Who Are We?
Some Remarks on the European Identity

I.

The title of this introductory section has been borrowed from *Samuel P. Huntington*'s book (2004), since he has condensed into those three words the core of what I have to say as well. Huntington examines the challenges to America's national identity. My own attention is focused mainly on Europe, for the very simple reason of having been brought up here and knowing this side of the world at least cursorily. But Huntington has faced the same challenges. As a matter of fact, they belong to every attempt to grasp something essential of the identity of a human or his community. Therefore, everything I put forth here can, by changing the parameters, be transposed to any analysis of social, cultural and/or legal identity. The same goes for Huntington's examinations. They can be applied as a conceptual grid in the background of all reasoning on identity.

Apart from Huntington, *Georg Henrik von Wright* as well as *Ian Buruma* and *Avishai Margalit* have been guides in my own considerations. In recognizing legall identity I have gotten great assistance from the work put forth by Raoul Van Caene.g.em in his various studies. I be.g.in my discussion from von Wright's article "Modern identity and ethicism" (2007), published posthumously and only in Finnish.

Von Wright takes off from the concept of modernisation and writes: "Modernisation has broken former textures of life without replacing them with new ones. This stands especially for the set of values that forms the basis for ethicism". As the set of values of a given community is in many ways connected to the communities' adopted world-view, the traditional cultural inheritance of the western world has been fragmented as a result of modernisation. Von Wright speaks in a justified and accurate way about how especially the last century has seen the western culture lose a significant part of the power of its original world-view. The western European inheritance is no longer genuinely familiar to many people, and far from being a stable factor in forming a European or, more generally, western identity.

Things were different, as von Wright reminds us, in the time of *Dante Alighieri*, to mention just one example. His *Divine Comedy* reflects a base of values fully immersed in living Christianity in a more beautiful and subtle way than any other work of European literature. Even though Dante's Italy was unstable and its political conditions a colourful and turbulent mix of small states, the way of life underneath the fleeting surface remained inherently stable. There lay the common set of values recognized by Dante; a shared world-view and the relative constancy of the external conditions of life, the quite ethical reality of which his verse speaks of.

One hardly needs to point out that all that belongs to a time that has long since passed. The identity of a modern human isn't, and could not be based on Dantean or any other kind of former stability, not even on the core values that were central to the era following Dante. On the contrary, the problem of the modern human identity is in the fragmentation of the world. There is no longer a familiar, safe system, known by relatively many people, creating a base to the genuine experience of identity. The identity of the modern human isn't an answer to anything; it's a problem in itself. And that is what I'll try to draw at least some light on in the following parts.

Samuel P. Huntington also recognizes the problem in a way similar to von Wright. In his investigations, he focuses mainly on the "we-identity" of Americans after September 11th, 2001. He sees that the use of the American flag represents a certain symptom of new kinds of problems. The use of the flag increased radically after the events of 9/11, especially when compared with the times preceding it. Huntington sees that the increased use of the flag carries a symbolic value, but he also asks an apt question about it: Does the use of the flag also carry content in re.g.ards to the American identity, and if it does, what kind of content is it? Huntington writes: "The post- September 11 proliferation of flags may well evidence not only the intensified salience of national identity to Americans but also their uncertainty as to the substance of that identity". So, what, in the end, is identity from the point of content?

Both von Wright and Huntington, as well as most other thinkers who have written on identity, see that there can be no possible general *definition* for human identity. One necessary, though insufficient, condition for identity seems to be permanence. If everything is in constant motion, there are no fixed points on which experiences of identity could be formed. The Finnish philosopher Eino Kaila, a predecessor of von Wright, used an example of a creature made of mist; each of the sensations gone at the moment they enter its consciousness. This creature

of mist can know nothing and understand nothing, because there is no permanence or invariance in its world.

In the concept of identity, we can separate *an individual identity and a communal identity*. An individual looking for his identity can recognize it, if he – in von Wright's words – realizes who he his, what he's capable of affecting and what are his bonds of loyalty to other members in his community. In this way, identity is always about self-comprehension. The main question should therefore be put in the form: "Who am I?".

