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### “Utopia” by Thomas More – the political and legal system of Utopia as an answer to the “theologico-political problem”.

#### Streszczenie

Artykuł stanowi próbę interpretacji skonstruowanego przez Tomasza Morusa systemu polityczno-prawnego fikcyjnej wyspy Utopii w kontekście wyzwania jakie dla myśli politycznej nowożytnej Europy stanowił tzw. „problem teologiczno-polityczny”. Praca ma na celu wskazanie podstaw na jakich oparł się Morus przy próbie rozwiązania owego problemu (zarówno w jego wymiarze „publicznym”, jak i „prywatnym”), sposób konstrukcji stworzonego ustroju państwowego, jak i jego ostateczny cel. Artykuł wskazuje także prawno-polityczne implikacje zastosowanych rozwiązań dla funkcjonowania człowieka w ustroju rządzonym przez niezmiennie zasady moralności i cnoty. Kładzie także nacisk na przekształcenie życia politycznego jakie za sprawą swoich założeń dotyczących natury człowieka, jego dążeń, jak i wzajemnych relacji z państwem i społeczeństwem dokonuje w swojej koncepcji ustroju idealnego Morus.

**Słowa kluczowe:** Thomas Moore, Utopia, historia prawa, common law, historia myśli politycznej i prawnej.

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## ***1. Introduction***

This article presents an interpretation of the political and legal system of the fictional island of Utopia as constructed by Thomas More in the context of a challenge posed to the political thought of early-modern Europe by the “theologico-political problem”. The aim of the article is to show the foundations on which More based his attempt to solve the aforementioned problem as well as the means of constructing the political and legal system of Utopia and its ultimate purpose. It must be mentioned that throughout the ages the meaning of “Utopia” was interpreted in numerous ways. Prof. Russel Ames enumerated fourteen different interpretations of More’s work<sup>1</sup>, among which there are examples so diverse as: a fantastic refuge from an unpleasant reality (e.g. Prof. Szacki classified it as an escapist place-utopia<sup>2</sup>), an early blueprint for English imperialism, or a socialist critique of a newly-born capitalism<sup>3</sup>. Naturally, an interpretation of the legal and political system as proposed by More cannot be and is not detached from my opinion concerning the axiological convictions of More himself. Thus, although the aim of the article is to show the comprehensive character of the solutions More laid down, it is necessary to acknowledge that the starting point of my argument is another interpretation of “Utopia’s” meaning as such that can be added to the list of Prof. Ames. What this article attempts to prove is that “Utopia” is essentially an effort to close the gap between the demands issued by the secular government on the one hand and the moral precepts on the other. There are dimensions that are often incompatible with one another and which create uncertainty concerning the proper conduct of an individual who has to manoeuvre between the two modes of authority and the two modes of valuable existence which follow. The merger of two separated realms comes at the price of a political life and a model of active citizenship that has to be eradicated in order to assure the stability of the state’s organism.

## ***2. The “theologico-political problem” and proposals for its solution***

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<sup>1</sup> R. Ames, *Citizen Thomas More and His Utopia*, Princeton University Press, 1949, p. 4., as cited in L. Gallagher, *More’s Utopia and Its Critics*, Scott, Foresman and Company, Chicago 1963, p. 136.

<sup>2</sup> J. Szacki, *Spotkania z utopia [Encounters with utopia]*, Wydawnictwo Sic!, Warszawa 2000, p. 56.

<sup>3</sup> L. Gallagher, *More’s Utopia...*, op. cit., p. 136.

## 2.1 Nature of the problem

In order to grasp the “theologico-political problem” (a term coined by Pierre Manent in *Intellectual History of Liberalism*<sup>4</sup>), it is necessary to return to the original structure of the Greek concept of *polis*, of which Montesquieu wrote: “*Most ancient people lived under governments that had virtue for their principle. When this existed in its full vigor they performed actions unknown in our time and which astound our petty souls. Their education had another advantage over ours: it was never contradicted. In the last year of his life Epaminondas said, heard, saw, did the same things as he had done at the age when he had begun his education. Today we receive three educations which differ or are even in conflict: that from our parents, that from our teachers, and that from the world. What the last one tells us reverses all of the ideas received during the first. In part this stems from the contrast that exists [in our society] between the obligations of religion and of the actual world. Such a contradiction was unknown to the ancients*”<sup>5</sup>. In an ancient *polis*, religion, morality, politics and virtue were merged with one another (which, of course, was but a projection of the commonly shared images of ancient Greece, not a historically accurate description of the *poleis* – with their own share of internal strife, instability and vagueness concerning the real degree of political participation<sup>6</sup>). Virtuous and moral was that what served the well-being of the commonwealth. The fall of the Greek city-states and their replacement by one, enormously large political form of the empire led to a dismantling of this unity<sup>7</sup>. People ceased to identify themselves with the

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<sup>4</sup> See P. Manent, *Intelektualna historia liberalizmu [Intellectual History of Liberalism]*, pp. 14-16, Arcana, Kraków, 1994. In order to ensure the clarity of the argument and not to get involved in protracted terminological disputes in this article, the “theologico-political problem” is referred to only in the strict sense as employed by P. Manent in the above-cited book. Manent divides this notion into two parts – first is the role that the Church had to perform after the fall of the Roman Empire; the role of a cultural, social and political centre storing the ancient culture and creating a certain amalgam of secular and ecclesiastical functions. The second part, which is more important in the context of this article, is what Manent calls the “structural problem”, which has been described below – see footnote no. 13.

<sup>5</sup> Montesquieu, *O duchu praw [The Spirit of the Laws]*, Altaya, De Agostini, Warszawa 2002, p. 48, as cited in: P. Manent *Przemiany rzeczy publicznej. Od Aten do całej ludzkości [Metamorphoses of the City: On the Western Dynamic]*, Europejskie Centrum Solidarności, Gdańsk 2014, p. 304.

