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FORCED TO BE FREE:
FROM LIBERALISM TO NATIONALISM

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ABSTRACT

As a doctrine of political legitimacy, liberalism introduced *nations* as the only legitimate units through which *liberty* was to be articulated. In historical reality, liberalism has affirmed the concept of liberty through the self-legitimising acts of *national liberation*, thereby generating nationalism as its historical by-product. My thesis focuses on their common *conceptual* core, through textual analyses of several classical liberal authors, each of whom represents one century and is granted one chapter.

Algernon Sidney (17th century) was the first author who defined *nations* as the sole, self-referential source of political legitimacy, whose *liberty* was to be achieved through establishment of their own legislative institutions, by which they self-referentially legitimised themselves as ‘nations’.

Rousseau (18th century) defined *liberty* as identification of man’s individual will with the presumed will of the entire society, which provided nationalism with a socio-psychological mechanism and philosophical rationale for its subsequent emergence and functioning on the societal level.

Rawls’s concept of *justice* (20th century) develops this mechanism further, as a perpetual reciprocal recognition between the nation’s individual *members*. This ritual recognition of one another as free and equal is reciprocally extended only between co-nationals but non-reciprocally denied to all non-members: as members of other nations, they are to be discriminated against, as un-free and un-equal.

In John Stuart Mill’s theory of *nationality* (19th century), only in the nation-state can the individual be free, and ‘the greatest happiness for the greatest number’ can only be achieved through the collectivist enterprise of *nation-building*. Mill thus established the ultimate conceptual convergence between the ostensibly opposed doctrines of *liberal individualism* and *national collectivism*.

Through these paradigmatic cases, my thesis shows that the mainstream liberalism has always shared nationalist principles with the nationalism-proper, and that the former non-accidentally merges with, and eventually dissolves in, the latter.

I confirm that this thesis is my own work and that I have clearly identified direct quotations from other people's work.

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TABLE OF CONTENTS

1. Introduction.....	5
2. Chapter One: Algernon Sidney.....	31
3. Chapter Two: Jean-Jacques Rousseau.....	51
4. Chapter Three: John Rawls.....	85
5. Chapter Four: John Stuart Mill.....	148
6. Chapter Five: Lord Acton.....	182
7. Conclusion.....	227
8. Bibliography.....	233

INTRODUCTION

I

This thesis is going to examine, through textual analyses of several paradigmatic liberal thinkers,¹ the philosophical framework within which nationalism first appeared and within which it perpetually reappears. The vast majority of academic works on nationalism focused on different aspects (cultural, historical, sociological, psychological, etc.) of nationalism as an already-existing *socio-political phenomenon*, while almost never attempting to address the issue of its conceptual origins as a political and philosophical *doctrine*, located in the sphere of ideas. The most significant exception to this rule is Elie Kedourie's *Nationalism*², which examines nationalism strictly as a doctrine, within the frame of the history of ideas. While not entirely disputing Kedourie's theory of nationalism's intellectual origins, a theory in which Kant's theory of self-determination is attributed the central role, my thesis is written directly in response to Kedourie's most famous claim that nationalism is *a doctrine invented in Germany*, by a handful of post-Kantian idealists and romanticists (most significantly, by Fichte and Herder) at the beginning of the nineteenth century. For Kedourie,

Nationalism is a doctrine invented in Europe at the beginning of the nineteenth century. It pretends to supply a criterion for the determination of the unit of population proper to enjoy a government exclusively its own, for the legitimate exercise of power in the state, and for the right organization of a society of states. Briefly, the doctrine holds that humanity is naturally divided into nations, that nations are known by certain characteristics which can be ascertained, and that the only legitimate type of government is national self-government.³

Kedourie presents nationalism as a *doctrine*, which was invented within a particular time-space framework and therefore would be expected to be of limited relevance and scope of application. However, he concedes that “not the least triumph of this doctrine is that such propositions have become accepted and are thought to be self-evident, that the very word nation has been endowed by nationalism with a meaning

¹ Each of them stands as a paradigm for one century of liberalism's history and is granted one chapter. They are: Algernon Sidney (the 17th century), Jean-Jacques Rousseau (the 18th century), John Stuart Mill (the 19th century), John Rawls (the 20th century). Sidney, Rousseau and Rawls also stand as paradigms of the contractarian branch of liberalism, while Mill represents the utilitarian branch. Their theories, respectively, also offer answers to the key-questions concerning the relationship between liberalism and nationalism, which will be briefly explained in the second part of this Introduction. The last chapter is devoted to Lord Acton, the only liberal thinker who explicitly and radically rejected both nationalism and ‘the nation-state’.

² Elie Kedourie, *Nationalism* (Oxford: Blackwell, 1960. Fourth edition, 1993).

³ *Ibid.*, p. 1.

and a resonance which until the end of the eighteenth century it was far from having”.⁴ Thus the paradox of a universal spread of such a seemingly particularist doctrine immediately opens the question of agents who were capable of its invention, its application to particular European societies and its further transmission into other parts of the globe.

As for the doctrine’s inventors, Kedourie claims that they were to be found among German post-Enlightenment philosophers, namely Fichte, Schleiermacher and Herder. It was these thinkers who adapted the Kantian principle of *individual self-determination* so as to produce a new collectivist principle of *national self-determination*. Thus, according to Kedourie, “nationalism as a doctrine was articulated in German-speaking lands”, around 1800s. This claim itself might be regarded as arbitrary, given the historical fact that the first nations (with their respective nationalisms?) had emerged well before the 19th century and well outside the German-speaking context (England, Holland, USA, France). Yet, such an argument goes even further, so that Kedourie claims that “Great Britain and the United States are precisely those areas where nationalism is unknown”.⁵

What is nationalism, then, when its principles are so widely spread and accepted as self-evident and, yet, it has somehow remained unknown precisely in those *nation-states* whose respective and joint impact on the shape of the contemporary world has been immeasurable? Perhaps it would be plausible to argue that nationalism emerged as a reaction, and was generated in opposition, to the attempts by precisely these two nation-states to shape international order so as to impose their own hegemony?⁶ Or, perhaps it would be plausible to argue that these two nation-states were actually shaping international order by imposing the hegemony of the doctrinaire nationalist agenda onto those parts of the world they attempted to dominate, thus remaining free from its influence? Yet, these two assumptions would go far beyond – probably even be directly opposed to – what Kedourie meant by defining nationalism as a *German-invented doctrine*. This raises the question, not so much what nationalism is, but what nationalism is, then, *for Kedourie*.

⁴ Ibid., p. 1.

⁵ Ibid., p. 143.

⁶ This argument might be derived from *the theory of international society*, as proposed by James Mayall. See James Mayall, *Nationalism and International Society* (Cambridge: Cambridge University Press, 1990).

Kedourie's claim that nationalism *pretends* to "supply a criterion for the determination of the unit of population proper to enjoy a government exclusively its own" suggests that the author regarded nationalism as some form of 'false consciousness'. In other words, nationalism is a form of '*ideological politics*'. As such, it attempts to impose certain ideas onto the world, so as to re-create it on its own image. Nationalism is, as Kedourie defines it, "politics in a new style".⁷ As such, it is fundamentally opposed to what Kedourie labels as 'constitutional politics', *which takes its lead from the world as it is*. It is this distinction that makes it logically sustainable for Kedourie to claim that 'constitutional politics' – having first emerged in Great Britain and the USA – prevented 'ideological politics' of nationalism from coming into existence in these parts of the world.

However, the basic problem for Kedourie's theory arises when it is confronted with the fact that *the first historical nations* emerged in the Anglo-Saxon political context (England and the U.S.), decisively shaped by *the doctrine of liberalism*. This *fact* generates several questions without any attempted answers on Kedourie's part. First, how is it possible for the supposedly invented doctrine of *nationalism* to be completely unrelated to the supposedly spontaneous emergence of the first *nations*, taking into account Gellner's modernist axiom that *nationalism invents nations where they do not exist*? Second, if these first nations were decisively shaped by *the doctrine of liberalism* (liberalism is a *doctrine* to which Kedourie prefers to refer exclusively as 'constitutional politics', in order to semantically separate it from *nationalism as ideological politics*) rather than by *nationalism*, should nationalism be regarded as *separate* and *independent* from liberalism, when they both (whether *respectively* or *jointly*) promoted the concepts of self-determination, self-government, popular sovereignty, liberty, equality, fraternity and social unity, *using the common concept of 'the nation'*? Is nationalism, which promotes (and, according to Gellner, *produces*) 'nations' as the only legitimate political units, rather to be seen as a part, or perhaps a by-product, of the coherent, self-contained *umbrella-discourse of liberalism*, which promotes (or produces?) 'nations' in the very same manner? Or, is the doctrine of self-determination an umbrella under which both nationalism and liberalism co-exist as mutually pervasive, *nation-creating* discourses? A convincing response to these

⁷ Kedourie, p. 1.

questions, raised by the logical problems in Kedourie's theory, is the primary goal of this thesis.

II

In my view, nationalism's proven ability to perpetually assert itself with unchallenged political strength, in quite different historical, social, and political environments and within the scope of three centuries, indicates that nationalism as a doctrine appears under the guise of a wider, *living and omnipresent umbrella-discourse*, under which and through which it is being constantly perpetuated. This thesis attempts to prove that this wider umbrella-discourse is *liberalism*, whose principles, norms and values – such as secularism, democracy, popular sovereignty, citizenship, political and economic liberty, political equality, social homogeneity, human rights, etc. – are deeply built-in into the modern political system and the modern state, so as to serve as an umbrella under which and through which nationalism is being perpetuated, unchallenged by other, individualist or cosmopolitan, aspects of liberalism (which thus regularly appear side by side with nationalism, rather than in opposition to it).

As the main theoretical and conceptual framework for understanding nationalism, I adopt the complementary theories of nationalism by Rogers Brubaker and Mark Beissinger. According to Brubaker's theory, "nationalism is a way of seeing the world, a way of identifying interests, or more precisely, a way of specifying interest-bearing units, of identifying the relevant units in terms of which interests are conceived. (...) Thus it inherently links identity and interest – by identifying how we are to calculate our interests."⁸ Nationalism manifests itself in what Brubaker labels as 'nationness'. These manifestations of nationalism – which neither develop nor permanently exist but rather *happen* as *contingent events* – should be decoupled from 'nationhood' as a *cognitive and socio-political framework*. 'Nationhood' is "the nationalization of narrative and interpretative frames, of perception and evaluation, of thinking and feeling". As such, it logically tends to produce marginalisation of alternative, non-nationalist discourses and the consequent nullification of complex

⁸ Rogers Brubaker, 'Myths and misconceptions in the study of nationalism'. In John A. Hall (ed.), *The State of the Nation: Ernest Gellner and the Theory of Nationalism* (Cambridge: Cambridge University Press, 1998), pp. 291-2.

identities by the categorical simplicity of ascribed nationality.⁹ According to Mark Beissinger's theory of *substantiation of nations*, nationalism in its concrete manifestations is not an isolated contingent event, but rather a chain of connected contingent events: "It is not because people 'think the nation' (B. Anderson) that we believe that nations exist, but rather because people 'behave the nation'. They engage in collective behaviours and actions which signal to us that the nation is a category of substance."¹⁰ Nationalism is thus "not simply about imagined communities; it is much more fundamentally a struggle for control over defining communities – and particularly a struggle for control over the imagination about community". For, 'the nation' is usually embraced by the majority of population as a *natural* institutional arrangement precisely because it is promoted by the nationalist elite *as the only conceivable*.¹¹ This permanent *nationalization of narrative and interpretative frames, of perception and evaluation, of thinking and feeling*, promoted in modern political discourse *as the only conceivable* cognitive frame, is what enables nationalism to perpetually reassert itself, with unchallenged political strength, in the contingent manifestations of Brubaker's 'nationness', through which 'nations' are actually being *substantiated*. However, in my view, this omnipresent *nationalization* (Brubaker's 'nationhood') is an inherent property of the umbrella-discourse of liberalism, rather than of the nationalism-proper, whose sporadic manifestations happen as contingent events (Brubaker's 'nationness'). For, it is the permanent omnipresence of the umbrella-discourse of liberalism in modern society (rather than the sporadic presence of the nationalism-proper) that makes this *nationalization* omnipresent.

By postulating liberalism as nationalism's chief historical and conceptual source, I basically rely on Bertrand Russell's assumption that historical liberalism, as a political movement, practically dissolved in nationalism: "The decay of Liberalism has many causes, both technical and psychological. They are to be found in the technique of war, in the technique of production, in the increased facilities for

⁹ Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe*. (Cambridge: Cambridge University Press, 1996), pp. 18-21.

¹⁰ It should be noted that both Brubaker and Beissinger take Gellner's postulate that *nationalism invents nations where they don't exist* as their starting point, from which they develop their respective theories. However, concerning their interpretations of 'the nation' as an existing category, it may be said that Brubaker and Beissinger introduce Einsteinian relativity in Gellner's Newtonian certainty. In their view, which I fully adopt in this thesis, *nationalism has to permanently perpetuate itself on the societal level to make nations exist*.

¹¹ Mark Beissinger, 'Nationalisms that bark and nationalisms that bite. Ernest Gellner and the substantiation of nations'. In John A. Hall, op. cit., pp. 173-176.

propaganda, and in nationalism, which is itself an outcome of Liberal doctrines.”¹² Also: “The Western world, from the Reformation until 1848, was undergoing a continuous upheaval which may be called the Rights-of-Man Revolution. In 1848, this movement began to transform itself into nationalism east of the Rhine. In France, the association had existed since 1792, and in England from the beginning; in America, it had existed since 1776. The nationalist aspect of the movement has gradually overpowered the Rights-of-Man aspect, but this latter was at first the more important.”¹³ To Russell’s assumption, my thesis adds the claims that liberalism – due to the fact that its principles, norms and values remain built-in into the foundations of the modern political system and the modern, liberal-democratic state – is to be regarded as a living and omnipresent umbrella-discourse rather than a short-lived historical movement, that it has always shared the *common conceptual core* with the nationalism-proper, and that the former eventually, *perpetually and non-accidentally*, dissolves in the latter.

There is no comprehensive theory that would provide a clear-cut definition of liberalism and I do not pretend to supply one in this thesis, not even through a discussion with numerous theories which aspire to comprehensiveness. Still, I believe that liberalism, understood as a living, omnipresent umbrella-discourse rather than a short-lived historical movement or a strict political-philosophical or economic doctrine, may be rather comprehensively approached as *a discourse centred around the very word 'liberty'* (be it applied to the areas of philosophy, politics or economics, respectively or jointly), *with this word's meaning remaining essentially arbitrary and adaptable to particular circumstances*. Still, 'liberty' is in this thesis interpreted in accordance with its earliest modern political usage¹⁴, as *a license (or power) to independently legislate*, that is, *to make one's own laws*. Such 'liberty' is necessarily understood as a property of a collective entity (group, body, country, state), which by acquiring it (or by credibly aspiring to it) rises to the status of 'the nation'. In the logic of liberalism presented in this thesis through the works of the paradigmatic liberal thinkers, man may be free only through membership in, and identification with, such a self-legislating collective entity, thereby acquiring the twin-status of 'the autonomous individual' and 'the citizen'. In the same sense, nationalism, as a

¹² Bertrand Russell, *Power* (London: Routledge Classics, 2004), p. 93.

¹³ Ibid., pp. 89-90.

¹⁴ See the first chapter below, on Algernon Sidney's concept of 'liberty'.

discourse derived from liberalism, is centred around the pursuit of such 'liberty' for such a collective entity. The pursuit of (or a credible aspiration to) the power (or license) to independently legislate is, within the *self-referential* logic of liberalism, automatically *self-legitimised* by referring to such a collective entity as 'the nation', as well as by referring to the very power (or license) to legislate as 'liberty'.

As a theory of political legitimacy, liberalism from its earliest beginnings to the present day has promoted homogenous 'nations' as the proper units through which its concept of 'liberty' was to be articulated, so as to inseparably link the attempts to promote 'liberty' and build a liberal-democratic state with the nationalist efforts to create such 'nations'. Thus on the historical level, from the late 17th-century England to the late 20th-century Eastern Europe, liberalism has been affirming the cause of 'liberty' mainly through the self-legitimising acts of '*national liberation*' (revolutionary and non-revolutionary) and '*nation-building*', thereby practically generating nationalism as its historical by-product."¹⁵

On the conceptual level, I hope to prove through the analyses of the aforementioned paradigmatic authors that nationalist principles are deeply built-in into the very core of the liberal mainstream, so that practical-political efforts to introduce on the societal level the latter's principles, norms and values (and thereby create a liberal-democratic

¹⁵ John Gray also claims that 'the sovereign nation-state' from the nationalism-proper and even 'the autonomous individual' from the liberalism-proper are historical and conceptual constructs and by-products of the wider umbrella-discourse of liberalism: "From Benjamin Constant and John Stuart Mill to John Rawls, the sovereign nation-state is the great unexamined assumption of liberal thought. (...) Even where liberal thinkers have not explicitly defended the sovereign nation-state, it is presupposed by much of what they argue for. The institution of the nation-state is tacitly assumed by liberal ideals of citizenship. It underpins the assumption of an overlapping consensus on liberal values, and it is presupposed by the notion of social justice as an ideal pattern of distribution. (...) For the past two hundred years the liberal project has been pursued in most countries through an enterprise of nation-building. Nineteenth-century liberals used the powers of the modern state to weaken or destroy local communities and regional loyalties. By doing so they helped to create the autonomous individual. (...) Being an autonomous agent is not, as Kant and his latter-day disciples seem to suppose, the timeless quintessence of humanity. (...) Autonomous individuals are artefacts, made possible by the power of the modern state. Autonomous individuals came into the world as products of the national cultures created by modern European nation-states. Modern European states did not inherit cohesive national cultures. Using their powers of military conscription, taxation and schooling, they constructed them. By constructing nations, modern states made possible the autonomous individuals of liberal thought and practice". See John Gray, *Two Faces of Liberalism* (Cambridge: Polity Press, 2000), p. 123. To develop Gray's idea further and be more precise, in liberal-democratic society from liberal thought, practically constructed in the form of 'the sovereign nation-state', man is ideally put into a double position: that of 'the citizen', and that of 'the autonomous individual'. As a 'citizen', man is put into the position of a member of 'the nation' (as a human aggregation), while in his relation with the modern state man is put (towards the state as a mechanism of coercion) into the position of 'the autonomous individual'. At the same time, inversely and paradoxically, man's 'autonomy' from the state is being realised through his membership in 'the nation', while he is formally being positioned as the state's 'citizen' (since the state is defined as 'the sovereign nation-state').

state) logically and regularly produce the homogenising, illiberal manifestations of the nationalism-proper. Due to this deeply built-in 'error', attempts to renovate or innovate the liberalism-proper, when projected on the societal level, necessarily end up in practical renewals and reappearances of the nationalism-proper, with all its illiberal manifestations. Of course, this claim can not be *empirically* proven within the scope of a theoretical analysis. This remains a task for some other, rather empirical works, which would take this claim as their starting point. However, what my thesis attempts to do is to demonstrate the logic of the process on the *purely conceptual* level, pointing to liberalism's built-in *logical* 'error', one which prescribes '*the nation-state*' as the only legitimate unit of governance, and one which regularly and inevitably generates nationalism as a means to produce such a prescribed unit.

The chapter on Lord Acton, on the other hand, attempts to demonstrate that an explicitly anti-nationalist liberalism, advocating various anti-homogenising concepts and strategies, logically ends up in the totally anti-liberal and anti-democratic concepts and practices of racial and social segregation. While nationalist homogenisation and the homogenous 'nation-state' regularly lead to illiberal practices, Acton's theory demonstrates that a liberalism that completely rejects the former does not even remain true to its basic principles and values. The paradoxical but logical conclusion, which I hope to support with hard *textual* evidence in the chapters to come, is that nationalism, with all its illiberal practices and excesses, is the inevitable price that has to be paid for introducing liberal-democratic principles, norms and values into political life.

III

The dissertation is divided into five chapters, each of them dealing with one paradigmatic liberal thinker. The first three chapters of this thesis, through analysis of three paradigmatic contractarian liberals (Algernon Sidney, Jean Jacques Rousseau, John Rawls), address three nationalism's key-questions: 1. what 'nations' and 'liberty' mean in the liberal discourse, and how that specific interpretation has actually established the nationalist doctrine (1st chapter), 2. how individuals 'liberate' themselves by perpetually identifying themselves with their 'nation', whereby the former's mass-identifications with the latter *substantiate* the latter as a really existing social phenomenon (2nd chapter), and 3. how 'the nation' is being perpetually

substantiated and homogenised on the person-to-person level, through the uniform ritual procedures of members' mutual recognition as 'free and equal' (3rd chapter). The 4th chapter, focused on one paradigmatic utilitarian liberal (John Stuart Mill), addresses the question whether the concept of 'liberty' in liberalism is inevitably conditioned by the existence of the homogenous 'nation-state' and its institutions. The 5th, final chapter (on Lord Acton's theory of liberty), addresses the question whether a liberalism that rejects nationalism and 'the nation-state' can remain faithful to liberalism's true nature.

1.

The first chapter is devoted to Algernon Sidney, the paradigmatic 17th-century liberal, the first well-known author who explicitly proposed that 'nations' had the intrinsic right to legislate for themselves, so that they had the intrinsic right to establish their own states with legislative institutions.

"What is a nation?" asked Abbe Sieyes, one of the prophets of the French Revolution and one of the undisputed founders of the nationalist doctrine. The answer was simple: "A body of associates living under one common law and represented by the same legislature."¹⁶ What makes that body 'the nation', regardless of its size, and what makes it sovereign, is the possession of its own legislative institutions. Creating legislative institutions within a group, therefore, would be enough for a group to become 'the nation'. Thus, the possession of these institutions legitimises a group as 'the nation'. However, such a postulate concerning 'the nation's' essence and role had already been proposed by Sidney, in the 1680s, one century before Sieyes.

Sidney was Locke's contemporary, and they both wrote their main theoretical works, *Discourses Concerning Government* and *Two Treatises of Government*, in response to Sir Robert Filmer's book *Patriarcha*.¹⁷ Eventually, Locke has become a symbol of liberalism and Sidney has been marginalised, but Sidney's influence with the founders of the United States (especially with Jefferson), one century later, was known as even greater than Locke's. This is hardly a surprise, because Sidney's

¹⁶ Cited in Kedourie, *Nationalism*, p. 7.

¹⁷ Sir Robert Filmer, *Patriarcha: A Defence of the Natural Power of Kings against the Unnatural Liberty of the People*, first published in 1680. In his book Filmer claimed that contemporary monarchs inherited their thrones in the direct lineage from the Biblical Adam. In their respective responses, Sidney and Locke postulated the theory of popular sovereignty.

explicitness and clarity about the right of ‘nations’ to found their own states once they acquire the ability to legislate were matching the political needs of the founders much better than Locke’s rhetorical ambiguity on the same issue (in Locke’s terms, the right to govern themselves was reserved for ‘freemen’, which may well have served to legitimise the claims to statehood internally, within the community, but was not so useful to legitimise these claims in external, state-to-state relations).¹⁸

In my view, Sidney’s postulate practically established nationalism as a doctrine, much before Fichte’s *Addresses to the German Nation*, as proposed by Kedourie. Sidney promoted ‘nations’ as the sole source of political legitimacy, without ever defining what ‘nations’ were supposed to mean, and thus introduced nationalism’s basic tenet, that of acquiring political legitimacy by arbitrarily applying the term ‘the nation’ to legitimise a group’s aspirations to legislative power, with the latter being labelled as ‘liberty’. Both for Sidney and for the present-day nationalists, the mere title of ‘the nation’ legitimises claims to legislative power and therefore to statehood (that is, to ‘liberty’); in both cases, the sociological content of the term ‘the nation’ is understood as a *variable*, subject to arbitrary adaptations, depending on political circumstances. The *constant* is the very term ‘the nation’, which legitimises claims to legislative power by those groups or parts of society which establish their monopoly on the use of the term to brand themselves, whatever their own sociological profile. For Sidney, as much as for the nationalists-proper, constituting ‘the nation’, and legitimising one’s claims to power by referring to oneself as ‘the nation’, is about monopolising legislative power and about overpowering (by eliminating or absorbing) other claimants to that power. In this process, the very title ‘the nation’ always remains the sole source of political legitimacy. Thus the sociological content of the term ‘the nation’ becomes the most contentious for the definition of who can actually legitimise aspirations to legislative power and statehood. Eventually, the key-question becomes what is it, sociologically, that gives one the right to use the title of ‘the nation’ to categorise oneself and thereby legitimise claims to legislative power, depicting these claims as claims to ‘liberty’. *The struggle over the monopoly on this type of legitimacy within one limited political space is what constitutes nationalism as an actual political process and as an actual social phenomenon.* What makes the aspiration to the monopoly on the title of ‘the nation’ defensible is one’s actual ability

¹⁸ See John Locke, *Two Treatises of Government* (Cambridge: Cambridge University Press, 1988).

to defend it when confronted with competing aspirations. As implied in Sidney's theory, *the actual ability of one group to claim legislative power for itself under the name of 'liberty', then to legitimise its pretensions to legislate for itself by proclaiming itself 'the nation', and then to monopolise within a limited political space the use of the title 'the nation' for itself, is what constitutes that group as 'the nation'*. The actual power to monopolise the title of 'the nation' thus becomes the source of the 'right' to legislate within that political space (that is, the source of 'liberty', which is by Sidney's definition contained in 'nations' as their 'natural right'). Therefore, it is might that makes right and thus retrospectively legitimises claims to legislative power as 'natural'. Thus Sidney practically established nationalism's main principle of transforming one's actual power to monopolise the title of 'the nation' into one's 'natural right' to legislate, under the name of 'liberty' and on behalf of 'the nation'. The word 'liberty' has thus become the code-word for the power to legislate, which one can actually seize by military or political means and then retrospectively legitimise by monopolising the title of 'the nation' for oneself.

For Sidney and the English revolutionaries, and later for the French and American revolutionaries, the right to the title of 'the nation' was thus reserved for those sections of society with the actual military or political power to seize the legislative power and thereby retrospectively gain political legitimacy. To the present day, those who call themselves 'liberals' and strive for 'liberty' in terms of legislative power usually rely on their power of political or military pressure, and legitimise their actions by monopolising for themselves the title of 'the nation'. They all rely on one comprehensive theory of political legitimacy which was first promulgated in the 17th-century England by Algernon Sidney (and supported by Locke), and which has since become the norm in the modern political system. Sidney was probably the first author who explicitly proclaimed 'the nation' the sole source of political legitimacy, without ever defining its semantic or sociological content. He thus announced the rise of the doctrine of nationalism, whose main postulate is that political legitimacy can be acquired by an arbitrary, forceful monopolising of the term 'the nation' by whatever arbitrary claimants to legislative power, provided that they demonstrate their ability to actually seize it, provided that their claims are presented under the name of 'the struggle for liberty', and provided that they successfully monopolise the title of 'the nation' only for themselves. This is why the first chapter of this thesis is focused on

Sidney's theory, as probably the earliest comprehensive source of the nationalist doctrine.

2.

The second chapter deals with Jean-Jacques Rousseau's theory, as the paradigm of both the 18th-century liberalism and contractarian liberalism in general. Rousseau, who was praised by Kant as the one who first established the valid principle of liberty and vilified by most 20th-century liberals as the one who established the principles of the 20th-century totalitarianisms, developed a most comprehensive theory of liberty, in which freedom is defined – paradoxically by common standards – as the ability to reconcile man's individual will with 'the general will' of society, in the form of the former's obedience to the latter. Although Rousseau never explicitly defines the means for practical articulation of 'the general will'¹⁹, it is not logical to assume that Rousseau, as a disciple of Montesquieu, ever conceived of 'the general will' in some mystical terms, as a given, pre-societal unit or unity which needs no articulation on the societal level (or, to which man has to return), as most of his critics did assume (some also say that he used the term 'the nation' in the same, pre-societal and mystical sense²⁰); what is logical to assume (and I follow this assumption) is that 'the general will' of society was meant to be practically articulated and expressed primarily through society's legislative acts, by which society would establish itself as 'the nation', *by political means and in the political process*. Rousseau's 'general will' is the expression of *the general interest* as an eminently *political* category, and is always achieved in the political process through direct participation and *public deliberation*.

Although Rousseau comes quite close to Sidney's theory of liberty as 'national self-determination' by means of autonomous legislation, his theory of liberty remains

¹⁹ This is the most elaborate definition of 'the general will' that Rousseau offers: "There is often a great deal of difference between the will of all and the general will; the latter considers only the common interest, while the former takes private interest into account, and is no more than a sum of particular wills: but take away from these same wills the pluses and minuses that cancel one another, and the general will remains as the sum of the differences." (*The Social Contract*, Book II, Ch. 3)

²⁰ See the second chapter. For Montesquieu, 'the general will' was the 'spirit' which was necessary for the establishment of the laws, and was to be equated with the 'spirit of a nation' (Montesquieu, *The Spirit of the Laws*, Book XIX, Ch. 4). Developing the line established by Sidney, in which 'the nation' was assumed to be a proto-political category seeking to find its proper political expression in the form of the sovereign state, Montesquieu postulated that 'the spirit of the nation' was in fact the spirit which inspires the laws of the country, thus making it '*the nation-state*'.

primarily concerned with reconciling man's individual will with 'the general will' of society, the latter being articulated through its own laws.²¹ Thus for Rousseau liberty is not merely about society's possessing its own legislative institutions; it is rather about reconciling man's individual will with these institutions' legislative acts, as the primary source of society's 'general will'. Given his tacit assumption that the possession of independent legislative institutions is what actually transforms society into 'the nation' (which is the tacit assumption he shares with Sidney), and that the possession of these institutions actually brings about what he calls 'the general will', his principle of liberty as the reconciling of man's individual will with society's 'general will' is what makes it possible for man as an individual to practically identify his will with that of 'the nation' and to perceive that identification as his own liberation. According to Rousseau's logic, which is rather implicit than explicit in Rousseau's writings but which has been embraced and brought to its logical conclusion by all latter-day nationalists, striving for 'the nation's' 'self-determination' and 'liberation' in the form of its own state, with its own legislative institutions, is what logically leads to man's own liberation and self-determination. Inversely, when society can not articulate its own 'general will' in the form of its own legislation, not possessing its own legislative institutions and its own state, man can not be free. For, man's freedom depends on the existence of 'the general will', and the existence of 'the general will' depends on the existence of independent legislative institutions, which 'the nation' can fully acquire only by establishing its own state.²² Following the logic of Rousseau's theory of liberty, nationalism perpetually articulates itself on the societal level through the process of the perpetual establishing of identity between man's individual will and the presumed will of society, eventually bringing the *social phenomenon* called 'the nation' into existence: through repeated nationalist mass-mobilisations and mass-identifications in the name of 'liberty' and along the lines of 'national unity', the abstract concept is perpetually being

²¹ For Rousseau, the central political and philosophical problem is: "The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before." (*The Social Contract*, Book I, Ch. 6)

²² Unlike 19th- and 20th-century nationalists, Rousseau never treats 'the nation' as a pre-political fantasy. Remaining true to his theory of 'social contract', he postulates that 'the nation' always comes into existence by an act of *public deliberation*, as the only conceivable founding act of society, which is by itself *political*. Like Sidney before him, he uses the term 'the nation' referring to a group with *half-developed, proto-political* institutions, not to a pre-political association; for him, association can only be *politically* established and developed.

transformed into a really existing social phenomenon. The doctrine of nationalism regards these oscillatory mass-identifications of individual citizens with their ‘nation’, that is, mass-manifestations of ‘national unity’, as *the only conceivable* manifestations of man’s freedom. Rousseau’s theory of liberty has provided a socio-psychological mechanism through which these mass-mobilisations and mass-identifications actually function, providing them also with a universal philosophical rationale of struggle for man’s freedom, and that is why it is analysed in detail in the second chapter of this thesis.

3.

The third chapter analyses John Rawls’s ‘theory of justice’, as the most elaborated philosophical framework and socio-psychological *micro*-mechanism through which the manifestations of ‘national unity’ are being perpetuated and through which ‘the nation’ is being substantiated and homogenised. Rawls’s aim was to return to liberalism’s contractarian roots, which were in the 19th- and 20th-century Anglo-American liberalism totally neglected due to the overwhelming influence of different forms of utilitarianism,²³ and “to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract” of Locke, Rousseau, and Kant. Unlike these three authors, for whom the object of the original contract was to enter a given society or adopt a given form of government, Rawls sought to adopt *the principles of justice for ‘the basic structure of society’* and to ascertain *which principles* it would be rational to adopt given the initial contractual situation. Being aware of classical liberalism’s affinity for the nationalist principles and ‘the nation-state’, Rawls attempts not to rely “on an undefined concept of community”, and not to “suppose that society is an organic whole with a life of its own distinct from and superior to that of all its members in their relations with one

²³ Rawls’s main objection to utilitarianism is that it does not take seriously the distinction between persons when it postulates the principle of ‘the greatest sum of happiness for the greatest number’ of persons. In this *collectivistic construction* many persons are fused into one; but, “there is no reason to suppose that the principles which should regulate an association of men is simply an extension of the principle of choice for one man”. The principle of utility is incompatible with Rawls’s principle of social cooperation among equals for mutual advantage, which is based on the idea of *reciprocity*. In Rawls’s ‘well-ordered’, ‘just’ society, the principle of ‘*justice as fairness*’ (that is, as reciprocity) “denies that the loss of freedom for some is made right by a greater good shared by others”. John Rawls, *A Theory of Justice*, Revised Edition (Cambridge, Mass.: Harvard University Press, 2003), pp. 24-25.

another”.²⁴ Instead, he assumes that society consists of, and is formed by, its members’ *reciprocal relations* with one another. From this conception, individualistic in its essence, he attempts to eventually prove the value of community. In my analysis of Rawls’s theory, I attempt to prove that Rawls’s community, labelled as ‘well-ordered society’, is nothing else but the well-known homogenous ‘nation-state’, and that these reciprocal relations between the community’s members perpetually strengthen the nationalist principles of homogeneity, of inclusion and exclusion, of equality among members and inequality with non-members, and of the self-isolation of the homogenous ‘national’ community from other such communities. The presumed purely *procedural* nature of Rawls’s concept of *fairness as reciprocity* suggests that ‘the basic structure of society’ can be established as a network of purely procedural, *contentless* relations between individuals. However, in the third chapter of my thesis I attempt to demonstrate that individuals’ perpetual reciprocal recognition of one another as ‘free and equal’ *is* the exact content of these relations, and that this very *procedure* of perpetual mutual recognition *is* actually the exact content of *nationalism*, as a social phenomenon with very concrete implications and consequences, far away from any abstract ‘procedural justice’ to which Rawls aspired.

In Rawls’s ‘well-ordered society’, as well as in any democratic society derived from classical liberalism, members never enter any conflicts over their (possibly diverse and divergent) ‘comprehensive doctrines’; actually, they never touch upon their diverse conceptions of the good, despite the claims to the contrary: *they only procedurally, ritually endorse their common good*, that of being ‘free’ and ‘equal to one another’. On this, they reach a permanent consensus, permanently and procedurally recognising one another as ‘equal’. *Thus this permanent consensus is made up of citizens themselves, not of their respective ‘comprehensive doctrines’*. This is liberalism’s greatest invention, elaborated in detail and perfected by Rawls: *no genuine conflicts over ‘comprehensive doctrines’ and ideologies (which are expelled into the strictly private sphere), only genuine conflicts over membership, over inclusion in, and exclusion from, the perpetual ritual display of reciprocal recognition of one another as ‘free and equal’*. In permanently recognising one another as ‘free and equal’, members live out this permanent, procedural, ritual

²⁴ Ibid., p. 234.

display of mutual recognition *as a permanent political consensus*, thereby permanently affirming this very consensus *as 'the basic structure of society'*. This 'basic structure', which functions as the consensus they permanently endorse (by procedurally endorsing themselves and each other as 'free and equal'), *is 'the nation' itself*. 'The nation' is thus being *substantiated* and *homogenised* by the procedures of citizens' permanent, ritual, reciprocal recognising of one another as 'free and equal', that is, by their permanent ritual recognising of one another as its *members*. Thus 'the nation' (this is also the logic derived from Rousseau's theory of liberty) is being permanently and ritually endorsed as the only conceivable framework within which its members can be recognised as 'free and equal', and this permanent and ritual endorsement is actually nationalism's *only* content. Nationalism operates on the societal level through such endorsing and self-endorsing manifestations (based on the well-established procedures of members' mutual recognition), so that – primarily due to the existence of these well-established, '*nationalising*' procedures – 'the nation' is being perpetually substantiated and perpetually homogenised.

In Rawls's main works, *A Theory of Justice* and *Political Liberalism*,²⁵ 'the basic structure of society' is conceived as a closed, self-contained society, having no relations with other societies. *Self-isolation* is for Rawls a precondition for a society to build its 'basic structure' on the shared conception of justice as a '*fair distribution*' of rights, duties, benefits and burdens between members as 'equals'. 'The original position' from which that 'basic structure' is to be built is defined as an initial *status quo* in which any agreements reached are fair, unanimity is possible and the deliberations of any one person are typical of all. The same is also supposed to develop in the 'well-ordered society', in which every person is supposed to have the identical sense of 'justice' as *reciprocity*, so that, in this moral consensus, the 'well-ordered society' is *homogenous*. Moreover, the consequence is that, by perpetually displaying the identical sense of reciprocity in their mutual relations, members of the 'well-ordered society' perpetually strengthen these relations and homogenise themselves as this society's members, and perpetually display their own homogeneity in opposition to all non-members, aiming at the latter's absolute exclusion. Eventually, Rawls's self-isolated and self-contained society becomes a totally involuntary and *exclusionary* scheme of social cooperation, which the individual

²⁵ John Rawls, *A Theory of Justice*, Revised Edition (Cambridge, Mass.: Harvard University Press, 2003), John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

“enters only by birth and exits only by death”, and which is just like the self-contained, self-perpetuating, and perpetually self-homogenising ‘nation’ from nationalists’ wildest dreams, in which only birth gives the right to membership, and death only deprives of that right.

While living in the ‘well-ordered society’ which is self-isolated and self-contained, the members also perpetually homogenise the society itself on the basis of that society’s values and norms (including internal reciprocity, equality, fraternity, etc.), as opposed to other societies which homogenise themselves on their own values and norms, whatever these are. Even if all societies adopt the same set of values and norms, based on ‘justice as reciprocity’, they cannot share these values and merge with one another: as demonstrated in Rawls’s *The Law of Peoples*,²⁶ they all have to remain distinct, self-contained and self-isolated (they are even labelled as ‘peoples’, which are assumed to be inherently and unchangeably distinct from one another). Thus the ‘well-ordered society’ is designed to become ever-more homogenous, by perpetually homogenising itself internally by strengthening the reciprocal relations between its individual members, which is necessary for it to establish and maintain *reciprocal* relations of equality with other self-homogenising, ‘well-ordered’ societies. This, in fact, is the basic mechanism through which the existing ‘nation-state system’ *already* operates, in which only self-homogenising ‘nation-states’ subsist and within which non-homogenous and non-‘national’ states have serious problems in terms of their mere survival. Rawls’s theory of ‘reciprocity’ in inter-societal relations, when applied, thus practically leads to reciprocity in checking and recognising one another’s self-homogenising assertiveness, that is, one another’s nationalism. Rawls’s theory of ‘reciprocity’ in intra-societal relations, when applied, practically leads to the ever-increasing strengthening of fraternal bonds between society’s members; and, as a consequence, it inevitably leads to their permanent, ever-increasing *nationalistic* homogenisation against all non-members, that is, against members of all other societies. In both cases, Rawls’ theory of ‘justice as fairness’ provides a comprehensive scheme for permanent homogenisation of all societies which endorse ‘procedural reciprocity’ in their members’ relations. In this sense, Rawls’s theory brings the doctrine of nationalism to its full self-consciousness, providing it with the most elaborated mechanism by which it can operate on the

²⁶ John Rawls, *The Law of Peoples* (Cambridge, Mass.–London: Harvard University Press, 2001).

micro-level, in the person-to-person communication. The third chapter of this thesis analyses this mechanism in detail.

4.

The fourth chapter is devoted to John Stuart Mill, as the paradigm of both utilitarianism and the 19th-century liberalism, and it ultimately demonstrates that ‘national’ homogeneity, ‘national self-determination’ and the homogenous ‘nation-state’ are within the logic of utilitarian liberalism regarded as the *conditio sine qua non* of man’s freedom. In his essay *Considerations on the Representative Government*, John Stuart Mill advances the postulate that “free institutions are next to impossible in a country made up of different nationalities”,²⁷ so that, “it is in general a necessary condition of free institutions that the boundaries of governments should coincide in the main with those of nationalities.”²⁸ Mill here practically equates ‘free institutions’ with ‘national’ institutions. The homogenous ‘nation-state’ thus arises as a ‘necessary condition of free institutions’; therefore, only ‘national’ institutions are to be regarded as *free institutions*, and only those individuals who live in the homogenous ‘nation-state’ can exercise ‘liberty’ *institutionally*.

For Mill, “liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion.”²⁹ According to the inherent logic of liberalism in general (which reaches a full circle in Mill’s theory of liberty), ‘free and equal discussion’ between ‘autonomous individuals’ is a necessary precondition of ‘liberty’, *if ‘liberty’ is taken as the ability to legislate institutionally*. For, there can be no institutional legislation without ‘free and equal discussion’ between ‘autonomous individuals’ (branded also as ‘citizens’), and this ability to be ‘free’ through independent institutional legislation is what actually constitutes ‘nations’, as much as such ‘nations’, according to John Gray, construct ‘autonomous individuals’ by putting them – in Rawls’s terms – into

²⁷ John Stuart Mill, ‘Considerations on Representative Government’, in *On Liberty and Other Essays*, ed. by John Gray (Oxford-New York: Oxford University Press, 1991), p. 428.

²⁸ Ibid. p. 430. The most popular theory of nationalism, one by Ernest Gellner, says practically the same about nationalism’s conception of freedom: according to Gellner, nationalism is a doctrine that prescribes congruence between the state boundaries and the boundaries of (culturally or linguistically defined) ‘nationality’. See Ernest Gellner, *Nations and Nationalism* (Oxford: Blackwell, 1983). Sometimes Gellner interchangeably uses ‘nationality’, culturally defined, and ‘culture’.

²⁹ Mill, *On Liberty*, op. cit., pp. 14-15. Italics Z.H.

the position to reciprocally recognise one another as ‘free and equal’.³⁰ This institutional exercise of ‘liberty’, through independent legislative institutions, is thus paradoxically but necessarily linked to both *homogenisation* and *individualisation*: homogenised public opinion, according to Mill, is – as much as ‘free and equal discussion’ between ‘autonomous individuals’ – a paradoxical but necessary condition for functioning of ‘free institutions’.³¹ On the other hand, common legislation exercised through such ‘free institutions’ homogenises the political space it covers:³² ‘national’ homogeneity is a condition of ‘free’ legislation, the ability to ‘freely’ legislate is what constitutes ‘nations’, and ‘national’, ‘free’ legislation *conditions* (i.e. homogenises) in terms of ‘*nationalising*’.

In Mill’s terms, a ‘division of human race’ can be ‘ripe for free institutions’ and therefore ready to be ‘free’ only when it is extricated from mingling under the same government with other ‘divisions of human race’, by which (that is, by acquiring its own, ‘free institutions’ for legislation) it is elevated to the status of ‘nationality’, that is, to the status of a ‘civilized group’. For Mill, “the social state is at once so natural, so necessary, and so habitual to man, that, except in some unusual circumstances or by an effort of voluntary abstraction, *he never conceives himself otherwise than as a member of a body; and this association is riveted more and more, as mankind are*

³⁰ Through the process of mutual recognition as ‘free and equal’ they, paradoxically but simultaneously and inevitably, permanently strengthen their fraternal bonds as ‘co-nationals’ and permanently isolate themselves from one another, thereby constituting themselves as ‘autonomous individuals’ (permanent recognition of one another as ‘free and equal’ permanently strengthens ‘autonomy’ in relation to one another, and thus makes these ‘individuals’ ever-more ‘autonomous’). According to the logic of liberalism, this paradox, which enables ‘autonomous individuals’ (branded as ‘citizens’) to identify simultaneously with ‘the nation’ whose members they are (including with its inherent property to independently legislate, labelled as ‘liberty’), with their fellow ‘co-nationals’, and with themselves, recognised both by themselves and by others as ‘free and equal’, is the key to man’s freedom. The doctrine of nationalism, being derived from liberalism, fully adopts this logic.

³¹ “Where the sentiment of nationality exists in any force, there is a prima facie case for uniting all the members of the nationality under the same government, and a government to themselves apart. This is merely saying that the question of government ought to be decided by the governed. One hardly knows what any division of the human race should be free to do, if not to determine, with which of the various collective bodies of human beings they choose to associate themselves. But, when a people are ripe for free institutions, there is a still more vital consideration. Free institutions are next to impossible in a country made up of different nationalities. Among a people without a fellow-feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist.” (Mill, ‘Considerations on Representative Government’, op. cit., p. 428. Italics Z.H).

³² See John Gray’s quotation above. In Gray’s opinion, ‘national’ homogenisation through ‘national’ legislative institutions (which Mill labels as ‘free institutions’) has produced, paradoxically, both the homogenous ‘nation-state’ (‘free state’) and ‘the autonomous individual’ (‘free individual’). In this thesis, I fully adopt Gray’s view that this paradox is the fundamental principle of the modern, liberal-democratic society, which is thus – as the ultimate paradox – both *nationalistic and individualistic*.

further removed from the state of savage independence.”³³ Since Mill assumes that we, as human beings, ‘desire to be in unity with our fellow creatures’³⁴, we have to be granted (or, if we happen to lack in this ‘desire’, even imposed³⁵) freedom to be ‘in unity’ with our ‘fellow creatures’, thereby fully realising our human ‘nature’. The fullest realisation of the human ‘natural desire to be in unity with our fellow creatures’ is thus to be regarded as the fullest practical realisation of *the principle of utility*, that is, of ‘the greatest happiness for the greatest number’. The realisation of the ‘natural desire’ to be ‘in unity’ and to be ‘free to unite’ (within the *prescribed* framework of ‘the sentiment of nationality’) thus at the same time promotes the principle of ‘the greatest happiness for the greatest number’ and the principle of ‘advancement in civilization’ (since it ‘further removes’ mankind ‘from the state of savage independence’). Thus, by being a ‘member of a body’ and therefore realising his ‘natural desire to be in unity’, ‘the autonomous individual’ becomes both ‘civilised’, ‘free’, and fully ‘human’. From the utilitarian point of view, his ‘membership in a body’ through the full assertion of ‘the sentiment of nationality’ (through the establishment of its own ‘nation-state’) thus arises as *the central category* of the entire Mill’s theory, one that simultaneously promotes both ‘liberty’ and ‘civilization’, while fully realising ‘human nature’ and ‘the greatest happiness for the greatest number’.

Since the establishment of ‘the nation-state’, while simultaneously promoting ‘improvement in civilization’ and ‘the greatest happiness for the greatest number’, is to be seen as the necessary condition of ‘free institutions’, and the existence of ‘free institutions’ is regarded as essential for the promotion of individual freedom, the ultimate conclusion that arises from Mill’s theory is that ‘the individual’ from the liberal doctrine can be free only in ‘the nation-state’, so that his individual freedom can only be acquired only through the collectivist process of ‘*nation-building*’ (which, if necessary, may be forced or imposed from without). According to Brubaker’s and Beissinger’s theories adopted in this thesis, that process is just another name for nationalism *as a social phenomenon*: ‘nations’ can only be *perpetually built* through perpetual assertions of the nationalist discourse (Brubaker’s ‘nationhood’) and of nationalistic behaviours and practices (Brubaker’s ‘nationness’)

³³ Mill, ‘Utilitarianism’, op. cit., p. 164. Italics Z.H.

³⁴ Ibid.

³⁵ “Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement, and the means justified by actually effecting that end.” (‘On Liberty’, op. cit., pp. 14-15)

in society as a whole. Therefore, as the fourth chapter of this thesis concludes, *'the individual' in the liberal doctrine can only be 'free' by perpetually building 'the nation', that is, by permanently exercising nationalism through the perpetual manifestations of absolute alienation of his own will to the 'general will' of 'the nation', that is, through the perpetual assertions of his absolute identification with 'the nation' (i.e. with his 'co-nationals' who, through perpetual recognition of one another as 'free and equal', constitute both 'the nation' and themselves as 'autonomous individuals').*

5.

The fifth, final chapter turns to Lord Acton, a 19th-century liberal thinker, who is paradigmatic as the only classical liberal who openly rejected both nationalism and 'the nation-state', denouncing them as the embodiment of illiberal, arbitrary power and of the essentially absolutist character of the modern democratic theory and practice. In his criticism of modern society's mechanical character, Acton resembles Rousseau. Modern society abolished corporations and classes, and replaced persons with moral duties towards their respective corporations and classes with *mere units*, with 'equal' and isolated 'individuals', loyal *only to the state*. In modern society all classes were either abolished – if higher – or absorbed – if lower – by *the middle class*, which presented itself as a quasi-organism called 'the nation'. This quasi-organism proclaimed its nominal *sovereignty* in relation to other such presumed quasi-organisms through the actual seizure of the state sovereignty. At the same time, paradoxically, the middle class also modelled itself as a mechanical collection of '*sovereign individuals*', thereby proclaiming their absolute freedom from any commitment to classes, corporations and religious communities, with their exclusive allegiance to 'the nation' (as some sort of a 'greater middle class' and a bridge between 'individuals' and the state). Thus the middle class legitimised its practical seizure of the state sovereignty, by nominally elevating itself onto the level of 'the nation', and by depicting the latter as the sole source of legitimacy and sovereignty. As a quasi-community of 'sovereign individuals', designed to legitimise the seizure of the state sovereignty and be worshipped itself as 'sovereign', 'the nation' was also designed to bridge the gap between 'sovereign individuals' and the sovereign state, thus ultimately projecting the object of their worship into the state itself. In Acton's

view, all that could only strengthen absolutistic tendencies within the modern state, and ultimately led to its becoming absolutistic. And absolute power was regarded, not only by Acton, as the exact opposite of 'liberty'.

