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Original scientific paper
UDC 321.01:27 Bodin Ž.
321.01:27 Hobs T.

JEAN BODIN AND RELIGIOUS TOLERATION

Abstract

In the wake of the Protestant Reformation and the division of Western Christianity into rival religious camps, France descended into religious civil war in the years 1562-1598. The question then was how to respond to it. Writing after Spinoza's championing of freedom of religious thought but before Hobbes' advocacy of a strong sovereign who would dictate the prayers and forms of religious worship for the nation as a method of avoiding religious conflict, Bodin argued for religious toleration, indeed for a degree of religious toleration that was radical in its day.

Keywords: Bodin, Hobbes, religion, toleration, family rights, superstition

Today, advocates of religious toleration typically base their pleas on the foundation of inalienable individual rights or, drawing upon the idea of the seventeenth-century philosopher John Locke, on the impossibility of demonstrating that any particular religion is the one true religion or even that any particular religion is "best". Jean Bodin (1530-1596) is interesting insofar as he was one of the first thinkers to defend religious toleration but did not ground that defense either on notions of individual rights or on the Lockean premise that no final judgment could be made about the competing claims of rival religious organizations. Rather, taking up the same challenge that Thomas Hobbes (1588-1679) would later address, viz., that the presence of rival Churches can provoke conflict, Bodin reached a conclusion opposite to that reached by Hobbes. For the English philosopher, the key to reducing interconfessional conflict was to assert monarchical supremacy in matters of religion and require subjects of the realm to accept the prescribed rites and prayers of the established Church, as dictated by the sovereign. By contrast, for Bodin, writing at the height of the French religious civil war of 1562-1598, the solution was opposite to what Hobbes would later propose;

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Bodin, thus, prescribed religious toleration – live and let live – as his solution to the interconfessional conflict of his time.

This article is structured as follows. First, there is a section devoted to the historical context, beginning with an acknowledgment of the continued relevance of Roman law during the Middle Ages and ending with a brief contrast of Bodin with Niccolò Machiavelli (1469-1527), who was likewise concerned with political stability. The following section recounts the debate in the Estates-General about whether to employ repressive measures to end interreligious conflict; Bodin opposed repression and championed religious toleration as the most sensible strategy to dampen the fighting and restore peace. In the course of the war, it became obvious to Bodin that the king was suffering from dementia and increasingly acting in a tyrannical manner. The French jurist-philosopher wrestled with the question about what to do about the king, and came to the conclusion that citizens did not owe their loyalty to a demented tyrant. Since the question of religious toleration is tied to the question of the extent of the legitimate authority of the ruler, it is to this question that discussion in the third section turns, returning, now in more detail, to the contrast with Machiavelli.

As already noted, Bodin did not develop a theory of individual rights as such. This was because he considered the family to be the fundamental unit of society and the primary agent of rights. Accordingly, the fourth section examines Bodin's ideas about the central place of the family and, after an extended review, concludes that, in Bodin's view, neither the family nor, of course, any individual had any claim to religious toleration. With this foundation, the next section takes up a discussion of Bodin's most influential work, *Six Books of the Commonwealth*, in which, even while conceding that the ruler had the *right* to dictate to his subjects in matters of religion, Bodin thought he would be better advised to avoid adopting any coercive or repressive measures for that purpose and, rather, to guide his subjects in the moral/religious sphere by the force of his example. In the final section, I highlight Bodin's historical importance, summarizing six contributions he made to political thought, including his pioneering and articulate defense of religious toleration.

The Historical Context

Throughout the Middle Ages, Roman law had continued to serve as the measure for legal science in much of Europe and, in the later Middle Ages, legal scholars had concentrated largely on the exegesis of Roman law, especially focusing on the law code (*Corpus Juris Civilis*) of Byzantine Emperor Justinian I (482-565; reigned, 527-565). But in the sixteenth century, legal scholars simultaneously looked back to the sources of the *Corpus Juris* in order to clear away corruptions and misinterpretations, and also came to grips with the fact that many of the strictures and regulations of Roman law had been devised to address spe-

cific needs, problems, and conditions which were no longer present. The result of these efforts was the construction of a new foundation for jurisprudence, an undertaking to which Bodin made a vital contribution.²