It is symptomatic and at the same time fascinating that Huntington's research question is in the plural form: "Who are we?". The question is therefore communal; it's a "we-question". Huntington isn't interested in a single American, an individual in this way, but on the American community, which becomes clearer when we see his follow-up questions. I have picked out a few: Are we a "we", one people or several? If we are a "we", what distinguishes us from the "thems" who are not us? Are we a Western nation with our identity defined by our European heritage and institutions? Or are we unique with a distinctive civilization of our own?" Huntington compresses his list of questions into a final statement: "Virtually any position on any one of these issues implies certain assumptions about that identity".

A communal identity can be interpreted in quite the same epithets and brought apart by the same questions as an individual identity. On the other hand, certain things rise into a dominating position in a communal identity, such as traditions, the experiences of past generations, happy, uplifting memories of history, as well as – von Wright is quick to point out – the struggles and painful experiences of the community members. Happiness and pain are both factors in the forming of identity.

It would seem that a communal identity *precedes* the individual identity conceptually. To support this conceptual link, von Wright presents the fact that a community gives an individual the experience by which he is able to shape up his own experience of identity. The arrangement is the same as in learning a language. To use *Roy Bhaskari*'s description, a human is born in a certain linguistic community and grows up in it, thus learning the language as part of the community, not by creating a language of his own. The same subject was pondered by *Ludwig Wittgenstein*, as he examined the possibility of a private language in his *Philosophical Investigations*. An individual does not, apart from a few rare exceptions, have the power to freely form language. A human is the prisoner of language, and in a similar way an individual identity is formed by the conditions of a community and the culture it represents.

The strength of the identity depends on how *truthful* concepts it's based on. A strong identity is a truthful view of oneself. The same stands for a community. An identity built on narrow or deformed images, whether individual or communal, is vulnerable. What is worse, that kind of identity is well suited to create a need for the enforcing of one's own identity on the cost of other individuals or groups. Someone who carries a weak identity is rarely condescending and humble re.g.arding his part, but aggressive, offensive, and once the situation presents itself, even domineering and brutal. An identity built on facing the facts, honesty and a strong sense of self doesn't feel the need to be strengthened on the expense of others. It doesn't yearn for wounding others, ruling over them or destroying them.

This leads us to the problems a human and his community have with their identity in a modernised world. I already referred to the fact that modernisation has broken the western tradition, built on certain core values and strongly characterised by Judeo-Christianity and the le.g.acy of antiquity. The consequences are troubling; some would possibly call them tragic. The modern, western human is puzzled and confused, not recognizing the way from which an identity should be searched. He has lost himself. While examining these factors, von Wright notes an important issue.   Since identity is fundamentally *self-comprehension,* an individual and a community without an identity are actually *estranged from themselves*. This reminds me of *Soren Kierke.g.aard*'s remark: What is hardest is becoming oneself. That is why the problems of estrangement have been so visible in the examinations of the characteristics of western societies. Von Wright writes: "A modern, average, globalized human is essentially an estranged creature, who competes with others in selfish pursuit of what's his own. He is a Narcissus for our age, alone in his world". Still, von Wright makes an important addition: "But it is also evident that in his solitude he looks for an identity or at least a substitute for it".

Precisely the same worry, the same question, is in Huntington's mind as he maps the modern identity of the American community with precision and variety. For my own part, I'd like to emphasize the fact that in a modernised world, identity and its building blocks no longer exist "hidden" somewhere beneath the surface of the modern. There simply isn't anything comprehensive or unambiguous, neither on the surface nor below, that could be defined as the identity of the modern human. In a modernised world, the point is in the *search* for an identity, the toughest challenge being the direction of the search. In recognizing this dilemma, it is essential to make a *difference between knowledge and comprehension.*

It is theoretically clear, and need not be justified further on this occasion, that knowledge is connected to the concept of *truth*. When I state the claim P, according to which a certain thing A is B (it is raining outside), we are dealing with a knowledge-claim if P can be proven true (it really is raining outside). The human knowledge grows cumulatively by the statement of new knowledge-claims and their subsequent justification. Von Wright is correct in noting that the amount of collective human truths increases, and we could also say that the collective (knowledge-) memory of the human community grows stronger. At the same time we must point out that, as it grows, knowledge is fragmented and divided as well as specified inside certain special areas, leaving an average human without a world-view based on unbroken knowledge, as has been the case for a long time. This has provided room for different non-rational, even irrational, world-views founded on the worship of mystery and magic. Knowledge is not only pain; it has also chased people away from a truthful world-view.

