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Identity, Dignity and the Politics of Resentment: Limits of Globalization

1. Identity, Mr. Trump, and *thymos*

In the “Preface” to Fukuyama’s influential recent book,¹ he wrote that the “book would not have been written had Donald J. Trump not been elected president in November 2016.”² Fukuyama warns of “political decay,” though he holds that it had set in well before the shocks of Trump (and Brexit) in 2016, “as the state was progressively captured by powerful interest groups,” *viz.*, vetocracy, “a rigid structure that was unable to reform itself.”³ In his “Preface,” Fukuyama also draws lines to his earlier work, including his essay “The End of History?” (1989), later his related book, *The End of History and the Last Man* (1992) and his impressive recent volumes, *The Origins of Political Order* (2011) and *Political Order and Political Decay* (2014). Clearly, the theme of “vetocracy” suggests defects of democratic accountability in the workings of contemporary liberalism;

¹ Francis Fukuyama, *Identity, the Demand for Dignity and the Politics of Resentment* (New York: Farrar, Straus and Giroux, 2018).

² *Ibidem*, ix.

³ *Ibidem*.

and Fukuyama's theme of "political decay" is reflected in his evaluation of Mr. Trump.

Fukuyama links the concept of human dignity and the demand for recognition to his claim that modern liberal democracies have "not fully solved the problem of *thymos*."⁴ Taken from the ancient Greek, and conventionally translated as "spirit, spiritedness, courage" or "pride;" Fukuyama writes that "*thymos*, is the part of the soul which craves recognition of dignity," "*isothymia* is the demand to be respected on an equal basis with other people," and "*megalothymia* is the desire to be recognized as superior."⁵ "It is not surprising," Fukuyama wrote in *The End of History and the Last Man*, "that so many political philosophers have seen the central problem of politics as one of taming or harnessing the desire for recognition in a way that would serve the political community as a whole."⁶ Doing so, actually solving related public problems, will likely involve serious efforts to escape contentious political blame games and highly factional rhetoric, particularly those forms which aim or function to cloak political aggressiveness with cultivated political hypersensitivities, negative stereotypes, and accusation.

Fukuyama elaborates on the ancient theme that *thymos* or "spiritedness," including the demand for recognition – and indignation at injustice – is fundamental to politics. It is a major motivation of political thought and action. Still, this same human quality has often proved to be pernicious in the form of overbearing pride or political arrogance. As the ancient adage has it, pride comes before the fall.

According to Fukuyama, identity politics is destructive to liberal democracy. The danger is that the desire to be "recognized as superior" may link to, and play off of, the "demand to be recognized on an equal basis with other people;" and the leftward demand for recognition of ethnic equality or group cultural identity will re-ignite the political fires of ethnic and religious nationalism, "the politics of resentment" – and even Caesarism.⁷ The political message concerning growing economic inequalities within countries around the world,⁸ has not been delivered to classes and the traditional leftward representatives of economic equality, but to nations and religions, because, "to be poor is to be invisible

⁴ Ibidem, xiii.

⁵ Ibidem.

⁶ Francis Fukuyama, *The End of History and the Last Man* (New York: The Free Press; Simon and Schuster, 1992), 163.

⁷ Fukuyama, *Identity*, xiv–xvi.

⁸ See ibidem, 74–80.

to your fellow human beings, and the indignity of invisibility is often worse than the lack of resources.”⁹ Otherwise put, Fukuyama’s thesis is that narrow, factional, racial, ethnic and identitarian politics, even when ostensibly aimed at greater justice, tends to produce (what James Madison) called “majority factionalism” in response.¹⁰ Domination by a pernicious faction is the traditional, sometimes fatal, malady of republican government.

Analysis of identity politics in terms of *thymos*, suggests that the large-scale, economic developments of globalization have induced varieties of *megalothymia* and derivative, deferential power-worship among supporters of and within the economic, financial, technological, and political constituencies of global trade expansion – resulting in a rigid “vetocracy:” a liberal or neo-liberal elite which has escaped democratic accountability. “The “losers” in the growing economic inequalities of recent decades have insisted on moral compensation in terms of recognition or *isothymia*, but have also attempted to establish their own identitarian veto-groups – whether of the left or the right. Criticism of liberal democracy has come from both the cultural left and from the nationalist right. Fukuyama advocates broader, more inclusive, voluntary and flexible concepts of political identity not linked to biological origins, nationality, cultural background or religion – and better suited to an effective political defense of economic equality and universal human dignity. Lacking flexibility of political identities in pluralistic societies, impossible burdens are placed on political consensus resulting in contention, divisiveness, and dysfunction. In the end though, according to Fukuyama, the greater danger arises from the authoritarian elements and impulses of the identitarian right which has gone so far in the US as to dredge up the once ultra-marginal and unconstitutional specter of white nationalism. However, the point is underlined by the increasing authoritarianism and ethnic nationalism of contemporary China and Russia.

⁹ Ibidem, 80.

¹⁰ See James Madison, 1787, “The Same Subject Continued, The Union as Safeguard against Domestic Faction and Insurrection,” *Federalist Papers No. 10*, in: *The Federalist*, Introduction Edward Mead Earle, Modern Library edition (New York: Random House, 1937), 54. A faction, says Madison is a group “whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or of interest;” and which are “adverse to the rights of citizens” and to “the permanent and aggregate interests of the overall community.”

2. Identity politics and George Packer's Critique of "Just America"

In contemporary "identity politics," and regarding what George Packer calls "the narrative of Just America,"¹¹ as he puts it, "equality refers to groups, not individuals, and it demands action to redress disparate outcomes among groups – in other words, *equity*, which often amounts to new forms of discrimination."¹² Identity politics is the collective politics of groups, racial and ethnic groups in the first place, to which has been added other sorts of groups, variously defined. The commonality is that these identity groups are capable of higher levels of intensive activism, and they see themselves as under-represented, disadvantaged and/or oppressed. The focus on *equity* or equality of outcomes for groups is typically so strongly emphasized that intentions of other people, including the intentions or purposes of the law, receive no recognition. So long as actual outcomes do not result in equality of outcomes for identity groups, the intentions and purposes of others are condemned. All but the advocates of "equity" are considered racist, ethnocentric, patriarchic and despisers of women, homophobic, etc. But, to say the least, it is very doubtful that this is true. The political rhetoric depends heavily on marshalling negative stereotypes of opponents or imagined opponents.

