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## **Constructing the Identity of a Nation-State. Symbolic Conflict over the Preamble to the Constitution of the Third Republic of Poland\***

*Abstract:* The conflict over the contents of the Preamble to the Constitution of the Third Republic of Poland is presented as a symbolic discursive struggle on the public arena of organized collective agents—the representatives of political parties, NSZZ “Solidarność” (Solidarity) and the Roman-Catholic Church. It is a study of the function of symbolization, based on the example of Constitutionalism, which reveals the undercurrents of the reclaiming and control of political power with the help of symbols after the downfall of real socialism. The text of the Preamble was formulated in the process of interaction. Its meaning can be understood only—as this article proposes—through a re-contextualisation, i.e. reconstructing the course of symbolic interactions between the sides of the conflict. The article focuses on describing the stages of the negotiations, as well as the strategies and tactics associated with the inclusion of the *Invocatio Dei*. Of special importance are the entries which assumed a dialectical form—the expressions “We—the Polish Nation—all citizens of the Republic,” “...both those who believe in God as the source of truth, justice, good and beauty, and those who do not share this faith, but deriving those universal values from other sources” and “in the sense of responsibility before God or before one’s own conscience.” These expressions symbolically mark the borders of a consensus which divide society within the bounds of a problematic identity of the nation-state of the Third Republic of Poland. The structure of civic, national, universal, religious and secular values in the final text of the Preamble is also presented.

*Keywords:* Constitutionalism, symbolic conflict, post-communism, identity of the nation-state

### **Transformation of the System and Symbolic Conflicts Over Collective Identity**

Studies on the cultural construction of community (Stråth 2000) or ethnosymbolism (Smith 1999) are only some of the many examples of the growing interest in the various manifestations of social symbolism and symbolic politics (Alexander 2004; Edelman 1985). Both the reconstruction of order in post-communist societies and the project of European integration, as well as global processes of reaching new ways to define identities and relations (from citizenship through nation to international community) undoubtedly favour the development of this research area.

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The discussion around the project of the European Constitution provides new frames to the analysis presented in this article. It incorporated the heated debate on the Preamble and the policy of forgetting about Europe's Christian heritage, in which the notation in the Preamble to the Constitution of the Third Republic of Poland was evoked as referring to the negotiated values. This article describes the process of the construction of the text of the Preamble in Poland. In this process in a symbolic form the dynamics of power in the public sphere have been expressed as a struggle for control over key symbols and their use.

Transformation as a symbolic process, including the symbolic methods of influencing imaginations and collective actions, practically has not been discussed (Hałas 2001: 316–330; Hałas 2002). The end of monocentric order in a communist, collectively oriented society of real socialism does not simply mean the transition to a liberal “society of individuals.” The process of political system transformation is characterized by a competition for defining the collective identity of the society and symbolic dominance based on establishing the legitimate order of meanings.

Although the danger related to using the notion of collective identity (Kłoskowska 1995: 88), assuming a collective consciousness, is not to be forgotten, its symbolic objectivizations provide a safe, empirical level of analysis. Collective processes of thinking relate to the collective notions of memory, emotions, myths, ideologies and other symbolic representations, which are constructed and sustained in interactions (Strauss 1993: 135). Identity conceived in that way has a certain continuity and is a source of action to which an observer can ascribe a meaning (White 1992: 6). The groups exist as entities only because of a common identity manifesting itself in common symbolization, common terminology, and common meanings accepted by their members (Strauss 1969: 148–149). Members of a group share symbols delineating boundaries of meanings of the reality they experience, allowing for a certain margin of changeability. It is precisely this changeability of meanings, many of which can not be precisely articulated because they have many contexts, e.g. justice and patriotism, which makes the control of collective consciousness possible through the manipulation of respective symbols (Cohen 1998: 15).

The conflict over the Preamble in the process of writing a new Constitution in Poland after 1989 was a political and at the same time symbolic process, in the sense of Pierre Bourdieu's politics of symbolization. The activity of the state and political conflicts beyond all pragmatic interests are manifested in the struggle for defining the vision of reality and for the authoritative representation of the world, including the definition of collective identities. The conflict over the Preamble can be presented as a symbolic struggle (Bourdieu 1989: 20, 22), more precisely, as a discursive struggle fought in the social field<sup>1</sup> by organized collective subjects entering into interactions and initiating strategic activity through social actors—as *dramatis personæ*.

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<sup>1</sup> I am referring to the notion of the arena introduced by Anselm Strauss: “The concept of arena will refer here to interaction by social worlds around issues—where actions concerning these are being debated, fought out, negotiated, manipulated, and even coerced within and among the social worlds” (Strauss 1993: 226).

### **The Symbolic Constitution of the Nation-State in a Historical Perspective**

Nation and state are enduring structures extending over many successive generations. Leaving aside the analysis of the complex ontology of these social entities, one can start with the statement that they are incarnated in symbolic objectivizations. Symbols condense, first of all, the meanings defining the genealogy, i.e., the origin of those collective entities, the canon of their characteristic features as values and the boundaries defining their distinct character (flag, emblem, capital city, national anthem, Constitution, national heroes, etc.).

We shall also leave aside the complex problem of relations between the nation and the state, and, above all, an attempt to settle the score between the cultural and political point of view, where—according to the former—the state chronologically or consequentially follows the nation, and—according to the latter—it is the other way around: the state constitutes the nation. In Polish sociology, to recall Florian Znaniecki's idea, in contrast to the tradition started with Max Weber, the cultural approach and the notion of separating the national society from the political society prevailed. Due to the historical experience—as a result of the 18th century partitioning of the state when for over a hundred years the nation found itself within different state structures until 1918—the problem of retaining the national identity became crucial. The issue of state identity had not been an important sociological subject. After the fall of communism, however, the problem became extremely important in view of a troublesome identity of the Polish People's Republic (PRL) as the Polish State.

