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Reflections on the Totemic Meaning of the Constitution

This article addresses the perception of the constitution in democratic political systems as a totem. As demonstrated, this almost religious perception of the constitution results from many factors. The first was the process of secularization and laicization, which, in place of the abolished religions appropriate to a religious state, created a vacuum quickly filled by a constitution perceived as a “Decalogue,” a “Bible,” or a sacred symbol in a democracy. This was linked to another factor: the idealization of the constitution. As a result, the constitution is often perceived as a perfect, ideal, and the best possible act, which further strengthens the belief that it should be amended only in truly exceptional circumstances. Another factor is the very strong correlation between the constitution and the state, and the recognition of an inextricable link between the two. All of this makes the constitution a totem, including the state, the perfect act, the social contract, the ideal political system, or, for example, democracy.

Keywords: constitution, sacralization, community, state, democratic society

Introduction

A constitution can be viewed from many perspectives. It can be viewed as a historical process of the peregrination of the idea of limiting power and—in a sense, on the other hand—the realization of freedom, both in the individual and collective dimensions. In this sense, each subsequent constitution represents either democratic progress (despite the casual use of the word “democracy” today), or it represents regression, a halt, or even a recidivism of solutions long ago deemed outdated, outdated, and—last but not least—undemocratic. A constitution can also be viewed as a collection of thoughts, ideas, and concepts for organizing a political community in its institutional and social dimensions. With this assumption, a constitution is a selection and compilation of many ideas and their, more or less successful, adaptation to current conditions and the challenges they pose. It is, therefore, a kind of collection of doctrinal ideas that, for various reasons, are considered crucial and necessary, encompassing such fundamental concepts as the common

good, the rule of law, democracy, the separation of powers, pluralism, and individual freedom and dignity. The constitution can also be viewed as an expression of a compromise between forces that, to varying degrees and at various stages, participated in the process of its creation. Alternatively, the constitution can be viewed as a reflection of the current sociopolitical system, a sort of status quo frozen in time and recorded. In this convention, a constitution is sometimes viewed as a balance sheet, a kind of summary and selection of what is best, most valuable, or most essential. Finally, a constitution can be viewed as a bold plan for state work, a kind of ambitious project to be implemented. In this sense, the constitution takes on the dynamic shape of a project defining the tasks and goals that the political community should achieve, or at least strive to achieve (Baszkiewicz 1997, p. 43).

Typically, each of these ways of looking at a constitution is justified, and in practice, a constitution is a bit of everything (Bulmer 2017, p. 12). It is also, incidentally, one of the manifestations of its consensus, which means that for some, it is more of a balance sheet, for others, it sets goals for the future, for still others, it is the punch line of current development, sometimes even an attempt to stop the status quo, and for others, it is a reservoir of beautiful and noble ideas, a way to universalize principles and values that are common at least within a specific cultural and civilizational circle, or a reflection of the existing system of political, social, and economic relations. Despite these differences, it is important to everyone, valuable, and necessary, something that evokes a positive connotation. Therefore, to quote the title of Luigi Pirandello's famous play, "each person perceives the constitution in their own way" (Pirandello 1924), seeing it as the most important layer: either the historical layer, the ideological layer, the sociological layer, the programmatic layer, or, finally, the strictly legal layer, related to establishing binding patterns of behavior. Thanks to these various perspectives, the constitution maintains its significance as an exceptional act not only from a legal perspective, but also from a political, ideological, and even emotional one. It is a normative act that, for everyone, albeit for very different reasons, is exceptional, but also—precisely—fundamental. The characteristic of fundamentality is primarily related to the legal characteristics of the constitution (see the constitution as a fundamental law - Dragne, 2013, p. 38), but it should also be related to the other attributes of the constitution. It records, however, in a more or less elaborate form, the fundamental stages of the development of a given state; it indicates the fundamental reasons for its adoption, characterizes the fundamental values and norms around which the state and its community are built (Hedling 2011); it balances the fundamental achievements, or – if it is oriented towards a dynamic future – it programs the fundamental goals (Bulman-Pozen - Seifter, 2021, p. 859).

A constitution, no matter how it is defined and which elements are not considered primary, always refers to the state as such. It is, in fact, an emblem of the state, a symbol that a given political community has achieved a certain degree of awareness, maturity, and consolidation, and that it has decided to systematize itself and provide a clear framework for its functioning, which is by no means limited to a strictly legal framework but also encompasses social, philosophical, political, and even cultural dimensions. In this sense, a constitution fulfills its rudimentary, etymological meaning: it constitutes society, endows it with organizational characteristics, and determines its shape, which consists of shared fates, shared ideas, views, desires, and aspirations, but also of professed and respected values, customs, practices, and observed laws. After all, the

word “constitution” itself derives from the Latin “constituere”, meaning to establish, arrange, organize, and give a specific form. Implicitly, it signifies the creation of the foundations for the state’s political system (organization). This was well captured by traditional equivalent terms for constitutions, such as “Government Act” (in Poland) or “Act on the Form of Government” (in Sweden). All of these explicitly indicated that the purpose of a constitution is to define the government, or the political system, or—in other words—the legal order of the state.

Sacralization of the constitution

It is therefore not surprising that the constitution is intuitively correlated with the state, to such an extent that it is often perceived as a totem, and in its four basic meanings, which are: 1) an object considered as the embodiment of ancestors, as a kind of accumulation of the past; 2) an object identifying membership in a group; 3) an object surrounded by special reverence, recognition or respect, and finally 4) a distinctive sign, identifier or even a specific signpost. It’s easy to guess that each of these basic meanings can be easily applied to a constitution. It is both a personification of the past, a reminder and a reference to the best, most glorious, and lofty traditions of a state or nation, which is usually reflected in the preamble in an elaborate and yet sublime form (Tushnet 1987/88, p. 93), as well as an identification of the group that is the nation (all citizens), but also an object that, even if not properly venerated with its associated rituals, is perceived as something incredibly valuable, important, and respected. Finally, it serves as a way to explain reality, a kind of signpost indicating the desired or expected ways of applying the constitution, including its interpretation.

