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FOREWORD: TWO VISIONS OF THE NATURE OF MAN

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This year, for the first time in its ten-year history, The Federalist Society convened in a world no longer haunted by the specter of a global communist empire. Seventy-four years after its creation, Lenin's Union of Soviet Socialist Republics had shattered into many fragments; more importantly, his political philosophy had taken its well-deserved place on the "ash heap of history."

This happy development makes all the more striking the continued smooth functioning, after more than 200 years, of the American constitutional order—the world's oldest constitutional political system. Our Eighteenth-Century federalist Constitution has survived the totalitarian menaces of Naziism and communism and has fostered the creation of the freest and wealthiest nation in human history. The extended commercial republic of which Publius wrote in *The Federalist Papers* now reaches from sea to shining sea and supports a population eighty times larger than during the Founding era. Areas that were wilderness in Publius's time now teem with cities, factories, universities, churches, highways, airports, and other indicia of advanced civilization.

In Russia, however, the last 200 years have seen a very different kind of progress. Although Russia has more land and natural resources at its disposal than does the United States, the people of Russia today live in an impoverished land that is sometimes on the brink of starvation. During this century, millions have died at the hands of a genocidal government and many more have been tortured or condemned to spend years in prison. Even today, the forces of Russian democracy stand on the verge of being overwhelmed by backward-looking demagogues.

Why this difference? Why is civilization thriving on America's shores, but tottering in Russia? The answer lies largely in our Federalist ancestors' keen perception of human nature. Although our Constitution does not specifically discuss the na-

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ture of Man, an identifiable conception of human nature infuses the document. That conception enabled the Framers to write a Constitution that brilliantly balances the competing demands of order and freedom and that has fostered the generation of wealth on a scale unprecedented in human history. By the same token, the failure of communism is largely a failure of the communist view of the nature of Man.

Communism is centrally concerned with creating a New Communist Man. The communist system is predicated on the belief that Man is inherently sociable and other-regarding and that these traits can be perfected so that an earthly Utopia is sustainable. One need only evolve beyond the material conditions of production represented by capitalist private property. The communist theology of human nature is thus, in some ways, horribly optimistic: eliminate private property in the means of production and we will all inherit the Garden of Eden. The State, and indeed law itself, will wither away.

James Madison was more guarded in his view of human nature. He too believed that a central problem facing any constitution writer stemmed from narrow, self-regarding human behavior—a belief that was clearly reflected in his discussion of the “violence of faction.”¹ Madison decried the “instability, injustice, and confusion [thus] introduced into the public councils”² and concluded that they have “in truth, been the mortal diseases under which popular governments have everywhere perished.”³ He observed that there are “two methods of curing the mischiefs of faction: the one, by removing its causes; the other, by curing its effects.”⁴ And he further noted that there are two methods of pursuing the strategy of seeking to remove the causes of faction: “the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.”⁵

For 74 years, the Communists tried both strategies for removing the causes of faction, only to learn, as Madison had warned more than a century earlier, that “[i]t could never be more truly said than of the first remedy that it was worse than

1. THE FEDERALIST No. 10, at 77 (James Madison)(Clinton Rossiter ed., 1961).

2. *Id.*

3. *Id.*

4. *Id.* at 78.

5. *Id.*

the disease”⁶ and that “[t]he second expedient is as impracticable as the first would be unwise.”⁷ The basic problem, which Madison understood, is that

[t]he latent causes of faction are . . . sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for preeminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good [T]he most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of government.⁸

From his conclusion that the causes of faction were sown in the nature of man, Madison deduced that the only solution to the problem of faction was to regulate the *effects* of faction. The ambition, energy, and narrow selfishness of men must be channeled so that, almost despite themselves, men are led as if by an invisible hand to produce good consequences rather than bad ones.⁹ The political vehicle for this task is the extended commercial republic.

Madison’s and Marx’s visions of human nature thus differ sharply.¹⁰ Both identify human shortsightedness and narrow

6. *Id.*

7. *Id.*

8. *Id.* at 79.

9. *Cf.* 1 ADAM SMITH, *THE WEALTH OF NATIONS* 26-27 (R.H. Campbell et al. eds., 1976)(1776)(“It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from regard to their own interest.”).

10. The Madisonian and Marxist visions are not, of course, the only possible concep-

self-regardingness as problems for political governance. One view, however, seeks to create conditions that will change this human nature, while the other takes human nature as a given and seeks to design a political system that, like the free market economy, harnesses ambition and faction to produce good results.

These conflicting visions of human nature are reflected in the organizing constituting documents of the two societies, and particularly in those documents' guiding conceptions of government leaders. The preamble to the 1977 Constitution of the U.S.S.R. grandly explained that the Soviet government had "carried through far-reaching social and economic transformations, and put an end once and for all to exploitation of man by man, antagonisms between classes, and strife between nationalities."¹¹ Article 6 then proclaimed that "[t]he leading and guiding force of Soviet society . . . is the Communist Party of the Soviet Union."¹² This article, under which the Party was entrusted with total power over all aspects of government, and indeed of society generally,¹³ appeared in the Constitution ahead of almost everything else, including provisions on individual rights and government structure. It is no surprise, then, that repeal of Article 6 and similar provisions in Eastern European constitutions was the first demand of democratic reformers in all of the countries emerging from the shadow of communism.

Our own Constitution does not as explicitly adopt a theory of human nature, but the Madisonian theory of Man is implicit in our whole system of checks and balances, separation of powers, and federalism. Madison viewed government leaders the same way he viewed men generally. Because "[e]nlightened statesmen will not always be at the helm,"¹⁴ Madison concluded that it would be necessary to "so contriv[e] the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in

tions of human nature. Sociobiology, Freudianism, Christianity, and Judaism are just a few of the influential theories that have much to say about the nature of Man.

11. KONST. SSSR pmbl. (1977).

12. *Id.* art. 6.

13. *See id.* ("The Communist Party . . . determines the general perspectives of the development of society . . . , directs the great constructive work of the Soviet people, and imparts a planned, systematic, and theoretically substantiated character to their struggle for the victory of communism.")

14. THE FEDERALIST No. 10, *supra* note 1, at 80.

their proper places.”¹⁵ The goal, expressed in possibly the most famous passage in *The Federalist Papers*, was to

giv[e] to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. *It may be a reflection on human nature that such devices must be necessary to control the abuses of government. But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.*¹⁶

History can judge, and to a large extent has already judged, which vision of the nature of Man offers a better foundation for a system of government.

15. THE FEDERALIST No. 51, at 320 (James Madison)(Clinton Rossiter ed., 1961).

16. *Id.* at 321-22 (emphasis added).