For identity, it is most troubling that the fragmentation of knowledge has accelerated the disappearance of the *self-comprehension* of humans. Comprehension isn't the same thing as knowledge, even though it demands knowledge to understand the reality rationally. Comprehension is about grasping the connections between things, and also between truths. Without going deeper into this subject, one could also say that comprehension is the realization of meanings, whether comprehending things or, for example, texts. When I comprehend something, I comprehend the connections between things. It is not a coincidence that comprehension is closely connected to coherence and compatibility, not so much to correspondence, even though it has the previously mentioned connection to correspondence-truth.

Comprehension also deals with values, morals and ethics. To put it differently, identity has a certain *ethical dimension*. As von Wright puts it: "My self-comprehension (i.e. identity) is left incomplete and deficient unless it is supported by grasping the symmetry that defines my relationship to other members of my community. I'd like to speak of the reflexivity of identity. If I'm only engaged in a selfish pursuit of my own good in the community, I'm not living socially". I have nothing to add to this. Here, too, the setting is quite similar to Wittgenstein's thoughts on a private language. A human cannot create a purely singular language; it is a social phenomenon and essentially communication.

Identity is also a so-called "socially shared" phenomenon. It is shared with the members of the community who have the same experience. If

and when I understand my identity in the way T, this way of understanding becomes a *communal identity* when I believe that other members of the community also share the same identity-experience with me. Even though there is no reason to go deeper into this matter, I see the problem with the communal (possibly also with the individual) identity as related to the conventionalist ontologies, that *Eerik Lagerspetz* has so profoundly analyzed. A thing exists when I believe it so, and when I believe that others believe this state of affairs. In any case, we are dealing with, as von Wright also points out, an idea of identity coloured by *communitarianism*.

When the communal identity is included in our discussion, we see that the understanding of identity is largely based on the realization of the rationality of values, which Max Weber spoke of. My communal identity is attached to the ways I deal with other community members. If I withdraw into my own, singular identity, which is characterised by an inherent privacy, the others aren't significant. But if I choose to look for my social identity by thinking what it is to be Finnish, American or European, I can't rule out anyone. That is when we find the deepest meaning in the question Huntington asks: "what distinguishes us from thems?" If and when identity is paired with an ethical dimension, like von Wright suggests, "thems" are the ones with whom I don't feel the same de.g.ree of solidarity and loyalty as I do to the people who make up "us". If the problem is posed like this, modern identity has very much to do with the measure of my loyalty. Am I loyal only to myself, only to my inner circle, nationality, gender, religious community, race or do I also include others, e.g.. Europe or even the whole world? I choose not to offer my interpretation on this problem of quantity.

What I will do is come back to the conceptual conditions of identity. Above, I noted that the ethical dimension demands the realization of the connections between different things. The same statement could be made by saying that, in addition to knowledge, identity demands *wisdom*. Von Wright condenses the identity of the modern human in a globalizing world by remarking that people lack the yearning for wisdom, and continues: "a growing amount of knowledge and skills in itself won't help us in the pursuit of a good life in our scientific-technological environment, because it makes it harder to make the right choices on the way to the future… The comprehension of selfhood has shrank as the amount of knowledge and skills has grown." That is why the identity of a human is in crisis. He knows, or is supposed to know a lot, much more than any generation before him, but he still understands too little. The knowledge of the

"Dantean" world-view and set of values was primitive when compared with the modern age, but it helped humans to comprehend themselves according to real and recognized measures. The world was unchanging, clearly structured and its values easy to comprehend. Even though it was a tough, even brutal world, it was clear and safe for the identity.