The attribution of totemic features to the constitution also stems from the fact that it is often attributed with quasi-religious or mystical characteristics. This is a consequence of a much broader process of theologization of the constitution. Traces of this can be found both in the Middle Ages and in the 20th-century political thought of Carl Schmitt. The constitution is perceived as a specific embodiment of divine law on earth, or as a founding myth of the state and nation, or finally as a civic profession of faith, a kind of state Ten Commandments, a kind of Holy Scripture for citizens. This shows that theological, mystical, magical, and at least parareligious themes almost always appear in constitutional thinking (Górniewicz 2022). Consequently, the constitution is constantly viewed as an almost sacred, inviolable, divine, or almost divine act (Szymanek 2024, p. 26, 27). Several factors support this approach. First, the recognition that the constitution regulates the most important issues defining statehood, which brings to mind the Ten Commandments as a way to regulate the most essential matters. Second, because of the relevance of its content, it creates the highest act, *lex superiori*, which is implemented at all other levels of the law-making process in accordance with the principle of hierarchical subordination, and thus also of conformity. Thirdly, it is generally expected that a constitution should be permanent, immutable, and therefore untouchable, in the sense that it should be immune to occasional and incidental amendments. To this end, the constitution is most often surrounded by various formal and sometimes material safeguards, the purpose of which is to make the process of constitutional amendment more difficult and complicated, and therefore – at the very least – prolong

it (Szymanek 2015). Fourth, and finally, increasingly elaborate rituals of protection are being created around the constitution. On the one hand, it is being surrounded by a constitutional court system, which is—in a sense—a parallel to the biblical Sanhedrin (Dębska - Warczok 2018), which safeguards the orthodoxy of constitutional provisions. On the other hand, often highly complex mechanisms of constitutional liability are being introduced in connection with the commission of a constitutional tort. Proving a constitutional violation is sanctioned in various ways and—understandably—is met with social ostracism, while the person guilty of a constitutional tort is *de facto* excommunicated as having dared to violate something that is, by definition, inviolable. All of this means that the constitution is often described as a quasi-religious law, a *sui generis* Bible of the state, or—as Georg Hegel used to say—a “catechism” (Buchetmann 2023).

Incidentally, it's worth remembering that the process of giving the constitution a religious character is clearly linked to the process of secularization of the state. Consequently, it's paradoxical that the constitution has begun to be approached almost like the Bible, while at the same time, religion and religiosity have been increasingly eliminated from the constitution (and from the state). This process was accompanied by the introduction of an increasing number of values into constitutional texts, values that previously—contrary to popular belief—were not at all characteristic of constitutional laws. The latter, in their classical form, usually stopped at proclaiming a specific religion as the state religion, the dominant religion, the official religion, the dominant religion, or some other name, but always within the model of a confessional state (Brown - James 2017; Guzewicz, 2018). Such a worldview identification of the state simplified the matter of creating the axiological layer of the constitution, because in the model of a religious state, the principles and values of the religion designated as state or official were *per se* the values of the state, strongly anchored in the constitution in such a way that it established a religious state, which in itself was a carrier of specific, precisely defined principles and values. The processes of secularization and laicization, culminating in the establishment of a secular state, created an axiological void, which was eventually replaced by so-called constitutional principles and values, which were supposed to be better, more lasting, more objective, and above all, modern, because they were separated from all religious sophisms. It was in the wake of all these complex and long-term processes that constitutional texts began to be supplemented with values that were meant to re-identify the state and anchor it in a specific philosophical and ideological system.

In this way, the constitution was opened to secular values, which—according to the assumptions—were decidedly superior because they were non-contradictory, non-religious, and therefore uncontroversial and generally acceptable. It was not hidden that they were building a modern state, which for some time—and to this day—has been identified with a secular state (Sadura 2020; Bilska-Wodecka 2009), supposedly the antonym of the antiquarian, parochial, authoritarian, or otherwise oppressive, and therefore discredited, religious state¹. Consequently, as can be seen, values in the constitution appeared at a moment when the actual values—referring to the original Ten Commandments—were removed from the constitution in the name of its post-Enlightenment and rational progressivism. It then became apparent that the state structure based on the constitu-

¹ Which is not always true, if you look at such religious countries as, on the one hand, Denmark, Finland or Norway, and on the other hand, Saudi Arabia, Mauritania or Greece.

tion began to crumble, because the state, just like institutions, also requires values that anchor the constitution, customs, and traditions, fulfilling the essential function of identification, integration, and stabilization. To fill the void, values previously associated with the confessional model of the state were replaced with so-called state or secular values (sometimes called civic values), values that were by definition supposed to be better, more modern, more rational, more democratic, more inclusive, and therefore more acceptable. Although they were supposed to be better, more modern, and more progressive, ontologically they fulfilled exactly the same assumptions as the earlier proclamation of a state religion with all the benefits of its axiological foundation: they built a sense of unity and community, thus fulfilling the integrative function that a constitution always traditionally fulfills (Bellamy - King 2025).

The above process demonstrated the need to ground the constitution in a stable axiological framework, without which the constitution loses its *raison d'être* as a fundamental law. It also demonstrated that axiological rooting does not require the exaggeration of constitutional values (these were more than limited in the context of a confessional state), but does require a clear ideological declaration upon which the perforated and proliferating system of values is built. Therefore, as soon as the decision was made to embrace secularism, a value vacuum emerged, which attempts were made to fill with new values around which the community was to be consolidated. Thus began the process of building a so-called civil religion, an important element of which was not only secular values (including the separation of state and church, popular sovereignty, pluralism, and democracy), but also the constitution itself, which became much more than a mere regulator of legal, social, and political relations. As a result, a whole sophisticated concept of patriotism has been built in relation to the constitution, its principles, values, protection mechanism and social perception, which is nothing else than an ideological and legal paradigm of the constitution as a totem (Müller 2008; Llano 2017). Constitutional patriotism itself is sometimes referred to as a state or civic religion. At the center of this religion, sometimes also called “civic faith”, “common faith”, “democratic faith”, “folk religion”, “ceremonial deism”, “religion of the republic”, “public theology”, “state piety”, “purity of the community”, or simply religion *à rebours*, was, for understandable reasons, placed the constitution. It was supposed to enumerate new values, it was supposed to define them at least in a basic way and direct the way they were understood in the entire legal system based on the constitution (Vestal 2018). Moreover, in the face of the rejection of the religious state model, which merely ratified values whose origins were much deeper and more profound, within the model of a new system of state or—in other words—civic values, thus freed from the constraints of a specific religion or worldview, the constitution acquired the status of the sole, legitimate source of these new values. This, in turn, created a completely new perspective on the constitution, transforming it from a merely confirmatory act into an act that, in the full sense of the word, creates principles and values (Maes 2024). A side effect of this process was the creation of a vicious circle of constitutionalism, where values are now considered relevant because the constitution identifies and defines them, while the constitution itself is important (even paramount) because, among other things, it establishes specific values. Previously, constitutional logic was governed by a completely different principle: the constitution recorded and confirmed immanently present values without adding or subtracting anything from them. However, in the changed model, the constitution was essentially

a demiurge who elevated something to the rank of value or relegated it to legal oblivion. The change in the constitutional paradigm was part of a much broader post-Enlightenment dialectic (Horkheimer - Adorno 2002), which generally devalued the transcendent, proposing instead the concreteness of realism and rationalism.

