The Changing Face of a Nation: American Phenomena

Richard Olehla, Benjamin Cunningham
William A. Cohn, Stephen Baskerville, John Jack Rooney, Hrishabh Sandilya

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## American Phenomena

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>It Happens First in America</td>
<td>Stephen Baskerville</td>
<td>3</td>
</tr>
<tr>
<td>Brussels Bound</td>
<td>Cillian O Donoghue</td>
<td>9</td>
</tr>
<tr>
<td>The Radical Court</td>
<td>William A. Cohn</td>
<td>12</td>
</tr>
<tr>
<td>More Manic Than Movement</td>
<td>Benjamin Cunningham</td>
<td>21</td>
</tr>
<tr>
<td>Common Faith: Civil Religion in the US</td>
<td>Richard Olehla</td>
<td>26</td>
</tr>
<tr>
<td>Immigration in the United States</td>
<td>Roman Joch</td>
<td>32</td>
</tr>
<tr>
<td>Arizona’s New Law: A Call for Reform</td>
<td>Chris Stanislawski</td>
<td>35</td>
</tr>
<tr>
<td>An Inconvenient Truth: Pakistan’s ISI and the Afghan Taliban</td>
<td>John Jack Rooney</td>
<td>37</td>
</tr>
<tr>
<td>High on America: An interview with James Ragan</td>
<td>Hrishabh Sandilya</td>
<td>41</td>
</tr>
<tr>
<td>American Superheroes</td>
<td>Jiří Růžička</td>
<td>46</td>
</tr>
</tbody>
</table>

## Economics

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The End of Growth: Systemic Risks of Globalization</td>
<td>Alexander Ač</td>
<td>49</td>
</tr>
</tbody>
</table>

## Culture

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Museums for Sale: The Louvre and Guggenheim in Abu Dhabi</td>
<td>Karolína Fabelová</td>
<td>53</td>
</tr>
</tbody>
</table>
Introduction

America is changing; there can be no doubt about that. Two years ago, Barack Obama’s campaign slogan, “Change We Can Believe In,” culminated in a historic vote that won him his presidency and demanded that America redefine its stature both at home and abroad.

Today, the United States is in the throes of perhaps the deepest debate it has had to face about its identity, culture and ascendancy in the international sphere. In recent months America, and the world, have keenly observed the various challenges that question the fabric of the country.

The Tea Party phenomenon, the controversy over the Cordoba House and the dissension regarding Arizona’s new immigration laws are just a few examples of current affairs that have propagated tempestuous debate over a nation that is struggling to define what it has become and what it can be.

_The Changing Face of a Nation: American Phenomena_ presents and considers the changes that are transforming and redefining the character of the United States. It further examines the unique attributions of the nation that have resulted in its current position.

Whether it be Stephen Baskerville’s critique of the US welfare state or policy analyst Cillian O Donoghue’s assessment of the implications of a less US-centered Central and Eastern Europe, it is clear that changes within the country are reshaping the US and the world, and that the implications of such changes are yet to be realized.
Like most trends, it is happening first in America.

American conservatives lament that President Barack Obama’s health plan makes the United States just another “European-style” socialist state. Leftists likewise are overjoyed that the US has “finally joined the ranks of civilized nations,” as Diane Francis writes in the Huffington Post.

Yet the US is in fact doing more than this. At precisely the time when Europeans are confronting the limits of the welfare state, the US seems determined to vastly expand its own. Noting problems in Britain’s National Health Service (NHS) and weak government efforts to reform it, Janet Daley writes in the Daily Telegraph, “The US government, meanwhile, is galloping doggedly in the opposite direction, bizarrely determined to occupy precisely the ideological ground which Britain is abandoning.”

But this is not 1948, and Obama’s health plan is not the NHS. The US is not catching up to Europe. As usual, it is pushing the envelope and taking us into new, uncharted territory.

Unlike post-war Europe, the United States today is a wealthy and generally healthy nation. Its healthcare system has problems shared with other systems, but they are mostly caused by past regulation that the current plan will likely exacerbate. The Obama plan is not about medicine; it is about power. It can only become increasingly coercive as it seeks to operate in defiance of both the laws of economics and the wishes of most Americans.

European Exceptionalism

Since the Second World War, Western Europeans have managed to operate extensive quasi-socialist welfare systems without them becoming tyrannical. The systems have serious problems of financing their generous benefits. But the government machinery has not, so far, descended to the point of threatening freedom, as it did in the former Socialist bloc. Politically, the welfare-socialist experiment has until now been fairly painless.

I do not believe this can happen in the United States. Coming alongside massive nationalizations in the name of economic recovery, the nationalization of medicine marks a major step in the erection of an authoritarian state machinery unlike any in Europe but already well underway in the US.

Europeans managed to create welfare states and keep their freedom because of European affluence, education, and political
sophistication. Even in the post-war devastation, Europeans had skills and a work ethic (plus US aid and the defence umbrella). Europeans also valued (in varying degrees) longstanding principles of free government, even if they were often honoured in the breach. These achievements are rooted in a cultural consensus that European societies have attained painfully over centuries. I believe its ultimate roots lie in Christianity, with contributions from medieval constitutionalism, Renaissance and Reformation thought, and the Enlightenment. This culminated in a cultural and civic unity that allows Europe certain indulgences that other societies cannot afford. One is socialism without famines and gulags.

It is often observed that vices that are fashionable and seemingly harmless among the affluent and educated – social drinking, casual sex, recreational drug use – become destructive when spread to low-income communities. Socialism is the political equivalent. Socialist schemes among the poorer nations become poison, and the results are seen throughout the global South, where socialism has produced little besides mass displacement, bureaucracy, corruption, starvation, and terror.

The United States stands much closer to Europe than to the poor nations. But the US has made its own task harder and Europe’s easier by taking in Europe’s outcasts. The US has dedicated itself to being a processing centre for the human refuse from other countries. It is this that gives America its energy and dynamism, which expresses itself as spiritual enthusiasm, entrepreneurial drive, and brash extroversion. It is also what makes the welfare state perilous.

Social Gospel or Social Engineering?

A vibrant Christianity is critical to the American mission. If European elites find American Christianity annoying, they might recall that it was this version that turned some of the most backward regions of Europe into culturally and materially rich societies, the very societies that have produced the most “progressive” welfare states: Scandinavia, northern Germany, the Netherlands, England, Scotland, and Bohemia. It is no accident that a similar Christian revivalism is now sweeping Africa and other poor regions, where Western socialist engineering schemes have exacted a devastating economic and human cost.

But Christian reformism and welfare exist in an uneasy relationship. The United States is the most Christian country in the West. It also has the highest rate of divorce and unwed childbearing. By contrast, the country reputed to be the most atheistic in Europe – the Czech Republic – has one of the lowest rates. The easy explanation is that Americans are simply hypocrites, and the secular morality of European elites is equal if not superior to American evangelicalism. But a more plausible explanation is available.

A general conviction among Czechs that having children out of wedlock is wrong is the habit of centuries of inculcation, mostly Christian, that most Czechs have effectively forgotten. (The modern Czech nation, after all, was born in an evangelical revival, which was also a political revolution, closely connected to those in England and America.) This historical conditioning will not last forever, and more Czech children are now being born to unwed mothers. But it is one example of the kind of ethical infrastructure that an immigrant-dominated US must continuously work to build. Europeans may be eating their spiritual seed corn and squandering their cultural capital, but they have more of it than Americans. Until Americans can be as confident of this habit as Czechs, the religious convictions of conscientious
Americans will be vocal, as well they must be.

This is also why the minimal American welfare state, long before the more extensive European, produced welfare queens and ghettos of crime, substance abuse, and family dissolution. But with its new immigration, Europe is not far behind.

Socialism in America will never be the mutual aid society designed by Fabian intellectuals or their counterparts. (American Fabianism, the Democratic Socialists of America, is miniscule.) I doubt it will be this in Europe much longer.

American socialism will be much quicker to degenerate into the patronage network that socialism always becomes in the end, an American nomenklatura run by seedy politicians – latter day versions of Mayor Daley, who built the corrupt and thuggish Chicago machine (a product of European immigration) whose youthful face is Obama. The very passage of his healthcare bill put the politics of patronage on vivid display, using public revenues to pay off favored constituencies in return for political support.

Contrary to popular belief, the US already has one of the largest per capita government sectors in the world, even before new spending sprees for economic “stimulus” and healthcare. US government spending far exceeds most European countries, including Britain, Germany, Finland, and Iceland, plus Canada and New Zealand.

American welfare spending will already exceed $10 trillion over the next decade. This is for means-tested benefits alone. But non-means-tested benefits are growing fastest, as more middle-class constituencies seek a place on the public payroll. None of this includes growing expenditures for law-enforcement, education, and health to meet rising levels of crime and drug abuse that inevitably accompany American welfare.

But the American socialist state will not be simply a huge version of Tammany Hall. Nor will it be as crude and ramshackle as the Soviet apparat. It will be what history always produces: something new.

American Apparat

The basis of Obama’s new welfare socialism is what European socialism is also becoming: not working men in cloth caps singing “Solidarity Forever” or intellectuals in cafés smoking unfiltered cigarettes. The constituency is increasingly middle-class, suburban, university-educated, multicultural. Above all, it is sexual.
This new vanguard is the product of new sexualities and new, extra-familial childrearing arrangements — themselves largely products of the welfare state: single mothers and feminists, politicized homosexuals, children of divorce and others raised in institutions like day care, foster care, public housing, and public education. This new elite is not conscious of owing anything to previous generations or future ones. Education is seen as a matter of earning power, not transmitting knowledge or culture or values from one generation to the next. Their allegiance is not to family or community or country but to the ideological abstractions and bureaucratic machineries to which they owe their upbringing, education, livelihood, and advancement.

The members of this sexual New Class are, or aspire, to be on the public payroll: government workers, welfare recipients, grant recipients, government contractors, quangocrats, students from preschool to graduate school, inmates, and now even autoworkers, bankers, and the gargantuan medical industry. As loyalties like family and church diminish, more become dependent on and obedient to the state. They demand and contend for ever-greater portions of an ever-smaller pie. They acquire an interest in squeezing ever-more revenue out of ever-shrinking productive sectors to finance their benefits. To this end, they demand increased taxation supplemented by innovative finance schemes: traffic fines, student loans, child support awards, civil forfeiture — all are fair game to raise revenue, all are largely free of legislative control or oversight, and all involve criminal penalties without criminal safeguards for those who cannot protect themselves.

The epicenter of the new sexual socialism is, and has always been, America. For well over a century the US has been nurturing and exporting an aggressive sexual radicalism that is now most visible in feminist and gay activism but whose most destructive fallout is the soaring rate of divorce and unwed childbearing. “In America,” Thomas Masaryk observed back in 1925, “abortion has become a business, and…the number of divorces is legion.”

This politicization of sexual relations is fundamentally transforming society and government worldwide. Its fruits can be seen in the explosion of “social services” that increasingly constitute the welfare state — a vast underworld of quasi-police power that most people find too dreary to scrutinize: social work, child protection, child care, child and family counseling, child psychology, child support enforcement, juvenile and family courts, eldercare, healthcare. In the US, Britain, and elsewhere, this plainclothes gendarmerie is assuming ever-more intrusive control over the private lives of working people with children.

America’s Soft Gulag

Already the American welfare state, minimal as it may appear, has been much quicker than the European to translate into authoritarianism. America’s notoriously high level of incarceration, exceeded only by North Korea (with Britain close behind), is often attributed to “capitalism” or conservative demands for “law and order.” But this is an optical illusion. It is the direct product of the welfare state.

Contrary to the general perception, it is now well established in social science literature that virtually all violent crime — along with substance abuse and other threats to public safety and public health — proceeds not from poverty or race but from single-parent homes (further information on next page).
Virtually every major social pathology of our time: violent crime, drug and alcohol abuse, truancy and scholastic failure, unwed pregnancy, suicide and other psychological disorders – all these correlate more strongly to fatherlessness than to any other single factor. According to the National Fatherhood Initiative, “Children who live absent their biological fathers are, on average, at least two to three times more likely to be poor, to use drugs, to experience educational, health, emotional, and behavioral problems, to be victims of child abuse, and to engage in criminal behavior than those who live with their married, biological (or adoptive) parents.”

The overwhelming majority of prisoners, juvenile detention inmates, high school dropouts, pregnant teenagers, adolescent murderers, and rapists all come from fatherless homes. Children from affluent but separated families are much more likely to get into trouble than children from poor but intact ones, and white children from separated families are at higher risk than black children in intact families. The connection between single parent households and crime erases the relationship between race and crime and between low income and crime.

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1 Attempts to attribute these behaviors to poverty or racial discrimination have been refuted by studies that control for these variables. See Urie Bronfenbrenner, “Discovering What Families Do,” in David Blankenhorn, et al. (eds.), Rebuilding the Nest: A New Commitment to the American Family (Milwaukee: Family Service America, 1990), p. 34; Ronald Angel and Jacqueline Angel, Painful Inheritance: Health and the New Generation of Fatherless Children (Madison: University of Wisconsin Press, 1993), p. 188. Even left-wing scholars concur: Norman Dennis and George Erdos, Families Without Fatherhood (London: Civitas, 2000).

2 Horn and Sylvester, Father Facts, p. 15.


distributing largesse to raising revenue and employing police methods to do so. Originally designed to reimburse the state for payments to low-income single-parent households, it has become a coerced subsidy on fatherless households in the middle class, encouraging more of them. It is also a money-maker for the state, allowing officials to fill their coffers while piously proclaiming that it is all “for the children.” The formula rationalizes draconian measures not to punish criminal deeds but to squeeze money out of citizens who have done nothing to owe it: pre-dawn roundups, secret arrests, incarcerations without trial, suspension of due process protections, and beatings.

Prime Minister David Cameron recently announced his intention to import this system into Britain – ironically camouflaged as part of his programme to strengthen “the family.” Other European countries are also adopting these American innovations.

Punitive measures are now being expanded to other paternalistic “services” with which governments entice citizens before expropriating and criminalizing them. Obama’s health bill nationalises (of all things) student loans. This is another government profiteering scheme coming to Europe and one where collection methods used to extract child support – confiscation of driving licenses, professional licenses, and passports – are being extended. Easy credit also fans inflation in education, driving up university costs, making loans indispensable and putting students in permanent hock to a state that, unlike other creditors, can incarcerate them. The US government now operates as a loan shark.

The unprecedented abandon with which Western governments – largely at American instigation – have been spending to stimulate the economy (or perhaps, to buy political support) raises serious questions about how they plan to recover this money. Greece may seek bailouts rather than erect a penal apparatus to force its citizens to pay the bills, but not the US and Britain. Since it began, the Obama administration has been aggressively seeking to extract revenue from whatever modern-day kulaks they can identify and demonize. The face of today’s new welfare state is not the family practitioner. It is the revenue agent.

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For the past 20 years the Czech Republic, like most countries in the Central and Eastern European (CEE) region, has been high on America. Such ‘Atlanticist’ states became the torchbearers for Washington, and from Kosovo to Iraq to the deployment of missile defense shields, little debate was to be had about the merits of adopting a pro US stance.

In his decision to increase the number of troops in Afghanistan by 20 percent in the next year, Minister of Defense Alexandr Vondra is doing his best to ensure that the Czech Republic continues in its role as staunch ally to Washington. However, while the election of a center right coalition bodes well for the undertaking of such a stance, the pro – US orientation of Czech foreign and security policy is under greater threat than any time since 1989.