The study of Constitutionalism can be a source of interesting hypotheses concerning the function of symbolization in coordinating collective phenomena, and in particular, it can help to unveil the regularities of taking over and controlling power with the help of symbols, and in this particular case after turning away from real socialism.

Due to the specific character of the process of formulating the Preamble to the Constitution of the Third Republic of Poland, it is worth mentioning that the idea of Constitutionalism started in 17<sup>th</sup>-century Europe as a result of a conflict aiming at curbing the absolute authority of a ruler legitimized with supernatural sanction through written regulations or conventions not formulated in writing. The development of Constitutionalism coincided with the secularization of authority and with the departure from its legitimization as God's law (Bullock 1988: 169). The Preamble is a symbolic discursive form written according to certain conventions and using idiomatic expressions, the interpretation of which has to appeal to both a specific historical situation and to lasting epochal ideologies. For a Constitutionalist, the Preamble may not be very important because it does not directly determine the rules of the functioning of public institutions. Its symbolic meaning has, however, a more important function than ceremonial declamation underscoring the authority of the law making body. In a deep sociological sense, that symbolic form constitutes the collective identity of the Constitution proclaiming community that is supposed to be guided by its articles.

Polish Constitutionalism has a long tradition dating back to the period of noble democracy (the noble Republic, also called the First Republic), which in 1573, in defense against absolutum dominium, produced a specific state constitution (the so-called Henry's Articles). This constitution specified the basic freedoms of the nobility, including the religious rights and relations between Catholics and the followers of other religions. Although during the period of lost independence Poles had "their own" constitutions, for example the Constitution of the Warsaw Duchy dictated by Napoleon in 1807 or the Constitution of the Congress Kingdom dictated by tsar Alexander in 1815, in the subsequent process of constructing the identity of their own state both were neglected. The role of a paradigmatic pattern and a symbol was assumed by the Third of May Constitution of 1791, the last act of the First Republic. That Enlightenment Constitution, called the Governmental Statute, began with a Preamble defining the purpose of its proclamation. It also contained a symbolic, performative formula, *Invocatio Dei*: "In the name of God, One in the Holy Trinity!" granting the highest sacral sanction of state law. The collective subject of the articles was identified as "the Polish nation." The first article of the Constitution defined the dominant religion: "The Holy Roman-Catholic Faith, with all its privileges and immunities, shall be the dominant national religion."

After regaining independence in 1918 and experiencing a transition period, the Constitution was adopted on March 17, 1921. Similarly, it contained *Invocatio Dei*: "In the name of God the Almighty."<sup>2</sup> The collective identity of the subject and the object of the Constitution was again defined as "We, the Polish nation." That reference to the Preamble of the Third of May Constitution of 1791 before the partitioning of the Republic of Poland constituted the symbolic continuity of the state. In that way, it was indicated that it was not a new but restored state: the continuation of the First Republic (Krukowski 1990: 70). Departing from the parliamentary model and turning into the presidential model, the Constitution of April 23, 1935 did not contain a Preamble.

It remains a very interesting task to analyze the symbolic constitutional strategies, and, in particular, the symbolic creation of the state's identity and its continuity. In reference to the situation that developed after 1989, the identity of the Polish People's Republic is especially complex, i.e., the Polish state ruled by the communists. The Polish People's Republic was formally proclaimed by the 1952 Constitution, which duplicated the pattern of the Soviet Constitution of 1936 (Rybicki, Burda, Stembrowicz 1990: 311–417). However, the Constitution of the Polish People's Republic adopted on July 22, 1952 also referred to the traditions of Polish Constitutionalism. Unlike its Soviet example, it contained the Preamble (378), and besides such collective communist identities as the "heroic workers' class" and the "working masses," the "Polish working people" also contained a traditional collective identity: "the Polish nation." However, it referred to its traditions selectively—"the most commendable, progressive"—and defined the class enemy, speaking of "...the struggle against the unrelenting resistance of the old capitalist-landed system castaways." The earlier proclamation act

<sup>2</sup> Authored by Rev. Kazimierz Lutosławski (see Krukowski 1990: 70).

of the people's rule was the Polish Committee of National Liberation Manifesto of July 22, 1944 (Trzciński 1990: 239–310). As far as the system is concerned, it was a revolutionary act, but by calling the April Constitution of 1935 illegal it at the same time referred to the Constitution of March 17, 1921. At that time it had a political and propagandist meaning, but it also symbolically simulated the continuity of the identity of the Polish state. The way the Polish Committee of National Liberation (PKWN) Manifesto had been written was therefore the beginning of enormous difficulties in trying to put the Polish People's Republic on the historical margin in the political and symbolic struggle for the identity of the Polish state after 1989.

The new Constitution was not adopted until 1997. During the years of system transformation and the transitional period, the Polish Constitution evolved. An important step was the Constitutional law adopted October 17, 1992, called the Small Constitution (Dudek 1994: 11–13), announcing the adoption of the new Constitution of the Republic of Poland. It was a period of ambiguity of the state's identity. The change of the Constitution of the Polish People's Republic that took place on December 29, 1989 consisted in the revision of the main principles of the system. The symbolic manifestation of that change was the return to the traditional name of the state (Republic of Poland) and the national emblem (crowned white eagle against a red background). The introduction to the Constitution was crossed out and the ideological inheritance of the Polish People's Republic was rejected. It is worth noting that the changes concerning the emblems of the state were not consistent. The new law of February 9, 1990 concerning the regulations related to the emblem, the national colors and the anthem of the Republic of Poland (Dziennik Ustaw nr 10/60) changed only some of the regulations dating back to the period of the Polish People's Republic. Two different names of the state were being used: the Polish People's Republic and the Republic of Poland. Even if it was a legislative lapse, it nevertheless corresponded to the actual differentiation of social consciousness, i.e., different identification and approval for both the former and the new statehood after 1989 (Dudek 1994: 12–13).