It is perhaps worth noting that, in essence, civil religion is more of a civil ideology, with an obviously “disenchanted” understanding of ideology as a system of meanings, emerging especially in periods of political or social crisis or other types of deep tension, when existing cultural systems (including, above all, religion) fail or are consciously limited or even eliminated. In such moments, ideology appears as an “organizing principle”, whose goal is to re-establish a political understanding of the state of affairs, transform social and cultural life, and mobilize collective social activity for the community (Grabowiec 2013, p. 101; see also Świrek 2017, p. 63). The constitution underwent precisely such a transformation when the paradigm of a religious state was rejected and a much more ambitious task was formulated for the constitution itself – creating a kind of substitute for religion, that is, treating it as a unifying and integrating element, simultaneously designated by a clause of supreme law. In this sense, the civic ideology at the heart of which the constitution was placed plays a fundamental role. It creates a new reality, gives it concrete form in the form of a founding act, and simultaneously creates an entirely new axiological perspective, which originates in the constitution. This, in turn, leads to a veritable secular “canonization of the constitution,” and consequently, endowing it with the characteristics of an almost sacred, canonical, divine, or supernatural act. This must be a paradox, since the essence of the new approach to the constitution was to make it more realistic and ground it in a materialistic and rationalistic approach to reality. The guiding principle of modernity and the entire range of instruments that built it was, after all, the famous Nietzschean cry “God is dead”, which, in consequence, was intended to eliminate religious or even parareligious accretions, but in fact created an antonym of religion in the form of civic ideology (religion) and an antonym of the Bible in the form of the constitution.

As a result, modern constitutionalism, whose milestones are iconic, liberal constitutions, fundamentally reassessed the meaning of the constitution. Previously, at its inception, it was merely an act of order and limitation of power, without any distinctive or even supernatural attributes (Bryk 2013). However, after this reassessment and the accompanying ideological shift, it became an emblem of a new order, the starting point of a new reality, and at the same time its quintessence. The episode of the Jacobin Constitution (the so-called Constitution of the Year One) further elevated the constitution’s importance. Its adoption and subsequent sealing in a cedar chest, so that it could await the calming of revolutionary winds and enter into force after the historical turmoil to reorganize France, made it almost a relic of the new society, and gave the famous cedar chest the appearance of a democratic tabernacle, in which the greatest treasure of the liberal transformation was hidden: the libertarian, progressive constitution. The Jacobin Constitution’s symbolism was bestowed upon it by Maximilian Robespierre himself, who, immediately after its adoption, suspended the moment of its entry into force, stating bluntly that “popular government is based on virtue and terror”, while the constitution represents liberal order, the rule of law, and democracy, which have no place during revolutionary turmoil.

Idealization of the constitution

In this way, the constitution's totemic nature was given yet another meaning. It became something highly idealized, something expected, something that would radically change reality for the better, something that would bring a sense of freshness and novelty. After Robespierre postponed its entry into force, the constitution became a veritable promise of happiness, a parallel to a better France. The Jacobin constitution, enclosed in the "tabernacle of democracy", was an ideal, a chance for the better, a chance that chaos and formlessness would be replaced by clear order. As the Polish scholar Iwo Jaworski wrote, the Jacobin constitution resembled "propylaea, through which the French citizen was to enter the impressive edifice of the fundamental law of his legislation" (Jaworski 1923, p. 38), democratic, clear, logical, well-organized, and orderly. Interestingly, the parallelism of the propylaea, despite all the rhetoric of secularism and liberal freedom, made the constitution an object with at least a quasi-religious connotation, because in the architecture of ancient Hellas, the propylaea were nothing more than a gateway leading to the most sacred place, the *temenos*. As a result, despite its highly secularized, modern, thoroughly Enlightenment, and rational repertoire, the Constitution was perceived through the prism of an almost religious experience. For many who believed in a new man, a new nation, and a new world that was to be based on the Jacobin Constitution, it was a veritable relic (Baszkiewicz 1993). From the moment Robespierre announced its suspension, it was immediately perceived as something qualitatively superior, something longed for, and at the same time something intended to justify the temporary terror, the suspension of legal rules, and the state's entanglement in the chaos so typical of a state of emergency—a period when ordinary means of state operation are insufficient, and when, for understandable reasons, extraordinary, sometimes extreme, solutions are employed. However, because the Constitution of Year One never became law, it acquired the characteristics of a myth, a perfect, ideal act, devoid of flaws, yet one that only the complexities of history prevented from manifesting its power. Thus, for many, the Jacobin Constitution became a veritable "promised land" for France, which, weary of revolutionary terror, needed peace and tranquility, and this was to be brought by a democratic, libertarian constitution, temporarily locked in a cedar chest, awaiting the cessation of war and the elimination of internal enemies. However, the complexities of history meant that the Jacobin Constitution never entered into force. As a result, it was neither verified nor falsified. This, paradoxically, made it even more of a legend. According to this legend, it was an act of freedom, sovereignty, beautiful in its content and courage to create a new order, clear, legible, and – most importantly – democratic.

In this way, the Jacobin Constitution episode gave the Constitution yet another totemic meaning. It became a symbol of something wonderful, something better, something exceptional, something utterly democratic and desirable, and at the same time something that, due to unfavorable circumstances, was ultimately not realized, remaining a utopia of a better system. Therefore, the fact that the Jacobin Constitution ultimately failed to come into being gave rise to its totemic understanding as a myth, a veritable phantasmagoria of the ideal system that it supposedly contained.

This is not the only constitution that, for various reasons, did not enter into force, or that was quickly, through legal or practical actions, radically changed, departing from what its founding

fathers had envisioned. The same fate befell the Constitution of May 3, 1791. It, too, became a totem in Polish historiography, and a particularly significant one at that.

The totemic nature of the May 3rd Constitution lies in its perception as a manifesto, a declaration, and an expression of the aspirations and desires of an already thoroughly modern nation, which, due to unfavorable circumstances, was prevented from developing. It is assumed that adopting the constitution at a special moment—a true existential threat to the state—was a manifestation of the nation's exceptional maturity and its responsibility for the fate of the state and future generations (Grochulska 1994, p. 55). However, it was not only about a specific moment of awakening, but also about creating very modern solutions, solutions that – together with the Corsican constitution² or the later French constitution – created the foundations of European constitutional thought clearly inscribed in the post-Enlightenment political philosophy (Izdebski 1991). All this has prompted Western opinion-forming circles to revise their simplified judgments and assessments of Poland as a supposedly backward, primitive, obscurantist country, naturally doomed to decline, a country with an irreversible historical verdict destined to be absorbed by higher organisms, i.e. the partitioning powers, the states of enlightened absolutism, which, according to many beliefs, have overtaken Poland in intellectual, political and military development. It's important to remember that public opinion already held enormous significance, and it was decidedly unfavorable to Poland (Szymanek 2006, p. 153). Paradoxically, it was Tsarina Catherine's Russia that captured the attention and admiration of Western opinion, and the Semiramis of the North—as she was called—was the embodiment of modernity, openness, efficiency, and progress. Hence, her arguments prevailed in the dispute with Poland. For a century, Western circles viewed the Russian partition of Polish lands as a justified intervention into the backward, inhumane, and inhumane state that the Polish-Lithuanian Commonwealth supposedly was. For many English and Frenchmen, Russian intervention in Poland was entirely justified, as it was conducted in the name of modernity, effective governance, and the elimination of parochialism. This resulted, among other things, in acceptance of the partition of Poland and, at the same time, in futile efforts by the Polish side to prove the illegality and shamefulness of this act (Tarnowska 2016, p. 214). For many foreign observers, the First Partition was the logical consequence of Poland's decline and decline, its anachronism, backwardness, and its perceived impediment to seemingly enlightened reforms for modernists in Russia and Prussia. The May 3rd Constitution shattered this perception, forcing the West to reassess not only Poland but also Russia's policy toward the Polish-Lithuanian Commonwealth, and even more broadly, to reassess its own views on the political order of Europe at the time. In a sense, the May 3rd Constitution marked a turning point in European thinking.