Such a posture contrasts with the more ‘Europeanist’ outlook of Western states such as France, who in the past have viewed American dominance of world affairs with far greater suspicion and called on Europe to emerge as a military player in the international arena. Their efforts to promote a stronger European Defense project have always been met with reluctance throughout the CEE region, fearing it would lead to a weakening of America ties to region.

These contrasting viewpoints came to a head in the time leading up to the Iraq War. While Secretary of Defense Donald Rumsfeld’s assertion that Europe is divided between ‘Old’ and ‘New’ member states may have been an offensive oversimplification, he did highlight two contrasting opinions towards America: that of the ‘Atlanticist’ versus the ‘Europeanist’. Such differences arise out of different geographical locations but also dissimilar historical experiences.

History weighs heavily in the Czech Republic and, along with geography, has been the foundation of Czech foreign policy over the past 20 years. During certain key or ‘formative’ moments, Czech elites developed rules and viewpoints that have directed their foreign policy orientation. These included a belief that security and independence is possible with the help of great powers (1918), a lack of trust that major European powers could provide security to the continent (1938), the need to keep alliances alive and credible (1938), a fear and mistrust of Russia (1968) and a debt of gratitude towards the US for their role in bringing down communism (1989).

Those with a numerical outlook will see that these formative experiences all have the uncanny ability of ending in an 8: 1918, 1938 1968 to 1989. While it is too early to assess the impact of 2008, the year Barack Obama was elected president...
could turn out to be another of these ‘formative years.’

**CEE Atlanticism eroded by Obama**

In prioritizing relations with Russia, Obama and his administration have taken their eyes entirely off the CEE region. Immediately upon his ascendance to the presidency the region became transformed from a key geostrategic zone into a political bargaining chip. The ‘demilitarizing’ of the missile defense project was clear from a letter hand delivered to Dmitry Medvedev three weeks after he took office (and leaked to the *New York Times*), in which Obama stated that he was open to overtures in the missile defense plan in exchange for Moscow’s cooperation with the Iranian nuclear issue.

The letter, along with large scale disinterest in the CEE region (the US has not had an ambassador in the Czech Republic since 2008), sparked a renewed sense of fear among Czech and CEE elites that the region was once again being sacrificed by an ally for the sake of broader geo-political goals – akin to Munich Agreement of 1938.

In reaction to Obama’s ‘Munich’ moment, on 1 July 2009 a group of Pro – American intellectuals and foreign policy makers published an open letter in the Polish daily *Gazette Wyborcza* urging the Obama administration to not cancel the missile defence project and instead to significantly strengthen its diplomatic and regional ties in CEE. Among the Czech contingent, former president Václav Havel, Minister of Foreign Affairs Karel Schwarzenberg and Minister of Defense Alexandr Vondra all spoke of a “growing sense of nervousness in the region.” The letter makes clear the region’s fear of growing Russian assertiveness in Europe, referring to the mammoth country as a ‘revisionist power.’

Such calls went unheeded and on 17 September 2009 the Obama administration cancelled the missile defense project.

The immediate reaction to the shelving of the project in the Czech Republic has been a realization of the need to diversify its allies and put emphasis on the European Security and Defense Policy (ESDP) as a second pillar of security. Even steadfast Atlanticist Vondra went so far as to say “it is the right time to take European security seriously.”

The Czech approach to ensure its security has also changed as naïve attempts to form some kind of special relationship with the US have disappeared (During missile defense negotiations a strong sentiment existed that the project would create a ‘special relationship’ between the US and the Czech Republic, one that would ensure exclusive protection, surpassing that of NATO). This has been replaced by more concrete attempts to gain new ‘Article V’ security guarantee in the new NATO security concept negotiations. Elsewhere in CEE, Poland, a more committed Atlanticist than the Czech Republic, has similarly modified its approach and made the ESDP a priority for its upcoming 2011 EU presidency.

As we witness the convergence of ‘Old’ and ‘New’ member state approaches to the US, the crucial question to ask is where will the Czech Republic be in the Atlanticist or the Europeanist camp in 10 years time. Speaking at the Prague 2002 Summit, historian and political writer Timothy Garton Ash questioned whether the countries of Central and Eastern Europe, so proud of their pro American orientation, will still be such stanch Atlanticists in 2012. Up to 2008 the answer would have been undeniably yes, but future trends are much less predictable.

**Future key questions**

Czech foreign and security policy post 1989 has been for the most part dominated by a small clique of pro-
Atlanticists who have pursued policies detached from a disinterested public. Progressively as Czech democracy matures, public opinion will become a much stronger determinant of foreign policy reminiscent of situation in Western European democracies. A ‘sexy’ issue that captures the public’s imagination could provide the catalyst for the first real public debate within Czech society on whether such a pro-Atlanticist leaning is the right direction for the country. In Slovakia the catalyst was the Iraq war which lead the left wing Smer party to victory on an anti-war platform. Once in government, they immediately shifted precedence away from Washington and towards Brussels.

Within the Czech Republic, divergent foreign policy viewpoints between left and right parties are similar to those of Slovakia’s political spectrum, suggesting that the future Czech position towards the US is not set in stone. Similar to Smer, the Czech Social Democratic party (ČSSD) would like a much stronger Europeanist foreign policy than presently exists. An upturn in fortunes for the left leaning Czech political parties in parliament would bode well, as parliament increasingly takes a more active role in foreign policy making vis-à-vis the inherently pro-Atlanticist institutions of the Ministry of Defense and Ministry of Foreign Affairs.

Regardless of which party is in power, the European Union or United States can best win Czech support by proving their ability to deal with a country where Czech foreign policy priorities and fears lay: Russia. Since the Czech EU presidency Czech elites, even those from the Civil Democratic party (ODS), are starting to see the EU as the preferential platform to deal with Russia in crucial areas such as energy security and enlargement. For the moment a common policy towards Russia is certainly lacking among member states but the future success of the European security project will be heavily contingent on ‘frosty pragmatists,’ such as the Czech Republic, and ‘strategic partners’ like Germany finding common ground.

History will have far less impact on the Czech Republic’s future than it has on the present. Memories fade and new elites will soon emerge who will care less and less about America’s role in bringing down communism. Unless America renews its interest in the region and starts rewarding allies for their loyalty, Czech elites may be left with no option but to start taking European security seriously.

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Suggested Reading


The Radical Court: Law unleashed, constitutional questions abound

William A. Cohn

What is the role of a judge? a court? a constitution? Is there a correct answer to every legal dispute? a correct approach? Does the life experience of a judge matter? Should it? The remarkable 2009-10 term of the United States Supreme Court (the Court) saw many significant rulings, generated much debate, and raised core issues of law. The past term underscored some worrisome trends which threaten to erode public faith in the Court as an impartial arbiter and in the American judicial system as a beacon of the constitutional rule of law.

The Court’s recently concluded term started unusually and ended with a bang. At the end of its 2008-2009 term, the Court directed the litigants in Citizens United v. FEC to prepare briefs on whether two precedent cases should be overruled, issues the parties had not presented to the Court, and scheduled oral argument for September 9 – before the new term officially began. This set the stage for its January 21 ruling that government cannot limit corporate political spending in elections because such a limit would violate the free speech rights of corporations. On June 28, at the end of its term, the Court struck down Chicago’s gun control law, ruling that the 2nd Amendment right to bear arms applies not only to federal law, but to state and local law as well. In between, the Court made important rulings on a range of issues, from antitrust to takings and from criminal procedure to text messaging.

Chief Justice John Roberts, who joined the Court just five years ago, took firm control of the Court’s docket (the Court hears only those cases it selects) and decisions this term. He was in the majority 92 percent of the time, more than any other justice. Critics say the Roberts’ Court has legislated from the bench, thus exposing its doctrinal hypocrisy in preaching judicial restraint and activism as it aggressively shapes law in accordance with its conservative bias. Defenders say the Court is interpreting the Constitution correctly, and restoring balance by correcting the liberal activism of the Court in prior decades. Here’s a review of some of the key rulings and controversies of the term, the jurisprudence debate beneath the surface, and a look ahead.

Freedom of speech for whom?

In Citizens United, a divided (5 to 4) court ruled the McCain-Feingold campaign finance law unconstitutional because it restricted the free speech rights of corporations in spending money to influence elections. Human rights lawyer Scott Horton writes that after Citizens United, “America stands alone as the only country in the world which grants human rights to corporations, just as it is curtailing human rights to humans. It’s a curious sign of the times.” U.S. President Barack Obama condemned
the ruling as promoting the further corrupting influence of special interest money and lobbyists in politics. Critics say the ruling enables corporations to overwhelm the political process, drowning out the voices of real people. With the Court deciding the case on constitutional grounds, it is not clear what, other than a constitutional amendment, Congress can now do to mitigate what is seen as the harmful impact of the ruling. Legislators are seeking to impose stringent sponsorship disclosure requirements on campaign ads and are exploring whether campaign finance reform law can pass constitutional muster.

Dissenters took issue with the procedure as well as the substance of the ruling. The case, which wiped out 20 years of case precedent and 60 years of statutory regulation, was originally far more limited — a challenge to a federal agency’s ban on a single anti-Hillary Clinton campaign video. The breadth of the ruling, and the manner in which the Court intervened to widen the scope of the case in an apparent reach to overturn decades-old precedent and acts of Congress, left the Court open to criticism for overstepping its role and disregarding the many constitutional limitations on judicial power designed to check any runaway court (Article III’s “case or controversy” limitation on standing; doctrines on mootness, ripeness, precedent and political questions - the Court should not seek to resolve questions best left to the political process). *Citizens United* was the most controversial case of the year and of the Roberts era. (For more on this decision see Ronald Dworkin’s articles in *The New York Review of Books*: “The Devastating Decision,” Feb. 25, 2010; and “The Decision That Threatens Democracy,” May 13, 2010).

The Court was less receptive to free speech claims by human rights activists and public interest lawyers who sought to provide counseling to groups on the U.S. State Department’s list of foreign terrorists. *Holder v. Humanitarian Law Project* was the first Supreme Court case of the post-9/11 era to pit free speech rights against national security, and the Court found that the government’s compelling interest in preventing terrorism outweighed the plaintiff’s free speech claims. The Court reached this conclusion without even asking the government to provide any evidence to support its claim that the goal of preventing terrorism
would actually be served by the speech restrictions at issue. In a 6-3 ruling the Court said that even advice on peaceful conflict resolution may be prosecuted under a law banning material support of terrorists. Attorney David Cole of the Center for Constitutional Rights says that if such law existed one year ago, President Carter may have been arrested for meeting with representatives of Hezbollah to advise them on fair election practices when he monitored the June 2009 elections in Lebanon.

Cole notes that the First Amendment has protected the right to advocate even the overthrow of the government, so long as one’s advocacy was not intended or likely to produce an imminent crime. In the Humanitarian Law Project case, however, “the Court ruled – for the first time in its history – that speech advocating only lawful, nonviolent activity can be subject to criminal penalty, even where the speakers’ intent is to discourage resort to violence. The Court’s decision is all the more disturbing when contrasted with Citizens United. The campaign finance law that the Court struck down did not prohibit speech, but merely required corporations to use segregated funds to engage in political campaign speech. The material-support law, by contrast, criminalized speech outright – consulting with, advising, or speaking on behalf of, disfavored groups.”

Governments always restrict speech during times of war and great fear, but the scope of this restriction is troubling. In the words of Justice Potter Stewart, “censorship reflects a society’s lack of confidence in itself.” Cole writes, “When the Court allows unsupported speculation about “terrorism” and disapproval of a speaker’s viewpoint to justify making advocacy of human rights a crime, the First Amendment as we know it is in serious jeopardy.”

In other free speech cases, an 8-1 ruling struck down legislation targeting dog-fighting and crush videos (film made for fetishists that derive sexual gratification by watching women in high heels trample small animals) that would make it a crime to show images of animal cruelty, holding this was a violation of free speech. Additionally, the justices rejected an argument made by a student group that the application of the anti-discrimination standards at UC Hastings College of the Law violated its First Amendment right to establish its own standards for membership.

**Whose business is being served by the Court?**

The Citizens United decision “showed great solicitude to the interests of corporations” wrote New York Times legal analyst Adam Liptak. This assertion is reminiscent of law professor Jeffrey Rosen’s March 16, 2008 Times’ article “Supreme Court Inc.” (“Supreme Court Inc.: How the nation’s highest court became increasingly receptive to the arguments of American business,” The New York Times, March 16, 2008) which argues that based on its docket, environmental and consumer rulings, and decisions to limit damage awards against Exxon-Mobil and Philip Morris and others, the Roberts Court is the most pro-business court ever.

The 2009-10 term can be seen as strengthening that claim.

The Constitutional Accountability Center (CAC) recently completed a study of the Court’s rulings of the past 5 years and found that the bulk of the Court’s time involved business and corporate law. Rosen too found that the percentage of the Court’s cases which concerned business interests had risen dramatically. Using the US Chamber of Commerce, which calls itself the “voice of business,” as a benchmark, the CAC study found that Justices Alito, Roberts and Scalia all sided with the Chamber’s position on cases more than 70 percent of the time, with Justice Tomas 68 percent and Kennedy near 66 percent. In close cases Roberts sided with the
Chamber 90 percent of the time and Alito 100 percent of the time. According to Doug Kendall, President of the Center, the Court sided with the Chamber in 13 of the 16 cases in which it filed briefs this term.

As Justice Benjamin Cardozo said 90 years ago, “We may try to see things as objectively as we please. Nonetheless, we can never see them with any eyes except our own.” The apparent pro-corporate worldview of the Court is unsurprising given the backgrounds of many of the justices, representing corporate clients and hearing white-collar cases. The majority ruling in Citizens United asserts, “The censorship that we confront is vast in its reach; the government has muffled the voices of the most significant forces in our economy.” Based on public reaction and polls on the Citizens United ruling, this worldview, that for the past sixty years corporations have been unable to exert sufficient influence over politics, is not shared by most people.

Stanford law professor Pamela Karlan said this is “a court that’s much more friendly to the powerful than the powerless.” Lisa Blatt, who served for thirteen years in the Solicitor General’s office (which represents the U.S. government before the Court) concurs, “This is a business court. Now it’s the era of the corporation and the interests of business.”

**Equal justice under the law (access, rights and remedies)?**

“Equal Justice Under Law” is inscribed in marble above the front entrance to the Supreme Court. As reported in the May 3, 2010 New York Times, “In a decision ripe with symbolism about access to justice in the age of terror, the Supreme Court announced on Monday that visitors to its courthouse will no longer be allowed to enter through the front door.” Justice Breyer issued a statement noting that the front steps “represent the ideal that anyone in this country can obtain meaningful justice through application to this court . . .

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The entrance to the US Supreme Court

Photo is in the public domain
To my knowledge, and I have spoken to numerous jurists and architects worldwide, no other Supreme Court in the world – including those such as Israel’s, that face security concerns equal to or greater than ours – has closed its main entrance to the public."