### **The Trajectory of the Preamble**

Work on the new Constitution began in 1989 and proceeded slowly. Seven different drafts were prepared,<sup>3</sup> but only three—one being the citizens' draft supported by "Solidarity"—contained the Preamble, i.e., the solemn introduction, describing the law-making subject and the identity of the addressee, pointing to the tradition and values the Constitution refers to and indicating the source of those values. The

<sup>3</sup> Drafts were presented by:

1. Constitutional Commission of the first Senate
2. Parliamentary Club of the Polish Peasants' Party (PSL) and parliamentary circles of the Labor Union (UP), the German Minority, Pensioners and Retirees, the "Hope" Party and nonaligned deputies,
3. Parliamentary Club of the Confederacy of Independent Poland (KPN),
4. Deputies and senators of the Parliamentary Club of Democratic Union (UD),
5. Deputies and senators of the Alliance of Democratic Left (SLD),
6. The President of the Republic of Poland,
7. A group of citizens.

Preamble drafts communicated the symbolic continuity of the nation's identity and identified the body proclaiming the new Constitution with their predecessors. The Senate and "Solidarity" drafts contained also the so-called *Invocatio Dei*—"In the name of God the Almighty..." or "In the name of God..."—the expression that endows the proclaiming community with a religious identity.

The invocation is an emphatic and rhetorical expression (Sławiński 1988: 203; Korolko 1990: 115), an expanded apostrophe frequently found in a heroic epic. In a constitution, being an instance of public discourse, an invocation is a specific kind of performative expression. It is also a causative expression in the sense that all other words-acts derive from it. A Preamble beginning with *Invocatio Dei* points to the divine source of the acts binding the community together.

The symbolic conflict over the Preamble, expressed in a public discourse over several years of taking the decision on the system of the state, was in part a conflict—both symbolic and political—over the Constitution itself. The trajectory<sup>4</sup> of the Preamble—the path it followed—was delineated by the interactions of discourse arena participants, particularly by the Constitutional Commission, the Roman-Catholic Church hierarchy, the Independent Self-governing Trade Union "Solidarity," the post-communist formation Democratic Left Alliance (SLD) and the Polish Peasants' Party (PSL). It consisted of ten stages, described here as the phases of strategic symbolic interaction of the political drama of creating the Constitution: 1) initiation of the trajectory, 2) elimination of the Preamble from the trajectory, 3) conflict of the interpretations of the Preamble, 4) introduction of the Preamble into the trajectory, 5) conflict over the control of the formulation of the text of the Preamble, 6) taking over control of the Preamble trajectory by the post-communist coalition, 7) non-possumus—the dramatization of the "Solidarity" protest, 8) introduction of the Polish Peasants' Party's substitutive Preamble to the Constitutional trajectory, 9) the consolidation of the Preamble on the trajectory—the consensus of SLD, PSL, UW and UP, and 10) the departure of the text of the Preamble from the trajectory and adoption of the Constitution by the National Assembly.

### 1. The Initiation of the Trajectory

The trajectory that the Preamble was to follow is closely connected to the trajectory of the Constitution. The initiation of a constitutional trajectory was of an institutional character during the second term of the National Assembly, i.e., the joint session of the Diet and the Senate on September 22, 1994. The seven drafts of the Constitution were read for the first time. Three of them were preceded by Preambles. The introduction of the Preamble to the Constitutional trajectory was an open question. It was an issue focusing interaction on the public arena and a focal point of an emerging conflict.

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<sup>4</sup>I use the notion of "trajectory" in Anselm Strauss' sense: 1) the course of any experienced phenomenon as it evolves over time (an engineering project, a chronic illness, dying, a social revolution, or national problems attending mass of "uncontrollable" immigration) and 2) the actions and interactions contributing to its evolution (Strauss 1993: 53–54).

## 2. The Elimination of the Preamble from the Trajectory

In accordance with its status and prerogatives, the Constitutional Commission initiated action and decided that the Constitution should not be preceded by the Preamble. The Preamble was thus removed from the Constitutional trajectory. That action can be seen as an outcome of difficulties arising from the attempts of defining the collective identity of the post-communist nation-state and lack of post-communists' identification with values and bond-creating meanings suggested by opposite political formations and the Church hierarchy. Those problematic meanings and values were condensed in the Preamble's *Invocatio Dei*. Emerging in the foreground of the symbolic conflict was the meaning of the Preamble as a text defining the collective identity of Poles in religious categories and the problematic nature of the relation between the sacral and the lay spheres and on the institutional level—the Church and the state.

By exercising its rights, the Constitutional Commission of the National Assembly decided in January 1995 that the Constitution should not be preceded by the Preamble. Against the Preamble were, first of all, the parliamentarians of the Democratic Left Alliance (SLD) but also of the Polish Peasants' Party (PSL). The meaning of that act had been anticipated. An important collective subject appearing earlier on the arena of the public discourse concerning the Preamble was the Subcommittee for the Dialogue of The Roman Catholic Church and the Churches Organized in the Polish Ecumenical Council. In May 1993 the Subcommittee stated that the Preamble should not contain a religious invocation. The Constitution, it said, is a normative act referring to all citizens, no matter what their religion or belief was, or lack thereof. Every citizen should have a possibility to identify himself with the Constitution of his country, and therefore the formulations that are not the norm of law but introduce an element of controversy or containment should be avoided.

At this stage of the constitutional process the Chief Justice of the Supreme Court, and at the same time the President of the State Tribunal and the President of the National Judiciary Council, Adam Strzembosz, also spoke of the redundancy of the Preamble, and in particular the statement that Poland is a Christian and Catholic state, in order to avoid the marginalization of some citizens who do not share that religious belief.