In his previous book *"The Clash of Civilizations and the Remaking of World Order"* (1996) Samuel P. Huntington put forth a thesis, according to which modernisation will not lead to a unified global culture, but to a clash of civilizations. The modern human loses his connection with his roots and seeks company in traditional and safe value-communities. One important element of these communities is religion, for example Islam or orthodox Christianity. Since they are mutually incompatible, the result could not be a world-wide community strengthening the global identity, but juxtaposition. Von Wright doesn't offer unconditional support for Huntington's ideas, but sees certain elements one can't ignore in this line of development. He calls the future seen from this point of view as the age of re.g.ression. All that's left is hope, which von Wright puts in the following words: "Let us hope that someday the search will lead to a human community, the members of which can truthfully describe them-selves in a 'Dantean way' by saying 'the world is my homeland'".

I won't follow up the conversation on Huntington's thesis in any other way except by saying that it most likely is not true, and is at least a gross overstatement. One can only point towards the Chinese and Japanese cul-tures. They have characteristics that are well suited to bringing up positive, not ne.g.ative promises. For example, it is interesting to see what signifi-cance Confucianism will have on the rising Chinese market economy. In place of the clash of civilizations I will focus on a more strictly limited view. *Ian Buruma* and *Avishai Margalit* call it *Occidentalism*. Their central thesis is that we don't live in a Manichean world, where good and bad are at perpetual war. Despite this, there can be seen to be a large amount of mistrust and hate in the world, directed at the west. When we think about the western identity, it would seem that it is precisely Occidentalism which is well-deserving of attention. From this viewpoint, Buruma and Margalit's main question cuts to the heart of the matter: "Why is the west hated and where does this hatred come from?"

It is common knowledge that the present hate felt toward the west is mostly focused on the United States. From the viewpoint of Occidental-ism, U.S. policy isn't only unsuccessful or unfair, but also inherently evil. It definitely has many bad elements, mainly considering the war and occupation in Iraq, but it obviously isn't the centre of destruction. In this

way, Occidentalism is a comprehensive attitude, which isn't necessarily influenced by the policy the U.S. or its allies pursues at any given time. I will not devote attention to the many motives that Buruma and Margalit see as the sources of hatred. The least of them isn't envy, but it isn't essential for Buruma and Margalit and far less for this presentation.

Previously, I brought up von Wright's claim, according to which the characteristics of a weak identity are a lack of knowledge and therefore a lacking self-comprehension. One of the essential ideas of Occidentalism is that behind the rejection of the west lies ignorance of what being western, in this case especially American, is really like. Buruma and Margalit are justified to ask: "To what de.g.ree are cultural misunderstandings based on the incorrect and prejudiced views others have of us?" When this question is asked, a central position is taken by *values*, which von Wright also took to be the essential element of identity. He went as far as talking about the ethical dimension of identity. The foundation for the hatred of the west is exactly in the values it is seen to represent. These values appear to outsiders as, e.g.. action movies filled with violence and sex, that have spread all over the world. It is thought that they highlight the filth that is characteristic to the west. These ideas are already well-known, so their repetition doesn't seem to be necessary. It is much more interesting to continue on the path of Buruma and Margalit.

Their main claim is that Occidentalism isn't essentially about the mistrust or hatred felt toward the west, or a specific western country. Occidentalism hates the *modern society*. Each of the phenomena taken by Islamists as proof of the moral decay of the west is typical to modern societies. Thus, we seem to have been wrapped up in some kind of a paradox.

Von Wright noted that the human experience of identity has gotten thinner and partly distorted as a consequence of modernisation. Clear and recognized values have been fragmented. A growing knowledge has pushed aside wisdom, which the western human sorely needs. The human doesn't recognize himself, he is lost. At the same time, Occidentalism forms its own idea of modern western society. The same fragmentation of the set of values which disturbs the western man is taken by Occidentalism as the full picture of modernity. The values, shattered and driven away from the western man, form the comprehensive evil that characterizes the westerner when seen from the outside.

Therefore, the western identity-crisis as seen from the outside prevents the westerner from getting a clear view of his identity. The vicious circle is complete. Without misinterpreting the issue, the setting could also be described as an external and internal identity-experience working

in different directions. The fragmented image of western modernity strengthens Occidentalist attitudes at the same time it undermines the western self-comprehension.