_Gideon’s Trumpet_, Anthony Lewis’ acclaimed story of_ Gideon v. Wainwright_, the landmark 1963 Court ruling guaranteeing the 6th Amendment right to counsel for indigent criminal defendants, documents the ideal of equal justice under the law in practice. _Gideon, Mapp v. Ohio_, establishing the 4th Amendment exclusionary rule that illegally obtained evidence may not be used in court, and _Miranda v. Arizona_, safeguarding the 5th Amendment right against self-incrimination, marked the due process revolution of the Warren Court in the 1960s. Supporters praise these rulings as affirming the presumption of innocence as vital to basic fairness and equality of law. Critics see liberal activism by the Warren Court. Today, critics of the Roberts Court see an attack on the Bill of Rights which they say marks the devolution of American due process and equal protection of law.

On June 1, a split court (5 to 4) narrowed the landmark 1966 _Miranda_ ruling requiring the police to warn suspects in custody of their rights prior to interrogating them. In _Berghuis v. Thompkins_, the Court held that a suspect must speak in order to invoke his right to remain silent. Although the suspect remained silent for 3 hours of police interrogation, his subsequent statements were deemed admissible. The Court ruled that the suspect had waived the right to remain silent by not speaking. In her stinging dissent, Justice Sotomayor lamented the Court’s “substantial retreat from protections against compelled self-incrimination” established by _Miranda_, noting that “the broad rules the Court announces today are also troubling because they are unnecessary to decide this case.”

This term, the Court also allowed the police to vary the language of the warning and to resume questioning after suspects invoked their rights. Last term, in _Herring v. United States_, the Court ruled 5 to 4 to relax the exclusionary rule it established in the 1961 _Mapp_ ruling which held that in order to deter police and prosecutorial misconduct, illegally obtained evidence must be inadmissible. In a significant shift, Justice Roberts wrote for the majority in _Herring_ that the exclusion of evidence should be a last resort only if the police misconduct was the result of “systemic error or reckless disregard of constitutional requirements,” not mere negligence.

Stanford law professor Jeff Fisher says, “The court continues its march to revoke exclusionary rules [by] refusing to exclude what the court thinks is reliable evidence in criminal cases. None of the conservatives are unpredictable in any of this. They’re leading the retreat.”

_It’s a wild world_

If the law should be a moral compass, we are in troubled waters. The First Amendment is seen as the core right upon which all other rights depend. Critics assert that _Citizens United_ has in essence institutionalized bribery in politics on a massive scale. A _Washington Post_ poll found 80 percent of those surveyed opposed to the ruling, with 65 percent “strongly opposed.” Denial of access to the courts and erosion of civil liberties further undermines public faith in the judiciary. A retreat from due process safeguards erodes the rule of law – the faith and trust that justice is blind and that the law binds all equally. The 4th, 5th and 6th Amendments protect citizens from living in a police state, where, like Joseph K. in Franz Kafka’s _The Trial_, people can be imprisoned based merely on lies told by others. When the Court excuses misconduct in favor of a conviction it...
makes everyone less safe as well as less free.

In *McDonald v. Chicago* a divided Court (5 to 4) held that the right to bear arms is a fundamental individual liberty under the due process clause of the 14th Amendment and so cannot be infringed by the state, local or federal government. The Court, overturning a 19th century precedent, thus broadened gun ownership rights, expanding its 2008 five to four ruling in *DC v. Heller*. In *Heller*, the Court struck down the District of Columbia’s gun ownership restrictions, ruling that the 2nd Amendment applies to individuals and not just to the “well regulated militia.”

Alan Gottlieb of the gun rights group the Second Amendment Foundation says that after *McDonald*, “the right of the individual citizen to carry a gun is now constitutionally protected in every corner of the United States.” His group and the National Rifle Association now plan to challenge gun control laws across the country to “win back our firearms freedoms one lawsuit at a time.” In recent years, according to *The Economist* of July 3, 2010, on average more than 100,000 Americans are shot by guns annually, more than 30,000 fatally. Will more guns make us safer? Will *McDonald* further erode public confidence in Congress and the Court?

Writing for the majority, Justice Alito says that the 2nd Amendment right to self-defense is fundamental to the American conception of ordered liberty. Chicago Mayor Richard Daley expressed disappointment saying, “Common sense tells you we need fewer guns on the street, not more guns.” Gun control advocates maintain that the Court’s reading of the 2nd Amendment is anachronistic and wrong; that it pertains to citizen militias protecting against tyranny, providing a collective rather than individual right to bear arms, and that the ruling ignores the great challenge of confronting gun violence in America’s urban centers. In his dissent, Justice Breyer noted evidence that guns cause 60,000 deaths and injuries in America each year and that Chicago’s handgun ban had saved many hundreds of lives since it was enacted in 1983.

In other notable rulings this term, the Court ruled: that the privacy rights of a city employee were not violated when the city searched his personal text messages written on a device it had provided; the “honest services” law, which was used to convict Enron’s Jeffrey Skilling and is often used by prosecutors of corporate fraud and other white-collar crime, is unconstitutionally vague; juveniles who commit crimes in which no one is killed may not be sentenced to life in prison without possibility of parole (although a California sentence of 184 years in one such case is unaffected by the ruling); and, that immigrants who are legally in the United States need not be automatically deported for minor drug offenses.

**How is law made (how were these rulings reached)?**

The rule of five says that the law is whatever five Supreme Court justices say it is. With lifetime tenure, these justices wield great power. So who they are and how they see the law matters. This term, the swing vote, Justice Kennedy, swung toward the conservative bloc, enabling many of the contentious decisions noted above (Kennedy wrote for the majority *Citizens United*).

Not being answerable to the voters makes judges either the least or most principled backers of democratic ideals – depending on one’s view. The four horsemen of conservatism (Scalia, Roberts, Alito and Thomas) cloak themselves in the sanctity of the judicial approach known as originalism – holding that fidelity to the law means reading the plain words of the Constitution as the drafters would have understood them. David
Souter, who was replaced by Justice Sotomayor when he left the Court in 2009, delivered the Harvard commencement address this year in which he declared that originalism “has only a tenuous connection to reality.”

Souter took aim at the job-description du jour that judges are like umpires who just call balls and strikes. He emphasized “how egregiously it misses the point to think of judges in constitutional cases as just sitting there reading constitutional phrases fairly and looking at reported facts objectively to produce their judgments. . . Constitutions have a lot of general language in them in order to be useful as constitutions” and the U.S. Constitution “contains values that may very well exist in tension with each other, not in harmony.” Souter says the Constitution has “deliberately open-ended guarantees like rights to due process of law, equal protection of the law, and freedom from unreasonable searches.” Thus, in the difficult cases which the Court hears, like weighing liberty versus security claims, “the Constitution gives no simple rule of decision for the cases in which one of the values is truly at odds with another.”

In his Harvard speech, Justice Souter tells the stories of *Brown v. Board of Education*, the 1954 landmark civil rights ruling for integrated public schools, and the Pentagon Papers case, the 1971 *New York Times v. United States* litigation over the publication of a leaked secret government study on the history of America’s involvement in the war in Vietnam, to illustrate the inevitability of weighing competing constitutional interests vis-à-vis contemporary reality in the tough cases the Court must decide. For there is no way to “resolve every potential tension of one provision with another, tension the Constitution’s Framers left to be resolved for another day; and another day after that, for our cases can give no answers that fit all conflicts, and no resolutions immune to rethinking when the significance of old facts may have changed in the changing world.”

Originalism, Souter suggested, would have led the Court in 1954 to affirm “separate but equal” schools, and reject integration. Indeed, the vitality of the law is adaptability along with predictability. The core problem with
originalism is how hard it is to discern the “true meaning” of the Constitution and to apply that perceived intent to contemporary reality. Consider *Citizens United*: how can we pretend to glean original intent when there were no corporations of the type we know today when the Constitution was being deliberated and ratified in 1789? And how can we know if the 8th Amendment prohibition of cruel and unusual punishment would prohibit applying the death penalty via the electric chair or lethal injection when neither such thing existed in the late 18th century?

**A glance back and the road ahead**

Once the seat of retiring Justice John Paul Stevens is filled, four new Justices will have been appointed in a period of five years—a major shakeup of the Court, which prior to Roberts 2005 appointment had gone more than a decade without change. The replacement of Justices Rehnquist and O’Connor by Roberts and Alito has made the Court more aggressive, with less deference to precedent and the legislature, as well as more conservative. It seems fair to say that the Court is now more partisan and less consensual than in times past—as shown by the increasing number of 5-4 decisions and acerbic dissents being read from the bench by disaffected justices. With Elena Kagan soon to be the newest Justice, her reputation as a consensus builder will be put to the test. Once Kagan is confirmed, there will be three women on the Court for the first time in its 221-year history. With Stevens gone, there will be no justice who served in the military, and all nine justices will have received their legal education at Harvard or Yale.

Justice Stevens, who served on the Court for 35 years, cannot be replaced. It was he who stood up to abuses of the Bush administration’s war on terror, writing the 2004 *Rasul v. Bush* ruling that detainees have the right to challenge their imprisonment in American courts—the first time that a President ever lost a major civil liberties case in the Supreme Court during wartime—and the 2006 *Hamdan v. Rumsfeld* ruling that the military tribunals planned for Guantanamo violated the Uniform Code of Military Justice and the Geneva Conventions. While others cowered in post-9/11 fear, Stevens was among the first voices, and the most important, to declare that “the Executive is bound to comply with the Rule of Law.”

According to Supreme Court historian and lawyer Jeffrey Toobin, “In all areas Stevens has favored gradual change over sudden lurches and precedent over dramatic rulings. But, especially since Roberts took over as Chief Justice, Stevens has found himself confronting colleagues who have a very different approach—an aggressive, line-drawing conservatism that appears bent on remaking great swaths of Supreme Court precedent.” Stevens says the Court has absolutely changed during his 35-year tenure: “Look at *Citizens United*. If it is not necessary to decide a case on a very broad constitutional ground, when other grounds are available, then doesn’t that create the likelihood that people will think you’re not following the rules?”

[quoted in “After Stevens,” *The New Yorker*, March 12, 2010]

Toobin writes, “Chief Justice John G. Roberts Jr. is fond of pointing out the original reason that judges came to wear black robes. It’s to make them look alike, to minimize the differences between the individuals that occupy the role and to suggest that the law will be applied even-handedly, no matter who happens to be dressed in black. Well, that may be the theory, but the events of the past few weeks show that the Supreme Court is riven by the same partisan divisions as the rest of Washington—and it’s likely to get even more heated sooner rather than later. . . . without Stevens, the Court
will look like the Capitol, across First Street, from its own marble palace; both will be places where Democrats and Republicans fight.” In his 2007 book *The Nine*, Toobin argued that from 1992 to 2005 the cautious instincts of swing justices such as Powell and O’Connor produced rulings that reflected public opinion, but that this began to change as a conservative rebellion on the Court to reverse years of rulings by liberal justices gathered steam.

In its 2010-11 term, the Court appears set to overturn Arizona’s public financing election law as a violation of political free speech. Stevens believes that even *Brown v. Board of Education* is under threat. When the Court in 2007 struck down Seattle’s school integration plan Stevens wrote in dissent, “it is my firm conviction that no Member of the Court that I joined in 1975 would have agreed with today’s decision.” Based on seniority, Justice Kennedy will inherit Stevens’ power to assign the writing of many Court opinions. Given the pro-business view of the Court, legal scholars say it will be receptive to the pending challenges against recent legislation overhauling the American healthcare and financial regulatory systems, Obama’s major public policy reforms, when they likely reach the Court next term.

Separation of powers battles are certain to arise in the coming term. Stevens writes, in the final sentence of his *Citizens United* dissent, “While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.” *Citizens United* has been widely called the worst Supreme Court ruling since *Bush v. Gore* in 2000, in which Stevens wrote in dissent that the ruling was an insult to the judiciary which would “only lend credence to the most cynical appraisal of the work of judges throughout the land . . .

Although we may never know with complete certainty the identity of the winner of this year’s presidential election, the identity of the loser is perfectly clear. It is the Nation’s confidence in the judge as an impartial guardian of the rule of law.” As Justice Stevens retires, those words ring heavily a decade later.

*William A. Cohn, a lawyer, TNP contributing writer, and law lecturer at the University of New York in Prague (UNYP), is organizing the UNYP 2010 Symposium on “Meeting Crisis with Wisdom: toward improved practices in business, politics, law and education” to be held at the NYU Center in Prague 1 on October 8, 2010.*
Napoleon once said, “Men are moved by two levers only: fear and self-interest.”

The same motivations apply to the American Tea Party movement, though their order is likely reversed.

The Tea Party, and its affiliated “partiers,” style themselves as anti-establishment, libertarian, small government, low tax revolutionaries. They think the United States has gone horribly off-track in recent years (they are right) and that they – “the average hardworking American” – have somehow been the ones most aversely affected by this unfortunate turn of events (they are wrong).

The latter assertion epitomizes the philosophical bankruptcy at the core of the movement and its true shortfall – even more so than the misguided prescriptions for curing the United States’ present ills. Not only are Tea Party adherents not representative of the typical American, but the movement is comprised of the very people who set the country on its present course, a course from which they have also been the primary beneficiaries.

A CBS News/New York Times poll in April 2010 found that Tea Party supporters are “wealthier and more educated than the general public” and that they tend to be “Republican, white, male and older than 45.” An overwhelming majority of those polled said that President Barack Obama “did not share the values most Americans live by.” More than 50 percent of them said that administration policy favored the poor – which they apparently view as a bad thing as according to the poll they tend to be relatively rich. In short, Tea Partiers consider themselves to be representative of the average person, when all indications are that they are not.

A re-examination of the aforementioned demographic categories of the typical Tea Partier (Republican, white, male, older than 45) shows that three of the four – even when taken individually – do not include a majority of Americans. There are an estimated 55 million registered Republicans in the United States, as compared with 72 million registered Democrats (not to mention 163 million who aren’t affiliated with any party). According to the latest available Census data, only 34 percent of Americans are over the age of 45 and 49.06 percent are males (information from the 2010 Census was not yet available at press time). The percentage of Americans encompassed in these categories of course declines exponentially when they are cross-referenced – even fewer people are, for example, both Republican and male.

And while it is true that whites remain the majority in the United States (the fourth common demographic factor according to the poll), if the U.S. Census Bureau is to be believed, they won’t be for long. By 2023, the majority of children will be
from non-white “minority”
groups and by 2042 non-
whites are expected to
represent an overall majority
of the American population.
In the same CBS News/New
York Times poll Tea Party
loyalists said that Obama
“does not understand the
problems of people like
themselves,” but if the poll
results are accurate nor do
the majority of Americans.

None of these things mean
that the Tea Partiers don’t
have a right to their opinions
or to be as vocal as they are.
It does mean that they do not
represent anything close to
the mainstream of American
society and thus their
political activities are rooted
in self-interest and nothing
more. While much of
politics are rooted in self-
interest, one likes to think
that responsible political
actors have some sense of
the common good in mind as
well. Preaching about saving
America or returning the
country to the state the
founding fathers intended for
it may be calculating
sloganeering for Tea Party
celebrities (Sarah Palin,
Glenn Beck, etc.), but it just
doesn’t have any basis in
rality. A skeptic would say
that the Tea Partiers and
what passes for the
leadership of the movement
use this rhetoric to rally the
base and generate support,
but an empiricist would say
they actually believe it, or at
the very least hope it to be
ture.