## 3. The Conflict of the Interpretations of the Preamble

The removal of the Preamble draft from the Constitutional trajectory inevitably led to a conflict. The draft of the Constitution presented by a group of citizens was widely supported, but it did not gain enough support in the Parliament. The final elimination of the Preamble does not seem to be a possibility in a far-reaching interactional strategy. The tactics of an initial negation made all the subsequently proposed drafts of the Preamble more difficult to negotiate. The removal of the Preamble from the trajectory caused a definitive reaction. The activities of the Constitutional Commission became the object of criticism. The communiqué of the 275th Plenary Conference of



the Polish Episcopate stated that the inclusion of a religious invocation would for the Church be the necessary condition for supporting the draft of the Constitution. At that stage the conflict led to the explication of the Preamble's meaning and there was a conflict of interpretation.

The interpretation of the Preamble's meaning used by its supporters stressed the threats caused by its elimination—the autonomization of state laws, separation of the state's normative acts and the basis of community life of the national and ecclesial community. *Invocatio Dei* was interpreted as the basis of the identity of an individual, not a community. It is interesting to see how the conflict of interpretation was placed on the level of judicial-axiological differences and not directly on the level of world-view, as the opponents of the Preamble did. Aiming at the introduction of the Preamble into the Constitutional trajectory and a strategic goal of defining the common identity of the nation-state, the Church adopted the policy that can be described as one that protects individual identity. At that stage of the symbolic conflict the supporters of the Preamble claimed that *Invocatio Dei* is a better guarantee of making the state respect the dignity of a human being brought into existence by God and not ultimately yielding to the state.

A year later, in May 1996, archbishop Józef Michalik, the Chairman of the Constitution Group of the Polish Bishops Plenary Conference, evaluating the draft of the Constitution and according to the adopted policy, used the contradiction of positivistic concept of law against the axiological one. He claimed that a Constitution draft without *Invocatio Dei* opts for a positivistic concept, where the law made by the state does not have axiological justification in the system of common, fundamental values. The concept of fundamental values interpreted in that way was given a non-confessional meaning. In that way the conflict over *Invocatio Dei* was moved from the level of the confrontation of religious versus lay values (religious state—lay state) to the level of the primary fundamental values of a person versus judicial-positive state coercion.

Parallel to the policy of protecting the identity of a person in a symbolic conflict over the Preamble, the proponents ascribed to that symbolic form the content related to the common identity of a nation-state. The supporters of the Preamble in the Constitution interpreted it as a declaration of respect of values constituting the nation and a democratic society that departed from communist totalitarianism based on materialistic monism. The side opting for the introduction of the Preamble demanded the formulations communicating the reference to the heritage and traditions of national culture, the reference to the tradition of Polish Constitutionalism, the recognition of Christian values, the declaration of protection of the family and the unborn up to the moment of natural death (*Gazeta Wyborcza*, January 4<sup>th</sup>, 1996) The use of the philosophical notion of “materialistic monism” in a public discourse, which in Marxism refers to the ontological justification of an atheistic outlook, served to cover up the distinctly ideological dimension of a symbolic conflict over the Preamble. It is revealed by the demand to include *Invocatio Dei* seen as a particularly solemn expression of will to respect religion and responsibility of the lawmaker before God and the people. The opponents of the Preamble interpreted the strife as a conflict over the neutral state against the religious state (Miller 1996).

That stage<sup>5</sup> of the symbolic conflict, when different interpretations of the Preamble's significance were presented, led to the adoption of a rule of further negotiation between sides guided by different systems of meanings and values and different interests. The symbolic conflict over the Preamble moved from the stage of eliminating the subject (removal from the trajectory) to the phase of negotiating the subject. It was anticipated by the rituals of compromise and their dramatis personæ. On the discourse arena public proposals for reaching a constitutional compromise between the state and the Church appeared. On May 10, 1996, bishop Tadeusz Pieronek, Secretary General of the Polish Episcopate, supported the Preamble and suggested that the Constitution invokes God as the supreme reason for believers and other eschatological reasons for non-believers (*Gazeta Wyborcza*, May 10<sup>th</sup>, 1996). The prelude to the introduction of the Preamble into the Constitutional trajectory was the meeting between the post-communist president Aleksander Kwaśniewski and the Primate of Poland Józef Glemp. The president pointed to the need to compromise and the Primate defined its ground—the acceptance of the Preamble (*Gazeta Wyborcza*, May 29<sup>th</sup>, 1996). Similarly, the President of the Constitutional Tribunal Andrzej Zoll stated publicly that the inclusion of the Preamble was an important matter because it would define the axiological fundamentals of the system of values underlying the judicial system.

#### 4. The Introduction of the Preamble into the Trajectory

The compromise and acceptance of the subject led to the introduction of the Preamble into the Constitutional trajectory. In September 1996 the Constitutional Commission decided to discuss the question of the Preamble again. The compromising and mediatory draft based on the text of Stefan Wilkanowicz, supported earlier by the General Secretary of Polish Episcopate, was presented by Tadeusz Mazowiecki, the first Prime Minister after the Round Table Talks. It contained a reference to God but not in the form of *Invocatio Dei* (“We, Polish citizens, who believe in God”).

A specific ritual countergesture showing the desire to attain a balance, activity and initiative in interactions with the opposing side was a Preamble draft introduced by the post-communist Prime Minister Włodzimierz Cimoszewicz. The text of that draft was an exact copy of the Preamble preceding the Third of May Constitution of 1791, containing the *Invocatio Dei*. In that form it only had historical significance. In the new era the Preamble of the May 3<sup>rd</sup> 1791 Constitution could be nothing else but an imitation in postmodernist style, expressing the religious and national content in a ceremonial and anachronistic form. The proposed Preamble of the Third Republic of Poland as a cliché of the 1791 Preamble allowed, however, for the postponement of the problem of wording related to the actual definition of nation-state identity, its continuity and, above all, its evaluation and relation to the Polish People's Republic.