Bodin offers an interesting contrast not only with Hobbes but also with Niccolò Machiavelli (1469-1527). Although both men were concerned with political stability, Machiavelli placed his emphasis on the leader's ability (*virtú*) and on the importance that the leader *appear* to his people to be morally upstanding. Bodin, by contrast, in his major political work, *Six Books of the Commonwealth* (1576), emphasized that stability depended on legitimacy, and that legitimacy in turn depended on two things: the reigning monarch's pedigree (how did he come into power) and the monarch's respect for Natural and Divine Law. His major works include: *Method for the Easy Comprehension of History* [*Methodus ad facile historiarum cognitionem*]³ (1566); *Six Books of the Commonwealth* [*Les six livres de la République*] (1576); *Exposition of Universal Law* [*Juris universi distributio*] (1578), and *The Theater of the Natural Universe* (French edition, 1596; Latin edition, [*Theatrum Universae Naturae*], 1605).

Bodin's Argument Against Religious Repression

Bodin was born just three years after Machiavelli's death and died when Hobbes was eight years of age. Born near Angers sometime between June 1529 and June 1530 to a prosperous Catholic family of Jewish origin, he entered the Carmelite Order in 1545, but left the order four years later, taking up the study of law at the University of Toulouse, specializing in Roman law. He moved to Paris in 1561, assuming responsibility as legal counsel for the Paris *parlement* (a judicial body).⁴ In 1571, he entered into the service of the Duke of Alençon (later Anjou), brother of King Henry III (reigned 1574-1589). In this capacity, he accompanied the duke on a visit to the court of Queen Elizabeth I of England. During the years 1576-1577, he served as a delegate of the Third Estate in the Estates-General of Blois.

Given the religious civil war that rocked France in the years 1562-1598, the Estates-General, in which Protestants were not represented, was worried about a fresh outbreak of inter-religious violence. The so-called Holy League, representing conservative Catholic opinion, tried through friendly deputies to press for religious repression and the suppression of non-Catholic beliefs. Bodin, however, led a group of deputies who advocated religious toleration; these deputies, known as the *politiques*, believed that augmenting monarchical power would go

2 Julian H. Franklin, *Jean Bodin and the Sixteenth-Century Revolution*, Columbia University Press, 1963; reissued by Greenwood Press, 1977, pp. 1-3.

3 *Historiarum* is, of courses, the genitive plural; however, the English edition of this book, prepared by Beatrice Reynolds, translates the word in the singular.

4 Peter Cornelius Mayer-Tasch, *Jean Bodin: Eine Einführung in sein Leben, sein Werk und seine Wirkung*, Parerga, 2000, pp. 9-10.

hand in hand with religious toleration. Addressing the Estates-General, Bodin argued that embracing religious repression meant that inter-religious wars would continue to plague France, while religious toleration could foster peace at home.⁵ Thus, Bodin's motivation in urging religious toleration had nothing to do with any concept of individual rights of belief and of worship, but rather reflected his concern for civil peace (the same concern which would drive Hobbes to rather different conclusions). But Bodin was overridden, with the majority of delegates voting for the suppression of the Huguenots (Calvinists) and the banishment of all officers of the Reformed (Calvinist) Church.

The Huguenots, however, scored a series of military victories over Catholic forces and the King was forced to return to the Estates-General to plead for approval of additional revenues (i.e., an increase in taxation). Bodin was perhaps the most vocal opponent of any increase in taxation. By this point, Bodin had already published his two most famous works – *Method for the Easy Comprehension of History* (1566) and *Six Books of the Commonwealth* (1576) – establishing in the process a clear reputation as a champion of monarchical absolutism. How, then, is one to explain his willingness to oppose the King on so vital an issue as religious unity? The answer is twofold. First, Bodin placed a high premium on order, and felt strongly that the public welfare was best served by preserving order and minimizing violence. Second, he viewed the assembly (the Estates-General) as serving an advisory function for the King; in that capacity, the assembly had to deliberate with complete seriousness (not servility) and render its honest views to the King.⁶ After leaving the Estates-General, he wrote a handbook for judges to use in witchcraft trials, taking sorcery completely seriously. But, as inter-religious hatreds heated up, Bodin, still a Catholic, found himself accused of atheism and, in 1583, tried to get out of the limelight by taking the job of prosecutor in the town of Laon. At the end of the decade, when Catholic troops occupied Laon, Bodin declared his fidelity to the Holy League; although a supporter of royal monarchy, Bodin was aware that the king was suffering from dementia (since 1588 at the latest) and had turned into a tyrant. In his view, the uprising against the king was virtually universal and, under the circumstances, he could not see any reason to remain loyal to a man generally regarded as a demented tyrant.⁷ It was in this spirit that Bodin became associated with the Holy League. When King Henri III was assassinated in the night of 1-2 August 1589, Bodin welcomed the assassination (in a letter dated 15 August), claiming that, with it, God had delivered the people of France from a dangerous tyrant.