² The Constitution of Corsica (*Custituzione di a Corsica*) was adopted in 1755. It is worth noting that this act was the first to use the term “constitution” in its title, and for this reason, it is still considered by some to be the first modern constitution. The origins of the Corsican constitution are linked to the struggle of this small island against Genoa, of which Corsica was once a part. The constitution itself was written by Pasquale Paoli, a Corsican patriot and national hero, leader of the struggle against the Genoese and later against French rule over the island. The Corsican constitution was the first constitution written in the spirit of the Enlightenment philosophy. Although it lasted only a short time, only until 1769, it was an important act confirming the modern principle of the separation of powers into executive, legislative, and judicial branches. Like the Jacobin constitution or the Polish constitution, the Constitution of May 3 became a totem in the struggle for an independent and modern state.

Moreover, for Poland, it was also a declaration of independence, a form of protest against the policies of its neighbors, a way to reverse the fate that had cast a dark cloud of doom over the Polish state. The Constitution of May 3 was unquestionable proof of the vitality, work, and determination to reform the Republic, but also a confirmation of its unquestionable belonging to the cultural sphere of the West. The modern ideas and views reflected in the text of the Government Act of 1791 were, after all, inextricably linked to the achievements of the Age of Enlightenment, a result of the intellectual ferment that gripped the continent on the eve of the French Revolution, which redefined fundamental concepts of state, law, and politics. It is no coincidence, therefore, that foreign opinions on the Constitution of May 3rd were dominated by the view that it was downright revolutionary, its profoundly libertarian overtones, and that it implemented 18th-century ideals, such as rule by the people, religious freedom, civic participation, and, ultimately, the limitation of power. Interestingly, in many opinions expressed in the West, including the United States, the Constitution of May 3rd became a totem of a most positive political change—one that was neither violent, destructive, nor radical, in the negative sense of the word. It was therefore compared to the French Revolution, and it was pointed out that reforming the state could take a dynamic form, as in France, or a gentle, peaceful one, as was the case in Poland. Hence, the political and legal changes in Poland in May 1791 were often presented as a “dignified revolution” and held up as a model for successful political change (Wiśniewska 2021).

The Constitution of May 3rd gained its fundamental totemic significance from the fact that it practically never came into force. Like the Jacobin Constitution, it was “shelved”, and thus quickly grew into the testament of the First Polish Republic (Kruk 2022, p. 11). As a result, it became a point of reference for all attempts to “clinch independence”, being, in every respect, a unique act. On the one hand, it was proof of the remarkable heritage of state, constitutional and patriotic thought of the highest order, and at the same time an expression of the bloodless struggle to repair the state and ensure it a worthy place “among the nations of the world”. On the other hand, the May Constitution became an important element in building a modern nation, in making Poles aware of their self-worth and self-awareness, giving them the strength to fight and persevere. That’s why it’s said that the May Constitution “came too late to save the state, but in time to save the nation”. Hence, during the partitions, which invalidated the constitution and abolished the state, it was perceived as a kind of call to arms, an act of mobilization for the nation and resistance against the policies of the partitioning powers. The fact that the May 3rd Constitution was never allowed to enter into force, and therefore its validity as a normative act never verified, further sharpened its positive assessment as a pioneering, modern, progressive, democratic, and free act, an act that could only be prevented from demonstrating its legal and political perfection by the collusion of the partitioning powers. This, in fact, was the reason for the repeated proposals, on the threshold of independence in 1918, to revitalize the May 3rd Act rather than undertake the difficult task of adopting a new constitution. For many circles, the May 3rd Constitution was a perfect ideal, and its eventual restitution had significant symbolic significance, demonstrating the continuity between the First and Second Polish Republics.

Without a doubt, however, the most significant totemic nature of the Constitution of May 3 lies in the fact that although it was not possible to build an independent, modern Poland and modern law on its basis, it undoubtedly served as a basis for building “the idea of extracting the

country from backwardness, pushing it onto the tracks of modernity” (Zakrzewska 1993, p. 25) and at the same time consolidating the nation, which had its clear point of reference for the next 123 years of slavery.

The idealization of the constitution, though undoubtedly most evident in the Polish Constitution of May 3rd, is also strongly observed in the case of the March Constitution of 1921. This constitution, despite its numerous weaknesses, continues to be held in high esteem (Kruk 2021). It is a constitution that revitalized the independent Polish state, which in itself gives it the appearance of an ideal act. But it is also invariably correlated with political democracy, a broad catalog of individual rights and freedoms, and a clear reference to Western experiences, which Poles have always viewed as better, more valuable, and worthy of copying and emulating (Ciemiński, 2014, p. 21). It is also, in this idealistic and highly sentimental narrative, a constitution which, due to an unfortunate twist of history – somewhat like the May Constitution – could not show all its strength and perfection, because it was first suppressed by the May Coup of 1926, and then replaced by a new constitution which, from the very beginning, was perceived as a negation of the act of 17 March 1921, also – if not primarily – in terms of the concept of the political system it proposed.

Historical references are natural when it comes to idealizing a constitution. Examples of constitutions that, for various reasons, were perceived as the best solutions are numerous. It's worth noting, however, that even failed constitutions, even future constitutions, can also be idealized. They are then perceived as perfect instruments that, through the power of their professionalism and authority, will replace the flawed, defective, and imperfect current solutions. Such ideal constitutions of the future often express broader desires for the reconstruction of the state, and even society, and thus the rejection of a negative or merely malfunctioning past. They outline a vision of tomorrow, which, for obvious reasons, is supposed to be better, more beautiful, and more magnificent. Idealizing a constitution, therefore, also involves attempting to perceive each potential, future constitution as even better, even more effective, and even more effective.