<sup>6</sup> See, for example, *stásis* within classical Athens : B. Bravo, M. Węcowski, E. Wipszycka, A. Wolicki, *Historia starożytnych Greków t. II [History of Ancient Greeks v. II]*, Wydawnictwo Uniwersytetu Warszawskiego, Warszawa 2009, pp. 216-217. As to the degree of political participation: *Ibidem*, pp. 442-470.

<sup>7</sup> On the changes resulting from the collapse of the Greek *poleis* written recently, see L. Siedentop, *Inventing the Individual : The Origins of Western Liberalism*, Penguin Books, London 2015.

authority, whose centre was now located in the remote Rome. The *poleis*, although their formal political and administrative structure often remained untouched, were now dependent on the goodwill of the *Imperium Romanum*, which now had *patrocinium orbi Graeci* and which was the ultimate judge in case of any internal Greek strife<sup>8</sup>. Such a development led to a shift in philosophical enquiries. An exemplary expression of this shift was the “discovery of the individual”, which encouraged people to focus on their inner life<sup>9</sup>. Christianity, which enhanced the meaning of the soul and the conscience, was based on a similar principle. It can be stated that the Christian experience was thoroughly apolitical in its original form<sup>10</sup>; apolitical in the sense prescribed by the ancient Greeks and Aristotle himself, namely that it did not concern itself with matters of authority over the commonwealth, or it did not ponder the question of self-government in the public sphere. This fracture, this dualism, was the cause of a protracted conflict that lasted for the entirety of the Middle Ages – a conflict between, on the one hand, the ecclesiastical authority, which after being set free and sanctioned by the Roman Empire began to claim that the moral dimension of people’s lives ought to have primacy over ordinary existence as represented by secular authority<sup>11</sup>, and, on the other hand, the secular authority itself which was largely based on the concept of the autocracy drawn from the very same Roman Empire. Thus there existed two different sources of authority, which led to the emergence of a political or “structural” dimension of the “theologico-political problem”<sup>12</sup>.

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<sup>8</sup> B. Bravo, E. Wipszycka, *Historia starożytnych Greków t. III [History of the Ancient Greeks]*, Wydawnictwo Naukowe PWN, Warszawa 1992, pp. 114-115.

<sup>9</sup> G. Reale, *Historia filozofii starożytnej t. III [History of the Ancient Philosophy v. III]*, Redakcja Wydawnictw Katolickiego Uniwersytetu Lubelskiego, Lublin 1999, pp. 23-27. The described changes had begun after the conquest of Greece by Alexander the Great and developed throughout subsequent centuries and under a new, i.e. Roman, government. That is not to say that the political life, as such, ceased to exist within the *poleis* but rather that politics was gradually losing its importance up to the point when the institutions of the Greek city-states became but a part of the Roman “state machinery”. B. Bravo, E. Wipszycka, *Historia starożytnych...*, op. cit., pp. 429-434.

<sup>10</sup> P. Manent, *Przemiany...*, op. cit., p. 214.

<sup>11</sup> C. Morris, *Monarchia papieska – Dzieje Kościoła zachodniego w latach 1050-1250 [The Papal Monarchy: The Western Church from 1050 to 1250]*, Wydawnictwo Marek Derewiecki, Kęty 2016, p. 194.

<sup>12</sup> As Manent puts it: “*The definition that the Church applies to itself is contradictory. On the one hand, the good that it brings – salvation – is not from this world. “This world”, the world of the emperor, is not what the Church is interested in. On the other hand, the Church was created by God Himself and His Son in order to lead people to salvation, and it is the only entity capable of doing so. Thus the Church has a “right to inspect”, or rather a “duty to inspect” everything that might endanger this salvation. [...] The Church has the “duty to inspect”, potentially, every single action of man. Among a human’s actions these are the most important, and entail the most serious consequences, which are performed by the rulers. Therefore, the Church, because of the very reason of its existence, ought to watch out, with the greatest care, so that the rulers would not issue commands that would force subjects to deeds which could threaten their salvation, so that the rulers would not give them the*

But this problem also had a “personal” dimension<sup>13</sup> – for there was no obvious answer to the question as to what kind of human life was the most valuable (*vide* the traditional outcome of Saint Augustine’s thought or the ancient ideal of an active citizen). The “theologico-political problem” lasted, as was mentioned before, for the entirety of the Middle Ages and was clearly signalled by prolonged disputes over investiture as well as legal quarrels concerning the interpretation of Roman law (mainly the *Digesta*<sup>14</sup>).

## 2.2 Possible solutions

The mere existence of the “theologico-political problem” gave birth to a wide variety of intellectual pursuits that would render its solving possible<sup>15</sup>. This Gordian knot was eventually cut by the political and legal thought of the Renaissance (although the patterns had already been there thanks to mediaeval philosophers and jurists). As J.C. Davis points out, at the beginning of the 16<sup>th</sup> century there appeared a thinker who created a solution to the “structural” part of the “theologico-political problem”<sup>16</sup>. This was Niccolò Machiavelli, who placed the reason of the state, and therefore the absolute primacy of the secular authority, over Christian morality and the ecclesiastical authority that followed. Machiavelli puts his emphasis on the constant struggle between the *virtú* of the prince and the circumstances that he has to face – the *fortuna*<sup>17</sup>. What is essential is that the *virtú* had no single, clearly defined substance (unlike

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“freedom” of committing them. In this way the Church – logically, and not as a result of historical circumstances - had to claim the highest authority, “plenitudo potestatis”. The definition of “potestas” might have been changing substantially, especially depending on whether it was perceived of as “directa” or “indirecta”, but the political consequences of claiming this authority remained, in fact, the same.[translation : M.W.]” P. Manent, *Intelektualna...*, op. cit., p. 16.

