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## Moral Norms in Defence of Independence \*

The only way one could breath there  
was by constant cheering.

S. J. Lec, *Myśli nieuczesane*  
(Uncombed Thoughts)

### A Little of History

As we have remarked, norms are apt to be classified as moral ones or not, depending on whether they have been instilled in us from early childhood. We come now to a group of precepts, among which not all may seem to be of a moral order. A child has little opportunity to use violence and thus we tend to neglect this matter in our rearing practices. Although children, too, sometimes do violence to harmless animals, they are usually more likely to be vulnerable to coercion than to wield it, and when they are forced, as when their movements are cumbered, they react, from infancy, with helpless rage.

Although rules protecting man against violence or coercion usually do not appear in books on ethics as examples of ethical precepts, they can be hardly classified anywhere else. When Locke said that no one can have the upper hand over another man, the "cannot" did by no means refer to any technical difficulties. What was meant, was the *moral* disrepute into which would fall whoever would use violence. All people are equal, said the same author, with respect to law, that is with respect to the ruling over each other. This apparent statement of fact was really a postulate, and a moral one.

Violence or coercion can be exerted only by someone who is in some respect stronger towards a weaker party, if he is superior physically, or by his social role, or economic position, etc. The most familiar social relationships in which violence has been likely to be manifested, have been the following: (1) The relationship of parents towards children.—Parents are physically stronger and feel entitled to use coercion by their greater experience or by socially acknowledged rights a man has towards his property. (2) The relationship of men to women.—W. Łoziński, in the book *Prawem i lewem (Legally and Otherwise)* quotes numerous examples of violence used by men against legally helpless women. For example, brothers often used to close their unmarried sisters in nunneries to take possession of their dowries. The burning of widows in India was hardly voluntary. Prostitutes used to be tortured and even shot by their clients. In Moslem countries, a woman is until today subject to complete control

\* Reprinted from *Normy moralne [Moral Norms]*, Warszawa 1970, pp. 76—99.

by males. In July 1963, Paris newspapers wrote about a Moslem who suspected his wife of adultery and announced that he would kill her—she had no escape from that sentence. In fact, he took her to Bois de Boulogne and strangled her in a copse. (3) In the third place can be mentioned violence applied by those in political power against people subject to them. (4) Much later than on the threats represented by political power, attention has been focused on those carried by economic privileges. (5) At last, we should mention the relationship of a majority towards a minority, for example in form of a pressure of public opinion exerted on an individual.

Among examples of violence we could certainly make a remark about its use by people towards animals. Lifelong keeping animals in cages for the enjoyment of visitors of zoological gardens, killing of animals for pleasure by huntsmen, keeping dogs on the chain are all practices that rarely rise objections in Christian cultures in which it is assumed that God has created animals to serve man.

In this chapter we shall not deal with this kind of violence; similarly, we shall leave out of account natural forms of compulsion (if one can still speak here about any coercion at all and not about necessity), such as the compulsion of ageing or dying. We shall be concerned only with compulsion forced by man upon man.

To realize the moral problems related to this issue it is worthwhile to bring together some exemplary evidence. To this end we shall resort to history. But historical examples are so many that we'll have to select them thoroughly. We shall pause on the voice of liberalism in the version of its classical representative, John Locke; on the rights of man as interpreted in the *Declaration of the Rights of Man and Citizen* of 1789; on the classical work defining the limits of coercion, i.e. the essay *On Liberty* by J. S. Mill; and finally on the Chart of Rights elaborated by the United Nations Organization and enacted in 1948.

As to the parental authority, Locke wanted to treat it as the aid given to the child as to the weaker party and he believed that the mother and father ought to share this authority in the same degree. But those postulates concerned people of his own class only, since—as I wrote elsewhere—he would harness children of the poor to labour from the third year of life, and that must have involved coercion, for the children would have doubtless preferred any other kind of exercise to the carding of wool all around the clock.

As we know, the main type of coercion Locke was concerned with was the kind rulers could force upon the ruled. Religious struggles tended to prove, according to Locke, that people have the propensity to rule over others. But only those can<sup>1</sup> have the upper hand of a man, whom he has voluntarily endowed with power, with the reservation that he would take it back as soon as they ceased to act to his advantage. I have mentioned voices against Locke, pointing out to him that he had imagined participation in society like in a stock company, joined or left at will. The only power of a government is that to warrant its citizens their inalienable rights, such as life, freedom, health and property. But a government must not impose any faith on its citizens, even apart from the fact that such

<sup>1</sup> This "can," again, does not denote a technical possibility, but one that raises no moral objections. "Every man who has power, is prone to abuse it," said C. Montesquieu, *L'esprit des lois*, vol. I, p. 219.

attempts would be to no avail, since such is the nature of mind that no convictions can be forced upon it.

*The Declaration of the Rights of Man and Citizen*, to which we shall return again to compare it with the Chart of Rights of 1948 sponsored by the U.N., lists the following inalienable rights: the right to freedom, property, safety and defence against oppression. Freedom consists in the ability to do anything that does no harm to others: everybody is free to take advantage of his rights, the only limitation being that the other members of society could enjoy the same rights (article 4). Nobody may be persecuted for his beliefs, including religious ones, provided his manifestations of them do not encroach upon the order established by law (article 10). One of the most precious rights of man is free communication of thoughts and opinions; every citizen may thus speak, write and publish freely, unless he abuses that freedom in the ways foreseen by law.<sup>2</sup> All enforcements by the state, like the enforcement of taxes, must be agreed upon by citizens (articles 13 and 14), for it should be remembered that the officials are but their representatives, whose task is to protect their rights. The doctrine of non-resistance to arbitrary power and oppression is absurd, enslaving and opposing the happiness of mankind, as it was announced in addition by the declaration of rights adopted by Maryland in 1776.