One may recall in this context a judgment of President Theodore Roosevelt's from a century back, namely, that "the one absolutely certain way of bringing this nation to ruin, of preventing all possibility of its continuing to be a nation at all, would be to permit it to become a tangle of squabbling nationalities, [...]."¹³ We now have a more sophisticated notion of "hyphenated Americans" than Roosevelt had in 1915, and our "hyphens" are quite acceptable – so long as they "bind us together" – and do not separate us into a "tangle of squabbling nationalities"¹⁴ or some other, equivalent tangle of squabbling identity groups. What

¹¹ George Packer, "The Four Americas, How America Fractured into Four Parts," *The Atlantic* July–August issue (2021): 65–78. See also George Packer, *Last Best Hope: America in Crisis and Renewal* (New York: Farrar, Straus and Giroux, 2021), 63–139.

¹² Packer, "The Four Americas": 76.

¹³ See Theodore Roosevelt's "Columbus Day Speech to the Knights of Columbus, at Carnegie Hall, October 12, 1915," printed in Philip Davis, *Immigration and Naturalization: Selected Readings* (Boston; New York: Ginn and Co., 1920), 645–660. See 649.

¹⁴ Cf. Arthur Schlesinger, *The Disuniting of America, Reflections on a Multicultural Society* (New York–London: W. W. Norton, 1991), 118.

Roosevelt had in mind, primarily, was a criticism of deeply divided political loyalties. Teddy Roosevelt's early twentieth-century, "progressive" judgment reflected the prior wisdom of President Lincoln: "A house divided against itself cannot stand."¹⁵

Recall that Lincoln's first aim as President was to save the union in the face of the intensive, sectionalism factionalism of the 1850s. In order to do so, he and his supporters eventually turned the American Civil War (1861–1865) into a war against slavery. It was the post-Civil War Amendments to the Constitution which rendered the sentiment of white nationalism politically obsolete.

Notice how close the image a "house divided" comes to thinking of America's racial and ethnic (and identitarian) pluralism as formed into blindly contenting interest groups of the left or of the right organized into pernicious, zero-sum competitions. Still, there is also room to doubt that we should accept Israel Zangwill's concept of America as a "great melting-pot" with anything like Roosevelt's enthusiasm for Zangwill's play.¹⁶ The pluralistic thought is that we might all manage to be something of the "Yankee-doodle dandy," while never quite melting together completely. In a completely homogeneous America, the national motto of "*E pluribus unum*," from many, one, would lose its relevancy.

Social-cultural pluralism and liberal individuality are closely related social phenomena – particularly so in American society. The recent, more politically inspired movement of multiculturalism¹⁷ illustrates the point by contrast. Politicized multiculturalism is basically an anti-liberal doctrine that suppresses individuality in the direction of identity politics; and this suppression of individuality amounts to a very significant move away from the liberal, more personal or one-on-one, *integrative* tradition of American society. What is fundamental in the contrast is the ethnic, racial, and religious pluralism of American society – and of any society so largely formed by immigration and integration. What forms of unity we may have must be fashioned out of the preexisting pluralism. We as a nation, have properly resisted both *forced* segregation and

¹⁵ From Abraham Lincoln's "Speech at the Illinois Republican Convention, Springfield Illinois, June 16, 1858." See, Mark E. Neely, Jr., *The Abraham Lincoln Encyclopedia* (New York: Da Capo Press, 1982). Lincoln paraphrased the Bible, see Mark 3:25; Mathew 12:25.

¹⁶ Cf. Schlesinger, *The Disuniting of America*, 32–33.

¹⁷ See my "Pragmatic Pluralism and American Democracy," in: H. G. Callaway, *Pluralism, Pragmatism and American Democracy: A Minority Report* (Newcastle, U.K.: Cambridge Scholars, 2017), 47–74.

forced assimilation and have placed policy premiums on the side of social integration.

If American ethnic and racial diversity is to be integrated socially (and I use the term “diversity” in an all-*inclusive* sense, to include the entire population and all subgroups), then whatever the background or original affiliation of anyone, they must learn to reach across the boundaries of their own background and upbringing and attain to an understanding and appreciation of people with other backgrounds. At the very least, there must be a growth of appreciation of the needed (and comparatively thin) commonalities of American life and society. Politicized multiculturalism and identity politics resist this process – tending strongly to reconfigure cultural identities into interest groups practicing varieties of exclusionary politics. What is frequently sought is *political coalitions* of otherwise separate and inward-oriented identity groups.

A point that needs to be emphasized, concerning the social process of integration, is that people are changed in the process; they are not only integrated into the larger society, they are also, at the same time, *differentiated* from their own background reference groups. The process of social integration in a factually multiethnic society is also a process of individuation. In consequence, to reject the typically high levels of individuality in American society is to force people back into the reference groups of origin (or perhaps into a new alternative identity group). Rejecting high levels of individuality is divisive or *dis-integrative*.

It is fundamental in understanding the role of the typically high levels of individuality in the US (and a tendency in any pluralistic society) to emphasize and observe the distinction between pluralism and politicized multiculturalism. Social and cultural pluralism (which contrast with the “interest-group pluralism” of the political scientists) is an indigenous American concept, including a long twentieth-century development.¹⁸ It is better suited to historical American developments and general conditions of American society, while politicized multiculturalism is chiefly a European (and often neo-liberal) import.¹⁹ In spite

¹⁸ See the Introduction, “The Meaning of Pluralism,” in: *William James, A Pluralistic Universe*, ed. H. G. Callaway (Newcastle, U.K.: Cambridge Scholars, 2008), xi–l.