5 Owen Ulph, Jean Bodin and the Estates-General of 1576, *Journal of Modern History*, Vol. 19, No. 4, 1947, pp. 289-290.

6 Preston King, *The Ideology of Order: A Comparative Analysis of Jean Bodin and Thomas Hobbes*, 2nd ed., Frank Cass, 1999, pp. xi-xvi, 298.

7 Paul Lawrence Rose undertook a systematic study of Bodin's correspondence from the years following the outbreak of the uprising and I am relying here on his analysis and conclusions. See: P. L. Rose, *The Politique and the Prophet: Bodin and the Catholic League 1589-1594*, *The Historical Journal*, Vol. 21, No. 4, 1978, pp. 783-808, especially pp. 789, 805-806.

Yet Bodin had serious moral and philosophical reservations about tyrannicide, having declared his opposition to such an action in his 1576 classic, *Six Books of the Commonwealth*, but 13 years later, he did not see an alternative to the removal of the demented Henri III and could even greet the murder of the tyrant. On the other hand, he continued to oppose sectarian war, continued to oppose the forceful suppression of Protestantism, continued to advocate religious toleration, and, for that matter, viewed the Catholic League as also threatening the people's safety and security. This is clear from a speech he gave in Laon on 21 March 1589, immediately after giving his support to the League; in this speech he called for treating 25 royalist prisoners justly and for the punishment of those locals who had tried to lynch the prisoners. The speech provoked threats against his life.⁸ As early as 1597, his *Six Books* was placed on the Portuguese Index of Forbidden Books; it would be listed in the Spanish Index in 1612.⁹ By 1628, all of Bodin's works had been placed on the Holy See's Index of Forbidden Books. Although most of his works were later removed from the Index, the edition of 1900 still listed his *Theater of the Natural Universe* as forbidden.

After the assassination of Henri III, the King of Navarre asserted his right to become King of France, as King Henri IV. But it would take five years of warfare before he would establish his control of France. He was crowned in the Cathedral of Chartres on 27 February 1594, having converted from Calvinism to Catholicism prior to his coronation. By this point, the *politiques* were ascendant; Bodin fled Laon but was not invited to return to Paris. In 1596, Bodin died in Laon of the plague, two years before Henri IV would issue the Edict of Nantes, granting limited religious freedom to Protestants.

Stability, Law, Sovereignty

Before turning to the sovereignty's authority in the religious sphere, it will be useful to note that his thinking evolved from rejecting any sovereign's claim to "absolute authority" in 1566 to championing some form of "absolute sovereignty" just 10 years later. But who exactly may be considered sovereign, which is to say as the legitimate ruler? Machiavelli had preached a doctrine of *subjective* legitimation, emphasizing the importance of what people thought about their prince. Bodin, by contrast, thinking of sovereignty as *legitimate authority*, defined it in objective terms, referring legitimate authority, as already noted above, to the prince's respect for Divine Law and Natural Law. Against Machiavelli, he was convinced that public opinion could not establish any standards for assessing political behavior. As mentioned above, Bodin stood at a crossroads in the development of jurisprudence, with humanist-oriented jurists looking to classical

8 Ibid, pp. 787, 789-790.

9 Xavier Gil, Spain and Portugal, in: Howell A. Lloyd, Glenn Burgess, and Simon Hodson, eds., *European Political Thought 1450-1700: Religion, Law and Philosophy*, Yale University Press, 2007, p. 435.

