following establishment of constitutional monarchy, accompanied by mediation and political dialogue, have come to be dubbed the Glorious Revolution.[21] This is because of the fact that the discretionary monarchical practices saw their twilight in the course of the said political changes, which did not involve acts of violence and led peacefully to the establishment of legal principles defined in their entirety as constitutionalism.[22] Even though the newer history of England remembers cases of fiercer forms of religion – and nationality-motivated conflicts, the application of the principles of the culture of dialogue to solve them has not lost any of its validity. In the light of this observation, it seems reasonable to presume that the reason for turning to violence when it comes to solving conflicts in Continental Europe (in the post-medieval period and later on) was the underestimation of the culture of dialogue, practised much more often in England than in other parts of Europe. If we accept that the culture of dialogue and negotiation remains nowadays one of the more significant cultural patterns in the public domain, it would be necessary to acknowledge that it has originated from pragmatism.[23] Pragmatical thinking was most likely motivated by the consideration of profits and losses to be made in the area of satisfying the interests of conflicted parties and their

was the Charter referred to in order to become, after centuries, "a property of first the European and later the global civilisation, grappling until the 20th century with political or economic systems trying to limit individual rights". W. Lipoński, op. cit., p. 650.

21 Cf. H. Zins, *Historia Anglii*, Wrocław 1971, p. 274; G.M. Trevelyan, *Historia Anglii*, Warszawa 1967, pp. 611–612.

22 Cf. W.J. Wołpiuk, *Instytucja konstytucjonalizmu a prawo konstytucyjne*, [in:] J. Wawrzyniak, M. Laskowska (eds.), *Instytucje prawa konstytucyjnego w dobie integracji europejskiej*. A jubilee book dedicated to Professor Maria Kruk, Warszawa 2009, p. 150.

23 While the culture of dialogue and negotiation remains an unquestionable method of solving conflicts in today's legal practice, Polish researchers find that in Poland, for reasons not exactly known, there is a trend of refraining from settling disputes by means of negotiation. Cf. B. Brożek, J. Stelmach, *Sztuka negocjacji prawniczych*, Warszawa 2011.

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political priorities. However, the increase in the significance of the social factor – as an entity participating in governance – and the simultaneous weakening of the position of monarchical authority made pragmatism gain the upper hand over political tenacity in the domain of conflict solving. The quoted case of the culture of dialogue and the path that has led to the emergence of the practice of dialogue shows that cultural patterns are shaped in a longer time frame. Although the creation of cultural patterns occurs as a result of diverse aetiological factors, the most important ones include impactful social events and the policy adopted in the area of social relationships.[24]

Patterns of legal culture

Every society has the right to believe that the entities exercising power on the society's behalf will aim to meet the society's expectations – especially those that result from the constitution and other norms and standards defining the objective and nature of the state. This means in particular that authorities shall abide by the norms of the binding law and the cultural patterns resulting therefrom. And that they will exercise the power vested in them on the basis of and within the limits of the adopted law. They shall also obey the cultural patterns adopted by the society and the patterns of legal culture being an element of the former. However, a claim that this type of institutional model defining the relationships between authorities and societies is a common standard seems highly questionable. It is quite easy to see that states are organised according to different political systems, which are not always materialised in accordance with their legal basis. Let us also bear in mind that the relationships between authorities and society are usually exposed to various sorts of conflicts of interest in the area of politics, ideology, and economy. In search for a model state that delivers what its society expects of it, one can point to the model of the state of law. Pointing to this model is motivated especially by the argument that only a society taking advantage of the benefits of a state of law can be certain that its expectations regarding observance of law and performance of other roles a state serving its society should perform will actually be met. The view may be justified first and foremost by the fact that the rationality of such expectations is rotted

[24] According to scientific sources, some singular, episodic events may lead to dire consequences affecting the existing political landscapes. Such instances may not only shape a new reality but also become utilitarian substrates for future social relationships, taking on a permanent or a relatively permanent form. This legitimises the presumption that the observations made on the basis of selected events may be etched in social consciousness, which could lead to the emergence of cultural patterns. Cf. L. Kołakowski, *Kultura i fetysze. Zbiór rozpraw*, Warszawa 1967, pp. 228–238.

in the political system and the system of governance. It has been known since ancient times that systems not based on law guarantee neither good living conditions nor any rule of law. Aristotle was positive that a high-quality political system may be considered one organised in the form of rule of law. He claimed that given the imperfections of the forms of governance he was familiar with, "laws should govern, ones that are expressed in an appropriate manner." What he meant by that was that laws were bad and unjust only in a degenerate system, and that the ideal to aspire to was a system where laws were good and just.[25]