¹⁹ The original European, multiculturalist, political paradigm is plausibly a leftward oriented U.K. with its four, ethnically defined sub-polities: England, Wales, Scotland and Northern Ireland. Assimilating or passing over American discussions of cultural pluralism in favor of politicized multiculturalism, the Oxford political scientist Alan Ryan did some disservice to the distinctiveness of American pluralism. See Alan Ryan, *John Dewey and the High Tide of American*

of that, the two terms are often conflated. Conflating politicized multiculturalism with factual diversity or with the philosophical tradition of cultural pluralism – which originated in a critique of the demand for one-sided assimilation – threatens moral and political fragmentation of American society with European-style ethnic nationalism.²⁰ We can fairly reject demands for overall uniformity and one-sided assimilation without falling into the opposite error of general, ethnic-racial or identitarian balkanization.²¹ The rigidities of identity politics set self-interest and pride against traditional, social integrative practices, weaken the middle-class basis of moderate liberal, economic policy and politics, and tend to block the formation of new groups (crossing identitarian boundaries), as needed for reform and the solution of newly recognized problems – such as our growing inequalities over several decades.

We generally assume in the US that people of foreign background or those showing the imprint of their particularities of background, race, religion, birth, or early socialization can still be welcomed and still be loyal to democratic principles, loyal to the Constitution – and like Packer, patriotic. In a country so largely based on mutual tolerance, immigration, the surrender of traditional European enmities and the slow processes of social and political integration, it seems clear that constitutional loyalty and patriotism, though these are limitations on uncritical association, “networking” and political maneuvering, are not too much to expect from citizens and permanent residents alike. We are obligated to engage across our differences as a condition of being one people

Liberalism (New York–London: Norton, 1995), 171–173; 193–194. However, *within* most continental countries, multiculturalism was rejected – Belgium being a notable exception. Contrast the integrative concept of “pluralist multiculturalism” in Will Kymlica, “Ethnic Associations and Democratic Citizenship,” in: *Freedom of Association*, ed. Amy Gutmann (Princeton, NJ: Princeton University Press, 1998), 206.

²⁰ The post-WWII. era was a “period of re-colonization,” according to philosopher and Dewey scholar Raymond Boisvert, and “the classical American philosophers were quickly marginalized as universities sought to embrace the latest European ideas.” “Positivism and existentialism were imported from the continent, and language analysis from the British Isles,” and “the academics who embraced” the imports “too often took on the role of imperialists seeking a thorough re-colonization of the American territory.” Cf. Raymond Boisvert, *John Dewey: Rethinking our Time* (Albany, NY: State University of New York Press, 1998), 3.

²¹ Cf. Schlesinger, *The Disuniting of America*. The degree of contemporary political “balkanization” in the U.S. is perhaps best captured by Fukuyama on “vetocracy.”

and having one country. Though citizens, in accordance with the post-Civil War Fourteenth Amendment include all those born in the country, "We the people," in some contrast, are self-made and self-reformed by an integrative social process wherever we are born; and this process proceeds by peer-to-peer interaction. Social and political interaction and joint purposes are the very mechanism of developing mutual trust and desirable social and cultural integration.

The intensive loyalties of identity politics are more than deeply divisive. As Packer puts a related point: "In practice, identity politics inverts the old hierarchy of power into a new one: bottom rail on top. The fixed lens of power makes true equality, based on common humanity, impossible."²² Likewise, identity politics makes equality before the law, equality of opportunity and our common citizenship and joint destiny in a republican commonwealth all but impossible. Presumably, even the best human beings – if standing outside the coalitions of identity politics – may be sacrificed for the political purpose of equality of outcomes among identity groups. This is a denial of our broadly held and deeply rooted legal and social norm of equality of opportunity; and one may suppose that individual merit, too, is to be sacrificed to equity of outcomes among groups.

In consequence, it seems that the route of any personal career or aims in Packer's "Just America" is now to proceed via a primary loyalty to one or another factional identity group. However, can we reasonably expect that Packer's "Smart America," of industry, high finance, globalization and technological advancement, let alone his libertarian, Reaganite "Free America" or the "True America" of the Republican base, will ever fully accept this conclusion? There is every reason, evident in divisiveness and political dysfunction, to believe they will not. To surrender equality of opportunity amounts to setting one demographic group against others in a politicized, zero-sum game. While Packer does not embrace any of the four contending narratives, he holds that none of them can be simply eliminated or defeated.

Packer predicts that the highly critical perspective on American history embodied in what he calls "Just America," a narrative which rose to prominence with the murder of George Floyd, "will end in tragedy":

Just America's origins in theory, its intolerant dogma, and its coercive tactics remind me of 1930s left-wing ideology. Liberalism as white supremacy re-

²² Packer, "The Four Americas": 76.

calls the Communist Party's attack on social democracy as "social fascism." Just American aesthetics are the new socialist realism.

The dead end of Just America is a tragedy. This country has had great movements for justice in the past and badly needs one now. But in order to work, it has to throw its arms out wide. It has to tell a story in which most of us can see ourselves, and start on a path that most of us want to follow.²³

In order to effectively deal with contemporary problems and escape political divisiveness and dysfunction, what are needed are broadly based political coalitions which cross the boundaries of our backgrounds, origins, racial, ethnic and religious differences. We need "a story in which most of us can see ourselves." That, in turn, will require a significant dose of patriotic attention to where we have been historically, what we have accomplished, and where we really want to go as a country.²⁴ We do need to attend to historical defects and deficiencies, but within the context of America's founding ideals and their successes. Exclusive, inward looking self-definition of various identity-groups, by reference to subjective hypersensitivities, makes the needed processes only more difficult – if not impossible.

3. The Thick and Thin of Human Dignity

The concept of human dignity is prominent in European law; and Fukuyama notes that the German constitution or "Basic Law," Article I, Section I, provides that "The dignity of man is inviolable" [*Die Würde des Menschen ist unantastbar*]; and "To respect and protect it shall be the duty of all public authority."²⁵ The South African constitution similarly states that "Everyone has inherent dignity and the right to have their dignity respected and protected."²⁶ Similar provisions can be found in the constitutions of other countries including India, Italy, Ireland, Japan and Israel; and the Charter of Fundamental Rights of the European Union (2000) states that "Human dignity is inviolable. It must be respected and protected." Still the concept of human dignity receives precise definition in none of these documents; "[...] there is little common understanding

²³ Ibidem: 78.