Now, it is hardly necessary
that a political movement
represent a demographic
majority to be relevant or
legitimate. In fact, one of the
most important parts of a
liberal democracy is the
inclusion minority groups
(not just racial minorities,
but those in the minority on
anything) and giving those
groups a chance to compete
in elections and to change
people’s minds on a
particular issue or issues.
And just because the Tea
Party movement tends to
include a large proportion of
older white males does not
make it inherently evil or
selfish (at least I hope not as
some day I am likely to be
an old white male myself).
What makes them unique is
that they are a minority
group that thinks they are the
majority. Not only are they
convinced of their opinions,
but they are also convinced
that everyone else is just as
convincing. In such certainty
and monomania it is easy to
detect Napoleon’s second (or
first) lever for driving men –
or women: fear.
The Obama campaign slogan “Change” may have been intended as a call to action, but it was at least as much a statement of fact. Things have changed in the United States, but the Tea Party movement and its followers are not necessarily big on truths. The fact is that as each year passes the people that the Tea Party represents are fewer. Deep down the movement’s adherents know this, and this just motivates them more to fight for what they can while they can. In their heads there is an idealized vision of the past, and this newfound political activism serves as distraction so that they do not have to acknowledge that such a past never really existed. As the clock ticks they become less and less capable of ever making it exist, and this is a frightening prospect.

One would be amiss not to point out that despite all its shortcomings (and there are many), the Tea Party movement also offers some major positives. Chief among these are the political passions and public engagement that the movement is generating. Perhaps the biggest single problem in the advanced industrialized world is the failure of people to engage with politics. Television, consumerism and any number of other distractions – both legitimate and illegitimate – create distance from the places where people, in a liberal democracy, are most empowered to influence their lives. This unfortunate cycle is self-perpetuating.

A citizen doesn’t pay attention to a candidate running for election, they do or they don’t vote for that candidate. The said candidate then does a poor job in office and the frustrated citizen decides they should not waste their time voting or paying attention to politics, thus virtually guaranteeing either the poorly performing politician’s reelection or potentially another bad candidate to fill his or her slot. Either result produces more frustration and more disengagement from the political process. Literally every single problem in the United States emanates from this one and the Tea Party movement may play a role in breaking this cycle, both by mobilizing its own supporters and mobilizing others who oppose what the Tea Party movement represents.

Another Tea Party positive is that it does diagnose the right problem: that government is not doing a good enough job of representing the average American – though, as has been said, the average American is unlikely to be a Tea Partier. There is no denying that some of the Tea Party movement’s angers and passions are justified, but its cardinal sin remains a misunderstanding of who has been hurt most by the country’s wayward turn.

For at least the last 40 years things have indeed been on the wrong path for the common American, a trend that has significantly gained momentum since 1980. The annual incomes of the bottom 90 percent of American families have risen by just 10 percent – in real terms – since 1973. During the same span, the top 1 percent of wage earners saw their incomes grow 300 percent. In 1973, CEOs were paid an average of 26 times the country’s median income, now their average pay is more than 300 times larger.

In 1968 the CEO of General Motors earned, in pay and benefits, 66 times the amount paid to an average GM worker. In 2010, the CEO of Wal-Mart earns 900 times the average company employee. In 2005 the total wealth of Wal-Mart founder Sam Walton’s heirs ($90 billion) was equivalent to that of the bottom 40 percent of the American population – equal to 120 million people. In more recent years, even before the “Great Recession,” these trends accelerated even faster. During the last period of economic expansion in the United States – from January 2002 through December 2007 – the median household income dropped by $2,000 per year.
While it is true that during the 40-year period between 1969 and 2009, a Republican was President of the United States for 26 of them, it is not fair to pin the blame for these trends on a single political party. Rather an overarching and indisputable capitalist ideology was adopted by the entire American political mainstream. What Nobel Prize winning economist Joseph Stiglitz writes about the international economy holds true in the United States: “Many who observed the long expansion of the world economy during the era of deregulation concluded that unfettered markets worked... The reality was quite different.”

The Tea Party movement has concluded that unfettered markets work, but this raises the questions about the goals of Tea Partiers. A Tea Party loyalist looks at all the inequality and injustice outlined in the preceding paragraphs and thinks the solutions for these problems are more of the same. In fact, much of the Tea Party movement is angry at the Republican party (hence their decision to “revolt”) for not supporting even greater deregulation and less equitable economics. In short, the Tea Partiers are angry at the direction the country has taken, but their solution is to continue in the same direction, only faster. This would have to fall under Albert Einstein’s definition of insanity – “doing the same thing over and over again and expecting different results” – had we not already know that the typical Tea Partier fits into the group that most benefited from the hyper-capitalism of the late-20th Century. The Tea Party movement does not hope to do the same thing over again and get a different result, they seek the same results.

In his final book, *Ill Fares the Land*, the late Tony Judt outlines the direct, and detrimental, correlation between income inequality and overall social mobility, health, crime, rates of mental illness, life expectancy and so on. “Symptoms of collective impoverishment are all about us. Broken highways, bankrupt cities, collapsing bridges, failed schools, the unemployed, the underpaid, and the uninsured; all suggest a collective failure of will,” he writes.

“We have entered and age of insecurity – economic insecurity, physical insecurity, political insecurity... Insecurity breeds fear. And fear – fear of change, fear of decline, fear of strangers and an unfamiliar world – is corroding the trust and interdependence on which civil societies rest.”

The fears that Judt refers to almost directly correlate with the motivations of the Tea Party movement. Their reaction is to revert to what they know. However, there are two problems with this approach. The first is that “what they know” didn’t work the first time, and it is in fact what has lead to the “collective impoverishment” that Judt refers to. The second shortcoming is – whether Tea Partiers like it or not -- the United States in 2010 is different a place then the United States of 1970, 1980, 1990 or 2000.

Michael Spence, a Nobel Prize winning economist who is conducting a four-year study for the World Bank about future growth in the global economy, was asked about the Tea Party movement in a recent interview with *The Financial Times*. “When people lose the sense of optimism, things tend to get more volatile,” he said. “The future I most fear for America is Latin American; a grossly unequal society that is prone to wild swings from populism to orthodoxy, which makes sensible government increasingly hard to imagine.”

Unfortunately, Spence’s prognostication may arrive as early as this fall’s Congressional elections. Indeed, in primary votes (especially Republican primaries) the Tea Partiers have already made their presence known. Victor Hugo once wrote that, “there
is nothing so powerful as an idea whose time has come.” But the Tea Party is not an idea, it is a feeling, but one that is capable of wielding tremendous influence in the short term. Tea Partiers supreme – though fallacious – confidence in their beliefs make them a force to be reckoned with, for now. Ironically, the passions that the Tea Party generates may very well give them the capacity to do good, though this will almost certainly be by accident. Countering the Tea Party movement’s empty populism is a matter of presenting actual evidence of the Tea Partiers’ flawed and circuitous logic, and doing so consistently, thus exposing the movement’s lack of substance. This will be difficult, as Tea Partiers’ beliefs are not based on logic or evidence, but rather self-interest and fear. It is not, however, impossible, and the Tea Partiers occasionally aid in demonstrating the Potemkin nature of their own movement.

Returning to the CBS News/New York Times opinion poll, The Times conducted an interview with 62-year-old Jodine White of Rocklin, California after she answered the poll questions. Reporters asked if she would still be in support of slashing the size of the federal government (a key tenant of the movement she professed to support) if it meant she wouldn’t get monthly Social Security payments. “That’s a conundrum, isn’t it?,” she answered. “I don’t know what to say. Maybe I don’t want smaller government. I guess I want smaller government and my Social Security. I didn’t look at it from the perspective of losing the things I need. I think I’ve changed my mind.”

Here’s to hoping that Mrs. White will not be the last.

Benjamin Cunningham is the editor-in-chief of The Prague Post.

Suggested Reading


Common Faith: Civil Religion in the US

Richard Olehla

The United States has never had a state religion; however, it is impossible to say that America is, or ever was, a Godless country. The existence and acceptance of various faiths has resulted in the establishment of an all-encompassing civil religion. This study examines the phenomenon of faith as a political issue – in the sense that a decisive majority of Americans share the same or similar values, which are based on spirituality and the belief in God.

American critic Sacvan Bercovitch begins his essay The Myth of America with an incident from Resnais’s famous film Mon oncle d’Amérique (My American Uncle). At one point a supporting actor, in reaction to the protagonist’s impertinent optimism, exclaims, “I have been to America and it does not exist.” Bercovitch continues in his essay to prove that such a seemingly absurd claim can be true – but only once we understand that the American nation is a nation unlike any other in the world.

Spanning the majority of an entire continent, the United States has always been defined in a way that has conjured a certain magical feeling for Europeans. It was the land across the ocean which was seen only by a few, and often when someone decided to travel there, they rarely came back. Instead, only a letter would arrive assuring relatives that they were doing very well in their new country. It was hard to prove the claims, but easy to believe them. So in European minds America became a promised land where everyone lived happily ever after. America, as Bercovitch states in his essay, however, is primarily a myth, based on symbols, ideals and stories. The essence of the American myth can be seen in its singularity and uniqueness – and its beliefs.

The making of a new nation

The American myth is incomparable with other legends because it embodies the modern world and is without ancient roots. It does not rely on the Bible or the ancestral right of monarchs, but instead is based on secular texts: the Declaration of Independence, the Constitutions, and the Bill of Rights. Few discuss the true value behind the documents – most Americans simply believe the dogma. In the New World, theocracy and aristocracy was replaced by logocracy.

Another unique American value stems from its capitalist setup, namely individualism. This term, Bercovitch notes, was perceived rather negatively by European socialists. However, in the US it was widely recognized and accepted. The New World inhabitants did not share the same faith. On the contrary, perhaps no other religion has so many different forms, faiths and denominations as Christianity. The sectarian nature of the various forms of the religion, from the Shakers to the Baptists, stems from the incredible distance and therefore

2 Ibid, 2

1 Ibid, 9
isolation between settlements. Religions developed idiosyncrasies. This propensity was further strengthened by American individualism.

Citing research conducted in 1996, in his book *God’s Own Country* Stephen Bates reports that there are 19 Presbyterian, 32 Lutheran, 36 Methodist, 37 Anglican, 60 Baptist and 241 Pentecostal religions in the US. These numbers exclude the many new churches that were created in the United States, such as the Mormon, Amish or Jehovah’s Witnesses, just to name a few. The pluralistic nature of religion in the United States ensured freedom of religion.

Today many of the religious views held by early settlers in the United States are simply referred to as Puritan. The Puritan myth was established in 1776 when the nation gained its independence. It is known today that the religious past of the American people is a myth based on monuments and rituals (Bercovitch gives the examples of Plymouth Rock and Thanksgiving, the significance of which was rooted in the society long after the establishment of the independent state) rather than on historical facts.

However, the Puritan ethos fundamentally directed the future development of the New World in its first decades of colonization. Many settlers who came from Europe believed – irrespective of religion – that they were fulfilling God’s will by undertaking the dangerous journey across the Atlantic and establishing a community based on an agreement between its members and God himself. They believed that America was discovered just in time for those who were persecuted on the Old Continent for their differing Christian faith. Of course they searched for support of this belief in the Bible: They were modern Israelites, America was their Palestine, the Promised Land, and Europe was their Egypt. Their leaders were modern versions of Moses, who rid them of their shackles.

In November 1620 when the settlers arrived on the coast of New England they believed that they were setting up a new world, a paradise on Earth. The Puritan project, which eventually became the building block and fundamental myth of the new state, was based from the beginning onwards on a Millenarian notion. The North American continent differed in this respect from any other colonized territory in the history of mankind. The new inhabitants did not need their motherland to survive. On the contrary – they ran away from it into the wilderness.

The contemporary confidence of the American nation, which influences the world around them, also stems from their belief of their uniqueness. If cultural, philosophical or economic values are contradictory to American values, then all that is outside of this belief is seen as conflicting, entirely different and, according to philosopher Emmanuel Levinas, other. This sense of uniqueness has remained in the American people. Bates notes that “most Americans still have the feeling that their country is a lighthouse of some sort for all of humanity.”

Many American presidents have used this rhetoric in their public speeches (Ronald Reagan and George W. Bush are among them). Moreover, this style of rhetoric is based on a hierarchy, in which the American nation stands on a pedestal for other nations to admire and aspire to.

It also evokes an omnipresent feeling that the chosen ones can be threatened by anyone; virtue and morality have enemies.

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6 The concept of millennialism in the United States is closely dealt with in Bellah, R. *God’s Own Country*, Chapter 19.

7 Emmanuel Levinas’ discusses the concept of “the other” and its application in relation to US foreign policy in the 11 September aftermath.

8 Bates, S. p. 2
everywhere. Therefore it is necessary to fight within oneself (meaning against the secularization of the American society) as well as against the adversary, who stands beyond the structures of such a civilization. These feelings of internal and external danger are reflected in political views and decisions, and some authors refer to them as the “paranoid style of American politics.”

Throughout the centuries the enemies of the American nation were epitomized by various ethnic, ideological or religious groups: first it was the Native Americans, then Americans of African descent, followed by Irish immigrants, migrants from Eastern Europe, and Communists. Today, the enemies are homosexuals and Muslims.

The US notion of exceptionality also brought about the weight of responsibility. Americans felt that they were responsible for the success of the entire project. If their efforts failed, the beginning of the new age would simply become one of mankind’s mistakes – and its protagonists and supporters would become false prophets.

This awareness of the future also brings into question the past, which there is little of in America comparatively to Europe. This, however, was not a handicap to the American people. On the contrary, this historical deficit became their virtue. The national identity of the nation was based on this newness: all the immigrants were offered an equal opportunity to shape the American nation. The cultural differences of the immigrants, which usually divide nations, became the binding agent.

Civil religion

The long and complex development of America’s growth as a nation was similar to America’s approach to religion. Throughout the history of the United States no faith was ever considered a state religion; however, it is impossible to say that America is, or ever was, a Godless country. The existence of hundreds of various faiths resulted in the establishment of an all-encompassing civil religion, that is “an institutionalized collection of sacred beliefs” that are not directly related to one God or religious sect.

According to sociologist Robert N. Bellah, this took hold in the United States because the American people believed in a general religion, but not the specifics of the faith. Given this, beliefs about the American nation became sacred as well. Certain images and events became holy things to be worshiped by the American people, whether it be the Civil War, or the inauguration of a new president. These symbols became linked to religious motifs.

For example the presidential inauguration speeches prove this point: they often feature Biblical metaphors and promises, that assert that they will base their decisions on the Bible or rather on fundamentally Biblical

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9 Bates, S. p. 2
10 Bates, S. p. 23; Also see Bercovitch, p.16: The author mentions the devil, Catholics, Communism and Fundamental Islamists
11 Bercovitch, S. p. 12.
ideals formulated in the two basic documents of the United States, the Constitution and the Declaration of Independence. However, both documents also represent the philosophical thinking of their time: the author of the term “civil religion” is philosopher Jean-Jacques Rousseau.

Rousseau defines civil religion according to four basic dogmas: belief in God’s existence, belief in the afterlife, belief in rewarding goodness and punishing evil and belief in religious tolerance. Even the Founding Fathers believed in the above. In his autobiography, Benjamin Franklin claims that he never doubted the existence of the Deity, meaning a higher power rather than a single specific God. The first president of the United States, George Washington, also recognized the central role of religion: “We must be very cautious in believing that morals could exist without religion.” We can again emphasize the fact that no specific religion is mentioned, even though Washington himself belonged to the Episcopal Church. It is similar in the Declaration of Independence itself, where the word God is mentioned in four different places, however in no more specific terms than in the previous examples.