In Acton's ideal society, both institutions and corporations would organically grow (including a delicate balance between the Church and the state), through a process of "weighing instead of counting", so that classes and corporate interests, rather than single individuals, would be represented in the state institutions. His ideal was thus to be found in the Middle Ages rather than in modern times, so he proclaimed aristocracy and monarchy the most compatible with 'liberty', and not even monarchy alone, but monarchy by divine right: 'liberty' was inaccessible to arbitrary change only when there was a recognised "divine, objective right, anterior to every human law, superior to every human will".³⁶

However, given the absence of traditional corporations and classes in modern society, Acton discovered their possible equivalent in the state consisting of a multitude of 'nationalities', so that he prescribed the 'multi-national' state as the only possible framework for what he regarded as 'liberty'. This brought him into the direct opposition to his contemporary, John Stuart Mill, who claimed that the state consisting of only one 'nationality' was the only possible framework for the promotion of 'liberty'. Referring to Mill's claim that "one hardly knows what any division of the human race should be free to do, if not to determine with which of the various collective bodies of human beings they choose to associate themselves," Acton clearly saw that "it is by this act that a nation constitutes itself"; for, "to have a collective will, unity is necessary, and independence is requisite in order to assert it."³⁷ Unlike Mill (and rather like Rousseau), Acton did *not* imagine 'the nation' as a given, a-historical, pre-political category, whose 'general will' could only be articulated in its own, independent state. For Acton, 'the nation' could only be constituted *historically* and *politically*, by a voluntary act of contractual association and a seizure of state sovereignty.³⁸ On the contrary, the 'theory of nationality', to which Mill subscribed and which Acton denounced as arbitrary, assumed that 'unity'

³⁶ Acton's quote from "Foreign Affairs", *Rambler*, new series, VI (1862), 555.

³⁷ Lord Acton, 'Nationality', in *Selected Works of Lord Acton*, vol. 1, *Essays in the History of Liberty*, ed. by J. Rufus Fears (Indianapolis: Liberty Fund 1985), p. 423.

³⁸ "A State may in course of time produce a nationality; but that a nationality should constitute a State is contrary to the nature of modern civilisation". For, "the difference between nationality and the State is exhibited in the nature of patriotic attachment: our connection with the race is merely natural or physical, whilst our duties to the political nation are ethical". ('Nationality', *op. cit.*, p. 427)

was a precondition of the existence of ‘the general will’, and that both ‘unity’ and ‘the general will’ were already contained in any demand for political independence. According to that theory, any demand for political independence automatically signalled the existence of both ‘unity’ and ‘the general will’; i.e. signalled the existence of ‘the nation’. Thus any group within a society might claim its own will to power to be ‘the general will’, asserting itself as ‘the nation’ by demanding independence, and the legitimacy of its claim would be contained in this very demand. The arbitrary will to power, legitimised as ‘the general will’ of the hitherto unknown entity called ‘the nation’, thus might well bring such a fictional entity into being, while retrospectively depicting it as a natural ‘division of the human race’.

However, ‘nations’, as a cognitive frame and a practical-political category, remain uncontested in Acton’s vision, too. In contrast to Mill, Acton only questions whether ‘the nation’ should produce a state of its own, which would remain internally unchecked and unbalanced and therefore inherently absolutist. Such a ‘nation-state’ would be only externally checked and balanced by other such states (which, then, could only strengthen its inherent absolutist tendencies). The alternative, proposed by Acton, is that ‘nations’ check potential absolutism of, and balance one another within, a ‘*multi-national*’ state. A ‘multi-national’ empire (such as the British and Austro-Hungarian ones) thus becomes Acton’s ideal form of government. In these modern empires, unlike in the traditional ones, ‘subjects’ do not merge into a numberless mass: ‘nations’ within the modern empire remain internally *homogenous*, in order to be able to act as corporate bodies and thus check and balance one another. For Acton, “the combination of different nations in one State is as necessary a condition of civilised life as the combination of men in society”.³⁹ For, “where political and national boundaries coincide, society ceases to advance, and nations relapse into a condition corresponding to that of men who renounce intercourse with their fellow-men”.⁴⁰ In these lines Acton’s critique of nationalism reaches its moral peak: nationalism is dismissed as an ideology that leads into the opposite direction from that of civilisation. However, trying to identify *any* leverage that would undermine nationalism’s mechanism for simultaneous isolation of both ‘nations’ and ‘individuals’, Acton was prepared to advocate some ideas and strategies that would

³⁹ Ibid., p. 426.

⁴⁰ Ibid., p. 426.

nowadays be treated as morally unacceptable and uncivilised.⁴¹ In Acton's theory, 'liberty' could only be based on the system of checks and balances, and it was by definition present in all societies with *fixed classes and corporate bodies*, which would balance one another and thus check the absolute forms of power. Since slavery was a system that was designed to fix the classes of slave-owners and slaves, even slavery was to be regarded as a legitimate form of protection from absolutist tendencies in society and thereby a means to 'liberty'. For Acton, slavery was a 'check' on the ruthless capitalist exploitation that would inevitably follow from the presumed 'inequality' between races, and was, therefore, serving the cause of 'liberty'. This brought his theory of 'liberty' based on checks and balances to its ultimate, anti-liberal conclusion. The fifth chapter of this thesis demonstrates that the only liberal theory which explicitly rejected nationalism and the homogenous 'nation-state' necessarily adopted the logic of rigid social stratification and advocated totally anti-liberal concepts of social and racial segregation; in other words, it finally demonstrates that liberalism, in order to remain true to its own principles, cannot shy away from promoting the key-principles of the nationalist doctrine.

IV

The goal of this dissertation is to demonstrate through textual analyses that the liberalism-proper and the nationalism-proper, as two nominally separate ideologies, regularly converge and overlap in the works of paradigmatic liberal thinkers, ever since these two ideologies first appeared. Each of the dissertation's five chapters is a monographic analysis of one of the five paradigmatic liberal authors, and each provides an answer to one of the key-questions concerning the nationalist doctrine and its relationship with liberalism. As stated above, these questions are:

1. What do 'nations' and 'liberty' mean in the liberal discourse and how has that specific interpretation established the nationalist doctrine? (1st chapter)
2. How do individuals 'liberate' themselves by perpetually identifying themselves with 'their nations' as abstract concepts, and how do these individuals' mass-

⁴¹ See Acton's article 'Colonies', published in the *Rambler* n.s. (3d ser.) 6 (March 1862), pp. 391-400. J. Rufus Fears (ed.), *Selected Writings of Lord Acton, vol. I, Essays in the History of Liberty* (Indianapolis: Liberty Fund, 1985), pp. 177-188.

identifications with ‘their nations’ *substantiate* these ‘nations’ as really existing social phenomena? (2nd chapter)

3. How is ‘the nation’ being perpetually substantiated and homogenised on the person-to-person level, through uniform ritual procedures of members’ reciprocal recognition of one another as ‘free and equal’? (3rd chapter)

4. Is liberalism’s concept of ‘liberty’ inevitably conditioned by the existence of the homogenous ‘nation-state’ and its institutions? (4th chapter)

5. Is it possible for a liberalism that rejects nationalism and ‘the nation-state’ to remain faithful to liberalism’s true nature? (5th chapter)

Given the complementary nature of these questions, the five monographic analyses of the five paradigmatic authors (which attempt to answer these questions) provide five *complementary* rather than five *comparable* answers. Therefore, methodologically, the whole dissertation is not structured in the form of a comparative analysis of five comparable authors, but rather *in the form of five complementary analyses that provide five complementary answers*, which jointly make up a comprehensive picture of nationalism’s relationship with liberalism.

This dissertation is focused on the textual analyses of the primary sources (books and works of the five selected authors), and deliberately attempts to use secondary literature economically. However, secondary literature is presented in a usual amount and manner in those parts of the dissertation (the chapters on Jean-Jacques Rousseau and John Stuart Mill) where secondary literature was relevant for stimulating a productive academic discussion, so as to improve the analyses of the primary sources. In other parts of the thesis (the chapters on Algernon Sidney and Lord Acton), secondary sources are used sparingly, mainly due to the objective scarcity of secondary sources on these authors. The corpus of secondary literature on John Rawls, although huge in amount and scope, is absolutely non-convergent with, and therefore totally irrelevant for, my argument presented in the chapter on Rawls. Therefore I have found it reasonable to avoid any discussion with it, saving the available space for the discussion with Rawls himself.

ELEMENTS OF NATIONALISM IN CONTRACTARIAN LIBERALISM:
SIDNEY, ROUSSEAU, RAWLS

Chapter One: Algernon Sidney

Algernon Sidney, together with John Locke, was co-founder of the Anglo-Saxon branch of contractarian liberalism. Both Locke and Sidney wrote their major works (*Two Treatises on Government* and *Discourses Concerning Government*) in response to Sir Robert Filmer's book *Patriarcha*,⁴² which advocated absolute monarchy and the divine right of kings, unrestrained by any earthly laws and supposedly transmitted through the direct lineage of paternal right from Adam (to whom God supposedly gave sovereign power over the world) to contemporary monarchs.⁴³ However, while Locke has subsequently become widely recognised and publicly celebrated as the founder of the philosophic doctrine of the social contract and of political ideology of liberalism, Sidney's name is known today mostly to scholars studying the very foundations of these two. Since 1805 (up to 1996) only one major reprint of Sidney's *Discourses* appeared in public.⁴⁴

Although Sidney's and Locke's arguments in favour of people's sovereignty today represent common knowledge, while Filmer's advocacy of the divine right of kings has sunk into obscurity and may even look bizarre when brought to contemporary light, in the days preceding the 1688 Glorious Revolution most of Protestant England, a century and a half after Henry VIII declared his religious independence from Rome, still believed that unquestioning obedience to the king was "the only means, which could preserve the civil, from being swallowed by the ecclesiastical powers".⁴⁵ Eventually, Sidney found himself in absolute minority on this question and his plotting against the English Monarchy, in the name of liberty and popular government, led to his trial and execution in 1683. To the last moment devoted to the cause of liberty, in the *Apology in the Day of His Death* Sidney wrote:

⁴² Sir Robert Filmer, *Patriarcha: A Defence of the Natural Power of Kings against the Unnatural Liberty of the People*, first published in 1680.

⁴³ In the early 1680s three Whig writers wrote books attacking Filmer: James Tyrrell's *Patriarcha non Monarcha* was published in 1681; John Locke's *Two Treatises of Government* appeared in 1689, and Algernon Sidney's *Discourses Concerning Government* in 1689. See Thomas G. West, Foreword to Algernon Sidney, *Discourses Concerning Government* (Indianapolis: Liberty Fund, 1996), p. xviii.

⁴⁴ Sidney wrote the *Discourses* between 1681 and 1683. The manuscript was first published in 1698, fifteen years after Sidney's death. See Thomas G. West, Foreword to Algernon Sidney, *Discourses Concerning Government* (Indianapolis: Liberty Fund, 1996), pp. xv-xvii.

⁴⁵ Robert Green McCloskey (ed.), *The Works of James Wilson* (Cambridge: Harvard University Press, 1967), vol. 1, p. 120, from Wilson's 1790-91 lectures on Law.

I had from my youth endeavoured to uphold the common rights of mankind, the laws of this land, and the true Protestant religion, against corrupt principles, arbitrary power, and Popery, and I do now willingly lay down my life for the same.⁴⁶

A hundred years after Sidney's death he was still celebrated as a martyr for free government and his *Discourses* were still widely read in the English colonies in America and served as a source of inspiration for the founders of the United States, not least because they too endorsed the same principles for which Sidney had laid his head. Thomas Jefferson regarded John Locke and Algernon Sidney as the two leading sources of the American understanding of political liberty.⁴⁷ Sidney's motto, written in the visitor's book during his visit to the University of Copenhagen, *Manus haec inimica tyrannis, Einse petit placidam cum liberate quietam* (*This hand, enemy to tyrants, By the sword seeks calm peacefulness with liberty*) to this day remains the official motto of the Commonwealth of Massachusetts.⁴⁸ However, Sidney fell out of fashion during the nineteenth century, when people began to favour persons like Cromwell and Napoleon,⁴⁹ who, unlike Sidney who advocated liberty as self-restraint,⁵⁰ favoured the exercise of unrestrained power for grand state projects.

It is not difficult to identify why the *Discourses* were so attractive to the 18th-century founders of the United States, who were attempting to secede from the English monarchy and establish self-rule. The goal of the *Discourses*, Sidney explains, is to demonstrate that "nations have a right to make their own laws, constitute their own magistrates; and that such as are so constituted owe an account of their actions to those by whom, and for whom they are appointed".⁵¹ For, his deepest conviction is that the liberties of 'nations' as *pre-political categories* are from God and Nature:⁵²

If any man ask how nations come to have the power of doing these things, I answer, that liberty being only an exemption from the dominion of another, the question ought not to be,

⁴⁶ Thomas G. West, Foreword to Algernon Sidney, *Discourses Concerning Government* (Indianapolis: Liberty Fund, 1996), p. xxxvi.

⁴⁷ "From the Minutes of the Board of Visitors, University of Virginia," March 4, 1825, in Thomas Jefferson, *Writings* (New York: Library of America, 1984), p. 479.

⁴⁸ Thomas G. West, Foreword to Algernon Sidney, *Discourses Concerning Government* (Indianapolis: Liberty Fund, 1996), p. xvi.

⁴⁹ *Ibid.*, p. xviii.

⁵⁰ *Ibid.*, p. xix.

⁵¹ Algernon Sidney, *Discourses Concerning Government* (Indianapolis: Liberty Fund, 1996). Chapter One, Section 2, p. 12.

⁵² *Discourses*, Ch. Two, Sec. 31. In fact, whether nations in Sidney's account represent *pre-political* or *proto-political* categories remains an open question. See below.

how a nation can come to be free, but how a man comes to have a dominion over it; for till the right of dominion be proved and justified, liberty subsists as arising from the nature and being of a man.⁵³

Since man is God's creature, Sidney points out, that creature has nothing and is nothing but what the Creator made him; therefore he must owe all to the Creator, and nothing to anyone from whom he has received nothing. Man therefore must be naturally free, concludes Sidney, unless he be created by another power than we have yet heard of.⁵⁴ Analogous to that of the Creator is paternal right, so that "the obedience due to parents arises from hence, in that they are those from whom under God we have received all. When they die we are their heirs, we enjoy the same rights, and devolve the same to our posterity".⁵⁵ Thus man's liberty is being transmitted from one generation to another, and this liberty therefore must continue, till it be either forfeited or willingly resigned:

The forfeiture is hardly comprehensible in a multitude that is not entered into any society; (...) because where there is no society, one man is not bound by the actions of another. All cannot join in the same act, because they are joined in none; or if they should, no man could recover, much less transmit the forfeiture; and not being transmitted, it perishes as if it had never been, and no man can claim anything from it. (...) Men could not resign their liberty, unless they naturally had it in themselves. Resignation is a publick declaration of their assent to be governed by the person to whom they resign; that is, they do by that act constitute him to be their governor. This necessarily puts us upon the inquiry, why they do resign, how they will be governed, and proves the governor to be their creature; and the right of disposing the government must be in them, or they who receive it can have none.⁵⁶

Denying Filmer's basic assumption that Adam had been the first king on Earth, whose paternal right devolved to the first monarchs and then has been transmitted by

⁵³ *Discourses*, Ch. Three, Sec. 33.

⁵⁴ *Discourses*, Ch. Three, Sec. 33. Locke defines freedom in this way: "The natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but to have only the law of Nature for his rule. The liberty of man in society is to be under no other legislative power but that established by consent in the commonwealth, nor under the dominion of any will, or restraint of any law, but what that legislative shall enact according to the trust put in it. Freedom, then, is not what Sir Robert Filmer tells us: 'A liberty for every one to do what he lists, to live as he pleases, and not to be tied by any laws'; but freedom of men under government is to have a standing rule to live by, common to every one of that society, and made by the legislative power erected in it. A liberty to follow my own will in all things where that rule prescribes not, not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man, as freedom of nature is to be under no other restraint but the law of Nature." (*Second Treatise of Government*, Ch. IV, 21) Also: "The end of law is not to abolish or restrain, but to preserve and enlarge freedom. For in all the states of created beings, capable of laws, where there is no law there is no freedom. For liberty is to be free from restraint and violence from others, which cannot be where there is no law; and is not, as we are told, 'a liberty for every man to do what he lists'." (*Second Treatise*, Ch. VI, 57)

⁵⁵ *Discourses*, Ch. Three, Sec. 33.

⁵⁶ *Discourses*, Ch. Three, Sec. 33.

royal bloodline to all contemporary monarchs, Sidney argues that Adam's paternal right devolves to, and is inherited by, the entire human race. For, "the pretended paternal right is divisible or indivisible: if divisible, 'tis extinguished; if indivisible, universal,"⁵⁷ and "every man that hath children, hath the right of a father, and is capable of preferment in a society composed of many".⁵⁸ On the other hand, no man comes to command many, unless by consent or by force.⁵⁹ Giving the government of the world to one man without consent of all inevitably produces a state of slavery for all, because "to depend upon the will of a man is slavery"⁶⁰. Therefore, "God having given the government of the world to no one man, nor declared how it should be divided, left it to the will of man".⁶¹ Sidney thus concludes that God leaves to man the choice of forms in government; and those who constitute one form, may abrogate it.⁶² That is why "all just magistratical power is from the people",⁶³ and "'tis natural for nations to govern, or to chuse governors; and... virtue only gives a natural preference of one man above another, or reason why one should be chosen rather than another":⁶⁴

We have heard of nations that admitted a man to reign over them (that is, made him king) but of no man that made a people. (...) and all the world agrees, that *qui dat esse, dat modum esse*; he that makes him to be, makes him to be what he is: and nothing can be more absurd than to say, that he who has nothing but what is given, can have more than is given to him. If Saul and Romulus had no other title to be kings, than what the people conferred upon them, they could be no otherwise kings than as pleased the people: They therefore did not admit the people to be partakers of the government; but the people who had all in themselves, and could not have made a king if they had not had it, bestow'd upon him what they thought fit, and retained the rest in themselves.⁶⁵

That is why the ancients chose those to be kings, who excelled in the virtues that are most beneficial to civil societies.⁶⁶ For, 'freemen' join together and frame greater or

⁵⁷ *Discourses*, Ch. One, Sec. 12.

⁵⁸ *Discourses*, Ch. Two, Sec. 2.

⁵⁹ *Discourses*, Ch. One, Sec. 11.

⁶⁰ *Discourses*, Ch. One, Sec. 5.

⁶¹ *Discourses*, Ch. One, Sec. 17.

⁶² *Discourses*, Ch. One, Sec. 6.

⁶³ *Discourses*, Ch. One, Sec. 20. These postulates probably represent the most explicit early definitions of popular sovereignty. In Locke's view, "Wherever, therefore, any number of men so unite into one society as to quit every one his executive power of the law of Nature, and to resign it to the public, there and there only is a political or civil society." (*Second Treatise*, Ch. VII, 89)

⁶⁴ *Discourses*, Ch. Two, Sec. 1.

⁶⁵ *Discourses*, Ch. Two, Sec. 30.

⁶⁶ *Discourses*, Ch. One, Sec. 16.

lesser societies, and give such forms to them as best please themselves.⁶⁷ Therefore, government is not instituted for the good of the governor, but of the governed,⁶⁸ and “they who have a right of chusing a king, have the right of making a king”.⁶⁹ Societies are thus established by ‘freemen’ who join together and make a mutual contract and then expand the contract so as to appoint the magistrate to govern them, with restraint. Thus the right and power of a magistrate depends upon his institution, not upon his name:⁷⁰

No man can have a power over a nation otherwise than *de jure*, or *de facto*. He who pretends to have a power *de jure*, must prove that it is originally inherent in him or his predecessor from whom he inherits; or that it was justly acquired by him. (...) If the power were conferred on him or his predecessors, 'tis what we ask; for the collation can be of no value, unless it be made by those who had a right to do it; and the original right by descent failing, no one can have any over a free people but themselves, or those to whom they have given it. (...) If acquisition be pretended, 'tis the same thing; for there can be no right to that which is acquired, unless the right of invading be proved; and that being done, nothing can be acquired except what belonged to the person that was invaded, and that only by him who had the right of invading. (...) Whatsoever therefore proceeds not from the consent of the people, must be *de facto* only, that is, void of all right; and 'tis impossible there should not be a right of destroying that which is grounded upon none; and by the same rule that one man enjoys what he gained by violence, another may take it from him.⁷¹

In order to restrain a magistrate's power, the contract between him and the people consisted in the institution of the laws. The laws were therefore made to direct and instruct magistrates, and, if they will not be directed, to restrain them.⁷² In this essential sense, the laws are not made by kings, because ‘nations’ are to be governed by rule, and not arbitrarily,⁷³ and because a presumption that kings will govern well, is not a sufficient security to the people.⁷⁴ Therefore, kings (not being fathers of their people, nor excelling all others in virtue) can have no other just power than what the

⁶⁷ *Discourses*, Ch. Two, Sec. 5. For Locke, “that which begins and actually constitutes any political society is nothing but the consent of any number of freemen capable of majority, to unite and incorporate into such a society. And this is that, and that only, which did or could give beginning to any lawful government in the world.” (*Second Treatise of Government*, Ch. VIII, 99.).

⁶⁸ *Discourses*, Ch. Two, Sec. 3.

⁶⁹ *Discourses*, Ch. Two, Sec. 6.

⁷⁰ *Discourses*, Ch. Three, Sec. 12.

⁷¹ *Discourses*, Ch. Three, Sec. 31.

⁷² *Discourses*, Ch. Three, Sec. 13.

⁷³ *Ibid.*, Ch. Three, Sec. 14. Here Sidney comes quite close to Locke's view of the laws and their role in social life, expressed in Chapter VII of the *Second Treatise of Government*. According to Locke, the laws are a prerequisite of man's freedom. In Sidney's view, freedom in general is to be defined as the power to make laws. ‘Nations’ are defined as those that have this power, and this is what defines ‘nations’ as *proto-political* rather than *pre-political* categories.

⁷⁴ *Discourses*, Ch. Three, Sec. 15.

laws give.⁷⁵ For, it cannot be for the good of the people that the magistrate have a power above the law; and “he is not a magistrate who has not his power by law”.⁷⁶ To sum up, the laws of every ‘nation’ are the measure of magistratical power.⁷⁷

Once established, our own laws confirm to us the enjoyment of our native rights, rights to liberty.⁷⁸ For, the ability to make the laws, that is, the power to legislate, is what Sidney actually means by ‘liberty’. Thus ‘liberty’ in this early liberal discourse may practically be defined as ‘the power to legislate for oneself’. Those groups with the actual power to legislate for themselves are within this discourse granted the status of ‘nations’; inversely, those with the status of ‘nations’ are by definition recognised the ‘right’ to legislate for themselves. This means that within this discourse ‘nations’ are by definition recognised as free, that is, as the very source of ‘liberty’ as the ‘right’ to legislative power. Within such a conceptual framework, the laws are by their very existence a confirmation of one’s ‘liberty’ (that is, of one’s legislative power), and obedience to the laws is therefore to be regarded as the practical exercise of one’s ‘liberty’. Thus Sidney, together with Locke and Montesquieu, laid the foundations for the future liberal concept of ‘liberty’ as the obedience to the moral (Kant) or societal (Rousseau) law.⁷⁹

According to Sidney, the laws are thus always to be regarded as just and are to be obeyed: “That which is not just, is not law; and that which is not law, ought not to be obeyed”,⁸⁰ so that unjust commands are not to be obeyed; and no man is obliged to suffer for not obeying commands which are against law.⁸¹ Hence, “no people can be obliged to suffer from their kings what they have not a right to do”.⁸² On the contrary, “the mischiefs suffered from wicked kings are such as render it both reasonable and just for all nations that have virtue and power to exert both in repelling them”.⁸³ The people for whom and by whom the magistrate is created, can only judge whether he rightly perform his office or not.⁸⁴ Therefore, kings cannot be the interpreters of the

⁷⁵ *Discourses*, Ch. Three, Sec. 1.

⁷⁶ *Discourses*, Ch. Three, Sec. 21.

⁷⁷ *Discourses*, Ch. Two, Sec. 7.

⁷⁸ *Discourses*, Ch. Three, Sec. 9.

⁷⁹ Italics Z.H. Rousseau’s concept of liberty and its link with the concept of ‘the nation’ will be elaborated in the next chapter.

⁸⁰ *Discourses*, Ch. Three, Sec. 11.

⁸¹ *Discourses*, Ch. Three, Sec. 20.

⁸² *Discourses*, Ch. Three, Sec. 4.

⁸³ *Discourses*, Ch. Three, Sec. 5.

⁸⁴ *Discourses*, Ch. Three, Sec. 41.

oaths they take.⁸⁵ In this sense, “the general revolt of a nation cannot be called a rebellion”, because it is only a confirmation of ‘liberty’ as the essence of that ‘nation’s’ existence:

But tho every private man singly taken be subject to the commands of the magistrate, the whole body of the people is not so; for he is by and for the people, and the people is neither by nor for him. The obedience due to him from private men is grounded upon, and measured by the general law; and that law regarding the welfare of the people, cannot set up the interest of one or a few men against the publick. The whole body therefore of a nation cannot be tied to any other obedience than is consistent with the common good, according to their own judgment: (...) and having never been subdued or brought to terms of peace with their magistrates, they cannot be said to revolt or rebel against them to whom they owe no more than seems good to themselves, and who are nothing of or by themselves, more than other men.⁸⁶

Sidney clearly advocated not only the right to, but the benefit of, revolt against desolate conditions created by misrule: “‘Tis ill that men should kill one another in seditions, tumults and wars; but ‘tis worse to bring nations to such misery, weakness and baseness, as to have neither strength nor courage to contend for anything; to have nothing left worth defending, and to give the name of peace to desolation.”⁸⁷ For Sidney, “it would be madness to think, that any nation can be obliged to bear whatsoever their own magistrates think fit to do against them”.⁸⁸

Allegiance signifies no more (as the words, *ad legem* declare) than such an obedience as the law requires. But as the law can require nothing from the whole people, who are masters of it, allegiance can only relate to particulars, and not to the whole. No oath can bind any other than those who take it, and that only in the true sense and meaning of it; but single men only take this oath, and therefore single men are only obliged to keep it; the body of a people neither does, nor can perform any such act.⁸⁹

In this essential sense, the body of people is sovereign in its ‘liberty’ to legislate and subject to no obligation external to its own free will. This sovereign body of people is what Sidney variously labels as ‘the nation’, ‘the people’ or ‘commonwealth’.⁹⁰ For Sidney, this notion refers to a society formed by ‘freemen’ (that is, men who inherited their natural ‘liberty’ to legislate) who freely join together into a mutual law-making

⁸⁵ *Discourses*, Ch. Three, Sec. 17.

⁸⁶ *Discourses*, Ch. Three, Sec. 36.

⁸⁷ *Discourses*, Ch. Two, Sec. 26.

⁸⁸ *Discourses*, Ch. Three, Sec. 36.

⁸⁹ *Discourses*, Ch. Three, Sec. 36.

⁹⁰ As this thesis demonstrates, this concept is the crux of liberal political thought. Locke refers to it as ‘the commonwealth’, Rousseau as ‘the Sovereign’, Rawls as ‘the people’, and Mill and Montesquieu as ‘the nation’.

contract and establish a sovereign law-making parliamentary assembly. It was then of the utmost importance for him to demonstrate that such “nations have power of meeting together, and of conferring, limiting, and directing the sovereignty; or all must be grounded upon most manifest injustice and usurpation”.⁹¹, in other words, that sovereignty is not a property of kings, but of ‘nations’ (“It was not by law nor by right, but by usurpation, fraud and perjury that some kings took upon them to pick what they pleased out of the publick acts.”⁹²):

I say that nations being naturally free may meet, when and where they please; may dispose of the sovereignty, and may direct or limit the exercise of it, unless by their own act they have deprived themselves of that right: and there could never have been a lawful assembly of any people in the world, if they had not had that power in themselves. It was proved in the preceding section, that all our kings having no title, were no more than what the nobility and people made them to be; that they could have no power but what was given to them, and could confer none except what they had received. If they can therefore call parliaments, the power of calling them must have been given to them, and could not be given by any who had it not in themselves.⁹³

As Sidney demonstrates in various historical examples, the people who meet and give the sovereign power also direct and limit its exercise. The laws of each people show in what manner and measure it is everywhere done and this shows that there is no such thing as a legislative power placed in kings by the laws of God and nature, but that ‘nations’ have it in themselves.⁹⁴

The word ‘nations’ in Sidney’s *Discourses* thus refers to groups with assembled law-making bodies, although it sometimes refers to groups whose tribal structure did not allow for any parliaments proper to be assembled. While Sidney points out that ancient North European tribes always had some form of law-making councils, which then may explain the use of the word ‘the nation’ in their case, he nevertheless refers to ‘the English nation’ as if this ‘nation’ preceded, in a purely ethnic or racial sense, the establishment of a law-making body:

Magna Charta was not the original, but a declaration of the English liberties. The king's power is not restrained, but created by that and other laws; and the nation that made them can only correct the defects of them. (...) Magna Charta was not made to restrain the absolute authority; for no such thing was in being or pretended (the folly of such visions seeming to have been reserved to complete the misfortunes and ignominy of our age) but it was to assert

⁹¹ *Discourses*, Ch. Three, Sec. 31.

⁹² *Discourses*, Ch. Three, Sec. 46.

⁹³ *Discourses*, Ch. Three, Sec. 31.

⁹⁴ *Discourses*, Ch. Three, Sec. 46.

the native and original liberties of our nation by the confession of the king then being, that neither he nor his successors should any way encroach upon them: and it cannot be said that the power of kings is diminished by that or any other law; for as they are kings only by law, the law may confer power upon one in particular, or upon him and his successors, but can take nothing from them, because they have nothing except what is given to them.⁹⁵

Sidney puts a lot of effort in demonstrating that “the English nation has always been governed by itself or its representatives”⁹⁶ and that “the people of England have never acknowledged any other human law than their own”⁹⁷. However, unlike present-day nationalists, he admits that “in matters of the greatest importance, wise and good men do not so much inquire what has been, as what is good and ought to be; for that which of itself is evil, by continuance is made worse, and upon the first opportunity is justly to be abolished”. For, says Sidney, time cannot make anything lawful or just, that is not lawful or just of itself; and what is so, is of much force the first day as ever.⁹⁸ What matters to him, then, in an inquiry of the historical kind is to prove that “the nations whose rights we inherit, have ever enjoy’d the liberties we claim, and always exercised them in governing themselves popularly, or by such representatives as have been instituted by themselves, from the time they were first known in the world”.⁹⁹

Thus Sidney’s original intention was to demonstrate that popular government, rather than absolute monarchy, had always been the norm in England. Yet, he nevertheless established a type of argument which starts from the assumption that *‘nations’ have always enjoyed their ‘liberty’ (to legislate) and exercised them in governing themselves popularly, that they have never acknowledged any human law other than their own, and that such a state of affairs has reigned from the time they were first known in the world.* Nationalists’ claims are commonly based precisely on this set of assumptions, and once this set is well-established, their struggle is mainly focused on the monopoly on defining the content of the term ‘the nation’; practically, on the monopoly on defining which group can and which one cannot legitimise its claims to legislative power (that is, to ‘liberty’) by using the term ‘the nation’ to categorise itself. By establishing such a set of assumptions, Sidney laid the foundations for nationalist ideology in England, which was the first such ideology to emerge on the historical scene.

⁹⁵ *Discourses*, Ch. Three, Sec. 27.

⁹⁶ *Discourses*, Ch. Three, Sec. 28.

⁹⁷ *Discourses*, Ch. Three, Sec. 28.

⁹⁸ *Discourses*, Ch. Three, Sec. 28.

⁹⁹ *Discourses*, Ch. Three, Sec. 28.

In an unconscious proto-nationalist manner, Sidney also used the word ‘nations’ to label the ancient historical ancestors of the contemporary Englishmen – Angles or Saxons, and Britains. Referring to Caesar’s writings, he ascribes to the latter a mythical aura of “a free people”, “zealous for liberty, and so obstinately valiant in the defence of it” that “their country could no otherwise be subdued, than by the slaughter of all the inhabitants that were able to bear arms”¹⁰⁰, which has later become a central part of the British nationalist mythology.

It is visible throughout the *Discourses* that Sidney applies the term ‘nations’ to groups with established forms of parliamentary councils, such as Saxons, no matter whether they were still tribally organised, nomadic or settled. This attaches a rather political (or *proto-political*, to be more precise) meaning to the term ‘the nation’, although it would be very difficult to perceive those tribal councils as comparable to modern parliaments. On the other hand, the idea of assembly or council as a crucial point in defining ‘the nation’ as distinct from other forms of social organisation may shed a new light on the primarily *proto-political nature* of those pre-modern ‘nations’, which in contemporary social science mostly appear under the name of ‘ethnic groups’. Of course, modern social science avoids using the term ‘the nation’ to describe pre-modern forms of social organisation, which are ignorant of the idea of the modern state (including its monopoly on the use of means of violence) and its administrative and economic instruments (including centralised fiscal, monetary and customs policy, fixed territory and monitored borders). Instead, it tends to employ the notion of ‘ethnic groups’, although it commonly reduces the concept of ethnicity to linguistic, cultural or genetic categories and rarely takes political institutions as relevant (even Barth’s ‘boundary theory’, which defines ethnic ‘boundaries’ as symbolic rather than substantial, does not take political institutions as relevant for ethnicity).¹⁰¹ In this context, it is significant to note that Sidney’s pre-modern ‘nations’ – which may be with certainty identified with what is nowadays commonly labelled as ‘ethnic groups’ – are neither genetically nor linguistically nor culturally, but rather *politically* defined, as groups possessing their own *proto-political* institutions in the form of councils or assemblies. These institutions, unlike those of the modern state, did not have a unified reach over a clearly demarcated territory, but

¹⁰⁰ *Discourses*, Ch. Three, Sec. 28, p. 479.

¹⁰¹ Fredrik Barth (ed.), *Ethnic Groups and Boundaries: The Social Organization of Culture Difference* (London: George Allen and Unwin, 1969).

nevertheless performed their crucial, law-making function. In this sense, it would be possible to establish a distinction between Sidney's pre-modern 'nations', possessing their own proto-political law-making institutions without necessarily having their own state with a unified reach over a clearly demarcated territory, and modern 'nations', employing the institutions of the modern state to exercise control over the demarcated territory and population. Thus – following Sidney – it would still be possible to apply the term 'nations' to pre-modern societies and groups *with proto-political institutions*, without necessarily falling into the trap of *primordialist arbitrariness* or *nationalist mythomania*, which both tend to claim the link between modern 'nations' and ancient cultural or linguistic groups and regularly put the label of 'nations' on the latter. Yet, without employing the notion of ethnicity (whether supposedly based on culture, language, genetic code, religion or on Barth's symbolic boundaries) it would be very difficult to distinguish between ancient 'nations' with their own proto-political, law-making institutions, such as Saxons, and ancient states, such as Sparta or Athens, which also possessed their own parliaments and were even the founders of the concept of citizenship (in the subsequent political theory necessarily related to the concept of nationality). And then the only available distinction applicable to the pre-modern times (Sidney himself does make a distinction between ancient and modern 'nations'¹⁰²), which would then be similar to the view later employed by nationalist mythology, would be one that defines pre-modern 'nations' as *ethnic groups with their own proto-political, law-making institutions*. In this way, Sidney's understanding of the term 'the nation', no matter how political in its appearance, inevitably ends up as *ethnic rather than political* in its essence. Thus Sidney approaches the position of *ethnonationalists*, who see ethnic groups (whose claims to 'nationhood' and statehood the former promote and legitimise by labelling the latter as 'nations') as the only legitimate (indeed, as the only possible) bases for the establishment of '*nation-states*'. However, in the comparison he makes between England and the Netherlands or Switzerland there is still a room for a view of England as a 'nation' based on civic rather than ethnic principles:

The powers of every county, city and borough of England, are regulated by the general law to which they have all consented, and by which they are all made members of one political

¹⁰² *Discourses.*, Ch. Three, Sec. 39.

body. This obliges them to proceed with their delegates in a manner different from that which is used in the United Netherlands, or in Switzerland. Amongst these every province, city or canton making a distinct body independent from any other, and exercising the sovereign power within itself, looks upon the rest as allies, to whom they are bound only by such acts as they themselves have made; and when any new thing not comprehended in them happens to arise, they oblige their delegates to give them an account of it, and retain the power of determining those matters in themselves. 'Tis not so amongst us: Every county does not make a distinct body, having in itself a sovereign power, but is a member of that great body which comprehends the whole nation. 'Tis not therefore for Kent or Sussex, Lewis or Maidstone, but for the whole nation, that the members chosen in those places are sent to serve in parliament: and tho it be fit for them as friends and neighbours (so far as may be) to hearken to the opinions of the electors for the information of their judgments, and to the end that what they shall say may be of more weight, when everyone is known not to speak his own thoughts only, but those of a great number of men; yet they are not strictly and properly obliged to give account of their actions to any, unless the whole body of the nation for which they serve, and who are equally concerned in their resolutions, could be assembled.¹⁰³

Here the principle that unites England as a 'nation' is clearly one of sovereignty under one law-making body. Still, it is not clear whether the Netherlands or Switzerland are to be regarded as 'nations' or simply as confederations; whether their provinces and cantons are to be regarded as 'nations', given their sovereign status; and whether the term 'the nation' actually applies to England as a country or to the Englishmen as a body of people. In this respect, the ambiguity with which Sidney uses the term 'the nation' is *eminently modern*, in the sense that the semantic content of the word permanently shifts, from one signifying the body of people united by common law-making institutions (or, in addition, by common culture, language, religion), to that referring to the state as a political institution, or to that referring to country as a geographic rather than political category. For, the property of the term 'the nation' to change its semantic content – already present in Sidney's *Discourses* – has in the modern times become the potential source of its greatest political power, the power to unite by putting under one label 1) a group of people into one body, 2) a body of people with a territory appropriated as their own, 3) a body of people with the state that unites the territory into one entity. Also, the shifts between civic and ethnic interpretations of the term's content increase its potential for further semantic and political expansion. These shifts can stimulate existing ethnic communities to match the semantic content of the term 'the nation' and legitimise their political claims to establish their own sovereign 'nation-states', as much as they can stimulate existing sovereign political communities to match the semantic content of the term and homogenise their populations by creating common 'national' culture. As already

¹⁰³ *Discourses*, Ch. Three, Sec. 44.

noted in Liah Greenfeld's comparative study *Nationalism: Five Roads to Modernity*, nationalism practically emerged when in the 17th century England the term 'the nation' acquired its modern, broad and imprecise meaning of 'the sovereign people',¹⁰⁴ and thereby the potential for all these semantic shifts with political implications. In Sidney's *Discourses Concerning Government* the implications of the term 'the nation' as the term signifying 'the sovereign people' were elaborated for the first time, and – if we follow the line of Greenfeld's argument – Algernon Sidney is certainly to be recognised as a founder of nationalism, no less than as a founder of liberalism.

Having in mind all the semantic ambiguities with which Sidney fills the term 'the nation', which have for several centuries been exploited by nationalists of all sorts who followed the practice established by Sidney and his English contemporaries, it seems particularly important to identify the precise sociological content hidden behind these ambiguities. In Sidney's days, not quite unlike today, English society was composed of nobility, commons and clergy, and Sidney discusses the content of the notion of 'nobility' in order to prove that Filmer's understanding of nobility as a narrow circle of king's entourage – often with their titles bought for money – was not correct, that nobility included all 'freemen' under arms and obligation to defend their country and that all three social groups were actually parts of what he calls 'the English nation'.

Starting from the assumption that the best government is that which best provides for war¹⁰⁵, Sidney claims that in "all the legal kingdoms of the North, the strength of the government has always been placed in the nobility; and no better defence has been found against the encroachments of ill kings, than by setting up an order of men, who by holding large territories, and having great numbers of tenants and dependents, might be able to restrain the exorbitances, that either the kings or the commons might run into",¹⁰⁶. Unlike in the 'Eastern tyrannies', where there was no nobility and common people could only be raised above others by prince's favour,

The Northern nations, who were perpetually in arms, put a high esteem upon military valour; sought by conquest to acquire better countries than their own; valu'd themselves according to

¹⁰⁴ Liah Greenfeld, *Nationalism: Five Roads to Modernity*, (Cambridge, MA-London: Harvard University Press, 1992).

¹⁰⁵ *Discourses*, Ch. Two, Sec. 23.

¹⁰⁶ *Discourses*, Ch. Three, Sec. 28.

the numbers of men they could bring into the field; and to distinguish them from villains, called those noblemen, who nobly defended and enlarged their dominions by war; and for a reward of their services, in the division of lands gained by conquest, they distributed to them freeholds, under the obligation of continuing the same service to their country. This appears by the name of knight's service, a knight being no more than a soldier, and a knight's fee no more than was sufficient to maintain one.¹⁰⁷

In the mediæval times about which Sidney writes, the titles of offices were “conferred upon those, who did and could best conduct the people in time of war, give counsel to the king, administer justice, and perform other publick duties; but were never made hereditary except by abuse; much less were they sold for money, or given as recompences of the vilest services”:¹⁰⁸. Thus, says Sidney, the ancient councils of ‘the English nation’ did not consist of such which are now called ‘noblemen’:¹⁰⁹

By giving the name of noblemen (which anciently belonged to such as had the greatest interests in nations, and were the supporters of their liberty) to court-creatures, who often have none, and either acquire their honours by money, or are preferr’d for servile and sometimes impure services render’d to the person that reigns, or else for mischiefs done to their country, the constitution has been wholly inverted, and the trust reposed in the kings (who in some measure had the disposal of offices and honours) misemploy’d. This is farther aggravated by appropriating the name of noblemen solely to them; whereas the nation having been anciently divided only into freemen or noblemen (who were the same) and villains; the first were, ... exempted from burdens and contributions, and reserved like arms for the uses of war, whilst the others were little better than slaves, appointed to cultivate the lands, or to other servile offices. And I leave any reasonable man to judge, whether the latter condition be that of those we now call commoners. (...) But if the commons are as free as the nobles, many of them in birth equal to the patentees, in estate superior to most of them; and that it is not only expected they should assist him in wars with their persons and purses, but acknowledged by all, that the strength and virtue of the nation is in them, it must be confess’d, that they are true noblemen of England, and that all the privileges anciently enjoy’d by such, must necessarily belong to them, since they perform the offices to which they were annexed.¹¹⁰

Since armed service was by far the most important public service, it was common in those times for the clergy to join nobility and take arms in defence of the country, and “this succeeded so well (in relation to the defence of the publick rights) that... the bishops, abbots, &c. were no less zealous or bold in defending the publick liberty, than the best and greatest of the lords”. The same applied to commons, since kings had clear interest in including all those who were capable of bearing arms into country’s armed service. In such a way commons – together with nobility and clergy

¹⁰⁷ *Discourses*, Ch. Three, Sec. 28.

¹⁰⁸ *Discourses*, Ch. Three, Sec. 28.

¹⁰⁹ *Discourses*, Ch. Three, Sec. 28.

¹¹⁰ *Discourses*, Ch. Three, Sec. 28.

– got their share in power, so that, Sidney claims, “those whom we now call commons, have always had a part in the government, and their place in the councils that managed it”.¹¹¹ In fact, every knight had a right to the noble status, and “even to this day the name of gentleman comprehends all that is raised above the common people”.¹¹² In such a way the estate with the right to participate in power-sharing increased so much that “one place was hardly able to contain them; and the inconveniences of calling them all together appeared to be so great, that they in time chose rather to meet by representatives, than every one in his own person.”¹¹³ In this difficulty Sidney sees the origin of aristocracy as a method of the indirect execution of power (not as a distinct social class or estate), as opposed to the first phase, when ‘freemen’ or ‘gentlemen’ were able to participate in councils in person, so that the method of execution of power was rather direct or democratic. However, in both phases, power essentially remained in the ‘freemen’ as the main estate (as opposed to the estate of villains, who were despised by ‘freemen’ and only allowed to cultivate land). In other words, *it was the ‘freemen’ who constituted ‘the nation’, regardless of whether these ‘freemen’ had a formal status of nobility, clergy or arms-bearing ‘commons’,* “and whether they did immediately, or some ages after that distinction, cease to come to their great assemblies, and rather chuse to send their deputies, or, whether such deputies were chosen by counties, cities and boroughs, as in our days, or in any other manner”. In those Saxon times, “the power of the nation, when it was divided into seven kingdoms, or united under one, did reside in the mickleghemotes or witenagemotes”, and these consisted of the nobility and commons, who were sometimes so numerous that no one place could well contain them, so that the preference was given to the chief among them, on account of the offices they executed. No matter, Sidney concludes, whether they were called ‘earls’, ‘dukes’, ‘aldermen’, ‘herotoghs’ or ‘thanes’, it is certain that the titular nobility has no resemblance to this ancient nobility of England.¹¹⁴

In any case, it is possible to understand from the *Discourses* that ‘the nation’ of the Saxons, the way Sidney describes it – whether divided into several kingdoms or being united into one, whether consisting of the nobility and the people or consisting of the nobility only, whether they were both representing themselves in the councils or were

¹¹¹ *Discourses*, Ch. Three, Sec. 28.

¹¹² *Discourses*, Ch. Three, Sec. 28.

¹¹³ *Discourses*, Ch. Three, Sec. 28.

¹¹⁴ *Discourses*, Ch. Three, Sec. 28.

represented only by their chosen deputies – was made of *ethnic* Saxons, these having presumably been culturally, linguistically and genetically distinct from other contemporary ethnic groups. However, it seems implied in the text that these ethnic Saxons could not be licensed to wear the title of ‘the nation’ without having made a contract between themselves to constitute their own law-making councils in the territories they conquered and occupied. Thus the way Sidney interprets the content of the term ‘the nation’ which he uses to label the ancient predecessors of the contemporary Englishmen remains inherently ambiguous, subject to both ethnic, territorial and political interpretations and stretched so as to cover all these three potential aspects.

Since the presence or absence of councils or parliaments in a group’s history presumably decides whether it has the necessary prerogatives of ‘the nation’ or not, Sidney devotes a lot of effort to prove that the whole power of calling and dissolving the parliament is not placed in the king but in ‘the nation’, which thus qualifies for that title by demonstrating the ability to establish its own parliamentary institutions. This effort is built upon the supposition that “that the king can have no such power, unless it be given to him, for every man is originally free; and the same power that makes him king, gives him all that belongs to his being king”. King’s power is not therefore an inherent, but a delegated power; and whoever receives it, is accountable to those that gave it.¹¹⁵ The only reason why parliaments of ‘nations’ meet is to provide for the public good, and they by law ought to meet for that end, and ought not therefore to be dissolved till it be accomplished; therefore, they ought not to be called or dissolved by the king’s arbitrary will but by the arbitrary will of ‘the nation’.¹¹⁶ Members of parliaments – knights, citizens and burgesses – have a power only because they serve the people who sent them, who have all the power in themselves – “the legislative power therefore that is exercised by the parliament, cannot be conferred by the writ of summons, but must be essentially and radically in the people, from whom their delegates and representatives have all that they have”.¹¹⁷ This legislative power of the people “is always arbitrary, and not to be trusted in the hands

¹¹⁵ *Discourses*, Ch. Three, Sec. 38.

¹¹⁶ *Discourses*, Ch. Three, Sec. 38.

¹¹⁷ *Discourses*, Ch. Three, Sec. 44.

of any who are not bound to obey the laws they make”;¹¹⁸ indeed, the establishment of government is an arbitrary act, wholly depending upon the will of men, and so are “the particular forms and constitutions, the whole series of the magistracy, together with the measure of power given to everyone, and the rules by which they are to exercise their charge”.¹¹⁹ Therefore, Sidney finally concludes, not only can there be no such thing as a legislative power placed in kings by the laws of God and nature, but there can only be that ‘nations’ have it in themselves.¹²⁰ *And this legislative power is what he understands under the name of ‘liberty’, as the essential property of ‘nations’.*

Sidney was thus the first modern author to explicitly propose that ‘nations’ have legislative power in themselves, based on man’s having by nature ‘liberty’ in himself, and his view has since become the norm. This caused that the issue of the exact sociological content of the terms ‘the nation’ and ‘liberty’ has ever since become the most contentious for the definition of who can actually aspire to this legislative power, and has permanently entwined these two terms as self- and mutually legitimising. This issue boils down to the question of what is it that grants the right to a group or to a part of a country’s population to use the title of ‘the nation’ to categorise itself and thereby legitimise its claims to legislative power (these also being legitimised by labelling the latter as ‘liberty’); in other words, what is it that makes it ‘the nation’, by nature ‘free’. *The struggle over the monopoly on this type of legitimacy within one limited political space is what constitutes the core of nationalism as a political process. Nationalist elites thus may claim the title of ‘the nation’ for themselves, or for any group or any part of a country’s population, in the name of ‘liberty’; what makes their claims politically defensible is their ability to actually defend them when confronted with competing claims. The actual ability of one group first to claim legislative power for itself under the name of ‘liberty’, then to legitimise its pretensions to legislate for itself by proclaiming itself ‘the nation’, and then to monopolise the use of the title ‘the nation’ for itself, is what constitutes that group as ‘the nation’. The actual imposition of its monopoly on legislation within one*

¹¹⁸ *Discourses*, Ch. Three, Sec. 45. Rousseau’s and Kant’s conceptions of freedom as obedience to the (societal or moral) laws made by those who are supposed to obey them seems fully rooted in this conception of the laws proposed by Sidney.

¹¹⁹ *Discourses*, Ch. Three, Sec. 45.

¹²⁰ *Discourses*, Ch. Three, Sec. 46.

limited political space is what constitutes that space as 'the nation-state', by definition 'free'.