Still, Buruma and Margalit don't limit their analysis of Occidentalism on, for example, the contrasts between the world of Islam and the western world. Their question is wider and more comprehensive. Occidentalism is only one form of fundamentalism, but fundamentalism isn't a trait only peculiar to Occidentalism. Fundamentalism can also be seen in the west, even though one doesn't always consider this. On his commentary of Buruma's and Margalit's thoughts, the Finnish historian *Pekka Masonen* states that fundamentalism idolizes the values of the pre-modern society, its patriarchal communality and the inherent theocracy. Taken like this, fundamentalism is a certain kind of nostalgia against which the modern world is helpless. It is a longing for something that a society born as a result of modernisation simply can't represent.

An important status is given to religion and its substitutes. The western development of secularization has led to religion being quite sharply confined to private life in the modern society, whereas in the pre-modern world it was private but also an instrument of government. Burma and Margalit lay emphasis on the fact that fundamentalism is at its core about *power*, or actually the loss of power. In the modern, western society, the religious guardians of morals have lost the power that is taken to belong to them. A good example can be seen in the reality of Nordic societies. The voice of the church is only faintly heard in the handling of central social issues, and even then without the authority usually attached to the use of power.

When discussing the relationship between religion and power, it is by no means reasonable to devote attention only on, e.g.. Islam or a form of orthodox Christianity. Occidental fundamentalism is far more than militant Islamism, which, to point out, gives a thoroughly distorted picture of the religion of Islam and especially of Islamist thought. The western man should open his eyes to the fundamentalist tendencies inside the west as well. That is where Buruma and Margalit show a remarkably clear-headed view on the way of the world.

To elaborate, the enemies of the modern society have been joined by a large group of western intelligentsia from the left as well as the right. Their target is not immorality per se, but the western middle-class lifestyle. Pekka Masonen notes, referring to Buruma and Margalit, that this group of intellectuals yearns for the oligarchy of the wise, common to patriarchal society, and looks at totalitarian ideologies for influence.

Masonen continues by pointing out that a certain part of the intelligentsia is fascinated by the logicality, simplicity and discipline of totalitarian ideologies. This attitude is typical to many western Stalinist or Maoist movements, which drew their support nearly without exception from the upper or middle classes, therefore appealing to circles to which the real working class was distant and unknown. The escape to totalitarianism was and is an antidote to the plurality of values, which, in the modern society, takes the form of a lack of values and, to quote *Milan Kundera*, the unbearable lightness of life.

The rise of Occidentalism in the east and west is still no justification for pessimism. Von Wright was quick to direct his hope on new elements of development. Buruma and Margalit have done the same. And this leads us back to the problems of identity. The modern human shouldn't submit to self-criticism and close his eyes from the positive effects of modernisation. One of these is democracy, and the peace which is connected to it. A genuinely democratic state has been proven by history to be a state of peace. Human rights are one of the greatest victories of modernisation, which should by no means be underrated. Openness has also been an effect of modernisation, even though we don't always notice it. The principals of the constitutional state, including the ones not covered by human rights and openness, can also clearly be added to the achievements of modernisation.

I won't go on with the list. What I will do, is quote Pekka Masonen: "What we are dealing with is the realization of the positive qualities of our past". Von Wright would have said the same thing by referring to a strengthened self-comprehension. That is also where the core of the European identity is, now and in the future. Nevertheless, I don't have enough faith to believe in the ideal vision of a new model of a European human springing up as the European Union expands. The Union does have many positive characteristics, for example the spreading of democracy to its fringes, but the dreams of a new human species are similar to the dreams of a new "soviet human", and he ran away as soon as the Soviet empire crumbled. The question can't be about the birth of a new kind of human, but on the continuous posing of Huntington's question: "who are we?"

The title of my presentation includes legal identity. Approaching the end of my examinations, I will take some space for a few ideas concerning it, since it is also about a similar search for identity as the one already pursued by von Wright and Huntington on a general level.