<sup>13</sup> As highlighted both in footnotes nos. 5 and 12, Manent focused his attention on the political or public side of the problem he was analysing. This problem though, also entailed personal or moral implications. That is why I have broadened the definition of Manent’s “theologico-political problem” and included its “personal” dimension in the following analysis.

<sup>14</sup> See, for example, the opening chapters of the first volume of Quentin Skinner’s *The Foundations of Modern Political Thought*, Cambridge 1978, or the chapter “Law” in *The Cambridge History of Political Thought 1450-1700*, Cambridge 1991, edited by J. H. Burns.

<sup>15</sup> P. Manent, *Intelektualna...*, op. cit., p. 14.

<sup>16</sup> J.C. Davis, *Utopia & the ideal society : A Study of English Utopian Writing 1516-1700*, Cambridge University Press, p. 43.

<sup>17</sup> The analysis concerning *virtú* and *fortuna* is based on a magisterial treatment of the problem done by J. G. Pocock in *The Machiavellian Moment – Florentine Political Thought and the Atlantic Republican Tradition*, Princeton 1975. For a clarification of the terms employed here, see the next footnote.

Christian morality) but was ever-changing according to the circumstances, i.e. according to the aforementioned *fortuna*<sup>18</sup>. Therefore, in Machiavelli's thought the only principle that rules the political world is the unceasing motion of human things<sup>19</sup>, which *ipso facto* meant that the ancient ideal of an immutable, perfect polity had to be rejected. As Manent puts it: "*Instead of looking upward, to the imaginary republic, or principality whose rest makes it so pleasant to contemplate, one has to look downward, in any case to focus on the movement itself of human things by resisting the temptation of the ideal, which is the temptation to rest. What in the end is Machiavelli doing in proposing what he calls 'the Roman order' for us to imitate? He sets up motion itself – the possibility and necessity of motion – as the authority. Paradoxically – contrary to the opinion of 'all authors' – motion itself is the norm*"<sup>20</sup>. By relieving the prince from the bondages of morality and allowing him to do what is necessary to maintain his realm, Machiavelli gives his own answer to the "structural problem" – his subjects have no choice but to fulfil the prince's will, for he will not hesitate and will do what is necessary, and no Christian authority will stop him. The Church's preoccupation with people's salvation is irrelevant in this analysis. This is Machiavelli's answer to the first part of "the theologico-political problem", and because of the starting point of his argument, which is the prince himself, he does not give us an answer to the second part which concerns the value of an ordinary person's commitment to the public life. Machiavelli's thought is widely known and has been commented on. Strikingly enough though, More's "Utopia" gives us an answer to the very same problem that bothered the famous Florentine. More sees and explicitly gives voice (in

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<sup>18</sup> The Machiavellian *virtú* and the virtue that More puts an emphasis on are two different things. More adopts the Greek tradition which: "*assumes that the purpose of civic life is not 'glory' (which it dismisses as irrelevant approval of non-experts) but rather 'happiness' (eudaimonia), the fulfilment of our rational nature through contemplation*". E. Nelson, *The problem of the prince*, [in:] J. Hankins [edit.], *The Cambridge Companion to Renaissance Philosophy*, Cambridge University Press, Cambridge 2007, p. 330. If this is so then More's virtue is objective in the sense that the human agent is capable of acquiring knowledge of the moral rules and standards that oblige him/her and which are immutable and constant (and therefore it is possible to create a state apparatus that can ensure the existence of virtue). It is virtuous to conduct as objective justice commands, regardless of the circumstances (*fortuna*). Machiavelli, on the other hand, endorses the view that: "*the imperative of rulers, whether they are princes or republican magistrates, is to maintain the peace of the city at home and maximize their share of glory abroad. If these are the highest civic values, then justice has no important place in political theory. It is the ruler's prerogative to decide when to 'imitate beasts', and, no matter his degree of wickedness or immorality, he is to be excused so long as the twin goals of peace and greatness are being achieved*. Ibidem, p. 333. *Virtú* then is not knowledge about impartial moral standards and behaving accordingly to them but the ability to act, the ability to face potentially dangerous circumstances (*fortuna*) which are a result of the seizing of the opportunities given by the Roman *vita actica*, i.e. by the freedom of action and will.

<sup>19</sup> N. Machiavelli, *Książę [The Prince]*, Vesper, Poznań 2008, p. 60.

<sup>20</sup> P. Manent, *Przemiany...*, op. cit., pp. 294-295.

Book I of “Utopia”) to his awareness of the existence of a gap between the thoughts of a philosopher, scholar and moral person and the actions of secular authorities. Book I is essentially an entire dispute concerned with the question whether or not morality (presumably Christian) should be a guideline to the authority’s policy and whether or not a philosopher can and should devote him or herself to improvement of the authority. Obviously, More’s answer is affirmative<sup>21</sup>. More, just like Machiavelli, sees the very same problem that torments society, but from a reverted perspective. He looks at it from the perspective of Christian morality, the highest precept of Christianity which is a constant search for God, a unity with God and God’s wisdom, unlike Machiavelli who perceived it in the light of the practical mechanisms of authority and constraints concerning the issuing of decisions. As opposed to Machiavelli, More will look for solutions to the problem not in the struggle between the *virtú* of the prince and the *fortuna* but in a carefully designed social and political system. Virtue will not be the means of surmounting the *fortuna* but the aim and, in fact, the “sovereign” of the whole polity. While Machiavelli’s aim is to make political science operative again, to free political actions from the constraints of moral principles and from the “competition of authorities”, to show that *virtú* has to change according to the circumstances, the aim of More’s aim is to achieve perfect unity between the human pursuance of God and the outer political and social conditions of human life. What Machiavelli so drastically separates, More wants to combine into one, harmonious entity. By doing so he does not only make a proposition as to how to solve the first part of “the theologico-political problem” but how to do the same with its second part as well.