Linking the constitution with the state

Perceiving the constitution as a totem, however, does not only mean considering it as a reservoir of values (in line with the post-Enlightenment ideology of building new values, clearly opposed to the traditional ones, correlated with religion), and thus a basis for the so-called civic religion, or perceiving it as a kind of myth of perfect law or a building block of national consciousness, as was the case with the Jacobin constitution. It is also the cornerstone of statehood, a founding act of sorts, and therefore a *sui generis* secular relic, but also something invariably associated with the state, with a political community organized within the framework of a state. Perhaps the most well-known and most striking example is the United States Constitution of 1787. This act, invariably associated with the long process of building American independence, is unanimously considered the legal beginning of the United States of America, the culmination of a process in which the former colonies not only severed their ties with the metropolis (as un-

equivocally expressed in the Declaration of Independence³) but also united in a federation, thus creating an entirely new political entity: the United States of America. The Constitution of 1787 is therefore, not without reason, considered the foundation of American statehood, something that *de jure* created the state, and with it the American nation, as best expressed in the Constitution's preamble in principle, declaring the famous phrase "We the People of the United States". The American Constitution, therefore, is not only the creation of a state, but also the creation of a nation, a nation about which unequivocally positive assessments and associations are formulated. The Constitution of the United States of America was a veritable "miracle in the age of reason", the quintessence of Enlightenment thought, thoroughly modern, progressive, and democratic, which could only have been constructed by a great nation, a mature, educated, and emancipated nation (Beeman 2009).

In the minds of Americans themselves, the American Constitution is a perfect act. It expresses the desires and loftiest ideas of the Founding Fathers, who are themselves figures of bronze, and at the same time creates a perfect—as some say—system of checks and balances. Thanks to its minimalist content, it strikes a balance between lengthy, "overwrought" constitutions and fragmented or partial constitutions that fail to regulate what is customarily covered by so-called constitutional matters. From this perspective, the U.S. Constitution is an expression of the best-understood compromise, aimed at rejecting extremes and solutions unacceptable to the majority, while simultaneously building a genuine state based on clear principles and values, framed within a clear, unquestionable constitution. Although its application has revealed that many of its provisions are unclear, that it can provoke extreme interpretations, and that it creates voids that are *prima facie* unregulated, it has always proven to perform surprisingly well and provide a stable foundation for its interpretation, allowing it to adapt to the changing circumstances of its application.

As a result, although there are proposals on the margins of American constitutionalism for its fundamental revision or even the adoption of a completely new constitution⁴, the prevailing view is that the Constitution of 1787 is an independent value and that replacing it with a new one would be a crime against the American system. Hence, it was agreed, taking into account the fact that the Constitution was adopted over 200 years ago, that the "living tree doctrine" should apply, i.e., an approach to the Constitution as an evolving, living organism that is subject to change, just as every living organism is subject to change, including the American state and American society. As a result, Americans distinguish between a constitution in book and a so-called living constitution (so-called constitution in action). The former is a textual constitution contained in

³ Proclaimed on July 4, 1776, in Philadelphia during the Second Continental Congress, it justified the right of the 13 British colonies located in North America to freedom and independence from King George III. The Declaration's adoption was preceded by declarations from individual states. The Declaration proclaimed the right of the former English colonies in North America to establish all state acts, declare war, and conclude peace. It was universal in nature; it was more than a private message addressed to Great Britain; it was an appeal to all humanity to respect the free will of the inhabitants of the British colonies.

⁴ Such proposals, or even completed drafts, of course, apply not only to the United States Constitution. It is worth noting that in such cases, the question always arises as to whether a new constitution or a radical change to the existing one is caused by the axiological assumptions underlying the current constitution no longer being relevant.

the binding text, while the so-called living constitution is a constitution dynamically read and adapted to the situational context, actually applied, which does not always and necessarily correspond exactly to what is written in extenso in the text of the normative act. Proponents of this approach believe that the constitution evolves with the needs of society, providing governments with a more flexible and, therefore, more effective tool. This idea is related to the view that contemporary society should be taken into account in the so-called constitutional interpretation of the development of American statehood. The Constitution is described as the living law of the land because it is and always should be transformed according to the needs of the times and circumstances. Regardless of the fact that ideas for constitutional accommodation in accordance with the “living tree” concept come into open conflict with proponents of the so-called “dead hand” idea—that is, a limited imagination in reinterpreting the Constitution so as to adhere to the Founding Fathers’ intentions—the fact remains that this dispute, crucial to American constitutionalism, is possible precisely because it is dogma to perceive the Constitution of 1787 as a totem of American statehood. For Americans, the decisions of 1787 are a relic of their state and nation, and regardless of the criticisms the text of the Constitution encounters, it can be assumed that the longevity of the Constitution of the United States of America is the best test of its perfection (Holland 1991; see Segal 2013). In the public mind, it was the Constitution that created the American state and laid the foundations for the creation of the American nation.

Of course, the example of correlating a constitution with a state, in relation to the US Constitution, is the most well-known and most obvious, even intuitive, and therefore textbook in nature. However, in reality, in most cases, we are dealing with such an *iuncti*. For Poles, the March Constitution of 1921 is synonymous with the rebirth of the state after 123 years of partition. The April Constitution of 1935, in turn, symbolizes the state’s survival during World War II, a symbol of the legal act that effectively preserved Poland’s continuity during its most dramatic and dangerous period. The 1952 Constitution of the Polish People’s Republic, on the other hand, symbolizes communist enslavement, the victory of teams of collaborators and opportunists who, with the help of Soviet forces and resources, installed a new, undemocratic regime. That is why, after 1989, the *raison d’état* was to disavow the Constitution of 1952 as quickly as possible, which was to symbolically cut Poland off once and for all from communism and the then-hated Soviet Union, almost tangibly confirming the political and legal transformation that had taken place at that time. This is also the reason why, after the formal repeal of the 1952 Constitution, which took place under the provisions of the so-called “small” constitution of 1992, pressure grew to adopt a “large”, or proper, constitution, which was to be a symbol of the new, democratic Poland. This is also the reason why the finally adopted Constitution of the Republic of Poland of April 2, 1997, arouses such strong emotions today, because for some it confirms the new, democratic face of Poland after a period of turbulent systemic transformations, while for others it is evidence of a kind of elite conspiracy, a rotten compromise that involved sharing power between the heirs of the Polish United Workers’ Party and the *nouveau riche* from the former “Solidarity”, who, in essence, created a licensed democracy and a licensed constitution that redistributed power and influence (Kostecki 2022).