Both the concept of the state of law, which was proposed in its mature version by the German legal thought of the 19th century, and its close equivalent – the Anglo-Saxon idea of rule of law[26] – have been materialised in the law and political practice of most modern states, becoming a basis for international collaboration, especially in the European Union and the European Council.[27] The said circumstances offer a sort of formal certainty of the value of the state of law becoming 'rooted', so to speak – especially in Continental Europe.[28] The conviction of 'consolidation' of the value of the state of law could be taken for granted if we considered formal circumstances only, reflected in normative regulations and in the establishment of an institutional system aiming at guaranteeing the practical enforcement of the clause of the state of law.[29] However, when evaluating the degree of the clause of the state of law being ingrained in a given system, political realism points to the necessity of taking into account other factors as well, including the factor of reason acting as an imperative to determine the actual condition of obedience to the principles of the state of law in confrontation with the concept that lay at the hear of the

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25 Cf. Aristotle, *Polityka*. Translation, foreword, and commentary by Ludwik Piotrowicz. Warszawa 2008, pp. 92–93.

26 More on the *rule of law*: Marzena Kordela, *Koncepcja rule of law w prawie angielskim a wartość formalna prawa*, [in:] S. Wronkowska (ed.), *Polskie dyskusje o państwie prawa*, Warszawa 1995, p. 50 et seq.

27 According to Article 2 of the Treaty on European Union, the Union is founded on several important values, with rule of law being mentioned as one of them. Official Journal of the European Union 2010 C/13.

28 W.J. Wołpiuk, *Prawo. Kultura prawna. Zaufanie do prawa*, Wrocław 2016, p. 152. It is common to find literature sources claiming that a formal acknowledgement of a clause of the state of law being legally binding does not mean it is fully implemented in the political practice. What is particularly stressed is that the implementation of the clause of the state of law means a sort of process in the course of which progressive and regressive phenomena can occur. Cf. e.g. J. Kuciński, W.J. Wołpiuk, *Zasady ustroju politycznego państwa w Konstytucji Rzeczypospolitej Polskiej z 1997 roku*, Warszawa 2012, p. 207 et seq., 220 et seq.; *Rzeźbienie państwa prawa. 20 lat później*, Ewa Łętowska in conversation with Krzysztof Sobczak, Warszawa 2012; *Państwo prawa jeszcze w budowie*, Andrzej Zoll in conversation with Krzysztof Sobczak, Warszawa 2013.

29 Cf. S. Wronkowska, *Czy Rzeczpospolita Polska jest państwem prawnym*, [in:] eadem (ed.), op. cit., pp. 81–98.

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normalisations expressed in the content of Article 2 of the Constitution of the Republic of Poland of 1997 – as well as other factors being the content of contradictory political interests and complex social relationships, affecting the enforcement of law and the manner in which power is exercised. Taking all these factors into account is essential because limiting oneself only to formal circumstances may produce a deceptive vision of the state of materialisation of the standards of the state of law. Such type of phenomenon may occur especially when the clause of the state of law remains not questioned *de jure*, but is actually subject to violation. In the case in question, when the condition of the state of law is affected by a range of different factors, the state of law may be reformed by means of various instruments – including exerting influence with references to patterns of legal culture. It has been already mentioned that legal instruments are fundamental to solving political dilemmas, but this does not mean that other motive forces do not play a part here, including e.g. cultural patterns, which may contribute to the obedience to the principle of righteousness. Especially in the sense that a given society, with certain cultural patterns ingrained in its consciousness – and supported by this society, has the right to take advantage of them in some way. By, for instance, stimulating the pressure exerted on authorities to make them act based on the cultural patterns supported by the society, or by expressing dissatisfaction with the authorities' activity that is against such cultural patterns or ignores them. An important cultural pattern in the domain of governance is the concept of self-limitation of authorities in the area of pursuing their political intentions, which may pose a risk of occurrence of conflicts between authorities and society. Such threats may be mitigated in particular if authorities accept the condition that their legitimisation to exercise power does not entitle them to act in a discretionary manner and the condition accepting the pattern of limitation of rule that could violate the freedom and rights of individuals and communities.[30]

By quoting these words, we speak in favour of the view that a state is a community of people living in it, and its authorities are obligated to serve these people. In such a construct, the state and its authorities should oppose the state's members.[31]

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30 As raised by H. Izdebski, a state of law assumes, naturally, the existence of some boundaries to the interference with individual and collective matters of subjects functioning within the jurisdiction of authorities. These boundaries are demarcated first by law, which can be understood as either *lex* or *ius*. "Even if – as he argues – one accepts the existence of a certain 'surplus' belonging to the domain of *iuris* over the body of *legum*, considering the boundaries to the intervention of authorities may require moving outside the domain of law in general". H. Izdebski, op. cit., p. 262. Such boundaries will be then delineated in different ways – according to specific concepts functioning in the predominant ideology, politics, and culture. But the interference of authorities may not cross the boundaries of common good. Ibidem, pp. 262–263.