<sup>5</sup> At that stage of the conflict the Chief Justice of the Supreme Court, considered to be a likely candidate in the presidential election, changed his position and supported the Preamble proposed by “Solidarity,” i.e., the civil draft of the Constitution including *Invocatio Dei*. He claimed that it is a God of Christians, Muslims and Jews and that those who do not believe in God could approve the invocation “out of respect for the majority” (*Gazeta Wyborcza*, April 6<sup>th</sup>, 1995).

At that stage, which was crucial for the Preamble, the powerful post-communist Democratic Left Alliance (SLD)<sup>6</sup> adopted a compromise formula, but started a successful symbolic fight for every single formulation of its content.

### 5. The Conflict over the Control of the Preamble's Content

The new mediatory Preamble, although it referred to the God of the “believers,” also explicitly described the identity of Polish citizens who were “non-believers.” Such a formulation strengthened the specific collective identity—a category of non-believers introduced during the period of communist rule and its ideological discursive practices. The inclusion of that category in the Preamble counteracted the marginalization of the post-communists in a symbolic way. At that stage of the symbolic conflict they were not given a role of a passive interaction partner, although the subject of the conflict—the Preamble’s text—was presented by the opposing side. Therefore, an action was initiated aiming at regaining the initiative in formulating the Preamble’s text.

On November 28, 1996 a group of six parliamentarians represented by Marek Borowski (SLD) introduced another draft of the Preamble, which was identical to the text prepared by Tadeusz Mazowiecki with one exception. Instead of “We, Polish citizens who believe in God, being a source of truth, good and beauty, or those who do not share that belief but recognize the need of striving for those highest values,” the following formulation was proposed: “We, Polish citizens, both those for whom God is the source of the highest values, and those who find them, above all, in the humanistic heritage and experience of the humanity....” The change was justified by the need to stress that the non-believers also respect values and moral standards. Accordingly, both sides were fighting to avoid negative attributes related to their collective identities—the category of “immoral” (if only God is the source of values) and those who “do not belong to the enlightened humanistic tradition” (if it includes those who do not see God as the source of values). A wording was adopted that allowed avoiding those negative attributions that were unfavorable for both sides.

At that stage of conflict both sides declared the willingness to compromise and adopt the Preamble. The Democratic Left Alliance described its position as not so much an expression of aversion to religion and the Church as its hostility towards fundamentalism (Nowakowska 1997: 13). Speaking to the media during the 285<sup>th</sup> Conference of the Polish Episcopate in October of 1996, bishop Tadeusz Pieronek had already signaled the possibility of including in the Preamble the words expressing pluralism as far as the world-view is concerned.

The wordings suggested by Tadeusz Mazowiecki and subsequently by Marek Borowski attempted to make a compromise unlike the draft of the Preamble presented by “Solidarity” in which the invocation was integrally religious. They allowed for the pluralism of the nation-state identity and assumed the pluralism of national and civil ideologies.

<sup>6</sup> Polish Peasants’ Party (PSL) and the Democratic Left Alliance were short of five votes of the National Assembly to adopt the new Constitution (requirement of two thirds of all votes).

The conflict over the Preamble concerned the document-symbol around which social integration in a normative dimension takes place. It was a conflict over the definition of identity, based either on citizenship or on being Polish, as an expression of a common national identity. The wording concerning religious values, particularly antagonizing for both sides, was doubly controversial. The dispute shifted to the definition of core national values and the cultural identity of the nation (Smolicz 1999: 105–123) in terms of Christian and Catholic tradition. It was pointed out that the Preambles to the previous Polish Constitutions contained expressions of the ideology of their time, when nobody was questioning the necessity of referring to God (Garlicki 1997). The conflict consisted in the scope of values that could be described as common and also in the question whether people of different moral beliefs have the right to equal civil dignity (Graczyk 1996: 24).

That stage was another turning point. The amendments formulated by the Democratic Left Alliance were adopted. To the catalogue of such values as “truth,” “good,” and “beauty,” “justice” was added as the post-communist alliance demanded. In this way, SLD maintained its supremacy in negotiations, symbolically expressed through the ingression into the wording that formulated the values of the adversaries in this dispute. The value of “justice” was included into the definition of God given in the Preamble drafted by Mazowiecki: “We, the Polish citizens, both those who believe in God being the source of truth, justice, good and beauty and those who do not share that belief and derive the values they respect from other sources...proclaim this Constitution of the Republic of Poland.”

#### 6. Taking Control of the Preamble Trajectory by the Post-Communist Coalition

By modifying the collective identity definition that now included the categories of “believers” and “non-believers” and adding justice as a fundamental value to God’s attributes, the post-communists took control of the Preamble’s text. On December 11, 1996 the Constitutional Commission adopted the modified version of Tadeusz Mazowiecki’s (Freedom Union—UW) Preamble,<sup>7</sup> with amendments suggested by the Democratic Left Alliance taking the relativistic view of reference to God as the God of the “believers” in comparison to fundamentalist apostrophe in the form of *Invocatio Dei*. The symbolic conflict was further intensified. The critics concentrated on the lack of a proper *Invocatio Dei* and the category of “Nation” that was interpreted as a break with the Polish tradition of Constitutionalism. The proposed wording referring to the God of “believers” took precedence because in the fundamental law (a lay document) the attributes of God were defined. That wording did not prejudge that God exists as it would have been the case had the Preamble stated that he is the only source of law. That wording brought about a reaction aiming at the introduction of fundamentalist formulation, a specific credo. The formula compatible with a religious doctrine was demanded. If a reference to God was in fact a particular case of sacralization of the Constitutional law, such a wording was degraded, or desecrated,

<sup>7</sup> It should be emphasized that the draft of the Constitution presented by the Freedom Union (UW) did not contain a Preamble, and at the beginning the Union fought against any kind of Preamble.

during the symbolic conflict over the Preamble in a public discourse. The God of the Preamble was called “a pagan god,” a “New Age god,” “an ambiguous god,” “a make-believe god,” (Szarota 1997; *Gazeta Wyborcza*, March 4<sup>th</sup> 1997) and also, as senator Alicja Grześkowiak said, “a Masonic god” (Stomma 1997: 2).