²⁴ See, for instance, Gordon S. Wood, *Power and Liberty, Constitutionalism in the American Revolution* (New York–Oxford: Oxford University Press, 2021).

²⁵ Quoted, Fukuyama, *Identity*, 51.

²⁶ Ibidem.

of what dignity requires substantively within or across jurisdictions."²⁷ That is part of what makes broader judicial and legal use of the concept of human dignity problematic. People strenuously disagree about what counts to or is required for protection of human dignity, and this is especially evident in larger, multiethnic and multiracial societies. The demand for recognition, often enough, is simply an assertion or claim to power; and identity-group power and activism are thought to be a requirement of human dignity. It should be noted that the concept of human dignity made no appearance in the European Convention on Human Rights (1950), and in consequence was not included in the UK's Human Rights Act (1998) which made the European Convention the law of the United Kingdom.

The word "dignity" makes no appearance in the US Constitution, and its usage in American founding documents such as the *Federalist Papers*, chiefly concerns the dignity of public officials, institutions, and high offices. One might easily imagine that the broad European, constitutional usage arose by generalizing from a consensus on the dignity of the "great and good" to an insistence on the dignity of all. This was no doubt stimulated by the memory of World War II, the destruction of Europe and the horrors of Hitler's National Socialism. The Europeans are understandably wary of threats to human dignity. Yet more substantial interpretations of the concept vary from one country to another with the thicker cultural contexts. The US constitution does stipulate that, "the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people" (IX Amendment). However, the basic idea is that "governments are institute among men" to secure their (equal) rights, in the formulation of the Declaration of Independence,²⁸ and this premise is *consistent* with official expansion of recognized constitutional rights. The Supreme Court's recognition of a "right to privacy" is an example. While it might plausibly be argued that a "right to privacy" belongs to human dignity (a point not without interest for proposals to regulate mass surveillance via the internet), there is no US constitutional text suited to derive new constitutional rights *equal in force* to the enumerated rights. The "right to privacy" derives, in the decision on *Roe v. Wade*, from the constitutionally protected right to liberty and due process. (See also *Griswold v. Connecticut* and *Lawrence v. Texas*.) The court ruled in *Roe* that the due process

²⁷ Christopher McCrudden, "Human Dignity and Judicial Interpretation of Human Rights," *The European Journal of International Law* 19(4) (2008): 655; 722ff.

²⁸ Fukuyama, *Identity*, 156–157.

clause provides a “right to privacy,”²⁹ though it must be balanced against other interests, such as protection of the health of women and protection of prenatal life.

Fukuyama rightly sees Christian Democratic and Kantian roots in contemporary European doctrines of human dignity,³⁰ which often aim to ground human rights as subsidiary – supported by the claims of human dignity taken as primary.³¹ In consequence of the contrasts, for example, what counts as constitutionally protected free speech in the US is sometimes subject to prosecution elsewhere.³² Though the concept of human dignity is evoked to justify and support human rights, it also functions to curtail them or limit the scope of otherwise recognized human rights. In German constitutional law, “human dignity is at the top of the Basic Law’s value order,” and it “occupies the position that liberty may be said to play in the American Constitutional order.”³³ The American constitutional tradition, including the protection of First Amendment rights and historical developments by amendment may usefully be viewed, in this context, as encouraging vigorous public debate suited to a traditionally more adversarial style of politics in the large-scale, ethnically and religiously diverse Madisonian republic. What counts properly as a matter of “dignity” on the other hand, seems to vary with the devotion or intensity of political advocates domestically, and with policy decisions or resolutions in various, more consensus-oriented, ethnically defined European polities. Viewed in this light, the European concept of the constitutional protection of human dignity might be viewed as extending (something like) the traditional protection of high officials against insults to their honor (as, for example, in seditious libel law) to everyman. No one doubts, of course, that we all have an interest in avoiding insult and enjoying the esteem of compatriots. But it may be

²⁹ The Supreme Court recently overturned *Roe v. Wade* in *Dobbs v. Jackson Women’s Health*, finding no right to abortion in the US Constitution. The issue of abortion was effectively turned back to the state and federal legislatures, since *Dobbs* also found no constitutional prohibition of abortion. According to the court, in the controversial *Dobbs* judgment, a right to privacy of personal decisions or deliberation, implicit in the enumerated rights such as those of the Fourth Amendment, does not show the absence of state interest, subject to legislative protection, in corresponding actions.

³⁰ Fukuyama, *Identity*, 37–39.

³¹ *Ibidem*, 56; cf. Neomi Rao, “On the Use and Abuse of Dignity in Constitutional Law,” *Columbia Journal of European Law* 14 (2008): 206–207.

³² Fukuyama, *Identity*, 188.

³³ Donald P. Kommers, *The Constitutional Jurisprudence of the Federal Republic of Germany*, 2nd ed. (Raleigh, NC; London: Durham University Press, 1997), 359.

doubted that we will preserve the judicial protection of First Amendment rights in the US, if they are to be legally balanced and traded off against contrary interests.