Raoul van Caene.g.em, the Belgian professor of history, has said: "Since the future is dim and opaque, I will base my optimism in the

past". This saying is quite truthful. We should always look in the rear-view mirror, not to take up things the origin of which is really centuries old. It may seem like we're inventing new things, but as a matter of fact, we keep on the tradition without realizing it. Law is no exception to this rule.

It has been said that the Middle Ages left four significant institutions for the following generations. Two of them were born on the British isle, two on the continent. England gave birth to the idea of parliament: The things which concern everyone need to be commonly accepted. The first traces of this line of thinking, which broke through on the continent much later, can be seen in the verdicts of local courts in 13th century England (e.g.. the verdict *Lecestershire 1285 Prior of Launde vs. Ralph Basset*). England was also the birthplace of the idea of common law. It is originally an English creation. They created law that was *common*, *royal* and shared by *professional* judges. These two ideas, the parliament and common law, later gained a footing in the United States, and the idea of parliament also in Europe - after many diverse phases. Nonetheless, it is interesting that these medieval forms of law have also provided the seeds for the modern constitutional state. Obviously it's true that the modern forms of that state only started to shape up after the French revolution, but when looking for the sources of the ideas, one shouldn't underestimate the role of England and its medieval thought.

The two big ideas of continental Europe are of a different kind. The Middle Ages saw the development of general law (*ius commune*), which covered the whole of western Europe. One should be specific with the term. Apart from its apparent similarity, we're not talking about common, but literally about general law. It was used broadly on the continent, especially in the areas where the Roman Empire had spread its influence, but it can't be called specifically common, since there was local law in practice alongside it, sometimes even bypassing it. The base for the later *ius commune* was found in the law created by the great jurists of the Roman Empire. After Western Rome was destroyed in the whirlpool of migrating peoples, it was the fate of Roman law to fall into oblivion in the west. Luckily, the saviour of the Roman line of thought was found in Byzantium. In 500 B.C. the emperor *Justinian* called together a skilled group of lawyers, who assembled, arranged and interpreted the central principles and concepts of Roman law for him. In some cases certain new additions were made, concerning the times. In any case, this event launched a lengthy era, in which it was the appointed task of the legal

professionals to keep law alive. There was no centralized le.g.islation and the institution of courts was in disarray.

Half a millennium after the creation of the laws of Byzantium there emerged a group of talented legal thinkers from the law schools of northern Italy (first from Bologna), led by *Irnerius*. From their work, continental Europe's dominating line of thinking be.g.an to take form. The scholars of Bologna separated law from the bonds of the church, once again creating secular law on the basis of Roman law. So there is a good reason for the colour of the doctoral hat of Finnish lawyers to be "Bologna red". This is how Roman law saw its third coming in the early 11th century, once again shaped to fit the needs of the times. As a matter of fact, all the tools of thought used by a modern European lawyer have their roots in that age. We are full-scale heirs of Roman thought. That is the source of many self-explanatory and everyday concepts, in common use in Finland as elsewhere, such as contract, debt, commerce, trade, gift, real estate and personal property.

Little by little, Europe be.g.an to acquire its "general" law, *ius* commune. It was a grammar shared by European lawyers, which enabled them to interact re.g.ardless of their home or the language they spoke. The *ius commune* was also the foundation for other great legal codes, such as Napoleon's codification (in the early 1800's) and the German statute book on civil law.

The fourth part of the medieval le.g.acy is natural law, although it is far from a medieval invention. The basic parts of natural law were already set up in ancient Greece, especially by Aristotle. Nevertheless, the Middle Ages lifted it to a new level of prosperity, not least because of the work of St. Thomas Aquinas. Simplifying the point, the question is about a "natural" law, eternal, unchanging, binding all ages and peoples, and existing above secular laws. For St. Thomas, that law was passed by God. The following generations have "rationalized" natural law and moved God away from the throne of law. It has been seen that man, with his own mind, is capable of grasping and giving shape to the eternal principles of law which concern everyone.