The Electoral Action “Solidarity” (AWS) and the Movement for Rebuilding Poland (ROP), using the members of the Constitutional Commission who belonged to the AWS, signaled the intensification of conflict over the draft of the Constitution. It was claimed that 30% of the society who voted for candidates of the right side of the political spectrum did not obtain any representation in the Diet. They also stressed the fact that Poles supported the civic draft of the Constitution that was introduced to the Diet in 1994. The bishops however, despite reservations, did not call for a rejection of the draft. Their opinions differed. The President of the Bishops’ Conference, the Primate of Poland Józef Glemp, claimed the formulation of the Preamble was incorrect. The Vice-President of the Bishops’ Conference, archbishop Henryk Muszyński, spoke favorably of coming to an understanding (*Gazeta Wyborcza*, February 4<sup>th</sup>, 1997). However, in a published statement, the Permanent Council of the Conference supported the critics (outside of the Parliament right-wing politicians) of the Constitutional Commission draft demanding in particular that the Polish nation, not the citizens—as it was formulated in the adopted version of the Preamble—proclaim the Constitution. That position was also supported by the Polish Peasants’ Party, according to an earlier decision taken during its congress.

The Episcopate, presenting the Constitutional postulates, demanded that the Constitution include the phrase “Polish Nation” referring to the national and cultural identity, continuity of tradition, dignity and pride of Poles (*Gazeta Wyborcza*, February 27, 1997). The Freedom Union proposed the dialectic wording “We the Polish Nation—citizens of the Republic of Poland,” and Marek Borowski (SLD) suggested “We the Polish Nation, all citizens of the Republic of Poland.” The first proposal was adopted. In that way the duality of the identity was inscribed: the collective identity (nation) and the individual civic identity.

Speaking in the interest of believers and, at the same time, pointing to the interest of the Nation, the Permanent Council of the Bishops’ Conference referred to the identity of a Catholic-Pole.<sup>8</sup>

That version of the Preamble mentioned the fall of communism: “Out of concern for the being and future of our Homeland, having regained in 1989 the possibility of taking sovereign and democratic decisions about Her fate.” The role of “Solidarity,” however, was not mentioned because of the pressure exerted by the post-communists.

### 7. Non-possumus: The Dramatization of the Protest of the “Solidarity”

“Solidarity” was constantly an important factor in shaping the trajectory of the Preamble draft. At the beginning it presented its own, civic draft that constituted a reference point for criticizing other proposals.

<sup>8</sup> The Subcommittee for the Dialogue of the Roman Catholic Church and the Churches Organized in the Polish Ecumenical Council changed its position and supported the draft of the Preamble presented by Tadeusz Mazowiecki (Turnau 1997: 2).

During the stage of compromise solutions, which were adopted by the Church and the post-communists on the basis of Mazowiecki's draft, "Solidarity" took a stiff position and demanded more than the Episcopate (Michnik 1997: 1). It was presented in the letter of the Chairman of "Solidarity," Marian Krzaklewski, to the Diet and in a position statement issued by the Social Constitutional Commission. "Solidarity" demanded that *Invocatio Dei* be included, that the heritage of faith and Christian culture be stressed, the accomplishments of the Second Republic of Poland be mentioned, the patriotic struggle against foreign domination during the years 1944–1989 be emphasized and the peaceful effort of "Solidarity" be honored. Moreover, a referendum to choose between the parliamentary and civic versions was proposed. "Solidarity" stated explicitly that the expression "Polish Nation" in the Preamble is an ancient principle recognizing the "Polish Nation" as the architect of the Constitution. At the same time, it was a symbolic expression of state's sovereignty. *Invocatio Dei* was to guarantee historical and judicial continuity and also to express the supremacy of natural law. That position was labeled *non-possumus*.<sup>9</sup>

The strategy of the Church, trying to define in the Preamble a common identity of the nation-state described with reference to faith, can be called "pluralistic." The demands put forward by the Episcopate were presented in their radical and maximalist form by "Solidarity"—as non-parliamentarian opposition—in a mediatory form of Mazowiecki's draft, referring to God, but at the same time dialectic and compromising, and in the form of "inside" pressure by the parliamentary representation of Polish Peasants' Party (PSL), which at that stage introduced amendments similar to the bishops' position.

#### 8. Introduction of the PSL's Substitutive Preamble to the Constitutional Trajectory

It was evident that Mazowiecki's Preamble draft, supplemented by numerous amendments and supported by the Freedom Union, Democratic Left Alliance and Labor Union had the largest chance of passing. Firstly, the new version of that text included—in accordance with the Episcopate postulates—the wording "We, the Polish Nation" and at the same time—in accordance with the postulates of the Democratic Left Alliance—"all citizens of the Republic of Poland." In that way, the collective identity of "those who believe in God" and the collective national identity in that draft of the Preamble—being the outcome of a symbolic conflict—are both subject to deconstruction and relativization.