31 Cf. M. Zmierczak, *Kształtowanie się koncepcji państwa prawnego (na przykładzie niemieckiej myśli polityczno-prawnej)*, [in:] S. Wronkowska (ed.), op. cit., p. 13.

On the contrary, the goal of a state and of the entities exercising authority should be to serve individuals and the entire society, and to support their pursuits to an extent being in line with the binding law and common good. In such a system of relationships between a state, its authorities, and its society, cultural patterns can be helpful in supporting the practice of community relationships. Cultural patterns may not be, however, equated with legal norms. While the norms of the applicable law give a society has the right to demand that the authorities representing their state fulfil certain tasks and obligations expected of them under the competence they have been granted, cultural patterns are rather a set of guidelines offered to both the state and its authorities as well as to the society and its members. The difference between a legal norm and a cultural pattern lies also in the fact the latter come to being spontaneously, as a result of various events, their originators are anonymous; the target audience of a given cultural pattern may be any society member who finds the pattern right and supports it. A legal norm, in turn, emerges as a result of an intentional activity of duly authorised state bodies, acting to achieve a particular goal and effect. Moreover, a legal norm addresses a particular subject or a group of subjects of particular characteristics, obligated to act in a particular way in particular circumstances defined in any such norm.

Cultural patterns do not impose any sanctions like those provided for in legal norms. If a member of the target audience of a legal norm fails to comply with the norm's instructions, this may result in an *ex lege* threat of having to face some sort of sanction.[32] In the case of cultural patterns, there are no normative grounds to demand that they be adopted as part of the existing social transactions, which could be enforced by a threat of implementation of some sort of measures of coercion. This does not mean, however, that a society is deprived of instruments to influence the state's policy and the activity of the authorities to make them consider various cultural patterns – like those that function as components of standards of an international community,[33] components of a state's international obligations, and a con-

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32 On the complex nature of sanctions for violating a norm – cf. S. Wronkowska, *Przestrzeganie prawa*, [in:] S. Wronkowska, Z. Ziembiński, *Zarys teorii prawa*, Poznań 2001, pp. 206–209.

33 The Polish legal literature appears to have been quick to regard the word 'standard' as a synonym of both a binding norm, and a norm considered to be binding because of its common application and significance in the area of some sort of relations, especially international and intra-state relations. Sławomira Wronkowska claims that what can be listed in this area includes, in general: "democratic forms of legitimisation of authority, separation of powers, a special significance of the constitution and a statute as the basis for state authorities to act – especially when dealing with citizens, independent judicature, an extended system of supervision of state bodies in their enforcement of law – especially constitutional judicature, guarantees of citizen freedoms and rights, and protection of trust of citizens in the law". S. Wronkowska, *Zarys koncepcji państwa prawnego w polskiej literaturze politycznej i prawnej*, [in:] eadem (ed.), op. cit., p. 76. According to the cited author, the discussion on the establishment of standards of the state of law exaggerates the emphasis

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stitutional foundation of the adopted political system – in their practice. There should be no doubt about the fact that authorities aware of the existence of the said obligations should make decisions compliant with the international standards and obligations accepted by their state as well as with the adopted cultural patterns. Let us therefore acknowledge that authorities having regard for the said factors will act not because of pressure, but motivated by a will resulting from the legal competence and the duties that originate from them.[34]

Another difference between legal norms and cultural patterns can be seen in the fact that while the latter are not systematised in the form of a commonly binding set, legal norms adopted in most countries are codified and available in the form of sets of norms forming legal systems in force in particular states. While it would be possible to create a set of cultural patterns whose application could be considered useful from the point of view of organisation of democratic societies, there is a risk that it would prove highly imperfect for utilitarian reasons. Let us bear in mind that the content of such a set could be largely based on repetition of moral, legal, and other important principles. By way of an example, let us note that the pattern of integral behaviour – mentioned earlier – applied in all kinds of relationships, encompassing also the relationships between authorities and society, is rooted not only in biblical ethics but also in Roman legal maxims shaping the principles of law for centuries.[35]

It is important to stress the differences between legal norms and cultural patterns because the former, given their intended application, assume a different position than the latter in the mechanism of exercising authority. The fact that legal norms are a more effective instrument of exercising authority than cultural patterns is of particular significance. But this does not imply that there are some enormous theological differences between the two. Actually, both have often emerged to

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on institutional problems and underestimates the significance of certain axiological issues and the focus on the problem of the way state institutions function in practice. Ibidem, p. 77.