Roman law for inspiration, and assailing those jurists who still clung to medieval concepts.¹⁰ In the preface to his *Method for the Easy Comprehension of History* (1566), he portrayed medieval law as “a wilderness of rocks and thorns”¹¹ but also argued that it was necessary to look beyond Roman law, declaring that French law was in urgent need of codification.¹² He referred here to

...the absurdity of attempting to establish principles of universal jurisprudence from the Roman decrees which were subject to change within a brief period. It is especially absurd, since almost all the laws of the Twelve Tables were supplanted by an infinite multitude of edicts and statutes...[and] the old regulations were replaced by new ones. Moreover, we see that almost all the legislation of Justinian was abrogated by [later] emperors.¹³

By 1566, Bodin had come to the conclusion that, although it was possible to compile a set of laws which one might reasonably consider to be optimal, the way to accomplish that would not be by studying ancient Roman texts, but rather by studying the experiences and laws of as large a number of contemporary states as possible – in effect replicating in his century the undertaking of Aristotle’s Lyceum two millennia earlier. Bodin made a start in this direction in his *Exposition of Universal Law*, continuing with this project in his *Six Books*. In that latter work, he reviewed not only “the laws of antiquity, Biblical and classical, of Turkey and western Europe generally” but also “the laws of Scandinavia and Poland, as well as some materials, at least, on eastern Europe, Muscovy, North Africa, and America.”¹⁴ Yet, even if certain universally valid principles of governance could be identified, Bodin also urged that legislators take into account the temperament and conventions of their people, and frame laws which would be adapted to local culture and ways of thinking. He was the last major thinker to endeavor to reassert the medieval notion that royal authority is rooted in and circumscribed by Natural and Divine Law, as well as by custom, by legal contracts, and by the laws of the empire insofar as they reflect Natural and Divine Law.¹⁵

Bodin’s thinking was not static. On the contrary, one may identify some striking differences between his *Method* of 1566 and his *Six Books* of 1576. To begin with, in the earlier work, there is no mention that a sovereign should enjoy absolute authority in any sense; on the contrary, *Method* included an explicit repudiation of absolutist claims and affirmed the principle of limited sovereignty,

10 Constance I. Smith, Jean Bodin and Comparative Law, *Journal of the History of Ideas*, Vol. 25, No. 3, 1964, p. 418.

11 Franklin, *Jean Bodin and the Sixteenth-Century Revolution*, p. 65.

12 *Ibid.*, p. 67.

13 Jean Bodin, *Method for the Easy Comprehension of History*, trans. from Latin by Beatrice Reynolds, Octagon Books, 1966, p. 2.

14 Franklin, *Jean Bodin and the Sixteenth-Century Revolution*, p. 72.

15 On medieval concepts of political order, see Fritz Kern, *Kingship and Law in the Middle Ages*, Basil Blackwell, 1939.

within the limits set by law and popular consent.¹⁶ In *Six Books*, by contrast, Bodin championed absolute and indivisible sovereignty. Second, Bodin also rethought his ideas about coronation oaths, in which kings pledged to uphold the laws of their respective domains. In *Method*, he had considered such oaths binding, but in his *Six Books*, he allowed that a monarch might change or annul laws which had ceased to be just or to be in the public interest, and authorized the monarch to decide when laws ceased to be just.¹⁷ And third, in his earlier work, Bodin had acclaimed Machiavelli for having revived the civic science of ancient writers, while, in his later book, he identified the Florentine as the source of the false doctrine that tyrannical measures can build power; on the contrary, Bodin now concluded, unjust measures could only subvert and ultimately destroy the power of a tyrannical regime.¹⁸ What induced him to revise his thinking was the St. Bartholomew's Day Massacre of 1572 (in which, at the instigation of Catherine de Medici, Roman Catholic nobles and other citizens massacred a number of French Huguenots); it was in the wake of this event that Bodin scuttled his notion of limited sovereignty and outlined a wholly new concept in which, among other things, there was no room for resistance to even the most tyrannical monarch.¹⁹ Hence, in his *Six Books*, he would champion a theory of royal absolutism (within the context of a hereditary monarchy) which reflected the incipient rivalry in his day between the monarch and the estates – a rivalry which was quite marked not only in his native France but also in England. In Bodin's revised conception, positive law originated in the sovereign (a point which was a matter of definition for Bodin), while he considered the people incapable of giving real priority to real issues or of sustaining intelligent deliberation, and hence "completely unfit" to wield sovereign power.²⁰

The primacy of the family

Unlike the eighteenth and nineteenth century liberals (or, for that matter, Hobbes), Bodin identified the family, not the individual, as the fundamental unit of organization and defined the commonwealth as "the rightly ordered government of families and of those things which are their common concern, by a sovereign power."²¹ His definition of the family was traditional and patriarchal. In his words, "A family may be defined as the right ordering of a group of per-

16 Bodin, *Method*, p. 203; see also Julian H. Franklin, *Jean Bodin and the Rise of Absolutist Theory*, Cambridge University Press, 1973, p. 23.