It is clear that the constitution is the foundation of statehood, and indeed the symbol of the state, not only in the United States or Poland. Virtually everywhere, the constitution is the em-

blem of the state, or at least of a given state entity. This is the case in Germany, where the 1949 Constitution is today unanimously perceived as a symbol of the new, post-war, and democratic Germany, in contrast to the Weimar Constitution of 1919, which we intuitively associate with interwar Germany, including Adolf Hitler's rise to power. This is also the case in Spain, where the 1978 constitution is unanimously viewed as the foundation of the post-Franco state, or in Portugal, for example, where the 1976 constitution is the quintessence of the democratic movements that followed the famous Carnation Revolution⁵. In Japan, by contrast, the 1946 constitution symbolizes a completely new era of Nippon. It is identified with a shift away from militarism and revanchism, with the abandonment of the emperor cult, and with the establishment of Western-style political solutions, including individual freedom and political democracy, which contrasts sharply with the pre-war image of old Japan. In turn, throughout Central and Eastern Europe, new, post-communist constitutions adopted after 1990 are evidence of the transition from communist authoritarianism to Western-style democracy (Sokolewicz 2000), regardless of what the system actually looks like in practice and whether it is not a compilation of formal democracy with material elements of various so-called non-democracies (Wolek 2004).

The inherent link between the constitution and the state was also, at least to some extent, the reason for the failure of the idea of a Constitution for Europe (Dausies 2005). European elites, fascinated by the progress of integration, eventually came up with the idea of consolidating integration, significantly accelerating and deepening it. The symbol of the new approach to the European Union was to be a new primary law (Arnold, 2009), which was given the hybrid form of the "Treaty establishing a Constitution for Europe". The name of the document, intended to significantly reform and modernize EU institutions, clearly indicated the direction the future Europe was to take: ever-increasing unification, with "one great European state" (B. Rittberger, F. Schimmelfennig 2006) already in sight. At the same time, the intention was to symbolically determine the direction of integration and make it, to some extent, irreversible by calling the new treaty "A Constitution for Europe", which demonstrated its fundamental, i.e., constitutional, significance, but also unequivocally suggested a clear etatization of the European Union, and consequently, an abandonment of the model of an intergovernmental organization that the Union formally still embodied. That's why the document finally prepared in 2004 had such a peculiar title, as it was still formally an international agreement (as expressed by the term "treaty"), but at the same time it was supposed to constitute something much more, something that had until then been reserved exclusively for the state, namely a constitution. Hence, the origin of such an ambiguous, clearly hybrid title, i.e., "Treaty establishing a Constitution for Europe", and the treaty itself was consciously perceived as something intermediate between "still" an international agreement and "already" a constitution (Hänsch 2000).

However, this very title aroused profound distrust among Europeans, who until then had reserved the concept of a constitution for the Nordic state, for "their" state, i.e., for France, Italy,

⁵ The Carnation Revolution (*Revolução dos Cravos*) was a political coup in 1974 that overthrew the government of Marcel Caetan, successor to Antonio Salzar, and led to the restoration of civil and political freedoms and the launch of the democratization of Portuguese possessions in Africa and Asia (Portugal was the last to embark on the path of decolonization).

Spain, or Denmark. The use of a specific state emblem—as the constitution had been perceived until then—in the title of an international agreement sparked concern and distrust. It was felt that the integration process had perhaps accelerated too much, taking a dangerous turn. This was viewed as excessively bold, too hasty, and too dangerous for the functioning of a classic nation-state, which could potentially be absorbed by a new European state with its own constitution. These concerns were all the greater because in the European consciousness, the constitution is invariably perceived as *suprema lex*. Previous disputes about the primacy of European law in the event of a conflict with the constitutions of the member states could thus be resolved too clearly in favor of the new Constitution for Europe, which for many Europeans was too radical a perspective of the supremacy of European law over national law and the constitution, which formally has the status of the highest law in each member state, which clearly emphasizes the fact that member states use constitutions, while the European Union has “only” treaties⁶. In the face of such uncertainty, it is not surprising that the member states were resistant to the new primary law of the European Union proposed in 2004 and that, after the French “no” to the Constitution for Europe (Kuzelewska 2010), the idea of a European constitution was definitively shelved, even though the subsequent Treaty of Lisbon essentially repeated the solutions of the Treaty establishing a Constitution for Europe in many places.

However, the failed experiment with the Constitution for Europe made Europeans realize that the constitution is integrally linked to the state and that the vision of a constitution without a state is essentially utopian, because having a constitution will sooner or later create a state, and this, at the European level, was not desired, at least in 2004. For most Europeans, the Constitution for Europe was unacceptable because, first, it was too abstract and, second, it was too radical in severing the traditional bond between the constitution and the properly classically understood state.

Conclusions

The constitution has many totemic meanings. This is because a constitution is not only a legal act but also a political act par excellence, which, in addition to its juridical function, fulfils a multitude of other functions, each with relevant social and political consequences, or simply connotations. For these reasons, the constitution, beyond all its other tasks and associations, constitutes a kind of “display cabinet of the norms and symbols of a given society” (Smith 1980, p. 152). Its totemic nature can be expressed in its perception as an antiquarian prop, evoking the origins of a state or nation. It can also manifest itself in the creation of a completely new set of norms, principles, and values, relative to the conventional ones, in line with the currently popular idea of “ceremonial deism” or “state piety”. Its totemic nature can also be found in the fact that for some, it will be a utopia of a perfect system, a manifestation of human genius in designing

⁶ This is clearly visible in France, which ultimately rejected the Treaty establishing a Constitution for Europe in a national referendum, where, for example, the concept of primacy (priority) of EU law over national law is approved, but this does not apply to the relationship between EU law and the constitution, which is traditionally perceived as an act standing higher than EU law.

an ideal vision of state and society, or a mythical solution that, for various reasons, has not been destined to prove itself in practice. The totemic nature of a constitution also lies in the fact that it is almost always the object of special, almost religious veneration, the object of a kind of cult, the props of which are solutions that maintain the constitution's stability, on the one hand, and mechanisms for its legitimate interpretation, on the other.

However, the totemic nature of the constitution also harbors pitfalls. These seem to be two fundamental ones. The first is the facade of the constitution (McNeely 2003), which is an extreme manifestation of respecting the idea of a constitution in book form, thus perceiving the constitution solely through the prism of its text, without considering the constitutional reality, which is created by the complex and multi-threaded processes of its application and accommodation. Or—in another variant—creating solutions seemingly consistent with the constitution while ignoring its material, substantive content. The second trap, however, is the danger of fetishizing the constitution, that is, the hyperbolization of principles, norms, values, and procedures, resulting from an erroneous evaluation of law and its recognition as the only, or at least the most important, regulator of social relations. Meanwhile, in a complex system of norms, legal norms - including constitutional norms - are - as we know - only one of many types that overlap, are sometimes parallel, and sometimes even contradictory, and in many cases function completely independently of one another.