Therefore, only a group or a part of the population with the ability to actually impose its own claims to 'liberty' and thereby to legislative power in one political space (and on other groups with competing claims within that political space) has the 'right' to legitimise these claims by calling itself 'the nation'. Inversely, by proclaiming itself 'the nation', it demonstrates pretensions to acquire this 'right' to legislate for itself and to impose its monopoly on legislative power within one limited political space, and then to impose this monopoly (under the name of 'inherited liberty', 'given by nature') onto other groups with competing claims within that space. Thus the power to impose one's own claims to the title of 'the nation' becomes the source of the 'right' to legislate for the entire political space in question (that is, the source of 'liberty', which is by definition contained in 'the nation'), that is, of the 'right' to legislate on behalf of 'the nation', including the 'right' to legislate on behalf of those groups that previously attempted to impose their own, competing claims to the title of 'the nation' and to legislative power implied in that title. In other words, it is might that makes right and thus retrospectively legitimises claims to 'legitimacy given by nature'.

The principle of transforming one's power to monopolise the title of 'the nation' into one's 'right' to legislate under the name of 'liberty' and on behalf of 'the nation' sheds some light on those elite groups or wider parts of the population which historically possessed the ability to use military power and thereby the ability to impose their own claims as legitimate and monopolistic. In this respect Sidney's book, as the first work that established a theoretical framework for legitimising 'nations' as bearers of the legislative power under the name of 'liberty', is very instructive. It demonstrates that for Sidney and his English contemporaries the right to the title of 'the nation' was reserved for those sections of society with the ability to use and monopolise military power and thereby acquire political legitimacy. Thus for Sidney the right to the title of 'the nation' and hence the right to legislate was not to be reserved only for 'nobility', as a presumed military caste, but also for those 'commons' practising military skills and possessing military (and financial) power, while 'villeins', as the part of 'commons' without military status, were to be explicitly excluded ("the despised commons under the name of villeins"). Both of the former groups were named and treated as 'freemen' (that is, the bearers of 'liberty'),

with the ‘right’ to legislate and call themselves ‘the nation’, while the latter were to be understood as unfree and therefore by definition excluded from legislation. Thus the body of ‘freemen’ practically equals ‘the nation’ (as also practically claimed by Locke¹²¹). This establishes an instructive relationship between ‘liberty’ and ‘nationhood’, as they were both used by early liberals.

Conclusion

As financial power was increasingly replacing military power as a key to political power and hence to political legitimacy, so was the title of ‘the nation’ increasingly becoming attached to the financially rising middle class, and the beginning of this process is already visible in Sidney’s *Discourses*, where ‘commons’ who were able to contribute to defence with their ‘purse’ were equated with those who contributed with their military skills. Eventually, in the French Revolution, the so-called Third Estate (that is, the middle class, then already capable of bearing the main burden of financing the military and war) became synonymous with ‘the nation’ and monopolised all legislative power for itself under the name of ‘liberty’. In the English Revolution, however, the title of ‘the nation’ and hence monopoly on political legitimacy and legislation had to be shared between ‘nobility’ and ‘commons’ (minus “the despised commons under the name of villeins”), exactly as Sidney had envisaged several years before. In both cases, it was the title of ‘the nation’ that legitimised claims to legislative power (that is, to ‘liberty’) by those elite parts of society (contained under the joint name of ‘freemen’) which practically demonstrated the ability to impose their claims onto the rest by proclaiming themselves ‘the nation’. In turn, these two cases demonstrated that the sociological content of the term ‘the nation’ was in those times (and still is) treated as a variable, subject to arbitrary adaptations that always depend on particular political circumstances. The constant has remained the very term ‘the nation’, as the framework that universally legitimises claims to legislative power by those who can practically manage to impose their monopoly on the use of the term to brand themselves, whatever their constituting principles and sociological profile. They (whoever they are – politically, sociologically, ethnically, or religiously) constitute themselves as ‘the nation’ (and

¹²¹ *Second Treatise of Government*, chapters VII and VIII.

legitimise themselves accordingly) by monopolising legislative power for themselves and by overpowering (that is, by eliminating or absorbing) other claimants to that power; but the very title 'the nation' always remains the sole source of their legitimacy. Algernon Sidney was the first well-known author who promoted 'nations' as the sole source of political legitimacy, without ever defining what 'nations' actually were or were meant to be. In this respect, his contribution to the emergence of the doctrine of nationalism, which promotes the same principle of gaining political legitimacy by arbitrarily applying the term 'the nation' to whoever's claims to 'liberty' in the form of legislative power, is immeasurable.

Chapter Two: Jean-Jacques Rousseau

Although there were individuals (such as Immanuel Kant) who celebrated his great achievements in philosophy, Jean-Jacques Rousseau had to take the blame for almost all of the 18th-, 19th-, and 20th-century excesses in politics, coming from both the left and the right. Denounced after his death as the founding father of both the Jacobins and the Nazis,¹²² of liberal individualism and totalitarian collectivism, of the revolution and 'the nation', Rousseau sought to create ultimate answers to eternal questions, as most of philosophers have done. And yet, being denounced for simultaneously advocating so many mutually contradicting theories, principles and values, he was the one and only among them who escaped any classificatory schemes by remaining consistent beyond any classification. Thus his fate remains full of multiple paradoxes, as much as was his work.

The series of paradoxical accusations begins with Burke, who takes Rousseau as the embodiment of the philosophy of the revolution, which begins as a revolt of the individual against society, as an outburst of selfish ambition, aiming to replace the existing authorities by himself.¹²³ For the early socialists, Rousseau was a hard-core individualist, and yet according to some modern critics Rousseau's 2nd *Discourse* is to be regarded as one of the principal sources of the socialist movement, of Marxism, and still more of anarchism.¹²⁴ Rousseau's name is often associated with the German Idealists and he is often credited with being the real originator of their political system.¹²⁵ Kant admitted that Rousseau contributed to his development of the principle of the autonomy of the will, by which he reconciled law with freedom.¹²⁶

His 20th-century critics could also agree on very few things. Ernst Cassirer wrote that Kant was the only man in the eighteenth century to understand the inner cohesion

¹²² Bertrand Russell in his famous *History of the Western Philosophy* went so far as to accuse Rousseau of being an inspiration for Stalin's and Hitler's respective ideologies. See Bertrand Russell, *History of Western Philosophy* (London: Routledge, 2000)

¹²³ Alfred Cobban, *Rousseau and the Modern State* (London: George Allen & Unwin Ltd., 1964), pp. 23-24.

¹²⁴ Cobban, p. 26.

¹²⁵ Cobban, p. 28.

¹²⁶ Cobban, p. 29.

of Rousseau's thought.¹²⁷ For Jacob Talmon, Rousseau was to be simply dismissed as a 'tormented paranoiac', with a 'totalitarian Messianic temperament', whose envious dream was to become a 'disciplinarian'.¹²⁸ C.E. Vaughan thought that Rousseau's work was without much inner cohesion, influenced by different authors in different phases, so that it had to be divided into three, mutually contradicting parts: in the first one, in 2nd *Discourse* and the first chapters of *The Social Contract*, he was an extreme individualist and a follower of Locke, in the core part of *The Social Contract* he was a disciple of Plato, while in *The Government of Poland* he fell under the influence of Montesquieu.¹²⁹ In Alfred Cobban's view, Rousseau, as the greatest of the disciples of Montesquieu, was as clear an upholder of the rule of law and of individualism as Locke himself,¹³⁰ and yet Cobban sees Rousseau as one of the originators of the eminently collectivist doctrine of nationalism. In Anne Cohler's interpretation, Rousseau's late work *The Government of Poland* is to be regarded as *the founding act of nationalism*.¹³¹

Rousseau and Nationalism

Rousseau was one of the most zealous advocates of freedom, and this fact leads even many of his opponents to classify him as a liberal. In this sense, his book *The Government of Poland*, proclaimed by Cohler as *the manifest* of nationalism, also abounds with references to freedom and may well be classified as liberal. But, as noted in the Introduction to the book written by Willmoore Kendall, "The 'freedom' of *The Government of Poland* is, quite simply, the freedom of the Polish people from foreign domination, that is, in the jargon of our own contemporary politics, 'self-determination'; and even that is put forward not as a 'cause', a principle applicable to all peoples everywhere and always; it is, specifically, the *Poles'* freedom, from,

¹²⁷ Ernst Cassirer, *The Question of Jean-Jacques Rousseau* (Bloomington: Indiana University Press, 1963), p. 70.

¹²⁸ J.L. Talmon, *The Origins of Totalitarian Democracy*, (London: Secker and Warburg, 1955). Cited in Cobban, p. 29.

¹²⁹ C.E. Vaughan, *Jean-Jacques Rousseau: The Political Writings* (New York: John Wiley & Sons, 1962), i. pp. 77-81.

¹³⁰ Cobban, pp. 33-34.

¹³¹ Anne Cohler, *Rousseau and Nationalism* (New York-London: Basic Books, Inc. Publishers, 1970), p. 34. According to Cohler, the essence of Rousseau's 'nationalism' is thus in making "the pre-existing nation... more distinct from others by making it much more self-contained and self-concerned than it was before the creation of the new social institutions and political order". (Cohler, p. 35)

specifically, *Russian* domination.”¹³² Of course, it would be very difficult for a book on, specifically, the Poles’ freedom from, specifically, Russian domination to serve as a general manifest of nationalism that aims to lay down a general principle applicable to all peoples everywhere and always. However, this book, while treating the freedom of the Poles as freedom in general, established *the practice of conflating all kinds of freedom* (including the conflation between individual and collective freedom), which has ever since characterised both liberalism-proper *and nationalism*. *The Government of Poland* thus followed and further developed the logic of Sidney’s *Discourses Concerning Government* in establishing the theory of *national self-determination* as part of the more general liberal theory.¹³³

Rousseau wrote *The Government of Poland* on request of the Polish noble, Count Wielhorski, playing with his favourite concept of *the legislator*, a position often celebrated throughout his main works, and a position which enabled him to apply on one concrete polity the basic principles of his *Social Contract*.¹³⁴ Starting from his favourite conclusion that the contemporary Europeans, due to the ill-devised institutions which inculcated into their hearts nothing but the prejudices, the base philosophy, the passions of narrow self-interest and indifference to the welfare of others, had nothing in common with the ancient Romans and Greeks,¹³⁵ Rousseau saw in Poland’s incomplete (compared with modern European states) state-structure a great opportunity for a wise legislator to re-model the existing polity after the ancient examples (rather than, as Cohler says, to push the existing polity further towards ‘barbarism’). However, being aware of the key-problem put before the legislator, of

¹³² Jean-Jacques Rousseau, *The Government of Poland* (Indianapolis: Hackett Publishing Company, 1985). Introduction by Willmoore Kendall, p. xiv.

¹³³ For Sidney, liberty was first and foremost the power of a people to legislate for themselves. Rousseau’s understanding of liberty is more complex but, put simply, implies that freedom is to be regarded as the ability to reconcile one’s own will with ‘the general will’, the latter being expressed primarily through laws. The origin of the idea of equating liberty with national self-determination, as the chapter on Algernon Sidney shows, is thus to be attributed to Sidney. Indeed, the typically nationalist idea that ‘liberty of nations’ is to be equated with their ‘right’ to possess their own states and legislate for themselves is to be found in its most explicit form in Sidney’s *Discourses Concerning Government*, rather than in Rousseau’s *Considerations on the Government of Poland*.

¹³⁴ In Cohler’s interpretation of Rousseau: “The task of the legislator is to create social institutions that make the citizens distinct from other men by making them more national and parochial and more involved in their own political order. (...) Rousseau ... was pleased by the absence of intermediate institutions in Poland and by its closeness to barbarism. He proposed the development of political institutions that would take this simple opinion and create from it a kind of opinion appropriate to a whole citizenry, implying that one must have this barbaric opinion in order for the political establishment to be able to create a people devoted to the laws.” (Cohler, p. 33)

¹³⁵ *Poland*, p. 5. The three ancient legislators which Rousseau celebrates in *The Government of Poland* are Moses, Lycurgus, and Numa (whom Rousseau saw as the real founder of Rome, with Romulus being portrayed only as a military commander). See *Poland*, pp. 6-7.

putting law over men, that is, of making laws rather than men governing, and comparing it with the problem of squaring the circle in geometry,¹³⁶ Rousseau put into the centre of his enterprise the idea of reflexivity between laws and men, using the country's constitution to re-constitute the Poles, their habits, customs and values¹³⁷ so as to make them embrace both their country and its laws:

A good and sound constitution is one under which the law holds sway over the hearts of the citizens; for, short of the moment when the power of legislation shall have accomplished precisely that, the laws will continue to be evaded. But how to reach men's hearts? Our present-day lawgivers, thinking exclusively in terms of coercion and punishment, pay almost no attention to that problem – for which, perhaps, material rewards are no better solution. And justice, even the purest justice, is not a solution either. For justice, like good health, is a blessing that people enjoy without being aware of it, that inspires no enthusiasm, and that men learn to value only after they have lost it. By what means, then, are we to move men's hearts and bring them to love their fatherland and its laws? Dare I say? Through the games they play as children, through institutions that, though a superficial man would deem them pointless, develop habits that abide and attachments that nothing can dissolve.¹³⁸

In devising institutions that would make Poles ever more attached to their country, to one another, and to these very institutions themselves, Rousseau was explicitly following the ancient legislators, who sought ties that would bind the citizens to the fatherland and to one another, and who “found what they were looking for in distinctive usages, in religious ceremonies that invariably were in essence exclusive and national, in games that brought the citizens together frequently, in exercises that caused them to grow in vigor and strength and developed their pride and self esteem; and in public spectacles that, by keeping them reminded of their forefathers' deeds and hardships and virtues and triumphs, stirred their hearts, set them on fire with the spirit of emulation, and tied them tightly to the fatherland – that fatherland on whose behalf they were kept constantly busy”.¹³⁹ In particular, Rousseau did not hesitate to show that in *The Government of Poland* Moses was a hero to be followed, in particular in terms of making his people permanently distinct from all the others:

Moses made bold to transform this herd of servile emigrants into a political society, a free people; at a moment when it was still wandering about in the wilderness and had not so much as a stone to pillow its head on, he bestowed upon it the enduring legislation – proof against

¹³⁶ *Poland*, p. 3.

¹³⁷ Cohler was correct about the significance of the change which ‘the nation’ was supposed to go through, although she overemphasised the significance of ‘the nation’ as a ‘pre-political’ category on which the political order was to be built. See Cohler, pp. 34-35.

¹³⁸ *Poland*, p. 4.

¹³⁹ *Poland*, p. 8.

time, fortune, and conquest – that five thousand years have not sufficed to destroy or even weaken. Even today, when that nation no longer exists as a body, its legislation endures and is as strong as ever. Determined that his people should never be absorbed by other peoples, Moses devised for them customs and practices that could not be blended into those of other nations and weighted them down with rites and peculiar ceremonies. He put countless prohibitions upon them, all calculated to keep them constantly on their toes, and to make them, with respect to the rest of mankind, outsiders forever.¹⁴⁰

In the case of the then Poland, which was weak from anarchy, constantly divided within, constantly threatened from without, underpopulated, with few troops and surrounded by larger states with strong militaries and despotic governments, the example of Jews was particularly instructive.¹⁴¹ Rousseau's love of paradox sought to create a Polish replica of Moses' Jewish state in Jewish hearts, thereby reintroducing this very paradigm as a potential inspiration for future nationalist entrepreneurs.¹⁴² Rousseau thus saw only one means of giving Poland stability it lacked: that of establishing the republic in the Poles' own hearts, so as to live on in them despite anything that its oppressors may do. Those hearts, thought Rousseau, are the republic's only place of refuge: there force could neither destroy it nor even reach it.¹⁴³ Not being able to keep Russians from swallowing them, Poles at least could see to it that Russian would never be able to digest them.¹⁴⁴ As in Rousseau's message to the Polish dignitaries: "See to it that every Pole is incapable of becoming a Russian, and I answer for it that Russia will never subjugate Poland."¹⁴⁵

In this book Rousseau was quite explicit in repeating that Poland needed '*national*' institutions, which were supposed to give form to the genius, the character, the tastes,

¹⁴⁰ *Poland*, p. 6.

¹⁴¹ Given the fact that the book was written in the year of Poland's partition, Kendall summarises the theme of the book in this way: "It would, in point of fact, be no exaggeration to say that on the deepest level the problem of the book, *as far as Polish affairs are concerned*, reduces itself to this: How can the Poles remain "free" even under a Russian occupation? And Rousseau's solution to that problem – let the Poles build their republic in their own hearts, beyond the reach of foreign swords – is not without interest in connection with Rousseau's motivation ... in addressing a book to Poland; he is, he says, attracted to the Poles precisely because he sees in them the capacity for being "free" in a very special, if paradoxical, sense of the word "free". To anticipate a little again, it helps explain his glorification, throughout his book, of Moses as the supreme Legislator, or Lawgiver: Moses' act of founding, by contrast with that of lesser Founders, formed a people able to maintain its identity, and thus its "freedom", even when scattered to the four winds and without a "State" or government of its own." (*Poland*, Introduction by Willmoore Kendall, p. xiii.)

¹⁴² On the significance of the model of ancient Israel for the emergence of nationalism, see Liah Greenfeld, *Nationalism: Five Roads to Modernity*, (Cambridge, MA-London: Harvard University Press, 1992), Adrian Hastings, *The Construction of Nationhood* (Cambridge: Cambridge University Press, 1997), and Anthony Smith, *The Ethnic Origins of Nations* (Cambridge, MA: Basil Blackwell, 1986).

¹⁴³ *Poland*, p. 10.

¹⁴⁴ *Poland*, p. 11.

¹⁴⁵ *Poland*, p. 11.

and the customs of ‘the people’, which would then be impossible to uproot.¹⁴⁶ These *pre-political* categories, although meant to serve as *the basis for the formation of ‘national’ institutions*, were nevertheless only potentially taken as ‘national’; that is, they were taken as *proto-‘national’*: the label ‘national’ was applied only to *the political institutions* which the Poles had yet to build. Rousseau thus claimed that the Poles were the only ones in Europe who had a chance to be *formed ‘nationally’*, by *distinctive legislation, by developing political institutions as ‘national’ ones* (instead of developing the same tastes, passions, customs, as was already the case with the rest of Europeans):¹⁴⁷ “Give a different bent to the passions of the Poles; in doing so, you will shape their minds and hearts in a national pattern that will set them apart from other peoples, that will keep them from being absorbed by other peoples, or finding contentment among them, or allying themselves with them.”¹⁴⁸ In order to do so, the Polish elite had to preserve or revive ancient Polish customs, and introduce “suitable new ones that will also be purely Polish”, so as “endear Poland to its citizens and develop in them an instinctive distaste for mingling with the peoples of other countries”.¹⁴⁹ For, “He who would try his hand at *founding a nation* must learn to dominate men’s opinions, and through them to govern their passions.”¹⁵⁰ This is to be done primarily through education, whose task is to “shape the souls of the citizens in a national pattern and so to direct their opinions, their likes, and dislikes that they shall be patriotic by inclination, passionately, of necessity”:¹⁵¹

When the Pole reaches the age of twenty, he must be a Pole, not some other kind of man. I should wish him to learn to read by reading literature written in his own country. I should wish him, at ten, to be familiar with everything Poland has produced; at twelve, to know all its provinces, all its roads, all its towns; at fifteen, to have mastered his country’s entire history, and at sixteen, all its laws; let his mind and heart be full of every noble deed, every illustrious man, that ever was in Poland, so that he can tell you about them at a moment’s notice.¹⁵²

¹⁴⁶ *Poland*, p. 11.

¹⁴⁷ *Poland*, p. 11. Rousseau had similar hopes about Corsica, so that he wrote *The Constitutional Project for Corsica* in 1765. *The Government of Poland* was written in 1772, in the year of Poland’s partition. See Charles W. Hendel, *Jean-Jacques Rousseau, Moraliste* (London-New York: Oxford University Press, 1934), Vol. II, p. 314.

¹⁴⁸ *Poland*, p. 12.

¹⁴⁹ *Poland*, p. 14.

¹⁵⁰ *Poland*, p. 18. Italics Z.H.

¹⁵¹ *Poland*, p. 19.

¹⁵² *Poland*, p. 20.

In *The Government of Poland* Rousseau thus gave a precise instruction for building social and political homogeneity, and that homogeneity is there explicitly called ‘national’. However, rather than affirming ‘the Polish nation’ as a *pre-political* category for the sake of affirming ‘nations’ as pre-political categories through the process of state-building (as Cohler claims¹⁵³), he explicitly stated that his aim was to reform the government of Poland as an existing *political* entity, so as to give “to the constitution of a large kingdom the stability and vigor of that of a tiny republic”,¹⁵⁴ hence, homogeneity as the ultimate means to that particular end. Rather than affirming ‘nations’ as pre-political categories, *The Government of Poland*, no less than other Rousseau’s works, affirms *small states* (which were the most suitable political framework for building and developing ‘*national*’ institutions as eminently political ones),¹⁵⁵ in order to affirm his favourite concept of *direct democracy*:

One of the greatest drawbacks of large states, that which more than any other makes the preservation of liberty most difficult for them, is that the legislative power in such a state cannot make itself seen and can act only by deputation. This, to be sure, has its advantages as well as its disadvantages; but, the latter outweigh the former. The legislator as a body is impossible to corrupt but easy to put upon. Its representatives are difficult to put upon but easy to corrupt; and it rarely happens that they are not corrupted. You have merely to look at the English parliament as one example, and at your own nation, because of the *liberum veto*, as another. Now: one can enlighten the man who is mistaken, but how restrain the man who can be bought?¹⁵⁶

Consistent with the idea of *direct democracy for small states*, and Rousseau in *Poland* advocates them as well, are the concepts of social equality¹⁵⁷, citizens’ army,¹⁵⁸ social mobility and meritocracy.¹⁵⁹ Yet, paradoxically, despite the fact that Rousseau

¹⁵³ “Nationalism is an appeal to a pre-existing group which will be radically changed by the government which is to be established upon it. Rousseau advocates building on a pre-existing group, the nation, but he does not pretend that the political order to be formed on the nation will leave it the same as before.” (Cohler, p. 34)

¹⁵⁴ *Poland*, p. 25.

¹⁵⁵ As Kendall put it: “One can read the *Poland* in either of two ways: (a) as a book dealing centrally with Poland, and saying pretty much what it seems to say; or (b) as a book dealing centrally with the territorially extensive modern State, and saying much more than – and something different from – what it seems to say.” (*Poland*, Introduction by Willmoore Kendall, p. xix)

¹⁵⁶ *Poland*, p. 35.

¹⁵⁷ *Poland*, pp. 29-30, 94-97.

¹⁵⁸ *Poland*, pp. 80-81.

¹⁵⁹ “The lower grades should be open to every citizen who, deeming himself capable of filling them well, has the kind of zeal that drives him to become a candidate. In any case, they should be the indispensable first step for everyone, great or small, who wishes to win advancement in the public service. Let each citizen, by all means, feel free not to present himself; but once he has become a candidate, let him, unless he himself elects to withdraw, either move up the ladder or, having been weighed in the balance and found wanting, be turned back. And let him be conscious always that every

advocated small states with direct democracy rather than large ‘nation-states’ with representative government, Rousseau’s idea of establishing a direct proportion between social mobility and the display of patriotism (by giving an opportunity for every citizen to compete for grades in public service and rise on social scale by demonstrating patriotic zeal) served as probably the most efficient approach to social and ‘national’ homogenisation, one that has later been appropriated by most of leaders of large ‘nation-states’ in their endeavours of ‘nation-building’.

However, in *Poland* Rousseau, as observed by Kendall, *does* argue for “giving up the large nation state for another form of polity”.¹⁶⁰ This form of polity is a parochial, anti-modern petty-state, and its profile is designed in contradistinction to the modern ‘nation-state’, already well-established in Rousseau’s own time.¹⁶¹ Yet, paradoxically, again, if the large states of his time were to be regarded as ‘nation-states’, then ‘nationalism’ which Rousseau allegedly proposed as solution to Poland’s problems would go directly against ‘the nation-state’ as such. In that sense, would nationalism, provided that nationalism is what Rousseau really advocated, be inherently opposed to the existing ‘nation-state’? And, if Rousseau’s ‘nationalism’ really emerged in opposition to the already existing ‘nation-state’, what kind of ‘nation-state’ *his* alleged ‘nationalism’ sought to create? And, if the already-existing ‘nation-state’ had been created by some other doctrine or ideology, what kind of doctrine, other than nationalism, it could have been, taking that state as created for a particular ‘nation’? Or, if the already existing ‘nation-state’ could not be detached from some form of nationalism (that is, if modern ‘nation-states’ could not be created without their

detail of his conduct is being observed and evaluated by his fellow-citizens, that no step he takes will go unnoticed, that no action he performs will be disregarded, and that the good and the evil he does are being posted upon a scrupulously accurate balance-sheet that will affect every subsequent moment of his life.” (*Poland*, p. 88) Also, pp. 94-102.

¹⁶⁰ *Poland*, Introduction by Willmoore Kendall, p. xxvii. Also: “The prevailing theme of the work is that of ‘Ancients vs. Moderns’, and the book is characterized by Rousseau’s continual confrontation of modern political and cultural practice with what he considers to be the superior modes and orders of Rome, Sparta, and Israel. He would have the Poles ‘establish a republic in their own hearts’ that would effectively set them apart from their European contemporaries and would restore to them a sense of the healthier bonds of association enjoyed by the ancient polities. As he says, the key problem of devising a constitution for Poland (and, should we not infer, the central problem in founding an appropriate regime for any of the modern peoples?) is the task of raising contemporary man ‘to the pitch of the souls of the ancients’. (*Poland*, pp. 11-12) The *Poland*, then, can be taken as a kind of provisional model for the grander program of refounding the nation-state along lines prescribed by the study of the ancients.” (Kendall, pp. xxix-xxx)

¹⁶¹ “Almost all small states, republics and monarchies, alike, prosper, simply because they are small, because all their citizens know each other and keep an eye on each other, and because their rulers can see for themselves the harm that is being done and the good that is theirs to do and can look on as their orders are being executed.” (*Poland*, p. 25)

respective nationalisms), would it still be plausible to claim Rousseau to be nationalism's founder?¹⁶² Or, if there had been nationalisms which had contributed to the creation of the first 'nation-states', who could have been their founders? Such questions inevitably multiply if one insists on the claim of Rousseau's being the founder of the doctrine of nationalism, and there are no logical answers to them once it is adopted that Rousseau's was 'nationalism' against (or without) the already existing 'nation-state', or that there had been large 'nation-states' without (or prior to) their respective nationalisms: it is only logically sustainable to maintain that these 'nation-states' had come into existence together with their nationalisms, which had had their founders other than Rousseau, and that Rousseau's was a peculiar form of anti-modern parochialism, advocating a petty-state with a society homogenised for direct democracy, which would be structurally opposed to the (already existing) large 'nation-state', which sought to homogenise its society for its further expansion.

'The nation' as a pre-political fact?

A widespread assumption, which Cohler articulated in the most extensive manner but which is by no means her intellectual property, is that Rousseau was *the first* political philosopher who took 'the nation' as a given, pre-political fact to which politics must adjust, rather than as a product of politics, which legislators can remake. This assumption always goes so far as to claim that, since modern nationalism is in essence this same fashioning of politics on the basis of 'the nation' as a presumed *pre-political* fact, nationalism therefore owes its intellectual origin to Rousseau.¹⁶³

As the chapter on Sidney demonstrates, it was Sidney who was probably *the first* political philosopher who sought to adjust politics to 'nations' as *proto-political*, if not *pre-political*, facts. On the other hand, the claim that Rousseau regarded 'the

¹⁶² Here I rely on Gellner's assumption that nationalism, rather than bringing 'nations' to self-consciousness, invents 'nations' "where they do not exist". In this sense, 'nation-states' like France and England could not be brought into existence without the prior existence of their respective nationalisms. In the rest of this thesis, the underlying assumption (taken from Brubaker's and Beissinger's theories) is that 'nations' exist only *as* nationalism, through the latter's perpetual mass manifestations. In both cases, it would be impossible for England and France to become 'nation-states' without their respective nationalisms. Therefore, there could be no possibility for nationalism to be regarded as Rousseau's invention if there already were some states defined as 'nation-states'. Obviously, according to both theoretical assumptions, for these 'nation-states' to come into existence, there had to be nationalisms whose founding ideologues had to live at least a century before Rousseau.

¹⁶³ Harvey C. Mansfield JR., Preface to Jean-Jacques Rousseau, *The Government of Poland* (Indianapolis: Hackett Publishing Company, 1985), p. vii.

Polish nation' as a given, pre-political fact is seriously challenged by the fact that he attempted to *build* for this 'nation', that is, to build its national institutions, which means that this 'nation' was not taken as given, or complete, at the least: its institutions had to be *built* 'nationally' in order for this potential 'nation' to assert itself as a real one. Also, as modernists would argue, nationalism is in essence fashioning politics on the basis of the *prescribed* political unit, 'the nation'; in this sense, Rousseau indeed took Poland as a prescribed unit for which he was building, naming it 'the nation'. However, Poland with its long political history, to which Rousseau refers repeatedly, is far from a pre-political (or even proto-political) fact at the time of Rousseau's writing, regardless of the fact that the very term 'the nation' (at least among nationalists) subsequently acquired the meaning of a pre-political rather than political unit: for Rousseau, such a 'nation' was a political fact which he – according to his introductory claim – studied thoroughly, rather than a pre-political fantasy, which he sought to impose onto political reality. It is clear that in his favourite role of the legislator Rousseau was building on the basis of an existing, albeit imperfect, *political structure*. The fact that he named it 'the nation' corresponds well with Sidney's earlier use of this term, which refers to groups with half-developed, *proto-political* institutions; however, this fact by no means proves that he took a pre-political unit as prescribed or presumed and then sought to impose it on political reality.¹⁶⁴ It is evident in a paragraph from *The Social Contract* that Rousseau himself clearly objected to those theories which postulate or imply the existence of such prescribed or presumed pre-political units, such as one by Grotius:

A people, says Grotius, can give itself to a king. Then, according to Grotius, a people is a people before it gives itself. The gift is itself a civil act, and implies public deliberation. It would be better, before examining the act by which a people gives itself to a king, to examine that by which it has become a people; for this act, being necessarily prior to the other, is the true foundation of society.¹⁶⁵

¹⁶⁴ "What man loses by the social contract is his natural liberty and an unlimited right to everything he tries to get and succeeds in getting; what he gains is civil liberty and the proprietorship of all he possesses. If we are to avoid mistake in weighing one against the other, we must clearly distinguish natural liberty, which is bounded only by the strength of the individual, from civil liberty, which is limited by the general will." See Jean-Jacques Rousseau, *The Social Contract*, ed. by Victor Gourevitch (Cambridge: Cambridge University Press, 1997), Book I, Ch. 8.

¹⁶⁵ *The Social Contract*, Book I, Ch. 5. Also: "If then the people promises simply to obey, by that very act it dissolves itself and loses what makes it a people; the moment a master exists, there is no longer a Sovereign, and from that moment the body politic has ceased to exist." (*The Social Contract*, Book II, Ch. 1)

For Rousseau, neither ‘the people’ nor ‘the nation’ can be treated as pre-political facts, whatever meaning these terms may have later acquired; for, they can not be said to have come into existence without an act of *public deliberation as the only conceivable founding act of society*, which by itself is eminently *political*. This passage thus illustrates that Rousseau never entertained the ideas common to the 19th-century nationalists, of ‘nations’ or ‘peoples’ as pre-political fantasies. On the contrary, criticising Grotius, he anticipated a necessity to criticise all subsequent interpretations of the pre-political origins of society. Nothing, then, is more absurd than to claim (as Cohler does) that Rousseau saw ‘nations’ as pre-political and pre-societal units to which men should return in order to become free again.

In *The Social Contract*, Rousseau is clear that the ‘*body politic*’, as a public person formed by the union of all other individual persons, is a *political* unit. Establishing within the ‘*body politic*’ a distinction between the *State* and ‘*the Sovereign*’, he also postulates that they are both coextensive *political* units:

This public person, so formed by the union of all other persons formerly took the name of city, and now takes that of Republic or body politic; it is called by its members State when passive. Sovereign when active, and Power when compared with others like itself. Those who are associated in it take collectively the name of people, and severally are called citizens, as sharing in the sovereign power, and subjects, as being under the laws of the State.¹⁶⁶

The public person in its active form, formed by the union of all individual persons, is what Rousseau labels as ‘the Sovereign’. Those associated in the public person take collectively the name of ‘the people’ when active (and the name of ‘the subjects’ when passive). Without further impact on Rousseau’s part, the term ‘the Sovereign’, referring to the public person itself, and the term ‘the people’, referring to individual persons associated in this public person, both in active form, have eventually merged into the single term ‘the nation’, meaning ‘the sovereign people’.¹⁶⁷ Thus ‘the nation’ comes to comprise the public person and the individual persons it consists of, both in active form, while retaining its distinction from ‘the state’ as the public person in its passive form. And this public person, as derived from Rousseau’s distinction, whether

¹⁶⁶ *The Social Contract*, Book I, Ch. 6.

¹⁶⁷ According to Liah Greenfeld, nationalism was brought into existence when the term ‘the nation’ acquired the meaning of ‘the sovereign people’. This first happened in the 17th century, during the English Revolution. See Liah Greenfeld, *Nationalism: Five Roads to Modernity* (Cambridge, MA-London: Harvard University Press, 1992). I would add that such a development, and thereby the rise of English nationalism, was made possible by the earlier secession of England from the Catholic Church under Henry VIII.

in active or in passive form, can only be a political creation: both ‘the nation’ and ‘the state’, being two sides of the same phenomenon called ‘the nation-state’, can only both stand for a *political*, rather than for a *pre-political*, unit.

‘Integral nationalism’

Focussing on Rousseau’s concept of ‘the general will’, Frederick Watkins links Rousseau to the concept of ‘integral nationalism’, denouncing him for totalitarian tendencies, based on Rousseau’s alleged Calvinist inspiration. Watkins observes that the ideal society in the Calvinist vision was a community of saints, austere and tirelessly devoted to the task of ensuring that God’s will be done on earth as it is in heaven,¹⁶⁸ so that intense moral activism, totalitarian in its insistence on social discipline, was its ultimate political consequence.¹⁶⁹ Accordingly, for Rousseau no government, however efficient, was morally justified unless it rested on active participation of *all* its citizens. Political life, in his view, was an unremitting struggle to subdue selfish impulses in the interest of the common good.¹⁷⁰ The primary purpose of society is thus to provide its members with an occasion for voluntary social action, and the task of society is to provide an opportunity for the moral self-development of men.¹⁷¹ However, the main problem of Rousseau’s theory, according to Watkins, is that even participation of *all* citizens does not necessarily bring about ‘the general will’ which makes government legitimate.¹⁷² More generally, the problem is that there is no *positive* definition of ‘the general will’.¹⁷³

Rousseau, of course, was not the first who introduced the concept of ‘the general will’, closely linked and overlapping with the concepts of ‘the body politic’ and ‘sovereignty’.¹⁷⁴ The history of ‘the general will’ begins with Jean Bodin, who had

¹⁶⁸ Frederick Watkins, Preface to *Rousseau: Political Writings*, translated and edited by Frederick Watkins (Edinburgh: Nelson, 1953), p. xiv.

¹⁶⁹ Watkins, p. xvii.

¹⁷⁰ Watkins, p. xvii.

¹⁷¹ Watkins, p. xix.

¹⁷² Rousseau stresses that the number of voices does not generalise the will, but the common interest uniting them: “There is often a great deal of difference between the will of all and the general will; the latter considers only the common interest, while the former takes private interest into account, and is no more than a sum of particular wills: but take away from these same wills the pluses and minuses that cancel one another, and the general will remains as the sum of the differences.” (*The Social Contract*, Book II, Ch. 3)

¹⁷³ Watkins, p. xxv.

¹⁷⁴ “The social compact gives the body politic absolute power over all its members also; and it is this power which, under the direction of the general will, bears, as I have said, the name of Sovereignty.”

introduced the concept of 'sovereignty', as a power belonging to 'the body politic' which is distinctive from the actual power of the governing body. For Grotius, the people was an 'artificial body' composed of lesser corporations, which was supreme over all its members and, therefore, sovereign. Grotius defined sovereignty as a 'spirit or constitution in the people', but delegated this sovereignty to the person of monarch. Hobbes introduced the Leviathan, a 'body politic' with powers and mind above that of the individual, with characteristics of a greater person. The political society was thus promoted into a 'civil person', analogous to the corporations already recognised by law as 'persons'. Pufendorff adopted Hobbes's conception of the state as a 'public person' constituted by the wills of natural persons. But the fact that the state, as a 'civil person', was constituted by individual wills of all its members gave the state the status of a 'moral person', giving it the power of all constituted by the will of all. This 'moral person', made by the union of the will of all, necessarily had a will of its own, directed towards the general good of all. This will, concentrating in itself the power of all, was named by Pufendorff 'the general will'.¹⁷⁵ For Montesquieu, 'the general will' was the 'spirit' which was necessary for the establishment of the laws, and it was to be equated with 'the spirit of the nation'.¹⁷⁶ Developing the line established by Sidney, in which 'the nation' was assumed to be a proto-political category seeking to find its proper political expression in the form of the sovereign state, Montesquieu postulated that 'the spirit of the nation' was in fact the spirit which inspires the laws of the country, thus making it '*the nation-state*'.

Developing Pufendorff's definition of 'the sovereign' as a moral person endowed with will, Rousseau goes beyond Pufendorff's conception of 'the general will' by defining man's freedom as obedience to 'the general will' and thereby defining man's obedience to it as, essentially, obedience to himself as a moral person. In this way, he assumes the existence of a feedback between man's own self and the self of society, and postulates the conception of man as an essentially social(ised) being.

(*The Social Contract*, Book II, Ch. 4) Also: "Sovereignty, for the same reason as makes it inalienable, is indivisible; for will either is, or is not, general; it is the will either of the body of the people, or only of a part of it. In the first case, the will, when declared, is an act of Sovereignty and constitutes law: in the second, it is merely a particular will, or act of magistracy - at the most a decree." (*SC*, Book II, Ch. 2)

¹⁷⁵ For the history of the concept of 'the general will', see Charles William Hendel, *Jean-Jacques Rousseau: Moralism* (London-New York 1934: Oxford University Press, 1934), pp. 99-101.

¹⁷⁶ See Charles de Secondat Montesquieu, *The Spirit of the Laws* (Cambridge: Cambridge University Press, 1989), Book XIX, Ch. 4. National character, Rousseau would probably postulate it in contradistinction from Montesquieu's determinism, is always conditioned by the character of the polity and its laws.

As a disciple of Montesquieu, Rousseau also implicitly incorporated the assumption that man's freedom could be achieved by obedience to the laws established by 'the general will', which itself could be regarded as an expression of the '*national*' spirit (in the sense of 'national' meaning 'pre-political'). However, this assumption remains only *implicit* in Rousseau's conception of 'the general will'. In his conception, 'the general will' is, first and foremost, the measure of government's legitimacy.¹⁷⁷ And this by itself does not mean that only a 'nationally spirited' government (in the sense of a government inspired by pre-political values) expresses 'the general will' and thereby possesses the required degree of legitimacy. For Rousseau, 'the general will' is the expression of *the general interest* as an eminently *political* category and is never assumed as a preconceived pre-political category, but always achieved in the political process through direct participation and *public deliberation*.¹⁷⁸ However, the fact that 'the general will' is to be achieved in the political process does not preclude its being *the expression of the 'national' spirit*, if 'national' is taken as a political category, reached through the process of public deliberation. In this sense, 'the general will' can even be regarded *as the active expression of 'the nation' itself*, in its *civic*, that is, political meaning.

Another problem for Rousseau's theory, according to Watkins, is that the idea of contract is actually incompatible with the moral implications of 'the general will': the difficulty is that a contract, if it is to have any significance at all, must be capable of obliging men to act against their will.¹⁷⁹ However, it seems that this represents a fundamental misunderstanding of the nature of Rousseau's 'social contract'. For, it is not a contract between society and government, it is a contract by which both come

¹⁷⁷ Of course, while it may well be impossible to say that, according to Rousseau's conception of 'the general will', any actual government *is* legitimate, such a *negative* conception of 'the general will' is not necessarily a failure of Rousseau's theory. For, its underlying assumption is that government is an institution whose legitimacy is, in principle, to be permanently contested. Therefore, any government has to incessantly support its claims to legitimacy by some concrete evidence of its acting in accordance with the true interests of society. And then, no government is to be seen as legitimate unless it actually proves that its acts *are* in accordance with 'the general will'. Rousseau's theory has thus left us with an imperfect tool for judging governments; however, it has left governments with a permanent obligation to present all kinds of evidence of their acting in the interests of the societies they govern.

¹⁷⁸ Chapman is of the opinion that Rousseau's theory of 'the general will' is similar to the modern liberal doctrine of the deliberative state: "Like its predecessors, modern liberalism believes in the existence of a natural harmony of interests. (...) Participation in the organized political life of society is a necessary means to the realization of human freedom. This belief is a distinguishing feature of modern liberal thought." See John W. Chapman, *Rousseau – Totalitarian or Liberal?* (New York: AMS Press, 1968), pp. 91-92.

¹⁷⁹ Watkins, p. xx.

into existence, and society has the contract built-in in its foundations.¹⁸⁰ Society's freedom with regard to government is, therefore, part of the contract itself, which binds everyone in society to follow 'the general will' that is constituted by the contract. Thus following 'the general will' may also imply changing the government, if necessary, and such are the terms of the contract by which it comes into existence. On the other hand, 'the general will' is the continuing moral consensus of individuals in society; as such, it is constituted by the contract itself, and the rights and duties of the individual are determined by it. No contract is being made by the parties to it with the intention of its breaching, but with the intention of its observance. As such, the contract binds morally rather than legally. Especially in the case of 'the social contract', which is a hypothetical idea rather than a historical fact, it is difficult to imagine how the contract which precedes the making of the laws can bind legally. It binds morally, in the same sense as does 'the general will'.

While rightfully assuming that for Rousseau society is a necessary condition for the exercise of human freedom, from which follows that socially disruptive behaviour must be repressed in the interest of freedom itself, Watkins nevertheless joins a widely-held opinion that the ultimate implication of Rousseau's theory is that men, as private individuals, *must be* 'forced to be free'.¹⁸¹ However, what Rousseau's critics regularly overlook is the fact that Rousseau's 'general will' in its entirety refers to the sphere of *public legislation* and to the observance of the laws created in the process of public legislation, and not to norms of private behaviour and to their imposition on the will of the individual. As for the objection that Rousseau does not allow the distinction between the private will of the individual and his adherence to 'the general will', it is sufficient to remember that Rousseau in *The Social Contract* insists on the distinction between *the private individual* and *the citizen* as a public individual, as much as he insists on the basic distinction between 'the Sovereign' and the State. Of course, there is no doubt that Rousseau holds that the private individual ought to be publicly-spirited; but, that is not sufficient to claim that his private will has to be

¹⁸⁰ Cobban understood this point clearly: "There are two contracts implied in Locke's theory, the one between all the individuals who agree to forsake the state of nature and form a political society, the second between the members of this society and the government or prince they set up. On the contrary, for Rousseau there is only one contract, that forming the political society, which itself constitutes the sovereign, and in the inalienable possession of which remain the rights of sovereignty." (Cobban, p. 72). However, Cobban borrows this interpretation from T.H. Green, 'Principles of Political Obligation', in *Collected Works of T. H. Green*, ed. R. L. Nettleship and P. P. Nicholson (Bristol: Thoemmes, 1997).

¹⁸¹ Watkins, pp. xxi-xxii.

coercively subjected to that public spirit. As far as the citizen is concerned, he is to be ‘forced to be free’ insofar as he is bound by society’s laws, that is, as he is bound to act as a citizen. If he chooses not to do so, and thus refuses to be ‘forced’ by the rule of law ‘to be free’ as a member of society, he is no longer entitled to enjoy any legal protection by society, and ceases to be its legal member.¹⁸² This can hardly point to anything resembling totalitarianism or ‘integral nationalism’.

Watkins claims that Rousseau’s principal claim to fame rests “on his skill in discovering most of the basic principles and practices of what later came to be known as integral nationalism”. These principles and practices concern the “minimisation of private interests and activities”, and “the complete absorption of the individual in the collective life of the state”. According to Watkins, the task of Rousseau’s legislator was to create conditions for these practices,¹⁸³ since Rousseau believed that ignorant men were helpless without the aid of a scientifically competent elite.¹⁸⁴ Yet, it is difficult to support this claim about Rousseau’s pessimism regarding human capacities, given Rousseau’s permanent and consistent insistence on the individual’s moral responsibility. Actually, the fact that Rousseau holds that there has to be an individual genius to create social and political institutions only points to his fundamental disbelief in the actual abilities of ‘the collective genius’. Otherwise, if there were no need for the individual legislator, it would logically follow that ‘the national character’ or ‘national spirit’ would be sufficient to create workable ‘*national*’ institutions. The fact that Rousseau insists on the individual legislator perhaps makes his concept of the legislator authoritarian, but it practically removes all implications of ‘integral nationalism’.

Shaping the individual and building ‘the nation’: towards truly socialised man

A decisive argument demonstrating that Rousseau clearly endorsed the concept of ‘nation-building’ rather than some alleged ‘integral’ or ‘primordialist’ nationalism can be found in this passage from his *Confessions*:

¹⁸² Such was also the position of Montesquieu and, apart from Rousseau’s favourite rhetorical paradoxes, it is difficult to find significant differences between the two authors on this matter.

¹⁸³ Watkins, p. xxxi.

¹⁸⁴ Watkins, p. xxviii.

I had realized that everything was basically related to politics, and that, no matter how one approached it, no people would ever be anything but what the nature of its government made it. Therefore that great question of the best possible government seemed to me reduce itself to this: which is the form of government fitted to shape the most virtuous, the most enlightened, the wisest, and, in short, the ‘best’ people, taking that word in its noblest meaning?¹⁸⁵

Shaping the ‘best’ people through a proper form of government thus becomes the central issue of politics for Rousseau. In addition, he claims that everything is basically related to politics, so that the issue of shaping the ‘best’ people through the process that is nowadays labelled as ‘nation-building’ becomes for Rousseau the central issue of philosophy, because only in the society thus shaped can man return to his true nature.¹⁸⁶ Unlike in Rousseau’s theory of ‘the social contract’, the question of return to man’s true nature is not implied in other contractarian theories that start from the notion of ‘the state of nature’. Speaking about man in ‘the state of nature’, says Rousseau, means speaking “of a state which no longer exists, which may have never existed, and which probably never will exist”. However, “it is a state of which we must, nevertheless, have an adequate idea in order to judge correctly our present condition.”¹⁸⁷ ‘The state of nature’, as a hypothetical early condition of mankind, is therefore important primarily as a source of the idea of what ‘natural man’ may have been like, as he may have once existed.

However, the problem with most contractarian theories and their image of ‘the state of nature’ is that they present a historically and sociologically incorrect picture. While the contract refers to the establishment of a political society (embodied in the state) without acknowledging a prior existence of any form of society (while assuming the existence of the self-interested individual instead of it), the recorded historical development of society along the lines of extended family clearly precedes – in all known historical examples – the establishment of a political society-proper. Thus agents who are presumed to have entered the social contract as individuals are, actually, a priori socialised and communalised; therefore, they do not act as self-interested individuals and do not enter the contract as self-interested individuals. As

¹⁸⁵ *Confessions*, Livre IX, (Hachette ed., VIII, pp. 288-89). Cited in Ernst Cassirer, *The Question of Jean-Jacques Rousseau* (Bloomington: Indiana University Press, 1963), p. 65.

¹⁸⁶ Rousseau defined in this way the fundamental problem *The Social Contract* was supposed to solve: “The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.” (*The Social Contract*, Book I, Ch. 6) Obviously, the aim is to establish a brand new form of political community, not to return to an old, pre-political one.

¹⁸⁷ *The Second Discourse*, *Preface*. Cited in Cassirer, op. cit., p. 50.

A.D. Lindsay put it, “Society cannot be looked upon as an aggregate of individuals, as though individuals existed first with all their nature complete and then by coming together and cooperating in various ways made the State and other communities.”¹⁸⁸ Even self-interested individuals, as we know them today, are hardly more than a product of socialisation in a society dominated by the ideal of self-interest. Rousseau was the only contractarian theorist who was at least intuitively correct about this aspect of *prior socialisation*, which makes his agents adaptive to further socialisation, and which makes their individual wills tuned with that of society in general, rather than merely self-interested. Actually, it is only with the break-up of traditional communities and societies that the Hobbesian self-interested individual and his ‘arbitrary will’ come into existence; and, they are both socialised by the society which projects the ideals of individuality, self-interest and arbitrary will.

The opposite idea, commonly associated with Rousseau and Kant, that the individual *becomes* free (that is, becomes ‘*the free individual*’) when he obeys the non-arbitrary, inward law contained in his ‘self’ is also problematic, although for different reasons. For, it is far from self-evident what, actually, ‘the self’ is, to whose inward law the individual is supposed to obey in order to become ‘the free individual’. Like in Ivor Jennings’s remark about ‘national self-determination’¹⁸⁹, ‘the self’ cannot decide until someone decides who ‘the self’ is and what it actually consists of. For, ‘the self’ as such is, as contemporary psychological theories show, constructed, perhaps no less than ‘the people’. The concept of obedience to ‘the self’ is therefore highly problematic, not only because ‘the self’ cannot be easily identified (regardless of its ostensibly identifiable physical boundaries), but because, as a consequence, the ‘self-ness’ of ‘the self’ is contestable, at the least. To what extent the ‘free will’ of ‘the self’ is actually free from influences and concepts absorbed in the process of socialisation (or de-socialisation), and to what extent ‘the self’ is a self-construct rather than other-construct, is something that theory can hardly decide upon. And then, it becomes less plausible to claim that the obedience to oneself is necessarily contrasted to obedience to some other ‘self’ and that, as such, it founds

¹⁸⁸ A.D. Lindsay, *The State in Recent Political Theory*, in *Political Quarterly*, No. 1 (Feb. 1914), p. 128. Also, p. 139, p. 140.

¹⁸⁹ Ivor Jennings, a remark concerning the United Nations debates on decolonisation and self-determination: “On the surface it seemed reasonable: let the People decide. It was in fact ridiculous because the people cannot decide until someone decides who are the people.” W. I. Jennings, *The Approach to Self-Government* (Cambridge: Cambridge University Press, 1956). Cited in James Mayall, *Nationalism and International Society* (Cambridge: Cambridge University Press, 1990), p. 51.