17 Bodin, *Method*, p. 204; and Franklin, *Jean Bodin and the Rise*, pp. 55-62.

18 Franklin, *Jean Bodin and the Rise*, p. 49.

19 *Ibid.*, pp. 93-94.

20 King, *The Ideology of Order*, p. 302.

21 Jean Bodin, *Six Books of the Commonwealth*, abridged & trans. by M. J. Tooley, Basil Blackwell, 1955, no copyright asserted, Book I, Chapter 1, "The Final End of the Well-ordered Commonwealth", posted at www.constitution.org/bodin/bodin_1.htm [last accessed on 18 December 2018], p. 3 of 20.

sons owing obedience to a head of a household, and of those interests which are his proper concern." He then added in a later chapter, without any argument or proof, that "...the well ordered family is a true image of the commonwealth, and...comparable with sovereign authority."²² It followed, for Bodin, that monarchy was the natural order of the commonwealth.

Bodin's view of both family and monarchy was patriarchal. To his mind, the family may be understood as a web of relationships of authority in which the wife is subject to her husband, the child is subject to the father, the servant is subject to the master, and the slave is subject to the owner. Furthermore, in Bodin's view, each of these relationships may be characterized as one of absolute authority insofar as parents were entitled to the "power of life and death over their children"; seeing that parents had been stripped of this right, he urged that "If this power is not restored, there is no hope of any restoration of good morals, honour, virtue, or the ancient splendour of commonwealths."²³ But his concern here is with assuring harmony and civil order, in that he was convinced that

For children who stand in little awe of their parents, and have even less fear of the wrath of God, readily set at defiance the authority of magistrates, who in any case are chiefly occupied with the habitual criminal. It is therefore impossible that a commonwealth should prosper while the families which are its foundation are ill-regulated.²⁴

For Bodin, thus, the *absolute* authority of husbands over wives and of fathers over sons and daughters was critical to the health and prosperity of the commonwealth.

At the same time, even while defending a very traditional concept of the family, Bodin was resolutely opposed to slavery, which was already making its appearance in the New World. Slavery, Bodin argued, was contrary to religious values as well as to natural reason, and demeaned human dignity. Discussing this subject in Book I (chapter 5) of *Six Books*, he contended that slavery was injurious to the stability of a state and treated serfdom, still widespread in Europe in his day, as equivalent to slavery.²⁵

At the time when Bodin visited Elizabethan England, he had already written the line, "a state, properly speaking, loses its name when a woman possesses sovereignty."²⁶ In other words, Plato notwithstanding, a woman should never be entrusted with political authority, or authority in the family, no matter how skill-

22 Ibid, Chapters II-IV, Concerning the Family, p. 5 of 20.

23 Ibid, p. 7 of 20.

24 Ibid, p. 7 of 20. For discussion, see Claudia Opitz-Belakhal, *Das Universum des Jean Bodin. Staatsbildung, Macht und Geschlecht im 16. Jahrhundert*, Campus Verlag GmbH, 2006, chap. 2 ("Legitimation und Rettung der Väterlichen Gewalt"), pp. 65-83.

25 Henry Heller, Bodin on Slavery and Primitive Accumulation, *The Sixteenth-Century Journal*, Vol. 25, No. 1, 1994, pp. 53-57.

26 As quoted in King, *The Ideology of Order*, p. 90.

ful or intelligent or wise she might be. Historically, there have been two alternative traditionalist arguments for the subordination of women. The first of these held that women were inferior to men and that men, being better qualified, “deserved” and were “entitled” to rule over women. The second traced the subordination of women back to the Garden of Eden where Eve supposedly persuaded Adam to eat the fruit of the tree of knowledge. Bodin belonged to the second camp and, thus, referred the subordination of women to the supposed command of God.²⁷ But this emphasis on divine command represented a break with both the Platonic view of meritocracy and the Thomist view of God presiding over a fundamentally rational order. If that orientation already presaged Hobbes, as Preston King has suggested, then Bodin’s pessimism about human nature also anticipated the English thinker, where Bodin wrote explicitly, “. . . man, being given the choice between good and evil, inclines for the most part to that which is forbidden, and chooses the evil, defying the laws of God and of nature.”²⁸