4. Dignity in Comparative Politics

“Liberal democracy” functions as a disciplinary term of art in Fukuyama’s writings, and he aims to include all those systems based on electoral democracy and the rule of law combined with market economies. Room must be made for *thymos* and human dignity generally. His critical assessment of American “identity politics” is only part of the story, then, and Fukuyama understands the European Union as playing an important role in diminishing the traditional dangers and excesses of European ethnic nationalism.³⁴ Fukuyama proceeds by a quasi-constructive mode of comparative international politics; and as things stand, emphasis on human dignity, though substantially undefined, is a commonality of the liberal-democratic world. Obviously, Fukuyama would like to see liberal democracies flourish and expand in numbers. Turning to the contrasts, Fukuyama does take note of a major division between dignity understood by reference to liberal individuality, individual self-development and self-realization, as contrasted with the dignity of collective or communitarian identities, whether religious or national.³⁵ He argues that by means of progressive democratic inclusion, though, liberal individualism has “evolved in a collective direction” such that the two strands “ended up converging in surprising ways.”³⁶

The convergence is far from total, however, and unreflective or uncritical usage of the term “human dignity,” may sometimes create an illusion of greater convergence or clarity than is actually at hand. Consider for instance high court decisions regarding abortion – a topic Fukuyama does not address. The basic point of interest is that European arguments from dignity appear on both sides of the issue. According to the first abortion decision of the German Constitutional Court (1975), “developing life also enjoys the protection which Article 1 (1) accords to the dignity of man.”³⁷ (This was two years after the US Supreme Court made

³⁴ Fukuyama, *Identity*, 62.

³⁵ *Ibidem*; cf. Kommers, *Constitutional Jurisprudence of the Federal Republic of Germany*, 307–308.

³⁶ Fukuyama, *Identity*, 92.

³⁷ Abortion Case 1, 39 BVerfGE, 1.

its decision in *Roe v. Wade*.) The call for human dignity in the first German judgment was later substantially reiterated in a second 1993 decision of the German Constitutional Court, stating that, "The Basic Law requires the state to protect human life, including that of the unborn. This obligation to protect is based on Article 1, paragraph 1."³⁸ However, the first decision sustained criminalization of abortion, except where the life of the mother is endangered or in cases of rape, while the second decision allowed the state to protect unborn life, merely via mandatory counseling and a waiting period. The first decision, like the second, drew on a constitutional premise of "inviolable" human dignity and the need to protect it, but the two decisions differed greatly on the implications of this requirement. The differences amounted to a significant liberalization of German abortion law. Meanwhile, despite several decades of litigation, and drawing on the Charter of Fundamental Rights of the European Union and other statements of the need to protect human dignity, the European Court of Human Rights has never been able to decide if human dignity requires protection of the fetus or not.³⁹

What these divergences of judicial decisions tell us is that even on the most expansive and communitarian readings, the protection of human dignity does not suffice to answer all the common questions and debates about human rights – and the right to life in particular. The German Constitutional Court mentions the "right to life" of the unborn, but immediately balances this against contrary interests.⁴⁰ Although more communitarian readings of dignity do favor forms of collective "identity politics," that is one of the problems with such readings. They have eventuated in more populist and nationalistic political configurations in Europe. One cannot help but notice that the EU is currently suffering the shocks of Brexit, Russia's effective blockage in Ukraine of further East European expansion, the growth of right-wing populist and nationalist movements in Western Europe and "illiberal democracy" in Eastern Europe. Still, according to Fukuyama, "that the demand for dignity should somehow disappear is neither possible or desirable."⁴¹ In consequence, Fukuyama's criticisms largely fall on rigidly collective or communitarian concepts of human dignity as expressed in identity politics

³⁸ Abortion Case 2, 88 BVerfGE, 203.

³⁹ McCrudden, "Human Dignity and Judicial Interpretation of Human Rights," 709.

⁴⁰ Kommers, *Constitutional Jurisprudence of the Federal Republic of Germany*, 350.

⁴¹ Fukuyama, *Identity*, 163.

of the right or the left. The point will perhaps be better understood by reference to the theme of American national identity and Fukuyama's references to political scientist Samuel Huntington's last book, *Who Are We?* (2004).

A passive and purely creedal American identity (of constitutional loyalty) is not sufficient, according to Fukuyama, nor can we get along without a common identity, rooted in virtues and cultural values. For Fukuyama, "[...] diversity cannot be the basis of identity in and of itself; it is like saying our identity is to have no identity; or rather that we should get used to our having nothing in common and emphasize our narrow racial or ethnic identities instead."⁴² "Would America be the America it is today," Huntington asked, "if in the seventeenth and eighteenth centuries it had been settled not by British Protestants but by French, Spanish or Portuguese Catholics?" The answer is no. It would not be America; "it would be Quebec, Mexico or Brazil."⁴³ However, this does not amount to a criticism of Quebec, Mexico, or Brazil. Instead the point is to emphasize the particularity of U.S. cultural background and sociopolitical development – say, within the English-speaking world. Nor does this observation of Huntington's signify that the origin of American society requires that we should all think and behave like Englishmen living in the colonies. That, quite obviously, is not who "We the people" are.

The question is whether there are particularities of American social and political tradition worthy of being cultivated and preserved. What comes to mind as an example, is the practice of building new groups, across old divisions, for new purposes and to meet emerging problems. Expansion of this practice, often going by the name of "outreach," would certainly tend to challenge the hold of vetocracy. Fukuyama recommends a strengthening of American national identity by common values and emphasis on the rights and obligations of citizenship;⁴⁴ he criticizes bilingual education, for example,⁴⁵ and in general he favors less rigid, more flexible, open concepts of political identity. Still, it is impor-

⁴² Ibidem, 159.

⁴³ Ibidem, 160, from Samuel Huntington, *Who Are We?* (New York: Simon and Schuster, 2004), 59. Cf. Michael Walzer, *What it Means to be an American* (New York: Marsilio, 1996).

⁴⁴ Fukuyama, *Identity*, 173–174.

⁴⁵ Ibidem, 173. Cf. Charles Taylor 1997, "Nationalism and Modernity," in: *The Morality of Nationalism*, ed. J. McMahan, R. McKim (New York: Oxford University Press, 1997), 34. Taylor takes the view that an "official" language advantages majority culture, and "Speakers of other languages are at a distinct disadvantage."

tant to take note of Fukuyama's criticism of "expressive individualism," based again on the need of common values in social and political life.⁴⁶

What, then, are the plausible common values of American social and political life? One answer is that there is a distinctive form of sociality intertwined with highly developed modes of individuality; and this form of sociality resists rigid or collectivized self-identification. This theme has much to do with the contrast between American pluralism and politicized multiculturalism. The result of various cultural inputs into the American population over centuries has been an American nationality, in which liberty and personal judgment are central, and not a simple accumulation and preservation of the various cultural sources. Crossing rigid boundaries, individuals are often capable of integrating with others on the basis of common purposes, joint undertakings and enterprise. One key to this process is the freedom of association (and dis-association) of one person to another. Interaction on a personal basis integrates participants with each other and favors mutual assimilation; so long as policy incentives do not favor identitarian separation. It is significant to appreciate in this context that the US has no officially constitutive and represented, ethnic sub-polities – in contrast, say, with the UK or Canada.