### ***3. Aim of the political and legal system of Utopia***

#### *3.1. Placing “Utopia” in 16<sup>th</sup>-century humanist thought*

The assumed aim of Utopia’s regime was interpreted in numerous ways (and it is not the aim of the article to analyse all of them). This is naturally the aftermath of the form of the treaty as well as at times the ironic style of reasoning that was adopted by More. It is beyond a doubt though that the treaty fits into the intellectual stream that is now called “*transalpine*

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<sup>21</sup> See Q. Skinner, *The Foundations...*, op. cit., pp. 217-218, also in the context of More’s irony.

humanism”<sup>22</sup>, which in itself bears a close resemblance to the “original” humanism. Thus we might encounter typical humanist assumptions such as: the conviction of the necessary presence of virtue (*virtus*) in the public life, the essential role that is to be played by constant education, and the upbringing of members of society or merging the classical concept of *vir humanus* with the Christian belief that human beings are formed in close resemblance to God (*imago dei*)<sup>23</sup>. Though, as Quentin Skinner highlights, “Utopia” is not merely a typical representation of a genre of humanist treaties concerned with a virtuous life<sup>24</sup>. Indeed, it takes on typical humanist premises but uses them in an innovative manner. More, according to Skinner, rejects the hypocrisy of the humanists who assigned true nobility to men of virtue while at the same time safeguarded themselves from the subversive implications of such a statement by suggesting that true virtue can mostly be found among the “real” nobility, i.e. those who possess wealth and pedigree<sup>25</sup>. More claims that to allow such a differentiation of people within the society is to distort the very sense of virtue, and to maintain the worst and most dangerous sin for the functioning of an individual and of a society as a whole - pride. Having done this analysis, More goes further and creates a political and legal system whose aim is to ensure social equality, to remove the sin of pride and to enable the virtue of ordinary people to flourish. As pointed out by Skinner, the most important task set for the humanists was to discover the root causes of injustice. According to him, though, “*what is unique about More’s Utopia is simply that he follows out the implications of this discovery [i.e. – that evils are caused by the misuse of private property] with a rigour unmatched by any of his contemporaries*”<sup>26</sup>. What is lacking in this interpretation is that it ignores the price that has to be paid for such a radical equalisation of people. Likewise, the emphasis that Skinner puts on the social aspect of More’s inquiries seems to overshadow the explicitly expressed aim of the whole political

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<sup>22</sup> As it is done in *The Cambridge History of Political Thought 1450-1700*, see also Q. Skinner, *The Foundations...*, where the term being used is “northern humanism”.

<sup>23</sup> See *The Cambridge History of Political Thought*, 1991, pp. 102-103.

<sup>24</sup> Q. Skinner, *The Foundations...*, op. cit., p. 257. What follows is based on the chapter titled *The humanist critique of humanism*, in Q. Skinner, *The Foundations...*, op. cit., pp. 255-262.

<sup>25</sup> It should be added though, that such a conviction was not shared exclusively by the humanists of the 16th century but had its own, long historical background based on the cultural heritage of chivalry and nobility, which referred to the Roman *virtutes* and Christian cardinal virtues. See K.F. Werner, *Narodziny szlachty – Kształtowanie się elit politycznych w Europie [The Birth of the Nobility – Shaping of the Political Elites in Europe]*, Wydawnictwo Marek Derewiecki, Kęty 2015, p. 550.

<sup>26</sup> *Ibidem*, p. 262.

and legal structure of Utopia – the aim whose fulfilment answers the questions posed by “the theologico-political problem”.

### 3.2. Specific aim of the political and legal system of Utopia and More’s view on human nature

What is characteristic of the political and legal polity constructed by More is its absolute subordination to a concrete and explicitly expressed aim<sup>27</sup>. We thus read: “*The magistrates never engage the people in unnecessary labour, since the chief end of the constitution is to regulate labour by the necessities of the public, and to allow the people as much time as is necessary for improvement of their minds, in which they think the happiness of life consists*”<sup>28</sup> and “*But, of all pleasures, they esteem those to be most valuable that lie in the mind, the chief of which arise out of true virtue and the witness of a good conscience*”<sup>29</sup>. Thus the aim of Utopians is to get to know the objective truth, to perfect their own personalities, and to take an unbound journey towards God (and it is in this dimension where the concepts of *vir humanus* and *imago dei* are combined), and the aim of their political and legal system is to provide them with appropriate conditions to do so. This manner of formulating the ultimate goal of Utopians as well as the necessary commitment of the “state apparatus” in order to achieve it points to the fundamental axioms concerning human nature itself from which More begins his analysis. The first axiom is the presupposition that human nature is intrinsically corrupted, that it always leans toward wickedness, that it is poisoned by original sin and thus is always deviating from the “right path” (these assumptions are very similar to those made by Saint Augustine<sup>30</sup>). The second assumption, perhaps the more daring one, can be described by a reference to the words of an English writer, Gilbert Chesterton, who wrote: “*And the weakness of all Utopias is this, that they take the greatest difficulty of man and assume it to be overcome, and then give an elaborate account of the overcoming of the smaller ones. They*

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<sup>27</sup> *The Cambridge History of Renaissance Philosophy*, edited by C. B. Schmitt and Q. Skinner, Cambridge University Press, Cambridge 1991, p. 448.