What is the significance of Bodin’s analysis of the family? First, if the family, not the individual, is the fundamental unit of society and if children and women have no rights against the father, then there is no conceivable foundation for making any argument on behalf of individual rights. Second, if the relationship of families to the monarch was, as Bodin claimed, analogous to the relationship of children to the father, then – in an “ideal” state, according to Bodin – families themselves do not have rights against the monarch. Thus, Bodin may be understood as pleading for absolute monarchy on the basis of its correspondence to Divine Law and God’s will. Moreover, it followed that, for Bodin, there was no right to religious toleration, but equally no right for members of one religious group to oppress members of other religious groups. The concept of “right”, in this sense, did not enter into his thinking.

Bodin’s Theory of Sovereignty in *Six Books of the Commonwealth*

In his *Method for the Easy Comprehension of History*, Bodin defined sovereignty as consisting of five functions: the appointment of magistrates and definition of their duties; the proclamation and annulment of laws; the declaration of war and peace; serving as the court of highest appeal in disputes involving magistrates; and exercise of the power of life and death in accordance with the law.²⁹ Nowhere here – unlike his near contemporary Jean Calvin (1509-1564) – does Bodin mention any obligation on the part of the state to protect and promote “true” religion.

He returned to this subject a decade later in his *Six Books of the Commonwealth*. Here, Bodin held that

²⁷ Ibid, p. 91.

²⁸ Bodin, *Six Books*, Book I, Chapters II-IV, p. 8 of 20.

²⁹ Bodin, *Method*, pp. 172-173.

...the ultimate purpose, and therefore sovereign good of the individual, consists in the constant contemplation of things human, natural, and divine. If we admit that this is the principal purpose whose fulfilment means a happy life for the individual, we must also conclude that it is the goal and the condition of well-being in the commonwealth too.³⁰

The ruler or sovereign, then, was duty-bound to promote the happiness of the citizens as individuals – this was surely a radical claim in the context of the sixteenth century.

As noted above, Bodin understood sovereignty to mean legitimate authority and hence a king or prince was “sovereign”, i.e., entitled to rule, only if he assumed office in a procedurally correct way within the framework of a legitimate institution, such as hereditary monarchy. It is also apparent that Bodin would have us extend this same principle to autocracies and democracies. But Bodin brought into play his second criterion for sovereignty, viz., that the authority acts in accord with Natural Law and Divine Law, respects all covenants into which he enters, and respects the inviolability of private property. Indeed, it is because of his presumption of the inviolability of private property that Bodin denied the sovereign any right of taxation, except with the consent of the governed. Equally interesting is Bodin’s assertion, which follows logically from the foregoing, that a subject may refuse to obey the sovereign, when the sovereign’s law or command is manifestly in contradiction with Natural Law, an assertion which resonates with medieval understandings of the rights of subjects.³¹ It is clear, too, that Bodin left it up to the subject to decide if the sovereign’s command should be seen as contrary to the moral law. (At first sight, this would seem to be inconsistent with Bodin’s complete lack of support for individualism, but the stress here is not on the *right* of opposition but on the subject’s higher *duty* to God and to the moral law.)

One may, at this point, ask, in what sense, then, is Bodin’s sovereign “absolute”? Bodin’s answer is that “...absolute power only implies freedom in relation to positive laws, and not in relation to the laws of God. ...[T]he prince has no [legitimate] power to exceed the laws of nature which God Himself, whose image he is, has decreed. ...”³² On the other hand, Bodin expressly declared that a sovereign was not bound either by the laws passed by his predecessors or by the laws which he himself had adopted. Even a King’s oath (at coronation) to support the customs of the land and uphold its laws was not binding, as we have seen, because it was overruled by Divine and Natural Law; in fact, where existing customs and laws were contrary to Divine and Natural Law, it was, Bodin argued, the

30 Bodin, *Six Books*, Book I, chap. I, p. 4 of 20.

31 Max Adams Shepard, Sovereignty at the Crossroads: A Study of Bodin, *Political Science Quarterly*, Vol. 45, No. 4, 1930, p. 599.