The Canadian philosopher, Charles Taylor, arguing for multiculturalism, commented on human interaction and themes stemming from George Herbert Mead. Taylor wrote that "people do not acquire the languages needed for self-definition on their own." "Rather," he writes, "we are introduced to them through interaction with others who matter to us – what George Herbert Mead called 'significant others'"; he concludes that "the genesis of the human mind is in this sense not monological, not something each person accomplishes on his or her own, but dialogical."⁴⁷ Taylor continues:

Moreover, this is not just a fact about genesis, which can be ignored later on. We don't just learn the languages in dialogue and then go on to use them for our own purposes. We are of course expected to develop our own opinions, outlook, stances toward things, and to a considerable degree through solitary reflection. But this is not how things work with important issues, like the definition of our identity. We define our identity always in dialogue

⁴⁶ Fukuyama, *Identity*, 55–56.

⁴⁷ Charles Taylor 1994, "Multiculturalism and the Politics of Recognition," in: *Multiculturalism and the Politics of Recognition*, ed. Amy Gutmann (Princeton, NJ: Princeton University Press, 1994), 32.

with, sometimes in struggle against, the things our significant others want to see in us.⁴⁸

However, what goes missing here is insight into the fact that particular individuals can and do enter into life and interaction as “significant others” one by one. It is not just that we “develop our own opinions, outlook, stances toward things,” as Taylor emphasizes, “through solitary reflection.” Nor is human identity completely determined by relation to rigid, pre-configured groups, however much human beings may originate from and persist in such groups. Instead, self-definition can also be understood and accomplished partly through reaching out, and our departures from limitations of background reference groups and rigid identitarian configurations. It is just such distinctive and individualized interaction and joint projects which best explain the remarkable facility of American society to integrate and welcome newcomers. One may suppose that identity in Taylor’s multiculturalism is more open than subsequent developments in identity politics, but flexibility of political identities requires contemporary emphasis.

There is evidence that associational life among Americans is in decline, and this is a source of concern because private associations form the fabric of civil society which, via the consent of the governed, exercise democratic constraint upon government and government officials. This suggests that voluntary association is being replaced in a significant degree by obligatory and exclusionary groupings and organizations which exercise undue authority or inappropriate identitarian discipline upon membership. With mention of work done by political scientist Robert Putnam, Amy Gutmann wrote that “a decreasing proportion of Americans have been joining traditional associations such as churches and synagogues, trade unions and civic groups, parent-teacher associations and even bowling leagues;” and at the same time, “an increasing proportion have been joining self-help groups, radical religious sects and other traditionally less mainstream associations.”⁴⁹ The observation provides a glimpse into the contending social effects of the contrasting practices of traditional American pluralism and politicized multiculturalism.

⁴⁸ Taylor, “Multiculturalism,” 32.

⁴⁹ Amy Gutmann, “Introductory Essay,” in: *Freedom of Association*, 5. See also Gutmann’s opening quotation and discussion of the traditional roles of association in American democracy, 3.

5. Human Dignity in American Law

Though the concept of human dignity is not found in the US Constitution, it has nonetheless made its appearance in US judicial arguments and decisions. In relation to Fukuyama's account, it is interesting to pose the question of whether US judicial usage of "human dignity" has functioned to strengthen or discourage identity politics. We may ask, for example, if liberty is for the sake of dignity or if dignity must serve liberty. Again, how are we to understand liberty? Here we find Fukuyama's brief criticism of retired Justice Anthony Kennedy's views in *Planned Parenthood v. Casey* (1992). What Fukuyama finds problematic is not the outcome of the case but Justice Kennedy's supporting argument that liberty includes "the right to define one's own concept of existence, of meaning, of the universe and of human life."⁵⁰ For Fukuyama, this is a radical concept of human autonomy elaborating Justice Kennedy's own concept of human dignity – which he compares to the cultural radicalism of Nietzsche. At the least, it does not sound much like the traditional (and quasi-Aristotelian) "pursuit of happiness." Kennedy is well known for his appeal to foreign and international conceptions of human rights in the interpretation of the U.S. Constitution. Justice Kennedy is also sometimes thought a "libertarian," but emphasizing his pro-corporate opinion in *Citizens United v. FEC* (2010) and given his influential role in *Bush v. Gore* (2000), it might plausibly be thought that he is an institutionalist at heart, taking the view that only powerful institutions can support the diversity and degrees of individual variation one might come to expect in society – given sufficient emphasis on dignity and autonomy. This seems to be a denial of the traditional idea that the viability of the republican polity depends on commonality of values and public virtue. Though Fukuyama does not go so far, one might consider the substantially undefined concept of human dignity a kind of wild card inserted into the otherwise orderly, decorous and traditional enumeration of American constitutional rights.