The struggle for freedom and against compulsion extended its scope in the 19th century. J. S. Mill in his essay *On Liberty* picked the task of inquiring into "the nature and limits of the power which can be legitimately exercised by society over the individual."<sup>3</sup> He saw man as the master of his mind and body—with the exclusion only of children and savages. "The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others." His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so.<sup>4</sup> "I am not aware that any community has a right to force another to be civilized"<sup>5</sup>—these words are remarkable in the epoch of the British imperialism in expansion. In general, less evil is caused by the liberties given to people than from oppression.

As to the freedom of economic endeavours, as for example the freedom of trade, Mill took care to emphasize that here, too, the principle holds that such freedom can be allowed as far as it does no harm to others, but he saw no danger of such harm being done; the motive of profit seemed quite natural to him and the quality and cheapness of goods was, in his opinion, most effectively brought about by freedom.

The liberties Mill advises to protect above all, are the freedom of thoughts and feelings, freedom of expression and publication of opinion, freedom of taste, freedom of association and freedom from the pressure of public opinion. No one can be a great thinker, unless he recognizes that as the thinker, he must consider it as his first obligation to follow the

<sup>2</sup> There is no such reservation in the *Declaration of Rights of Virginia*, enacted on June 17th, 1776. It simply says in its article 12 that the freedom of print is one of the greatest warrants of liberty and only despotic governments can restrict it.

<sup>3</sup> J. S. Mill, *On Liberty*, London 1945, p. 2.

<sup>4</sup> *Ibid.*, p. 11.

<sup>5</sup> Mill believed that a man destroying his own health, e.g. by drug addiction, cannot be coerced to treatment. An intervention was permissible only when the addiction was a menace to others. *Ibid.*, p. 113.

voice of intellect, notwithstanding the consequences. Three additional arguments in Mill speak in favour of this obligation which should be classified as one of the moral order:

1. In the first place, the suppressed opinion may turn out to be true, while its suppressing is apt to be an unjustified manifestation of the belief in our own infallibility.

2. Truth can be revealed only by clashes of opinions. "Is it possible to solve problems by truth if they are solved by order?"—this doubt was expressed by T. Kotarbiński in his paper on "Idea wolności" (The Idea of Freedom).<sup>6</sup>

3. Even if an officially acknowledged opinion turns out to be true, it becomes degenerated if it is impossible to attack it. It loses its dynamism and power to stimulate people to action.

The state may see to it that the obligatory education is carried out, but it must not interfere with its contents. It should admit of much variety in this respect and warrant that state examinations do not involve ideological demands.

The peculiarity of Mill in comparison with his predecessors is the stress laid by him on the struggle against despotism of the public opinion. In England it worked very powerfully, making a proper adjustment of individual independence and social control necessary. Mill was an outspoken and ardent opponent of conformism and standardization. He struggled for the right to be *different*, for the devious are the salt of the earth. A state whose policy is to curtail its citizens into dwarfs is heading for a catastrophe. We needn't doubt that the emphasis on the right to be different was associated with Mill's own biography, as he had suffered a lot from the pressure of public opinion, squeamishly meddling into his prolonged liaison with a woman who had been married and then separated from her husband.

Remarkably, this same Mill who had fought against a majority oppressing a minority or individual, in *Utilitarianism* knew no better than leaving many decisions up to majority. In principle, the superiority of some pleasures over other ones was to be decided by those who had knowledge of both. But if their judgement was hesitant, the majority would settle the matter of the proper hierarchy.

While Mill was willing to give up economic life to the free play of forces and felt no misgivings about the greed for profit, Marx, as we know, had different feelings and was apt to see harm where Mill saw none. Society free from the means of coercion could arise only after such transformations as would have made doing harm of this kind impossible. But still, there was no reason to postpone the struggle for freedom of expression until some remote future. "Opposition is in general an index of the level of society [...]"<sup>7</sup> "The nation that accords the court jesters only the right to think and speak the truth—such nation cannot be but dependent and destitute of all personality [...]"<sup>8</sup> "All other freedoms become illusory—Marx wrote—if there is no freedom of the press."<sup>9</sup> "I am per-

<sup>6</sup> T. Kotarbiński, "Idea wolności" [The Idea of Freedom], in: *Wybór pism* (Selected Works), Warszawa 1957, vol. 1.

<sup>7</sup> K. Marx, F. Engels, "Debaty nad wolnością prasy" [Debates on the Freedom of the Press], in: *Dzieła* [Works], vol. I, Warszawa 1960, p. 39.

<sup>8</sup> *Ibid.*, p. 39.

<sup>9</sup> *Ibid.*, p. 91.

mitted to disclose the visage of my mind—he sneered—but I must first give it the prescribed expression.”<sup>10</sup>

A word is due to the doctrine which is said to exclude all compulsion assuming the form of violence. It can be easily guessed that we mean the *ahimsa*, or non-violence, proclaimed in India and, as Nehru maintains in his autobiography, applied for the first time by Ghandi for political struggle.