‘the free individual’. Still, Rousseau’s conception of ‘the self’ at least implicitly takes these aspects into account, unlike the conceptions of Locke and Hobbes. The similarity between Hobbes and Locke, and their difference from Rousseau, was precisely caught by Chapman:

It would appear that no two theories of man could be more different from one another than those held by Hobbes and Locke. Hobbes regards man as an irrational, prideful and social creature. Locke sees him fundamentally rational and social, although self-interested and biased. These differences, however, conceal an even more profound similarity. Neither Hobbes nor Locke envisages men undergoing transformation of their nature in society as does Rousseau. They agree on the nature of the functional relationship between man’s psychological processes and his environment. This acts on him only according to the principle of association. It is this agreement between their theories of human nature which above all distinguishes them from Rousseau’s conception of man. Against Hobbes, Rousseau contends that man is not innately selfish and vain; against Locke, he contends that man is not innately sociable and moral. Neither theory deals with necessary expressions of human tendencies in society. Man may be, according to Rousseau, either prideful or social and moral depending on the nature of his education and environment. In other words, Hobbes and Locke regard as necessary what Rousseau thinks are contingent expressions of man’s nature.¹⁹⁰

Rousseau’s ‘self’ is assumed to be open to socialisation; that is, open to the absorption of the values and concepts of society after the establishment of ‘the social contract’; but, also, open to all external influences which may have preceded the contract itself. Contrary to the claims of C. Fred Alford,¹⁹¹ ‘natural independence’ to which Rousseau refers is not an absolute independence, insofar as it is referred to as ‘natural’, which means, as formed under natural rather than societal conditions (it may be said that nature itself knows only one Absolute; other things in nature are simply natural and therefore cannot be absolute). From a sociological point of view, these ‘natural’ conditions, preceding the establishment of the society-proper, still include various degrees of socialisation (family, clan, tribe). In general, *socialisation plays the central role in Rousseau’s theory*: it is to be found under various names, such as ‘education’, ‘virtue’¹⁹² or ‘nation-building’, but each time these concepts stand for the broader concept of *socialisation*. ‘The self’ is thus construed by Rousseau as a *dynamic* concept, an entity with flexible and permeable boundaries,

¹⁹⁰ Chapman, pp. 101-102.

¹⁹¹ C. Fred Alford, *The Self in Social Theory: A Psychoanalytic Account of Its Construction in Plato, Hobbes, Locke, Rawls and Rousseau* (New Haven-London : Yale University Press, 1991), p. 161.

¹⁹² Rousseau says, “Extend self-love to others and it is transformed into virtue.” *Emile*, trans. by Barbara Foxley (New York: Dutton, 1948), p. 215. This extension of ‘self-love’ to others, in terms of individuals’ mutual and reciprocal recognition as free and equal, is analysed in the third chapter of this thesis as Rawls’s crucial concept.

which permit various degrees of socialisation to shape its internal structure, as much as they permit ‘the self’ to shape the structure of its social environment. And, while socialisation in the stages prior to ‘the social contract’ may shape this entity’s structure in various ways, depending on pre-societal and sub-societal institutions through which ‘the self’ interacts with the world (and which it sometimes may perceive as the world itself), the institutions in charge of socialisation of ‘the self’ in the society established by the social contract are fixed by the contract, and so is the process of socialisation itself. Socialisation in the society-proper is necessarily the task of this society’s common institutions, that is, of the state; therefore, this socialisation takes the form of organised, state-controlled and sponsored activity, which appears under various names, from ‘culture’ and ‘education’ to ‘nation-building’. It seems that it is primarily through this activity that the individual is being ‘forced to be free’,¹⁹³ without the need for these institutions to exercise any degree of actual coercion.¹⁹⁴ This activity, if properly applied, suffices for socialising ‘the self’, which thus obeys only its own, socialised ‘self’ and therefore makes itself ‘free’, while abandoning its ‘natural independence’. Thus the freedom-proper exists only in the society-proper, while in ‘the state of nature’ it takes the form of relative, ‘natural independence’ (which can never be absolute and is only relative to the dependence in society). Free will, then, does not exist prior to the establishment of at least some form of society; for, a ‘naturally independent’ being, if construed as existing without at least some degree of prior socialisation, becomes an absolutely independent being and is therefore incapable of willing, since there is no external referential framework (apart from nature, which is not subject to human will) for it to depend, and therefore to will, upon. ‘The self’ is, then, incapable of being itself, having no active external

¹⁹³ Rousseau’s famous phrase ‘forced to be free’ is located in this passage from *The Social Contract*: “In order then that the social compact may not be an empty formula, it tacitly includes the undertaking, which alone can give force to the rest, that whoever refuses to obey the general will shall be compelled to do so by the whole body. This means nothing less than that he will be forced to be free; for this is the condition which, by giving each citizen to his country, secures him against all personal dependence. In this lies the key to the working of the political machine; this alone legitimises civil undertakings, which, without it, would be absurd, tyrannical, and liable to the most frightful abuses.” (*The Social Contract*, Book I, Ch. 7)

¹⁹⁴ “True men agree to obey the general will, which is the legal expression of their reason and conscience. But they also agree to enforce it, and, as Rousseau points out, this is the crucial clause of the contract. So long as each seeks to evade the general will, the contract would provide hardly more than a system of mutual coercion. (...) Life in society under guidance of the general will not only neutralizes man’s egoistic tendencies and forces him to consider his duties. It also gives rise to social sentiment and spirit as he becomes accustomed to, and grows to like, social life.” See John W. Chapman: *Rousseau – Totalitarian or Liberal?* (New York: AMS Press, 1968), p. 41. Thus, “Citizens are made not born. Education for citizenship must begin in childhood.” (Chapman, p. 60)

framework (since nature simply leaves it independent) to shape its internal structure. For, 'naturally independent' man, if he can exist as such in the proper i.e. absolute sense, is a creature that is both selfless and shapeless. As such, it is as incapable of structuring the world, as it is incapable of being structured by the world. For, only a being capable of being structured is capable of structuring, that is, of being an agent. And, being an agent, or having a 'self', is a property of socialised man. Thus the process of socialisation necessarily strengthens the ability of man to be an agent, that is, of his 'self' to be itself. And the state of being oneself, and obeying oneself, is what Rousseau regards as the state of freedom. For Rousseau, this state not only presupposes interaction with one's social environment; indeed, this state *is* the process of interaction, the process of mutual structuring and restructuring, through which the willing and the acting agent comes into existence, making himself free by being an active, constitutive part of society and by being treated by society as its constitutive part. Within this logic, a degree of socialisation thus necessarily becomes a degree of self-liberation, that is, a degree of one's being oneself.

Yet, the problem in modern society, as Rousseau perceives it, is that socialisation actually *fails* to produce a socialised being; instead, it produces a self-interested and quasi-self-sufficient unit, incapable of being a true agent, that is, incapable of properly interacting with society and therefore incapable of being free.¹⁹⁵ That is why Rousseau turns to 'natural man', as opposed to the failed, quasi-socialised, quasi-individualistic creature of modern society,¹⁹⁶ in order to apply to him a proper way of socialisation (such as Emile's 'education') and thus make him *capable of freedom*. Thus, Rousseau's 'natural man' is not an end in itself, as is too often mistakenly assumed; it is rather a means to the end of a *truly socialised man*.

Rousseau certainly saw politics as a form of applied ethics. Man's moral needs are the foundation of man's sociability; inversely, man's sociability is the foundation of man's morality, and this morality is always doubly related to man's existence in society: on one hand, morality is always formed under the impact of society; on the

¹⁹⁵ As Chapman suggested: "From Rousseau's standpoint, to prevent a person from obtaining power is to force that person to be free. Lack of power over others is a condition of his freedom, of the development of his reason and conscience, of his life in a society based on law." (Chapman, p. 39) Striving for power, of course, is a product of man's '*amour propre*', so that forcing man to be free practically means preventing his '*amour propre*' from developing. Thus to force man to be free means to educate him properly, so as not to allow his '*amour propre*' to dominate his actions.

¹⁹⁶ See Rousseau: *Premier Discours [Discours sur les sciences et les arts, Première Partie]* [Hachette ed., I, p. 4]. Cited in Ernst Cassirer: *The Question of Jean-Jacques Rousseau* (Bloomington: Indiana University Press, 1963), p. 45.

other hand, society is the only proper stage for the display of morality.¹⁹⁷ And, while it is clear that politics, given its eminently social nature, can hardly be a medium for any un-affected individualism, it should also be obvious that ethics as such is impossible as the individualist disregard for the community; indeed, it may be said that ethics itself is impossible outside the community, and Rousseau was certainly aware of it, as much as a Calvinist would be, no matter how uncomfortable he felt in the society of his day.

Rousseau's individual is a thoroughly socialised being, and it is exactly his social and communal dimension that brings about his ethical and therefore political dimension. As Vaughan argued, it was Locke who, by making the individual morally sufficient unto himself, had divorced politics from ethics; Rousseau, by recognising the necessity of the community for the individual's moral life, brought ethics and politics again into connection with one another.¹⁹⁸ However, it rather seems that both ethics and politics are possible only in society; indeed, it is exactly their social essence that makes them so closely related; and, it is only *the socialised individual* who is capable of taking part in both. Even Locke's individualistic ethics is possible only in the society of self-interested individuals, where the ethics of self-sufficiency is promoted by the individualistic society itself, as much as by its individual members, socialised in accordance with the individualistic ethical norm. Thus, even that highly individualistic ethics is necessarily promoted by *political* means, and politics necessarily becomes an application of the former. And then, it seems that Locke's distinction between politics and ethics mainly serves the purpose of concealing that fact. In Rousseau's understanding, in contrast, *the more socialised the individual, the more capable he is of moral and political freedom. For, it is only in his capacity as a socialised being that the individual can both perform his moral and political duties and exercise his moral freedom and his political liberties. Indeed, only within the framework of permanent, ever-increasing socialisation can the individual perceive the very performance of his moral and political duties (including the sacrifice for the community) as the exercise of his moral and political freedom.* But if, as Cobban says, Rousseau practically rejects any theory which sinks the

¹⁹⁷ "Strange as it may seem, even hatred is a thing conducive to a social existence: the more men feel inimical toward each other, the more they have a need of each other's presence for the gratification of their mutually hostile sentiments." See Charles William Hendel: *Jean-Jacques Rousseau: Moralism* (London-New York: Oxford University Press, 1934) Vol. 1, pp. 68-69.

¹⁹⁸ Vaughan: *Political Writings*, i. 40, pp. 50-52.

individual so completely in the mass as to rob him of his capacity for moral freedom,¹⁹⁹ it is difficult to see him embracing nationalism in the proper sense, which by (Kedourie's) definition attempts to sink the individual's personality in the greater whole of 'the nation'. Thus Cobban's earlier argument about Rousseau's alleged 'nationalism' is bound to be inconsistent with the claim above.²⁰⁰

The problem lies not in Rousseau's inconsistency, as many would claim, but in a widely-spread misunderstanding of his essentially *dialectical interpretation of the relation of reflexivity between the individual and the community*. Thus, even if there was no doubt that Rousseau starts from the individual and not from the community, it should be noted that for him these two never function as two mutually independent concepts, let alone as two mutually independent social units. To paraphrase his statement, those who attempt to divide them will never understand anything of either;²⁰¹ or, at least, they will not understand how deeply interrelated they are in Rousseau's account. Cobban himself caught a great deal of Rousseau's dialectics, advancing a seemingly paradoxical claim that "the very existence of the general will is equivalent to laying down a programme for the individual". For, 'the general will' "necessitates that his judgement shall be rational, in the general interest, and unperturbed by selfish prejudices or individual passions." The intention of Rousseau's *Social Contract*, says Cobban, is therefore "to expand and not to obliterate individuality in the corporate life of the state". The object of Rousseau's political philosophy is "to effect a reconciliation between the individual and the state, in which each may acquire a fuller meaning". Only this can explain "the apparent contradiction by which the assertion of the rights of the individual is joined to the creation of the idea of a more closely integrated state."²⁰² Still, in the light of this interpretation, Cobban's earlier claim that a "hard and insoluble core of individualism" in Rousseau's thought "refuses to be dissolved away by the rising tide of communal

¹⁹⁹ "We may be sure that Rousseau, for whom in other respects individuality is so precious, would not omit it from his political ideal – all the more because his moral principles are imbued with an intense individualism, possibly Calvinist in inspiration, and because for him politics and ethics are hardly separable. Those who attempt to divide them, he declares, will never understand anything of either. (*Emile*, IV) For this reason alone he is bound to reject any theory which sinks the individual so completely in the mass as to rob him of his capacity for moral freedom. Even when he exalts the community and appears to demand the sacrifice of the individual, it is because a voluntary identification of the individual with the community of which he is a member seems to him necessary for his moral well-being." (Cobban, p. 164)

²⁰⁰ Cobban, pp. 123-124.

²⁰¹ *Emile*, IV.

²⁰² Cobban, p. 165-6.

values” seems far too strong. It would be much more accurate to say that Rousseau’s radical individualism was, paradoxically, a desperate cry for the true communal values, as opposed to the quasi-individualistic, anti-communal values of modern society. Inversely, his radical communalism, as well as his radical anti-modernism, was a desperate cry for a return of the individual to his true moral values, intrinsic to his nature as a social being. For, paradoxically, Rousseau’s ‘natural man’ is only *a truly and properly socialised man*, relieved of both the quasi-individualistic and quasi-communalistic distortions brought about by modern society.²⁰³ His idea of ‘natural man’ was necessary for revising the idea of modern man; however, it was a means to a *re-socialised man*, modelled after the ancient ideal.²⁰⁴

It is precisely with this idea in sight that Rousseau established his famous distinction between ‘homme naturel’ and ‘homme artificiel’.²⁰⁵ He discovered that in order to distinguish between these two we need not go back to the epochs of the distant and dead past (labelled by other philosophers as ‘the state of nature’), since every man, regardless of his current artificial surface, carries the true, natural archetype within himself. It is this discovery, self-understandable as it may seem, that Rousseau proclaimed as his own greatest accomplishment.²⁰⁶ This very distinction allows for the possibility of man’s being non-artificial *without literally going ‘back to nature’, outside society: man may well be natural in society, by discovering his true nature*. However, paradoxically, Rousseau seems to imply that this true nature of man can only be revealed in a *newly-constructed* society. For, man’s true, non-artificial

²⁰³ Cobban says quite the contrary on the nature of ‘natural man’: “Man in Rousseau’s state of nature is an isolated individual, amoral and unsocial, in fact a not very noble savage, yet innocent and not tainted with Original Sin. What he has is ‘la faculté de se perfectionner’, a latent capacity for reason and morality. When Providence, by its own ways, has forced him into social life, he is faced with new problems. His ‘bonte naturelle’, innate from the beginning, is no longer adequate to protect him and his fellows from the results of their own passions. He requires a new and a social morality, or virtue. This, in the words of Rousseau, is the triumph of reason over the passions. *Emile* and *Nouvelle Heloise* demonstrate the nature of virtue in the individual; the *Contrat social* tries to show how it could be made to operate in society.” (Cobban, p. 149)

²⁰⁴ Yet, in Cohler’s view, “Rousseau has suggested a distinction between the polite sociability of a people having arts and sciences and the sociability of men whose amusement was in being together, expressed through a spectacle celebrating solely their togetherness.” (Cohler, p. 53)

²⁰⁵ Chapman put it this way: “He distinguishes between man in a natural environment and man in society. ‘Natural man’ overlaps these concepts since he uses it to refer to autonomous tendencies or ‘nature’ in man. Some interpretations focus on properties ascribed to man before alteration by social experience, others on man as Rousseau thinks he ought to be in society.” (Chapman, p. 21) However, the point is precisely the opposite: Rousseau distinguishes between man with his natural inclinations and man as he *is made by the-society-as-it-is* – not between ‘natural man’ and man as he ‘ought to be in society’. Man ‘as he ought to be in society’ is actually identical with man in *the-society-as-it-ought-to-be*, that is, ultimately, with what Rousseau labels as ‘natural man’.

²⁰⁶ Cassirer, p. 51.

sociability is necessarily revealed as part of man's true nature only in a society shaped anew *by political means*, which – paradoxically again – itself ceases to be artificial by man's discovering his natural, true sociability through shaping society in accordance with this sociability.²⁰⁷ It is by discovering his natural sociability that man abandons the artificial, conventional sociability which gave rise to modern, conventional society, as well as to the modern, isolated individual. Thus man, as a truly sociable being in all times and all places, is to be distinguished from the creature known as 'the individual', as a product of modern society's conventional and therefore essentially isolating sociability. At the same time, in the society built on his true sociability, man can return to his true, non-individualist nature. A need to find such a 'natural man' was a pressing issue for Rousseau, and he returns to this motive ever and ever again in his works. This urgency is well-illustrated in the following paragraph:

But where is he, this natural man who lives a truly human life; who, caring nothing for the opinion of others, acts only in accord with his impulses and reason, without regard for the praise or blame of society? In vain we seek him among us. Everywhere only a varnish of words; all men seek their happiness in appearance. No one cares for reality, everyone stakes his essence on illusion. Slaves and dupes of their self-love, men live not in order to live but to make others believe that they have lived!²⁰⁸

The form of sociability which requires that men do not truly live but instead attempt to create an impression of their living or of their having lived is what is clearly unacceptable to Rousseau.²⁰⁹ Still, that by no means suggests his dismissal of either sociability or society itself. For, a society in which men would seek their happiness in their essence, in which they would care for reality and reject all their 'amour propre'

²⁰⁷In Cohler's simplistic interpretation, this restored "sociability seems to be expressed in the mutual membership in a community. These men are sympathetic to and concerned with each other, perhaps because the only standard for their activity is their common membership in a community". (Cohler, p. 67)

²⁰⁸*Rousseau juge Jean-Jacques, Troisième Dialogue* (Hachette ed., IX), p. 288. Cited in Cassirer, p. 51.

²⁰⁹Kendall probably caught the essence of Rousseau's opposition to modern society and of his advocacy of civic activism: "It becomes more and more clear as one reads the *Poland* that Rousseau identifies the viciousness of the moderns with a certain randomness in the pattern of their lives. His notion of virtue, then, involves simply the replacement of "random man" with the kind of person whose life is ordered by some consistent purpose. This kind of person is the citizen of the completely public man; and it is the business of the state, or, more properly, it is the business of the founder of the state to see to it that the citizen passes every waking moment within the institutions that will insure his constant attention to public affairs. To put another way, for Rousseau the random life is slavery because it is constantly subject to the vicissitudes of the moment, whereas even under the most authoritarian regime the genuine citizen enjoys a superior freedom by virtue of his sense of purpose. Apart from being grounded in an intense piety toward the fatherland, Rousseau's notion of virtue is almost without content." (Kendall, *Introduction to The Government of Poland*, p. xxxii)

which makes them real only insofar as it creates an illusion of their being real – such a society would certainly be more than desirable to Rousseau; indeed, it would be the only form of human existence in which men would be capable of realising their human essence. It is this society that *The Social Contract* seeks to bring forth, and the state is only a means (*political*, as it is) to this particular end. For, as Rousseau stated in his *Confessions*, “no people would ever be anything but what the nature of its government made it”: government, politics, education, civil religion – they all only serve the purpose of making a society in which men would be able to live without having to make others believe that they have lived, in which their very existence would be a reflection of their essence instead of their appearance. It is the superficial and artificial society in which man’s existence is reduced to his social appearance that Rousseau clearly rejects; a society in which man’s existence would come closer to his human essence is a society that Rousseau clearly seeks to establish. As Cassirer correctly put it,

How can we build a genuine and truly human community without falling in the process into the evils and depravity of conventional society? This is the question to which the *Contrat social* addresses itself. The return to the simplicity and happiness of the state of nature is barred to us, but the path of *freedom* lies open, it can and must be taken. To him freedom did not mean arbitrariness but the overcoming and elimination of all arbitrariness, the submission to a strict and inviolable law which the individual erects over himself. Not renunciation of and release from this law but free consent to it determines the genuine and true character of freedom. (...) Here lies the heart of the whole political and social problem. It is not a question of emancipating and liberating the individual in the sense of releasing him from the form and order of the community; it is, rather, a question of finding the kind of community that will protect every individual with the whole concerted power of the political organization, so that the individual in uniting himself with all others nevertheless obeys only himself in this act of union.²¹⁰

Freedom understood as arbitrariness, according to Platonic principles which Rousseau passionately embraced, would be a negation of man’s free will. For, surrender to arbitrariness is simply a surrender of man to his *un-willing part*, a form of slavery to his own weaknesses and passions.²¹¹ Free will is, therefore, possible only as a resistance to man’s own arbitrary weaknesses. Arbitrariness itself is, in a profoundly Platonic sense, a negation of freedom. On the other hand, man’s willing part, though source of man’s freedom, is not to be regarded, and Rousseau does not seem to regard

²¹⁰ Cassirer, pp. 54-55.

²¹¹ Rousseau says, “the mere impulse of appetite is slavery, while obedience to a law which we prescribe to ourselves is liberty.” (*The Social Contract*, Book I, Ch. 8)

it as, fully autonomous by itself. For, man's free will is never free from unconscious influences of man's social environment and its values, nor from the influences of his own natural social inclinations (i.e. sociability). Indeed, these values and inclinations are so deeply embedded in the very foundations of man's will that it makes it almost impossible for him to will anything which is not already given as a possibility within the set of values and inclinations he inherits and further embraces through the process of socialisation. Thus man's willing part contains its own non-autonomous part, which makes man's freedom conditional upon his conscious acceptance of the latter's existence. However, this reconciliation between free will's autonomous and non-autonomous parts is, in Rousseau's conception, *outwardly* rather than inwardly oriented. According to his conception, the reconciliation can only take place at the societal level, through identification of this will's inward, autonomous part with the *outward projection* of its non-autonomous part. This outward projection of the non-autonomous, socially conditioned and sociably inclined part of man's free will is what Rousseau calls 'the general will'. As such, 'the general will' is as *constitutive* of man's own free will as his free will is constitutive of 'the general will'. This outward projection of free will's non-autonomous part is the essence of Rousseau's Copernican revolution: the non-autonomous, socially conditioned and socially inclined part of man's free will is thus brought back to its societal source, and society as a source of free will's non-autonomous part is reconciled with the part of man's will that craves for full autonomy. Through the acknowledgement of the existence of free will's non-autonomous part, which is achieved by its outward projection back to the societal level, the quest for full autonomy of man's free will is reconciled with the existence of society, as a very negation of that quest. It is only by recognising the non-autonomous, socially conditioned and socially inclined part of man's free will that man can reconcile his free will with the will of society. Conversely, it is only by reconciling his free will with the will of society that his free will becomes identical with itself, indeed, becomes truly *free* while reconciling its autonomy-craving part with the non-autonomous one.

In the introductory sentence of *The Social Contract*, Rousseau says "Man is born free; and yet everywhere he is in chains."²¹² The usual, common-sense interpretation is that man was free only in 'the state of nature' and that he is in chains in any form of

²¹² *The Social Contract*, Book I, Ch. 1.

society. Yet, if Rousseau really intended to say that, then the whole project of *The Social Contract* that follows from this opening sentence would simply contradict that intention. It would probably be too extravagant to assume that such exactly was the case, as indeed so many of his critics assumed. Rather, the true meaning of that phrase should be sought in affirmation, not in negation, of both society and sociability. What Rousseau actually meant by that sentence, provided that in *The Social Contract* he really wanted to affirm man's genuine sociability, thus can be summarised as, "Man is born sociable; and yet everywhere he is in isolation". This isolation of man, in the form of *the self-contained individual*, which Rousseau saw as the distinctive feature of modern society, was to be equated with physical chains; hence the sentence above as the opening of the project that celebrates both true society and man's natural sociability as a way of overcoming man's self-imposed isolation. Many of Rousseau's liberal critics mistook this isolation of man for man's free will and, consequently, practically projected their own views into Rousseau by claiming that for him every society was necessarily a negation of man's free will. Still, this not so much Rousseau's fault, though he was not always explicit at this point. A true society of *natural men*, as opposed to modern, false society of *artificial individuals*, is what he really sought to promote in order to liberate man from the chains of isolation. True society, in this sense, is for Rousseau a negation of man's isolation, not of man's free will. As such, true society is a negation of the isolated individual, and an affirmation of natural man. It is exactly this isolation of the individual that Rousseau was referring to while introducing the concept of 'amour propre' (usually translated as 'vanity' or 'pride'), as opposed to 'amour de soi' ('self-love'), which is man's natural inclination and which includes both his sociability and his sympathy for other men. Sympathy is thus for Rousseau an extension of 'amour de soi': we love others because we see them as being like ourselves. However, it does not mean that for Rousseau sympathy is, as C. Fred Alford claims, merely an extension of ourselves so as to embrace others by denying their otherness.²¹³ Rather, it means that in ourselves we recognise others – and hence their otherness – while recognising our own self as *socially constructed*. It is only in an essentially infantile projection of the relations between society and the self that the former is seen as an

²¹³ See in C. Fred Alford, *The Self in Social Theory: A Psychoanalytic Account of Its Construction in Plato, Hobbes, Locke, Rawls and Rousseau* (New Haven-London: Yale University Press, 1991), pp. 28-29.

extension of the latter; in a more mature projection, one usually comes to recognise oneself as an extension of one's own society and/or of the entire mankind. And, that is why sympathy for others can be at the same time the love of oneself ('amour de soi'): we love others in ourselves as much as we love ourselves in others. If we pursue only the strategy of loving ourselves in others, 'amour de soi' necessarily degenerates into 'amour propre'. In this sense, 'amour propre' becomes a negation of man's sociability and of man's socially conditioned self; as such, it becomes a negation of man's true nature and, eventually, a negation of his free will. For, in accordance with Rousseau's Platonic conception, 'amour propre' itself is a form of slavery to man's own un-willing weaknesses and passions. Inversely, man's love of himself ('amour de soi') is to be seen as man's true nature only insofar as his self is recognised as an extension of the entire society/mankind; that is, insofar as this love of the self embraces the entire society/mankind. That is why the struggle for natural man for Rousseau necessarily becomes a struggle for man's re-socialisation. In this sense, the de-socialising education in *Emile* is merely the first phase of Rousseau's bigger project of man's *re-socialisation*. The second phase of this project takes the form of *nation-building* and is elaborated in *The Social Contract*, *The Government of Poland*, and *The Constitutional Project for Corsica*. In this second phase, the pivotal role in man's re-socialisation is to be played by 'civil religion', by which Rousseau meant a perpetually generated attachment of man to his social environment, ultimately aiming at the creation of unity between the perpetually splitting parts of man's will – the one craving for its full autonomy and the non-autonomous, instinctual, socially-conditioned and sociable one, the unity which is made possible by the outward projection of the latter part onto the societal level, the projection which Rousseau named 'the general will', and which was thus, by its very definition, meant to be identical with both parts of man's will.

Clearly, for Rousseau, *selfish love* ('amour propre') was not to be exclusively charged to society as such, but to its *present* form, in which man's natural sociability had *already* degenerated into the selfish isolation from, and oppression of, other men.²¹⁴ However, a society that would replace the present, coercive society would not be only an ethical community in which everyone obeys only 'the general will', in terms of this will's being external to man; nor would this will only be internalised

²¹⁴ See Cassirer, pp. 74-76.

through externally imposed ‘civil religion’. It would be a society in which man’s natural, *inherent* sociability would be preserved, so that man would remain faithful to his very nature – a being that desires closeness of his fellow beings, not a being striving for his own isolation while oppressing others. The latter, Hobbesian picture of man certainly does not resonate with Rousseau’s deep faith in the natural goodness of man; for, the degeneration of ‘amour de soi’ into ‘amour propre’, which takes place in modern society (so that man eventually comes to resemble the Hobbesian image of man), is for Rousseau *contingent*, not necessary. Otherwise, what would be the purpose of his proposing a *new* social contract, if that new contract, built on the foundations of man’s natural sociability and implying man’s thorough *re-socialisation*, could not prevent this degeneration from happening? It seems that the only way that Rousseau envisaged of bringing us back to ourselves would be the way of our thorough re-socialisation, not only through identification of ourselves with others but, more importantly, *through identification of others with ourselves*. For, it is only in our recognition of others as part of ourselves – indeed, of others as being built-in into the very foundations of our own selves – that we can come back to ourselves without alienating ourselves both from others and from our own sociable nature. Such is the foundation of Rousseau’s ethics and of his faith in man. Man’s salvation is thus possible only as a *revelation* and recovery of his inherent sociability; and it is this revealed sociability that man simply acknowledges while identifying his own will with ‘the general will’ of society. For, it is only through this identification that man’s will unites with its own non-autonomous, sociable and socially constituted part: only through this identification with the will of society does his own will become one with itself, while incorporating its own non-autonomous, sociable and socially constituted, part. Thus, by postulating ‘the general will’, Rousseau sought to solve not only the problem of theodicy – he also sought to solve Plato’s problem of man’s perpetually splitting self and his desire to make it one. As Cassirer summarised it,

The hour of salvation will strike when the present coercive form of society is destroyed and is replaced by the free form of political and ethical community – a community in which everyone obeys only the general will, rather than be subjected to the wilfulness of others. But it is futile to hope that this salvation will be accomplished through outside help. No God can grant it to us; man must become his own savior and, in the ethical sense, his own creator. In its present form society has inflicted the deepest wounds on humanity; but society alone can and should heal these wounds. (...) That is Rousseau’s solution for the problem of theodicy –

and with it he had indeed placed the problem on completely new ground. He had carried it beyond the realm of metaphysics and placed it in the center of ethics and politics. With this act he gave it a stimulus which continues to work unabated even today. All contemporary social struggles are still moved and driven by this original stimulus. They are rooted in that consciousness of the *responsibility* of society which Rousseau was the first to possess and which he implanted in all posterity.²¹⁵

Still, man's inherent sociability is not to be seen as a mere instinct, deprived of ethical dimension.²¹⁶ On the contrary, ethical dimension of man is derived from man's sociability; indeed, ethics is, on this view, just a form of acknowledgement and proper application of man's inherent sociability. What, then, makes such ethics truly ethical in terms of overcoming the givens of man's nature is an effort to reconcile the instinctual craving for full autonomy of man's will, which constitutes one of its two parts, with the other, non-autonomous, socially conditioned and socially inclined, and therefore instinctual part of this will. It is man's inherent craving for full autonomy that has to be reconciled with man's inherent sociability if man's will is to be truly free: it is this reconciliation that constitutes the core of Rousseau's ethics. By acting in accordance with this ethics, man's will becomes free and one with itself, thus allowing man to be one with himself, that is, with his own nature. Only such a being is to be properly called 'natural man'.

Of course, 'natural man' is not an absolute category, abstracted from any social intercourse: 'natural man' is simply a man abstracted from the deviations brought about by the present form of society. As such, he has a potential for both sociability and Hobbesian egoism; despite the fact that in the present form of society man has already developed the latter potential, Rousseau was quite certain that in a society established by a new contract (as he himself proposed) man could as well develop the former one. Thus, the fact that man's inborn capability of compassion is not to be considered strictly 'ethical' (in terms of taking active interest in others), it

²¹⁵ Cassirer, pp. 75-76.

²¹⁶ According to Cassirer, Rousseau "explicitly rejected the derivation of society from a 'social instinct' that is part of man's original equipment. On this point he did not hesitate to go back to Hobbes in order to oppose the natural-law conception such as it had been founded by Grotius and further developed by Pufendorff. According to Rousseau, Hobbes had quite rightly recognized that in the pure state of nature there was no bond of sympathy binding the single individuals to each other. In that state everyone is on his own and seeks only that which is necessary for the preservation of his own life. According to Rousseau, the only flaw in Hobbes's psychology consisted in its putting an active egoism in the place of the purely passive egoism which prevails in the state of nature. The instincts of spoliation and violent domination are alien to natural man as such; they can come into being and strike roots only after man has entered into society and has come to know all the 'artificial' appetites it fosters. Accordingly, the striking element in the mentality of natural man is not violent oppression of others but indifference and unconcern toward them." (Cassirer, pp. 101-102)

nevertheless confirms man's inborn sociability. The very act of compassion and sympathy, the act of entering into being and sentiments of others, is an act of man's identification with others. This identification may not be called 'ethical'; however, it is this identification that constitutes the foundations of all ethics. (The fact that man does not identify himself with animals but with other human beings is what, for example, makes his killing of human beings *un*-ethical, while making his killing of animals merely *non*-ethical.) It is exactly this ability of identification with human beings that constitutes man as a potentially ethical being. In this identification, man does not simply project himself into others, denying their otherness (as repeatedly suggested by C. F. Alford); more importantly, he projects others, their beings and sentiments, into himself, without denying his own self, either. He thus affirms himself as a part of others, as well as others as a part of himself and of his own nature.

As Cassirer stresses, for Rousseau this relationship of reflexivity is grounded not in some instinctive inclination of sympathy but in man's *capacity for self-determination*. Its real proof lies in the recognition of an ethical law to which the individual will surrenders voluntarily. Man's goodness²¹⁷ is mirrored in the degree to which his nature is not absorbed in sensual instincts but lifts itself spontaneously to the idea of freedom.²¹⁸ However, man's capacity for self-determination is not merely opposed to man's un-willing, sensual half.²¹⁹ This capacity for self-determination, in order to be realised, has to overcome a tension within itself, a tension between the potential for full autonomy of man's will and the potential for man's sociability, which is by definition constituted by man's absorption of social values and is therefore essentially non-autonomous, while still being constitutive of man's willing half. Man's self-

²¹⁷ "Whatever the cause of our being may be, it has provided for our preservation in giving us feelings suited to our nature.... These feelings – as far as the individual is concerned – are self-love, fear of pain, dread of death, desire for well-being. But if, as is undoubtedly the case, man is sociable by nature, or at least capable of becoming sociable, he can be so only by means of other innate feelings relative to his species. For, considered by itself, mere physical need would certainly disperse men rather than bring them together. Now, it is out of the moral system constituted by that twofold relationship of man to himself and of man to his fellow men that the impulse of conscience is born. To know the good is not to love it: man has no innate knowledge of it. But as soon as his reason makes him know it, his conscience leads him to love it; it is this feeling that is innate." In *Profession de foi du vicare savoyard*, in *Emile* (Hachete ed. II), Livre IV, pp. 261-62. Trans. by Cassirer and Peter Gay. Cited in Cassirer, pp. 125-26.

²¹⁸ Cassirer, p. 104.

²¹⁹ "When I give myself up to temptations I act in accordance with the impetus given by external objects. When I reproach myself for this weakness, I listen only to my will. I am a slave through my vices, and free through my remorse; the feeling of my freedom is wiped out in me only when I become corrupted and when, in the end, I prevent the soul from raising its voice against the law of the body." In *Profession de foi du vicare savoyard*, in *Emile* (Hachete ed. II), Livre IV, p. 251. Trans. by Cassirer and Peter Gay. Cited in Cassirer, p. 109)

determination thus, in the first place, assumes the recognition of this tension within man's willing half; by recognising this opposition, man's willing half strengthens itself against the un-willing, sensual half. For, this recognition is, paradoxically, realised through an outward projection of the socially constituted part of man's will into the will of society; and only thus can the relationship of reflexivity be established between man's will and society's will, thereby forging an alliance to overcome man's un-willing half.²²⁰ This relationship of reflexivity, then, in its higher form, evolves into one of *identity*. According to Rousseau, it is the perpetual establishment of this identity, which can only be realised through the establishment of reflexivity between man's will and society's will by projecting the socially constituted, non-autonomous part of man's will into the will of society, that equals man's freedom. Freedom is thus to be achieved not merely in terms of overcoming the strivings of man's un-willing, sensual part by the assertion of his willing part; it is to be achieved by overcoming the tension within the willing part itself, first by establishing a relationship of reflexivity and then a relationship of identity between man's individual will and the will of society.²²¹ Since the natural constitution of man is his sociability, 'the general will' as a will of society in general cannot conflict with it.

Conclusion

The process of the perpetual establishing of identity between man's individual will and the presumed will of society, which was in Rousseau's view the only path to man's freedom, brings the social phenomenon called 'the nation' into existence. For, it is through repeated, perpetual manifestations of *national unity*, as perpetual mass-mobilisations conceived as mass-displays of identity between individual wills and the presumed collective will of society, that 'the nation', as a presumed unity between these two, actually comes into existence at the societal level. These repeated mass-mobilisations are the social expressions of *nationalism*, an ideology that presupposes

²²⁰ As Cassirer stresses, for Rousseau "the very essence of the self, the fullness and depth of self-awareness, is... disclosed not in thought but in the will." (Cassirer, p. 111)

²²¹ The very establishment of this reflexivity is a recognition of the ethical law: for, such a law – as Kant clearly understood it – is itself an inward projection of the reflexivity established by Rousseau's outward projection of the non-autonomous, socially constituted part of man's will back into its societal source (which is thus being transformed into society's willing part, i.e. 'the general will'; otherwise, without this outward projection, society could not be said to have a will of its own), by which Rousseau made it possible for this source to be recognised and internalised as part of man's own will.

the essential identity between individual wills and the presumed collective will of society as the sole condition of man's freedom. It is only through these perpetual mass-mobilisations in the name of 'liberty' and along the lines of 'national unity' that 'the nation', as an abstract concept, is being embodied (albeit in an oscillatory manner) as a really existing social phenomenon. According to the doctrine of nationalism, these oscillatory mass-manifestations of 'national unity' are to be regarded as the only possible manifestations of man's *freedom*. In this respect, Rousseau's theory, depicting man's freedom as a matter of identification of his individual will with the presumed will of the entire society, has certainly provided a solid philosophical foundation, as well as the most elaborate socio-psychological mechanism, for the subsequent emergence of the ideology of nationalism. Of course, Rousseau's theory was by no means its only source: nationalism absorbed all previous and subsequent liberal-democratic and republican theories and through mass-mobilisations at the societal level eventually embraced the very mainstream of modern political practice. Still, Rousseau's theory of freedom provided such mobilisations with an elaborated socio-psychological mechanism through which they actually function, as well as with a universal philosophical rationale of struggle for man's freedom. The ultimate accomplishment along these lines has been achieved by Rawls's theory of 'justice as fairness', which provided the most elaborated philosophical framework and socio-psychological mechanism through which the manifestations of national unity are being affirmed at the societal micro-level.

Chapter Three: John Rawls

John Rawls, who was by many proclaimed the greatest liberal philosopher of the 20th century, had himself a more modest ambition: to be a re-establisher of the *social contract tradition* within liberalism itself.²²² This effort is materialised primarily in his two most important works, *A Theory of Justice* and *Political Liberalism*, as well as in *The Law of Peoples*.²²³ Rawls was dissatisfied by the fact that liberalism was for more than a century dominated by some form of utilitarianism (within which John Stuart Mill was perceived as an almost sacred figure; see the next chapter), and attempted to redirect it towards its own *contractarian* foundations.²²⁴ His aim was “to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract” of Locke, Rousseau, and Kant; but, unlike for these three authors, for him the object of the original agreement was not to enter a given society or adopt a given form of government, but to adopt *the principles of justice for the basic structure of society* and to ascertain which principles it would be rational to adopt given the contractual situation.²²⁵ Eventually, he extended these principles from societal to international level, to what he labelled as ‘Society of Peoples’.

Justice as reciprocity

²²² Rawls regarded Locke’s *Second Treatise of Government*, Rousseau’s *The Social Contract*, and Kant’s ethical works beginning with *The Foundations of the Metaphysics of Morals* as definitive of the contract tradition. See Rawls’s footnote, *A Theory of Justice*, Revised Edition (Cambridge, Mass.: Harvard University Press, 2003), p. 10.

²²³ *TJ, PL, LP. A Theory of Justice*, Revised Edition (Cambridge, Mass.: Harvard University Press, 2003), *Political Liberalism* (New York: Columbia University Press, 1993), *The Law of Peoples* (Cambridge, Mass.–London: Harvard University Press, 2001).

²²⁴ “I wanted to show that this doctrine [of social contract] was not open to the more obvious objections often thought fatal to it. I hoped to work out more clearly the chief structural features of this conception – which I called ‘justice as fairness’ – and to develop it as an alternative systematic account of justice that is superior to utilitarianism. I thought this alternative conception was, of the traditional moral conceptions, the best approximation to our considered convictions of justice and constituted the most appropriate basis for the institutions of a democratic society.” (*PL*, p. xvii)

²²⁵ *TJ*, p. 14. “The intuitive idea of justice as fairness is to think of the first principles of justice as themselves the object of an original agreement in a suitably defined initial situation. These principles are those which rational persons concerned to advance their interests would accept in this position of equality to settle the basic terms of their association.” (*TJ*, p. 103)

The idea of the theory of 'justice as fairness' is to "use the notion of pure procedural justice to handle the contingencies of particular situations". In order to do so, "the social system is to be designed so that the resulting distribution is just however things turn out".²²⁶ In postulating this theory, Rawls does not want to rely "on an undefined concept of community, or to suppose that society is an organic whole with a life of its own distinct from and superior to that of all its members in their relations with one another".²²⁷ Instead, he assumes that society consists of, and is formed by, its members' reciprocal relations with one another. From this conception, however individualistic it might seem, he attempts to eventually explain the value of community. Otherwise, he says, the theory of justice cannot succeed.²²⁸ In this chapter, the value of one specific community – 'the nation', from both liberal-democratic and nationalistic discourses – has been explained by the ostensibly individualistic terms of the theory of 'justice as fairness'.

Rawls puts justice at the centre of social and political theory and thereby simultaneously attempts to eliminate from there the utilitarian principle of 'the greatest happiness for the greatest number', which in his view has no respect for individuals' interests.²²⁹ The contrast between 'justice as fairness' and classical utilitarianism implies a difference in their underlying conceptions of society: "In the one we think of a well-ordered society as a scheme of cooperation for reciprocal advantage regulated by principles which persons would choose in an initial situation that is fair, in the other as the efficient administration of social resources to maximize the satisfaction of the system of desire constructed by the impartial spectator from the many individual systems of desires accepted as given."²³⁰ Rawls's main objection to utilitarianism is that "it does not take seriously the distinction between persons"²³¹ when it postulates the principle of 'the greatest sum of happiness for the greatest number' of persons: "The striking feature of the utilitarian view of justice is that it does not matter, except indirectly, how this sum of satisfactions is distributed among individuals any more than it matters, except indirectly, how one man distributes his

²²⁶ *TJ*, p. 243.

²²⁷ *TJ*, p. 234.

²²⁸ *TJ*, p. 234.

²²⁹ In its classical form, the main idea of utilitarianism is that society is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it. (*TJ*, p. 20)

²³⁰ *TJ*, pp. 29-30.

²³¹ *TJ*, p. 24.

satisfactions over time.”²³² He blames utilitarianism for the logical error of adopting for society as a whole the principle of rational choice for one man, the so-called impartial spectator, “who is conceived as carrying out the required organization of the desires of all persons into one coherent system of desire”. It is by this *collectivistic construction* that many persons are fused into one.²³³ But, “there is no reason to suppose that the principles which should regulate an association of men is simply an extension of the principle of choice for one man”.²³⁴ Besides seeing utilitarianism as a non-individualistic doctrine,²³⁵ one that does not attempt to make distinction between individual persons and their desires, Rawls sees the principle of utility as totally inconsistent with the principle of equality between individuals:

It hardly seems likely that persons who view themselves as equals, entitled to press their claims upon one another, would agree to a principle which may require lesser life prospects for some simply for the sake of a greater sum of advantages enjoyed by others. Since each desires to protect his interests, his capacity to advance his conception of the good, no one has a reason to acquiesce in an enduring loss for himself in order to bring about a greater net balance of satisfaction.²³⁶

The principle of utility is thus incompatible with the conception of social cooperation among equals for mutual advantage, which is based on the idea of *reciprocity*, implicit in the notion of a well-ordered, *just* society.²³⁷ In such a society, “justice denies that the loss of freedom for some is made right by a greater good shared by others”, and “the reasoning which balances the gains and losses of different persons as if they were one person is excluded”.²³⁸

Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. It does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. Therefore in a

²³² *TJ*, p. 23.

²³³ *TJ*, p. 24.

²³⁴ *TJ*, p. 25. This extension, however, is made by Rawls himself in *The Law of Peoples*, where the principles of ‘justice as fairness’ are extended from individuals to ‘peoples’: the very foundation of ‘justice as fairness’, the conception of citizens’ mutual recognition as free and equal, has there become the foundation of the system of ‘nation-states’, in which ‘nations’ – just like citizens on the intra-societal level – have to recognise one another as free and equal in order to come into existence as ‘nations’.

²³⁵ *TJ*, p. 26.

²³⁶ *TJ*, p. 13.

²³⁷ *TJ*, p. 13.

²³⁸ *TJ*, pp. 24-25.

just society the liberties of equal citizenship are taken as settled; the rights secured by justice are not subject to political bargaining or to the calculus of social interests.²³⁹

In contrast to the constructed principle of utility, Rawls claims that the principle of justice naturally occupies the central place in social theory, since “justice is the first virtue of social institutions, as truth is of systems of thought”.²⁴⁰ Hence, all theories must be rejected if untrue, as laws and institutions have to be abolished or reformed if unjust.²⁴¹ The centrality of justice is explained by the fact that a conflict of interests is built-in into the very foundations of society as a system of collaboration between individuals. For, “persons are not indifferent as to how the greater benefits produced by their collaboration are distributed”. This is why “a set of principles is required for choosing among the various social arrangements which determine this division of advantages and for underwriting an agreement on the proper distributive shares”. These principles, which “provide a way of assigning rights and duties in the basic institutions of society” and “define the appropriate distribution of the benefits and burdens of social cooperation”, are ‘*the principles of social justice*’.²⁴² Rawls claims that these ‘principles of justice’ for society were the actual object of *the original contract*.²⁴³

The main idea is that when a number of persons engage in a mutually advantageous cooperative venture according to rules, and thus restrict their liberty in ways necessary to yield advantages for all, those who have submitted to the restrictions have a right to a similar acquiescence on the part of those who have benefited from their submission. We are not to gain from the cooperative labors of others without doing our fair share.²⁴⁴

The other idea of ‘justice as fairness’ is that “men share in primary goods on the principle that some can have more if they are acquired in ways which improve the situation of those who have less” (this is what Rawls calls the second principle of ‘justice as fairness’ or ‘the difference principle’, in addition to the first principle, that

²³⁹ *TJ*, pp. 3-4.

²⁴⁰ Thus the conception of ‘justice as fairness’ postulates the priority of the right over the good as its central feature. (*TJ*, p. 28)

²⁴¹ *TJ*, p. 3. In this point Rawls is in full agreement with Algernon Sidney, one of the founders of the social contract tradition, who says that “that which is not just, is not law; and that which is not law, ought not to be obeyed”. See Algernon Sidney, *Discourses Concerning Government* (Indianapolis: Liberty Fund, 1996), Chapter Three, Section 11.

²⁴² *TJ*, p. 4.

²⁴³ *TJ*, p. 10.

²⁴⁴ *TJ*, p. 96.

of ‘equal liberty’).²⁴⁵ If that principle is not satisfied, society suffers from *injustice*, which can be simply interpreted as “inequalities that are not to the benefit of all”.²⁴⁶ The first principle of ‘justice as fairness’, then, is that “each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others”. The list of these basic liberties consists of “political liberty (the right to vote and to hold public office) and freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person, which includes freedom from psychological oppression and physical assault and dismemberment (integrity of the person); the right to hold personal property and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law,” and these liberties are to be equal by the first principle. Since these basic liberties may be limited when they clash with one another, “none of these liberties is absolute; but however they are adjusted to form one system, this system is to be the same for all”.²⁴⁷ The second principle is that “social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all”. It applies to “the distribution of income and wealth and to the design of organizations that make use of differences in authority and responsibility”; “while the distribution of wealth and income need not be equal, it must be to everyone’s advantage, and at the same time, positions of authority and responsibility must be accessible to all”.²⁴⁸ Positions are to be not only open in a formal sense, but all should have a fair chance to attain them. Those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system.²⁴⁹ When the two principles are satisfied, all are ‘equal’ citizens.²⁵⁰ ‘The difference principle’ thus explicitly expresses a conception of *reciprocity*. It is a principle of mutual benefit.²⁵¹ Further, Rawls says that ‘the difference principle’ corresponds to a natural meaning of *fraternity*, and expresses its

²⁴⁵ *TJ*, p. 81.

²⁴⁶ *TJ*, p. 54.

²⁴⁷ *TJ*, p. 54.

²⁴⁸ *TJ*, p. 53. “Of course, liberties not on the list, for example, the right to own certain kinds of property (e.g. means of production) and freedom of contract as understood by the doctrine of laissez-faire are not basic; and so they are not protected by the priority of the first principle. Finally, in regard to the second principle, the distribution of wealth and income, and positions of authority and responsibility, are to be consistent with both the basic liberties and equality of opportunity.” (*TJ*, p. 54)

²⁴⁹ *TJ*, p. 63. This principle, however, stimulates proportionate, rather than reciprocal, distribution.

²⁵⁰ *TJ*, p. 82.

²⁵¹ *TJ*, p. 88.

fundamental meaning from the standpoint of social justice. It refers to the idea of not wanting to have greater advantages unless this is to the benefit of others who are less well off, which is an idea usually put into practice only in the family: only members of a family commonly do not wish to gain unless they can do so in ways that further the interests of the rest. Acting on ‘the difference principle’ has precisely this consequence: those better circumstanced are willing to have their greater advantages only under a scheme in which this works out for the benefit of the less fortunate.²⁵² So “we can associate the traditional ideas of liberty, equality, and fraternity with the democratic interpretation of the two principles of justice as follows: liberty corresponds to the first principle, equality to the idea of equality in the first principle together with equality of fair opportunity, and fraternity to the difference principle”.²⁵³

A shared conception of justice established within society with the distributive role is thus not exhausted by it. What is equally important, by establishing ‘equal citizenship’, “among individuals with disparate aims and purposes a shared conception of justice establishes the bonds of civic friendship”.²⁵⁴ These bonds, by consistent application of ‘the difference principle’, may evolve into the bonds of fraternity. Both of these bonds are based on perpetual expression of persons’ reciprocal *recognition* of one another as ‘free and equal’: “By arranging inequalities for reciprocal advantage and by abstaining from the exploitation of the contingencies of nature and social circumstance within a framework of equal liberties, persons express their respect for one another in the very constitution of their society.”²⁵⁵ Thus, by arranging inequalities for reciprocal advantage within a framework of ‘equal liberties’, individuals both *express their respect for one another and constitute their society*. In this way, Rawls practically says, the principles of individuals’ reciprocal recognition of one another as ‘free and equal’ (in the classical interpretation, this is expressed by the principles of liberty, equality and fraternity) are built-in into the very constitution of a projected well-ordered society. The public understanding of justice as a reciprocal recognition of one another as ‘free and equal’ is also built-in into the system of state institutions, in charge of administering justice through laws and norms:

²⁵² *TJ*, p. 90.