<sup>28</sup> T. More, *Utopia*, Wydawnictwo Daimonion, Lublin 1993, p. 73. All of the translations of Utopia’s fragments cited from the Polish edition are based on the English Cassell & Co. Edition from 1901 as it is available in the public domain (it can be, for example, downloaded for free from [www.amazon.com](http://www.amazon.com)).

<sup>29</sup> *Ibidem*, p. 95.

<sup>30</sup> *The Cambridge History of Political Thought ...*, op. cit., p. 105.

*first assume that no man will want more than his share, and then are very ingenious in explaining whether his share will be delivered by motor-car or balloon*"<sup>31</sup>. Thomas More does not make such an assumption. He acknowledges the impossibility of overcoming human nature but tries to show that despite its corruption it can be, to a certain degree, controlled from the outside, that it can be – with the help of the carrot-and-stick of the state apparatus, of social engineering, of rigorous education – coerced to follow the “right path”, even more, that the principles can be inculcated in people so thoroughly that they will consider them to be their own and that they will willingly protect them<sup>32</sup>. It is in this dimension that the novelty but also the radicalism of More’s proposition can clearly be seen, for he is not putting emphasis on perfecting the virtue of the princes (as the whole “*mirror-for-princes*” genre used to do) but enhances the necessity of its betterment in all people. Basing himself on these two axiomatic pillars, More created a very consistent vision of how the state and society should be organised in order to allow humans to look for God, wisdom and virtue. By doing so he gave his own proposition of solving the “theologico-political problem” as a whole.

#### ***4. Methods of achieving the assumed aim***

##### ***4.1. Motionless world of non-politics***

In the first place, by following the apolitical nature of original Christianity and having in mind the threats posed by social conflicts, More utterly eradicated political dispute from Utopia. In a typically humanist fashion he considered the Aristotelian concept of a citizen (and human nature – *zoon politikon*) to be destructive to society as a whole<sup>33</sup>. The political dispute concerning the way in which society ought to rule itself, what path it should choose, the political dispute based on an ever-lasting conflict of values, on the working out an acceptable compromise for the good of the commonwealth – such a dispute is eliminated from More’s

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<sup>31</sup> As cited by W. H. G. Armytage in *Yesterday’s Tomorrows. A historical Survey of Future Societies*, London 1968, p. 113., which is cited by J. Szacki in *Spotkania ...*, pp. 175-176.

<sup>32</sup> For this, see, *The Cambridge History of Political Thought ...*, p. 335.

<sup>33</sup> *Ibidem*, p. 449.

world. As Prof. Szacki wrote, and what can be to a certain degree applied to the system constructed by More: “[...] *utopias were usually worlds frighthfully ordered, built – as Dostoyevsky used to call it – on the basis of a multiplication table. The more details they had, the more clear it became that everyone has their distinctly defined place – often a place which cannot be changed without punishment. Since the system is perfect, every change has to be for worse, it has to be a return to pre-utopian chaos, to the ‘rule of the men’, with which Orwell’s animals were intimidated. It is interesting that in utopia the aspiration for a change is never forecast. Its inhabitants simply do not wish for any changes, they do not wish for anything that does not belong to the fixed ritual. By achieving happiness they make themselves like ants. Free will has no use for them anymore*”<sup>34</sup>. The above interpretation can only partially be applied to More’s Utopia, for in his system at a political and social level people truly do not wish for any changes. It does not follow though, that their free will is to be abandoned. On the contrary, they will have to use their will and their reason to achieve true virtue (and if they fall into wickedness they will be punished – as can be seen on the example of slavery in Utopia). Motion then does take place, i.e. within their minds. To return to the system though, the chief principle of Utopia’s polity is a lack of motion and stability, and in that sense it is an ideal regime as conceived by the ancients. How does More achieve such a motionless state of things, how does he remove from society any sign of a political dispute? He does so by, on the one hand, eliminating every possible focal point and source of potential conflict and, on the other hand, by indicating that such a political and legal system was given to the Utopians, it was “imposed” on them from the outside. Let us look into both of these aspects.

## 4.2 Potential sources of the conflicts More is eradicating

### 4.2.1 Material inequalities

In the first place, the source of the most violent conflicts is private property. This aspect of More’s concept was examined most thoroughly (as we have seen from the above-mentioned interpretation by Q. Skinner<sup>35</sup>). Private property is to be entirely liquidated which,

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<sup>34</sup> J. Szacki, *Spotkania...*, op. cit., p. 179. The translation is mine [M.W.].

<sup>35</sup> See footnotes nos. 25 and 27.

thanks to the solidary work of each and every (apart from the tiny group of magistrates and clergymen) member of society, will not bring about public poverty. It is also because modesty and ambivalence toward material values are inculcated in Utopians from their infancy, that their society not only can sate their own material needs but also enables them to produce a surplus that can subsequently be exported abroad. Everyone is taught a distinct craft while at the same time taking part in the production of food. Therefore, everyone contributes to the production of goods by society<sup>36</sup>. Thanks to this the largest threat to the stability of society is ceases to exist: “*It is the fear of want that makes any of the whole race of animals either greedy or ravenous; but, besides fear, there is in man a pride that makes him fancy it a particular glory to excel others in pomp and excess; but by the laws of the Utopians, there is no room for this*”<sup>37</sup>.