By violence Ghandi meant, in the first place, a resort to arms, and his calling to non-violence was above all the urge to extort desirable concessions from an opponent in a peaceful way; speaking otherwise, it was a voice of a pacifist. To such peaceful methods belonged the boycott of Manchester chintz flooding India from England, or the mute protest against the salt monopoly in from of a mass procession towards the ocean to evaporate salt from sea water. But the most classical form of bloodless struggle was the winning of concessions by a hunger-strike. Ghandi starved to introduce a representation of the untouchables into the Congress, or to enforce reconciliation of the Hinduists, Moslems and Sikhis. When he wanted to overcome the prohibition for untouchables to pass through villages inhabited by Brahmins, he took on himself the task of guiding a group of untouchables across such a village. British soldiers barred his progress. The hostile groups faced each other and for Ghandi and his associates it became a duel of endurance and patience. The season of rains came. Ghandi and the untouchables stood still. At length the English gave way.

I quote the last example, because it visualizes in a sharp relief that—as it has been many times pointed out—such a method can be of any use only towards an opponent respecting the partner and his moral merits. Hitler would have allowed Ghandi to fast until the deadly effect, and Nazi troops would have wiped out with a machine gun the defenceless group attempting to come through the Brahminic village. The virtue of the method, however, as Nehru emphasized, is that it makes possible a struggle against a much stronger enemy, that it endows the weak with self-confidence, that it allows an individual to wrestle with an imperial power.

Nehru, in his autobiography, was sober about this method and made it clear that *ahimsa* should not be construed into a dogma and that its application ought to be significantly limited, although it is sometimes a proper means to the pursued end. Nehru saw the necessity of the use of some compulsory measures by the state and he realized that those who enjoy privileges would not give them up unless they are forced to do so. Coercion could disappear only in a state embracing the whole globe. Besides, he understood that the form of compulsion employed by Ghandi was a particularly acute variety of it. “Can there be greater compulsion than the psychological compulsion applied by Ghandi?,” he asked. It is indeed the kind of force becoming the human being, the force by which animals are not guided. But such force leads to a more terrible form of compulsion than physical violence.<sup>11</sup>

<sup>10</sup> Ibid., p. 6.

<sup>11</sup> J. Nehru, *An Autobiography*, London 1953, pp. 531—652.

### Conceptual Reflexions

We have collected enough examples to venture some conceptual distinctions. They cannot be very profound because of the extensive scope of the subject matter and its intimidating, great historical traditions, but in the limited form in which we put them forth they seem to be necessary for our further considerations.

There is a widely known and oft repeated distinction between negative freedom as the lack of something, viz. of compulsion, and positive freedom. This distinction appears in various languages. In English, we have got *freedom from* and *freedom to*, in German we encounter *Freiheit von etwas* and *Freiheit zu etwas*. With regard to our concern with morally legitimate and morally illegitimate forms of compulsion, we shall be interested here mainly in freedom in the former sense, i.e. freedom as the lack of compulsion,<sup>12</sup> although in the end we shall briefly discuss the other kind of freedom, too, as we are stimulated to do so by various contemporary authors who speak a lot about it and, as it seems to us, not very responsibly.

In our earlier considerations we have been using the terms "compulsion" and "coercion" or "violence,"\* without seeing any other difference between them beside that coercion is a stronger form of compulsion and, like violence, usually assumes the use of physical force.

The use of coercion usually makes a decision impossible, like to a certain degree doing it is impossible to a prisoner behind the locked door of his ward. Compulsion may leave us with a freedom of decision, without losing its compulsory character. This is apt to happen, for example, when we must face alternatives which are all repugnant. In such a situation is someone from whom denunciations against his mates are enforced during an investigation by the plight that if he refuses to speak, his wife, imprisoned in another ward, will be subject to torture. There is a freedom of choice in spite of the unrelenting compulsion—a situation which disproves the common definition of freedom as the possibility to make choices. Voltaire's *Candide* could choose freely whether he preferred to pass 36 times under the whips of a whole regiment, or to get 12 bullets in his brain at once. One who kidnapped a child, committed an act of violence. It will be transformed into an instance of moral compulsion when the kidnapper demands ransom. Some authors include into compulsory acts not only those undertaken under the pressure of imminent evil, threatening us if we try to resist, but also those committed under the pressure of a promised attractive reward.<sup>13</sup>

The development of science—as we know—has provided us with extensive possibilities to model people from their infancy so as to make

<sup>12</sup> Some German authors consider this usage to be the primary one, referring to the etymology of the word *Freiheit*. They derived it from the Gothic *Freihals*, denoting a man who wears no collar on his neck which means that he is not a slave.

<sup>13</sup> See: H. D. Lasswell and A. Kaplan, *Power and Society*, New Haven 1950, p. 97. Similarly C. Bay in *The Structure of Freedom*, Stanford 1958, believes that attraction by reward is also a kind of compulsion.