²⁵³ *TJ*, p. 91.

²⁵⁴ *TJ*, p. 5.

²⁵⁵ *TJ*, p. 156.

Similar cases are treated similarly, the relevant similarities and differences being those identified by the existing norms. The correct rule as defined by institutions is regularly adhered to and properly interpreted by the authorities. This impartial and consistent administration of laws and institutions, whatever their substantive principles, we may call formal justice. (...) Formal justice is adherence to principle, or as some have said, obedience to system.²⁵⁶

Common obedience to the system perpetually strengthens ‘the bonds of civic friendship’ and thereby strengthens ‘the basic structure of society’. ‘The basic structure of society’ is Rawls’s term that refers to a scheme that provides the rules for a ‘fair system’ of social cooperation:

First of all, I assume that the basic structure is regulated by a just constitution that secures the liberties of equal citizenship (...). Liberty of conscience and freedom of thought are taken for granted, and the fair value of political liberty is maintained. The political process is conducted, as far as circumstances permit, as a just procedure for choosing between governments and for enacting just legislation. I assume also that there is fair (as opposed to formal) equality of opportunity.²⁵⁷

In *A Theory of Justice*, ‘the basic structure of society’ is “conceived for the time being as a closed system isolated from other societies”.²⁵⁸ In *Political Liberalism*, it is maintained that “the basic structure is that of a closed society: that is, we are to regard it as self-contained and as having no relations with other societies.”²⁵⁹ Isolation is thus regarded as a precondition for a society to build its ‘basic structure’ on the shared conception of justice as a *fair distribution* of rights, duties, benefits and burdens between equal individuals.

Paradoxes of the original position

The distribution of rights, duties, benefits and burdens is based on the principle of *reciprocity* and – in order for the distribution to remain purely reciprocal – must not be subject to any external, extra-societal influences.²⁶⁰ This is what Rawls calls ‘the

²⁵⁶ *TJ*, p 51.

²⁵⁷ *TJ*, p. 243.

²⁵⁸ *TJ*, p. 7.

²⁵⁹ *PL*, p. 12. We shall return to this conception of ‘the basic structure’ later.

²⁶⁰ The key to understanding Rawls’s conception of reciprocity as the founding principle of ‘the basic structure’ is Locke’s conception of ‘civil society’, which ‘any number of freemen capable of majority’ can constitute. These ‘freemen’ are thus in ‘civil society’ with one another, based on mutual, reciprocal recognition of one another’s citizenship, while with everyone else they remain in ‘the state of nature’.

original position', which provides absolute *'fairness'* (i.e. absolute reciprocity) in the social distribution, due to the assumed 'veil of ignorance':

The idea of the original position is to set up a fair procedure so that any principles agreed to will be just. The aim is to use the notion of pure procedural justice as a basis of theory. Somehow we must nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage. Now in order to do this I assume that the parties are situated behind a veil of ignorance. They do not know how the various alternatives will affect their own particular case and they are obliged to evaluate principles solely on the basis of general considerations. It is assumed, then, that the parties do not know certain kinds of particular facts. First of all, no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like. Nor, again, does anyone know his conception of the good, the particulars of his rational plan of life, or even the special features of his psychology such as his aversion to risk or liability to optimism or pessimism. More than this, I assume that the parties do not know the particular circumstances of their own society. That is, they do not know its economic or political situation, or the level of civilization and culture it has been able to achieve. The persons in the original position have no information as to which generation they belong. (...) As far as possible, then, the only particular facts which the parties know is that their society is subject to the circumstances of justice and whatever it implies. (...) In any case, the original position must be interpreted so that one can at any time adopt its perspective. It must make no difference when one takes up this viewpoint, or who does so: the restrictions must be such that the same principles are always chosen. The veil of ignorance is a key condition in meeting this requirement. It insures not only that the information available is relevant, but that it is at all times the same.²⁶¹

'The original position' of equality, says Rawls, corresponds to 'the state of nature' in the traditional theory of the social contract.²⁶² 'The original position' is defined as an initial status quo in which any agreements reached are 'fair' and "the parties are equally represented as moral persons and the outcome is not conditioned by arbitrary contingencies or the relative balance of social forces". However, unlike in the traditional conception of the state of nature, 'the original position' is so characterised that unanimity is possible and the deliberations of any one person are typical of all.

Thus they, as a society, are by implication 'in the state of nature' with any other society, or with any other group of 'freemen' who are not part of their society: "For though in a commonwealth the members of it are distinct persons, still, in reference to one another, and, as such, are governed by the laws of the society, yet, in reference to the rest of mankind, they make one body, which is, as every member of it before was, still in the state of Nature with the rest of mankind, so that the controversies that happen between any man of the society with those that are out of it are managed by the public, and an injury done to a member of their body engages the whole in the reparation of it. So that under this consideration the whole community is one body in the state of Nature in respect of all other states or persons out of its community." (Locke, *The Second Treatise of Government*, Ch. XII, para. 145) Locke's postulate, putting every society in the state of nature with any other society, is crucial for understanding both the exclusionary nature of Rawls's 'people' and its inherent hostility to all other 'peoples'.

²⁶¹ *TJ*, pp. 118-120.

²⁶² *TJ*, p. 11.

The same applies to the judgement of the citizens of a well-ordered society regulated by the principles of justice: everyone has a similar sense of justice so that, in this moral consensus, a well-ordered society is *homogenous*.²⁶³ Although ‘justice as fairness’ uses the idea of ‘pure procedural justice’ from the very beginning,²⁶⁴ this idea from the very beginning implies the ideal, and leads to the outcome, of *unanimity* and *homogeneity*. The conceptions of ‘the original position’ and ‘pure procedural justice’ thus from the beginning suffer from serious paradoxes. Or, at least, this is what I intend to prove.

Rawls assumes that the ‘veil of ignorance’, the key assumption that makes ‘the original position’ conceivable, covers all types of social knowledge. However, it may be said that in ‘the original position’ as conceived by Rawls persons are *not* ignorant of the fact that they are already classified and ordered as equal individuals, that is, as ‘*equal citizens*’. They may not know their class position or their advantages, strengths and weaknesses; however, they know that they are supposed to see themselves, and to recognise one another, as ‘free and equal’ individuals, that is, as citizens. And that is what applies to a very particular type of society, civic society. Rawls takes this particular society as universal, and that is the first paradox he encounters. Rawls touches the problem of citizen-individuals and the relationship with civic society commenting on Bradley’s claim that “the individual is a bare abstraction”.²⁶⁵ Rawls says that Bradley probably meant that “a person’s obligations and duties presuppose a moral conception of institutions and therefore that the content of just institutions must be defined before the requirements for individuals can be set out”.²⁶⁶ In this way Rawls makes an inversion of the problem he faces himself, and defends the principle of postulating ‘the original position’ of equality as a precondition for the individual to come into being. Yet, although it may be historically true that the system of civic relations had to be first established in order for the individual to be formed, there is still a problem for his theory to presuppose the possibility of ‘the original position’ of equality between individuals without the prior existence of *equal individuals* as a product of the already established civic relations. This paradox is exposed in Rawls’s

²⁶³ *TJ*, p. 232. At this point, it is difficult to distinguish the presumed unanimity of ‘the original position’, in which “the deliberations of any one person are typical of all”, from the presumed unanimity embodied in utilitarianism’s principle of ‘impartial spectator’, in which deliberations of one presumed person are supposed to be typical of all.

²⁶⁴ *TJ*, p. 104.

²⁶⁵ See F.H. Bradley, *Ethical Studies*, 2nd ed. (Oxford: The Clarendon Press, 1927), pp. 163-189.

²⁶⁶ *TJ*, p. 95.

claim that the first problem is to design a just procedure: to do this the liberties of ‘equal citizenship’ must be first introduced and then incorporated into and protected by the constitution.²⁶⁷ A just procedure thus cannot be designed without the prior existence of the liberties of ‘equal citizenship’, that is, without the prior existence of ‘free and equal’ citizens. Without ‘free and equal’ citizens’ prior knowledge of their status as ‘free and equal’ citizens, an assumed just procedure characterising ‘the original position’ cannot come into being. Rawls even worsens the paradox by introducing *practical stages* in realisation of the two principles of ‘justice as fairness’, replicating the difficulties from which ‘the original position’ suffers. Equal citizenship and its liberties are here established by a constitution as a codified just procedure designed to secure citizens’ ‘liberty and equality’,²⁶⁸ despite Rawls’s previous admission that in principle such a procedure can not be designed without the prior introduction of the liberties of ‘equal citizenship’, which can be only subsequently incorporated into the constitution. This is not a merely rhetorical question, or a problem of formal logic, since this paradox exposes the problem of Rawls’s inability to design the procedures of justice without establishing and defining ‘equal citizens’ first; that is, without defining *who* is to *participate* in the procedures of justice as an ‘equal citizen’. In this way the principles of justice are essentially reduced to the principle of citizenship, and the principle of citizenship is taken as part of the principle of *participation*, despite Rawls’s claiming the opposite.²⁶⁹ This paradox also indirectly exposes the common practice of liberalism’s reduction of the proclaimed principles of liberty, equality and fraternity (in Rawls’s case, of the proclaimed principle of ‘justice as reciprocity’) to the practical issues of participation, citizenship and membership (in ‘the nation’), and then their further reduction to the question of constitutional, legal and state institutions in charge of administering these issues. Rawls explicitly makes this reduction in the case of liberty:

The general description of a liberty, then, has the following form: this or that person (or persons) is free (or not free) from this or that constraint (or set of constraints) to do (or not to

²⁶⁷ *TJ*, p. 173.

²⁶⁸ *TJ*, pp. 174-175.

²⁶⁹ “It should be kept in mind that the principle of participation applies to institutions. It does not define an ideal of citizenship; nor does it lay down a duty requiring all to take an active part in political affairs. (...) What is essential is that the constitution should establish equal rights to engage in public affairs and that measures be taken to maintain the fair value of these liberties.” (*TJ*, p. 200)

do) so and so. Associations as well as natural persons may be free or not free, and constraints may range from duties and prohibitions defined by law to the coercive influences arising from public opinion and social pressure. For the most part I shall discuss liberty in connection with constitutional and legal restrictions. In these cases *liberty is a certain structure of institutions, a certain system of public rules defining rights and duties.*²⁷⁰

It is this reduction that establishes the paradoxical and yet unbreakable bonds between the eminently individualistic and inclusivist concept of '*liberty as participation*' and the eminently collectivistic and exclusivist concept of '*the nation as membership*': only fixed members of 'the nation' are *free to participate* and, in Rawls's terms, justice applies only to them. On the level of this practical-political reduction, the concepts of 'liberty' and 'the nation' are inseparable, and so are the historical ideologies derived from these concepts, liberalism and nationalism. The same applies to Rawls's concept of justice as 'fair', reciprocal participation designed to include only 'equal citizens' and the concept of 'the nation' as exclusive membership for those ('equal citizens') to whom this justice applies. The problem, addressed in this chapter as well as in the rest of the thesis, is that the reduction of liberty and justice to *participation* is at the core of both classical and Rawls's liberalism, which practically makes nationalism their common *alter ego*.

Another paradox, linked to the issues of participation, citizenship and membership in 'the nation', is related to the question of the individual's voluntary or involuntary entering into society as a scheme of cooperation. On one side, Rawls projects the ideal of society as a voluntary scheme of cooperation and claims that a society satisfying the principles of 'justice as fairness' comes as close to this ideal as a society can (since "it meets the principles which free and equal persons would assent to under circumstances that are fair"; in this sense "members are autonomous and the obligations they recognize self-imposed").²⁷¹ On the other side, a self-contained, isolated society which he projects is a totally involuntary scheme of cooperation, one that the individual "enters only by birth and exits only by death".²⁷² The latter projection resembles the ideal of a self-contained and self-perpetuating 'nation', one

²⁷⁰ *TJ*, p. 177. Italics Z.H. Also: "The principle of equal liberty, when applied to the political procedure defined by the constitution, I shall refer to as the principle of (equal) participation. It requires that all citizens are to have an equal right to take part in, and to determine the outcome of, the constitutional process that establishes the laws with which they are to comply." (*TJ*, p. 194)

²⁷¹ *TJ*, p. 12.

²⁷² *TJ*, p. 7.

of which all nationalists dream, in which only birth gives the right to participate and death only deprives of that right. To this problem we shall return.

Yet another paradox that craves for resolution lies in Rawls' tacit assumption that we can define '*justice as fairness*' without properly defining *what is 'fairness'*. An explicit definition of '*fairness as reciprocity*' is never actually reached, so that the reader has to assume that 'fairness' is somehow to be seen as a self-understandable and self-explanatory concept. Yet, even if one accepts to define 'fairness' as a purely mechanical procedure of applying mathematical reciprocity to relations between individuals, there is still a problem of the content of these relations, that is, to what kind of relations this reciprocity is to be applied. The presumed procedural nature of Rawls's '*fairness as reciprocity*' leaves this question unanswered, and poses a new question of how 'the basic structure of society' can be established as a network of purely procedural, *contentless* relations between individuals. This is not a rhetorical question, since an answer (or the lack of answer) to it defines the nature of these relations. In the next part of this chapter, I intend to demonstrate that the exact content of these relations is individuals' perpetual recognition of one another as 'free and equal', based on the principle of reciprocity, and that this very content, when transplanted into practical-political framework, is at the same time the exact content of *nationalism*, as a phenomenon with very concrete non-procedural implications and consequences, far away from any abstract procedural justice to which Rawls claimed to have subscribed.

Classical vs. political liberalism

In *Theory* Rawls regarded the social contract tradition as part of moral philosophy and drew no distinction between moral and political philosophy.²⁷³ In *Political Liberalism* he discovered that the lack of such a distinction produced a serious problem for his theory of 'justice as fairness'. In *Theory*, a 'well-ordered society' was conceived as inherently homogenising, one in which all citizens endorse the conception of 'justice as fairness' by accepting its two principles of justice. They endorse that conception on the basis of what in *Political Liberalism* Rawls calls a 'comprehensive philosophical doctrine', in a manner resembling that of 'the well-

²⁷³ *PL, New Introduction*, 1995, p. xvii.

ordered society’ of the utilitarian kind, where citizens accept the principle of utility on the basis of a comprehensive philosophical doctrine of utilitarianism. In *Political Liberalism*, Rawls attempts to return to the purely procedural, non-comprehensive tenets of his theory and turns to the problem of liberal society as a coexistence of various incompatible ‘comprehensive doctrines’. Thus the main question becomes, “how is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines”? For, as ‘political liberalism’ assumes, the most intractable struggles are for the sake of the highest things: for religion, for philosophical views of the world, and for different moral conceptions of the good.²⁷⁴ Put another way, the question is, “how is it possible that deeply opposed though reasonable comprehensive doctrines may live together and all affirm the political conception of a constitutional regime”?²⁷⁵ In turning to this question while postulating ‘political liberalism’, Rawls actually turns to the origins and basic tenets of the liberal worldview:

The historical origin of political liberalism (and of liberalism more generally) is the Reformation and its aftermath, with the long controversies over religious toleration in the sixteenth and seventeenth centuries. (...) As Hegel saw, pluralism made religious liberty possible, certainly not Luther’s and Calvin’s intention. Of course, other controversies are also of crucial importance, such as those over limiting the powers of absolute monarchs by appropriate principles of constitutional design protecting basic rights and liberties. Yet despite the significance of other controversies and of principles addressed to settling them, the fact of religious division remains. For this reason, political liberalism assumes the fact of reasonable pluralism as a pluralism of comprehensive doctrines, including both religious and nonreligious doctrines. This pluralism is not seen as a disaster but rather as the natural outcome of the activities of human reason under enduring free institutions. To see reasonable pluralism as a disaster is to see the exercise of reason under the conditions of freedom itself as a disaster. Indeed, the success of liberal constitutionalism came as a discovery of a new social possibility: the possibility of a reasonably harmonious and stable pluralist society. Before the successful and peaceful practice of toleration in societies with liberal institutions there was no way of knowing of that possibility.²⁷⁶

Following Constant’s famous distinction between ‘liberties of the ancients’ and ‘liberties of the moderns’, Rawls suggests that the problem of coexistence of incompatible comprehensive doctrines historically arose only with the rise of the

²⁷⁴ *PL*, p. 4.

²⁷⁵ *PL*, *New Introduction*, p. xx.

²⁷⁶ *PL*, *New Introduction*, pp. xvi-xvii. In order to present an argument for religious toleration in Christian societies as a product of competition between religious totalitarianisms, Rawls has simply overlooked the entire history of religious toleration in societies where Islam was the dominant religion, where toleration towards non-Islamic monotheist religions has been a norm rather than exception.

modern salvation religions within Christianity. Unlike in the ancient times, when religion was civic religion and philosophy was supposed to work out a doctrine of the good, for the moderns religion was the salvation religions of Christianity; in these religions, both Catholic and Protestant, the good was already pre-defined as the good of salvation, and they had no conflict over that; the conflict was only over their jurisdiction over this absolute good, so that their competing claims to administer the pursuit of the absolute good did not admit of compromise. Eventually, their mortal combat ended up in mutual exhaustion, due to which another principle of the good had to be introduced, the principle of liberty of conscience and freedom of thought, entwined with the principles of toleration and of separation between Church and State.²⁷⁷ In such a way, mutually opposed comprehensive doctrines were put into the position of relative coexistence in a society run by non-salvationist, secular doctrines. Yet, this coexistence was only relatively stable, and all post-Reformation societies suffered from inherent instability.

The Enlightenment, a part of which was classical liberalism, emerged as an attempt to solve this problem in post-Reformation societies, and Rawls in developing ‘political liberalism’ points to its foundations in classical liberalism. Classical liberalism explicitly put the good of liberty of conscience in its centre, and introduced a relatively inclusive principle of secular citizenship (which evolved into a more exclusive principle of national membership), instead of the overtly exclusive and discriminating principle of membership in one of the competing Churches. Rawls’s ‘political liberalism’ goes a step further than any of the historical forms of Enlightenment liberalism, which was, in Rawls’s words, a comprehensive liberal and often secular doctrine, founded on reason and viewed as suitable for the modern age.²⁷⁸ For, ‘political liberalism’ is not conceived as a comprehensive doctrine, in the sense that it is not designed to be concerned with general problems of moral philosophy and with its own search for the comprehensive moral good. It aspires to possess a particular political philosophy that has its own subject matter: how is a just and free society possible under conditions of deep doctrinal conflict with no prospect of resolution?²⁷⁹ Indeed, ‘political liberalism’ makes this ‘just and free society’ its own supreme good, and this good is consciously limited to the sphere of the political;

²⁷⁷ *PL, New Introduction*, pp. xl-xli.

²⁷⁸ *PL, New Introduction*, p. xl.

²⁷⁹ *PL, New Introduction*, p. xxx.

in other words, its basic assumption is that the common good can only be found on the level of the political.²⁸⁰ In making this step, ‘political liberalism’ claims to make a radical departure from both classical liberalism and Rawls’s own theory of justice, denouncing the latter as a comprehensive doctrine with the aim to homogenise all citizens on the basis of the same principles of justice:

It is the fact of reasonable pluralism that leads – at least me – to the idea of a political conception of justice and so to the idea of political liberalism. For rather than confronting religious and nonliberal doctrines with a comprehensive liberal philosophical doctrine, the thought is to formulate a liberal political conception that those nonliberal doctrines might be able to endorse. To find this political conception we do not look at known comprehensive doctrines with the aim of striking a compromise with a sufficient number of those doctrines actually existing in society by tailoring the political conception to fit them. Doing that appeals to the wrong idea of consensus and makes the political conception political in the wrong way. Rather, we formulate a freestanding political conception having its own intrinsic (moral) political ideal expressed by the criterion of reciprocity. We hope in this way that reasonable comprehensive doctrines can endorse for the right reasons that political conception and hence be viewed as belonging to a reasonable overlapping consensus.²⁸¹

Rawls assumes that in ‘political liberalism’ “a plurality of reasonable yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime”.²⁸² In contrast to *Theory*, where justice and fairness are presented as necessarily related, *Political Liberalism*, rather than referring to the principles of its political conception of justice as ‘fair’, refers to them as ‘reasonable’, indicating that these principles and ideals are based on the principles of practical reason.²⁸³ The conception of ‘reasonable’ enters the equation to replace the twin-categories of ‘just’ and ‘fair’ (as well as the conception of truth):

²⁸⁰ “The aim of justice as fairness, then, is practical: it presents itself as a conception of justice that may be shared by citizens as a basis of a reasoned, informed, and willing political agreement. It expresses their shared and public political reason. But to attain such a shared reason, the conception of justice should be, as far as possible, independent of the opposing and conflicting philosophical and religious doctrines that citizens affirm.” (*PL*, p. 9) Thus every citizen is himself divided into two parts: one public and political, and the other private, subject to a comprehensive doctrine related somehow to the dominant political conception. Thus it is not possible for a citizen not to subscribe to some comprehensive doctrine, nor is it possible for a comprehensive doctrine not to be somehow related to the dominant political conception. This practically excludes from Rawls’s ‘well-ordered society’ all citizens who do not subscribe to a comprehensive doctrine (be that liberal or non-liberal), and it also excludes those comprehensive doctrines which are not related to the liberal conception.

²⁸¹ *PL*, *New Introduction*, p. xlvii.

²⁸² *PL*, *Introduction*, p. xviii.

²⁸³ *PL*, *Introduction*, p. xxii.

For these terms to be fair terms, citizens offering them must reasonably think that those citizens to whom such terms are offered might also reasonably accept them. Note that “reasonably” occurs at both ends in this formulation: in offering fair terms we must reasonably think that citizens offered them might also reasonably accept them. And they must be able to do this as free and equal, and not as dominated or manipulated, or under the pressure of an inferior political or social position. I refer to this as the criterion of reciprocity.²⁸⁴

The criterion of reciprocity thus remains the central category in Rawls’s theory, albeit in its mutated form, proposed as the ultimate measure of ‘reasonableness’ rather than of ‘fairness’: “The reasonable is an element of the idea of society as a system of fair cooperation and that its fair terms be reasonable for all to accept is part of its idea of reciprocity.”²⁸⁵ In *Political Liberalism*, ‘the principles of political justice’ are defined as “the result of a procedure of construction in which rational persons (or their representatives), subject to reasonable conditions, adopt the principles to regulate the basic structure of society”.²⁸⁶ In the same sense, ‘reasonable principles’ are defined as those “that issue from a suitable procedure of construction”, which itself “properly expresses the requisite principles and conceptions of practical reason”.²⁸⁷ ‘The principles of political justice’ are thus defined in a circulatory, self-referential manner, supported by a set of arbitrary categories, such as ‘reasonable’, ‘suitable’, and ‘properly’. This is no accident, since Rawls has a fundamental problem with postulating ‘the principles of political justice’ as ‘reasonable’, despite the fact that these are founded on reciprocity and that their ‘reasonableness’ is measured by a degree to which reciprocity governs social relations based on them. The problem lies in the fact that there can be no practical, political, legal or social authority that can legitimately decide what a ‘suitable procedure of construction’ is, and what is it that ‘properly expresses the requisite principles and principles of practical reason’. For,

²⁸⁴ *PL, New Introduction*, p. xliv. This conception of ‘the reasonable’ remains relational in its essence, since the degree of its reasonableness depends on a degree of displayed reciprocity, no matter how formal or procedural it may be. Quite similarly to the conception of law in which ‘deals’ based on reciprocal exchange decide what is to be accepted as just, Rawls’s conception of *justice as reasonableness* is based on the idea that only reciprocal exchange is to be regarded as ‘reasonable’ and therefore just, no matter whether that exchange refers to any moral values (or to any true content) or remains a purely formal procedure.

²⁸⁵ *PL*, p. 49.

²⁸⁶ However, Rawls strictly distinguishes between the reasonable and the rational: “Reasonable persons, we say, are not moved by the general good as such but desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept. They insist that reciprocity should hold within that world so that each benefits along with others. (...) The rational is, however, a distinct idea from the reasonable and applies to a single, unified agent (either an individual or corporate person) with the powers of judgement and deliberation in seeking ends and interests peculiarly its own.” (*PL*, pp. 50- 52)

²⁸⁷ *PL, New Introduction*, p. xxii.

although ‘suitable’, ‘proper’ and ‘reasonable’ in social relations may be equated with whatever in these relations is based on reciprocity, and whatever is based on reciprocity in social relations may be regarded as ‘suitable’, ‘proper’ and ‘reasonable’, the source of legitimacy in the society ordered by ‘political liberalism’ can hardly be a pure mathematical and procedural reciprocity, as Rawls attempts to postulate by introducing the term ‘reasonable’ as the ultimate measure of legitimacy. Reciprocity can hardly be a source or a measure of legitimacy since, as above, it can only produce a circle of self-referential concepts, which are supposed to reflexively legitimise themselves. However, such exactly is the problem with the concepts of ‘liberty’ and ‘the nation’: they are both essentially reflexive, self-referential and self-legitimising, and that is why so many thinkers have had difficulties in finding their definition or true content. Rawls’s great achievement is in bringing this mechanism of self-referential, self-legitimising circulatory logic close to the point of self-awareness. In Rawls’s theory, this mechanism is almost fully deconstructed; the rest is to be deconstructed in this effort to deconstruct Rawls’s procedures of reciprocity by revealing their only and true content, that of citizens’ perpetually recognising one another as free and equal.²⁸⁸

From ethnic to civic

As indicated above, the comprehensive doctrine of ‘justice as fairness’ to which Rawls refers, one that all citizens endorse as the basis of their social existence, is in fact one of *national homogeneity* (although Rawls himself never uses this term). ‘Justice as fairness’ is a comprehensive doctrine in terms of its aim to produce homogenisation of *all* citizens on the basis of their *permanent endorsement* of its principles. This permanent endorsement is in *Theory* presented as the sole basis of their social existence and of their social interaction within society ordered by this doctrine. In such a society, all citizens are supposed to act on the basis of this doctrine and be consequently homogenised into a single body, that is, a single ‘nation’. Acting on the basis of a homogenising, comprehensive, all-embracing doctrine is what transforms society’s members into ‘the nation’s’ citizens, that is, co-nationals.

²⁸⁸ For Rawls, the fundamental question of political justice is, “what are fair terms of cooperation between free and equal citizens as fully cooperating and normal members of society over a complete life.” (*PL*, p. 181) The only answer his theory offers is that these fair terms of cooperation are about members’ reciprocally recognising one another as free and equal.

However, their ‘nationality’, itself based on mutual recognition of one another’s membership and ‘equality’, is what has to be permanently subscribed to, in order to maintain the system of ‘justice as fairness’, itself based on their permanent mutual reciprocal recognition of ‘equality’ and membership.²⁸⁹ This process of permanent endorsement of ‘justice as fairness’ by a permanent exercise of mutual, reciprocal recognition of one another’s status as ‘free and equal’ citizens of ‘the nation’ – while, at the same time, permanently discriminating against all those who are recognised as non-members, and who may consequently be treated as *unfree unequals* – is a process of permanent ‘national’ homogenisation through which ‘the nation’ actually comes into existence (this is not to say that ‘the nation’, once homogenised, continue its existence as a substantial entity; rather, I here claim that ‘the nation’ has to be permanently homogenised in order to perpetually affirm its existence: in this sense, ‘nations’ and ‘nationhood’ exist only through this perpetual affirmation of ‘nationness’²⁹⁰). Permanent homogenisation around the concepts of ‘nationhood’ and citizenship through citizens’ perpetual recognising of one another as ‘free and equal’, this thesis claims, is what ‘nations’ and nationalism are all about and in this sense ‘justice as fairness’ is as comprehensive, nationalistic and exclusivist as any ideology of *ethnic nationalism*. What *Political Liberalism*, in contrast to *Theory*, actually attempts is to transform this comprehensive form of permanent ‘national’ homogenisation into a form of *civic nationalism*, based on a purely political, though still permanent and ‘national’, homogenisation:

In the transformation from the comprehensive doctrine of justice as fairness, the idea of the person as having moral personality with the full capacity of moral agency is transformed into that of the citizen. (...) Persons are viewed as being capable of exercising their moral rights and fulfilling their moral duties and as being subject to all the moral motivations appropriate to each moral virtue the doctrine specifies. In PL, by contrast, the person is seen rather as a free and equal citizen, the political person of a modern democracy with the political rights and duties of citizenship, and standing in a political relation with other citizens. The citizen is, of course, a moral agent, since a political conception of justice is, as we have seen, a moral

²⁸⁹ Rawls depicts this basic situation in the following manner: “When we say ... that not only are citizens normal and fully cooperating members of society, but further they want to be, and to be recognized as, such members, we are saying that they want to realize in their person, and have it recognized that they realize, that ideal of citizens.” (*PL*, p. 84)

²⁹⁰ ‘Nationness’ is a concept introduced by Rogers Brubaker, and I here adopt it in order to describe the manifestations of the perpetual exercising of co-nationals’ reciprocal recognition of one another as free and equal members of ‘the nation’. On the concepts of ‘nationness’ and ‘nationhood’ (not necessarily identical to those I here adopt), see Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge: Cambridge University Press, 1996).

conception. But the kinds of rights and duties, and of the values considered, are more limited.²⁹¹

The ‘free and equal’ citizen who stands in a political relation with other citizens as political persons is, as already indicated, a member of a specific type of society claimed to consist of ‘free and equal’ citizens, and that type of society is to be recognised under the name ‘the nation’, albeit a civic one. Such citizens are regarded as moral agents with respect to the moral character of political conception of justice, in which the core is still their reciprocal recognition of one another as ‘free and equal’ citizens, that is, as members of ‘the nation’, that is, as co-nationals. In the same sense, non-citizens i.e. non-members of ‘the nation’ are still not to be regarded as moral agents nor as ‘free and equal’, and members of ‘the nation’ do not owe them recognition or reciprocity. Moreover, it is even not to be regarded – from the members’ point of view – unreasonable or unjust to treat non-members as unreasonable and incapable of being moral agents. The doctrine of nationalism, be that ethnic or civic one, is thus always adapted to fit a particular group’s moral outlook, in which morality itself, as well as ‘freedom and equality’, are reserved only for a group’s members and do not apply to non-members, who have to seek for these values within their particular ‘national’ groups. This is transparent in Rawls’s definition of the person, supposedly characterising only ‘political liberalism’ and civic ‘nations’:

Thus, we say that a person is someone who can be a citizen, that is, a normal and fully cooperating member of society over a complete life. We add the phrase “over a complete life” because society is viewed not only as closed but as a more or less complete and self-sufficient scheme of cooperation, making room within itself for all the necessities and activities of life, from birth until death. A society is also conceived as existing in perpetuity: it produces and reproduces itself and its institutions and culture over generations and there is not time at which it is expected to wind up its affairs.²⁹²

The image of a self-sufficient and closed society that reproduces itself and its institutions and culture *in perpetuity*, which one enters only by birth and exits only by death is, no doubt, a typical image of ‘the nation’ in a typical ethnonationalist (rather than civic nationalist) discourse, and Rawls here appears to come quite close to such a view (let us not forget, ‘nation’ originates from the Latin ‘nasci’, which means “to be

²⁹¹ PL, *New Introduction*, p. xlv.

²⁹² PL, p. 18.

born”). However, what is more striking than this underlying ethnonationalist tone is the conception of the person who qualifies as a person only by being a citizen, that is, by being a member of such a self-perpetuating and closed ‘nation’. If one does not happen to enter ‘the nation’ by birth – and otherwise, as all ethnonationalists would probably agree, ‘the nation’ is closed for entry – s/he is not to be regarded as a person. Being able to be a citizen, and thereby to be a person, is thus one’s birthright, not one’s ability to understand and responsibly participate in public life. Thus only some can be recognised as persons, and this recognition can come only from their fellow co-nationals. And only their fellow co-nationals are to be reciprocally recognised as persons, in the mutual display of fairness and justice, which embraces no one else. Indeed, fairness and justice thereby become irrelevant concepts with respect to all the others, who are to remain unrecognised, that is, who are to be perceived as non-persons. Thus membership in ‘the nation’, following the logic suggested by Rawls’s definition of the person, becomes the sole condition of one’s personality, that is, of one’s humanity. Non-members, as non-persons, quickly come to be regarded as non-humans, with which members remain in the (Lockean, or Hobbesian) ‘state of nature’.

Given the fact that the ‘free and equal’ citizen is seen as a person, that is, as a moral agent by being a member of society (which is closed and self-sufficient, and into which a member enters only by birth, so that membership is understood as birthright), it is not difficult to see that for Rawls one cannot even be a moral agent without being a member of a closed, self-sufficient society. Being a moral agent becomes a matter of birthright for those who belong to this or that particular closed society, and those who are left out by accident of birth are also deprived of being ‘free and equal’ citizens. For, it is only citizenship, that is, membership that makes them ‘free and equal’. ‘Freedom’ and ‘equality’ are thus someone’s birthright, which s/he can only be deprived by death. As such, Rawls’s ‘freedom’ and ‘equality’ are not extendible to non-members; nor can members be deprived of them while alive. It is sufficient to be born into ‘the nation’ of the ‘free and equal’; nothing else is required for one to be recognised as ‘free and equal’. True, his/her ‘freedom and equality’ will be recognised only by his/her co-nationals, but Rawls does not envisage for anyone to live outside his/her own ‘nation’.

Perhaps some might say that Rawls, in depicting his ideal society as ‘a structure we enter only by birth and exit only by death’, actually attempts to simulate

experimental, laboratory conditions in which the unit in question is to be regarded and examined as isolated and self-contained, like in his hypothetical ‘original position’. However, if we accept Rawls’s claim that “the fundamental organizing idea of justice as fairness ...is that of society as a fair system of cooperation over time, from one generation to the next”²⁹³, then the definite, ‘laboratory’ scope of the unit in question is brought to its very negation: such a society is endlessly extended ‘over time’ (in the nationalist discourse it would be called ‘eternal’) and can be regarded as definite only in terms of the politically controlled, ‘*national*’ space it occupies.

In the image of ‘the nation’ as ‘a structure we enter only by birth and exit only by death’, ‘the nation’ is seen not only as the ultimate bearer of political power within the defined space it occupies (‘all sovereignty essentially resides in the nation’!), but also as the ultimate scope of its members’ lives, with the ultimate boundaries of their lives converging with those of ‘the nation’. In such a context, citizens are bound to honour the structure of their regime and to abide by the statutes and laws enacted by that regime by their ‘national’ consciousness, characteristic only for members of that particular ‘nation’. This ‘national’ consciousness, that is, their nationalism – and not some abstract sense of reciprocity, fairness and justice – is what makes them treat one another reciprocally, as ‘free and equal’ members of ‘the nation’. (Such an exercise of reciprocal recognition is in the nationalistic discourse commonly labelled as ‘national solidarity’. A perpetual exercise of this reciprocal recognition is what actually constitutes ‘the nation’ as such.) It is ‘the nation’ itself and its membership based on reciprocal recognition that members perceive as justice itself, and only members perceive their ‘nation’ as justice itself and the display of their nationalism as simply *exercising justice*; for non-members, it is the ultimate source of political and social exclusion.

For Rawls, “The answer is given by the criterion of reciprocity: our exercise of political power is proper only when we sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as a justification of those actions.”²⁹⁴ Such a picture, however, is misleading: reciprocity is not the answer

²⁹³ *PL*, p. 15

²⁹⁴ *PL*, *New Introduction*, p. xlv. Also: “Since political power [in liberal society] is the coercive power of free and equal citizens as a corporate body, this power should be exercised when constitutional essentials and basic questions of justice are at stake, only in ways that all citizens can reasonably be expected to endorse in the light of their common human reason.” (*PL*, pp. 139-140) Political power here is regarded as coercive power of ‘the nation’ as a corporate body. Political power thus defined, of course, applies only to ‘the nation-state’, in which citizens permanently subscribe to the common

because in the context of democratic society, that is, of the liberal ‘nation-state’, reciprocity is not the individual’s rational choice; it is simply membership in ‘the nation’ that makes all members behave reciprocally. In this sense, membership is ‘comprehensive’ since it embraces all citizens and since it presupposes reciprocity in their recognising one another as members of ‘the nation’, that is, as ‘free and equal’ citizens. In order to fulfil their political role, citizens do not have to have “the intellectual and moral powers appropriate to that role, such as a capacity for a sense of political justice given by a liberal conception and a capacity to form, follow, and revise their individual doctrines of the good”, nor do they have to be “capable also of the political virtues necessary for them to cooperate in maintaining a just political society.”²⁹⁵ No matter how appealing and seductive it may sound, citizens do not have to be viewed as possessing, or to truly possess, a “capacity for a sense of political justice given by a liberal conception”; it is enough for them to have a sense of ‘national solidarity’, mirrored in their permanent display of reciprocal recognition of one another as ‘free and equal’. Let us not forget, the other side of this reciprocal recognition for members is a non-reciprocal non-recognition for non-members, that is, their absolute exclusion; and it is precisely the awareness of the non-members’ existence that stimulates members to continuously and perpetually exercise the required reciprocity towards one another and thereby maintain ‘the nation’s’ continuity. No intellectual nor moral powers are needed, only perceived (not necessarily real) existence of *the other*, and members’ consensus on (the necessity of) their ‘nation’s’ existence.²⁹⁶

Rawls declares that his ideal is that citizens “conduct their public political discussions of constitutional essentials and matters of basic justice within the framework of what each sincerely regards as a reasonable political conception of justice, a conception that expresses political values that others as free and equal also might reasonably be expected reasonably to endorse.” He says that “this is sufficient for political society to be stable for the right reasons: the political conception can now be honored by all citizens as at least reasonable and for political purposes that is the

‘national’ identity and ‘the nation-state’, labelling this permanent subscription as a matter of their ‘common human reason’.

²⁹⁵ *PL*, pp. 139-140

²⁹⁶ See Fredrik Barth (ed.), *Ethnic Groups and Boundaries: The Social Organization of Culture Difference* (London: George Allen and Unwin, 1969).

most we can expect.”²⁹⁷ Practically, however, political society which is in a non-Rawlsian discourse known as ‘the nation-state’ is always stable for the wrong reasons, through ‘national solidarity’ and homogeneity, centred around mere belonging and membership, that is, around inclusion and exclusion, without serious discussion of any matter other than these two. Thus in reality of modern society citizens *do not discuss* either constitutional essentials or matters of basic justice; they simply *endorse* as ‘just’ and ‘reasonable’ whatever is presented as ‘national’. For, it is ‘nationality’ and ‘nationhood’ that guarantee the reciprocity of recognition and equality in membership for all those included. The display of nationalism and ‘national solidarity’ appears to them as endorsement of ‘justice’ and ‘reasonableness’: the most appealing and penetrating nationalisms are those which are *not* consciously displayed and spread, those that appear in the form of self-understandable reasonableness.

Consensus, of doctrines or of citizens?

Having realised that a ‘comprehensive doctrine’ in a society constituted as ‘the nation-state’ can secure the basis of social unity only in the form of a ‘comprehensive’ and aggressively homogenising ideology (although he never admits that such an ideology is necessarily that of nationalism), Rawls introduces another concept whose task is to distinguish that type of ideology from a supposedly moderate, civic one, inherent in his ‘political liberalism’. This concept is ‘overlapping consensus of reasonable comprehensive doctrines’, which is supposed to function only on the level of the political and to bring a lasting social and political stability:

In such a consensus, the reasonable doctrines endorse the political conception, each from its own point of view. Social unity is based on a consensus on the political conception; and stability is possible when the doctrines making up the consensus are affirmed by society’s politically active citizens and the requirements of justice are not too much in conflict with citizens’ essential interests as formed and encouraged by their social arrangements.²⁹⁸

²⁹⁷ *PL*, p. 1.

²⁹⁸ *PL*, p. 134.

Such a consensus,²⁹⁹ although political, is not necessarily identical to what Rawls labels as ‘overlapping consensus of comprehensive doctrines’. This consensus is supposed to be permanently displayed between citizens rather than between ‘comprehensive doctrines’. Its function is to create/maintain social/national unity and stability even at the price of suppressing individual liberties and choices by forcing all citizens to be *permanently politically active in affirming the consensus* as their permanent ritual display of mutual, reciprocal recognition of one another as ‘free and equal’ citizens. *They* (rather than the doctrines to which they subscribe) have a political consensus on permanently, ritually recognising one another as ‘free and equal’, regardless of their ethnic identities and the religious, philosophical, and moral doctrines they may otherwise hold. ‘Justice as fairness’ in ‘political liberalism’ is thus designed not as an ‘overlapping consensus’ of various ‘comprehensive doctrines’ but rather as a political consensus on citizens’ willing display of perpetual recognition of one another as ‘free and equal’:

If justice as fairness were not expressly designed to gain the reasoned support of citizens who affirm reasonable although conflicting comprehensive doctrines – the existence of such conflicting doctrines being a feature of the kind of public culture that liberal conception itself encourages – it would not be liberal. The point, then, is that the problem of stability is not that of bringing others who reject a conception to share it, or to act in accordance with it, by workable sanctions, if necessary, as if the task were to find ways to impose that conception once we are convinced it is sound. Rather, justice as fairness is not reasonable in the first place unless in a suitable way it can win its support by addressing each citizen’s reason, as explained within its own framework.³⁰⁰

‘Justice as fairness’ is thus designed not so much to gain support of citizens because of, or in spite of, their affirming conflicting comprehensive doctrines; it gains support of citizens through their recognising one another as ‘free and equal’, that is, through their recognising one another as members of the same ‘nation’. Potentially conflicting ‘comprehensive doctrines’ are thus *bypassed* by the very institution of citizenship: *every individual comes into relationship with another individual only as a citizen, by recognising another and by being recognised by another as a citizen.*³⁰¹ In that

²⁹⁹ Rawls says: “It is vital to the idea of political liberalism that we may with perfect consistency hold that it would be unreasonable to use political power to enforce our own comprehensive view, which we must, of course, affirm as either reasonable or true.” (PL, p. 138) However, political power is still used to enforce the ‘overlapping consensus’ of such comprehensive views, that is, to enforce the homogeneity of ‘the nation-state’.

³⁰⁰ PL, p. 143.

³⁰¹ “The philosophical conception of the person is replaced in political liberalism by the political conception of citizens as free and equal.” (PL, p. 380)

process of mutual, reciprocal and ritual recognition, they do not act as advocates of particular comprehensive doctrines, but only as citizens. This is what Rawls labels as ‘political’: on the political level, there are only citizens, there are no ‘comprehensive doctrines’ nor are there their advocates: as persons possibly endorsing such doctrines, they are simply bypassed.³⁰² Rawls claims that liberalism “tries to show both that a plurality of conceptions of the good is desirable and how a regime of liberty can accommodate this plurality so as to achieve the many benefits of human diversity”.³⁰³ However, the point is that in liberal society citizens never actually discuss, and refrain from referring to, the diversity of their conceptions of the good: they only ritually endorse their common good, namely, that they are all, and that they recognise one another as, ‘free and equal’ citizens.³⁰⁴ Citizens reach a consensus without their personal doctrines overlapping. They simply reach a consensus on their very membership in such a consensual enterprise which they in non-Rawlsian terms prefer to call ‘the nation’, and their respective comprehensive doctrines are actually not part of it. *This consensus is made of citizens themselves, not of their respective comprehensive doctrines.* As such, it is inherently stable, consisting of the same, mutually and reciprocally recognising parts. Their perpetual, ritual mutual recognition as ‘free and equal’ members of the same ‘nation’ is what brings it stability, unity, and homogeneity. Within the discourse of ‘nation’ and citizenship, there is no place for destructive quarrels over diverging ‘comprehensive doctrines’, there is only a place for the permanent active consensus on each citizen’s participation in that discourse, through which citizens perpetually, ritually affirm one another as ‘free and equal’, without ever bothering with their respective religious, philosophical, and moral doctrines. This is the great invention of the age of liberalism and nationalism: *no genuine conflicts over doctrines, only genuine conflicts over membership, over*

³⁰² What is needed for Rawlsian type of civic nationalism is some form of *politocracy*: the entire discourse avoids ethnic, religious, philosophical, and moral disputes and the doctrines generating them, and sticks only to the political level, understood in the narrowest, *procedural* sense.

³⁰³ *PL*, p. 304.

³⁰⁴ The person is conceptualised as the citizen – both the individual and the member: membership in ‘the nation’ is thus seen as the prerequisite for the individual’s existence. By recognising one another as ‘free and equal’ citizens, persons simultaneously recognise one another as ‘free and equal’ persons, no matter what their individual conceptions of the good, social positions, etc. For, while individuals may have their particular, private conceptions of the good and their respective social positions, citizens presented as ‘free and equal’ persons – who thereby comprise both private individuals and members of society – function only on the level of their common good: this good is their ritual, perpetual recognising of one another as ‘free and equal’ citizens and therefore ‘free and equal’ persons.

inclusion in, and exclusion from, the perpetual ritual display of reciprocal recognition of one another as 'free and equal'.

In permanently recognising one another as 'free and equal', citizens *actively* affirm this permanent ritual display of mutual recognition as a permanent political consensus, thereby permanently affirming the consensus itself *as the basic structure* of the society they live in. This 'basic structure', that is, the political consensus they permanently endorse *is 'the nation' itself* (made of citizens who reciprocally recognise one another as its members). This, *civic* 'nation' is a permanent political consensus based on *active* and perpetual ritual recognition of each citizen by another citizen, and *vice versa*, as 'free and equal', that is, as a member of 'the nation'. Thus every citizen is not only *forced to be free* (to use Rousseau's famous phrase) and equal by all the others who constitute 'the nation' he belongs to; he also has no choice but to affirm his 'freedom' by recognising others as 'free and equal', once he was born into 'the nation' – as a permanent consensus on this recognition – from which he can only exit by death. Although less exclusive than *ethnic* nationalism which imposes common ethnicity as a comprehensive homogenising 'doctrine', this ideal of unity and stability for members of the *civic* homogenous 'nation' may also become the chief source of social exclusion for all those who were not born into the society in question: in a 'well-ordered society' all those who are ignorant of the ritualised procedures of public recognition of one another as 'free and equal' citizens (such as members of other cultures) are automatically excluded from the entire recognising discourse and are not to be treated as 'free and equal'. This ideal of unity and homogeneity may also become the chief source of *induced* political instability for all other societies which possess a lesser degree of unity and homogeneity. For, almost as a physical rule, societies/'nations' with a greater degree of unity and homogeneity (they commonly refer to it as a greater degree of 'freedom') tend to destabilise those societies with a lesser degree of unity and homogeneity by attempting to impose their own model of permanent consensus on the latter while calling it 'liberation' (or, else, labelling it as 'nation-building').

However, despite the permanent consensus on membership and members' active persistence on mutual recognition as 'free and equal' citizens, Rawls refuses to refer to this 'well-ordered', homogenous society as a 'political community', since he understands by it "a political society united in affirming the same comprehensive doctrine":

Liberalism rejects political society as a community because, among other things, it leads to the systematic denial of basic liberties and may allow the oppressive use of the government's monopoly of (legal) force. Of course, in the well-ordered society of justice as fairness citizens share common aim, and one that has high priority: namely the aim of insuring that political and social institutions are just, and of giving justice to persons generally, as what citizens need for themselves and want for one another. It is not true, then, that in a liberal view citizens have no fundamental common aims. Nor is it true that the aim of political justice is not an important part of their noninstitutional, or moral, identity.³⁰⁵

This alleged rejection of political community, understood as a political society united in affirming the same comprehensive doctrine, clearly demonstrates that the foundations of Rawls's 'overlapping consensus' are *not* to be found at the doctrinal level whatsoever. For, 'reasonable pluralism of comprehensive doctrines', as Rawls calls it, is never in fact the aim of 'well-ordered society of justice as fairness'. It is rather a background fact, discretely hidden behind the public consensus on citizens' perpetual recognition of one another as 'free and equal'.³⁰⁶ The aim is to establish and maintain this consensus on mutual, reciprocal recognition, which includes "insuring that political and social institutions are just", thereby "giving justice to persons generally, as what citizens need for themselves and want for one another". Since Rawls's conception of justice, and of what persons as citizens need for themselves and want for one another, boils down to citizens' perpetual recognition of one another as 'free and equal', it is clear that 'reasonable pluralism of comprehensive doctrines' is *not* an essential part of that justice: doctrines, on their level, do not display any degree of fairness and reciprocity, even if they formally recognise one another, so that their overlapping pluralism does not bring justice and is not the aim of 'well-ordered society of justice as fairness'. The aim is to push these 'comprehensive doctrines' (for example, mutually exclusive religious or ethno-religious discourses) in the background and establish a 'well-ordered society of justice as fairness' by putting citizens' recognition of one another as 'free and equal' in the front, by making it perpetual, ritual, and *omnipresent*. This is the common aim of all persons who recognise one another as citizens, 'free and equal'; such mutual recognition, reciprocal and perpetual, is both the founding principle and the ultimate aim of 'well-

³⁰⁵ *PL*, p. 146.