#### 4.2.2. Struggles for power and the imposed character of the polity

Political disputes in the modern, colloquial sense, i.e. as struggles of factions and fractions for power, are reduced to a minimum. This is due to the character of the Utopians’ involvement in the functioning of their state, as J.C. Davis puts it: “*In Utopia, however, there is a very important sense in which all men are subjects, none citizens. For citizens in the classical republic participate in order that, in some sense, they may rule themselves and in ruling themselves they may change the very form of the republic, hence the ever-present danger of corruption. In Utopia the form is forever unchanging*”<sup>38</sup>. Utopians do not elect politicians<sup>39</sup> or even their representatives but, as is explicitly expressed in the treaty: “*they choose their magistrate*”<sup>40</sup>. This is so because, as Prof. Szacki wrote, Utopians do not wish for a change and therefore the election of a representative would be futile in the sense that he would

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<sup>36</sup> T. More, *Utopia*, op. cit., pp. 67-68.

<sup>37</sup> *Ibidem*, p. 75.

<sup>38</sup> J.C. Davis, *Utopia...*, op. cit., p. 60.

<sup>39</sup> And it is in that sense that *Utopia* reiterates Plato’s ideal of *res publica* and not Aristotle’s – see *The Cambridge History of Political Thought...*, op. cit., pp. 123-126.

<sup>40</sup> T. More, *Utopia*, op. cit., p. 66.

not have anything or anyone to represent. In this context, particularly interesting is the following passage of the chapter titled “*Of their magistrates*”: “*These things have been so provided among them that the Prince and the Tranibors may not conspire together to change the government and enslave the people; and therefore when anything of great importance is set on foot, it is sent to the Syphogrants, who, after they have communicated it to the families that belong to their divisions, and have considered it among themselves, make report to the senate*”<sup>41</sup>. It seems then that the political decision is taken at the highest level of the state apparatus and then transferred to the people. A Syphogrant chosen by the people is not entitled to come up with a political initiative, he is not acting as a representative of the people’s political will but is merely an intermediary between the decision taken by the “state” and the people. The political motion is not going upwards, the inhabitants are not citizens here, they do not decide about how specific issues should be solved, but it is going downwards – the decision that had previously been taken is communicated to the subjects. The *vita contemplativa* seems to overshadow the *vita activa*<sup>42</sup>. Utopians are not even entitled to talk about political matters, which further enhances how much polity of their state has been given them once and for all. The only thing that is left in the hands of the people is the choice of the magistrate, a member of the administration, a small cog in the great machinery of the state. It is in this place where the strict connection between the lack of a political dispute and the fact of imposing the state’s polity by the conqueror of the island and, *de facto*, the founder, Utopus, of the state is being revealed. Utopus conquered the island, endowed its inhabitants with a thoroughly considered polity (he even concerned himself with the blueprints for individual cities<sup>43</sup>), and organised them into a consistent society, but then, in a sense, he vanished: “*Utopus, who conquered it brought the rude and uncivilised inhabitants into such a good government, and to that measure of politeness, that they now far excel all the rest of mankind*”<sup>44</sup>. In that regard, More’s “Utopia” is a classical representative of the whole genre it renewed, for: “*If men are perverse and corrupted by the world in which they live, how can they rise above it to achieve a better society? It is a problem most clearly revealed in considering the utopian lawgiver – Utopus,*

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<sup>41</sup> Ibidem, p. 67.

<sup>42</sup> *The Cambridge History of Renaissance Philosophy*, op. cit., pp. 449-450.

<sup>43</sup> T. More, *Utopia*, op. cit., p. 65.

<sup>44</sup> Ibidem, p. 60.

*Solamona, Olphaeus Megaletor, the 'Cromwell' to whom Winstanley appeals and the rest. These lawgiver heroes are presented with an opportunity which they exploit with perfect wisdom, disinterestedness and morality.*<sup>45</sup> If human nature is corrupt, then the only way to create a truly virtuous polity is to lay down immutable rules which cannot be changed from within (because that requires an individual to act, and thus it would put the whole system in danger because of that individual's wicked nature). That is why, regardless of the chief emphasis of a given utopia, we encounter this state of motionlessness<sup>46</sup>. Who rules in Utopia then? Who is the sovereign? Because of human nature there can be no human-dependent centre of true power and authority. No one is entitled to change the fixed order, no one even wants to do so. If one could think of the existence of a sovereign in Utopia it would have to be virtue – which is immutable, treated as the main principle of the entire state and essentially ancient in its roots. Virtue, just as nature, cannot be changed: “*They define virtue thus – that it is living according to Nature, and think that we are made by God for that end; they believe that a man then follows the dictates of Nature when he pursues or avoids things according to the direction of reason*”<sup>47</sup>. Obviously though, virtue itself is unable to inculcate in society the necessary rules of conduct. In order to do this a state apparatus needs to be created which will decide whether or not something is acceptable. It seems then that in that way real power is being transferred to the state, which plays the role of a “conveyor belt” to decisions “right” from the virtue’s perspective. Naturally, due to the axiomatic impossibility of change in Utopia, such an apparatus is not “dangerous”, it is not emancipating itself. That, though, does not change the fact that in such an intellectual construction we might see the anticipation of Hobbes’ Leviathan. More, just as Hobbes, creates an entity which due to its location in a political (and philosophical) system acquires wide power over its subjects and becomes, in a way, separated from the people<sup>48</sup>. This is yet another context in which the novelty of More, as mentioned by

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<sup>45</sup> J.C. Davis, *Utopia...*, op.cit., p. 376.

<sup>46</sup> That is why we find, for instance, this fixed “*scientific orthodoxy*” of Campanella’s Sun City, where all knowledge is “*complete and frozen*”, which creates “*mental uniformity paralleling the physical, environmental uniformity of his city-state*”. Ibidem, p. 73. The institutional pattern of government is, at times, virtually omitted in the description of the perfect utopia, for instance, in Francis Bacon’s *New Atlantis*, where: “*The government of Bensalem is not explained. We hear only two kings in the distant past, one of them a great ruler nineteen hundred years earlier named Salomon, who prohibited the admission of foreigners to avoid novelties and contamination of manners*” Zagorin, P., *Francis Bacon*, Princeton University Press, Princeton 1998, p. 172.