\* The general semantic field of "compulsion" is divided differently in Polish and in English. "Coercion" and "violence" but sometimes also "oppression" stand together for the single Polish word, "*przymus*;" "compulsion" is the equivalent of "*przymus*;" "violence" or "force" for "*gwałt*." For the right shade of meaning the reader must be left to rely on the context. [Translator's note].

them desire to do whatever they will have to do. Compulsion is not felt then, although manipulations of which it consists may be well perceived. On this ground we can distinguish subjective compulsion, which is felt as such, from objective compulsion which may be felt or not. This distinction proves to be useful for our purposes, since it turns our attention to the fact that objections against each type of compulsion rely on *different moral norms*. To coerce people so that they realize it is wrong because of the principle of *minimalization of suffering*, because coercion is usually felt as painful. Unperceived compulsions cannot cause suffering simply because they are compulsions and, accordingly, the principle just mentioned does not operate here, but what is involved, is the postulate of *respect for a human being* as such, who should not be manipulated for objectives alien to it. It is worthwhile to remark that "internalized" outer compulsion, much talked about by sociologists, i.e. accepted compulsion, may still be felt as coercive. Chinese women who used to bind their feet under the pressure of fashion, still admitted that a tiny foot cost an ocean of tears.

The concept of freedom is so burdened with inherited meanings that we'll try to do without it in our further considerations, opposing to compulsion, not freedom, but rights.<sup>14</sup> It seems to be still more justified since the actual struggles for freedom have been pursued within this conceptual framework, i.e. as the struggles for extension of human rights. Lawyers complain of the ambiguity of the latter word, too, but it seems to us that the use of it is of some advantage.

Z. Ziemiński, in his work *Uprawienie a obowiązek (Right and Duty)* conceives a right as a possibility to act, warranted by law. In this sense, if someone has the right of something, then there is someone else whose duty it is to warrant such right and lend support if the right is infringed upon.<sup>15</sup>

Right and duty are correlated concepts here. A similar position was taken by L. Petrażycki and, even earlier, by J. Bentham.

In our considerations we would rather not have the concept of right dependent on valid law.<sup>16</sup> *The Declaration of the Rights of Man and Citizen*, in its claims for human rights, was insisting on legislation that would respect them; those rights could not be defined in terms of law, because such law did not exist yet. It was this conception which has been at work, whenever there has been talk about the rights to be enjoyed by *everybody*, like for example the right of life, of the minimum of survival, etc., while rights associated with the laws in force differed extensively. In the state of Nevada a man has the right of profit from gambling [...] in other states he has no such rights. The rights are simply what opens up free opportunities, withholding the possibility to exert pressure. Such, for example, is the right to wed according to one's own choice and liking.<sup>17</sup> It is thus another and broader conception of a right, very important for those who deal with morality, because it is supported by certain moral claims.

<sup>14</sup> O. and M. Handlin in *The Dimensions of Liberty*, Cambridge, Mass., 1961, count as many as 200 meanings of the word "liberty."

<sup>15</sup> Z. Ziemiński, *Uprawienie a obowiązek [Right and Duty]*, Poznań 1962.

<sup>16</sup> In English, "law" and "right" are etymologically unrelated. In Polish, "prawo" and "uprawienie" stem from the same root.

<sup>17</sup> This right is announced in article 16 of the *Chart of Rights* of 1948.

We shall tentatively accept the broader conception, treating the definition of Z. Ziemiński as its narrower variant.

According to this broader conception, *X* has the right, in a group *G*, to act in the manner *A* or to possess *P* if such action or possession is not disapproved of or punished by the group. In this sense, the pupil has the right to ask questions, and the teacher has the right to rebuke a pupil for misbehaviour. In the narrower sense, *X* has the right, in a group *G*, to act in the manner *A* or to possess (or obtain) *P* when in the group *G* there is such *Y* whose duty it is to warrant *X* that he may act in the manner *D* or have or obtain *P*. It is on such arrangement that *X* has the right to have a paid leave from job every year if there are an appropriate valid bill and executive power. It is only in the latter sense that a right of one party is a duty of another. In this sense only a pointing out to a right is at the same time a pointing out to a duty. But independent of the valid laws, with each social role there is associated a pattern of expectations which make certain behaviours legitimate or right, but not other ones which are threatened with disapproval, if not with punishment. But it is the rights warranted by a political power which alone can provide grounds for claims that are apt to be granted. On this principle Bentham denied the existence of natural laws construed as native rights, and he considered only political rights as significant.

The current, nonlegal conception of a right changes its contents, depending on whether the rights involved are enjoyed by those in power, or by those subject to it. When the rights of parents towards children are concerned, we usually speak about the limits of permissible compulsion. When we speak about the rights of children towards parents, we discuss the scope of their legitimate claims. In the former case, we may ask, for example, whether parents can take away small earnings of their children, or punish them by refusing them food. In the latter case, we may ask, to what age children may claim full sustenance from their parents. In both cases, the granting of a right is a signal that a man is free to act within the given limited scope.