³⁰⁶ Rawls comes quite close to admission that the consensus he is affirming is not between 'comprehensive doctrines' but rather between citizens themselves: "Citizens do not look into the content of others' doctrines, and so remain within the bounds of the political. Rather, they take into account and give some weight to only the fact – the existence – of the reasonable overlapping consensus itself." (*PL, Reply to Habermas*, p. 387)

ordered society'; it is 'justice' itself. 'Giving justice' thus means publicly recognising one another as a 'free and equal' citizen, and this recognition has its ritualised form and is supposed to be performed perpetually and be permanently affirmed by all members of Rawls's closed society. By permanently performing such a ritualised mutual recognition, they permanently "affirm the same political conception of justice" and support its (presumably 'just') institutions. While recognising one another as 'free and equal', they simultaneously "express the kind of person they very much want to be",³⁰⁷ that is, 'free and equal'. Thus, they come to make up a community, a community of the 'free and equal', in which reciprocity in recognising one another's 'freedom and equality' becomes a 'comprehensive doctrine'.³⁰⁸ This type of political community is known under the name 'the nation', while the permanent display of ritualised perpetual recognition of one another as a member of this community of the 'free and equal' (with exclusion of all non-members as unfree and unequal) is what is known under the name of 'nationalism'.³⁰⁹

From 'public reason' to 'social cooperation'

This political community (or, as Rawls would prefer, political society), like every reasonable and rational agent, individual or collective, has "a way of formulating its plans, of putting its ends in an order of priority and of making its decisions accordingly", and this way, together with the ability to do these things, is called its 'reason'. "Public reason," says Rawls, "is characteristic of a democratic people: it is the reason of its citizens, of those sharing the status of equal citizenship".³¹⁰

In a democratic society public reason is the reason of equal citizens who, as a collective body, exercise final political and coercive power over one another in enacting laws and in amending their constitution. The first point is that the limits imposed by public reason do not apply to all political questions but only to those involving what we may call "constitutional essentials" and questions of basic justice. This means that political values alone are to settle such

³⁰⁷ *PL*, p. 202.

³⁰⁸ Rawls's definition of both doctrine and comprehensiveness does not allow for the interpretation given above: "By definition, for a conception to be even partially comprehensive, it must extend beyond the political and include nonpolitical values and virtues." (*PL*, p. 175) However, I refer to the doctrine of reciprocal recognising one another as free and equal as 'comprehensive' since it practically influences all spheres of human existence in a society pervaded by it.

³⁰⁹ In a society founded on 'justice as fairness' persons (as citizens) are supposed to work selflessly for one end, that of 'justice as fairness', perpetually recognising one another as 'free and equal'. Their behaviour, eventually constitutes them as a community of the 'free and equal'.

³¹⁰ *PL*, p. 213.

fundamental questions as: who has the right to vote, or what religions are to be tolerated, or who is to be assured fair equality of opportunity, or to hold property. These and similar questions are the special subject of public reason.³¹¹

Equal citizens are said to exercise final political and coercive power over one another, which means that their recognising one another as ‘free and equal’ is at the same time a means of binding one another “in enacting laws and in amending their constitution”. This reflexivity between citizens’ rights to membership in the community of the ‘free and equal’ and their obligations to sustain such a community of fixed membership is what constitutes the foundations of Rawls’s ‘public reason’, to which the settling of any fundamental questions for that community (that is, “constitutional essentials and questions of basic justice”) inevitably refers. It is no surprise, then, that such a ‘public reason’, consisting of the fundamental questions derived from Rawls’s conception of ‘justice as fairness’, deals exclusively with the issues of social and political inclusion and exclusion. For, as Rawls himself suggests, these questions are: *who* has the right to vote, *what* religions are to be tolerated, *who* is to be assured fair equality of opportunity, or *who* is to hold property. The exclusionary nature of these very questions, that is no accident, testifies to the exclusionary nature of his conception of ‘justice as fairness’, which boils down to the question of who is to be recognised as a member of the community of the ‘free and equal’ (i.e. to recognise, and be recognised reciprocally by, other members as ‘free and equal’) and who is to be excluded from that community as a non-member (by all members, by their very act of recognising one another as members). Otherwise, if exclusion of non-members were not the top priority in the exercise of ‘justice as fairness’, as much as mutual inclusion of members by their reciprocal recognition of one another as ‘free and equal’ (for, it is the exclusion that encircles the community and thus enables members within the boundaries to recognise one another as ‘free and equal’), there would be no sense in raising these very questions – everyone would be welcome to vote, all religions would be tolerated, fair equality of opportunity would be guaranteed for all, and holding property would not be a matter of public, but of private, reason.

In ‘justice as fairness’ and in many other liberal views, Rawls suggests, “the guidelines of inquiry of public reason, as well as its principle of legitimacy, have the same basis as the substantive principles of justice”. Thus adopting ‘the principles of justice’ for ‘the basic structure’ means also adopting ‘guidelines and criteria of public

³¹¹ *PL*, p. 214.

reason' for applying these norms: "The argument for those guidelines, and for the principle of legitimacy, is much the same as, and as strong as, the argument for the principles of justice themselves."³¹² To unite Rawls's ostensibly distinct conceptions, one has to understand that 'the guidelines of inquiry of public reason, as well as its principle of legitimacy' are practically the same principles that constitute 'the basic structure', that is, the same principles of which 'fairness' is made up, whose realisation in socio-political reality in turn brings about what Rawls calls 'justice'. These principles are the principles of reciprocity, mutuality and recognition. On one hand, they constitute citizens by their reciprocal recognition of one another as 'free and equal'; at the same time, they constitute 'the basic structure', which comes into being only by citizens' perpetual recognising of one another as 'free and equal' ("adopting principles of justice for the basic structure"). Adopting 'guidelines and criteria of public reason' is, then, the same as adopting the principles of citizens' reciprocal recognition of one another as 'free and equal': the act of the perpetual recognising of one another as 'free and equal' which constitutes both citizens as such and 'the basic structure' of which they are part, also constitutes 'public reason' of all citizens, perpetually united into 'the nation' in their exercising 'justice as fairness' by recognising one another as 'free and equal'. Thus this piece of tautological exercise, precisely because of the self-referential, self-legitimising and reflexive quality of the categories used in it, only testifies to the fact that tautology and reflexivity are built-in not only into Rawls's conception of 'justice as fairness' but into the entire liberal conceptual complex, consisting of the mutually referential concepts of 'the citizen', 'the nation', 'democracy', 'freedom' and 'equality'.³¹³ One of such concepts is that of

³¹² *PL*, p. 225.

³¹³ The underlying distinction between the idea of the reasonable and the idea of truth is probably the most significant feature of liberal thought in general. On the level of 'the reasonable' (and that is where 'political liberalism' places itself), disputes about truth are not supposed to happen; only mutual recognition between individuals who, by recognising one another as 'free and equal', qualify as citizens and as reasonable persons. The use of the concept of truth is left to 'comprehensive doctrines', which, in turn, are not supposed to constitute, define, or participate in, either the 'public reason' or 'the basic structure' (they are entirely left to the private sphere). 'Comprehensive doctrines', each aspiring to the concept of absolute truth, cannot recognise one another, nor offer a platform for its adherents to recognise adherents of another doctrine, as 'free and equal'. That is why the concept of the citizen, 'free and equal' by definition, enters to make mutual recognition possible. However, Rawls's theory and other theories derived from liberal tradition do not say explicitly that the other side of this mutual recognition of members of one society (that is, of co-nationals) is a denial of such recognition for members of another society; they are to be denied the status of the 'free and equal', and therefore the capacity to act as 'reasonable' persons. Thus conflict of 'comprehensive doctrines' within one society is transferred to another level and ends up as a conflict of *comprehensive 'nations'*, each consisting of all mutually recognising 'free and equal' citizens and each denying the same recognition to all members of other such 'nations'; indeed, each pretending to its own concept of truth and each denying

‘social cooperation’, which within the Rawlsian discourse also describes the very same set of social practices:

The notion of social cooperation is not simply that of coordinated social activity efficiently organized and guided by publicly recognized rules to achieve some overall end. Social cooperation is always for mutual benefit and this implies that it involves two elements: the first is a shared notion of fair terms of cooperation, which each participant may reasonably be expected to accept, provided that everyone else likewise accepts them. Fair terms of cooperation articulate an idea of reciprocity and mutuality: all who cooperate must benefit, or share in common burdens, in some appropriate fashion judged by a suitable benchmark of comparison. This element in social cooperation I call “the reasonable”. The other element corresponds to “the rational”: it refers to each participant’s rational advantage; what, as individuals, the participants are trying to advance. Whereas the notion of fair terms of cooperation is shared, participants’ conceptions of their own rational advantage in general differ. The unity of social cooperation rests on persons agreeing to its notion of fair terms.³¹⁴

It has been clearly indicated in the passage above that social cooperation, based on ‘fair terms’ of participation, themselves based on ‘reciprocity and mutuality’, involves mutual, reciprocal recognition of participants as ‘free and equal’. Yet, there are no indications pointing to any other possible social activity that might be declared as ‘participation’ or ‘social cooperation’. Simply, ‘fair terms of cooperation’ which are to be reasonably accepted by everyone are those terms that put participants into a relationship of reciprocal recognition of one another’s membership, i.e. of one another’s participation in the declared project of social cooperation. Within such a context, it is ‘reasonable’ to participate, provided that all others do so, which makes it ‘reasonable’ for all participants to display the same type and the same degree of mutual recognition of one another as members of the social cooperation unit. The unit in question, whose ‘basic structure’ is constituted by the ‘reasonable’ universal acceptance of the uniform type and degree of mutual recognition, thus reaches a degree of social homogeneity by the very establishment of social cooperation based on ‘fair terms’: all accept the same terms of social behaviour in order to match the concept of ‘the reasonable’ and all perpetually recognise one another as members of the unit of ‘social cooperation’ in order to match the concept of ‘fairness’ (this capacity in Rawls’s terms is called ‘the capacity for justice’). At the same time, their mutual recognition is individually recognised as advantageous (this capacity for recognition of the mutual recognition as individually advantageous i.e. ‘rational’ is

it to others. By establishing the concept of the citizen, liberalism avoids conflict between ‘comprehensive doctrines’, thereby making conflict between ‘comprehensive nations’ endemic.

³¹⁴ *PL*, pp. 300-301.

called by Rawls ‘the capacity for the good’) for all participants whose individual interests are thereby recognised as automatically advanced, as opposed to the denial of social recognition for all individual non-members whose individual interests within the given social unit are by implication denied. However, even for members ‘social cooperation’ is far from being voluntary and in fact has no alternative:

We start by viewing the basic structure of society as a whole as a form of cooperation. This structure comprises the main social institutions – the constitution, the economic regime, the legal order and its specification of property and the like, and how these institutions cohere into one system. What is distinctive about the basic structure is that it provides the framework for a self-sufficient scheme of cooperation for all the essential purposes of human life, which purposes are served by the variety of associations and groups within this framework. Since I suppose the society in question is closed, we are to imagine that there is no entry or exit except by birth and death; thus persons are born into society taken as self-sufficient scheme of cooperation, and we are to conceive of persons as having the capacity to be normal and fully cooperating members of society over a complete life. It follows from these stipulations that while social cooperation can be willing and harmonious, and in this sense voluntary, it is not voluntary in the sense that our joining or belonging to associations or groups within society is voluntary. There is no alternative to social cooperation except unwilling and resentful compliance, or resistance and civil war.³¹⁵

This Rawlsian conception of ‘social cooperation’ is thus without any alternative, once a person is born into society (except “unwilling and resentful compliance, or resistance and civil war”). Besides being non-liberal in its form (no-alternative conceptions are, at least by formal definition, non-liberal), such a conception of ‘social cooperation’ hardly deserves the name, since it practically forces participants to ‘cooperate’, that is, to act as members of society (they are, much more than Rousseau envisaged, *forced* to be free), no matter whether they are willing to be members and act jointly or not. On the other hand, there is a question of what kind of joint social action is possible among members of society who are denied the possibility not to act as members of society, at the price and under the threat of death in civil war (I guess this is the true meaning of the phrase “exit only by death”). It seems that the only logical answer to this question is that such a joint social action, uniform and compulsory for all members of society, can only be the action of jointly being members of society, that is, of recognising one another as members. If this is so, then Rawls’s ‘social cooperation’ is all about non-voluntary social inclusion for all members and about non-voluntary exclusion of all non-members: recognising one another as members of society (simultaneously with a denial of recognition for all

³¹⁵ PL, p. 301.

non-members) is the only joint activity on which *all* members of society can non-voluntarily co-operate:

Those who can take part in social cooperation over a complete life, and who are willing to honor the appropriate fair terms of cooperation, are regarded as equal citizens. (...) Given these assumptions, variations and differences in natural gifts and abilities are subordinate: they do not affect persons' status as equal citizens and become relevant only as we aspire to certain offices and positions, or belong to or wish to join certain associations within society. Thus political justice concerns the basic structure as encompassing institutional framework within which the natural gifts and abilities of individuals are developed and exercised, and the various associations in society exist.³¹⁶

Honouring 'the appropriate fair terms of cooperation', as well as taking part in 'social cooperation', the passage above clearly confirms, is all about reciprocally recognising one another as 'free and equal' citizen. Regarding one another and being regarded as 'free and equal' citizens *is* what Rawls's labels as 'social cooperation', and there is no other content to which the term practically refers within the Rawlsian discourse. The same goes for 'the basic structure': it is constituted in terms of 'political justice' as the framework for 'fair social cooperation', that is, as an institutional framework through which citizens' mutual and reciprocal recognising of one another as 'free and equal' citizens is being institutionalised and effectively carried out:

Fair terms of social cooperation are terms upon which as equal persons we are willing to cooperate in good faith with all members of society over a complete life. To this let us add: to cooperate on a basis of mutual respect. Adding this clause makes explicit that fair terms of cooperation can be acknowledged by everyone without resentment or humiliation (or for that matter bad conscience) when citizens regard themselves and one another as having to the requisite degree the two moral powers which constitute the basis of equal citizenship.³¹⁷

Here it is made explicit that 'fair terms of social cooperation' are, in fact, about citizens' regarding themselves, and one another, as 'free and equal' citizens, whose 'two moral powers' are constituted by their recognising one another as 'free and equal' citizens rather than the other way round. For, their first moral power, that of 'the capacity for justice', is realised through 'fair terms of social cooperation', by their recognising one another as 'free and equal' citizens; and their second moral power, that of 'the capacity for the good', is realised through their realising that by recognising one another as 'free and equal' citizens they pursue their own individual

³¹⁶ *PL*, p. 302.

³¹⁷ *PL*, p. 303.

interests, which are advanced and protected by the institutional framework of ‘the basic structure’ (which is, in turn, established as an institutional framework for perpetual realisation of citizens’ mutual recognition as ‘free and equal’ in terms of rights, duties, obligations, etc.). ‘The capacity for the good’ Rawls in Kantian terms labels as ‘rational autonomy’, while the capacity to combine ‘the two moral powers’ (‘the capacity for the good’ and ‘the capacity for justice’) is what Rawls, also in Kantian manner, labels as ‘full autonomy’:

The difference between full autonomy and rational autonomy is this: rational autonomy is acting solely from our capacity to be rational and from the determinate conception of the good we have at any given time. Full autonomy includes not only this capacity to be rational but also the capacity to advance our conception of the good in ways consistent with honoring the fair terms of social cooperation; that is, the principles of justice. In a well-ordered society in which citizens know they can count on each other’s sense of justice, we may suppose that a person normally wants to act justly as well as to be recognized by others as someone who can be relied upon as a fully cooperating member of society over a complete life. Fully autonomous persons therefore publicly acknowledge and act upon the fair terms of social cooperation moved by the reasons specified by the shared principles of justice.³¹⁸

Following Rousseau and Kant, Rawls proposes that the person’s ‘full autonomy’ is not only in the unlimited application of ‘rational autonomy’ (or of ‘the capacity for the good’), but also in the person’s freely accepting the constraints of ‘the reasonable’, that is, in his endorsing ‘social cooperation’ based on the ‘shared principles of justice’. However, Rawls’s contribution when compared to that of Rousseau and Kant is that he practically introduces the exact model of behaviour which makes the person ‘fully autonomous’, as well as ‘free, equal and just’: this model is everyday, ritual, reciprocal recognition of one another as society’s ‘free and equal’ citizen, whereby ‘social cooperation’ is established as a homogenising, self-perpetuating display of universally performed mutual recognition. Such a display of mutual recognition is what establishes the person as ‘fully autonomous’, that is, establishes the person as such, at the same time perpetually homogenising society and transforming it into the fully autonomous ‘nation’, which recognises, and enjoys recognition of, other such ‘nations’.

Recognition, together with reciprocity, is thus certainly to be regarded as the central category in Rawls’s ‘theory of justice’ and the central value in his entire moral outlook. For Rawls, “our sense of our own value, as well as our self-confidence,

³¹⁸ *PL*, p. 306.

depends on the respect and mutuality shown by others.” For, “by publicly affirming the basic liberties citizens in a well-ordered society express their mutual respect for one another as reasonable and trustworthy, as well as their recognition of the worth all citizens attach to their way of life”.³¹⁹ If our own value, as well as our self-confidence, depends on the recognition shown by others, then it is of the vital importance for our own sense of value and self-confidence to establish a society in which citizens’ mutual recognition and ‘respect for one another as reasonable and trustworthy’, as well as the worth they all attach to ‘their way of life’, will be set as the dominant pattern of social behaviour. Yet, it is precisely *this* pattern of social behaviour through which *nationalism* is being articulated. The worth that citizens all ritually attach to one another as members of the society defined as closed for all non-members, combined with the worth they all ritually attach to ‘their own way of life’, is the point where only one aspect of the nationalism-proper lacks: the worth they all attach to their own state, as (supposedly) the only institutional framework in which they can ‘fully’ realise ‘their way of life’, ‘freely’ attaching worth to it and to one another. Since there is no question whether Rawls conceives of such a society as endowed with its own state or not (this becomes even more transparent in *The Law of Peoples*, where he presupposes that ‘peoples’ exist already endowed with their own states), there is no doubt that his ‘well-ordered society’ is in fact the well-known ‘nation-state’, in which citizens ritually attach the ultimate worth to their own, ‘national’ state, to their own, ‘national’ way of life (that is, to their ‘national’ culture), and to one another as ‘co-nationals’. However, it is only when the other (rather discrete) side of this model – that of excluding all non-co-nationals from members’ own state and from members’ way of life – becomes transparent that liberals of the Rawlsian kind concede to call it ‘nationalism’.

The decency of ‘peoples’

Rawls’s deep attachment to the concept of ‘nation-state’ is fully emphasised in his last work, *The Law of Peoples*, in which he deliberately conflates the concepts of state, society, country, ‘nation’ and citizenry into the single concept of ‘people’.³²⁰

³¹⁹ *PL*, p. 319.

³²⁰ In American political discourse, such a conflation commonly appears under the name ‘the nation’; still, sometimes it is not clear whether this term covers the notion of citizenry, that is, of society’s

Conflation of these concepts points to the fact that Rawls takes ‘the nation-state’, which by itself practically conflates all these concepts into one, as the built-in norm of his ‘Society of Peoples’. The very term ‘Society of Peoples’ presupposes that these ‘peoples’, just like ‘nations’, act within that ‘society’ as *collective individuals*. Rawls thus intends to draw a full analogy between individuals as members of his ‘well-ordered society’ and ‘peoples’ as collective individuals and members of his ‘Society of Peoples’. Within the ‘Law of Peoples’, ‘peoples’ are conceived “as the actors in the ‘Society of Peoples’, just as citizens are the actors in domestic society”:³²¹

It is important to see that the Law of Peoples is developed within political liberalism and is an extension of a liberal conception of justice for a domestic regime to a Society of Peoples. I emphasize that, in developing the Law of Peoples within a liberal conception of justice, we work out the ideals and principles of the *foreign policy* of a reasonably just *liberal* people.³²²

Besides ‘liberal peoples’, in this work Rawls introduces several new categories, to describe the diversity and plurality of ‘domestic societies’ as actors in international relations. Among them, particularly interesting is that of ‘decent peoples’:

I propose considering five types of domestic societies. The first is *reasonable liberal peoples*; the second, *decent peoples* (...). The basic structure of one kind of decent people has what I call a “decent consultation hierarchy”, and these peoples I call “decent hierarchical peoples”. Other possible kinds of decent peoples I do not try to describe, but simply leave in reserve, allowing that there may be other decent peoples whose basic structure does not fit my description of a consultation hierarchy, but who are worthy of membership in a Society of Peoples. (Liberal peoples and decent peoples I refer to together as “well-ordered peoples”.) There are, third, *outlaw states* and, fourth, *societies burdened by unfavorable conditions*. Finally, fifth, we have societies that are *benevolent absolutisms*; they honor human rights; but, because their members are denied a meaningful role in making political decisions, they are not well-ordered.³²³

members, or only the notion of country. Rawls’s decision to practically substitute ‘the nation’ with ‘the people’ testifies to his intention to use the term which is not exhausted by such a practice and which would by definition cover the notion of citizenry as its constitutive part.

³²¹ *LP*, p. 23. The “diversity among reasonable peoples with their different cultures and traditions of thought, both religious and nonreligious” (*LP*, p. 11) is thus said to be the parallel to ‘reasonable pluralism’ in ‘domestic society’. Yet, ‘reasonable pluralism’ that Rawls takes from ‘domestic society’ – as was already demonstrated above – is not meant to apply to individuals but to ‘comprehensive doctrines’: it is a pluralism of collective doctrines, not of individual viewpoints or moral outlooks. Making a full analogy and applying ‘reasonable pluralism’ to ‘peoples’ as collective individuals is therefore rather problematic from the logical point of view, unless ‘peoples’ are assumed to conflate both the concept of the collective individual and the concept of collective ‘comprehensive doctrine’. It seems that such exactly is the case, so that every ‘people’ by definition contains a ‘comprehensive doctrine’ of its own, that is, has its own homogenising, ‘national’ ideology (or ‘culture’, in Gellner’s idiom).

³²² *LP*, p. 9.

³²³ *LP*, p. 4.

It is difficult to imagine Rawls's 'decent', hierarchical 'people' framed in any state-form other than its own 'nation-state', comprising a single culture (which makes it one 'people') based on social hierarchy. On the other hand, it is difficult to overlook the fact that such a state would lack some of the essential ingredients of the classical 'nation-state' – socially equal citizens, social homogeneity based on their equal rights, and an egalitarian, state-centred ideology promoting both of these under the motto of '*national*' unity. Such a state would, then, probably have to be heavily ethnocentric, dominated by aggressive tribalism (whether religiously inspired or not), in order to produce a homogenous society required by the classical 'nation-state' norm. However, Rawls never goes so far as to describe what he assumes by a non-liberal, 'decent people', but is content with saying that such a category does exist:

The reason we go on to consider the point of view of decent peoples is not to prescribe principles of justice for *them*, but to assure ourselves that the ideals and principles of the foreign policy of a liberal people are also reasonable from a decent nonliberal point of view. The need for such assurance is a feature inherent in the liberal conception. The Law of Peoples holds that decent nonliberal points of view exist, and that the question of how far nonliberal peoples are to be tolerated is an essential question of liberal foreign policy.³²⁴

The greatest achievement of *The Law of Peoples*, Rawls admits, compared to his earlier works, is in this refusal to prescribe principles of justice to the newly-established category of 'decent peoples', whose point of view is to be taken into account. Yet, it remains unclear how is it that such a liberal toleration of others' points of view remains questionable and conditional, so that "the question of how far nonliberal peoples are to be tolerated is an essential question of liberal foreign policy". Even if it is admitted that 'decent peoples' (by definition) do not threaten the existence of liberal regimes, it remains a matter of the latter's arbitrary foreign policy decisions *how far* to tolerate the former. It is probably implied that 'the third type of domestic society', 'outlaw states', by definition does not fit 'the nation-state' norm (although the category 'outlaw' may imply a violation of some other rules), so that this type is not to be tolerated at all, also by liberal regimes' arbitrary foreign policy decisions on *who* belongs to this category. 'The fifth category of domestic society', that of 'benevolent absolutisms', does not seem commensurable with the category of 'the nation-state', so that the question of toleration of such a type remains open to arbitrary foreign policy decisions of liberal regimes, again. Yet, it is difficult to make

³²⁴ *LP*, p. 10.

such a conclusion logically, because Rawls puts even some non-benevolent absolutist monarchies under the label of ‘nation-states’ (although not under the label of ‘peoples’):

Compare democratic societies with the nation-states of the earlier modern period in Europe. England, France, Spain, Hapsburg Austria, Sweden, and others fought dynastic wars for territory, true religion, for power and glory, and a place in the sun. These were wars of Monarchs and Royal Houses; the internal institutional structure of these societies made them inherently aggressive and hostile to other states. The crucial fact of peace among democracies rests on the *internal* structure of democratic societies, which are not tempted to go to war except in self-defense or in grave cases of intervention in unjust societies to protect human rights. Since constitutional democratic societies are safe from each other, peace reigns among them.³²⁵

This passage clearly demonstrates the confusion that reigns in Rawls’s understanding of the state, society and inter-state relations. It is not clear how these early modern states can be called ‘nation-states’, and why. They did have their Monarchs and Royal Houses – and not their respective homogenised ‘nations’ – competing for power and glory, fighting wars for territory and for ‘true religion’. These wars were dynastic, fought by professional armies, without mass conscription or any other form of homogenisation or mass mobilisation of population in the pursuit of these goals. These states treated their inhabitants as subjects, not as citizens, that is, not as political agents who constituted a potentially active political body that might then be called ‘the nation’. The internal structure of their societies was hierarchical, so that only upper, aristocratic castes had a say in political and military affairs of the state (indeed, they *were* the state); excluded were all others, with no political representation whatsoever and no horizontal comradeship or solidarity or unity among different social layers that might be called ‘national’. Unlike in the system of ‘nation-states’, neither their territories nor their populations (nor the mutual relationship between these two) were fixed, since these states sought to permanently expand their possessions, whereby both territories (subject to exploitation of natural resources) and inhabitants (subject to taxation) were treated as inheritable and exploitable possessions of the ruling elites. Hostility towards other, rival states (that is, towards the rival ruling elites) was inherent in their striving to expand these exploitable private possessions. None of these characterises modern ‘nation-states’. They, of course, can wage aggressive wars for territory and resources (World War I

³²⁵ *LP*, p. 8.

and World War II are certainly such cases); these wars can serve economic interests of the ruling elites; but they are typically fought in the name of their entire populations, popularly labelled as 'nations'. Their governments always claim to represent the will of entire 'nations', even when these states are not formally democratic. Typically, their populations are imposed conscription, mobilisation and homogenisation, in the name of 'the nation' (presented as a permanent horizontal comradeship between all layers of society) and by governments who claim to do all that on behalf and in defence of 'the nation'. The internal structure of these 'nation-states' aims to reflect the notion of social equality, treating its inhabitants as citizens i.e. as equally positioned members of 'the nation', rather than as mere subjects of the state (even when the government is not elected through a democratic procedure, its authoritarian or totalitarian leaders, as a norm, never question the concept of citizenship and social equality). Accordingly, their ruling elites' interest is not presented as 'interest of the state' (or, of the crown) but rather as 'national interest', that is, as the common interest of all citizens i.e. of the entire society, perceived as a clearly bounded entity comprised within fixed and monitored borders of the state. And it is only such states that may rightfully be called 'nation-states'. Indeed, they cannot possibly be compared to the early modern European *empires* described here by Rawls. However, this confusion only reflects to what extent 'the nation-state' is built-in into the liberal worldview, so that its protagonists cannot conceive of any other form of state.

As for the distinction between democratic and non-democratic states (it is mistaken to speak of 'democratic societies', let alone of 'constitutional democratic societies'; for, it is a property of political regimes and states, not societies, to be democratic; the phrase 'democratic societies' implies that some societies are inherently prone to democracy and constitutionalism while others are not), it is not disputable that 'nation-states' do not have to have democratic regimes in order to remain 'nation-states'; it is sufficient that their regimes recognise the principles of citizenship and social equality and claim to speak and act on behalf of all citizens, that is, of 'the nation'. However, it is questionable whether there can be a modern democracy without 'the nation-state': indeed, it is difficult to imagine a democratic regime that would not rest upon the notion of citizenship and social equality, whose *demos* would not be referred to as 'the nation' or 'the people'.

Sovereignty as property, morality as reciprocity

It would also be difficult for apologists of democracy to imagine it without the institution of *property*. It is significant that Rawls links this institution with the institution of *the sovereign 'nation-state'*, practically equating the concept of *sovereignty* with the concept of *property*:

I argue that an important role of government, however arbitrary a society's boundaries may appear from a historical point of view, is to be the effective agent of a people as they take responsibility for their territory and the size of their population, as well as for maintaining the land's environmental integrity. Unless a definite agent is given responsibility for maintaining an asset and bears the responsibility and loss for not doing so, that asset tends to deteriorate. On my account the role of the institution of property is to prevent this deterioration from occurring. In the present case, the asset is the people's territory and its potential capacity to support them *in perpetuity*; and the agent is the people itself as politically organized. The perpetuity condition is crucial. People must recognize that they cannot make up for failing to regulate their numbers or to care for their land by conquest in war, or by migrating into another people's territory without their consent.³²⁶

In this brief but important passage, Rawls gives an account of, and defends, the institutions of property, exploitation, government, and 'the nation-state', *simultaneously* (the very possibility to defend them simultaneously may well point to their essential convergence and interconnectedness). At the same time, he discretely introduces Malthusian principles of population control as the guiding principles of his 'Law of Peoples'. Property is thus advocated as a necessary means to prevent deterioration of assets, which tend to deteriorate unless a definite agent is given responsibility to maintain them. As the passage suggests, such a definite agent may step in either as a private individual, or a government, or a 'people itself as politically organized'. In the first case, which was also historically predominant, it was individuals who sought to enclose land and other assets, thereby establishing the institution of private property. According to Rawls, such an initiative is principally justified as a means to prevent the deterioration of assets, given the need to *perpetually* exploit them. The lack of a definite agent in charge of *perpetuation* of the exploitation necessarily leads to deterioration of assets; thus any concrete form of exploitation of assets by a definite agent is to be defended as preferable to their presumed, hypothetical deterioration without such an agent. This argument was

³²⁶ *LP*, p. 8.

commonly used by European colonial powers to justify the conquest and enclosure of overseas lands: without European governmental agencies, private companies and individual colonisers, all of them as definite agents in charge of exploitation, these assets would necessarily deteriorate. The same argument here justifies ‘the nation-state’: a particular group of population in a particular territory proclaims the territory its own collective property, claiming to protect it from inevitable deterioration by establishing itself as a definite agent who owns the territory and controls it through its own definite agency, the state. The type of state that serves the proclaimed purpose of acting on behalf of the group is called ‘the nation-state’. The group’s presumed, mythical establishment of itself as ‘the people’, that is, as a definite agent in charge of a definite territory, is commonly referred to as ‘birth of the nation’. ‘The nation’ thus takes responsibility for the territory and its perpetual exploitation, while attempting to protect its ‘environmental integrity’ by controlling the size of the population within the territory through the controlled inclusion (of citizens) and exclusion (of non-citizens). Within such a Malthusian logic, accepted by Rawls as self-understandable, there is no overexploitation, there is only overpopulation. Moreover, population control is seen not only as a means of environmental protection; Rawls here portrays it as a universal means of conflict- and conquest-prevention: after fixing the territory as exclusive property, thereby fixing ‘the people’ as the territory’s exclusive owner, it is sufficient to control the size of the population within the territory, chiefly by controlling immigration (that is, by controlling inclusion of non-citizens),³²⁷ to make the exploitation of the territory perpetual, without a need to conquer some additional territory and exploit its natural resources, presumably already appropriated (in the form of ‘the nation-state’) by some other ‘people’. It is essential that property relations are fixed, so that everyone knows what one owns. The parallel with how apologists of private property depict its advantages is obvious: once it is clear who owns the asset, there are no reasons for conflict and its perpetual exploitation is then guaranteed. Once the territory is enclosed and fixed as group property, it can be exploited in perpetuity, provided that the group treats this asset reasonably, by controlling both its own size and the number of immigrants. ‘The nation-state’ is here essential as the guarantor of fixed property relations between different groups

³²⁷ Yet, it is difficult to imagine how a ‘people’ can control immigration, without the necessary mechanisms of the state.

(‘nations’, i.e. ‘peoples’), and that is what ‘Society of Peoples’ and ‘Law of Peoples’ practically advocate.

Rawls employs both utilitarian and Malthusian arguments to justify both the institution of property and the idea of collective utilisation of land. Without noticing, he thus introduces a certain tension between a basically pre-modern concept of *collective* utilisation of land and a modern (typically capitalist) institution of property, which presupposes *individual* rather than collective ownership. This is particularly important since property, as a legal category, is in principle to be understood as *private* property (unless it is explicitly defined as *public* property), and that presupposes the existence of the state and of the legal system that guarantee the very institution of property. As such, any asset, and particularly land, can hardly be assigned *as property* to a collectivity called ‘the people’: as a *pre-legal* category, ‘the people’ may not act as a collective landowner. ‘The people’ is/are only constituted as a legal category if and when the state proclaims ‘the people’s sovereignty’ over the territory and natural resources under the state’s sovereign control. And then, the state constitutes itself as a ‘nation-state’, in which a particular ‘nation’ (i.e. ‘people’) is assigned a particular asset (territory and its natural resources), comprised within the state boundaries.

Another reason for using the term ‘peoples’, says Rawls, is to distinguish it from states “as traditionally conceived, with their powers of sovereignty included in the (positive) international law for the three centuries after the Thirty Years’ War (1618-1648)”. These powers of sovereignty “grant a state a certain autonomy... in dealing with its own people”.³²⁸ Rawls is quite correct in presenting sovereignty as a certain autonomy of the state in dealing ‘with its own people’. Traditional states, indeed, treated ‘their own peoples’ as if these were their own property: that is one of the essential meanings of the traditional concept of sovereignty. ‘The nation-state’, on the other hand, pretends to act fully on behalf of ‘its own people’ – the state is there conceived as a property of a particular ‘people’ and there is no room left for any autonomy in dealing with that very ‘people’:

By saying that a people have reasonably just (though not necessarily a fully just) constitutional democratic government I mean that the government is effectively under their political and electoral control, and that it answers to and protects their fundamental interests as specified in a written or unwritten constitution and in its interpretation. The regime is not

³²⁸ *LP*, pp. 25-26.

an autonomous agency pursuing its own bureaucratic ambitions. Moreover, it is not directed by the interests of large concentrations of private economic and corporate power veiled from public knowledge and almost entirely free from accountability.³²⁹

By saying that ‘the people’ politically control the government, Rawls attempts to persuade that it suffices to rename the state into ‘the people’ (and simply claim that ‘they’ – as ‘the people’ – have ‘reasonably just constitutional democratic government’) to effectively eliminate both ‘bureaucratic ambitions’ (characterising modern states) and ‘economic and corporate power’ (characterising modern capitalist societies). Thus, with this lexical manoeuvre, Rawls promotes ‘the nation-state’ – as a typically modern political form in which the state and society are commonly perceived as united into one entity – as free from the most basic traits of both modern society and the modern state. It is simply enough to suggest that ‘the people’ are effectively in control of government – by not calling this specific form of government in which ‘the people’ presumably exercise control by its proper name, ‘the nation-state’, but by labelling it as ‘the people’ – in order to practically liberate the regime (and thereby liberate ‘the people’, as presumably one with such a regime) from both bureaucratic and corporate control. It is, of course, a legitimate right of the author to prefer ‘the nation-state’ to other forms of state, but Rawls’s claim that this form of state – typical for modern capitalist society and the most typical among modern forms of state – is not subject to bureaucratic and corporate power remains unpersuasive.

Yet another reason why Rawls calls ‘nation-states’ ‘peoples’ is in his assumption that ‘peoples’, unlike states, can be attributed moral motives, such as allegiance to the principles of his ‘Law of Peoples’:

The reasonably just Society of well-ordered Peoples is *realistic* in the same ways as a liberal or decent domestic society. Here again we view peoples as they are (as organized within a reasonably just domestic society) and the Law of Peoples as it might be, that is, how it would be in a reasonably just Society of just and decent Peoples. The content of a reasonable Law of Peoples is ascertained by using the idea of the original position a second time with the parties now understood to be the representatives of peoples (§3). The idea of peoples rather than states is crucial at this point: it enables us to attribute moral motives – an allegiance to the principles of the Law of Peoples, which, for instance, permits wars only in self-defense – to peoples (as actors), which we cannot do for states (§2).³³⁰

³²⁹ *LP*, p. 24.

³³⁰ *LP*, p. 17.

The very phrase “peoples as they are (as organised within a reasonably just domestic society)” clearly suggests that these ‘peoples’ are a result of *a priori* unification and homogenisation of their respective societies: it is a specific, ‘reasonably just’ organisation of ‘domestic societies’ that makes them so homogenous as to be called ‘peoples’ (rather than ‘societies’). So, the phrase ‘people as they are’ assumes that these societies are already homogenised as ‘peoples’. Of course, societies, especially in modern times, do not appear without some form of tightly organised political structure i.e. the state. The kind of state that fits the size of ‘the people’ is commonly referred to as ‘the nation-state’, and it does not help much to cover this fact by using the word ‘the people’ to replace it. However, by avoiding to use the word ‘states’, Rawls goes so far as to imply inherent *immorality* of states *as they are*, so that ‘nation-states’ (as the preferred form of state) are not even to be put among states-as-they-are but are to be re-named as ‘peoples’. At the same time, ‘nation-states’ under the name of ‘peoples’ become the very standard in inter-state relations because ‘peoples’ are taken *as they already are*, that is, as societies already homogenised into ‘nation-states’. Such a manoeuvre is supposed to legitimise ‘nation-states’ exclusively (albeit under the name of ‘peoples’) as the only bearers of morality in inter-state (i.e. ‘inter-national’) relations.³³¹

Because of the presumed immorality of states as such, the state’s autonomy is to be denied completely and absolutely, even in name: by labelling states ‘peoples’ (assuming the former to be inherently immoral), Rawls has denied them all sovereignty, which is reserved exclusively for ‘peoples’ to exercise it over themselves. In Rawls’s world, all sovereignty and morality reside *exclusively* (rather than essentially, as in *The Declaration of the Rights of Man and the Citizen*) in ‘the people’. Yet, even more than in the rest of the social contract theory, this triggers a paradox: if such sovereignty is granted to ‘the people’ *exclusively*, it remains questionable how sovereignty can be delegated to the individual members of ‘the

³³¹ For Rawls, ‘moral character’ is equated with ‘reasonableness’, and ‘reasonableness’ is taken as the ability to interact on terms of reciprocity. However, reciprocity (or, as Rawls prefers to call it, ‘fairness’) is to be seen as a particular principle of social interaction, followed by some, rather than as a universal symbol of reasonableness and rationality, to be followed by all: as a principle of social interaction, it reigns supreme in some societies while being totally neglected in others. Yet, for Rawls reciprocity is the very standard of morality and is to be applied universally, if societies and individuals within these societies are to realise their moral potential (as Rawls would have it, morality is given as a universal potentiality in the sense that human beings all have the capacity to act reciprocally). Whatever their particular conceptions of morality, if they do not adopt reciprocity as the supreme principle, they are to be held unreasonable and immoral.

people'. For, as members of 'the people', they exercise absolute sovereignty *as citizens*; but, they lose their sovereignty *as individuals*, since it is granted entirely and exclusively to 'the people': to the extent that 'the people's' attainment of sovereignty is granted, so is individuals' loss of individuality.

A logical problem also arises when Rawls says that "liberal peoples limit a state's right to engage in war to wars of self-defense (thus allowing collective security), and their concern for human rights leads them to limit a state's right of internal sovereignty".³³² Rawls here employs the phrase 'state's right', although he permanently speaks of 'peoples' rather than states. Thus 'the people' is said to 'limit a state's right', as if 'the people' is structurally opposed to the state, which, in turn, possesses a sovereignty of its own (which 'the people' only limits), although Rawls commonly speaks of 'the people's sovereignty', blurs 'the people' with both society and the state (or, blurs the distinction between society and the state by using the term 'the people' to cover both simultaneously), and depicts 'the people' as possessing all capacities of the state, including sovereignty. This paradoxical logic is hard to follow, since the logic of sovereignty suggests that two sovereign entities ('the people' and the state) cannot occupy the same space, sharing or limiting one another's sovereignty. Since 'peoples' have already been depicted as sovereign agents, who ultimately decide on matters of war and peace, it is not clear why sovereignty of states is being mentioned at all. However, since 'peoples' are also depicted as those who have 'concerns for human rights', as opposed to the state's right of internal sovereignty, Rawls was careful enough not to oppose the right of 'the people' to internal sovereignty to the same 'people's' concern for human rights, which would probably create an absurd. That is probably why he introduced an otherwise missing distinction between 'the people' and the state, so that the very same sovereign agent, 'the people', would not be opposed to its own 'concern' for human rights of its own members. This case only demonstrates the arbitrary nature of Rawls's concept of 'the people', as the point where society and the state merge into one, or split into two, depending on circumstances.

The institution of property, the way Rawls conceives of it, is not without similar problems: although the entire human aggregation called 'the people' may be *assigned* this asset, this asset still may not be codified as this aggregation's *property*; for, in

³³² *LP*, p. 42.

order to be treated as property, it has to be *owned* by definite agents and itself has to be defined as definite. The modern 'nation-state' defines the territory it comprises as definite and tends to portray its population (as politically organised) as a definite collective agent (calling it 'the nation' or 'the people'), which claims the territory as its exclusive property. Yet, the problem is precisely with that exclusivity: the very same asset may not exclusively be owned by one collective owner ('the nation' or 'the people') and, at the same time, by many other individual owners (individual members of 'the nation' and their associations); if that were the case, the very concept of property would lose its meaning. For, in order to be defined as property, assets – whatever they may be – have to have *exclusive* owners. Thus the asset controlled by 'the nation-state' (territory and its natural resources) may not be defined as the exclusive property of 'the nation' (even the most passionate nationalists would probably refrain from such a radical view), because that would either deprive all individual members of that 'nation' of their private property (even of the possibility to have one), or the very concept of property of its proper meaning and thereby practically equate it with that of sovereignty. For, despite all similarities between property and sovereignty, particularly in terms of exclusivity they both presuppose, property in principle applies to definite, individual agents as its holders and is guaranteed by the state and its legal system, while sovereignty applies to states as its definite bearers and is guaranteed by the *pre-legal* (rather than supra-legal) system of sovereign states. For, despite the attempts by Rawls and his predecessors (from Kant to the authors of the UN Charter) to establish a comprehensive legal system on the level of the sovereign states system, sovereignty is essentially guaranteed by the practice of checks and balances in mutual relations between states rather than by a legal code.³³³ In other words, it is still – from the Peace of Westphalia that established the system of sovereign states to the present day – a matter of the state's arbitrary, sovereign will whether it will respect the sovereignty of another state and refrain from

³³³ On the issue of sovereignty Anthony Giddens wrote: "The sovereignty of the nation-state ... does not precede the development of the European state system, or the transferal of the nation-state system to a global plane. (...) On the contrary, the development of the sovereignty of the modern state from its beginnings depends upon a reflexively monitored set of relations between states. Both the consolidation of the sovereignty of the state and the universalism of the nation-state are brought about through the expanded range of surveillance operations permitting 'international relations' to be carried on. 'International relations' are not connections set up between pre-established states, which could maintain their sovereign power without them: they are the basis upon which the nation-state exists at all." See Anthony Giddens, *The Nation-State and Violence* (Berkeley and Los Angeles: University of California Press, 1987), p. 263.

interference in its internal affairs or not, and there is no legal mechanism that can force it to do so (that is what sovereignty is about!). The state's sovereignty over a territory and its natural resources may be linked to the concept of utilisation of land; indeed, probably all sovereign states in history claimed that their sovereignty over a territory was a matter of utilisation of land and its natural resources, as well as a matter of preventing its possible abuse by unauthorised users (other sovereign states, foreign populations, immigrants, domestic non-property classes). However, territory and its natural resources have never been treated as the state's (or 'the people's') property in the proper (i.e. exclusive) sense, not even by the most radical communist regimes. Even they have not gone so far as to confuse sovereignty with property, so that private property was still co-existent with public property and the state demonstrated its sovereign control over the territory and its resources (as opposed to that of other sovereign states over their territories and resources), without treating the territory and its resources as its exclusive property (as opposed to private ownership of some parts of that territory by its citizens, or to corporate ownership of other parts of the territory by these citizens' associations). It is difficult, therefore, to justify the modern concepts of property and sovereignty simultaneously, from the same, utilitarian perspective, without confusing them. From a utilitarian perspective, sovereignty is to be justified as a check on state expansionism, as well as on religious or ideological wars (wars of 'comprehensive doctrines', as Rawls would call them). Property, on the other hand, may in principle be justified (as Rawls does it) as a means of utilisation of assets and a check on their deterioration. However, the state's (or 'the people's') sovereignty should not be confused with the state's (or 'the people's') property. For, as liberal economics to which Rawls subscribes teaches, the state's (or 'the people's') *absolute monopoly* on the utilisation of assets (and that is what the state's or 'the people's' property would practically mean, apart from its strictly legal aspect) would necessarily lead to this asset's deterioration. Thus Rawls's acceptance of the nationalist rhetoric that refers to claimed territories as a group's property produces contradiction with his effort to justify the typically capitalist concept of property.

'Peoples' vs. 'nationalities'

It is interesting to note that, presumably acting within the logic that equates sovereignty with property, the regimes that commonly declare themselves as liberal-democratic in both the Rawlsian and the Millian sense have frequently opted for partition of the territories where, presumably, different ethnic or religious groups were potentially (or actually) in conflict over ‘property relations’, that is, over exploitation of the natural resources (cases like India/Pakistan, Palestine/Israel, Cyprus or Bosnia). In order to prevent such hypothetical conflicts from occurring (or acting after they have occurred), those liberal-democratic regimes proposed territorial partition and creation of new ‘nation-states’ as a means of fixing ‘*national*’ territories as the property of respective groups, through which a fixing of property relations between those groups was to be achieved.

As their legitimate predecessor, Mill (see the next chapter) used to regard a mixture of ‘different nationalities’ as one of those unfavourable historical and social burdens which make it impossible for a society to produce ‘free’ (that is, liberal) institutions (this is Rawls’s ‘fourth type of domestic society’). Therefore a partition of the common territory was to be conceived as the only way to fix property relations between ‘nationalities’ and enable them to establish their own ‘free institutions’. The question is whether Rawls, too, would see such a mixture as an obstacle for a society to produce a liberal regime, so that – in order to achieve a liberal regime – Mill’s ‘different nationalities’ should be unmixed, that is, separated into their own homogenous ‘nation-states’ (whether with liberal or ‘decent’ regimes), with fixed ownership over their respective territories. Although Rawls does not make an explicit argument in favour of such a partitionist enterprise, the logic of his argument which equates states, regimes, societies and populations suggests that he might well support it as self-understandable: if the mixing of ‘different nationalities’ creates an obstacle for a society to be homogenised into a single ‘nation-state’ and thus produce ‘free institutions’, the aim of the ‘Law of Peoples’ would be to remove these obstacles, create ‘mono-national’ units, and thereby establish liberal regimes.

It may seem that Rawls is of the contrary opinion from Mill who proposed ‘national’ homogeneity as a precondition of the existence of ‘free institutions’: Rawls assumes ‘reasonable pluralism’ within societies to be a condition produced by “the nature and culture of free institutions”.³³⁴ However, this ‘reasonable pluralism’ does

³³⁴ *LP*, p. 12.

not assume 'national' heterogeneity; on the contrary, it presupposes 'national' homogeneity as a precondition of 'reasonable pluralism' of political and religious views ('comprehensive doctrines') within society. The very logic of Rawls' terminology suggests that societies and states have to be organised in the form of homogenous 'nation-states' if they are to be called 'peoples'. 'Reasonable pluralism within or between peoples' is practically possible in 'international' relations only if the term 'peoples' in fact stands for homogenous 'nation-states', each with its homogenising 'national' culture or ideology, which can absorb Mill's 'nationalities' into one 'people'.

For Rawls, "Liberal peoples have three basic features: a reasonably just constitutional democratic government that serves their fundamental interests, citizens united by what Mill called 'common sympathies';³³⁵ and finally, a moral nature."³³⁶ Given the fact that Mill proclaimed that 'free institutions' were "next to impossible in a country made up of different nationalities", it is clear that he held that 'free institutions' were inseparably entwined with the existence of 'common sympathies', characterising 'nationalities', so that these 'common sympathies' (of 'nationality') were in fact to be seen as the chief precondition of 'free institutions' in a country. Rawls's 'peoples' do resemble Mill's 'nationalities': without 'common sympathies' (as one of the three 'basic features'), it is hard to imagine Rawls's 'peoples' possessing either their 'reasonably just constitutional democratic government' or their 'moral nature'. Indeed, both morality and democratic character of such 'peoples' seem to be impossible without 'common sympathies' among their citizens. It would be impossible even to have 'different peoples' within the boundaries of one state, even without Mill's 'free institutions'. For Rawls, in order to be considered at all, the state is by definition to be equated with 'the people', so that these two in fact form one – 'the nation-state':

³³⁵ "A portion of mankind may be said to constitute a Nationality, if they are united among themselves by common sympathies, which do not exist between them and any others – which make them cooperate with each other more willingly than with other people, desire to be under the same government, and desire that it should be government by themselves, or a portion of themselves, exclusively. This feeling of nationality may have been generated by various causes. Sometimes it is the effect of identity of race and descent. Community of language, community of religion, greatly contribute to it. Geographical limits are one of its causes. But the strongest of all is identity of political ancestors; the possession of national history, and consequent community of recollections; collective pride and humiliation, pleasure and regret, connected with the same incidents in the past. None of these circumstances, however, are necessarily sufficient by themselves." J.S. Mill, *Considerations on Representative Government*, ed. J.M. Robson (Toronto: University of Toronto Press, 1977), in *Collected Works*, vol. XIX, chap. XVI, p. 546.

³³⁶ *LP*, p. 23.