Examples of this can be found in the UN's declaration of human rights and in the human rights agreement of the European Union. Those documents contain many central principles of natural law. As it happens, the Middle Ages are once again among us. The brand new constitution has resurrected a tradition of natural law that is centuries old. Morals have been brought to the laws. It is a welcome change which deserves support, as long as we remember to honour the subject that deserves it,

namely the Middle ages, which weren't nearly as dark as is sometimes claimed. We should also not join *Umberto Eco* in lamenting the return of medieval times. Corruption of manners is among us as well, and the modern age has a lot to learn in the deepness of thought. Thinking of this, I feel the urge to say: "Welcome, ancient ideas".

Legal science has had a central role in times of exceptionally strong centralized power (the centuries of Rome's flourishing, the age of Justinian and the Napoleonic era). Those times have witnessed the birth of, e.g.. the great legal codes, such as the *Corpus Iuris Civilis*, the *Code Civil* and the *Code Penal*. But science of law e.g. the analytic study of law (in the following *legal science*; *Rechtsdogmatik* in German) has also found its place in times of weak centralized power. It is actually in those specific times, that the status of legal science has been exceptionally interesting. Its task has become, so to speak, to carry justice, to take it over the crises of the era. This was the case, for example, in the times preceding the German unification in the whole area covering the Holy Roman Empire.

A good example of this is offered by the power of the historicist school in early 19th century Germany. *Carl Friedrich von Savigny* rose to a leading position when shaping general German law before the actual process of unification. Von Savigny saw that law was born among the people, springing forth like an organism or a plant. The spirit of the people, *Volksgeist*, is the basis for all law, and it was the task of legal science to shape the spirit of the people into rule of law. Legal professionals were therefore a kind of transmitting link between the spirit of the people (the legal consciousness) and the norms of law, since only the professionals were equipped with the necessary technical tools for the forming of a legal consciousness. Despite all this, von Savigny's own thinking ran into a paradox, which had an important practical effect.

Since the era's German legal science wasn't original, the necessary concepts and instruments of thought had to be pursued elsewhere. Assistance was found in Roman law, especially in the form of Justinian's legal code. Thus the paradox was complete: it was the task of legal science to form the legal consciousness of the German people, but as the instruments were lacking, it had to be done with the tools of Roman law. This is how the school of von Savigny and their followers once again came to preserve and renew the main principals and central contents of Roman law. The result was pandect law, which was used as the foundation for the subsequent statute book on civil law (BGB), and through this, as the building blocks of Finnish thought on civil law as well.

Considering legal science, von Savigny's work, despite its paradoxes, is important and fascinating. When the centralized power was forceless – and unable – to produce general law for the kingdom, the creation of law was left in the hands of the universities. The process was everything but democratic and a breakthrough for knowledge, but in itself, it also transported the ancient inheritance of European thought into the modern age. One must also remember that even in my times of study in the University of Helsinki, *Rudolf Sohm*'s "Institutions" was used as a textbook.   I have learned as much of the basics of civil law from that book as I have from other textbooks put together. Through Sohm's "Institutions", the young student of law was initiated into the tradition of European jurisprudential thought, and it couldn't have had a smaller effect, since that tradition was well over 2000 years in age.

I have focused my investigation especially on the European identity, which can without doubt be taken as this presentation's defect, or at least a limitation. Considering this, I believe that at least most of the points I have made can be applied to the characterization of identity, whichever the cultural environment. That is what von Wright was aiming for with his identity-analysis as well. To keep to my own starting point, that is, my own cultural circle of Europeanism, I consider it justified to condense my examinations in the following words.

In this age, we strongly need elements that *bind together* the European thought on law, not things that separate it on a national basis. The general teachings and the European structure of legal thought are exactly those elements. That is why I feel the urge to resist the ideas about a good theoretician being a bad lawyer in practice, which, as a matter of fact, aren't very much supported by the history of legal thought. From these explanations relating to my own profession, I find it easy to take part in the careful optimism that the writings of von Wright as well as Buruma and Margalit represent. A representative of legal science should ask – unrelentingly – "who are we?" The answer to that question can't be found in the future, possibly not even in the present, which is in many different ways impenetrable. It plays a large part in the search for identity, coloured with self-comprehension, which takes place on the solid building blocks of history, in my case the history of Europe.