### Two Declarations of Human Rights

Trying to treat a number of rights as an index of autonomy of an individual and of his freedom in the sense of the lack of compulsions, let us now take a comparative look at two historical documents: the *Declaration of the Rights of Man and Citizen* of 1789 and the *Chart of Rights* elaborated by a team of highly qualified experts from different countries under the sponsorship of the United Nations Organization and ultimately enacted in December 1948.<sup>18</sup> The first thing, which is visible at once, is

<sup>18</sup> In November 1965 in Oxford a conference was called by U.N.E.S.C.O. concerning the actual problems related to the Declaration of Human Rights enacted in 1948. "Among the problems of its application arising now, there should be mentioned: the place of the Declaration in the evolution of the thought—mainly European and American—that had inspired it; the position assumed towards it by the nations of Africa and Asia which have not directly contributed to its elaboration; the difficulties raised by its interpretations and application in the relatively new field of economic and social rights; and finally—the legal defences at the disposal of an individual to make effective use of its admitted rights" (*Biuletyn Polskiego Komitetu do Spraw UNESCO*, March 1966, pp. 28—29).

the difference of the number of articles; in the recent version there is almost twice as many of them. Although each right of some action or possession opens up some leeway, among the rights mentioned in both documents we can sort out such which are not directly involved in withholding of any compulsion, but mainly are expressions of claims to a share in some goods (the right of education, paid leave, care in old age), as well as such which are defensive rights, whereby a citizen obviously takes his safeguards against some unwanted compulsions. Because of the topic of the present chapter, it is the latter kind of rights which will be of the main interest to us.

The *Declaration* of 1789 emphasizes most strongly, as we know, the equality under law, the lawful and regular functioning of the judiciary (articles 7 and 8), the sacred right of property, the freedom of conscience and speech. The respective rights have such defensive character, safeguarding men (actually to little effect) against privileges, illegitimate legal compulsions, infringements upon property, limitations of the freedom of belief and expression. We might also add here the general right to resist coercion.

The 1948 *Chart* goes into much more detail. We shall skip, in order of the articles, over those among them which seem to take care mainly of preventing some forms of compulsion.<sup>19</sup> Article 4 puts a ban on slavery in any form and on the slave trade. Article 5 excludes torture and cruel or humiliating punishments. Article 9 forbids arbitrary arrests, imprisonments or banishments. Article 11 demands public court proceedings assuming the defendant's innocence and warranting him proper defence. Article 12 excludes arbitrary intrusions into a man's privacy and correspondence. Article 13 grants the freedom of movement within the territory of each state, as well as the ability to leave it and to return. Article 14 warrants for everybody the right of political asylum in cases of persecution, while article 15 forbids to withhold nationality from anyone, or to refuse the right of changing it. Article 16 does away with parental pressure upon their children's marital plans. Consent of both parties to a marriage is sufficient for it. Article 17 does not allow to take away one's property. Articles 18 and 19 demand that all people have warranted to them the freedom of conscience, the freedom of expression of opinion, of seeking and broadcasting information by all means and beyond frontiers. Article 20 demands the freedom of associating and excludes forced membership in any association. Article 22 speaks about the warranting of opportunities for a free development of personality. Article 23 demands, among other things, free choice of vocation, freedom of membership in trade unions, proper safety against various forms of economic exploitation. Article 29 repeats after the *Declaration* of 1789 that the freedoms of an individual can be limited only in the ways provided for by law and only inasmuch, as it is necessary to have the rights of others in proper respect.<sup>20</sup>

The latter article is, or at least ought to be, underlying the use of

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<sup>19</sup> See: *Human Rights*, materials of the U.N.E.S.C.O. Symposium, London and New York 1949, pp. 273—280.

<sup>20</sup> T. Kotarbiński has recently written about the *Declaration of the Rights of Man and Citizen* and about the U.N.O. *Chart* of 1948. See: *Argumenty*, October 4, 1964.

punishment by the judiciary power, or the use of coercion which is—as we know—a great chapter in itself, full of perplexing problems.

We do not enter into whether the consecutive articles of the U.N.O. chart are something more than desiderata awaiting realization, as it is the case, for example, with the proclaimed equality of the rights of men and women. Even if they represented progress in the domain of ideas only, such progress should not be underestimated. But in many cases it is by no means progress merely on paper. Whoever considers a reduction of violence as progressive, must admit, for example, that the family relations in the Euro-American culture have been modified in this respect to an advantage. It does not seem possible for us today to offer children in sacrifice to gods, or to hurl them down from a cliff, or the practice of the so-called *expositio*, applied in ancient times to unwanted children by those who wished to get rid of them. Forced labour of small children in factories, in conditions described by Marx, evokes general indignation today and some people would like to add to the human rights the right of childhood. At least since the 18th century voices have been heard that young people must not be forced to marry against their will. Physical coercion in the form of whipping is ardently opposed by most educators. The increasing independence of children from parents in Polish countryside today owing to the opportunities of finding a job in industry is positively appreciated. Earlier, a young man in the countryside had depended on his parents until he became the owner of the farm. The result was delayed maturing or, if a youth would not submit, strifes, often ending with homicide.

As to various coercive pressures exerted by men upon women, things seem to go towards the better. In the country in which as late as the 19th century widows were burnt, a widow became the prime minister. But this isolated case is not a proof of a disappearance of the male supremacy, both in India and in the other Asiatic countries, especially in those where Islamic culture is still vital. Between 1893 and 1950, in 56 countries women were granted suffrage. From 1951 until 1967 the number of such countries increased again by 57. But in Latin America a married woman must produce an agreement of her husband to get a job and she cannot decide about the future of her children.<sup>21</sup> Even in contemporary France, the debate on granting married women the right to have a bank account was carried out in an atmosphere which was far from unanimity.

