

PREFACE AND ACKNOWLEDGEMENTS

On 26 August 2018, the American statesman Senator John McCain died. After many years of struggling with an incurable disease with no chance of improvement, he stopped taking medications. In the last words of his political will published in New York Times, this outstanding Republican politician and war hero identified the most important American values, namely freedom, equality before the law and... respect for the dignity of all people.¹ He was not the first to mention human dignity as underlying the foundations of the American political, social and legal system, and even more broadly, belonging to the supreme values nurtured in the United States. In 2011, one of the most prominent American philosophers of twentieth century law, Ronald Dworkin, published a book entitled *Justice for Hedgehogs*,² making human dignity its guiding principle. In 1987, during a television interview, one of the most influential Supreme Court Justices of the last century, Justice William J. Brennan Jr., when asked about the most important value of the American political system, without hesitation pointed to human dignity as well.

It would be hard to suspect an American statesman, a giant of political and legal thought, or an eminent Justice, of a reckless choice of ideas fundamental to America. This choice, however, must come as a surprise for a simple reason. Neither the Declaration of Independence, nor the American Constitution, nor the American Bill of Rights and other amendments, nor even the famous American Creed contain any mention at all of human dignity.

The overall purpose of this collection of essays is to present the American experience in order to include it into the European debate on the place of the idea of human dignity in a liberal democracy. The author is convinced that the American experience, especially the case law of the Supreme Court as the longest acting court in a democratic system, is an important comparative material for European regulations. The specific purpose of this book is an attempt to answer the question of the place which human dignity occupies in American legal tradition. The

¹ Senator John McCain's Farewell Statement [online], <https://www.nytimes.com/2018/08/27/us/politics/john-mccain-farewell-statement.html> [20.02.2022].

² Compare Jerzy Zajadło, *Ronald Dworkin (1931–2013). Strategia jeża i obrona liberalnej demokracji* [online], <https://kulturaliberalna.pl/2013/02/12/piatek-stany-zjednoczone-zajadlo-ronald-dworkin-1931-2013-strategia-jeza-i-obrona-liberalnej-demokracji/> [20.02.2022].

author agrees with the statement that “the soul of the rule of law is the judicial review,”³ and believes that an analysis of case law of the Supreme Court of the United States will certainly help to understand the role which the idea of human dignity has played and continues to play in the American legal system itself, and in a wider understanding American political and legal tradition.

The American experience seems to be extremely important for learning and understanding the significance of the idea of human dignity in modern democracy. The general goal, however, requires concretization in the form of the following questions. Did the idea of human dignity in the twentieth century case law of the U.S. Supreme Court emerge as a result of the creation of an international system of human rights protection? Therefore, if not, then what is the origin of the concept of human dignity found in the Supreme Court case law? What was the evolution of the understanding of human dignity in the American political and legal tradition like? Can we talk about the American doctrine of human dignity in the Supreme Court case law? How can the American idea of human dignity be defined? What roles and functions are performed by the idea of human dignity in the Supreme Court case law?

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This book is based on my Polish publication from 2019 entitled *Idea godności człowieka w orzecznictwie Sądu Najwyższego Stanów Zjednoczonych Ameryki* [The idea of human dignity in the jurisprudence of the Supreme Court of the United States of America]. I would like to take this opportunity to express my gratitude to people without whom this book would not have been written.

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³ “(...) the soul of a government of laws is the judicial function.” This statement comes from a speech given by Arthur E. Sutherland on June 17, 1964 in St. Paul, Minnesota, quoting from: William J. Brennan, “Some Aspects of Federalism,” *New York University Law Review* 39(6), 1964, p. 961.

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