[34] If we assume that authorities regard the competence of power a force they may make use of, then, referring to Hannah Arendt, we can speak of a relationship between power and will, which is expressed in that for certain competence to be exercised, this competence has to be present, but there also needs to be a will to exercise it. By invoking the ideas of St Augustine of Hippo, Hannah Arendt highlights this relationship by quoting one of his statements: "In order for power to take effect, there needs to be a will for it to happen". H. Arendt, *Wola*, transl. by R. Piłat. Foreword by H. Buczyńska-Garewicz, Warszawa 1996, p. 130.

[35] The issue of integrity (honesty) as a precondition for justice and culture has been discussed by John Rawls in his *Justice as Fairness*, "The Journal of Philosophy" 1957, 54(22), pp. 653–662. Jerzy Pieńkos, in turn, in his work systematising notions, legal maxims, and expressions derived from Roman legal culture, mentions the following principles of righteous conduct: "to live honestly, to injure no one, and to give to each their own" (*honeste vivere*, *neminem leadere*, *unicuique suum tribuere*). Cf. J. Pieńkos, *Praecepta iuris*, Warszawa 1999, pp. 7 and 31.

achieve the same goals – but expressed in different ways. This is why it is necessary to notice that there exist notable axiological relationships between legal norms and cultural patterns. These include in particular justifications, which have become a common reason for the appearance of a given legal norm and/or cultural pattern. Based on the above it seems reasonable to conclude that an authority that violates legal norms or standards violates cultural patterns at the same time by treading on the values being a common source of both legal norms and cultural patterns.

It should be obvious that both the presence of law as a regulator of governance and cultural patterns as well as ontic benefits resulting from materialisation of legal norms and cultural patterns, based on values created, accepted, supported by society itself is of great importance to the social being of a state community.

We have mentioned potential conflicts between authorities and society (a hypothetical whole or an indefinite part thereof), arising from contradictory ideological, political or economic objectives and from other reasons as well. But regardless of the political system adopted in a given country and depending on the state of affairs in such a country, conflicts may originate from much different reasons. And for the same reasons, both the etiology and the course of each conflict may differ. Conflicts occur often because of the differences between the goals and interests of authorities and the goals and interests of society. Source literature provides arguments proving that apart from the above, the reasons for the differences between authorities and society may be systemic in nature, which happens when a state displays oppressive qualities. Then, authorities becoming the state apparatus alienated from the governed society, having no guarantee of stability of its reign, may concentrate on prolongation of its existence, turning to any means available to achieve this goal.[36] Sometimes oppressive authorities encountering resistance aim at eliminating any expressions thereof or at changing the existing reality. The 20th-century authoritarian regimes facing dilemmas involving either acknowledging the fact of political diversification of their societies and organisation of the existing relationships within the framework of the status quo or making a political and ideological shift in the orientation of their societies, opted for solutions leading to subordinating their societies to their will. This usually involved drastic measures intended to change the views and values of individuals and societies, forcing them to abandon their own interests. The most extreme forms of such practices included rendering political opponents harmless or disposing of them.

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[36] Cf. J.B. Collins, *"Wschód" uczy "Zachód": wpływ polskiej myśli konstytucyjnej na kulturę prawną w zachodnim świecie w latach 1572–1810*, [in:] *Pamięć chwili, która nas samym sobie wróciła ...* A series of lectures on the occasion of the 3rd of May, delivered at the Constitutional Tribunal in the years 2000–2016, Warszawa 2016, p. 104.

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In contrast to the above, democratic societies, remaining diversified, pluralistic communities of free and equal citizens and inhabitants, are able to opt for non-conflictual ways of existence. It seems therefore reasonable to claim that in order for a society of different views and pursuing different interests than those pursued by its authorities to be successful in reaching a consensus in the domain of mutual coexistence, it is essential that certain conditions ensuring an understanding between the authorities and the society be met. A significant condition to be met if a society is to work effectively with its state's authorities may be to appoint authorities who will accept the pluralistic nature of the community they represent and will be committed to objectives that are not against the expectations and needs of their subjects.

It appears unreasonable to expect that authorities who have become lawfully legitimised to rule would resign from their mandate and their political objectives because of e.g. no support for their activity and the likelihood of occurrence of a conflict with the governed society. The law being formally on the side of authorities may in some situations become a barrier to the dialogue between authorities and society and to reaching a political consensus. Taking advantage of cultural patterns and the good practice of negotiation and dialogue to this end may, in turn, lead to a rejection of force and violence in the relationships existing between authorities and society, and contribute to arriving at an agreement while maintaining different views and pursuing different interests.