Abraham Lincoln played an interested role in the development of a civil religion in the United States. While he referred to his religiously neutral predecessors as well as the basic documents of American statehood, in his public speeches he always emphasized the need for national unity and encouraged forgiveness. In the second inaugural address on 4 of March 1865, just before the end of the Civil War, he promised peace for all Americans: “With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive to finish the work we are in, to bind up the nation's wounds…”

Another undoubtedly Christian based rhetorical aid frequently used by Lincoln was his emphasis on a new beginning, which was necessary once the war was over. Lincoln understood the military conflict related to the abolition (or not) of slavery as a chance to introduce a new order. For the new to commence the old must die out, as he said during his speech in Gettysburg, in order for the “nation, under God’s leadership, to experience the revival of freedom, it must first finish fighting the war.”

Those who died in the war did not die in vain because the result of the conflict was a new and better world order. They became martyrs, whose lives were sacrificed for a greater good. Their death also obliged the others to bring the fight to a victorious end. After Lincoln, civil religion not only had its own specific rhetoric (a generic God, who could be claimed by all Americans irrespective of religion), holy texts (the Declaration of Independence and the Constitution), but also its saints and martyrs and official holidays.

After the Battle of Gettysburg, where more than 47,000 people perished and were subsequently buried, a national cemetery was set up in Arlington, Virginia. In this way, civil religion also gained the last attribute

14 Washington, G. Farewell Address, as cited on http://avalon.law.yale.edu/18th_century/washing.asp.
15 See the first inauguration address from 22. February 1861.
17 Bellah, R.
18 Almost one hundred years after Lincoln’s canonization, another president was admitted to the Holy Orders, John Fitzgerald Kennedy. Many others were included in the pantheon of civil religion during the 1960s. For example, we could name Dr. Martin Luther King and Robert Kennedy, both of whom were assassinated for political reasons.
19 Aside from the above-mentioned Thanksgiving, there is Abraham Lincoln Day (12 February), Martin Luther King Day (the third Monday in January), Memorial Day (the last Monday in May) and Independence Day (4 July).
necessary for its function – a church or a similar place for prayer and worship. The syntheses of the elements of the Old Testament in the first decades of the new republic, as well as the New Testament elements of the Abraham Lincoln presidency, were finalized. In the second half of the twentieth century, the idea of civil religion stood in the background of the struggle for human rights of minorities in the USA, whether those were Americans of African origin or equal rights for women. Religion and politics became interconnected.

This “obligatory” religiousness was transferred into public speeches of American statesmen through the use of rhetoric and references to the Bible. Every American president must make it clear that he believes in God, otherwise he would risk the loss of votes in the next elections. In this way, American public figures refer to their belief in God in a way that does not separate their faith from that of their listeners. It is interesting to note that every president in the history of the USA was a member of an active church in America. If we limit ourselves to postwar history only, the overview is as follows: Harry Truman and Jimmy Carter were both Baptists; Bill Clinton belonged to the Southern Baptists; Dwight D. Eisenhower grew up in a Jehovah family, but later became a Presbyterian; John F. Kennedy was a Catholic (the first president in the history of the USA to be so); Lyndon B. Johnson was a member of the Church of Christ; Richard Nixon was a Quaker; Gerald Ford and George Bush Senior were both members of the American Episcopal Church; Ronald Reagan was baptized at the Church of Christ, but later joined the Presbyterians and George W. Bush was a Methodist. Lastly Barack Obama simply says that he is a Christian.

It seems obvious that the reason for the vague definition of the concept of God in the public addresses of American presidents (and also other public figures in the USA) is not due to a lack of faith. As Bellah says, the faith of American presidents is “their private issue, which has no direct connection with their public office performance.”

The remarkable thing to realize when speaking about these references to the highest power is that it does not relate to any specific God. It is not the Puritan God, or the Protestant God, Catholic God or even another non-Christian God. Presidents Kennedy, Reagan, Bush and Obama never mentioned Jesus Christ specifically; they did not even mention the attributes of the Old Testament, God of Judaism. Their idea of God is so general, that it becomes just a mere word, a concept without content, or rather a concept which can be filled by any content, an empty symbol. In this way, American public figures refer to their belief in God in a way that does not separate their faith from that of their listeners.

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20 Bellah, R.
21 Bercovitch even claims that the state religion in America is state capitalism.

22 Bellah, R., 4

24 Bellah, R. p. 4
respect it is a political issue. However, what sort of faith it is, is entirely up to the politician.

In recent years, it has been found that the opinions of elected American Republicans have radicalized in regard to issues of faith and religion. This has been proved by publically available documents. Since 1972 the American Conservative Union follows how the individual members of Congress vote and evaluates their views on a scale from 0 (anti-religious attitude) to 100 (attitudes conforming religious requirements). While in 1972 the annual average of the Republican members of Congress was 65 points, in 2002 it was 91.\(^{25}\)

In short, the United States and the idea behind the American nation are based on the Christian faith taken ad extremis. The belief in God is omnipresent in America and all embracing. There are 200 Christian television channels and more than 1,500 Christian radio station in the country. According to sociological research 95 percent of Americans claim that they believe in God, compared to 76 percent in Great Britain, 62 percent in France and 32 percent in the Czech Republic.\(^{26}\)

The majority of American households own a Bible, and one fourth of Americans claim that they have more than five copies of the Holy Book.\(^{27}\) Forty percent of Americans state that they go to church at least once a week. In December 2004 Newsweek magazine conducted a study on select populations in the US and asked if people believed that Biblical prophecies would come true. Fifty-five percent of those interviewed answered positively.\(^{28}\)

In a similar study conducted in February 2004 for ABC television, respondents were asked whether they believe what the Bible states word for word. Sixty-one percent answered that they believe God created the Earth in seven days, and 64 percent said that Moses really did part the Red Sea.\(^{29}\) Other research conducted by the Time magazine and CNN found that 59 percent of those contacted believe that the apocalyptic events described in the Book of Revelation will take place exactly as described.\(^{30}\) As Bates says, American society seems to be “afflicted with Biblical literality one would expect in the Middle Ages.”\(^{31}\)

It is apparent that the belief in God and the Bible is one of the corner stones of the American nation and its unique culture. God’s help is cited when elections are won, exams are passed or when someone survives an accident or natural disaster.\(^{32}\)

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\(^{25}\) Bates, S. p. 33.
\(^{26}\) Bates, S. p. 7., also confirmed by the Czech Statistical Office.

\(^{27}\) Bates, S. p. 7
\(^{28}\) Bates, S. p. 10
\(^{29}\) Bates, S. p. 11
\(^{30}\) Ibid
\(^{31}\) Bates, S. p. 14

\(^{32}\) Bates, S. p. 3
Immigration in the United States

Roman Joch

The question of illegal immigration is astonishingly divisive – almost polarizing – in the United States of America.

There is extensive discourse on immigration in the United States on both sides of the political spectrum. On the right, the debate differs among social and fiscal conservatives. Advocates of the free market capitalism like The Wall Street Journal and the libertarian Cato Institute support a completely free immigration policy – de facto open borders. This effectively means that anyone, from anywhere in the world, can come to America and work; they will not, however, necessarily have access to all welfare benefits. In contrast, the Republican member base and other socially conservative activists endorse harsh restrictions on immigration and support the deportation of the clandestine migrants. They feel that illegal migrants quite simply violate the law and threaten American values, changing the character of the country beyond recognition.

The debate is similar on the left. Some liberal intellectuals consider any acts against illegal immigration an expression of racism. Still, other low-income earning Democrats are against illegal immigration, arguing that illegal migrants undercut wages and contribute to American unemployment rates. It is clear that there are numerous proponents for and against and a myriad of stances on the issue regardless of party.

The number of illegal immigrants in the USA is estimated to be anywhere between 14-20 million. To make a sound judgment on the immigration question one must understand the following: while the right to emigrate is a basic human right, the right to immigrate is not. Emigration is a right because a human being is not the property of its state or its government. If one wishes to leaves his or her country and live in another,
the home government does not have a right to hinder this process. If it does – as the Communist regimes did before 1989 – it is a grave injustice.

Still, there is a great difference between these two terms. No one has an automatic right to enter another country without the consent of its citizens (in theory if not in practice, the laws the government creates with regard to immigration are representative of public opinion). In this way, if a country does not grant entry into its borders it is not a breach of one’s basic human rights. For example, it is mutually beneficial if I want to settle down in Australia and Australia accepts my application to settle there. On the other hand, if I desire to live in New Zealand and New Zealand does not accept me, New Zealand has in no way infringed on my rights or freedom. They have simply chosen not share their country with me, having exercised their right as a sovereign nation to choose.

This is applicable to every country, including the United States. Governments have a right to decide their immigration policy and establish how many immigrants they wish to admit annually, and from which countries or territories. There is, however, one specific characteristic that makes the USA different: it is a country of immigrants. In essence all American citizens are descendants of people from other nations.

The presumption of openness to immigration is therefore stronger in the USA than in, for example, many European countries. None the less, even in the United States, three immigration related issues must be addressed: First, freedom – freedom of the immigrants to immigrate, as well as freedom of the host country to decide who they want and who they do not in their country; second, the rule of law – immigrants must abide by the law and the host government must be able to enforce any established laws; and third, immigration as a “national” tradition in the USA. While this third matter is commonly cited, and certainly true, freedom and the rule of law are American traditions that must also be maintained. The first and initial act of an immigrant that illegally enters US territory is to breach the law. This is not the best way to integrate into a new country.

Freedom should be double-sided. An immigrant entering the USA should be free to apply for long-term residency. At the same time, current American citizens should have the freedom to choose whether they wish to have this person as their fellow citizen. Immigration will always be a major part of life in the US; however, illegal immigration is simply against the law and therefore highly problematic. From the legal perspective, illegal immigrants should be deported. However, if you have 14-20 million illegal immigrants (in a nation of 300 million), any notion of arresting, detaining, and subsequently deporting this number of people is unrealistic, even if the principal of a lawful state would require this. Sometimes reality renders legal requirements impossible.

With this in mind, amnesty is the only option. If there are 14-20 million illegal immigrants on your territory, reality requires their legalization. After registering with the authorities, paying a fine or sanction, the immigrants could be legalized. In exchange for this, they could lose their opportunity to receive American citizenship as easily as legal immigrants. It would not be right for illegal immigrants to receive citizenship faster and easier than legal immigrants. Furthermore, after amnesty, or rather together with amnesty, a crackdown on illegal immigration should ensue. Illegal immigrants who do not use the amnesty opportunity should be – after the process is completed – found and deported without the option to return. Tit for
tat: amnesty in exchange for stricter laws.

The Arizona way

The law recently adopted by the state of Arizona represents a real effort to discover and arrest illegal immigrants. (While the Obama administration has sued Arizona, I do not think that the administration will win. After all, Arizona is only copying and enforcing valid federal laws in a situation where the federal government has been lax.) The Arizona law would, however, require more thorough border patrols throughout US territory. From a legal perspective, a situation where illegal immigration happens at this scope is simply unsustainable.

The end of cultural quotas

In the mid-1920s, Americans introduced stricter immigration laws which included country or region quotas for annual legal immigration (Western and Northern Europeans were preferred to emigrants from Southern and Eastern Europe, who were, however, preferred to immigrants from other continents). These ethnic-cultural-racial quotas were applicable until 1965 when the law was amended. While the quotas for legal immigration remained, the ethnic preferences were removed on account of racism.

Nevertheless, quotas for legal immigrants do not necessarily have to be racist, but can be plain common sense. Surely an average Slovak citizen will integrate better in Czech society than an average Somali. Similarly, an average British citizen will integrate better in the USA than a citizen of Burundi. Likewise, the average Mauritanian citizen will integrate better into Egyptian society than the average Hungarian. The argument is not racial; it is based on cultural similarities, or on the contrary, cultural differences. However, this argument which can generally be applied to any country in the world is not as applicable in the United States. America is not primarily based on its cultural identity; it is based on a political identity.

While for instance European, African, Asian or even many Latin American countries are defined mainly by their culture, the United States of America is defined by its politics. Any human being in this world, from any country, from any ethnic group, who believes in the principles of the founding fathers of the USA, the Declaration of Independence and the Constitution, can be an excellent American citizen. On the other hand, a born American, whose ancestors were also born in America many generations back, who becomes a Communist Stalinist (Alger Hiss) or Fascist (Ezra Pound) or Islamist (John Walker Lindh or Jose Padilla), ceases to be a good American. These Americans, in essence, ceased to be Americans; they adopted a different homeland – Communism, Fascism or Islamism.

In other words, America’s identity is rooted in its political values. Therefore, any immigrant that embraces traditional American ethics and beliefs is welcomed with open arms. Because of this distinction (in comparison to other countries) America, more so than other nations, will always be a nation of immigrants. The question is, how do you balance this reality with the need to uphold freedom of choice and national rule of law? Neither Republicans nor Democrats have come close to any solution.

More than 200 years have passed since the first immigrant arrived on American soil. How much longer will the answer to this question remain elusive?

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Arizona’s New Law: A Call for Reform

Chris Stanislowski

On 23 April 2010 the government of Arizona passed a new immigration law – the most severe of its kind in decades. This law, called the Arizona Senate Bill 1070, seeks to find and deport illegal immigrants living in the United States. Supporters of the bill assert that provisions of the law are in agreement with federal immigration law. The important difference, however, is that the new law grants state law enforcement agents the ability to check the immigration status of any individual if they believe there is “reasonable suspicion” that the person is in the United States illegally. Supporters say that the new law stipulates that one should not be suspected because of their race or nationality. However, in practice this law simply institutionalizes discrimination and condones racial profiling, as “reasonable suspicion” is not clearly defined.

Many U.S. citizens that are Latino (or look like they could be Latino) will be discriminated against under the Act and risk becoming second-class citizens in their own country. Legal residents and foreign nationals who are visiting the United States legally will also face unnecessary and unfair harassment. In fact, the government of Mexico has already warned their citizens of the potential problems they might come across in Arizona. Even people who live in other states of the US have demonstrated reluctance to visit or move to Arizona. In light of the bill, the president of the University of Arizona has reported that a number of honor roll students have decided to withdraw from college in protest of the new law. Similarly many civil rights groups have boycotted the state.

Many people who are in favor of this law cite criminal cases such as the recent murder of an Arizona rancher, allegedly by an
illegal immigrant, to argue that there is a correlation between illegal immigration and crime. Although violence committed by smugglers and drug traffickers in the United States is a serious problem, the bill’s supporters have blamed all undocumented immigrants for these offenses. Several studies have found that illegal immigrants do not commit crimes in higher numbers than any other demographic group. In addition, many police in Arizona have spoken out against the law, arguing that the fear of being imprisoned will cause more problems than the presence of illegal immigrants themselves, as clandestine migrants will not want to contact the police if they are the victims of a crime or have important information about an investigation.

This is not the only negative impact the law will have on law enforcement agents: a provision of the law says that citizens can sue Arizonan agencies or officials who fail to enforce federal immigration laws “to the fullest extent permitted by law.” This will no doubt increase the number of police who will seek to find “reasonable suspicion” to avoid their own persecution, thus further promoting discrimination.

The government should repeal the Act as a violation of civil and constitutional rights.