32 Bodin, *Six Books*, Book I, Chapter VIII, Concerning Sovereignty, p. 13 of 20.

King's duty, to abolish them.³³

The question, then, was, *Who is authorized to offer authoritative interpretations of Divine and Natural Law?* On this point, Bodin anticipated Thomas Hobbes by declaring that it was up to the king to interpret and enforce Divine and Natural Law, and *not* up the king's subjects to do so.³⁴ In this way, as J. H. M. Salmon has put it, Bodin endeavored to transfer "medieval papal omnipotence...to the secular sovereign."³⁵ He also anticipated Hobbes by urging the subordination of the Church to the state, thus echoing the stance adopted earlier by Marsiglio of Padua (c. 1280-c. 1343). But while Hobbes would argue for the supremacy of the secular authorities over the Church in order to grant the sovereign authority in the religious sphere, Bodin wanted to use this principle to assure religious tolerance and, thereby, an end to sectarian conflict. This approach is also distinct from the later Lockean and Jeffersonian strategy of separating Church and state.

In a provocative passage in *Six Books*, Bodin asserted that "...it is clear that the principal mark of sovereign majesty and absolute power is the right to impose law generally on all subjects regardless of their consent... [Moreover,] if he is to govern the state well, a sovereign prince must be above the law..."³⁶ But, by insisting that the sovereign ruler must respect Divine Law, Bodin explicitly excluded atheists from kingship. Indeed, in his view, religion is an essential foundation of political authority and, thus, of social order.³⁷ Having affirmed the sovereign's right to impose laws without the consent of the people in his realm, Bodin might have advised the sovereign to choose and impose the "true" or "best" or "most functional" religion, or even just the religion to which most of the citizens of his realm adhered; under Bodin's concept of sovereignty, the ruler would have been entitled to enforce his will also in the religious sphere. Instead, without denying or even qualifying the sovereign's right to decide in such matters, Bodin advised against any coercion in the religious sphere both in debates at the Estates-General and in this striking passage in Book IV of *Six Books*:

Even atheists agree that nothing so tends to the preservation of commonwealths as religion, since it is the force that at once secures the authority of kings and governors, the execution of the laws, the obedience of subjects, reverence for the magistrates, fear of ill-doing, and knits each and all in the bonds of friend-

33 King, *The Ideology of Order*, p. 135.

34 Edward Andrew, Jean Bodin on Sovereignty, *Republics of Letters: A Journal for the Study of Knowledge, Politics, and the Arts*, Vol. 2, no. 2, 2011, at <http://arcade.stanford.edu/journals/rofl/articles/jean-bodin-on-sovereignty-by-edward-andrew> [last accessed on 8 December 2018].

35 J. H. M. Salmon, France, in Lloyd, Burgess, and Hodson, eds., *European Political Thought 1450—1700*, p. 475.

36 Bodin, *Six Books*, Book I, Chapter I, pp. 12-13 of 20.

37 Eric MacPhail, Jean Bodin and the Praise of Superstition, *Rhetorica*, Vol. 36, No. 1, 2018, at <http://rh.ucpress.edu/content/ucprhet/36/1/24.full.pdf> [accessed on 9 December 2018], p. 35. See also Aaron Deppisch, *Die Religion in den Werken von Jean Bodin und Michel de Montaigne. Ein Vergleich* (Julius-Maximilians-Universität Würzburg: Doctoral dissertation, 2015), at https://opus.bibliothek.uni-wuerzburg.de/opus4-wuerzburg/frontdoor/deliver/index/docId/12041/file/deppisch_aaron_die+religion.pdf [last accessed on 18 December 2018], p. 49.

ship. Great care must be taken that so sacred a thing should not be brought into doubt or contempt by dispute, for such entails the ruin of the commonwealth.