As for a liberal people being united by common sympathies and a desire to be under the same democratic government, if those sympathies were entirely dependent upon a common language, history, and political culture, with a shared historical consciousness, this feature would rarely, if ever, be fully satisfied. Historical conquests and immigration have caused the intermingling of groups with different cultures and historical memories who now reside within the territory of most contemporary governments. Notwithstanding, the Law of Peoples starts with the need for common sympathies, no matter what their source may be. My hope is that, if we begin in this simplified way, we can work out political principles that will, in due course, enable us to deal with more difficult cases where all the citizens are not united by a common language and shared political memories.³³⁷

Although Rawls here takes Mill as a starting point, he significantly departs from Mill's position that presupposes the existence of clearly demarcated entities called 'nationalities', sharing common language, history and political culture. Rawls acknowledges "the intermingling of groups with different cultures and historical memories", albeit as a consequence of historical developments with ascribed negative connotations, such as conquests and immigration (in historical reality, immigration as a concept has come into being only with the establishment of '*national*' homogeneity and monitored borders characterising modern 'nation-states'). However, unlike Mill who sees 'common sympathies' as a product of certain, prescribed conditions, Rawls seeks to produce them, "whatever their source may be". He admits that "where citizens are not united by a common language and shared political memories" a sense of common sympathies can be produced by other means, whatever they may be. This distinction between Mill and Rawls is important because Mill's vision of 'common sympathies' implies a typical ethnonationalist view of how 'nations' and 'nationalities' are to be defined; on the other side, Rawls's approach is much closer to that of *civic* nationalism. Civic nationalism, of course, also takes 'national' homogeneity as a necessary condition of the functioning society, and 'the nation-state' as the only conceivable form of the modern state, but treats different ethnic identities and historical experiences as a minor problem for that homogeneity to develop and for 'the nation' to be *built*. Such cases, Rawls admits, are difficult but they can still be dealt with, if we are (as he is) determined to create a single, 'national' identity out of those different ethnic ones.

³³⁷ *LP*, pp. 24-25.

Modus vivendi or modus operandi?

Rawls says that ‘political liberalism’, with its ideas of ‘realistic utopia’ and ‘public reason’, proposes that stability among ‘peoples’ – contrary to what political life normally suggests – *can be* more than a mere *modus vivendi*.³³⁸ However, it is not clear how ‘peoples’ (if we take that the word ‘peoples’ here truly means peoples-as-human-aggregations rather than states) can actually interact with each other, if not *through states*. If one, following Rawls literally, takes it as possible for ‘peoples’ as such (without ‘nation-states’ as the mediators) to interact with each other so as to create stability, then it becomes unclear how these ‘peoples’ would interact with each other with pretensions to have anything more than a simple *modus vivendi*, while at the same time preserving their own group integrity and identity. In other words, if ‘peoples’ do not act and interact through ‘nation-states’ with their fixed and monitored borders, any interaction that would aspire to be more than a *modus vivendi* would bring these ‘peoples’ so close as to gradually blur their symbolic cultural boundaries and eventually erase their clear-cut divisions. This is not to say that they would necessarily all merge into one ‘people’ (certainly not without some gigantic and paradoxical *supra-national* ‘nation-state’); however, it is probably correct to assume that, without ‘nation-states’ and without a *modus vivendi* among them, their symbolic boundaries and divisions would become relative at the least.³³⁹ Yet, Rawls’s vision of such ‘peoples’ is deeply pervaded by a typical nationalistic logic that starts from the assumption that human beings are naturally and eternally divided into separate cultural entities called ‘peoples’, whose cultural interaction is practically denied by their very nature, so that this starting, ‘original’ position can never change. However, much of political life suggests that some of the present-day ‘peoples’ were actually created in the pursuit of their own ‘nation-states’ (take the example of Americans first) and that others – as articulated and stimulated by their intellectual and financial elites driven by the same nationalistic logic – claimed their own sovereign ‘nation-states’ precisely in order to fully assert their presumed identity and

³³⁸ *LP*, p. 19.

³³⁹ Rawls, of course, is aware that such processes take place quite often: “Historical conquests and immigration have caused the intermingling of groups with different cultures and historical memories who now reside within the territory of most contemporary governments.” (*LP*, p. 24) However, he does not seem to be aware that this fact contradicts his logic of presenting ‘peoples’ (as if acting without states) as mediators between them.

protect their presumed integrity, both from political domination by imperial powers and from possible merging with other ‘peoples’. In this process, the relationship between ‘nation-states’ may have appeared to be a *modus vivendi*, as much of political life may suggest, indeed. Still, the process of creation of ‘nation-states’ was a systemic issue from its very beginning, pursued by the nationalistic elites influenced by the nascent ‘*nation-state system*’. To ignore these historical facts may be a reasonable advantage for someone who attempts to create a ‘realistic utopia’; however, the problem with Rawls’s vision of the ‘stability among peoples’ is that it tends to ignore the fact that such a stability has been established *systemically*, as an imperative *imposed* by the system on each of its *potential* and actual members. As such, this stability has never actually been a *modus vivendi* for ‘peoples’ organised into (or created by) ‘nation-states’, although it may have appeared as such; it has always been a *modus operandi* of ‘the nation-state system’, itself created under the decisive influence of *historical liberalism*.

Reciprocity as the system

Elevating his own distinction between *rationality* and *the reasonable* (see above) to the ‘international’ level, Rawls claims that states differ from ‘peoples’ in ignoring the criterion of reciprocity, thereby promoting ‘rationality’ at the expense of ‘the reasonable’: “If a state’s concern with power is predominant; and if its interests include such things as converting other societies to the state’s religion, enlarging its empire and winning territory, gaining dynastic or imperial or national prestige and glory, and increasing its relative economic strength – then the difference between states and peoples is enormous.”³⁴⁰

Here the question arises: why ‘peoples’ would not be as concerned with power (as presumably states are) as to enlarge their territories, convert other peoples to their religion, fight for prestige and glory, increase their relative economic strength, etc.? It seems that the only decisive and conclusive reason why ‘peoples’ (that is, ‘nation-states’) would be decisively stimulated not to ignore the criterion of reciprocity is that the system of ‘nation-states’ guarantees each ‘nation-state’ (or, as Rawls prefers it, each ‘people’) a position within the system: the system rests on reciprocity and

³⁴⁰ *LP*, p. 28.

reciprocity guarantees its existence. Put another way, the presence of reciprocity (or, as Rawls would have it, the presence of 'justice') in international relations depends on the existence of 'nation-states': Rawls's 'justice' in international relations is made *for* 'nation-states'; and, it is also made *of* their mutually reciprocal relations. Yet, position of each 'people' within the system does not depend only on the recognition of its position by other 'peoples'; such a recognition depends equally on its *assertiveness* with respect to that position: only those 'peoples' that can forcefully enough assert their place in 'the nation-state system' (as 'nations' possessing, or aspiring to, their own states) can count on others' recognition; otherwise, recognition of the weaker claims is far from guaranteed. That is why 'peoples' – as presumed members of 'the nation-state system' – have no choice but to develop and stimulate their respective nationalisms, as a matter of reciprocity in asserting their own claims to *equal status* within the system. Recognising others' claims is thus a matter of reciprocity; but, asserting one's own claims forcefully enough is a matter of reciprocity, too. They may not compete for glory or prestige or for any of the traditional reasons; but, they may as well compete for *equal status* within the system, more so since the system claims to guarantee this status to all claimants that are persuasive enough to *assert their equality*, respectively and reciprocally. To have 'peoples' as claimants, that is, as members of the system, one has no choice but to acknowledge the existence of their *competing nationalisms*, and this is what Rawls fails to acknowledge. For, it is only through their respective nationalisms that 'peoples' can assert their existence and their own, 'guaranteed' place in the system of 'nation-states'. Reciprocity in 'international' relations happens, at best, as reciprocity in checking and recognising one another's assertiveness, that is, one another's nationalism; and that assertiveness (i.e. nationalism) happens, irrespectively, as a precondition of one's existence and status within this system of reciprocal nationalist claims, which its apologists tend to depict as 'justice' itself. Still, such a theory of justice in 'international' relations may well be depicted as no more than *a perpetual struggle of competing nationalisms*.

'The people' as the good

Theoretically, liberal society is not homogenised around a comprehensive conception of the good;³⁴¹ the latter is reserved for *citizens* (and for their civic, ethnic or religious associations and communities), whose comprehensive conceptions presumably cancel one another. However, in practice their respective ‘comprehensive doctrines’ are cancelled out by one, supra-doctrinal ideology, portraying all citizens as ‘free and equal’, which opposes each of them and all of them (as a single body) to all non-citizens, i.e. non-members of their society of the ‘free and equal’. This ideology thus unites them and homogenises them as ‘free and equal’ members of their society, and opposes them, collectively, to other such societies. The consensus they reach on membership i.e. citizenship i.e. ‘nationality’ is, in practice, what functions as a comprehensive conception of the good for liberal society. On the other hand, ‘peoples’, to be able to “conceive of themselves as free and equal peoples in the Society of Peoples”,³⁴² first have to be homogenised around the vision of themselves as collective individuals which are ‘free and equal’ with other such collective individuals in the ‘Society of Peoples’. And this vision of themselves as ‘free and equal’ (thereby granting ‘freedom and equality’ to all its members) is that comprehensive conception of the good which liberal society has, both ‘nationally’ and ‘internationally’. Of course, Rawls claims that “a people of a constitutional democracy has, as a *liberal* people, no *comprehensive* doctrine of the good..., whereas individual citizens within a liberal domestic society do have such conceptions, and to deal with their needs as citizens, the idea of primary good is used”.³⁴³ However, the idea that the entire ‘people’ can be liberal already presupposes this ‘people’s’ homogeneity built around liberal ideas. Still, the problem is that there is no comprehensive definition of what exactly these ideas would be; and then, it is difficult to assume that homogeneity can be built around a set of diverse ideas, which can only conditionally be put under the joint label of liberalism. It seems logical to assume, then, that ‘the people’ is to be homogenised around the ‘*national*’ idea (i.e. the idea of this ‘people’s’ right to possess its own sovereign state and thereby exercise its ‘*freedom*’), which is in fact what constitutes it as ‘the people’. In this sense, it is

³⁴¹ “Why do we suppose that the representatives of liberal peoples ignore any knowledge of the people’s comprehensive conception of the good? The answer is that a liberal society with a constitutional regime does not, *as a liberal society*, have a *comprehensive* conception of the good. Only the citizens and associations within the civic society in the domestic case have such conceptions.” (LP, p. 34)

³⁴² LP, p. 34.

³⁴³ LP, p. 40.

probably quite correct to assume that ‘constitutional democracy’ is about constituting ‘the people’ *as its own sovereign* (‘popular sovereignty’ is thus closely linked with ‘constitutional democracy’, although there can be sovereign, democratic states without a formal constitution – take Great Britain as the most obvious example), as much as it is about popular vote (again, it is difficult to imagine popular vote without popular sovereignty, except as a charade). The idea that ‘the people’ possessing its own state is by definition to be perceived as ‘free’ is, of course, typically nationalist, to which Rawls adds a notion that ‘the people’ living in the state defined as ‘constitutional democracy’ is to be labelled as ‘liberal’. Yet, ‘the people’, call it ‘liberal’ or ‘non-liberal’, can hardly have a truly comprehensive idea of the good mainly because it lacks total homogeneity, which is a condition of its having only one idea of the good, call it ‘comprehensive’ or ‘non-comprehensive’. The most minimal idea around which ‘the people’ can build a consensus (indeed, it is the very idea which constitutes it as ‘the people’) is the idea of its having its own ‘nation-state’, that is, the idea which constitutes it as ‘*the nation*’ (i.e. ‘the people’). Without this idea, ‘the people’ would cease to exist as such, so that within nationalist discourse this idea performs the role of the good itself. Yet, this idea by definition is never to be acknowledged as such, because that would expose the fact that ‘the people’ itself is constituted by this idea rather than by historical or biological processes. Therefore, in order to prevent any reference to ‘the people’s’ true, discourse-based origin, nationalist discourse commonly projects the idea of the good into ‘the people’ itself, thus making it *the good*. This, *nationalist* idea of the good, projected into ‘the people’ itself, is as comprehensive as it can possibly be. For, in the nationalist discourse this idea becomes the measure of all things, so that whatever affirms ‘the people’ as the good is to be affirmed itself; whatever happens to deviate from the idea of ‘the people’ as the good is to be eliminated as such. Following the typical liberal analogy that Rawls himself draws, between domestic society and its individual citizens and ‘Society of Peoples’ and its members, the same may be said of the position that the autonomous individual takes in the *individualist* strand of liberal ideology. Just like ‘the people’ in the *nationalist* strand of liberalism, the idea of the good is projected into the individual, and the individual as such effectively becomes the good itself. This idea of the good is also as comprehensive as it can be, so that in the individualist discourse the individual becomes the measure of all things. Developing the analogy further, it may be said that in domestic liberal society the idea of the individual as the-

value-in-itself is imposed on all individuals, forcing them to perceive themselves as individuals rather than as members of some community (in Rousseau's repeatedly quoted phrase, they are *forced to be free*); also, that in the 'international' system (Rawls's 'Society of Peoples') the idea of 'the people' as the-value-in-itself is imposed on all states, forcing them to become 'free' as 'nation-states'; indeed, they are even advised to stop calling themselves 'states' and adopt instead the name of 'peoples' (or the name of 'nations', in the more common, everyday discourse). Rawls, however, depicts such an imposition as *'free will'*:

[Liberal peoples] strive to protect their political independence and their free culture with its civil liberties, to guarantee their security, territory, and the well-being of their citizens. Yet a further interest is also significant: applied to peoples, it falls under what Rousseau calls *amour-propre*. This interest is a people's proper self-respect of themselves as a people, resting on their common awareness of their trials during their history and of their culture with its accomplishments. Altogether distinct from their self-concern for their security and the safety of their territory, this interest shows itself in a people's insisting on receiving from other peoples a proper respect and recognition of their equality. What distinguishes peoples from states – and this is crucial – is that just peoples are fully prepared to grant the very same proper respect and recognition to other peoples as equals.³⁴⁴

This is Rawls's fullest and most explicit endorsement of the common nationalist theme: in the nationalist discourse 'culture' is one – and interchangeable – with 'the people', and 'freedom' of both can be 'protected' only by 'political independence', that is, by the sovereign state. Otherwise, it is by definition 'threatened' to be treated as 'unequal' by other such 'cultures'/'peoples', presumably possessing or striving to possess their own states (see Gellner's famous definition of nationalism, which also adopts a great deal of nationalist logic by treating 'culture' and 'people' as one; Rawls goes even further by treating 'the people' and 'their free culture with its civil liberties' as one – and interchangeable – with 'the nation-state'). Every 'free culture with its civil liberties', as one with 'the people', is to be 'protected' by 'political independence', and thereby granted 'respect' by, and 'equality' with, other state-possessing or state-seeking 'free cultures'. 'Equality', then, and 'respect', is a matter of having the sovereign state, which 'the people' (being already one with 'the nation-state'!) *reasonably* and *rationaly* grants to other 'peoples', because it is only a *distribution of sovereignty* that guarantees the existence of the system of 'nation-states', which in turn guarantees the existence of each of its members. Without such a

³⁴⁴ LP, pp. 34-35.

distribution of sovereignty, sovereignty of the member-states would not be guaranteed. Such a system was already established by the Peace of Westphalia, by its principle *cuius regio, eius religio*, so that every member-state was granted sovereignty to impose its own, state religion onto the entire population under its control, which greatly contributed to the development of homogenous cultures. This distribution of sovereignty was reciprocal and therefore ‘just’, in Rawlsian terms. At the same time, this reciprocal distribution of sovereignty between the Westphalian states served as the basis for future Rawls’s ‘peoples’, perceived as inherently homogenous and as one and the same with their ‘free’, homogenous cultures and with their sovereign states. Indeed, these ‘peoples’ – as inherently homogenous and sovereign, as one with their homogenous cultures and sovereign states – would not have come into being without this reciprocal distribution of sovereignty. That is why it was, and still is, both *reasonable* and *rational* for them to grant that sovereignty to one another, as a matter of reciprocity, as well as of pure self-interest and simple self-preservation. However, the other side of that generosity in distribution of sovereignty has been the imposition of ‘*national*’ homogeneity and ‘*cultural*’ (sometimes including religious and racial) exclusivity, through fixed individual membership (citizenship, i.e. ‘nationality’) and its ever-intensifying purification, carried out by the underlying, ever-intensifying nationalist discourse. A part of that other side in distribution of sovereignty is also the principle of discriminatory right of some (i.e. ‘liberal’) states to interfere with the internal affairs of ‘non-liberal’ states. Rawls does not hesitate to endorse this principle:

A principle... of non-intervention... will obviously have to be qualified in the general case of outlaw states and grave violations of human rights. Although suitable for a society of well-ordered peoples, it fails in the case of a society of disordered peoples in which wars and serious violations of human rights are endemic. The right to independence, and equally right to self-determination, hold only within certain limits, yet to be specified by the Law of Peoples for the general case. Thus, no people has the right to self-determination, or a right to secession, at the expense of subjugating another people. Nor may a people protest their condemnation by the world society when their domestic institutions violate human rights, or limit the rights of minorities living among them. A people’s right to independence and self-determination is no shield from that condemnation, nor even from coercive intervention by other peoples in grave cases.³⁴⁵

This passage is important because Rawls here openly advocates foreign – if eminently multilateral – interference with domestic affairs of independent states, to the extent of

³⁴⁵ *LP*, pp. 37-38.

military intervention, under the pretext of protection of human rights. All that is done by introducing a typically Manichean dichotomy between ‘well-ordered peoples’ and “a society of disordered peoples in which wars and serious violations of human rights are endemic”. Of course, a claim that there are “disordered peoples in which wars and serious violations of human rights are endemic” is necessarily arbitrary, based on arbitrarily ascribed (that is, prescribed) features, supposedly belonging to entire ‘peoples’ as their genetic baggage. But not only does Rawls identify entire peoples as endemically ‘*disordered*’ (that is, as presumably genetically predisposed for “wars and serious violations of human rights”), he also – rather paradoxically – depicts them as already organised into a well-ordered-society of their own. This society is, still paradoxically, based on its own *outlaw laws*, against which his society of ‘well-ordered peoples’ has a legitimate right to militarily intervene, using ‘human rights violations’ as a pretext, without claiming self-defence and thus (again paradoxically) violating its own rules of non-intervention in non-self-defence cases. This paradoxical logic is even more emphasised in the claim that “no people has the right to self-determination, or a right to secession, at the expense of subjugating another people”, which – quite paradoxically but inevitably – triggers (rather than limits) an endless series of ethnonationalist claims (take the Balkans, or the post-Soviet states, as paradigmatic), whereby every ethnic minority – no matter how small – can claim self-determination and secession in order to ‘protect itself’ from the ethnic majority’s claims to self-determination and secession. Simply, following this paradoxical logic, whatever number of individuals (or a group) happens to be in minority anywhere, it may constitute itself as majority and claim the right to self-determination and secession, provided that it can convincingly assert its homogeneity and contiguity with a certain piece of territory (claiming it to be its historical heritage, i.e. its exclusive property), no matter how small or economically non-viable. Actually, *it is the logic of this argument that has produced ‘endemic’ ethnonationalisms, not the other way round*, and Rawls has given his own contribution to the production and perpetuation of such ‘endemic’ phenomena. This logic of (ethno)nationalism in its entirety is probably best summarised in the following passage:

If a reasonable pluralism of comprehensive doctrines is a basic feature of a constitutional democracy with its free institutions, we may assume that there is an even greater diversity in the comprehensive doctrines affirmed among the members of the Society of Peoples with its many different cultures and traditions. Hence a classical, or average, utilitarian principle

would not be accepted by peoples, since no people organized by its government is prepared to count, *as a first principle*, the benefits for another people as outweighing the hardships imposed on itself. Well-ordered peoples insist on an *equality* among themselves as peoples, and this insistence rules out any form of the principle of utility.³⁴⁶

‘Comprehensive doctrines’ of different ‘peoples’ which are to be seen as congruent with ‘cultures’ or based on the latter’s perpetual affirmation are, in fact, their respective nationalisms, especially given the fact that in Rawls’s perspective ‘peoples’ are at the same time to be seen as congruent with states (in Gellner’s famous definition of nationalism, it is a doctrine that promotes ‘congruence between culture and the state’). Thus, in a typically nationalist perception, not only is population congruent with ‘culture’ and ‘culture’ is congruent with the state, but they simply merge into a single unit, which some call ‘the nation’, while others, like Rawls, prefer to call it ‘the people’. More precisely, not only does such a unit have its own ‘comprehensive doctrine’, which puts this very unit at its centre, as that in which unity between ‘culture’, population and state is to be perpetually displayed, but such a ‘comprehensive doctrine’ (of nationalism) is what actually brings such a unit into existence. This universal ‘comprehensive doctrine’ is effectively imposed on all such units through the ‘international’ system (that is, as Rawls call it, ‘the Society of Peoples’), which promotes the idea that state sovereignty is (to be) ‘*culturally*’ based, acquired and retained (or, that the ‘*culturally-based people*’ should have ‘its’ state, or that ‘the people’ should be ‘organised by its government’ and thus effectively imposed a ‘culture’ which it would then regard as its own). Given the basic premise of this universally-spread ‘comprehensive doctrine’, that a ‘people organised by its government’ necessarily affirms itself as the-absolute-good-in-itself, it is logical then that such ‘peoples’, by promoting themselves as the absolute good, become equal in their self-absolutisation (just like ‘autonomous individuals’ domestically, as promoted by the individualist strand of liberalism). In this process of absolutisation of ‘the people’ itself, crucial is the importance of the perceived ‘hardships imposed on itself’, as Rawls puts it. For, it is precisely these perceived (imagined or real) ‘hardships imposed on itself’ that serve as a universal excuse for self-absolutisation, and the insistence on such perceived ‘hardships’ is the most common of all commonplaces in the nationalist discourse. Self-absolutisation of ‘peoples’, with the insistence on ‘hardships’, is what makes these ‘peoples’ ‘equal’ and insistence on this ‘equality’

³⁴⁶ *LP*, p. 40.

leads to the comprehensive and all-embracing doctrine of nationalism, in which all ‘peoples’ are ‘equal’ in their self-absolutisation, and none of these ‘peoples’ may abstain from that ‘equality’ if it is to preserve its position as a ‘people’ in the ‘Society of Peoples’:

The representatives of well-ordered peoples simply reflect on the advantages of these principles of equality among peoples and see no reason to depart from them or to propose alternatives. These principles must, of course, satisfy the criterion of reciprocity, since this criterion holds at both levels – both between citizens as citizens and peoples as peoples.³⁴⁷

Perhaps it is not so difficult to present the criterion of reciprocity as ‘fair’ on the level of citizens, given the fact that every individual is at least a physical whole that can be treated as a unit equal to other such units, so that their mutually reciprocal treatment and exchange may well be perceived as an exchange of equal shares. However, the analogy with ‘peoples’ as collective individuals can hardly hold if reciprocity as a principle is to be taken seriously. For, ‘peoples’ have significant differences in their size, in their populations’ density, in the size of the territory they inhabit and claim as their own, in the wealth of the natural resources that these territories contain, in the degree of their populations’ socio-political homogeneity, in the strength of their economy and in the strength of the military power they can project, etc. How can they establish a reciprocity of ‘the original position’, of which Rawls so extensively writes in *A Theory of Justice*, when ‘peoples’ cannot claim to have equal starting positions (no matter how thick their self-imposed ‘veil of ignorance’ may be), given all these possible differences? Of course, individuals have their differences, too (physical, intellectual, social, economic, etc.), which are to be ignored in Rawls’s theory due to the application of the ‘veil of ignorance’; but ‘peoples’ can hardly be identified as ‘peoples’ with the same certainty with which individuals are commonly identified as individuals. For, ‘the people’s’ boundaries – physical, political, ethnic, economic, cultural, linguistic – are far from being as clear-cut as the individual’s psycho-physical ones. Application of the ‘veil of ignorance’ would make them even more uncertain, because these boundaries are necessarily a product of interaction between ‘peoples’, and this interaction and the consequent boundary-creation (see Fredrik Barth, *Ethnic Groups and Boundaries*) require full and permanent awareness of all the differences. Indeed, it is full and permanent awareness of these differences that

³⁴⁷ LP, p. 41.

creates boundaries between 'peoples' and thereby constitutes 'peoples' as such. The question of homogeneity, which makes 'the people' act as a collective individual rather than as a collection of individuals, is also very significant: those 'peoples' which can display a greater degree of homogeneity can more powerfully assert themselves and are more likely to be able to project their power, both militarily, economically, and politically. This factor may lead those smaller in numbers to strive for greater homogeneity, in order to enhance their assertiveness and gain respect by those more numerous who assert themselves by their sheer size. This, of course, may well, and does, evolve into a race of competing nationalisms, as a logical consequence of the system which takes 'peoples' as collective individuals and claims equality and reciprocity as its basic features.

Conclusion

No less than Mill's utilitarianism, which deliberately disregards the individual and his authentic interests and imposes the eminently collectivistic concept of 'the greatest happiness for the greatest number', Rawls's 'theory of justice', based on the idea of perpetual display of procedural reciprocity in individual relations, in fact remains attached to the collectivistic concept of '*the nation*' ('the people' in Rawls's terminology), based on the concept of perpetual extension of *the ritual recognition of one another as 'free and equal'* between 'the nation's' individual *members*. The ritual recognition, reciprocally extended between the members, that is, between 'co-nationals', non-reciprocally is denied to all non-members; they can only be recognised *collectively*, as members of analogous collective bodies i.e. of other 'nations'. Between 'the nation's' members, this ritual recognition of one another as 'free and equal' does not remain only *procedural*: an abstract procedure of individuals' mutual recognition of one another as 'free and equal' evolves into an empty *ritual* of members' endorsement of one another *as members of a 'free nation'*, equal to all other 'nations', a collectivistic ritual that equally disregards the individual and his authentic interests and imposes '*national*' *homogeneity and uniformity* on all individual members of 'the nation'. As Rawls stresses, these individuals do not even come into existence as individuals outside 'the nation' as the only form of social

cooperation that provides their recognition as individuals.³⁴⁸ Thus the paradoxical circle that ostensibly opposes the individualistic doctrine of *liberalism* and the collectivistic doctrine of *nationalism* is fully closed in Rawls's 'theory of justice'.

³⁴⁸ See John Gray, *Two Faces of Liberalism* (Cambridge: Polity Press, 2000), p. 123.

ELEMENTS OF NATIONALISM IN UTILITARIAN LIBERALISM:
JOHN STUART MILL

Chapter Four: John Stuart Mill

John Stuart Mill is commonly perceived as the quintessential liberal. Already in his own time regarded as ‘the saint of rationalism’ (as Gladstone called him), Mill has become the most sacred figure of the 19th-century liberalism, ‘the apostle of liberty’³⁴⁹ – the position which can only be compared to that of Locke within the earlier liberal tradition. Those among Mill’s contemporaries who questioned this orthodox view of his role in the promotion of individual liberty already found it “impossible to criticize Mr. Mill’s writings without the danger of rousing animosity.”³⁵⁰ It is hardly an exaggeration to say that his name in the 20th-century liberal discourse has become almost synonymous with the very concept of individual liberty. Even those who deny him any original contributions to the history of Western political thought admit that, nevertheless, he was *the teacher* of a generation.³⁵¹

So crucial was Mill’s contribution to the shaping of the liberal perspective, that any attempt to portray Mill as less than the absolute champion of individual liberty has had to encounter heated and angry reactions on the part of the liberal audience. Dissenting, heretical opinions – depicting Mill’s theory of liberty as “something resembling moral totalitarianism”, seeking to establish “oppressive consensus” through “moral indoctrination”³⁵², or as a theory of controlled social engineering³⁵³ – have been extremely rare, and perceived almost as morally outrageous. Despite the obvious fact that Mill himself, besides his concern with individual liberty, explicitly advocated the concept of collective, ‘*national self-determination*’, there are

³⁴⁹ John C. Rees, *The Reaction to Cowling on Mill*, in *Mill Newsletter* 1, no. 2 (Spring 1996), p. 9.

³⁵⁰ W. Stanley Jevons, *Letters and Journals of W. Stanley Jevons* (London, 1886), p. 329. Cited in Joseph Hamburger, *John Stuart Mill on Liberty and Control* (Princeton, New Jersey: Princeton University Press, 1999), p. xv.

³⁵¹ “He was the teacher of a generation, of a nation, but still no more than a teacher, not a creator or innovator. He is known for no lasting discovery or invention. He made scarcely any significant advance in logic or philosophy or economics or political thought. Yet his range, and his capacity for applying ideas to fields in which they would bear fruit was unexampled. He was not original, yet he transformed the structure of the human knowledge of his age.” See Isaiah Berlin, ‘John Stuart Mill and the Ends of Life’, in *Four Essays on Liberty* (Oxford-New York: Oxford University Press, 1969), p. 205.

³⁵² Maurice Cowling, *Mill and Liberalism* (Cambridge: Cambridge University Press, 1963), pp. xii, 28, 104, 117.

³⁵³ See Joseph Hamburger, *John Stuart Mill on Liberty and Control* (Princeton: Princeton University Press, 1999).

surprisingly few authors³⁵⁴ who have attempted to point to the – equally *crucial* – contribution of Mill’s theory of ‘international’ relations to the development of the eminently *liberal* doctrine of ‘national self-determination’ and, therefore, of the doctrine of nationalism.³⁵⁵

‘Principle of Liberty’ and ‘Principle of Nationality’

The case for *individual liberty* is usually regarded as most vigorously advocated by John Stuart Mill, particularly in his famous essay *On Liberty*. The principles presented there have clearly distinguished him from the prophets of *economic liberty*, such as Adam Smith or David Ricardo, as well as from those who were mostly inclined to conflate these two, like Friedrich A. Hayek. According to Mill’s ‘simple principle’, as presented in *On Liberty*, “the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. (...) The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.”³⁵⁶ Therefore, “the only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not

³⁵⁴ Besides Mill’s contemporary, Lord Acton, whose theory is going to be examined in the next, final chapter, the most conspicuous exceptions to this rule are James Mayall, *Nationalism and International Society* (Cambridge: Cambridge University Press, 1990) and Eddy M. Souffrant, *Formal Transgression: John Stuart Mill’s Philosophy of International Affairs* (Lanham-Boulder-Oxford-NewYork: Rowman & Littlefield, 2000). Thus Mayall acknowledges that Mill’s doctrine of national self-determination has been built into the very foundations of contemporary international order – the United Nations Charter, Article 1(ii) and Article 55, the General Assembly Resolution 1514, and Article 1 of the two United Nations Conventions of Civil and Political Rights, and of Economic, Social and Cultural Rights. See Mayall 1990: 27-28.

³⁵⁵ The usual, common-sense argument says that the doctrine of ‘national self-determination’ can, and therefore should, be distinguished from that of nationalism. However, this distinction seems totally blurred if one only compares Mayall’s definition of ‘national self-determination’ with the definition of nationalism by Elie Kedourie. For Mayall, “the doctrine of self-determination thus assumes that mankind is not merely divided according to gender but according to nationality; that this division is equally natural; that rule by foreigners therefore not only leads to ‘natural’ resentment but constitutes a denial of fundamental human rights; and that consequently each nation and no other entity has a right to constitute a separate state.” (Mayall 1990: 40) At the same time, Kedourie defines nationalism as “the doctrine” which “holds that humanity is naturally divided into nations, that nations are known by certain characteristics which can be ascertained, and that the only legitimate type of government is national self-government.” See Elie Kedourie, *Nationalism* (Oxford: Blackwell, 1993), p. 1. In this chapter, as well as in the rest of the thesis, I treat the doctrine of ‘national self-determination’, as well as the overlapping doctrine of nationalism, as parts of the broader liberal doctrine of ‘self-determination’.

³⁵⁶ Mill, *On Liberty*, in *On Liberty and Other Essays*, ed. by John Gray (Oxford-New York: Oxford University Press, 1991), p. 14.

attempt to deprive others of theirs, or impede their efforts to obtain it.”³⁵⁷ The ‘appropriate region of human liberty’ thus becomes the entire area of the individual’s conduct that affects only the individual himself.³⁵⁸ The doctrine of free trade differs from the ‘principle of liberty’ precisely because it refers to the “part of conduct which society is competent to restrain”:

Restrictions on trade, or on production for purposes of trade, are indeed restraints; and all restraint, *qua* restraint, is an evil: but the restraints in question affect only that part of conduct which society is competent to restrain, and are wrong solely because they do not really produce the results which it is desired to by them. As the principle of individual liberty is not involved in the doctrine of Free Trade, so neither is it in most of the questions which arise respecting the limits of that doctrine. (...) Such questions involve considerations of liberty, only in so far leaving people to themselves is always better, *caeteris paribus*, than controlling them: but that they may be legitimately controlled for these ends, is in principle undeniable.³⁵⁹

Therefore, in the fullest exposition of the ‘principle of liberty’ that Mill offers, the “appropriate region of human liberty” is said to comprise,

First, the inward domain of consciousness; demanding liberty of conscience, in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people; but, being almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is practically inseparable from it. Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit our own character; of doing as we like, subject to such consequences as may follow: without impediment from our fellow creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong. Thirdly, from this liberty of each individual, follows *the liberty, within the same limits, of combination among individuals; freedom to unite, for any purpose not involving harm to others: the persons combining being supposed to be of full age, and not forced or deceived.*³⁶⁰

Freedom to unite for *any purpose* is here depicted in terms of ‘positive liberty’, one that is almost absolute, limited only by the imperative of not harming others. In

³⁵⁷ *On Liberty and Other Essays*, p. 17.

³⁵⁸ As John Gray points out, “People with divergent conceptions of the good make different judgements about what constitutes harm. Having different views of human interests, they are bound to make different judgements about what constitutes a set-back to them. They will therefore give differing accounts of whether people have been harmed in particular cases. Moreover, the harms that Mill’s principle requires us to assess cannot always be evaluated in ways that all reasonable people will accept. If we differ as to the content of human well-being, we will differ to what harms well-being.” See John Gray, *Two Faces of Liberalism* (Cambridge: Polity Press, 2000), pp. 86-87.

³⁵⁹ Gray, *Two Faces of Liberalism*, pp. 105-106.

³⁶⁰ Gray, *Two Faces of Liberalism*, p. 16. Italics Z.H.

Considerations on Representative Government Mill claims along the same lines that “one hardly knows what any division of the human race should be free to do, if not to determine, with which of the various collective bodies of human beings they choose to associate themselves.” Yet, although Mill explicitly refers to “any division of the human race” that is free to choose “various collective bodies of human beings” with which it may associate itself, the whole paragraph from which the sentence is taken is quite prescriptive in terms of strictly defining *which division* of the human race is free to associate itself with *which collective bodies*:

Where the sentiment of nationality exists in any force, there is a *prima facie* case for *uniting all the members of the nationality under the same government*, and a government to themselves apart. This is merely saying that the question of government ought to be decided by the governed. One hardly knows what any division of the human race should be free to do, if not to determine, with which of the various collective bodies of human beings they choose to associate themselves. But, when a people are *ripe for free institutions*, there is a still more vital consideration. *Free institutions are next to impossible in a country made up of different nationalities. Among a people without a fellow-feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist.*³⁶¹

It is not easy to follow Mill in his claim that the united (or, effectively, uniform) public opinion is a precondition of freedom or of ‘free institutions’. It is especially difficult to perceive this claim as consistent with the rest of his theory, since elsewhere, particularly in *On Liberty*, he wages a real war against ‘the yoke of opinion’ (being particularly ‘heavy’, as he says, in England of his own time) as the main impediment to individual liberty. Yet, such a yoke of ‘united public opinion’, labelled as the ‘sentiment of nationality’³⁶² is, paradoxically, offered as a general requirement for the existence of ‘free institutions’ at the level of country: “It is in general a necessary condition of free institutions, that the boundaries of governments should coincide in the main with those of nationalities.”³⁶³

In Gellner’s famous definition, the doctrine that prescribes congruence between the state boundaries and those of ‘culture’/‘nationality’ is labelled as nationalism.³⁶⁴ However, Mill here does not hesitate to practically equate ‘free institutions’ – applying the same logic of congruence between the boundaries of states and the boundaries of ‘nationalities’ – with ‘*national*’ institutions. Thus ‘the nation-state’

³⁶¹ Mill, *Considerations on Representative Government*, op. cit., p. 428. Italics Z.H.

³⁶² *Considerations on Representative Government*, op. cit. p. 428.

³⁶³ *Considerations on Representative Government*, op. cit. p. 430.

³⁶⁴ See Ernest Gellner, *Nations and Nationalism* (Oxford: Blackwell, 1983).

arises as a ‘necessary condition of free institutions’; therefore, only ‘*national institutions*’ are to be regarded as ‘*free institutions*’, and only those peoples with their ‘nation-states’ and their ‘national’ institutions are to be regarded as ‘free peoples’. In turn, as derived from the logic proposed by Mill, their members are to be regarded as the only ‘free individuals’. No less does this doctrine of ‘free institutions’ resemble another famous definition of the nationalist doctrine, that by Elie Kedourie:

What is beyond doubt is that the doctrine [of nationalism] divides humanity into separate and distinct nations, claims that such nations must constitute sovereign states, and asserts that the members of a nation reach freedom and fulfilment by cultivating the peculiar identity of their own nation and by sinking their own persons in the greater whole of the nation.³⁶⁵

Given these structural similarities between Mill’s doctrine of ‘free institutions’, as presented in *Representative Government*, and the doctrine of nationalism, as defined by Gellner and Kedourie, it remains contestable whether these two doctrines – being so closely entwined in Mill’s account – are actually to be distinguished from one another or not.

Yet another paradox, along the same lines, can be found in the fact that the “freedom to unite, for any purpose not involving harm to others” is *prescribed* as a freedom of combination *within* only one clearly defined cognitive and socio-political framework, that of ‘nationality’. Freedom of “framing the plan of our life to suit our own character” becomes a freedom defined by what is presumed to be *our* character, which, in turn, as suggested by Mill, is to be regarded as an uncontested cognitive category. What is ‘our’ character, and who are ‘we’, be that as members of ‘various collective bodies’ or of the entire ‘human race’, is not a question for Mill: our ‘character’ is simply determined by our being ourselves, and that is equally applicable to individuals as well as to ‘nationalities’, as collective individuals possessing their respective ‘*national characters*’. However, the problem with this logic may seem trivial, but it nevertheless remains essential: although boundaries of the individual self can be ultimately determined by the boundaries of his physical being, the difficulty with the collective divisions of mankind is that there are no “boundaries defining the collective self”.³⁶⁶ Of course, even the problem of defining identity of the individual member of society, as emphasised by numberless 20th-century philosophical and

³⁶⁵ Kedourie, op. cit., 67.

³⁶⁶ Mayall, op. cit., p. 51.

psychological theories, is far from being uncontested; yet, the question of collective identity, subject to ‘self-determination’, by virtue of being a political question, necessarily becomes a matter of *political arbitrariness*. As Ivor Jennings summed it up in a remark concerning the United Nations debates on decolonisation and ‘self-determination’: “On the surface it seemed reasonable: let the People decide. It was in fact ridiculous because the people cannot decide until someone decides who are the people.”³⁶⁷

Within the cognitive frame of political arbitrariness, then, it may seem plausible to assert that a people are, or are not, “ripe for free institutions”. Thus, according to Mill, a people who are to be left free to unite are only those who are “supposed to be of full age, and not forced or deceived”, whereby being of ‘full age’ means to be ‘ripe for free institutions’. In turn, ‘freedom to unite’ and thus form ‘free institutions’ is to be regarded as practically impossible unless a people are free from mingling with other ‘nationalities’ under one government. It is, therefore, a necessary condition of people’s being ‘ripe for free institutions’ to be first clearly distinguished from other ‘divisions of the human race’, then defined as ‘nationality’ and, finally, *extricated* from mingling with other ‘divisions of the human race’ (that is, extricated from mingling with other ‘nationalities’).

“A portion of mankind may be said to constitute a Nationality,” says Mill, “if they are united among themselves by common sympathies, which do not exist between them and any others – which make them co-operate with each other more willingly than with other people, desire to be under the same government, and desire that it should be government by themselves or a portion of themselves, exclusively.” The ‘feeling of nationality’ can be generated by various causes – such as ‘identity of race and descent’, or ‘geographical limits’. ‘Community of language, and community of religion’ also greatly contribute to it. But, says Mill, “the strongest of all is identity of political antecedents; the possession of a national history, and consequent community recollections; collective pride and humiliation, pleasure and regret, connected with the same incidents in the past.” However, “none of these circumstances however are either indispensable, or necessarily sufficient by themselves.”³⁶⁸ Thus, quite tautologically, the possession of ‘national history’ is proclaimed the strongest among

³⁶⁷ W. I. Jennings, *The Approach to Self-Government* (Cambridge: Cambridge University Press, 1956). Cited in Mayall, op. cit., p. 51.

³⁶⁸ Mill, *Considerations on Representative Government*, op. cit., p. 427.

the various causes of the ‘feeling of nationality’.³⁶⁹ The conspicuous presence of such a circular argument is probably a result of Mill’s deeply rooted belief in the uncontested nature (or, rather, the natural uncontested-ness) of the collective self, though he partly admits that such an identity may be formed due to various historical, social and geographical conditions.

‘Freedom to unite’ – while assuming ‘nationality’ to be a definable collective self – is therefore limited by the prescriptive nature of the unit itself: although “one hardly knows what any division of the human race should be free to do, if not to determine, with which of the various collective bodies of human beings they choose to associate themselves”, people are free to actually associate themselves with, or free to unite into, the unit of ‘nationality’. Other ‘divisions of the human race’ are not proposed or suggested as available. On the other hand, the ‘nationality’s’ collective self, though assumed to have long existed as potentially present, is assumed to fully assert itself only in terms of ‘negative liberty’, by being isolated and extricated from the impeding company of its fellow-‘nationalities’, and put under the rule of its own ‘*national government*’. ‘Negative liberty’ at the level of ‘nationality’ is thus derived from the ‘positive liberty’ of the individual to associate himself with his presumed ‘co-nationals’. In turn, the latter liberty is derived from the primary ‘negative liberty’, the liberty of the individual to pursue his own ends in his own ways without external impediments.

The foundation of such a ‘positive liberty’ is to be found in what Mill regards as ‘the firm foundation’ of the ‘utilitarian morality’ he proposes; this ‘firm foundation’ is “the desire to be in unity with our fellow creatures, which is already a powerful principle in human nature, and happily one of those which tend to become stronger, even without express inculcation, from the influences of advancing civilization”. For Mill, “the social state is at once so natural, so necessary, and so habitual to man, that, except in some unusual circumstances or by an effort of voluntary abstraction, he never conceives himself otherwise than as a member of a body; and this association is riveted more and more, as mankind are further removed from the state of savage independence.”³⁷⁰ Thus ‘the freedom to unite’ is derived from the ‘desire to be in unity with our fellow creatures’: since ‘unity with our fellow creatures’ is ‘naturally’

³⁶⁹ Compare to Mayall’s definition of ‘the nation’: “The nation is ultimately a group whose identity is forged by a particular interpretation of its own history”. (Mayall, *op. cit.*, p. 51)

³⁷⁰ Mill, *Utilitarianism*, *op. cit.*, p. 164.

desired, the individual should be granted freedom to realise what he ‘naturally’ desires, and be ‘in unity’ with his ‘fellow creatures’, thereby simply realising his human nature. Therefore, ‘freedom to unite’, and, more broadly, ‘the principle of liberty’, is not only to be regarded as compatible with ‘the principle of utility’: more profoundly, it is to be regarded – due to its appeal to ‘human nature’ – as directly promoting the latter, while promoting the realisation of the ‘desire to be in unity with our fellow creatures’ as the realisation of ‘the greatest happiness for the greatest number’. Moreover, not only does the realisation of the ‘freedom to unite’ promote ‘the principle of utility’ by promoting ‘the greatest happiness for the greatest number’; it also promotes the ‘advancement in civilization’, since it ‘further removes’ mankind ‘from the state of savage independence’.

I believe that the significance that Mill attaches to his theory of ‘nationality’ demonstrates that for him collective, ‘*national liberty*’ is understood as the *fullest possible realisation* of the (revised) utilitarian principle of ‘the greatest happiness for the greatest number’. Therefore, by increasingly conceiving himself as a ‘member of a body’, the individual practically ‘advances civilization’, while simultaneously promoting ‘the greatest happiness for the greatest number’. The “state of society”, by becoming “more and more an inseparable part of every person’s conception of the state of things which he is born into, and which is the destiny of a human being”,³⁷¹ thus by itself ‘advances civilization’ and removes mankind further from ‘the state of savage independence’. Therefore, being a ‘member of a body’, thereby realising the ‘natural desire to be in unity’, is for the individual necessarily a matter of his being *civilised*, as much as of his being *free*; at the same time, it is necessarily a matter of his being *human*. Thus, from the utilitarian point of view, the individual’s ‘membership in a body’ may well arise as *the central category* of the entire Mill’s theory, one that simultaneously promotes both ‘*liberty*’ and ‘*civilization*’, while fully realising ‘*human nature*’.

It is, therefore, no surprise that *selfishness* is in Mill’s theory regarded as a matter of a lower degree of ‘civilization’, one which is closer in its manifestations to ‘the state of savage independence’. Consequently, *altruism* is considered a matter of a higher degree of ‘civilization’, one which is closer to the state held to be the ‘destiny of a

³⁷¹ Mill, *Utilitarianism*, op. cit., p. 164.

human being’.³⁷² *Solidarity* among the members of a body is thus necessarily what distinguishes them, as those who are *fully civilized*, from those who are still ‘in the state of savage independence’, as well as from those who are only *semi-civilised*, whom Mill commonly labels as ‘barbarians’: “The peculiar characteristic, in short, of civilized beings, is the capacity of co-operation; and this, like other faculties, tends to improve by practice, and becomes capable of assuming a constantly wider sphere of action.”³⁷³

The state of social solidarity and co-operation, being directly opposed to ‘the state of savage independence’, thus arises as the mark of civilised human beings; consequently, the existence of a sentiment of solidarity becomes the threshold which distinguishes ‘civilization’ from both ‘barbarism’ and ‘the state of savage independence’. Hence, the existence of the ‘*sentiment of nationality*’, as a form of *social cohesion* (which is to be regarded as a higher stage of social solidarity), is what definitely distinguishes ‘civilized beings’ from both ‘savages’, who live in the state of absolute self-regarding independence, and ‘barbarians’, who have yet to establish such a form of social cohesion as to make themselves clearly distinct from other ‘divisions of human race’ (which may or may not possess this sentiment and, therefore, may or may not be fully ‘civilized’), as well as to extricate themselves from mingling with the latter. “A strong and active principle of cohesion among the members of the same community or state”, thus becomes the “essential condition of stability in political society”, whereby ‘political society’ is to be equated with ‘civilization’:

We need scarcely say that we do not mean nationality in the vulgar sense of the term. (...) We mean a principle of sympathy, not of hostility; of union, not of separation. We mean a feeling of common interest among those who live under the same government, and are contained within the same natural or historical boundaries. We mean, that one part of the community do not consider themselves as foreigners with regard to another part; that they set a value on their connexion; feel that they are one people, that their lot is cast together, that evil to any of their fellow-countrymen is evil to themselves; and do not desire selfishly to free themselves from their share of any common inconvenience by severing the connexion.³⁷⁴

³⁷² On Mill’s strategy for the promotion of altruism, see Hamburger, op. cit. Hamburger claims the centrality of the super-induced altruism in Mill’s theory of individual liberty.

³⁷³ Mill, *Principles of Political Economy*, in *Collected Works* (Toronto: University of Toronto Press, 1963-1991), Vol. 3, p. 708.

³⁷⁴ Mill, *Coleridge*, in *Collected Works*, vol. 10, pp. 134 -135.

It is not surprising, then, that Mill's theory prescribes for such a highly elaborated form of social solidarity to be imposed, if necessary, on all the individuals and groups who lack in such a sentiment, and who are, therefore, to be regarded as being on a lower level of 'civilization'.³⁷⁵ Being less advanced in 'civilization', they are to be *taught* to embrace altruism, whereby the very act of imposing on them the unit of 'nationality', as the *prescribed* framework for the promotion of social solidarity *through membership*, is itself to be regarded as an act of altruism: if such individuals or groups refuse to embrace the 'freedom to unite' by actually uniting into the prescribed body of 'nationality', they can only – as an act of ultimate altruism – *forced to be free* (to use Rousseau's famous paradox) and thus form 'political society' by embracing the cohesion of the 'sentiment of nationality'. Thus Mill's opposition to the Christian concept of individual, selfish desire for 'private salvation'³⁷⁶ remains consistent with his parallel attempt to propose the 'altruistic' concept of *public salvation*³⁷⁷ (or, in utilitarian terms, the concept of 'the greatest happiness for the greatest number') through the super-imposition of 'freedom to unite' at home, and the super-imposition of 'civilization' overseas. 'Civilization' thus logically stems from 'unity': only '*nations*' (as 'mature', cohesive 'political societies') can promote 'civilization'. The institutional framework which actually forces them to be 'civilized' is *the system of 'nation-states'*; the doctrinal framework, one which prescribes that they can only be *free* by developing from 'nationality' into a 'nation', is that of '*national self-determination*'.³⁷⁸ It is this doctrinal framework that represents the point of conceptual convergence between nationalism and liberalism. The point of convergence between liberalism, nationalism and imperialism can be

³⁷⁵ "The spirit of improvement is not always a spirit of liberty, for it may aim at forcing improvements on an unwilling people." (Mill, *On Liberty*, in *Collected Works*, Vol. 18, p. 272)

³⁷⁶ Religion, by which Mill means Christianity, thus became "a personal affair between an individual and his Maker, in which the issue at stake is but his private salvation. Religion in this shape is quite consistent with the most selfish and contracted egoism, and identifies the votary as little in feeling with the rest of his kind as sensuality itself." (*Representative Government*, op. cit., p. 240)

³⁷⁷ In order to establish bonds at the level of society and introduce altruism through social cohesion, Mill finds it necessary to divide the whole of humanity along 'national' lines and promote cohesion at the level of respective societies defined as 'nations', possessing their 'national characters', derived from their cohesion.

³⁷⁸ Here I propose a distinction between 'nationality' and 'nation', as two phases of the same process of 'nationhood'. Whereas a 'nationality' may assert itself through various forms of politicised identity (including the demand to possess its own state), 'the nation' asserts itself by actually creating its own state, thus becoming an *active* factor within 'the nation-state system'. This implies that 'nationality' may as well be regarded as part of 'the nation-state system', albeit a *passive* one, subject to the norms, standards and *systemic* influences of the system of 'nation-states', as well as to geopolitical designs of the *active* factors within the system.

found in efforts of the liberal-democratic ‘nation-states’ to impose ‘civilization’ on the ‘uncivilized’ and semi-‘civilized’ groups abroad.