In the context of ongoing and seemingly increasingly accelerated European integration, the totemic nature of the constitution is being seriously tested. This act, which since the beginning of the democratic era has been unanimously perceived as a symbol of the state and all the values that identify it, is now being challenged by EU mechanisms for interpreting EU law not only in accordance with the paradigm of the primacy of EU law (which is, after all, stipulated in the treaties), but also the absolute primacy of this law (which is already debatable). This absoluteness means that the primacy of EU law is increasingly being applied to the constitution itself, which, according to increasingly emerging views, is giving way to the onslaught of EU law, which is supposed to be—nomen omen—a kind of new hyper-constitution. The latter, although not called a constitution anywhere, is intended to organize the European legal space not only within the framework of a specific international organization, which is the EU, but also within the framework of particular, national legal orders of individual member states, which is neatly dressed in the corset of the so-called multi-level constitutionalism. This state of affairs, as one might easily guess, has direct consequences for the concept of the totemic nature of a constitution. Firstly, because the EU treaties are now becoming the totem, which, in legal transactions, although not explicitly called the European Constitution, nevertheless fulfils its role, and this role is increasingly emphasized, especially in all those cases in which the Court of Justice of the EU explicitly states that national constitutions are inferior to treaties. Secondly, because accepting the view of the primacy of EU law, which is supposed to degrade national constitutions, in fact fundamentally redefines the meaning of the constitution, removing the aforementioned triad of sacralization, idealization, and etatism. National constitutions thus battered are slowly transforming into *de facto* implementing acts in relation to the EU hyper-constitution, which also changes its meaning by severing the rudimentary relationship between the constitution and the state, a fact that, in fact, requires constitutional law studies to redefine.

Bibliography

- ARNOLD, Rainer (2009), *The concept of European constitutional law*, [in:] *The emergence of European constitutional law, XVIIth Congress of the International Association of Comparative Law*, Utrecht 2006, National reports, Σάκκουλας, Athens, 490 p.
- BASZKIEWICZ, Jan (1993). *Nowy człowiek, nowy naród, nowy świat. Mitologia rewolucji francuskiej*, Warszawa: Państwowy Instytut Wydawniczy, 430 p.
- BASZKIEWICZ, Jan (1997). O kilku dylematach konstytucji w świetle historii. In BODIO, Tadeusz – JAKUBOWSKI, Wojciech (eds.). *Konstytucja RP, oczekiwania i nadzieje*, Warszawa: Dom Wydawniczy Elipsa 1997, p. 43-59.
- BEEAMAN., Richard (2009). *Plain, Honest Men: The Making of the American Constitution*, New York: Random House Trade Paperbacks, 544 p.
- BELLAMY, Richard – KING, Jeff (2025), *Introduction: Of Constitutions and Constitutional Theory* In BELLAMY, Richard – KING, Jeff (eds.): *The Cambridge Handbook of Constitutional Theory*, Cambridge: Cambridge University Press, 2025, p.1-20.
- BILSKA-WODECKA, Elżbieta (2009). Secularization and Sacralization. New polarization of the Polish religious landscape in the context of globalization and European integration, In *Acta Universitatis Carolinae Geographica*, 44,1-2, p. 3-18. DOI: <https://doi.org/10.14712/23361980.2015.59>
- BROWN, Davis – JAMES, Patrick (2017). The Religious Characteristics of States: Classic Themes and New Evidence for International Relations and Comparative Politics In *Journal of Conflict Resolution*, 62,6, p. 1341-1376. DOI: <https://doi.org/10.1177/0022002717729882>
- BRYK, Andrzej (2013) *Konstytucjonalizm. Od starożytnego Izraela do liberalnego konstytucjonalizmu amerykańskiego*, Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego, 2013, 692 p.
- BUCHETMANN, Elias (2023), *Hegel and the Representative Constitution*, New York: Cambridge University Press, 320 p. DOI: <https://doi.org/10.1017/9781009305983>
- BULMER Elliot W. (2017), *What is a Constitution? Principles and Concepts*, International Institute for Democracy and Electoral Assistance, Stockholm, 2017, 27 p. Available at: <https://www.idea.int/sites/default/files/publications/what-is-a-constitution-primer.pdf>
- BULMAN-POZEN, Jessica – SEIFTER, Miriam (2021). The Democracy Principle in State Constitutions In *Michigan Law Review*, 119,5, p. 859-932. DOI <https://doi.org/10.36644/mlr.119.5.democracy>
- CIEMNIEWSKI, Jerzy (2014). Dwie konstytucje. Szkic na temat Konstytucji RP z 17 marca 1921 r. i Konstytucji RP z 2 kwietnia 1997 r. In FEDERCZYK, Wojciech (ed.) *Jedność norm i wartości. Zbiór studiów dedykowanych profesor Marii Gintowt-Jankowicz*, Warszawa: Wydawnictwo KSAP, p. 21-42.
- DAUSES, Manfred (2005), Konstytucja dla Europy – konstytucja bez państwa? In *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 67,2, p. 5-17.
- DĘBSKA, Hanna – WARCZOK, Tomasz (2018). Sakralizacja i profanacja. Trybunał Konstytucyjny jako struktura mityczna In *Państwo i Prawo*, 73,5, p. 63-74.
- DRAGNE, Luminița (2013). Supremacy of the Constitution, In *AGORA International Journal of Juridical Sciences*, 7,4, p. 38-41. DOI: <https://doi.org/10.15837/aijjs.v7i4.841>
- GÓRNISIEWICZ, Arkadiusz (2022). Filozoficznopolityczne aspekty debaty Hansa Kelsena i Carla Schmitta o państwie, konstytucji i jej ochronie In *Mysł Polityczna*, 21,3 (14), p. 91-118. DOI: <https://doi.org/10.31268/MPPT.2022.26>
- GRABOWIEC, Piotr (2013). *Religia obywatelska jako teoretyczna propozycja integracji politycznej Wspólnoty Europejskiej*, Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego, 2013, 392 p. Available at: https://www.academia.edu/18645489/Religia_obywatelska_jako_teoretyczna_propozycja_integracji_politycznej_Wsp%C3%B3lnoty_Europejskiej
- GROCHULSKA, Barbara (1994), *Tradycja Konstytucji 3 maja. Zarys ogólny* In GROCHULSKA, Barbara (ed.). *Tradycja Konstytucji 3 maja. 200-lecie tradycji*. Warszawa: Wydawnictwo Sejmowe, 1994, p. 55-79.
- GUZEWICZ, Wojciech (2018). Dispute over the state: between “a confessional State” and “a secular State” In *Eu-*