<sup>47</sup> T. More, *Utopia*, op. cit., p. 89.

<sup>48</sup> It is worth noting that, despite all the powers that Hobbes’ Leviathan possessed, it was not entirely and unconditionally omnipotent. Such omnipotence (and at the same a necessity) was prescribed only to God (see L.

Skinner, reveals itself – the way to achieve the assumed aims does not lead exclusively through the virtuous life of an individual, through the just and righteous deeds of princes, but through the coordinated actions of the whole state apparatus<sup>49</sup>.

#### 4.2.3. Law of the Utopians and its roots

Another field in which the attempt to eradicate the political dispute from the life of Utopians is clearly visible in the law, which is to be as simple as possible and understood almost intuitively (“*They have no lawyers among them, for they consider them as a sort of people whose profession it is to disguise matters and to wrest the laws, and, therefore, they think it is much better that every man should plead his own case, and trust it to the judge*”<sup>50</sup>). This is a law whose interpretation does not require complicated endeavours – it can be stated that in Utopia the main directive of the statutory interpretation is “*clara non sunt interpretanda*” – and since the entirety of legislation is based on the dictates of nature/virtue, Utopians have no difficulties in grasping its meaning. This is obviously a result of the commonly recognised rule of virtue. “*Every one of them is skilled in their law; for, as it is a very short study, so the plainest meaning of which words are capable is always the sense of their laws; and they argue thus: all laws are promulgated for this end, that every man may know his duty*”<sup>51</sup>. The law in Utopia is therefore (which makes it so paradoxical) at the same time apolitical (in the sense that it cannot be used in political quarrels), resilient to “creative” interpretation and filled with

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Foisneau, *Omnipotence, Necessity and Sovereignty*, [in:] P. Springborg [edit.], *The Cambridge Companion to Hobbes's Leviathan*, Cambridge University Press, Cambridge 2007, pp. 271-285.), whereas the state had its limits resulting from the rules and reasons on which it had originally been created (for instance, the inalienable natural right of self-preservation of any individual). See G. S. Kavka, *Hobbesian Moral and Political Theory*, Princeton University Press, Princeton 1986, pp. 315-322.

<sup>49</sup> As *The Cambridge History of Renaissance Philosophy* puts it: “*If we ask how the Utopians arrived and this happy state, the answer is that the quality of *virtus* is alone prized and encouraged under their system of government*”, p. 448. More initiated a whole mode of reasoning which can best be summarised by the following passage: “*For, by the beginning of the sixteenth century, the distinction between good man and good citizen was being broadened into an abyss by the work of writers, of whom Machiavelli was only an extreme example, who emphasized the amoral nature of political activity, or rather that politics was an activity in which men could realise their full humanity as moral agents by civic participation, rather than by conformity to a pre-ordained moral standard. The utopians were engaged in attacking this development. For them, not only were good citizens expected to be good men, but the whole apparatus of the state was to be refined as an instrument primarily devoted to producing men of virtue defined in accordance with a pre-ordained standard of perfection.*” J. Davis, *Utopia...*, op. cit., 83.

<sup>50</sup> T. More, *Utopia*, op. cit., p. 109.

<sup>51</sup> *Ibidem*.

axiological substance (therefore political in the classic, Aristotelian meaning) – by being a pattern of a just and reasonable society organised according to immutable virtue. What is symptomatic of More's approach to the law in Utopia is that he devotes only a brief passage to the important matter of its creation: “[...] *they think that not only all agreements between private persons should be observed, but likewise that all those laws ought to be kept which either a good prince has published in due form, or to which a people that is neither oppressed with tyranny nor circumvented by fraud has consented*”<sup>52</sup>. The law is then either published by a good ruler or accepted by the people. Both of these terms indicate an imitative or declarative character of the “enactment” of the law. There is also a very puzzling and interesting distinction that More introduced in one of his letters that was written during the last years of his life (in the Tower of London). The distinction is between the law enacted by a legally assembled general church council and the law resulting from something that he called the “*common Christian faith*”, which can be seen as an equivalent of Utopia's immutable virtue. Such a law is not being simply enacted but rather acknowledged as something obvious, indisputable and forcing Christians to absolute obedience. It was placed above the statutory law and it had stronger legal power than the decisions undertaken by the council<sup>53</sup>. Likewise in Utopia, above every other regulation there stands something that might be called the “common virtue” or “common reason”.

#### 4.2.4. Religion, meaning of the world and the gravity of a proper education

Religion in Utopia is yet another matter which More deals with in order to eradicate any potential conflicts. The differences between cults and rituals are accepted as long as there exists the conviction of the existence of God<sup>54</sup>, and therefore the conviction that the existence of the world has its purpose and that it is organised on the basis of reason and virtue – which are necessary in order to maintain the stability of society. Characteristically though, no one will be killed for his/her faith that is contrary to the above (or a lack of faith) as long as he/she does not try to publicly preach it – and in this way to undermine the social order. In the field of religion there can also be observed the emphasis that More's Utopians put on a rigorous

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<sup>52</sup> Ibidem, pp. 90-91.

<sup>53</sup> T. More, *Pisma więzienne [Prison letters]*, W drodze, Poznań 1985, pp. 92-93.