Less obvious are achievements with respect to coercions exerted by economic privilege, political power and the pressure of public opinion upon an individual. Exploitation continues in many countries. Political powers in many ways limit the freedom of speech, association and travel. A mediaeval student could wander from Poland to Padua, unmolested for his passport or visas. Planning has become a necessity, involving compulsions endangering, for example, a free choice of vocation. Science will promptly make a determination of the sex of infants possible, and then population policy, taking care of the proper balance of sexes, will be able to forbid you to have a daughter if the limit for a given year has been overstepped. In the 18th century it was still possible to tease for

<sup>21</sup> J. Chaton, "The Rights of Women in Contemporary World," *Biuletyn Polskiego Komitetu do Spraw UNESCO*, December 1968.

pleasure the mentally sick, chained to a wall. The death penalty, representing the most glaring coercion, is today subject to many discussions and in most countries of western Europe it is considered to be an inadmissible punishment. But in various countries of Europe and north Africa sophisticated tortures have been still applied in our century. The growth of motoring has offered man a certain feeling of independence, but the same development has limited the movements of pedestrians on the streets so that they can cross them now only at definite points.

The freeing from compulsion of some people often involves new compulsion towards others. This is how the law works, oppressing some in order to liberate others from oppression. "It is true that the freedom of an individual to act can be only within restraints imposed by society. For those restraints are inescapable. But the freedom of the individual to think and to feel—that freedom can be absolute," wrote A. Rapoport.<sup>22</sup>

The pressure of the public opinion upon an individual tends to decrease with urbanization and with limitations set on the freedom of expression. This may involve either gains or losses. Limitations on the freedom of expression may prevent deserved censure from being manifested. In Chapter VI of *Deontology*, Bentham wrote that the liberty of the press is the most powerful lever at the disposal of the moral sanction.

### Conclusions of a Moralist

In all our previous considerations we assumed, following the quoted authors and documents produced by collective efforts, that compulsion is an evil thing, for two reasons. It is an evil because people suffer from it and thus the principle forbidding to make people suffer comes into play. It is an evil, because, as Locke used to say: "No one can have the upper hand over anyone else." What is involved here, is the respect, already noted, for the autonomy of an individual, or the respect for the dignity of man as such, for whom it is humiliating to be subject to the power of another.

It is only the fact that coercion is in principle disapproved of, which may account for the need of justification of attempts at using it, as well as for the conditions limiting the use of coercion, put forth by those who will rather be subject to it, than will apply it themselves. Thus, as we remember, compulsion has been allowed for when the ascertaining of unquestionable goods was involved, like life, health, education, as well as when defence against unquestionable evil was at stake, like for example the loss of independence of the country in which a man lives. It was for those reasons that compulsory protective vaccination or compulsory schooling has been considered as justified, as well as the compulsory draught, protecting against the possible evil of an alien aggression. Compulsions applied to prevent unquestionable evils have always been more defensible than those aiming at the imposing of certain things considered as good: for, in the latter case, unresolved differences of opinion are always more likely to appear. In consequence, there are people who would only on very restrictive conditions allow to make others happy against their will, reminding us the saying of Hölderlin, who warned that it is easy to make life into hell, when it is forcibly made into paradise.

<sup>22</sup> A. Rapoport, *Fights, Games and Debates*, Ann Arbor 1960, p. 346.

Compulsory taxation, not questioned by anybody, belongs to the category of necessities rather than of goods that must be ascertained, although the collected money can be the necessary means for the realization of the unquestionable goods. The *Declaration of Rights* of 1789 only required that the taxes were accepted by all citizens. Necessities had thus to be judged by some collegiate bodies. Compulsory draft was referred to by those who agreed for compulsion only if it protected us against another and greater compulsion which is usually the lot of conquered countries. While good reasons had to be given to justify compulsions applied, rights had not required any, and the only barrier on their way was a respect for the rights of others. But the clashing of rights is by no means rare in social life and an acknowledged hierarchy of their importance would be required, to give primacy to some of them over other ones. Compulsions must be applied to some people, in order to warrant the unquestionable good to others. In the 18th century, people used to write their wills when they set out for travel. The imprisoning of wrongdoers contributed to the enhanced feeling of safety by travellers. The prohibition to use noisy loud-speakers after 10 p.m. is a restriction on the freedom of some people, but it warrants peace to others. Restrictions on the sale of alcohol aim at the protection of health of drinkers and of their offsprings. This is a case of a conflict of values in one person. The conflict between freedom from compulsion and equality was emphasized even by D. Hume who said that equality can be maintained only at the cost of liberty, for the freedom of action given to man soon leads to inequality. T. Kotarbiński, in a paper on the idea of freedom, compares liberty and equality to two bitches biting each other in the same harness. "[...] Equality is most easily attained by coercion, opposed to freedom, while freedom, apparently providing the same free start; yields inequality of results at the end line."<sup>23</sup> As Tocqueville suggested, a choice must be made between "*l'égalité dans la servitude*" and "*l'inégalité dans la liberté*."<sup>24</sup> Hume, as we know, was apt to sacrifice equality for freedom. J. Bentham who believed in the good legislator and in the power of wise laws, was prone to sacrifice freedom in favour of safety. Others tended to blur those painful conflicts by manipulating with definitions. For example, Montesquieu in *L'Esprit des Lois* wrote the "[p]olitical freedom is the calm of the spirit born by the confidence one has formed in his security." In a similar way, Bentham confounded the two goods together by regarding the freedom from something as a protection against it and as an outgrowth of security.