It is worth noting that Fukuyama does not want to blame the cultural left for the rise of populist nationalism at home or abroad, though he notes the left's role in shifting political focus away from traditional concern for economic issues and support of the broad interests of working people. He does favor strong institutions and bureaucratic "state capacity" and he seems to entertain no positive conception of populist move-

⁵⁰ Quoted, Fukuyama, *Identity*, 55.

ments (e.g., the role of the People's Party and William Jennings Bryan in the background of early twentieth-century American Progressivism – and the taming of the Gilded Age). He views populism chiefly in terms of the irrational, the charismatic addiction to strong men and/or in terms of ethnically or religiously based nationalism and exclusion.⁵¹ In spite of that, he is willing to criticize our internationalizing elites for ignoring the economic and social effects of globalization on ordinary people: their stagnant incomes, loss of opportunity, and loss of social status. One might say that by American lights, human dignity includes opportunity to work, and economic security for the lower middle-class.⁵²

Fukuyama readily identifies with the international, cosmopolitan elites and the international system built up in broad strokes by means of the economic expansion of globalization. In this way, he is somewhat less critical of Packer's "Smart America." U.S. conservatives tend to resist his broad, internationally oriented concept of "liberal democracy," though Fukuyama's break with the U.S. neo-conservatives over the second Iraq war has polished his liberal reputation.⁵³ In the end, one may doubt that we can presently conceive or implement an American (and international) institutional system or "world order" adequate to the objectives of world governance (and control of the financial instabilities of globalizing economic expansion) that will plausibly fit and sustain the American conception of democratic self-government based on constitutional rights, (domestic) "consent of the governed," and the ideal of "government of the people, by the people and for the people." "Liberal nationalism," especially in a freewheeling, neoliberal style, or in the style of Cold-War liberalism, appears an unstable political configuration – tending to break down in one or the other direction when lacking special conditions of external threat or national duress. Fukuyama is wary of ethnic nationalists, since "they often play by democratic rules, but harbor potentially illiberal tendencies due to their longing for unity and community."⁵⁴ But lacking political unity at home, more ambitious liberal foreign policy tends to be stymied.

⁵¹ Ibidem, x–xii.

⁵² Cf. William A. Galston, "The Bitter Heartland," *American Purpose* (2021) March 31.

⁵³ See Francis Fukuyama, *America at the Crossroads* (New Haven: Yale University Press, 2006).

⁵⁴ Fukuyama, *Identity*, 69.

6. Conclusion

What has often been the aim, and in the offing, in the political project of globalization is a form of international “rule-based” governance whose chief supporting constituencies are the great institutions (public or private, civilian or military, domestic and international) that governments create, finance, and encourage or which governments themselves control (plus related bandwagon rent-seeking) – though these large-scale institutions, and positions within them, may also be plausibly thought to stand at the root of Fukuyama’s dreaded “vetocracy” in which “minority views can easily block majority consensus.”⁵⁵ In consequence, identity politics seems to be an extension of the vetocracy aiming for greater domestic justice – understood as “equity.” Our related, often dysfunctional, contemporary domestic politics focuses *not* on promoting the “general welfare” and the common good, but excessively attends to relations of political patronage for, and support from, our well-organized, influential, large-scale institutions. From that perspective, the practices and doctrines of “identity politics” appear chiefly to propose supporting recruitment criteria for the ruling institutional elites. It is no great surprise, on this account, that major institutions (universities, large corporations, the mainstream media) have supported the demands of identity politics. The ambitious attempts to organize, liberalize and democratize the dysfunctional and dangerous conflicts of the international system have effectively imported deeper, contentious conflicts and political intransigence into domestic politics. Globalization has required continuous trade expansion and many contending large-scale institutions, but continuous trade expansion and many contending, large-scale institutions tend to disrupt domestic tranquility and introduce discontent.

Following Fukuyama, identity politics of the right or the left constitute a danger to liberal democracy, by threatening domestic commonalities of values and undermining inclusive, domestic sociopolitical unity. The danger of political fragmentation points in turn to a lack of political balance between a reliance on constituent institutions of globalization (public and private, governmental or corporate) suited to deal with world-scale markets and international relations, and the policy requirements of domestic tranquility. Readers of *Identity* will be interested in Fukuyama’s final chapter, “What is to be Done?”

⁵⁵ *Ibidem*, 177.

George Packer has correctly recognized the roles of growing economic inequalities and economic insecurity in domestic discontent and in our political factionalism and fragmentation. This factor helps us to understand both the revolt of “True America” against “Free America” (for instance in the “Tea-party” movement) and the revolt of “Just America” against the globalizing, political-economic orthodoxy of “Smart America.” Yet it may be doubted that Packer’s solution by means of a focus on the ideal of moral and legal equality alone will suffice. Americans do certainly care about equality before the law and equality of opportunity, but “liberty” too enters in. In the words of the Declaration, it is a matter of equal rights: “All men are created equal” and endowed with “inalienable rights.” Understood in relation to constitutive American values and tradition, the dignity of ordinary people contrasts political schemes of redistribution with economic opportunity based on individual freedom of association (and disassociation).

A solution that comes to mind is a limitation of economic globalization and trade expansion by reference to the evident and substantial difficulties and political blockages of *international* economic and financial regulation. The prospect of effective and adaptive regulation presently falls to national governments; this will not easily be changed. It is one of the reasons for renewed international emphasis on the nation-state. Yet national governments have cultivated the support of large-scale, internationalizing corporations and institutions – institutions often lacking in developed national commitments. In the end, a fast-paced, more ambitious foreign policy depends on effectively attending to related domestic discontent and maintaining domestic tranquility. But this point also suggests the need to limit the power of large-scale globalizing institutions to engage in “vetocracy” as they draw on foreign and cosmopolitan support in their conflicts with contrary domestic interests or prospective national consensus.

Bibliography

- Boisvert Raymond. 1998. *John Dewey: Rethinking our Time*. Albany, NY: State University of New York Press.
- Callaway H. G. 2008. *William James, A Pluralistic Universe*. Newcastle, UK: Cambridge Scholars.
- Callaway H. G. 2017. “Pragmatic Pluralism and American Democracy.” In: H. G. Callaway, *Pluralism, Pragmatism and American Democracy: A Minority Report*, 47–74. Newcastle, UK: Cambridge Scholars.