<sup>54</sup> Idem, *Utopia*, op. cit., p. 122.

education, as the children in the Utopian society are taught by clergymen who, in a sense, are raised above the rest of the society, e.g. they are not subject to the common judiciary system. More deals with the potentially subversive effects of such a situation by enhancing the outstanding moral and intellectual level of clergymen, which is additionally combined with their small number. This guarantees that they will not become a threat to society. On the contrary, they are the unifying force of this society. Their task is to inculcate in people (from the very beginning of their lives) rules concerning a virtuous life, its purpose as well as the proper manner of functioning within society: *“The education of youth belongs to the priests, yet they do not take so much care of instructing them in letters, as in forming their minds and manners aright; they use all possible methods to infuse, very early, into the tender and flexible minds of children, such opinions as are both good in themselves and will be useful to their country, for when deep impressions of these things are made at that age, they follow men through the whole course of their lives, and conduce much to preserve the peace of the government, which suffers by nothing more than by vices that rise out of ill opinions”*<sup>55</sup>. Thus the commonwealth is strongly concerned with the state of mind of its inhabitants – it cares for their development and proper behaviour. It is on the moral state of that society that the functioning of the commonwealth depends, and therefore this moral state of society is the commonwealth’s greatest concern.

#### 4.2.5. The question of the warrior class

More also took care of the potential problem connected with the existence of a class of soldiers/warriors. In so levelled a society such a category of people would inevitably begin to claim for itself the right to decide on the country’s matters as compensation for their commitment to its defence. In Utopia, though, this problem does not exist, for their inhabitants use mercenary forces in their wars, occasionally only (and in a voluntary system) do they use their own people as soldiers. In this way they not only, as More puts it, *“protect the valuable lives of their citizens”*<sup>56</sup>, but also nullify the threat of the emergence of a situation known, for example, from the history of ancient Greece – in which the whole social change began as a result

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<sup>55</sup> Ibidem, pp. 128-129.

<sup>56</sup> T. More, *Utopia*, op. cit., pp. 112-113.

of a shift in the way of fighting and the creation of hoplites, which led to the democratisation of Greek societies<sup>57</sup>.

## 5. Summary

### 5.1. The novelty of More's proposition

Such an imagined world surely drew much from similar projects of a perfect state that had been created, for example, by Plato, whose reader and eulogist More surely was<sup>58</sup>. What is innovative though is More's concept of an entanglement between the human being and the polity in which he/she lives. As is rightly emphasised by J.C. Davis, there are diametrical differences in the way Utopians behave while they are in their own land and while they leave it and encounter other nations<sup>59</sup>. In the final chapter of "Utopia", Hythlodius (who is relating his visit on the island) utters the following phrase: "*In all other places it is visible that, while people talk of a commonwealth, every man only seeks his own wealth; but there, where no man has any property, all men zealously pursue the good of the public, and, indeed, it is no wonder to so see man act so differently*"<sup>60</sup>. What More recognises is the immense role of outer conditions on the formation of an individual and his/her behaviour. Utopians if unbound by their polity and their laws would behave just as "normal" people. In the foreign policy they would be cynical and ruthless, and they would look for gain because that is the natural predisposition of human nature, which has to be so in order to survive. More acknowledges that human nature cannot be changed, but he also believes that by changing the conditions in which it exists it is possible to give it the right direction, tame its impulses and show it the right path. More believed that by getting rid of poverty, by changing the animal-like conditions of human lives it is possible to achieve a higher intellectual and moral level of human development. It

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<sup>57</sup> A. Ziółkowski, *Historia powszechna – Starożytność [Ancient History]*, Wydawnictwo Naukowe PWN, Warszawa 2009, p. 385.

<sup>58</sup> *The Cambridge History of Renaissance Philosophy*, op. cit., p. 451.

<sup>59</sup> J.C. Davis, *Utopia...*, op. cit., pp. 54-55.

<sup>60</sup> T. More, *Utopia*, op. cit., pp. 134-135.

is due to this commitment that he became an inspiration for what was to become left-wing political thought, for he highlighted that state and society through their own actions and the way they are organised can contribute to the betterment of human existence. What is important though is that for More this betterment of human material conditions is not an aim in itself but a means of achieving something more – intellectual and religious enquiries, the development of one’s personality, the practice of virtue.

### 5.2 Solution of “the theologico-political problem”

The institutional means as enumerated above combined with permanent control and an emphasis on education as well as social adjustment allowed More to construct a consistent image of a world ruled by virtue. In this world, the “theologico-political problem” in both of the aforementioned senses ceased to exist. This is so due to the fact that in Utopia there no longer are any differences between the standards of morality/faith and the potential demands of the “temporal” authority. The “structural” part is being solved by a reinterpretation of the Greek ideal of human life. The secular dimension of people’s lives is being subdued by the orders issued by nature, virtue and reason. This answer also entails the solving of the “personal” part of this problem. It is clear that what gives human life its true meaning is not involvement in political disputes (its nature is not as Aristotle assumed) but a search for a higher good, looking for ways of leaving the Platonic Cave. The price that had to be paid was abandonment of the political dimension of human life, for in More’s world people can contribute to an efficient functioning of their commonwealth but they cannot change its form.

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**“Utopia” by Thomas More – the political and legal system of Utopia as an answer to the “theologico-political problem”.**

**Summary:** This article presents an interpretation of the political and legal system of the fictional island of Utopia as constructed by Thomas More in the context of a challenge posed to the political thought of early-modern Europe by “the theologico-political problem”. The aim of the article is to show the foundations on which More based his attempt to solve the aforementioned problem (both in its “public” and “private” dimension) as well as the means of constructing the political and legal system of Utopia

and its ultimate purpose. The article also indicates the implications of human existence in a polity ruled by immutable principles of morality and virtue. It also puts an emphasis on the transformation of the political life that, due to axioms concerning the nature of humans, their desires as well as relations to the state and society, is proposed by More in his concept of an ideal polity.

**Key words:** Thomas More, Utopia, history of law, common law, history of legal and political thought.