But more than this, the current circumstances in Arizona highlight the urgent need for the U.S. government to undertake extensive immigration policy reform. The United States is a country whose identity is and always has been indispensably linked with immigration. It therefore has the duty to adopt a policy that will benefit those who are already citizens, and those who want to become citizens but have not yet had the opportunity.

Update

In response to the President Obama’s heavy criticism and his administration’s pending lawsuit against the Arizona law, a federal judge granted a preliminary injunction to stop the most controversial sections of the law from going into effect. Still, some less debated terms were permitted, including one that requires Arizona cities to cooperate with federal immigration agents. These regulations went into effect on 29 July 2010. Obama’s administration argues that the law interferes with long established federal authority regarding immigration and could result in unfair harassment of citizens and legal immigrants.

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An Inconvenient Truth: Pakistan’s ISI and the Afghan Taliban

John Jack Rooney

When Wikileaks unloaded their treasure trove of some 90,000 classified Afghan War documents into the public domain, an ugly little “inconvenient truth” appeared in the Western media rotation, only to be pushed back under the rug a few days later. The truth being that the Pakistani Intelligence Agency (ISI) continues to fund, train, and give sanctuary to the Afghan Taliban, and the inconvenience being that the reports came out just a week after Secretary of State Hillary Clinton traveled to Islamabad with a $500 million check signed, sealed, and delivered to the Pakistani government.

How on earth is such a glaring inconsistency suppressed, you ask? Being the message control maestros they are, the Obama administration, and others speaking on behalf of the war effort, diffuse the issue by purposely misconstruing the Pakistani Taliban with the Afghan Taliban. Whenever a question about Pakistan’s murky relationship with the Taliban arises, the same tired refrain is repeated – the Pakistani army has made great sacrifice in conducting fierce operations against the Taliban.

While yes, it is indeed true that the Pakistani army has engaged in important combat missions in the East against the Pakistani Taliban, nonetheless, what the administration fails to mention is that in the South, in places like Helmand and Kandahar province, the Pakistani military continues to support and arm the Afghan Taliban. That’s an important detail to leave out, particularly because the South is where US and coalition forces are most heavily engaged and where they have suffered the greatest casualties.

That ugly little inconvenient truth raised its head just briefly after Wikileaks exposed some 180 different reports documenting ISI officials meeting with top insurgent commanders, training suicide bombers, providing motorbikes and magnetic mines, and even organizing sophisticated activities.
offensives. While the New York Times and others did initially report on these troubling findings, the story was quickly lost among the clutter of long-winded conversations about the political implications of artificial withdraw deadlines. One only needs to watch General David Petraeus’ first interview since taking command (NBC’s Meet the Press Aug. 15) to see that hardly any serious public debate in the US will be given to this outrageous double game Pakistan continues to play.

A Tale of Two Talibans

Much of this confusion on the part of the American public is due to the oversimplification of the term Taliban, or as George W used to say, “the evil doers.” In fact, there are many different militant groups operating in Pakistan and Afghanistan with different alliances, motivations, and capabilities, with an alarming number of them cooperating extensively with the ISI.

Such links are not surprising given the fact that the CIA’s primary liaison with the mujahideen resistance against the Soviets in the 1980s was the ISI, through which weapons, training, and logistics support was funneled. After the Soviet withdraw, however, the ISI continued to maintain contacts with these various Islamic militant groups, using them as a tool with which to execute foreign policy. As Pakistan now sees it, there are the “good” Taliban who they still view as serving the broader interests of Pakistan, and then there are the “bad” Taliban who are out of control and now threaten to destabilize Pakistan with suicide bombings inside of the country.

The Pakistani Taliban, led by Hakimullah Mehsud, is an example of this “bad” Taliban, and thus, the Pakistani army has conducted decisive military operations against these militants in the Federally Administered Tribal Areas along the porous border between Afghanistan and Pakistan. These operations are a vital part of Obama’s regional “Af-Pak” strategy, and thus, the administration is right to praise Pakistan for these efforts. Nonetheless, the issue of the “good” Taliban still remains.

More commonly referred to as the Quetta Shura Taliban, the Afghan Taliban get their alternative name from the Pakistani border town, Quetta, which is understood to be a primary base of operations for these militants crossing the border into southern Afghanistan to conduct operations. Quetta, appropriately a Pashtun word meaning “fort,” is also suspected to be the hideout of the Afghan Taliban leader, Mullah Omar, although the word “hideout” is not as appropriate given the near impunity with which he and his forces are allowed to operate.

In fact, US and NATO intelligence have confirmed reports that ISI officers were running training camps for Taliban recruits north of Quetta, and rumors of arms shipments from the Gulf and shopping sprees for pickup trucks and satellite phones paint a clearer picture of the freedom with which they operate this side of the border. These Taliban (meaning ”seeker of light”) are not rural peasants herding sheep with a Kalashnikov slung over their shoulder; they are religiously fervent militants with highly specialized training in bomb making and gorilla-style warfare, capable of pulling off sophisticated ambushes and raids. Because of the ISI’s involvement, US troops are facing a much more competent enemy that is not just well-funded, but is also trained to kill.

Some of the most startling information regarding ISI-Taliban cooperation comes from a series of interviews conducted by Harvard analyst Matt Waldman in his report, “The Sun in the Sky,” published earlier this summer. Over the course of talking with dozens of Taliban field commanders and tribal elders, Waldman came across one particularly
revealing account which details a visit to a Pakistani prison by President Asif Ali Zardari, himself. According to a reliable source, the president told some 30-40 captured militants that “you are our people, we are friends, and after your release we will of course support you to do your operations.” While some skeptics may cast this aside as Taliban mythology, nonetheless, it matches other events, such as in February of this year when the ISI arrested top Taliban leaders Qayyum Zakir and Mullah Abdul Raouf Khadem only to release them days later.

While the relationship between the ISI and the Taliban is certainly outrageous, it is important to place such cooperation in proper context in order to answer the most pressing question: why would the United States continue to send billions of dollars of economic and military aid to Pakistan if they are funding and supporting the enemy? But before this question can be answered, another must be addressed: why does Pakistan, under incredible pressure from the United States and the international community, continue to support the Afghan Taliban?

**A History of Violence**

To answer to this question, one must go back to 1947 and the partition of British India, when a vicious cycle of strife and conflict erupted, culminating in four majors wars, with the Kargil Crisis breaking out as recently as 1999. Historically, Pakistan has armed and supported Islamic militants as an instrument of foreign policy to achieve gains against its larger more powerful neighbor, India, as well as to maintain a Kabul favorable to Pakistan’s interests via the Taliban.

After the 2001 US-led invasion threw the Taliban out of power, Afghanistan became a battleground between an India, fearful of being cut off from crucial energy reserves in Central Asia, and a Pakistan, fearful of encirclement by an Afghanistan more favorable
to Indian interests. Both countries have legitimate concerns, and neither is about to back down and acquiesce.

Since 2001, India has pumped over $1.3 billion in civilian aid, making it Afghanistan’s largest regional donor, while Pakistan has looked to secure their interests at the point of a gun by supporting the Haqqani Network, Gulbuddin Hekmatyar, the Afghan Taliban and a variety of other unsavory characters trying to usurp power from Hamid Karzai’s government. As the thinking goes, the stronger the Taliban’s position in Afghanistan, the stronger Pakistan’s influence will be.

But as Pakistan is now learning, rarely are things so simple. The Taliban, by its very nature, is an uncontrollable force that has morphed into a variety of hard line groups, not the least of which is now executing suicide bombings inside of Pakistan in an attempt to overthrow their government. The United States looks the other way on the ISI’s support for the Afghan Taliban precisely because of this extremely fragile state Pakistan now finds itself in.

Pakistan overwhelmingly rejected the military dictatorship of Pervez Musharraf, and yet the civilian government led by Zadari now finds itself extremely unpopular as well. Zadari’s precarious hold on governance has been further weakened by the recent flooding disaster that is quickly escalating into a humanitarian crisis. If Pakistan were to descend into chaos, the whole region would destabilize and a well-funded Afghan Taliban would be the least of the US’s concerns. While Pakistan breaks ties with militant groups, the US must be careful about putting too much pressure on a Pakistani government that is already showing signs of coming apart at the seams.

Pakistan has made progress, and has killed or captured more senior Al-Qaeda leaders than any other country. While Pakistan must continue to rein in its support for militant groups, don’t expect their calculations with regards to India and Afghanistan to change anytime soon. As Hamid Gul, the ex chief of the ISI who is continually referenced in 8 different Wikileaks reports says, “Taliban are the future, and Americans are the past of Afghanistan.”

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High on America: An interview with Czechoslovak-American poet James Ragan

Hrishabhb Sandilya

Trouvère to a generation, Hollywood screenwriter, distinguished professor and amongst the ‘100 coolest people in Los Angeles,’ James Ragan has read for six Heads of State, with Bob Dylan, and to a standing ovation from 100,000 people in the USSR. Not a politician, but his politics have long played a role in both his poetry and his life. From protests in the 60s to reading for the Supreme Soviet and at the United Nations, Ragan has always been an astute social commentator and chronicler through his work. His most recent anthology of poems “Too Long Solitude” was published in 2009 by the University of Oklahoma Press. A summer Prague resident, he talks about President Havel, the current state of America, the survival of the Arts and other things dear to him, in this expansive interview with Hrishabhb Sandilya.

Why Prague? What brought you here and how does it seem to inveigle you into coming back every year?

President Havel was getting an honorary doctorate at UCLA when I was running the writing program at USC when we met in LA in the early 90s. I was honored to have had a short meeting with him where he extended his hand to me and said, ‘We are colleagues,’ and followed it up by saying he wanted all Czechoslovaks to come back and donate something to the country.

This struck a chord within me and being a writer and educator, I decided I could do something for the country. I have been coming to Czechoslovakia ever since my teenage years; several of my siblings were born here, it is a homeland to my parents, something that was instilled in me from a very young age.

I write and I wrote against the regime. My first book (In the Talking Hours) was banned here. I had a poem in there about Jan Palach and I wrote about the Russian invasion. So President Havel inviting me back to help rebuild the country was all I needed. I gave them my poetry and as an educator I’ve had the opportunity to teach a generation of young Czechs and Slovaks and give back.

My work at Charles University as a distinguished visiting professor keeps me coming back now every summer. I teach young Czech poets the American, Continental and Czech poets, and we do a workshop as well where they work on their own poetry.

What about your poetry? How much does your Czechoslovak heritage inspire you? How does it affect your poetry?

My heritage is Slovak and my parents are from there (he responds in Slovak). It is my first language and interestingly enough it is a Vychodnarski dialect. It’s a special dialect and whoever you speak to tells you it is a dialect that you don’t want to lose because it is so melodious. It is from that region
American-Slovak poet James Ragan
between Hungary and the Ukraine. I didn’t know this but the casual Slovak I grew up with from my parents was more of a peasant Slovak, a dialect of the earth, of hard work, a ruggedness, dignity and expressions of a rustic happiness.

All the voices entering our home were similar to that sort of Slovak when I was growing up. Whether it was Polish, Czech, Russian, Ukrainian or Serb, I grew up hearing a certain melody of the music of languages, the same thing that was true of the music and the literature entering the house. We were taught to read Czech and Slovak poetry, literature and we were immersed in the culture. I remember one of the first experiences I had was to see Janousek in the original Slovak as a young child.

Slovak has a sense of wonderful tension in it. It is different from Czech, which is more guttural almost because of its Germanic influence. Yet Slovak is a language that produces poetry because it is such a musical mixture of the languages in the region, especially the Vychodnarski dialect. The music of Slovak is much different from the Czech. It is thanks to the indigenous quality and tensions that produced great art from the country.

Let’s talk about your other heritage now, America. What’s your take on America today?

I am honored to be asked to give commencement addresses these days, and this is something I make a point to reiterate. We have to remember as a country, we (America) are very young compared to the old oaks of Europe; we are still in our adolescence. And at times, we do behave badly but when we tread towards maturity we are still that grand experiment that the world initiated. It is still the one country in the world where you can have a temple, a church, a synagogue and a mosque on one street and have constructive debate.

Right now the state of America is such, that when we elected Barack Obama, I strongly believed that we as Americans finally took that destined turn toward maturity. That a country through its voting populace could bring a minority president into power … my whole take on America is extremely positive. But we need to temper that positivity with a cold dose of reality.

The unfortunate part about Obama’s regime is that he has inherited so many of the problems we have. These are problems that are not just economic, but also social, educational, cultural. We need to give him the same amount of time to correct these problems, just about the same amount of time past administrations have had to create them, before we start judging him.

My biggest fear for America though is that the voting populace has ceased to be an educated populace in many ways. They don’t educate themselves as they used to… Sometimes I feel they only want the quick fix. They want to see instant gratification, the instant imaging of truth, an instant response on everything, with no time to be given. My experience is that this always creates more problems than first existed. My concern therefore is that this particular attitude will exacerbate the situation, splitting the healing process [that] I think Obama has put into place.

For example the idea of a country feeling for Sarah Palin as a candidate disturbs me. She represents that … the need for an instant response.

Isn’t that in a sense the disparity that seems to make America today? That great divide that has come to exemplify the country, the difference between the enlightened and the traditionalists, the tea partiers, the soccer moms and those who look at the bigger picture?
Yes, it started with Nixon where we went through an anti intellectual period, completely unlike the Kennedy years where we had many people who represented advancements, civil rights and liberties in government and in positions to make decisions. It was because the public itself cared about things.

However once that anti-intellectualism began, it didn’t take long to manifest itself in the public sphere. Forty years down the line and a Sarah Palin is a result of that... It seems to say [that] we, as America don’t want a person in global policy. On the other hand [global policy] is what Obama represents, so when you as a voting public vote for Palin you are dismissing the idea of a global community.

The need of the hour is for America to rejoin the global community. We’ve been insular for too far too long. Now for the first time, with Obama’s election, there is a liking of America again. We have to choose to put ourselves back into the world in the way we used to be involved.

The other thing is this: the word statesman. You remember, we used to have those. Statesmen meant a lot to me when I was growing up. This was a man you could always call on to be the healer, no matter what the problem was.

I think Obama represents that. He has the ability and has shown that. But if you want to put conservative political activity against such an individual it will always come out against that sense of a more global vision, that big picture. This goes back to that divide we were talking about, America first instead of the global vision.

I take my poetry to the world. I am a big proponent of the global vision and I am happy to see a leadership that reflects that in our own government.

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How does culture, the arts fit into that take on America? How much has American culture evolved since you first started writing?

To me, American culture has changed the most in the sense of what the world sees as American culture these days. Unfortunately the culture has inundated many other countries. American culture is assimilative and that’s what made it so unique and wonderful but sometimes though it’s the tabloid culture of America that stands out. We become that too. The day Britney Spears and Lady Ga Ga make the six o’clock news, we have become that tabloid culture. This is what is being exported. We need to export more of what was the best of it, what formed us as a young nation. We need to be known through our jazz, dance, poetry, the ballet, the books, the novels, the plays. All that still exists but it needs to come out more.

Unfortunately we also send out the worst of our real culture as well. Our films speak for themselves, yet the ones that go out to the world are the violent [and] stereotypical, a far drawback from the character driven sagas that made Hollywood what it was. Most of the world today sees us as a culture of violence, a culture not at ease with itself.

A byproduct perhaps of that anti intellectualism that you mentioned earlier ....

Yes a sad reality, an absolute product of that anti-intellectualism. I am a product of that culture – at the best of times and the worst of times. It made me and it made some of the biggest cultural influences the world has seen, but I see hope for it … The leadership has changed and [Obama] represents a cultural hope as well.