Secondly, against the positive-judicial interpretation, and consequently in accordance with the Episcopate intentions, another amendment was made: the natural human dignity is a source of rights and liberties. Thirdly, in accordance with the postulates of the right-wing politicians, the gratitude for cultural tradition with its roots in the Christian heritage of the Nation and universal human values was inscribed. And

<sup>9</sup> These words refer symbolically to the Polish bishops memorial of May 8, 1953 that caused the rapid deterioration of the relations between the Episcopate and the Government of the Polish People's Republic. Shortly afterwards, the Primate of Poland Stefan Wyszyński was arrested (Raina 1979: 524; Krzaklewski 1997: 17).

lastly, also according to the right-wing demands, a reference to the best traditions of the First and Second Republic of Poland was made. The Polish People's Republic (PRL) was in a way taken into the parentheses and it was not the subject of a direct reference.

After those compromise amendments were introduced in March 1997, the Polish Peasants' Party (PSL) introduced another Preamble draft that differed from the negotiated proposal only in the reference to God: direct *Invocatio Dei* against the statement that God exists only for believers. The Episcopate supported the PSL's Preamble containing the controversial *Invocatio Dei*: "We, the Polish Nation, aware of the responsibility before God, history and own conscience, concerned about the state and future of Homeland..." (the following part is the same as in the Constitutional Commission draft).

Having earlier introduced the notion of "Polish Nation," the Church was aiming at having all its postulates met, including the introduction of *Invocatio Dei*.

#### **9. The Consolidation of the Preamble on the Trajectory— the Consensus of SLD, PSL, UW, and UP**

On March 14, 1997 the Constitutional Commission adopted another amended draft of Mazowiecki's Preamble that did not contain a direct *Invocatio Dei* but rather took into account the Episcopate's postulate and contained the wording concerning the responsibility before God. It could be adopted only if it included the dialectic, compromise formula "or before one's own conscience," suggested by the post-communists. That wording again met the protest of the Episcopate which—with the help of Polish Peasants Party (PSL)—wanted to replace the word "or" with the conjunction "and" or a comma, thus clinging to the fundamentalist version. That protest, however, was not successful. The relativizing alternative was kept.

The continuous struggle for taking over the initiative and control over the wording of the Preamble is characteristic of symbolic interaction between the sides of the conflict. The Democratic Left Alliance (SLD) once again successfully interfered in the text being negotiated. The wording suggested by Marek Borowski (Democratic Left Alliance) "Remembering the bitter experience, when the basic freedoms and rights in our Homeland were being violated" was inserted into the proposed Preamble. These words could refer to the experience of the Polish People's Republic, but does not call it *expressis verbis*. It can be interpreted as covering all manifestations of state totalitarianism, also during the Second Republic of Poland.

The versions of the Preamble drafted by the PSL and "Solidarity" did not win the majority of votes and therefore were rejected by the National Assembly. The radical Movement of Rebuilding Poland (ROP) and its leader Jan Olszewski described the Constitution adopted by the National Assembly as a "Constitution of a thick line"<sup>10</sup> and as a continuation of the Communist period. Marian Krzaklewski, the leader of

<sup>10</sup> "Thick line" is a metaphorical expression used in the exposé by the first Prime Minister after 1989, Tadeusz Mazowiecki, and referring to the policy of not accounting for the period of the Polish People's Republic.

AWS, speaking for “Solidarity” presented a similar negative opinion. The Preamble did not contain a specific reference to the heritage of the Communist Poland and they blamed the communists for it. The fact that the final text of the Preamble was formulated the same way as the “round table” came about—through negotiations and agreement with the post-communists—could not be accepted by the radical anti-communists. A hybrid text was emerging out of interaction in which one of the sides was the Church hierarchy. Its meaning can be fully understood only in terms of renewed contextualization, i.e., the recreation of a symbolic interaction process in the public arena.

#### **10. The Departure of the Preamble from the Trajectory and Adoption by the National Assembly**

The National Assembly voted on March 21, 1997 to accept the Preamble (427 yeas, 40 nays with 10 “abstaining”). The Preamble met the postulates of the bishops. The notions of the “Polish Nation,” “those who believe in God” and “responsibility before God” were introduced. As a result of the symbolic conflict, the dialectic categories of “Polish citizens,” “those who do not share the faith” and “responsibility before one’s own conscience” were also introduced. The Preamble mentions the 1989 breakthrough but does not honor in a separate inscription the historical experience related to “Solidarity.” The non-parliamentarian right-wing parties did not stop agitating for the rejection of the Constitution in a referendum claiming that history was falsified. The draft was termed as the “Constitution born out of PRL [Polish People’s Republic]” (Milewicz 1997: 16).

The Constitutional Referendum was held on May 25, 1997. The draft adopted by the National Assembly was supported by the voters. On July 16, 1997 during a 15-minute ceremony the President signed the Constitution into law. Neither the Primate of Poland Józef Glemp nor the Secretary of the Episcopate bishop Tadeusz Pieronek were present, although both were invited. There was no representative from the Catholic Church that exerted a decisive influence on the final form of the Preamble.

#### **Dialectics of Value and Collective Identification**

The polls show a wider audience: opinions of the citizens on the process of constructing the Constitution that was the subject of a conflict in the public arena of discourse.

In February 1997 the polls conducted by the OBOP (Public Opinion Research Center) showed that 70% of the respondents thought that the Constitution should begin with “We, the Polish Nation,” while 20% supported “We, the Polish citizens...” (OBOP, “Treść przyszłej Konstytucji w opinii Polaków” 1997). Moreover, 48% said that the Constitution should begin with *Invocatio Dei*, and 57% of the respondents expressed the opinion that the Constitution should refer to the political and judicial continuity of the interwar Poland, i.e., the independent Second Republic of Poland. Also in February 1997 the polls conducted by the OBOP showed that in a referendum 67% of Poles would like to have a choice of at least two drafts of the Constitution



(OBOP, "Konstytucja i Referendum Konstytucyjne" 1997). In March 1997 two thirds of the questioned (67%) declared their participation in a referendum and 42% would support the parliamentary version of the draft. Almost half (47%) would not make a decision at all (OBOP, March 1997). In April 1997, 75% of the respondents declared their intention to take part in the Constitutional referendum; 39% supported the parliamentary version of the draft, and 26% were in favor of the civic version.