Writers who have considered the freedom from compulsions, rarely realized the conflicting character of human rights, ineradicable also in the social system that has abolished private property. Their clashes have been revealed, for example, in attempts at reconciling the limits of coercion applied by rulers with the limits of justified claims of the ruled. It was such clashes which Kant had in mind, when he advised that in enacting laws, such positions were always taken that would be acceptable to both the ruling and the ruled. "A true leberal—T. Kotarbiński wrote—demands from the government what he would be ready to grant his opponents, if he won power."<sup>25</sup>

<sup>23</sup> T. Kotarbiński, "Idea wolności," loc. cit., p. 485.

<sup>24</sup> A. de Tocqueville, *De la démocratie en Amérique*, vol. I, p. 91.

<sup>25</sup> T. Kotarbiński, "Idea wolności," loc. cit., p. 502.

The declarations of laws to which we referred, fulfilled this postulate in various degrees, sometimes adding reservations to the claims put forth in them, offering excuses for the rulers, and sometimes dangerous ones. Demanding the liberty of speech, print, etc., the *Declaration* of 1789 made the reservation that such right was withheld in cases of abuse of the freedom, defined by law. Property was no longer sacred, when a legally asserted necessity evidently required that it was confiscated, and under the condition of a previous just indemnity. Those reservations disappeared from the 1948 *Chart*.

The essential contradiction between the needs of a man and the demands of "culture" was seen by Freud who imagined culture as a sinister power entralling the human drives. This attitude was shared with Freud by E. Fromm.<sup>26</sup>

If we wanted to bring together the rights for which contemporary authors writing on the subject care the most, we should—as it seems—mention three following points: (1) the right to privacy, endangered by recent technological developments, as well as interference with private correspondence, etc.; (2) the right to reliable information, endangered in turn by the seizure of the press and other sources of information by powerful forces: the state, syndicates of journalists, trusts, trade unions; (3) the right to free expression.

### The So-Called Positive Freedom

We remarked at the beginning of this chapter that apart from freedom discussed here, in the sense of the lack of compulsions, freedom is often considered as a good which is possessed or not, allegedly independently of their presence or absence. It is a freedom in singular, as opposed to the many liberties related to the respective types of compulsion.

"Positive freedom—E. Fromm writes—consists in spontaneous activity of the whole integrated personality." According to C. Bay, already quoted here, writing in the spirit of Fromm, it is a harmony between the basic motives of man and his manifest behaviour, a harmony which permits personality to be fully expressed.<sup>27</sup> This reminds of some insights, put forth already by Aristotle, who spoke about free action as if its origin were in ourselves. It is what we mean by freedom, in the singular. It is, as Fromm continues to explain, the freedom of being oneself, while the spontaneous activity, mentioned in the definition, is the activity which can be best observed in children and artists, and which ought to be the share of everybody. It is activity stemming from our genuine "I," the activity pursued for itself. A complete personality is the personality not torn between nature and reason, not suppressed by an inner censor. "Freedom from," i.e. freedom from outer pressures, would only appear, according to Fromm, when a man has attained the freedom of being himself and when his ideals have become *his own* ideals.

<sup>26</sup> E. Fromm, *The Fear of Freedom*, p. 222.

<sup>27</sup> Beside the conception of freedom mentioned by Bay, the author distinguishes freedom as a relative absence of imperceptible outer compulsions and freedom as a relative absence of perceived outer compulsions. A child enjoys positive freedom to a remarkable degree, but it has but a minimum of freedom consisting in the absence of unperceived compulsions, for the process of rearing consists in their application.

Positive freedom attained by one who has expressed his genuine "I" was, according to Fromm, the precondition of getting liberated from external pressures.<sup>28</sup> The right to express one's thoughts is significant only when there are independent thoughts to be expressed.

Fromm's conception of positive freedom is far from satisfying the postulate of being an operational concept, since we have no standards to distinguish between activities which are expressions of a complete, integral personality and those which are not. We wouldn't have quoted it at all if in his further considerations in the same book Fromm had not questioned a certain assumption which we have been taking for granted,—being by no means isolated in this regard,—viz. that freedom from the outer pressure is, in our culture at least, regarded as a good worthwhile to struggle or even to die for. The title of Fromm's book has already announced an apposite attitude.

To understand it, we must follow the author in certain historical considerations. According to Fromm's rather stereotyped image, in the Middle Ages a man was not free. His position was determined by being born into his estate. Usually, he remained where he had been born until the death; he wore garments becoming his estate. If he belonged to a guild, he was subject to its rigours. But a man did not feel alone and he felt no compulsions, for he was not aware of his own self. The freedom from traditional bonds, brought in for the most part by capitalism as it liberated the economic enterprise of an individual, at the same time made him feel helpless and full of anxiety.<sup>29</sup> To overcome those painful feelings, a man began to seek support, driven by the thirst of subordination or subjection to some powerful authority, by the thirst for getting melted into a group to which he wanted to yield; while at the same time he desired to dominate in it, for the drive for domination is a symptom of weakness, not of force. During the years from Luther to Kant, the rule to which he wanted to get subjugated had become internalized, and ultimately the victory of the middle class led to the substitution of external by internal authority, or by conscience. It was only an apparent victory of freedom, for the voice of conscience was not the man's own voice and the attained freedom was only the freedom from certain pressures in favour of others, voluntarily sought for. However, it was only the positive freedom which could have cured man from the feeling of loneliness and helplessness, associated with the cutting of the umbilical cord once attaching us to the others, and which could have restored the link by work and love. The likeable dreamer failed to see that hatred, too, can be the integrating factor.