I am not concerned here with what *form* of religion is the best. (There is in fact only one religion, one truth, one divine law proceeding from the mouth of God himself.) But if the prince who has assurance of the true religion wishes to convert his subjects, split by sects and factions, he should not, in my opinion, attempt to coerce them. The more one tries to constrain men's wills, the more obstinate they become. But if the prince in his own person follows the true religion without hypocrisy or deceit, without any use of force, or any infliction of punishments, he may turn his subjects' hearts. In doing this, not only does he escape unrest, trouble, and civil strife, but he guides his errant subjects to the gates of salvation...³⁸

Later, in the expanded Latin edition of *Six Books*, published in 1586, he addressed the question of polytheism – “superstition”, as he called it – insisting that, while false, polytheism was “less harmful” and therefore “less detestable” than atheism.³⁹ Indeed, since a polytheist believes the gods take an active interest in human affairs, polytheism, even if “superstitious” (in Bodin's view), could be, like Christianity, “an invaluable instrument of social control.”⁴⁰ Finally, precisely because of the social utility of religious belief, the state should not allow people to debate about religion, lest such debates weaken faith.⁴¹

Conclusion: Bodin's importance

Although his works were placed on the Holy See's Index of Forbidden Books, they nonetheless were widely read and exerted influence on political thinking. Whether his works were paraphrased (often without giving him credit) or plagiarized or attacked, it is clear that his books – and most especially his *Six Books of the Commonwealth* – had their impact on later writers, including Grotius, Spinoza, Montesquieu, and Rousseau, and thereby, indirectly, also on the American Founding Fathers.⁴² Bodin's *Six Books* was also widely read in seventeenth-century England, where it provided royalists with a set of arguments for absolutism. Bodin's influence may have been even greater in the controversies in the German

38 Bodin, *Six Books*, Book IV, chap. VII, How Seditions may be Avoided, at http://www.constitution.org/bodin/bodin_4.htm [last accessed on 18 December 2018], p. 13 of 16, my emphasis.

39 MacPhail, Jean Bodin and the Praise of Superstition, p. 31, 33.

40 Ibid, p. 34.

41 Ibid, 29; and Deppisch, *Die Religion in den Werken von Jean Bodin und Michel de Montaigne*, p. 50.

42 Franklin, *Jean Bodin and Sixteenth-Century Revolution*, pp. 73-74; Richard H. Popkin, The Dispersion of Bodin's Dialogues in England, Holland, and Germany, *Journal of the History of Ideas*, Vol. 49, No. 1, 1988, p. 160; Gil, Spain and Portugal, p. 435; Diego Quaglioni and Vittor Ivo Comparato, Italy, in Lloyd, Burgess, and Hodson, eds., *European Political Thought 1450-1700*, pp. 93; and Gorm Harste, Jean Bodin om suverenitet, stat og centraladministration – enhed eller kompleksitet?, *Distinktion: Journal of Social Theory*, Vol. 2, No. 2, 2001, p. 37.

states.⁴³

Bodin's importance may be summed up in six points. First, he was the first political thinker to write systematically about sovereignty. Second, he represented a kind of *sublation* (to use a Hegelian term) of the medieval theory of kingship (both preserving and transcending it), setting limits to the King's authority along the lines of what John of Salisbury and William of Ockham had done previously. Third, his discussion of the family presented an alternative to later theories based on the presumption of individual rights. Fourth, he asserted the supremacy of the state over the Church, as Marsiglio of Padua had urged more than two centuries earlier and as Hobbes would shortly urge in his own writings. Fifth, his theory of sovereignty laid a foundation for claims that regimes must meet certain universally valid moral standards if they are to be considered legitimate and, in this way, anticipated, in embryo, the more recent arguments on behalf of the universality of human rights and the illegitimacy of regimes which infringe on those rights. And sixth, his defense of religious toleration on the grounds that it was the surest approach to calming religious tempers and promoting interconfessional peace offered a clear alternative to the approaches taken by Hobbes and Locke, securing religious toleration on what might be called a realist foundation.

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43 Franklin, *Jean Bodin and the Rise*, p. 106.

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Сабрина П. Рамет
ЖАН БОДЕН И ВЕРСКА ТОЛЕРАНЦИЈА

Сажетак

За време протестантске реформације и поделе западног хришћанства на ривалске верске групе, Француска је утонула у верски рат који је трајао у периоду 1562 – 1598. године. Једно од питања које се поставило тичало се одговора на рат. Иако је писао након Спинозине борбе за слободу верске мисли, а пре Хобсове одбране снажног суверена који би диктирао молитве и форме верског активизма нације као методе избегавања верских конфликта, Боден се залагао за верску толеранцију, идеја која је у то време била радикална.

Кључне речи: Боден, Хобс, религија, толеранција, породично право, сујеверје

Date Received: 10.11.2018.

Date Accepted: 15.01.2019.