According to the OBOP polls, in May 1997, 17% of the respondents followed the news concerning the work on the new Constitution. The declared participation in a referendum was 46%, and 40% of the questioned were going to support the presented version of the draft. One out of three Poles declaring their participation indicated that they would take into consideration the position of the Church (OBOP, May 1997).

It is therefore possible to conclude that as far as the key aspects are concerned, the wording of the Preamble was echoed by the voices of public opinion, even though the text had been conceived by the post-communist elites (the Democratic Left Alliance and the Polish Peasants' Party). These elites reacted to the initiative of the Church in the matter of the Preamble, as well as to the non-parliamentary opposition of the right and of "Solidarity" by taking the lead and gaining the upper hand in the negotiations.

The text of the Preamble, when analyzed semantically, shows an interesting structure of values expressed symbolically. It consists of 33 distinctive entities (**Figure 1**). If we classify them into the categories of national values, civic values, universal human values, religious values, and lay values, we will see that the largest number of them (15) refer to civic values followed by national values (9), universal human values (5), religious values (2), and lay values (2).

The discursive struggle in the public arena covered seven subjects: 1. inclusion or exclusion of the Preamble; 2. *Invocatio Dei*; 3. "Polish Nation" vs "Polish citizens"; 4. "Christian values"; 5. departure from totalitarianism in 1989 and a tribute to "Solidarity"; 6. the historical continuity of the First and Second Republic of Poland and the negative opinion about the Polish People's Republic (PRL); and 7. the value of the family and the unborn life. All of them were initiated by the representatives of the right side of the political spectrum, which was supported by the Church. Three of those subjects did not find their way into the final version of the Preamble. There was no tribute to "Solidarity," and its historical role was not emphasized. There was no evaluation of the PRL. The value of the family and unborn life was not mentioned. The two key subjects, "Polish Nation" and "*Invocatio Dei*," were dialectically complemented by the introduction of "those who do not believe" and "the citizens who do not identify themselves with the Polish nation."

The procedure of negotiating the content of the Preamble was reflected in including the value of social dialogue as an axiological foundation for establishing laws and principles of community life: "We establish the Constitution of the Republic of Poland as basic laws for the state, based on the respect for freedom and justice, cooperation of the authorities, social dialog."

The trajectory of writing the Preamble is characterized by the dynamics of the lawmaking process. It proved to be the most dynamic in the autumn of 1996 and

Figure 1

**Relation to Values in the Final Draft of the Preamble Dated April 2, 1997**

1	Out of concern for the being and future of our Homeland,	N
2	having regained in 1989 the possibility of taking sovereign and democratic decisions about Her fate,	N
3	we, the Polish Nation—	N
4	all citizens of the Republic,	C
5	both those who believe in God as the source of truth, justice, good and beauty,	R
6	and those who do not share this faith,	L
7	and deriving those universal values from other sources,	L
8	equal in rights and obligations towards the common good—Poland,	C
9	grateful to our forefathers for their work,	N
10	for the struggle for independence dearly paid for,	N
11	for culture rooted in the Christian heritage of the Nation	N
12	and universal human values,	H
13	referring to the best traditions of the First and Second Republic,	N
14	obliged to pass on to the future generations all that is valuable in our more than one thousand years' heritage,	N
15	bound with common ties with our compatriots scattered all over the world,	N
16	conscious of the need for cooperation with all nations for the good of the Human Family,	H
17	remembering the bitter experience, when the basic freedoms and human rights in our Homeland were being violated,	C
18	desiring to forever guarantee civil rights,	C
19	and ensure the fairness and efficiency of public institutions,	O
20	in the sense of responsibility before God	R
21	or before our own conscience,	L
22	we establish the Constitution of the Republic of Poland	C
23	as basic laws for the state	C
24	based on the respect for freedom and justice	C
25	cooperation of the authorities,	C
26	social dialogue	C
27	and the principle of auxiliaryity	C
28	strengthening the rights of citizens and their communities.	C
29	We call on all, who for the good of the Third Republic will apply this Constitution, to do it	C
30	taking care of preserving the inborn human dignity,	H
31	human right to freedom	H
32	and the duty of solidarity with others,	H
33	and regard the respect of those principles as the unfringeable basis of the Republic of Poland.	C

1–33 meaningful entities/units of analysis

H—universal human values

N—national values

C—civic values

R—religious values

L—lay values

spring of 1997, when the final version of the draft was negotiated and was to be the subject of the referendum. The text of the Preamble had four different versions. Three initial formulations were definitively rejected, six expressions were present only in the transitional variations, and twelve formulations were introduced into the final draft with modifications to the original text and its transitional variations. The most meaningful are those formulations which were given a dialectic form, i.e., opposite, alternative expressions: “We, the Polish Nation—all citizens of the Republic of Poland,” “...both those who believe in God as the source of truth, justice, good

and beauty, and those who do not share that faith and deriving these universal values from other sources” and “in the sense of responsibility before God or before our own conscience.” Symbolically they mark the limits of consensus that divide society within the problematic identity of the nation-state of the Third Republic of Poland. It is to be noted that in this context the judgment of the PRL and the identification with the “people’s homeland” remains problematic. Taking the initiative in formulating the wording related to that question, the post-communists kept this general and ambiguous sentence: “Remembering the bitter experience, when the basic freedoms and human rights in our Homeland were being vilated.” The question of historical truth and collective memory remains open. It is being constructed no less than reality itself. It is related to the problem of liberal or fundamentalist axiology as well.

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