What about technology and the new media? We talked about instant gratification, yet technology has only facilitated this. Does it peeve you or does it provide inspiration?
Technology doesn’t threaten me. I remember being in Silicon Valley a few decades ago, and saw one of the earliest prototypes of the Internet and Google and I was amazed by what it could do. Instead it has not been utilized correctly, not to its greatest merits. Instead of harnessing its positive elements we have Facebook, MySpace, MyFace … They inspire narco-narcissism. Narcissism has become a narcotic. There are people out there who have delusions about their self-importance and believe everyone should know every moment of their lives.

These are the distractions that have taken us away from the goods of technology. They have also taken us away from book reading. Book reading provides us with and safeguards our peripheral vision - the vision of the imagination. A tunnel vision has taken over, what [Marshall] McLuhan predicted ages ago. Now lo and behold we have the ‘you know’ generation where they beg you to finish the thought. They have no precision in language, they don’t read, and media relies on a language that is cliché ridden. The language changes, ‘your’ becomes ‘yr’; numbers come into words. This is what technology has facilitated, sadly the de-education of a society in this way.

The other thing that technology does is that it takes away that sense of community, that assimilation of cultures where you could cry together and laugh together. Once we became a post-reading generation people are associated with their computers and we lose that sense of face-to-face dialogue which is so essential for a society. Language means a lot to me, that’s where the poet comes in. Language in a way seeks sanctity in poetry. Technology effects language.

What about the arts in the time of crisis?

The first place that cuts are seen are in the arts, whether it’s in America or across the world. The arts are an appeasement to the senses but austerity on the other hand always involves a reduction in sensory pleasure.

Jobs will always be more important than the arts but it does not mean culture necessarily suffers.

Artists have always managed to find ways to thrive. They thrived at the worst of times in the sixties. I was a ‘long-hair’ and we thrived for the truth in the sixties, whether it was civil rights, feminism, liberty, the environment or against war. They cut funding for the arts back then and they’re doing it now.

I am not worried about the future of the artist, but I’m hoping that in the West, the artist does not become the mercenary. Is that a problem? Is it about the money? Is that the danger for artists? This is what we need to be asking ourselves.

For example I see books being written today with a film line in. They don’t speak to me on a literary level anymore. On the same hand I see movies instead of being the character driven and story driven epics are far more situational now. Similarly publishing houses are closing down, magazines don’t last long and literary journals have gone from being the bastion of the eclectic to just plain insular.

To me one of the most important reasons to write has been to engage the suffering of humanity. It may sound as a cliché, but it still is idealism that must accompany the artist. It’s the same weather it’s the visual arts, performing arts or writers. If that starts to change then we all should worry.

I have immense faith in the artist. The artist may meander a tad in the West, but I see the artist rising to the occasion across the world, whether it is China, Africa, India or South America.

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American Superheroes and the Politics of Good and Evil

Jiří G. Růžička

A nation needs heroes.

How to create a history

The United States of America is the Promised Land – for comics. Void of any ancient history or mythology of its own (Americans distanced themselves from Native American mythology by massacring the native tribes and dissolving their remains in the national melting pot), the nation has embraced and worshiped its comic superheroes.

Comic books originated in the United States in the late 1800s. However, it wasn’t until the 1930s that superheroes gained their popularity. It is not by chance, that they found an audience during a time of economic recession. Perhaps they were meant to intervene, if not as saviors of the economy, as saviors of all that is good, and guardians of a better future. Traditionally superheroes were based on characters from Ancient Greek legends and stories. For example, comic book hero Flash clearly borrows elements from the Greek god Hermes, even wearing a winged helmet, an icon of the god. Similarly, heroes such as Zeus, Thor and Beowulf have all been used as models for the creation of comic heroes. Others are a combination of legendary characters or archetypes. Any origin, they all have one thing in common: they always fight in the name of good, in the name of honest citizens, and they are always victorious.

If we were to place these superheroes somewhere on the political spectrum, they would most certainly lean to the right as they protect the traditional societal values based on a capitalist model.

The need for an ideological adversary

Superheroes of course have the necessary social compassion, but they are not terribly interested in fighting poverty. After all, many of them belong to the upper classes of society in their civilian lives: Batman as Bruce Wayne is a billionaire who owns practically the entire city; Iron Man as Tony Stark is a weapons’ magnate. Two other
superheroes – Superman and Spiderman – work for tabloid newspapers. All are white collar, upper middle class, successful members of society.

Captain America is the ultimate symbol of American idealism. During the Cold War American superheroes fought against the evil Soviets and other “vermin” from the East, who always planned to take over the world. At the end of the Cold War, communist villains lost some popularity (although there still was the odd Communist villain lurking in some far off place who wanted to seize power and return the “old world order”), but eventually a new enemy appeared: the terrorist. Superheroes need super villains and super villains need a reason to want to destroy the world. They look more credible if they belong to an ideological camp. In this way, comic superheroes and their adversaries in many ways paralleled reality.

Disrupting the superhero cliché from the other side of the Atlantic

The mid 1950s – 1970s are commonly referred to as the Silver Age of comics. At this time, according to Peter Coogan, author of *Superhero: The Secret Origin of a Genre*, “superhero comic books act[ed] to convey the prevailing social ideology.” When this, however, no longer interested readers, the comic books “moved away from explicitly ideological texts. The superhero genre which had been used to build consensus and morale during WWII was now questioning America’s role as the world’s superpower, due largely in part to the public’s perception of the Vietnam War.” Comic creators began to re-evaluate what good and evil really meant.

This was the case with British author Alan Moore who created a superhero story that defined this notion of ‘good’ that superheroes had been hiding behind all this time. Not only did he challenge the established ideas of good and evil, he also asked a question that was ubiquitous to traditional comics: is there a greater good? And if so, is it superior to an average, everyday good? Moore illustrated his answers to these questions in his comic series *Watchmen*. Taking place during the Cold War, a fake attack on New York City (by aliens from outer space) leads to global peace, as the two sides of the Iron Curtain unite in a fight against their common extraterrestrial adversary. In this series, Moore critiques the traditional superhero concept.

Moore is also the author of the series *V for Vendetta*, in which he creates a dystopian exaggeration of strictly right wing politics. He creates a quasi-Fascist system, full of CCTV cameras and manipulated media, where political leaders create artificial fear of “the other” among its population. In this comic, the superhero is a left wing anarchist who is not scared to face the establishment and point out that the ruling elites are the real evil.

This represents a turning point for heroes. They were “further revolutionized” when leading characters had some kind of “weakness or defect, such as the Hulk and Spiderman,” explains Coogan in his book. “They were persecuted and misunderstood outsiders and spoke directly to public disorientation.” As times have changed, the definition of what it means to be a superhero, and a villain, has dramatically changed as well.

Underground comix

Left wing comics began to take off in the 1960s thanks to the underground movement. Underground comics were more or less a reaction to the ethical codex of the Comics Code Authority (CCA) which was established in the 1950s to cleanse comics from anything that could harm children’s development (children were found to constitute the largest readership of this media).
Scary creatures disappeared, violence was hidden in between the graphic panels and the superhero language was cleaned up as well. The desire to breach this codex gave rise to comics intended for adult audiences.

An entirely underground scene appeared, dealing with problems of regular people. The heroes of the comics were often the authors themselves. The storylines reflected the ideas and realities of the counterculture of the time. Some of the most important authors in this movement were Robert Crumb, Kim Deitch, Art Spiegelman, and Harvey Pekar. The underground comic book scene is often referred to as comix.

**Just your average everyday superhero**

One of the most interesting left wing comic books is the *Love and Rockets* series, or rather its subseries *Locas*, written and illustrated by Jaime Hernandez (His brother Gilbert is the author of the second subseries called *Palomar*). Published for the first time in the 1980s – in the conservative years of Margaret Thatcher and Ronald Reagan – it was created in a time when economies prospered, militaries militarized and the fall of the Iron Curtain was just around the corner. The market solved everything and people seemed almost redundant.

The first series, *Maggie the Mechanic*, tells the story of an 18-year-old girl who lives in a Hispanic suburb of California. Hernandez works with the sci-fi genre allowing the characters to live in a world split between the fantastic and the mundane of ordinary life situations. Maggie has normal issues and struggles with her job, friends, and relationships. She and her friend (and sometimes lover) Hopey are active in the punk movement, do not work too hard, and are struggling to find happiness.

As the series progresses Hernandez loses the sci-fi elements and further develops Maggie as well as her friends. His heroines get older, fatter and lazier. In the *Ghost of Hoppers* series Maggie is going on 40 and her carefree past is just a distant memory. Still, at every age, Maggie represents a new kind of superhero because she prevails in her struggles and hardships of everyday life.

**May good prevail**

As much as the political leanings of traditional superheroes are hidden within the comics, it is obvious which side of the political spectrum they prefer. Characters in left wing comix are more forward with their opinions. While traditional superheroes try to protect the values of society as it is, new superheroes try to determine and define their existence within a society in which they do not agree. Either way, they have taken on an important role in American society. They reflect and commentate on current happenings and illustrate unique views of the world – where good (however it is defined) still always prevails.

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The End of Growth: Systemic Risks of Globalization

Alexander Ač

Key trends suggest that the Western globalized world will soon reach the limits of growth. As these societies, as well as their functioning, are based on exponential expansion, reaching these limits will no doubt herald alarming consequences. As long as societies perceive the growth of wealth to be exclusively linked to increased consumption, the disillusionment will be exceedingly painful. The following article introduces the ever-increasing systemic risks of growth, which, with the interconnectedness of the globalized world, will threaten global prosperity.

Complex boundaries

Modern civilization, with the help of science, technology and health care, has created the most complex culture in human history. There are nearly seven billion people living on the planet, many of whom can travel to the most remote regions of the globe in hours if they so choose. This interconnectedness, the process of globalization, has changed our ability to tackle local problems as these problems are no longer isolated. For example, if crop failure or flooding affects one state, other areas that are experiencing a food production surplus can easily provide aid. In this way, globalization, in theory, can enable very effective or possibly even the most effective use of natural and human resources. If China produces cheap steel or shoes and Spain grows the best tomatoes, the market will ensure that the resources for these activities are moved to the appropriate places, hence David Ricardo’s theory of comparative advantage.

However, interconnectedness also has its darker side. It requires constant growth in energy consumption and increases the dependence individual sections and regions of the world have on each other. If consumption growth, for example in the energy sector, is no longer possible, it disrupts the functioning of various other sections of the global system. Consequently there is a ripple effect.

The current economic crisis is a good example of this. It started in the USA as a mortgage and financial crisis but it spread effectively across the entire world and other spheres of the economy. Today it is not possible to claim that the European Union does not have to care about current affairs in the United States, or that China does not have to consider domestic affairs in Greece. Cultural anthropologist Joseph Tainter, who researches the collapse of complex civilizations, claims that today, unlike in the past, no developed state can collapse on its own. Globalization ensures that the collapse will be global.

The decline of investment returns

The risk of a global collapse is closely related to the increasing complexity of society. We attempt to deal with issues in the global sphere with concern only for our local situation. Therefore, as time passes by, the search for a solution that suits everyone becomes far more complicated. Looking at the short term, too often we tackle the easiest problems first and leave the harder ones for later. In this way, many
times one solution can create a plethora of new problems, resulting in an ever-decreasing benefit to the society overall.

Alexander Fleming needed approximately $20,000 USD for his research that resulted in the discovery of antibiotics. Saving millions of lives, antibiotics were without a doubt a great success. Thus, the investment return was enormous. In contrast, today, society invests millions, or rather tens of millions into research that aims to reduce the side effects of new medications. The investment returns on such research are therefore infinitely smaller. This does not discount the possibility that scientists will discover a new revolutionary medicine or other groundbreaking discovery, nor does it suggest that we should stop financing basic and applied research. The argument only illustrates the fact that the solution to increasingly complex problems inevitably decreases the frequency of major discoveries and therefore decreases society’s ability to grow exponentially. A time will come when the solutions to our problems will themselves become the source of other, new problems. These situations will exist more and more often in the future.

For instance, any solution to the Greek financial crisis can only lead to further problems. At the same time, it is obvious that not aiding Greece and allowing the country to go bankrupt, in essence removing them from the monetary union, is also a very problematic path to take. Current trends suggest that in coming years other states with high budget deficits, such as Spain, Italy, Portugal, Hungary, and the UK will meet the same fate as Greece. Even in the USA additional borrowing no longer leads to an increase in gross domestic product (GDP). In this way, any solution to the financial crisis and global recession seems to result in other problems, not solutions.

**Lack of resources**

Disliked by average people and economists alike, we live on a planet where there are limited natural resources. It is not always possible to replace resources with higher quality alternatives. The industrial revolution began with James Watt and his improvements to the steam engine, which opened the road to the exponential usage of fossil coals. This development was further strengthened by the creation of the combustion engine, which relies on oil. Today, 30 billion barrels of oil are used globally each year (one barrel equals 159 liters). For every four barrels used, only one new barrel of oil is discovered. In light of this, we can presume that even the largest of the newly discovered oil fields can satisfy the global demand for oil for a limited period of
time. Additionally, the accessibility of the discovered oil is becoming increasingly problematic. It is being found either in politically unstable territory, such as Iraq, or only by deep ocean excavation.

In the past the cost of oil was as low as $1-10 per barrel. Recent reports cite the cost now hovering around $80 per barrel, illustrating the increased demand. Moreover, the extraction of oil in inaccessible areas increases the risk of accidents as seen in the explosion of the Deepwater Horizon oilrig, which resulted in the biggest marine oil spill in history. Leaking oil for over 100 days off the Gulf of Mexico, the oil spill quickly increased in size. In July, reports stated that the area of the spill was roughly the size of Slovakia. The British oil company, British Petroleum, spent more than $3 billion in an attempt to contain the spill causing its stocks to fall by 50 percent. According to some analysts the company may now face bankruptcy, which would have a considerable impact on energy security in the USA and elsewhere.

In reaction to the catastrophe President Barack Obama declared a six-month ban on new deep water drilling. The increasing aversion to the ban proves that the USA, as well as the rest of the world, is reliant on an infinite supply of high quality energy.

Unfortunately, lifting this ban will only exacerbate the limited supply of global oil. This will have a profound impact on the economy as stable and affordable energy alternatives have not yet been secured. The use of nuclear energy highlights the possibility of switching to a non fossil fuel based energy system, but the risks of nuclear energy are still largely unknown. Likewise, to replace the 30 billion barrels of annual oil consumption, at least 52 nuclear reactors with the same output as Temelin would have to be build every year for the next 50 years. While making this switch along with using other forms of alternative energy is a possibility, it does not seem realistic in the near future.

A slow impetus forward

People like what they know. Change, even if it’s for the better, is often accepted with great reluctance. In terms of energy systems, this reluctance to change will have long-term ramifications. If a coal power station is built today, it will exist for the next 50 to 70 years before it expires. Such massive undertakings, like nuclear power stations or oil extraction, result in the same commitment.