- European Union Agency for Fundamental Rights. 2000. "Charter of Fundamental Rights of the European Union." *Official Journal of the European Communities* C 364,18.12: 1–22.
- Fukuyama Francis. 1989. "The End of History?" *The National Interest* (Summer Issue): 3–18.
- Fukuyama Francis. 1992. *The End of History and the Last Man*. New York: The Free Press; Simon and Schuster.
- Fukuyama Francis. 2006. *America at the Crossroads, Democracy, Power and the Neo-conservative Legacy*. New Haven, CT: Yale University Press.
- Fukuyama Francis. 2011. *The Origins of Political Order*. New York: Farrar, Straus and Giroux.
- Fukuyama Francis. 2014. *Political Order and Political Decay*. New York: Farrar, Straus and Giroux.
- Galston William A. 2021. "The Bitter Heartland." *American Purpose* (March 31 Issue).
- Gutmann Amy. 1998. "Introductory Essay." In: *Freedom of Association*, ed. Amy Gutmann, 3–32. Princeton, NJ: Princeton University Press.
- Huntington Samuel. 2004. *Who Are We? The Challenges to America's National Identity*. New York: Simon and Schuster.
- Kommers Donald P. 1975. *The Constitutional Jurisprudence of the Federal Republic of Germany*. 1997, 2nd ed. Durham, NC & London: Duke University Press.
- Kymlica Will. 1998. "Ethnic Associations and Democratic Citizenship." In: *Freedom of Association*, ed. Amy Gutmann, 177–213. Princeton: Princeton University Press.
- Lincoln Abraham. 1858. "Speech at the Illinois Republican Convention, Springfield Illinois, June 16, 1858," reprinted in Neely, Mark E. Jr. 1982. *The Abraham Lincoln Encyclopedia*. New York: Da Capo Press.
- Madison James. 1787. "The Same Subject Continued, The Union as Safeguard against Domestic Faction and Insurrection." *Federalist Papers No. 10*. In: *The Federalist*. Introduction Edward Mead Earle. 53–61. New York: Random House, 1937.
- McCrudden Christopher. 2008. "Human Dignity and Judicial Interpretation of Human Rights." *The European Journal of International Law* 19(4): 655–724.
- Packer George. 2021. "The Four Americas, How America Fractured into Four Parts." *The Atlantic* (July–August Issue): 65–78.
- Packer George. 2021. *Last Best Hope, America in Crisis and Renewal*. New York: Farrar, Straus and Giroux.
- Rao Neomi. 2008. "On the Use and Abuse of Dignity in Constitutional Law." *Columbia Journal of European Law* 14: 201–254.
- Roosevelt Theodore. 1915. "Columbus Day Speech to the Knights of Columbus, at Carnegie Hall, October 12, 1915." In: Philip Davis. 1920, 645–660. *Immigration and Naturalization: Selected Readings*. Boston–New York: Ginn and Co.
- Ryan Alan. 1995. *John Dewey and the High Tide of American Liberalism*. New York–London: Norton.

- Schlesinger Arthur, Jr. 1991. *The Disuniting of America, Reflections on a Multicultural Society*. New York–London: W. W. Norton.
- Taylor Charles. 1994. “Multiculturalism and the Politics of Recognition.” In: *Multiculturalism and the Politics of Recognition*, ed. Amy Gutmann. Princeton, NJ: Princeton University Press.
- Taylor Charles. 1997. “Nationalism and Modernity.” In: *The Morality of Nationalism*, ed. Jeff McMahan, Robert McKim. New York: Oxford University Press.
- Walzer Michael. 1996. *What it Means to be an American*. New York: Marsilio.
- Wood Gordon S. 2021. *Power and Liberty, Constitutionalism in the American Revolution*. New York–Oxford: Oxford University Press.

CASES CITED:

Federal Republic of Germany

Abortion Case 1, 39 BverfGE 1 (1975).

Abortion Case 2, 88 BverfGE 203 (1993).

United States

Bush v. Gore, 531 U.S. 98 (2000).

Citizens United v. Federal Election Commission, 558 U.S. 310 (2010).

Griswold v. Connecticut, 381 U.S. 479 (1965).

Lawrence v. Texas, 539 U.S. 558 (2003).

Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992).

Roe v. Wade, 410 U.S. 113 (1973).

Dobbs v. Jackson Women’s Health Organization, 597 U.S. 19-1392 (2022).

Summary

This paper focuses on moral, legal and constitutional issues arising from debates and political conflicts centered on identity, human dignity, recognition and identity politics.⁵⁶ In his 2018 book, *Identity, the Demand for Dignity and the Politics of Resentment*, Stanford University political scientist Francis Fukuyama addresses themes properly considered matters of political philosophy and the philosophy of law: How are we to navigate between traditional, sometimes ethnic-racial or religious, and unitary conceptions of the nation-state on the one hand, and the threat of identitarian fragmentation on the other? Fukuyama affirms the importance of the concepts of human dignity and identity, and he also criticizes contemporary identity politics – which he views as a danger to liberal democracy. “The rise of identity politics in modern liberal democracies,” writes Fukuyama, “is one of the chief threats that they face;” and “unless we can work our way back to more universal understandings of human dignity, we will doom

⁵⁶ A shorter version of this paper was presented at the International Philosophical Conference, “The Individual and the Community in American Philosophy Today and in the Twentieth Century,” sponsored by the Institute of Philosophy and Sociology of the Polish Academy of Sciences, April 7, 2022.

ourselves to continuing conflict.” Fukuyama’s criticism of identity politics has more recently found some parallels in writings of the prominent American journalist George Packer and his 2021 book, *Last Best Hope*. Drawing on Fukuyama’s arguments and Packer’s complementary criticism from the center-left, this paper also raises a related question of whether the well-reasoned case against identity politics as a threat to liberal democracy, national unity, and purpose does not create greater room for a skepticism of fast-paced and ambitious (“Wilsonian”), liberal-internationalist goals and globalization. Greater emphasis on political consensus at home may strengthen the hand of American foreign policy in support of liberal democracy, partly because we now look back with well-founded skepticism on neo-conservative interventionism and “forever wars.” The argument is that just and needed limits on globalizing internationalism are implicit in the criticism of identity politics. Having lost the unity of purpose of Cold-War liberalism, we have yet to find a “golden mean” avoiding divisive ethnic nationalism and identitarian fragmentation.

Keywords: identity politics, human dignity, Francis Fukuyama, George Packer, globalization, liberal democracy, democratic accountability, nationalism, factionalism, vetocracy