- ropean Journal of Public Matters, Vol 2, p. 5-12. Available at: <https://wpia.uwm.edu.pl/czasopisma/sites/default/files/uploads/EJPM/2018/5-12.pdf>
- HÄNSCH, Klaus (2000). The future of European integration: Visions, challenges, perspectives. In *Intereconomics*, 35,6, p. 259-263. Available at: <https://www.intereconomics.eu/pdf-download/year/2000/number/6/article/the-future-of-european-integration-visions-challenges-perspectives.html>
- HEDLING, Nora (2011). *A Practical Guide to Constitution Building: Principles and Cross-cutting Themes*, Stockholm: International Institute for Democracy and Electoral Assistance, 60 p. Available at: <https://www.idea.int/sites/default/files/publications/chapters/practical-guide-to-constitution-building/a-practical-guide-to-constitution-building-chapter-2.pdf>
- HOLLAND, Kenneth (1991). Judicial Activism in the United States In HOLLAND, K.M. (ed.): *Judicial Activism in Comparative Perspective*, London: Palgrave Macmillan, p. 12-32.
- HORKHEIMER, Max – ADORNO, Theodor (2002). *Dialectic of Enlightenment: Philosophical Fragments*. Stanford: Stanford University Press, 2002, 282 p. Available at: https://monoskop.org/images/2/27/Horkheimer_Max_Adorno_Theodor_W_Dialectic_of_Enlightenment_Philosophical_Fragments.pdf
- IZDEBSKI, Hubert (1991). Konstytucja 3 Maja wśród konstytucji swojego wieku In *Państwo i Prawo*, 5, p. 3-16.
- JAWORSKI, Iwo (1923). Konstytucja jakobińska z 1793 r., In *Czasopismo Prawne i Ekonomiczne*, 1-6, p. 37-64.
- KOSTECKI, Dawod (2022). Axiology of the Constitution of the Republic of Poland of 2 April 1997: Some Reflections, In *Central European Journal of Comparative Law*, 3,1, p. 119-135. DOI: <https://doi.org/10.47078/2022.1.119-135>
- KRUK, Maria (2021). Siła i słabość Konstytucji RP z 17 marca 1921 r. Rozważania w 100-lecie uchwalania polskiej konstytucji marcowej In *Ius Novum*, 15,2, p. 5-24. DOI: <https://10.26399/iusnovum.v15.2.2021.11/m.kruk>
- KRUK, Maria (2022). O wartościach konstytucji In *Państwo i Prawo*, 77,10, p. 9-30.
- KUŻELEWSKA Elżbieta (2010). Francuskie „nie” dla Traktatu ustanawiającego Konstytucję dla Europy In *Studia Politologiczne*, Vol. 18, p. 70-98. Available at: <https://www.studiapolitologiczne.pl/pdf-117467-46644?filename=Francuskie--nie--dla-Trak.pdf>
- LLANO Fernando (2017). European Constitutional Patriotism and Postnational Citizenship in Jürgen Habermas In *Archives for Philosophy of Law and Social Philosophy*, 103,4, p. 504-516. DOI: <https://10.25162/arsp-2017-0251>
- MAES, Christophe (2024). *The notion of constitutional identity and its role in European integration*, Policy Department for Citizens' Rights and Constitutional Affairs Directorate-General for Internal Policies, Brussels, 91 p. Internet access: [https://www.europarl.europa.eu/RegData/etudes/STUD/2024/760344/IPOL_STU\(2024\)760344_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/760344/IPOL_STU(2024)760344_EN.pdf)
- MC NEELY, Ian (2003). Constitutional Fetishism, In McNEELY, I.F. (ed.): *The Emancipation of Writing German Civil Society in the Making*, Berkeley: University of California Press, p. 96-123. DOI: <https://doi.org/10.1525/california/9780520233300.003.0005>
- MÜLLER, Jan-Werner. (2008). A general theory of constitutional patriotism In *International Journal of Constitutional Law*, 6,1, p. 72-95. DOI: <https://doi.org/10.1093/icon/mom037>
- RITTBERGER, Berthold – SCHIMMELFENNIG, Frank (2006). Explaining the Constitutionalization of the European Union In *Journal of European Public Policy*, 13,8, p. 1148-1169.
- SADURA, Przemysław (2020). *Liberalizacja i sekularyzacja społeczeństwa polskiego 1989-2000. Analiza socjologiczna*, Warszawa: Friedrich-Ebert-Stiftung, 2020, 8 p. Available at: <https://collections.fes.de/publikationen/ident/fes/17124>
- SEGAL, Zeev (2013). Judicial Activism Vis-a-Vis Judicial Restraint. An Israeli Viewpoint. In *Tulsa Law Review*, 47,2, p. 319-330. Available at: <https://digitalcommons.law.utulsa.edu/cgi/viewcontent.cgi?article=2815&context=tlr>
- SMITH, Gordon (1980). *Politics in Western Europe: A Comparative Analysis*, London: Heinemann Educational Books, 344 p.
- SOKOLEWICZ, Wojciech (2000). Nowa rola konstytucji w postsocjalistycznych państwach Europy In *Państwo i Prawo*, 10, p. 21-42.
- SZYMANEK, Jarosław (2006). *Tradycje konstytucyjne. Szkice o roli ustawy zasadniczej w społeczeństwie demokratycznym*. Warszawa: Dom Wydawniczy Elipsa, 252 p.

- SZYMANEK, Jarosław (2015). Zabezpieczenia konstytucji przed zmianą konstytucji In *Prawo i Polityka*, Vol. 6, p. 7-24.
- SZYMANEK Jarosław (2024). *Wstęp do nauki o konstytucji*. Warszawa: Wydawnictwo Akademii Wymiaru Sprawiedliwości, 392 p. Available at: https://aws.edu.pl/wp-content/uploads/2024/09/J_SZYMANEK_-_Wstep-NaukiKonstytucji_WWW.pdf
- TARNOWSKA, Anna (2016). The Sovereignty Issue in the Public Discussion in the Era of the Polish 3rd May Constitution (1788–1792) In MÜSSIG, Ulrike (ed.). *Reconsidering Constitutional Formation I National Sovereignty: A Comparative Analysis of the Juridification by Constitution*. New York: Springer, p. 215-264. DOI: https://10.1007/978-3-319-42405-7_4
- TUSHNET, Mark (1987/88). The Concept of Tradition in Constitutional Historiography, In *Wm. & Mary Law Review*, 29,1, p. 93-99.
- VESTAL, Allan W. (2018). Religious State Constitution Preambles In *Penn State Law Review*, 123,1, p. 151-190. Available at: <https://www.pennstatelawreview.org/wp-content/uploads/2018/12/123-Vestal-FINAL.pdf>
- WIŚNIEWSKA, Ewa (2021). The Perception of the Constitution of 3 May 1791 in the Contemporaneous American Press In *Studia z Dziejów Państwa i Prawa Polskiego XXIV*, p. 173-185. DOI: <https://10.48269/2450-6095-sd-pipp-24-011>
- WOŁEK, Artur (2004). *Demokracja nieformalna. Konstytucjonalizm i rzeczywiste reguły polityki w Europie Środkowej po 1989 roku*. Warszawa: Wydawnictwo Instytutu Studiów Politycznych PAN, 2004, 284 p.
- ZAKRZEWSKA, Janina (1993), *Spór o konstytucję*, Warszawa: Wydawnictwo Sejmowe, 1993, 221 p.