Energy infrastructure is one of the most stable and unchanging structures made by man. Electricity networks are created for electrical energy drawn from secure sources. This is one of the reasons why newly established renewable sources do not currently play a leading role in the energy industry: they have not yet become fixed or predictable and new networks and infrastructures need to be created to fully utilize their potential. Any source of energy without greenhouse gas emissions will still take several decades to be fully implemented into our energy networks. This can be seen again with nuclear energy, which has been around for more than 60 years but still only represents 6 percent of primary energy consumption. People still use coal and oil for most of their energy needs. This is why a fossil fuel shortage is a critical (and eminent) problem. And unfortunately, the mechanisms of the free market will not be able to offer the necessary solutions. It is blind to systemic and long-term trends – energy security is a market failure.

Running in place

Tackling easy to solve problems first and looking for convenient answers (as is the case with utilizing resources that are easily accessible: oil and coal) is a dangerous combination. Studies show that we use more energy to perform all tasks today, than we did many years ago. For example, 17 times more energy is used to catch the same number of fish today than at the start of the fishing
industry. This is even more disturbing since we use far superior technology and fishing methods than 150 years ago. Better technology enables us to use natural resources more rapidly. It also leads to a faster depletion of these resources which, if unchecked, can result in future shortages. In other words, just like in Lewis Carroll’s *Alice in Wonderland*, we are forced to run faster and faster just to stay in the same place.

How are society’s actions coming to terms with these trends? So far, it seems not very successfully. Many politicians and policy makers seem to feel that there are no alternatives other than further growth and expansion. However, one cannot assess GDP as the only measurement of prosperity and success. Sustainable growth needs to be more than a political catch phrase. It is impossible to ignore the fact that the world is exhausting its fossil fuel deposits. Alternative sources need to be found and realized, or we must come to terms with the very real possibility that growth, as we know it, will come to an end.

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In the 1980s, acting director of the Solomon R. Guggenheim foundation in New York, Thomas Krens (he held this position from 1988-2005; currently he works as the museum’s foreign affairs advisor), asked a simple question: Why should large amounts of artwork sit in depositories unused and unseen? Finding no sufficient answer, he decided to change the way museums did business. Abandoning the concept that a museum should be tied to a specific location, he began to export the Guggenheim brand abroad. Just like Louis Vuitton, who has offices in Paris, London, New York and Prague, the Guggenheim now has museum branches in Bilbao, Berlin, Venice and soon, Abu Dhabi. Krens radically changed the definition of a museum and in doing so unleashed a fury of copycat policies, despite its many criticisms.

This trend is the continuance of a process that began in the second half of the 18th century. Artwork created for a specifically designed space, such as a church or private residence, was moved to museums, newly established in response to the wave of nationalism that washed over Europe. Through this move, the pieces lost their natural context but became tied to national identity. During the 20th century museums became the target destinations of modern art. Increasingly artwork is treated as any other consumer item that can be sold or rented anywhere in the world. The advocates of this expansive process argue that in sharing national treasures, museums are building bridges of understanding between countries and cultures. The question remains whether the export of national artwork causes the work to lose any of its meaning or substance.

The consumer market model has reached European museums. Jean Clair, the former director of the Picasso Museum in Paris, art historian and author – and one of the main critics of the museum-businesses, which he likens to museum-McDonald’s – described Thomas Krens as a manager without any wider cultural awareness, a self-made man who often made vast amounts of money but rarely brought prestige to American artwork. The fact of the matter is that during Krens’ leadership investment in the foundation increased from 20 million to 118 million dollars. However, at what cost?

The price was the commercialization and vulgarization of museums, as noted by Philippe de Montebello, former director of the Metropolitan Museum of Art in New York. An art historian and long-time critic of the Guggenheim approach, de Montebello condemned the system of loan fees (and the paid rental of collections) along with the

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33 Jean Clair, Malaise dans les musées, Paris, Flammarion, 2007, s. 67. This book is the source of other citations and quotes of Jean Clair in this paper.
tendency of museums to become “culture markets” or “amusement parks.” He warned that this sort of policy leads to the loss of the museum’s spirit and mission. He noted that if culture is supposed to become Disneyland, Disney is much better equipped for the purpose.

Cities and countries attract the world’s attention with their museums and cultural centers. This was the case in Bilbao, Spain. In the late 1980s, it was a city without a future, coming to terms with failing industry and political violence, a combination that almost brought the city to collapse.

The former Basque president José Antonio Ardanza decided to counteract the city’s decline through cultural means. He wanted to transform the city into a sacred place and to give the city a new direction. In 1991 he met Krens and presented a proposal to open an unprecedented museum of modern art in cooperation with the Guggenheim. Ardanza did not have art collections or a building, but he had money. This proposal coincided with Krens desire to bring the Guggenheim into the international arena. Krens agreed to loan artwork from New York depositories and Ardanza organized the construction of a building like no other. In many ways, the actual art was not nearly as important as the architecture of the museum and the prestigious Guggenheim brand name. Architect Frank O. Ghery was selected to build the museum, and in 1992 he constructed the most significant piece of the entire collection: the building itself. The museum fulfilled Krens’ dream. The art religion, as described by art theorist Wolfgang Ullrich, was blessed with a spectacular new cathedral.

The museum created 4,500 job opportunities in the city. Investors estimated that 500 thousand visitors would visit the museum annually. Once opened, the museum welcomed doubled this number of visitors (Guggenheim Bilbao is visited by 900 thousand to 1 million viewers every year, 70 percent of which are foreigners). The large influx of tourists, as Ardanza has hoped, transformed the city. The establishment of the museum was undoubtedly beneficial for Bilbao. However, the question remains whether it has been so for the Guggenheim.

According to French art historian Didier Rykner, the Guggenheim collection
compared to others is not very noteworthy and thus loses the significance it does have when it loans its collections to other institutions. In 1999 the Guggenheim was forced to sell part of its collection (for $10 million dollars) to finance its plans to expand to other locations. In 2000 it sold a further $4.55 million dollars worth of art, and at the beginning of 2003 the foundation announced that due financial difficulties it would not continue with its $950 million dollar plan to build another branch in New York. Since more branches have opened, the original Guggenheim museum has reduced its budget and programming and cut its staff.

Krens tried to solve these financial woes by increasing museum cooperation. In 2001 he joined forces with the St. Petersburg Hermitage Museum to open a Guggenheim Hermitage Museum in Las Vegas. The new project did not survive. The Guggenheim had such low attendance, it closed only 15 months after opening. The entire Guggenheim Hermitage project was cancelled in 2008.

Further projects in Tokyo, Salzburg, Mexico and Brazil were abandoned as well. In 2008 the British-Iraqi architect Zaha Hadid was asked to construct the Guggenheim Hermitage Vilnius Museum, which is scheduled to open in 2011, however, there are doubts that the project will be realized. Even former President Ardanze is skeptical about repeating the Bilbao success.

Nevertheless, Krens will not be discouraged. He already opened relatively successful branches in Berlin and Venice and intends to move on to Abu Dhabi where he hopes to open a Guggenheim branch in 2012.

France was inspired by the export of cultural heritage and began renting its national collections as well. In 2006 the Louvre opened its first branch abroad in Atlanta, Georgia. In exchange for 13 million Euros it loaned treasures from its depositories for a three years period, creating nine long-term exhibitions. The new Louvre Atlanta, designed by Renza Piana, is yet another example of the current trend: build a spectacular museum first, find the collection to showcase later. With the increased willingness of museums to rent their collections, this has become an easy task.

Atlanta, however, was just a test. On 6 March 2007 the French Minister of Culture, Renaud Donnedieu de Vabres, and Sheik Sultan Bin Tahnoon Al Nahyan, chairman of the Office for Culture, Historical Monuments and Tourism in Abu Dhabi, signed a contract for a long-term loan of artwork from the Louvre and other French museums, to be presented over the next thirty years in the United Arab Emirates metropolis Abu Dhabi. The names alone, Louvre Abu Dhabi, will cost the country 400 million Euros. France will make approximately 1 billion Euros through this agreement.

Ninety-five percent of the United Arab Emirates territory is uninhabited and 80 percent of its food and consumer goods are imported. The Emirates became a wealthy territory in the 1960s when it began to extract oil and natural gas. Enormous profits have made it one of the richest countries in the world. Much of their ever-increasing capital has been invested in seaside resorts, sports, culture and education. Western universities were contracted to open their branches in the Emirates. In 2006 a branch of the Sorbonne opened in Abu Dhabi. Today this campus hosts over 2,000 students. New York University followed and opened its gates to new students this year.

The Louvre Abu Dhabi will not be built directly in the city but on a nearby island – Saadiyat, which means happiness. Millions of dollars were invested in the development of this island.
The island covers 2,700 hectares and is populated by the guests of 30 luxury hotels and the owners of 8,000 luxury villas. It boasts a 19-kilometer beach with fine sand, golf courses, three ports capable of accommodating thousands of boats, and a ski slope with artificial snow. It seems this paradise has been created for yacht owners and jetsetters (their happiness is only slightly tainted by the Human Rights Watch reports that cite hundreds of human rights abuses to the workers on the island).

The Louvre Abu Dhabi will cover 24,000 square meters. Six thousand will be dedicated to permanent exhibitions and 2,000 to temporary exhibitions. Artwork from the Louvre as well as other French museum (Musée d’Orsay, Centre Pompidou, Musée du Château de Versailles, Musée du Quai Branly and Musée Guimet) will be transported to Abu Dhabi for a period of ten years. Along with this, the agreement states that France will supply the Louvre Abu Dhabi with four temporary exhibitions a year for the next 15 years. Finally, it has agreed to help the museum build its own collection, which will eventually replace the artwork on loan. This means that the French Louvre will help its counterpart acquire artwork.

This task is in contradiction with the mission of French museum employees, who should acquire the best pieces for French national collections and not for a foreign country. Jean Clair points out that the collection at the Louvre Abu Dhabi will in essence be a private collection owned by one man – the Emir of Abu Dhabi. No other state has given its collections to one individual. This policy has no precedence and deprives the French public collections of significant artwork that they could have obtained for their own museums.

The French parliament has agreed to these long-term loans. The decision, which will influence the future cultural development of France, was made without consulting art and culture experts, who are the main critics of the transaction. Art historians were surprised that politicians, whose influence is insignificant in comparison with French tradition and culture, have decided on a project that will influence the nation’s heritage so greatly. On 13 December 2006 the French daily Le Monde published a protest written by three highly renowned cultural experts – Jean Clair, Françoise Cachin (former director of the Musée d’Orsay and later director of Musée de France) and Roland Recht (art historian and professor at the Collège de France). In their article titled “Museums are not for sale” they argue that the main mission of a museum is to assemble a collection, organize educational programs, and complete scientific research to improve art conservation – not loan collections without any justification. They ask why 600 thousand citizens of Abu Dhabi should enjoy French national collections at the expense of French citizens and visitors to
France (seven million people visit the Louvre in Paris every year).

It is important to note that the opening of the Louvre in Abu Dhabi contradicts the International Council of Museums Code of Ethics which states that “museums are institutions without profit-making interests…museum collections are created for society and they can under no circumstances be treated as financial assets.” In light of this, Rykner joined in the protest against the export of national collections and initiated a petition published in prestigious publications such as the New York Times (it has been signed by more than 5,000 people).

A temporary exhibition, which aims to present works of art from various parts of the world, is something very different than a collection of European art presented without any deeper meaning on the other side of the globe. Advocates of art-export argue that these types of arrangements will export French culture and language abroad. A new section of Islamic art will open at the Louvre in Paris at the same time the Louvre Abu Dhabi opens its doors to the public. The organizers believe that this will create a bridge of understanding between both countries. However, while France is not bound by any censorship towards Islamic art, Islamic conservatism can hardly accept European art in its full scope. Notwithstanding the negative attitude of Arab culture to figurative imaging as such, the artwork on loan cannot depict naked bodies or any Christian or Jewish motives. These restrictions limit the possibility of forming a bridge of understanding.

It is natural that experts are against this policy because they are in essence losing work. Their interpretations will not be necessary if brands become more important than the work itself. So are museums that loan their works interested in cultivating greater cultural understanding for the public? Or are there other motives that warrant the risks of loaning great works of art? A major concern of the new “satellite museum policy” is the fact that the artwork – entire depositories – are constantly moving somewhere. Every move is connected with a number of risks, which simply cannot be put into monetary terms. Any loss or damage would be irreplaceable for future generations.

Europeans and Americans live in a period of relative wealth and leisure. Abu Dhabi wants to feel a part of this lifestyle, to build a paradise out of desert and oil – a cultural center. Culture, however, requires money. Where would Florence be without the Medici family? But, to what extent can one purchase culture? Is this really about bridging cultural understanding or is it simply an attraction for the millions of tourists investors hope to attract?

The average person cannot understand how with seven million visitors a year the Louvre does not make enough money to sustain itself and acquire new works. But it is important to known that the market is dominated by modern art, which overshadows the work of old masters. If a museum wishes to sustain itself, it has to present modern art exhibits. Museum budgets are often not large enough to procure new artwork (such as Jeff Koons or Damien Hirst). “Earlier, museums and art history used to influence the market”, says Gérard Goodrow, the director of the art fair in Cologne, “today, it is the other way round.”

Contemporary art can be defined as a product that lends itself to speculation. No one can define what art is, let alone, what constitutes good art. Therefore just about anything can be sold for any price imaginable. But it is not just about what we see, but also about what we know. Critics, theorists, gallery managers and advisors do not influence

this knowledge; it is influenced by the market – and by the price. On 4 May 2010 Picasso’s *Nude Green Leaves and Bust* sold at Christie’s auction house in New York for an incredible $106 million dollars. No one knows who the new owner is, however, it is certain that the amount of money he or she paid set the standards very high for the price of modern and contemporary art.

Most collectors wish to retain their complete collection even after their death. They prefer to turn to museums and donate the collection under a certain set of conditions than leave it to relatives, who might sell the individual pieces and split up the collection. If museums lose their role as a guarantor, it is likely that a donor’s trust will turn elsewhere. This is what happened to the Guggenheim in 1998 when collector Elaine Dannhauser, shocked by Krens’ policies, withdrew her $10 million dollar collection from the museum and donated it instead to the Museum of Modern Art. Similarly, the main patron of the Guggenheim, Peter B. Lewis, who has donated $77 million dollars to the foundation since 1993, resigned from his administrative presidential post in January 2005 because of this opposition to the museum’s direction.

On the other hand, museums are more and more under the thumbs of collectors. This is especially applicable to museums of modern art. Collectors influence exhibition programs as well as purchases. Hedge fund managers treat art as a profitable commodity and actively take part on the market. Gallery owners, collectors and traders use museums as shop windows, which provide contemporary art with the necessary acclaim and quality guarantee, that in turn increases the price of the artwork. The sum acquired for loaning art can help the museum with competitiveness on the market. However, is it a balanced business? Does the purchase of Damien Hirst’s shark in formaldehyde (*The Physical Impossibility of Death in the Mind of Someone Living*), which will eventually disintegrate anyway, justify the possible damage or loss of paintings from the Italian Renaissance?

Minister of Culture is a post not usually taken very seriously by politicians. Nevertheless, culture relates to wealth and power in a way that cannot be calculated in monetary terms. It took the Louvre a lot longer to assemble its collection than it took the Emirates to acquire one billion Euros. Art is and has always been a symbol of status and power, which explains why collectors are willing to pay an incredible amount of money for Beuyes’ *Badewane*, which for an ordinary person simply is a dirty old bathtub. They are not just buying a bathtub, but also a certain status. Similarly, the Arabs are not just opening a museum, but are exhibiting their power. A business deal like this, can only lead to profits.

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