The book by Fromm has not convinced us at all. The description of the Middle Ages with regard to freedom realized in it is very much oversimplified. The lack of awareness of the self is postulated without any valid evidence. In my opinion, such awareness could be certainly read out from *Confessiones* by St. Augustine or from letters of Abelard and Héloïse. The account of the thirst for subordination, allegedly brought about by individualism involved in the development of capitalism, is in-

<sup>28</sup> In the opposite, it can be said that it is only the freedom from outer compulsions that permits us to be ourselves and to express our genuine "I."

<sup>29</sup> An evidence of such feelings was for Fromm the success of Mickey Mouse. But the liking for such themes as a victory of a small, insignificant creature over a large one has very old traditions, reaching back, in Europe, to Aesop's *Fables*.

tended to refer to the history of Germany culminating in Nazism which was a vital topic for German emigrants. It was there that the joint striving towards subordination and domination was supposed to reign, as described for example in the novel by H. Mann *Der Untertan* and in the well known collective work *The Authoritarian Personality*. The British capitalism, as it has been pointedly remarked, has by no means led to the spreading of attitudes described by Fromm; this fact significantly undermines his argument. Against the thirst for subordination described by Fromm can be opposed, with equal support in evidence, a thirst for independence. When the Stoics declared that the moral goods are the only valuable things, because they alone cannot be taken away, they were guided by the thirst for independence both from fate and from people. A tyrant could condemn a man to death or exile, but he could not take away from him the possibility to behave in a dignified manner. The Stoics, too, advised as a defence against the feeling of being compelled to desire only what is coming about, without, however, doing away with the objective existence of compulsion. Engels was thinking along the same lines when he conceived freedom as the understanding of necessity.

Capitalism used to be for many a search for independence through money. Franklin advised thrift as a means to attain independence as one's shield and arms, helmet and crown, as well as the peak of happiness.<sup>30</sup>

How many times trade was praised as an occupation in which one need not have any boss; how many times, before the professions were socialized, they had been recommended and chosen for similar reasons. It was the search for "freedom from," an escape from compulsion that one man is apt to exert on another. It was the same freedom Fromm had in mind when he denied the longing for freedom and spoke about the desire to submit and obey.

In only one kind of freedom Fromm might find some support for his tenet that freedom is not always needed by man and that he sometimes escapes from it. It is the freedom of decision. "Who has the choice, has the trouble," is the popular German saying (*Wer die Wahl hat, hat die Qual*). We tend to escape from decision, because it requires an effort and involves a responsibility to oneself and others, or in other words, it involves a risk of condemnation if the choice turns out to be wrong. Thus, for example, the choice of an occupation is left by many to a chance or to the will of their parents, so as not to be blamed for possible failure. However, the escape from freedom in this sense has nothing to do with the development of capitalism and it should rather be ascribed to certain personality factors. If such escape from responsibility by avoiding decision becomes a mass-scale phenomenon, it should be ascribed to certain social factors, for example, the overwhelming sanctions applied in the given society. Then, whoever can do so, tries to reject the decision from himself upwards the bureaucratic ladder. But the freedom from coercion still remains to be an object of human desires, and still, whoever applies this coercion must offer good reasons. In 1935 Kotarbiński spoke about a modern lover of freedom who loved it not because it was sinful, but because of its infinite attraction, while life without it is devoid of all graces.

But if Fromm, in spite of his flagrant simplifications and doubtful

<sup>30</sup> See: my *Moralność mieszczańska [Bourgeois Morality]*, Wrocław 1956, p. 75.

generalizations has won such a vogue, it was perhaps because by emphasizing the helplessness of contemporary man in big state organizations, he took up the theme already present in many writings and apparently finding some justification in reality. However, the helplessness is not something remarkable for the capitalist countries only. It is the helplessness towards big politics and the mean of coercion at the disposal of political power today, helplessness in the face of the huge bureaucratic machinery and soulless apparatus of justice (in literature Kafka, Dürrenmatt).

We keep in mind that we are trying, in our considerations, to order ethical rules according to the goods protected by them, without entering genetic problems and suspending the question whether they had been created with the intention to protect such goods. If by a good we mean anything that is an object of human desires, it should be noted that we are dealing here with such goods only which are rather commonly recognized as such in a given group. Although the will towards power is often regarded as common, still it is not sufficiently approved of in the Euro-American culture to make power a protected object. Just the opposite, we have already learned the postulates of keeping it in restraint.

Freedom, security, human dignity—these have been the main goods protected by the postulates quoted by us. The two former are apt to be considered as the basic ones, for they are prerequisites for the enjoyment of any other extra-moral goods. "Freedom, wrote C. Bay, is the soil required for the full growth of other values."<sup>31</sup> The same holds, in his opinion, for security, whereby we can believe that we shall be able to enjoy our goods continually. The view of Bay seems to suggest a kind of a general axiological stratification of goods.

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<sup>31</sup> C. Bay, *The Structure of Freedom*, op. cit., p. 19.