The Threshold of Maturity

Neither of the proposed forms of ‘liberty’, says Mill, is to be exercised by those whom he defines as ‘uncivilized’, or as ‘not being of full age’. They are to be *taught* to embrace both ‘liberty’ and ‘civilization’, by imposing on them a *despotic mode of government*:

Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury. For the same reason, we may leave out of consideration those backward states of society in which the race itself may be considered as in its nonage. (...) *Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement, and the means justified by actually effecting that end. Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion.*³⁷⁹

In *Representative Government*, along the same lines, Mill argues that “a rude people, though in some degree alive to the benefits of civilized society, may be unable to practise the forbearances which it demands.” In such a case, he says,

A civilized government, to be really advantageous to them, will require to be in a considerable degree despotic: to be one over which they do not themselves exercise control, and which imposes a great amount of forcible restraint upon their actions. Again, a people must be considered unfit for than a limited and qualified freedom, who will not co-operate actively with the law and the public authorities, in the repression of evil-doers.³⁸⁰

According to the logic proposed by Mill’s forerunners in the theory of representative government, a people co-operate actively with the law and the public authorities only under the provision of exercising control over the government through the institution of representation. If a people are not represented in, and therefore do not exercise control over, the government, the theory principally does not expect them to obey the public authorities, let alone to actively co-operate with the law. However, Mill practically claims that the principle of *paternalism* (instead of that of self-government) is applicable to what he treats as *pre-political* societies, those which are

³⁷⁹ Mill, *On Liberty*, op. cit., pp. 14-15. Italics Z.H.

³⁸⁰ Mill, *Representative Government*, op. cit., p. 209.

not capable of improvement by ‘free and equal discussion’: if they are *not* able to *assert* themselves as a ‘nationality’, thereby *not* adopting the standard of ‘the nation-state system’ (which, in turn, represents the very standard of ‘civilization’), they are simply to be treated as ‘not being of full age’ and governed despotically by a ‘civilized government’. Thus the only test of the people’s claimed capacity for self-government becomes their actual ability to assert themselves, first as a ‘nationality’ and then as a ‘nation’. Therefore, ‘*national revolution*’ serves as the only solid proof of someone’s being *fit* for more than a ‘limited and qualified freedom’: a people are to be considered *unfit* for ‘civilization’ until they prove the opposite. Paradoxically, a ‘national revolution’, being necessarily an act of *political violence*, is thus to be regarded as the ultimate measure of ‘civilization’.

The Principle of Arbitrariness

Thus, as a matter of such paradoxical consistency, an ‘uncivilized’ people are supposed to co-operate actively with the law over whose imposition they had no influence or with the public authorities in which they had no representatives of their own. An ‘uncivilized’ people are to be a priori considered unfit for more than a ‘limited and qualified freedom’ without ever being given a chance to exercise the freedom of a politically represented people and thus actively co-operate with the law and the public authorities that represent them. An ‘uncivilized’ people should find it even advantageous that a great amount of forcible restraint be imposed upon their actions, being arbitrarily proclaimed unfit for any other form of government. And it is precisely in this last claim that one can find a key to understanding Mill’s paradoxical consistency: to claim a people ‘uncivilized’ and therefore fit only for despotic form of government (and to consequently impose it on them), is necessarily a matter of political arbitrariness: such an argument is necessarily based on the political and military power to project such a form of government onto a targeted people; and, such an argument is regularly combined with another, ‘objective’ one - the people’s actual incapacity for effective political and/or military resistance to the super-imposed despotism. As the history of the imperialist enterprises (in which Mill, just like his father before him, actively took part, working for the British East India Company) shows, the argument that the imposition of despotic government was beneficial to the subjected people was consistently entwined with the military power to actually

subject them to the governments which otherwise claimed to be representative of their own peoples.³⁸¹ Thus Mill does not hesitate to advocate the government intervention in colonisation, as a matter of “the permanent welfare of nations afterwards to arise from these small beginnings”; but, more importantly, “the question of government intervention in the work of colonization involves the future and permanent interests of civilization itself, and far outstretches the comparatively narrow limits of purely economical considerations.”³⁸² As Souffrant points out,

Colonization is, in effect for Mill, the building of nations; nations, for him, should be civilized groups. His equation of nations with civilized groups leads one to think that the welfare of nations is akin to the welfare of civilized groups or of civilization as it is expressed by different groups. The interest of the civilized groups is therefore to be construed as the interest of civilization. Colonization as it pertains to the interest of civilization must be undertaken.³⁸³

Not only should the government interfere with the process of colonisation; the whole enterprise should be placed, “from its commencement, under the regulations constructed with the foresight and enlarged views of *philosophical legislators*; and the government alone has power either to frame such regulations, or to enforce their observance”.³⁸⁴ In order to re-assert his own position as a ‘philosophical legislator’, employed by the British government to oversee its colonial enterprise in India, and thus justify the pursuit of his private interest as an employee of the government’s specialised agency, Mill readily advocates – contrary to the principles of economic liberalism – the government intervention into the hitherto private colonising activities. More importantly, he advocates the colonial enterprise itself as one that “involves the future and permanent interest of civilization”. For, “to appreciate the benefits of colonization, it should be considered in its relation, not to a single country, but to the collective economical interests of the human race”,³⁸⁵ whereby the “economical interests of the human race” are equated with the economic interests of a

³⁸¹ It was exactly by virtue of their being representative governments that they had to advance such an argument, in order to persuade the peoples they represented in legitimacy of subjecting other peoples to a different form of government.

³⁸² Mill, *Principles of Political Economy: with some of their Applications to Social Philosophy*, in *Collected Works*, Vol. 3, p. 963.

³⁸³ Eddy M. Souffrant, *Formal Transgression: John Stuart Mill’s Philosophy of International Affairs* (Lenham: Rowman & Littlefield Publishers, Inc., 2000), p. 108.

³⁸⁴ Mill, *Principles of Political Economy*, op. cit., p. 963. Italics Z.H.

³⁸⁵ Mill, *Principles of Political Economy*, op. cit., p. 963.

‘civilized’ colonial power.³⁸⁶ The argument in favour of colonial, despotic government over ‘barbarians’, implying unlimited arbitrariness in its imposition, is a problematic one: at the very least, there are no valid criteria for determining the grounds for declaring some to be ‘civilized’ while denouncing others as ‘uncivilized’ or ‘immature’; also, it is difficult to support the principle of ‘altruistic’ interference in affairs of those who are thus denounced as ‘uncivilized’ or ‘immature’ (be that on individual or group level) by imposing standards of those who arbitrarily claim themselves to be ‘civilized’.

‘Freedom’ and ‘Freemen’

Unlike many of his contemporaries, Mill does not look at the British labouring classes as ‘uncivilized’, ‘immature’ or entirely ‘unfit’ for representative government. Thus, for example, he claims that,

The limitation in number...of beer and spirit houses ... is suited only to a state of society in which the labouring classes are avowedly treated as children or savages, and placed under an education of restraint, to fit them for future admission to the privileges of freedom. This is not the principle on which the labouring classes are professedly governed in any free country; and no person who sets due value on freedom will give his adhesion to their being so governed, unless after all efforts have been exhausted to *educate them for freedom and govern them as freemen*, and it has definitively been proved that they can only be governed as children.³⁸⁷

It is worth noting that Mill here practically concedes that what he labels as ‘freedom’ is essentially a privilege confined to a particular *non-labouring* social class, the class of ‘freemen’. Mill’s ‘principle of liberty’ thus remains essentially exclusionary, although not exclusivist. He allows that the ‘labouring classes’, if put under a tutelage, may gradually become so prepared as to be eventually admitted to the privileged class of ‘freemen’. However, the former still may be treated ‘as children’, as long as the government or the non-labouring class of ‘freemen’ find it convenient

³⁸⁶ “There needs be no hesitation in affirming that Colonization, in the present state of the world, is the best affair of business, in which the capital of an old and wealthy country can engage. It is equally obvious, however, that colonization on a great scale can be undertaken, as an affair of business, only by the government, or by some combination of individuals in complete understanding with the government.” (*Principles of Political Economy*, op. cit., pp. 963-964) While promoting the role of the government in colonisation as an affair of business, Mill undermines his claims about the ‘civilizing’, ‘altruistic’ motives of colonisation. Also, by introducing the concept of “combination of individuals in complete understanding with the government”, Mill practically devalues the idea of government as a factor independent from private interests.

³⁸⁷ Mill, *On Liberty*, op. cit., p. 113. Italics Z.H.

for their purposes – and these do not necessarily have to be the proclaimed ones of preparing the governed for the privileges of ‘freedom’. Although it is not clear from the passage (nor from other Mill’s writings) whether the governing structure itself is to be regarded as distinct from, or as part of, the non-labouring class of ‘freemen’, it seems that, in Mill’s understanding, ‘freedom’ consists not so much of the privilege to govern, as of the privilege to pursue and promote certain non-labouring, that is, entrepreneurial activities – such as commerce, manufacturing, banking etc. If this interpretation is correct, then the assumed progress of the labouring classes towards the privileged status of ‘freemen’ – and therefore towards ‘freedom’ itself – essentially depends on their adopting the non-labouring strategies for pursuit of their material well-being. This is quite consistent with Mill’s ‘utilitarian’ ethics, promoting ‘higher’, non-physical pleasures as superior to the ‘lower’, physical ones.³⁸⁸ Therefore, it may be said that Mill – very much like Marx – depicts the realm of freedom as a realm of non-labour; yet – unlike Marx and quite in the economic liberal tradition – he projects the realisation of the ‘principle of liberty’ into the present forms of entrepreneurship and the existing class of free entrepreneurs, and not into a distant future of the state-controlled material abundance. However, by practically depicting liberty as a matter of non-labouring economic activities, Mill – despite the proclaimed intentions – cannot escape from promoting liberty as essentially confined to the economic principles of ‘free trade’, as the ultimate measure of ‘freedom’ within society. Thus his attempt to establish a new principle of liberty practically ends up – perhaps not surprisingly – in his adopting a particular strategy of a particular social class.

Obedience and ‘Civilization’

Claiming that the true aim of a colonial government is to prepare ‘barbarians’ for a ‘better freedom’, as compared to their ‘savage independence’, Mill is clear that the first lesson in ‘civilization’ is that of making ‘barbarians’ obedient; hence, obedience is to be imposed, if necessary even through ‘personal slavery’:

A people in a state of savage independence, in which every one lives for himself, exempt, unless by fits, from any external control, is practically incapable of making any progress in

³⁸⁸ See Mill, *Utilitarianism*, op. cit.

civilization until it has learnt to obey. The indispensable virtue, therefore, in a government which establishes itself over a people of this sort is, that it makes itself obeyed. To enable it to do this, the constitution of the government must be nearly, or quite, despotic. (...) Again, uncivilized races, and the bravest and most energetic still more than the rest, are averse to continuous labour of an unexciting kind. Yet all real civilization is at this price; without such labour, neither can the mind be disciplined into the habits required by civilized society, nor the material world prepared to receive it. (...) Hence even personal slavery, by giving a commencement to industrial life, and enforcing it as exclusive occupation of the most numerous portion of the community, may accelerate the transition to a better freedom than that of fighting and rapine.³⁸⁹

Unlike Hobbes, Mill does not depict the ‘state of nature’ as one of perpetual ‘war of all against all’: ‘the state of savage independence’ is a state of freedom, albeit one that is necessarily worse than what he defines as a ‘better freedom’ of ‘civilized’ life. Hence, the reason for the establishment of political society which abolishes ‘the state of savage independence’ (in Mill’s terminology, political society is labelled as ‘civilization’) is not a Hobbesian concern with mere survival: Mill’s ‘civilization’ is not to be regarded as instrumental, as a means to the supreme end of one’s self-preservation; it has intrinsic, supreme, value; indeed, it is the supreme end itself. And progress towards the supreme end requires that all other, ‘lower’ values and ends be sacrificed for the sake of the supreme one, and Mill is quite clear that all can, and ought to be, sacrificed to that end.

In the first instance, ‘the savage freedom’ is to be immediately sacrificed on the way towards what he calls ‘progress in civilization’; and, as the paragraph above seems to suggest, this progress is to be measured simply by a degree of obedience to despotic power: the indispensable virtue of a despotic government, established over those who hitherto used to live in ‘the state of savage independence’, is in making them obedient. Moreover, to be clear as to what kind of command these should learn to obey, Mill specifies that the only path to ‘civilization’ leads through their subjection to ‘continuous labour of an unexciting kind’, to which they are ‘naturally averse’. It is less clear, however, whether subjection to such a labour is the price they pay for a ‘better freedom’, that is, for something they may eventually arrive at, which is beyond the realm of ‘continuous labour’; or, such an unexciting labour is to be regarded as ‘freedom’ itself, indeed, a freedom ‘better’ than their previous ‘savage independence’. As suggested above, the realm of ‘freedom’ arrives with the pursuit of certain, non-labouring, entrepreneurial strategies; yet, it is not clear whether this

³⁸⁹ Mill, *Utilitarianism*, op. cit., p. 232.

option is within reach of the 'labouring classes' and former 'savages' who are 'taught obedience'; or, it is to be understood as necessarily confined to the non-labouring, entrepreneurial class of 'freemen'. Since it remains rather obscure whether there is any 'freedom' for the former beyond the state of continuous labour, it is hard to understand why 'the state of savage independence' is to be regarded as necessarily inferior to that of 'continuous, unexciting labour'. A Hobbesian reply to that question would be that even 'the state of continuous, unexciting labour' is better than 'the state of war of all against all', since the former, unlike the latter, ultimately promotes preservation from violent death. Yet, Mill's 'savage independence' is *not* 'the state of war' but 'the state of freedom'. Therefore, imposition of obedience to a despotic government, an obedience that promotes 'continuous labour of an unexciting kind', can not be justified as intrinsically better than 'the state of war' (to which Mill does not refer at all). Instead, paradoxically, that obedience is to be justified as intrinsically better than 'the state of freedom' itself, since it (indirectly) promotes a state of 'better freedom'. Thus a *hierarchy of 'freedoms'* has to be established in order to serve as a measure of desirability of 'progress in civilization': such a progress is desirable, whatever its immediate price, since it ultimately leads from the inferior 'freedom' to a superior one. However, the problem with the proposed hierarchy of 'freedoms' is that the only measure of superiority of one 'freedom' over another is, quite tautologically, the 'progress in civilization' itself: a remote 'freedom', as an uncertain product of a despotic government, is thus to be regarded as more desirable than the immediate 'freedom' of 'the savage independence', precisely because it is to be seen *as* the 'progress' itself. Otherwise, without the concept of 'progress in civilization' (and given the fact that Mill's 'state of savage independence' is not depicted as one of 'war of all against all'), it would be absurd to claim the obedience to a despotic government to be superior to the 'freedom' of 'the state of savage independence'. By employing the concept of a remote, 'better freedom', Mill has saved himself from falling into the absurd; however, the weakness of his argument, especially when compared to that of Hobbes, remains: compared to Hobbes's difficulties to prove the supreme value of life itself, Mill's problem to prove the supreme value of 'progress in civilization', based on his arbitrary definition of both 'progress' and 'civilization' (which is, in turn, based on an *arbitrarily defined* hierarchy of 'freedoms'), does not seem soluble. The only possible – and yet paradoxical – solution, consistent with the arguments above, would be to propose that a remote, 'better freedom' is to be found

in the individual's *voluntary* subjection to the *imperative* of social solidarity (seen as the foundation of 'civilization'), the degree of which is, then, to be regarded as a measure of 'progress': the greater sentiment of solidarity within a society, the greater 'progress in civilization'. And then, the greatest degree of 'civilization' is possessed by those societies which have developed certain *well-elaborated* forms of social solidarity, such as '*the sentiment of nationality*', and imposed them on majority of their members. Only within this mind-frame can such a state of 'civilized', *collectivist inter-dependence* be seen as a 'better freedom' than 'the state of savage independence'.

Masters and Slaves

It is worthy of note that, for Mill, only a civilisation of 'unexciting, continuous labour' is to be regarded as the *real* one. And then, only the capitalist civilisation to which he himself belonged can be so described as to entirely fit the projected ideal of a civilisation which consists mainly of 'continuous, unexciting labour'. Therefore, to promote the civilisation that defines itself in terms of 'continuous, unexciting labour' (and, for Mill, it is the only real civilisation), it is necessary to impose that kind of labour on all who are still averse to it, and even *slavery* may well serve that purpose:

A slave, properly so called, is a being who has not learnt to help himself. He is, no doubt, one step in advance of a savage. (...) He has learnt to obey. But what he obeys is only a direct command. It is the characteristic of *born* slaves to be incapable of conforming their conduct to a rule, or law. They can only do what they are ordered, and only when they are ordered to do it. If a man whom they fear is standing over them and threatening them with punishment, they obey; but when his back is turned, the work remains undone. The motive determining them must appeal not to their interests, but to their instincts; immediate hope or immediate terror. A despotism, which may tame the savage, will, in so far as it is a despotism, only confirm the slaves in their incapacities. Yet a government under their own control would be entirely unmanageable by them. Their improvement cannot come from themselves, but must be superinduced from without. (...) They have to be taught self-government, and this, in its initial stage, means the capacity to act on general instructions.³⁹⁰

Perhaps the definition of the slave, not as a being that has been enslaved by force, but rather as a being who has not learnt to help himself, implies that only by learning to use force to liberate himself from slavery can the slave learn to help himself. However, by characterising those who were 'born slaves' as those who are "incapable

³⁹⁰ Mill, *Utilitarianism*, op. cit., p. 233.

of conforming their conduct to a rule or law”, Mill seems to suggest that learning to help oneself is, essentially, about learning to obey a rule rather than to obey naked force. Hence, the obedience to the rule, in contrast to a forced obedience, is to be regarded as being in the interest of the obedient. However, if the rule, or the general instruction to which the slave is supposed to conform his conduct, is identical with the direct command to which the slave commonly obeys, it is hard to understand why it should be in the slave’s interest to conform his conduct to the rule which contains the very same command he obeys under the threat of immediate punishment. The only interest of the slave, as follows from this logic, would be to avoid punishment by conforming his conduct to such a command, and that is exactly what slaves usually do; however, it does not seem logical to claim that, without his being forced to obey the command, the slave necessarily promotes his own interest by unconditional submission to it. Perhaps an unconditional, voluntary submission to Rousseau’s ‘general will’, as a way of promoting one’s self-interest, may look desirable as the optimal result which Mill’s underlying perfectionism intends to produce; however, to claim that the slave’s unconditional voluntary submission to the general instruction of obedience is in the slave’s own interest, is to push the logic of submission to ‘the general will’ well beyond the point of Rousseau’s paradox.³⁹¹ Of course, such a claim stems from another – logically paradoxical and empirically absurd – assumption, that of identity of interests between the master and the slave. Thus, according to Mill’s assumption, if the interest of the master requires that the work be done, it is necessarily in the slave’s interest to conform his conduct to his master’s interest, identifying the master’s interest with his own. Yet, whereas identity of interests is assumed to *a priori* exist between the master and the slave (proceeding from the assumption that, by definition of the slave as a being who cannot help himself, the slave cannot articulate any interest of his own; hence, that his interest can only be identical with that of the master), identification of the slave with the master is to be regarded as impossible, by virtue of the slave’s being a slave and the master’s being a master, and Mill is careful to keep this distinction inherently present so as not to abolish the very relationship between the two. Still, he assumes that the obedience that stems from identification of their interests can actually bring the slave closer to

³⁹¹ On the affinities between Mill’s and Rousseau’s views on equality, the mutability of human nature through education, selfishness, and religion (comp. Mill’s ‘religion of humanity’ with Rousseau’s ‘civil religion’), see Hamburger, *op. cit.*, p. 120.

the master and – given the assumption that the master is, by virtue of possessing superior means of compulsion, necessarily regarded as possessing a superior degree of ‘civilization’ – thus bring the slave closer to ‘civilization’ itself (though he can never actually reach it, due to the assumed impossibility for the slave to eventually abolish the distinction between himself and the master). Hence, enslavement promotes ‘civilization’, to the extent that it promotes the slave’s voluntary obedience through identification of his interest with that of the master. Therefore, it is not surprising that the institution of slavery does not represent an ethical problem for Mill: from a perfectionist point of view, it is to be condemned only in so far as it fails to generate the unconditional voluntary obedience and thus, as Mill puts it, confirms the slave in his ‘incapacities for civilization’. This shows that Mill attaches absolute priority to his perfectionist concept of human self-development (or, to be more precise, of *super-induced* development).³⁹² In this sense, human capacity for freedom is to be regarded as a faculty that can gradually be acquired only through the process of learning, that is, of becoming ‘civilized’ through the perpetual unconditional voluntary obedience to those who are already ‘civilized’. ‘The capacity for civilization’, as Mill seems to understand it, is thus a capacity for the slave to unconditionally voluntarily obey the commands of the master: only those who can learn to *help themselves* by learning to voluntarily and unconditionally obey the command of the masters can eventually become prepared for self-government. Although it may seem that this leads to Rousseau’s paradoxical conclusion that the freedom of self-government can only be exercised through the total alienation of one’s will to the will of the governing entity, it is the present distinction between the master and the slave that prevents Mill from ultimately reaching such a conclusion, while launching yet another paradox: the extent to which members of the master race *do not* alienate their will to the will of the governing entity which they themselves constitute is to be regarded as *liberty*; the extent to which members of the race of slaves *do* alienate their will to the governing entity constituted by the master race is to be regarded as *civilization*. This double-standard mode of thought is commonly

³⁹² Hamburger has convincingly demonstrated that Mill’s categories of ‘progress’ and ‘development’ are *meant to be super-induced*. This super-inducement is in Mill’s own terminology usually concealed under the term ‘altruism’. Thus Mill’s condemnation of selfishness in *On Liberty* and *Representative Government* appears to indirectly promote ‘altruism’, as a super-imposition of ‘progress’ and ‘improvement in civilization’ on those who are at a ‘lower level of civilization’ (‘barbarians’), as well as a super-imposition of altruistic ethics on those who are at a ‘lower’ level of ‘selfish’ conduct (majority of Mill’s liberal contemporaries, and Christians in general).

referred to as moral relativism, and Mill's perfectionism is in this sense paradigmatic: "A people of savages should be taught obedience, but not in such a manner to convert them into a people of slaves."³⁹³

In Search for the Master-Race

The term 'the people of savages' may denote a group which the author for whatever reason happens to depreciate; but, it still may serve to describe – no matter how inadequately – some objective aspects of those people's way of living. On the other hand, the term 'the people of slaves' hardly describes any objectively recognisable mode of living; it rather represents a value judgement on the psychological make-up of those people, with no visible basis in social reality. As such, it only extends the connotations of Mill's phrase referring to those who are 'born slaves', so as to embrace all of them and denote them as 'the people of slaves'. However, it also implies the possibility of its semantic opposite – 'the people of masters'. Given the definition of the slave cited above, as one that 'has not learned to help himself', it is relatively easy to imagine this feature's being projected into the whole people, as a collective individual, with its peculiar, *slavish* character. It is also relatively easy to imagine 'the people of masters' possessing a *self-helping* character, as opposed to those who have not learned to help themselves. And then, it is easy to see '*the self-helping people*' as fit to play the role of masters over those who lack in such a character. Mill's obsession with 'character' led him to entertaining a life-long idea of establishing a science of morality and character, labelled as 'ethology'.³⁹⁴ However, it should be noted that Mill, in an attempt to portray '*national characters*' in the manner of Montesquieu, as having been formed under the impact of the climate conditions, does indeed refer to the Northern and, generally, Occidental peoples (Anglo-Saxons in particular) as '*struggling*' and '*self-helping*', while depicting both Orientals and Southerners as *inactive* and '*envious*':

In proportion as success in life is seen or believed to be the fruit of fatality or accident, and not of exertion, in that same ratio does envy develop itself as a point of national character.

³⁹³ *Representative Government*, op. cit., p. 234.

³⁹⁴ In *The System of Logic*, Mill sets out his ideas about the science of 'ethology', "which corresponds to the art of education; in the widest sense of the term, including the formation of national or collective character as well as individual." (*The System of Logic*, in *Collected Works*, Vol. 8, p. 869, cited in Hamburger, op.cit., p. 23)

The most envious of all mankind are the Orientals. (...) Next to Orientals in envy, as in activity, are some of the Southern Europeans. The Spaniards pursued all their great men with it, embittered their lives, and generally succeeded in putting an early stop to their success. With the French, who are essentially a southern people, the double education of despotism and Catholicism has, in spite of their impulsive temperament, made submission and endurance the common character of the people, and their most received notion of wisdom and excellence: and if envy of one another, and of all superiority, is not more rife among them than it is, the circumstance must be ascribed to the many valuable counteracting elements in the French character, and most of all to the great individual energy which, though less persistent and more intermittent than in the self-helping and struggling Anglo-Saxons, has nevertheless manifested among the French in nearly every direction in which the operation of their institutions has been favourable to it.³⁹⁵

Mill develops Montesquieu's argument further, by proposing that the culture of hard-struggling labour and 'self-helping' has developed, due to the specific climate conditions, among Northern and Western 'nations' (of which Anglo-Saxons are the most prominent example). He thus practically suggests that the 'national character' of Anglo-Saxons is to be regarded as exactly the opposite of the character of those who are defined as incapable of helping themselves. With the notion of the master being the exact opposite of that of the slave, it logically follows that Mill here implies that the 'national character' of Anglo-Saxons makes them fit to actually assume the position of the master-race, entitled to despotically govern those whose 'national character' is assumed to be one of slaves, in order to educate the latter for 'self-helping'. This educational process, as has been emphasised by Mill himself, is primarily about teaching the slaves to voluntarily subject themselves to 'continuous labour of an unexciting kind', to which they are 'naturally averse'; from that, it follows that acquiring the capacity for voluntary subjection to 'continuous, unexciting labour' may be regarded as identical with acquiring 'the capacity for self-help'. Since this 'capacity for self-help' is, in its absolute form, regarded as the property of the (presumably 'civilized') master-race, it follows that, in proportion to the level of development of their 'capacity for self-help', the 'civilized nations' are entitled to govern the 'uncivilized' peoples in a despotic manner, as the master governs the slave. Following such logic further, one is tempted to assume that the degree of despotism exercised in this educational process proportionately rises with the master-race's 'capacity for self-help': in that sense, it may seem that 'the self-helping Anglo-Saxons' would be entitled to exercise the ultimate degree of despotic power over those who are the least capable of helping themselves. However, since, as Mill says, it

³⁹⁵ *Representative Government*, op. cit., pp. 250-251.

would only ‘confirm’ the slaves in their ‘incapacity for self-help’, it is assumed, paradoxically, that the least degree of despotic power is to be actually exercised by those who are the most capable of helping themselves; and, it is this paradoxical turn that enables the advocates of the Anglo-Saxon domination over the subjected peoples to portray this domination as ‘civilizing’ rather than ‘despotic’, in comparison with the overtly despotic power of those whose ‘capacity for self-help’ is lesser than that of Anglo-Saxons.

Forced to be Free

As demonstrated above, Mill holds that *super-imposed* slavery may play a civilising role, teaching ‘savages’ to obey; as such, it is not contrary to the ‘principle of liberty’, since it ultimately promotes a ‘better freedom’. Yet, paradoxically, *self-imposed* slavery is to be principally *denied* by the same principle:

In this and most other civilized countries, for example, an engagement by which a person should sell himself, or allow himself to be sold, as a slave, would be null and void; neither enforced by law nor by opinion. The ground for thus limiting his power of voluntarily disposing of his own lot in life, is apparent, and is very clearly seen in this extreme case. The reason for not interfering, unless for the sake of others, with a person’s voluntary acts, is consideration for his liberty. (...) But by selling himself for a slave, he abdicates his liberty; he forgoes any future use of it beyond that single act. He therefore defeats, in his own case, the very purpose which is the justification of allowing him to dispose of himself. He is no longer free; but is thenceforth in a position which has no longer the presumption in its favour, that would be afforded by his voluntarily remaining in it. The principle of freedom cannot require that he should be free not to be free. It is not freedom, to be allowed to alienate his freedom.³⁹⁶

Like in Rousseau’s society established by the social contract, in Mill’s society founded on the ‘principle of liberty’, no one is permitted *not to be free*: the individual – being established by such a society as inherently free – can not and must not abdicate his liberty, lest he be accused of undermining the very foundations of the society. Society, according to the theory, has been established with the aim of protecting the individual’s freedom, while simultaneously promoting social solidarity; therefore, it is entitled to protect the individual from alienation of his freedom, unless the alienation is being exercised – as a matter of *altruistic solidarity* – by society itself. If society does not protect the individual’s liberty from an alienation which is

³⁹⁶ Mill, *On Liberty*, op. cit., pp. 113-114.

not the alienation of his liberty by society, it ceases to play the role prescribed by the theory, and thus ceases to be the society founded on the ‘principle of liberty’. That is why the individual in liberal society must be, and therefore inevitably is, *forced to be free*: the concern is not an immediate preservation of his actual liberty; the concern is the preservation of the ‘liberty’ *prescribed* to him; that is, the ultimate concern is the preservation of the society’s founding principle.³⁹⁷

Civilizing Intervention

Mill applies the very same logic on the *collective* level to a people who have excessively been ‘taught obedience’ by having been exposed to a long-lasting tyranny, thereby having been brought to the point of becoming a ‘people of slaves’. Whereas a representative assembly from among those who have not been taught obedience would “simply reflect their own turbulent insubordination”, a ‘people of slaves’, by their ‘extreme passiveness, and ready submission to tyranny’ would be ‘no less unfitted’ for representative government. Since “they would inevitably choose their tyrants as their representatives, and the yoke would be made heavier on them by the contrivance which *prima facie* might be expected to lighten it”,³⁹⁸ they should *a priori* be denied the right to ‘self-determination’, as much as individuals should *a priori* be denied the freedom to enslave themselves.

However, it follows from Mill’s perfectionist logic that a ‘passive’ people, a ‘people of slaves’, should not be denied the right to ‘self-determination’ for good, but instead be *taught* to liberate themselves from ‘passivity’, no matter whether they prefer to be free from their tyrants or not. The question, then, arises: who is to determine what their preference should be, if their own determination is not to be taken as definitive? It seems that the only answer to this question is that some external power should arbitrate in this matter, thus imposing either its own preference or some other, more general principle. As has been demonstrated, for Mill, arbitration of such an external power presupposes essential identity between this power’s preference and the general

³⁹⁷ The concern of modern society with the imposition of ‘individual autonomy’ is best reflected in the passage by Joseph Raz: “Since we live in a society whose social forms are to a considerable extent based on individual choice, and since our options are limited by what is available in our society, we can prosper in it only if we can be successfully autonomous... ultimately those who live in an autonomy-enhancing culture can prosper only by being autonomous.” Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), p. 394.

³⁹⁸ Mill, *Representative Government*, op. cit., p. 261.

principle, which he labels as 'improvement in civilization'. Hence, it would necessarily be an 'improvement in civilization', if an external power – provided that it be a 'civilized' one – were to impose its own arbitrary preference, instead of that of the people in question. Thus the principle of 'improvement in civilization', which has an *a priori* value in Mill's theory of history, seems to refute his other principle, that of 'self-determination'. However, this does not seem to pose a logical problem before Mill's perfectionist logic: while 'improvement in civilization' is necessarily regarded as an absolute requirement, 'self-determination' is to be seen as a conditional one, whereby the scope of the latter's application depends on the extent to which the latter promotes the former. Since the perpetuation of tyrannical power, according to Mill's theory, does not contribute to the 'improvement in civilization', the people who prefer their tyrants as their representatives are to be denied 'self-determination' and representative government; and, since the election of tyrants would only legitimise the tyranny, this possibility should be denied in advance. For, a legitimised tyranny could not plausibly be subjected to the arbitration by an external power, claiming to promote the 'improvement in civilization'. If the tyranny were legitimised, it could not be plausibly denounced, that is, de-legitimised as tyranny, and the external power would find itself at pains to legitimise its own intervention against it. Therefore, in order to keep the option of the external power's intervention in domestic affairs of a 'passive' people active, thereby keeping the option of the 'improvement in civilization' active, it is necessary to deny such a people the right to 'self-determination'. For the sake of stimulating the 'improvement in civilization', 'civilized humanity' is therefore permitted to intervene, by military means if necessary, whenever historical development seems to lead in the opposite direction. For the same reason, in order to prevent the absorption of a more advanced people into a less advanced one, different 'nationalities' should be principally placed under separate governments:

Experience proves, that it is possible to for one nationality to merge and be absorbed in another: and when it was originally and inferior and more backward portion of the human race, the absorption is greatly to its advantage. (...) The nationalities brought together under the same government, may be about equal in numbers and strength, or they may be very unequal. If unequal, the least numerous of the two may either be the superior in civilisation, or the inferior. Supposing it to be superior, it may either, through that superiority, be able to acquire ascendancy over the other, or it may be overcome by brute strength, and reduced to subjection. This last is a sheer mischief to the human race, and *one which civilised humanity with one accord should rise in arms to prevent*. The absorption of Greece by Macedonia was

one of the greatest misfortunes which ever happened to the world: that of any of the principal countries of Europe by Russia would be a similar one. If the smaller nationality, supposed to be the more advanced in improvement, is able to overcome the greater, as the Macedonians, reinforced by the Greeks, did Asia, and the English India, there is often a gain to civilisation; but *the conquerors and the conquered cannot in this case live together under the same free institutions*. The absorption of the conquerors in the less advanced people would be an evil: *these must be governed as subjects*, and the state of things is either a benefit or a misfortune, according as the subjugated people have or have not reached the state in which it is an injury not to be under a free government, and according as the conquerors do or do not use their superiority in a manner calculated to fit the conquered for a higher stage of improvement.³⁹⁹

Curiously, the very same Macedonian advance is treated by Mill as a ‘sheer mischief to the human race’ in the case of Greece and as a ‘gain to civilisation’ in the case of Asia. In both cases, Macedonians are assumed to have used brute force, thus reducing both Greece and Asia to subjection; yet, the subjection of Asia by brute force should have been welcomed as a ‘gain in civilization’, and that of Greece should have been prevented by the joint military action of the whole civilized humanity. However, such an inconsistency is attempted to be made plausible through application of the concept of ‘superiority in civilization’; thus it seems that European military conquest in Asia or Africa is to be regarded as a ‘gain in civilization’, whereas the counter-conquests by the non-European or semi-European powers – for this occasion, the hypothetical Russian conquest of Europe – are to be prevented by the whole ‘civilized humanity’. As for the claim that the conquerors and the conquered cannot live together under the same ‘free institutions’ in case that the conquered – despite their supremacy in numbers and size – belong to an ‘inferior’ civilisation, it has already been demonstrated that Mill’s ‘free institutions’ actually mean ‘*national*’ institutions; therefore, subjugated people are to be governed as subjects unless, or until, they are *able to assert themselves as a ‘nationality’*, that is, to advance their claims to possess their own ‘national’, ‘free’ institutions.

Rationalism, or Nationalism?

In principle, Mill assumes that the situation in which distinct ‘nationalities’ live under the same government is necessarily an ‘evil’, since that inevitably produces the state of affairs which to the greatest extent resembles Hobbes’s ‘war of all against all’:

³⁹⁹ Mill, *Representative Government*, op.cit., pp. 431-432. Italics Z.H.

Each fears more injury to itself from the other nationalities, than from the common arbiter, the State. Their mutual antipathies are generally much stronger than jealousy of the government. That any one of them feels aggrieved by the policy of the common ruler, is sufficient to determine another to support that policy. Even if all are aggrieved, none feel that they can rely on the others for fidelity in a joint resistance; the strength of none is sufficient to resist alone, and each may reasonably think that it consults its own advantage most by bidding for the favour of the government against the rest.⁴⁰⁰

In his condemnation of keeping different ‘nationalities’ ‘intermingled’ under one government, Mill almost reaches the logic employed by another ideologue of nationalism, J.G. Herder, notwithstanding all the rhetorical differences between their respective rationalist and romanticist accounts. Thus Herder says that,

Nothing, therefore, is more manifestly contrary to the purpose of political government than the unnatural enlargement of states, the wild mixing together of various races and nations under one sceptre. A human sceptre is far too weak and slender for such incongruous parts to be engrafted upon it. Such states are but patched up contraptions, fragile machines, appropriately called state-machines, for they are wholly devoid of inner life, and their component parts are connected through mechanical contrivances instead of bonds of government. Like Trojan horses these machines are pieced together, guaranteeing one another’s immortality; yet since they are bereft of national character, it would only be the curse of Fate which would condemn to immortality these forced unions, these lifeless monstrosities. They were contrived by that kind of politics which plays with men and nations as if they were inanimate particles. But history shows sufficiently that these instruments of human pride are formed of clay, and, like all clay, they will dissolve or crumble to pieces.⁴⁰¹

Herder, in accordance with the romanticist discourse, condemns “the wild mixing together of various races and nations under one sceptre” as ‘unnatural’; Mill, as a utilitarian and liberal, is rather concerned with the promotion of a more rational goal, that of ‘free institutions’. Since he holds ‘free institutions’ to be “next to impossible in a country made-up of different nationalities”, he does not hesitate to proclaim that “it is in general a necessary condition of free institutions, that the boundaries of governments should coincide in the main with those of nationalities”.⁴⁰² However, unlike Herder and his romanticist followers, Mill admits that “several considerations are liable to conflict in practice with this general principle”. In the first place, its application is “often precluded by geographical hindrances.” Thus, “there are parts even of Europe, in which different nationalities are so locally intermingled, that it is

⁴⁰⁰ *Representative Government*, op.cit., p. 429.

⁴⁰¹ J.G. Herder, *Ideen zur Philosophie der Geschichte der Menschheit*, in *Sammtliche Werke*, ed. by Bernard Suphan (Berlin, 1887), Vol. 13, p. 384, cited in *The Enlightenment*, ed. by David Williams (Cambridge: Cambridge University Press, 1999), p. 210.

⁴⁰² *Representative Government*, op. cit., pp. 428-430.

not practicable for them to be under separate governments.” Therefore, “there is no course open to them but to make a virtue out of necessity, and reconcile themselves to living together under equal rights and laws.”⁴⁰³ Although this may seem to moderate the rigidity of ‘the general principle’, a less visible implication of such a claim is, actually, that the intermingled-ness of different ‘nationalities’ – while being depicted as a barbarous state of ‘war of all against all’ – is to be seen as a feature that is essentially *non-European*. Thus, *the European society of ‘nation-states’* is practically promoted into *the very standard* of ‘civilization’, as opposed to the non-European societies, in which ‘nationalities’ tend to be ‘barbarously’ intermingled.

Diversity, or Uniformity?

Unlike the European society of ‘nation-states’ in which, presumably, individuals freely develop different modes of living in isolation from one another, while ‘nationalities’ in isolation from one another freely create their separate histories, “the greater part of the world has, properly speaking, no history, because the despotism of Custom is complete”. This, says Mill, is the case “over the whole East”. The result is that those ‘nations’ that “must once have had originality” have now become “the subjects or dependants of tribes whose forefathers wandered in the forests when theirs had magnificent palaces and gorgeous temples, but over whom custom exercised only a divided rule with liberty and progress”. A people thus cease to be ‘progressive’ when they cease to ‘possess individuality’. However,

If a similar change should befall the nations of Europe, it will not be in exactly the same shape: the despotism of custom with which these nations are threatened is not precisely stationariness. It prescribes singularity, but it does not preclude change, provided all change together. (...) It is not progress that we object to; on the contrary, we flatter ourselves that we are the most progressive people who ever lived. It is individuality that we war against: we should think we had done wonders if we had made ourselves all alike; forgetting that the unlikeness of one person to another is generally the first thing which draws attention of either to the imperfection of his own type, and the superiority of another, or the possibility, by combining the advantages of both, of producing something better than either.⁴⁰⁴

The Chinese, says Mill, “have become stationary” precisely by “making a people all alike, all governing their thoughts and conduct by the same maxims and rules; and

⁴⁰³ *Representative Government*, op. cit., p. 430.

⁴⁰⁴ *On Liberty*, op. cit., pp. 78-79.

these are the fruits”. What has “made the European family of nations an improving, instead of a stationary portion of mankind” is “their remarkable diversity of character and culture. Individuals, classes, nations, have been extremely unlike one another: they have struck out a great variety of paths, each leading to something valuable; and although at every period those who travelled in different paths have been intolerant of one another, ... their attempts to thwart each other’s development have rarely had any permanent success, and each has in time endured to receive the good which the others have offered.”⁴⁰⁵ But Europe itself, warns Mill, “is decidedly advancing towards the Chinese ideal of making all people alike”:

All the political changes of the age promote it, since they all tend to raise the low and to lower the high. Every extension of education promotes it, because education brings people to the general stock of facts and sentiments. Improvements in the means of communication promote it, by bringing the inhabitants of distant places into personal contact, and keep up the rapid flow of changes of residence between one place and another. The increase of commerce and manufactures promote it, by diffusing more widely the advantages of easy circumstances, and opening all objects of ambition, even the highest, to general competition, whereby the desire of rising becomes no longer the character of a particular class, but of all classes.⁴⁰⁶

Although Mill’s description to a great extent resembles a description of the current process of globalisation in terms of its trans-‘national’ diffusion of uniformity, it still should be noted that in his own time the argument was rather applicable to the imposition of such uniformity – based on the imposition of common education and means of communication, combined with the increase of commerce and manufacturing – *within* ‘the nation-state’, and, *on the level* of ‘the nation-state system’. Thus, it would be more accurate to say that ‘the nation’ – having been the key unit for promoting the imposition of uniformity in Mill’s time – rather than Europe as a whole, tended to produce uniformity and therefore generated ‘stationariness’. Or, at least, that is what Mill’s theory implies. According to the theory, ‘the nation’ ceases to be progressive when it adopts uniformity and loses its individuality. This presupposes that ‘nations’ exist as collective individuals, possessing individuality of their own (that is, their distinct ‘national characters’). And yet, it is exactly this presumed individuality on the ‘national’ level that imposes uniformity on the level of the individual: every individual within ‘the nation’ is thus supposed to “sink his own individuality” (Kedourie) into the uniform individuality of

⁴⁰⁵ *On Liberty*, op. cit., p. 80.

⁴⁰⁶ *On Liberty*, op. cit., p. 81.

‘the nation’. If Mill’s theory of progress is correct, the individual subjected to the uniformity of ‘the nation’ thus loses his individuality, ceases to be progressive and thus becomes stationary. Although ‘the nation’ ostensibly promotes *mobility* on the individual level, whereby ‘the desire of rising’ becomes the ‘character of all classes’ and individuals, it necessarily produces the loss of individuality (that is, the loss of ‘character’). On the other hand, if the theory is correct, the adoption of such uniformity within ‘the nation’ – seen as a precondition for ‘the nation’s’ *collective individuality* – also leads to ‘the nation’s’ increasing ‘stationariness’. Although the system of ‘nation-states’ may seem to promote a competition among ‘nations’ based on their presumed individuality, it nevertheless forces the competing ‘nations’ (as much as the competing individuals) to *adopt uniform strategies* in order to successfully compete with each other – which may often be a matter of mere survival for particular ‘nations’ – and to consequently sacrifice their individuality to such a *system-induced*, compulsory uniformity. Hence, every society which defines itself in terms of ‘nationhood’ *subscribes to the same rules of uniformity*, both internally, on the individual level, and externally, on the level of ‘the nation-state system’. If Mill’s theory of progress is valid, according to its logic all these societies – as well as their individual members – tend to become stationary once they have adopted the uniformity of *the nationalist discourse*. Following this logic, it is the adoption of uniformity – whether of the discourse that promotes all societies as uniformly designed *collective individuals*, or of the discourse that promotes all individuals as uniformly designed *citizens of ‘the nation’* – that ultimately leads in the opposite way from progress.

The problem is that the praised individual diversity and originality⁴⁰⁷ cease to exist once the individual subscribes to the nationalist discourse, which claims ‘the nation’ to be the only possible mode of his existence in the modern world, a unit that by definition possesses its own originality, and whose originality constitutes the diversity of ‘nations’. Freedom and variety of situations for the individual are thus

⁴⁰⁷ Hamburger is of the opinion that individuality in Mill’s conception of historical progress has only instrumental value. In a transitional state of society, “those with individuality were to be non-conformists, ignoring customs and social pressures that arose from mass opinion”. On the other hand, those with individuality of character were to be “bold, inventive, exploratory in seeking new ideas and new practices”, in order to promote themselves as “the leaders of the moral and social transformation”, thus bringing society to the next, organic state. As superior natures, they would have the right to impose ‘penalties’ for ‘self-regarding conduct’ on the inferior, selfish natures. (Hamburger, op. cit., pp. 152-153, p. 184) Thus, for Mill, individuality of character is essentially a property of the elite of mankind.

practically cancelled out (or, at least, significantly reduced) by his participating in the ritual perpetuation of the nationalist discourse, which imposes only one – ‘national’ – mode of thinking and living, with the idea that the freedom of ‘the nation’, consisting of the self-referential, ritual perpetuation of the discourse, compensates for the loss of variety of situations on the individual level. The paradox is that the actual loss of *the variety of options and choices* is doctrinally presented as the only way for the individual to actually be free to develop his individual capacities through the ritual perpetuation of the collectivist, nationalist discourse. This leads to another paradox, that of the nationalist discourse and the individualist discourse realising their common ‘liberty’ by cancelling out each other’s respective freedoms.

Mill, predictably, escapes from reaching such ultimate paradoxical conclusions by going into – inconsistency. Thus, on the level of the individual, “unity of opinion, unless resulting from the fullest and freest comparison of opposite opinions, is not desirable, and diversity not an evil, but a good, until mankind are much more capable than at present of recognising all sides of the truth”; and these principles are “applicable to men’s modes of action, not less than to their opinions”. For, “as it is useful that while mankind are imperfect there should be different opinions, so is it that there should be different experiments of living; that free scope should be given to varieties of character, short of injury to others; and that the worth of different modes of life should be proved practically, when one thinks fit to try them”.⁴⁰⁸ While claiming diversity not to be an evil but a good on the level of the individual, Mill claims the diversity of ‘nationalities’ under one government to be *undesirable* for the promotion of freedom. ‘Different nationalities’, being essentially what Mill elsewhere calls ‘different experiments of living’, and the varieties of their ‘characters’ – springing from their different historical experiences – should, by analogy, be also given a free scope, short of injury to others. Yet, such collective ‘experiments of living’, in Mill’s theory, inevitably conflict with each other, *as long as they meet within the framework of one government*. Inconsistently for a *liberal* doctrine of *free competition*, Mill claims that the common framework of one government, within which they fully and freely compare their externally different (and, presumably, internally united) opinions, ought to be dissolved, so as *not* to permit a free intercourse and competition of their ‘different experiments of living’. It is to be

⁴⁰⁸ *On Liberty*, op. cit., p. 63.

dissolved, so as to permit *the unity and uniformity* of the system of ‘nation-states’ to reign. In such a system, every different mode of thought and living is to be subjected to the one of ‘the nation’, whereby every ‘nation’, by definition, has a prescribed strategy of becoming ‘the nation’ through the imposition of unity of opinion onto every one of its individual citizen-members. And, then, when constructed, such a state of affairs may well be called ‘organic’.⁴⁰⁹

Conclusion

Contrary to traditional criticism of Mill’s project of reconciling a principle of individual liberty with the utilitarian ideas about collective well-being as an ‘exercise in squaring the circle’,⁴¹⁰ I have demonstrated that Mill’s ‘theory of nationality’ indicates that his famous advocacy of individual liberty is principally derived from his (revised) utilitarian, eminently *collectivist* principle of ‘the greatest happiness for the greatest number’, as well as from his general concept of ‘improvement in civilization’. Thus the full assertion of ‘the sentiment of nationality’, through the establishment of the ‘nationality’s’ own ‘nation-state’, is to be regarded as the fullest realisation of both the principle of ‘the greatest happiness for the greatest number’ and the ‘principle of liberty’ (as projected onto the collective level), as well as of the concept of ‘improvement in civilization’. In turn, ‘the nation’s’ collective liberty (realised through the establishment of ‘the nation-state’, while simultaneously promoting ‘improvement in civilization’ and ‘the greatest happiness for the greatest number’) is to be seen as the necessary condition of individual liberty. For, the existence of ‘free institutions’ is regarded as essential for the promotion of individual liberty, while the existence of ‘free institutions’ is held to be “next to impossible in a

⁴⁰⁹ “The form of society celebrated by Millian liberalism – the liberalism from which all the dominant liberalisms of the present day are derived – is not, in truth, any sort of pluralist society. It is instead a society ruled by an elite of opinion-formers – Mill’s secular version of Coleridge’s clerisy – which relentlessly propagates a narrow, partisan ideal of rationalistic individualism and progressivism. (...) In theory as well as in practice, Millian liberalism is a force for cultural homogeneity and against diversity, a political tendency for which progress is more important than liberty. And by progress is here meant... the imposition of a plan of life in which the prejudices and anxieties of the late nineteenth-century intelligentsia are mandatory for all.” John Gray, *Post-liberalism: Studies in Political Thought* (London: Routledge, 1993), p. 260.

⁴¹⁰ See James Fitzjames Stephen, *Liberty, Equality, Fraternity*, in Stuart Warner (ed.), *Liberty Classics* (Indianapolis: Liberty Fund, 1993); also, John Plamenatz, *The English Utilitarians*, (Oxford: Oxford University Press, 1949), ‘Introduction’. For the opposite view, see John Gray, *Mill’s On Liberty: A Defence*.

country made up of different nationalities”. Therefore, only in ‘the nation-state’ can the individual actually be free, and the square of individual liberty can only be circled through the collectivist enterprise of ‘nation-building’. Thus understood, Mill’s ‘theory of nationality’ provides the necessary key to an explanation of the puzzling co-existence of liberal individualism, utilitarian collectivism and nationalist imperialism in Mill’s philosophies of liberty and history. More importantly, Mill’s ‘theory of national self-determination’ provides a key to an understanding of both the conceptual convergence and historical congruence of the – ostensibly opposed – doctrines of liberal individualism and ‘national’ collectivism, as they have been jointly applied to the political reality of modern societies.

THE SOLE ANTI-NATIONALIST AMONG LIBERALS:
LORD ACTON

Chapter Five: Lord Acton

Lord Acton is mostly remembered as the author of the proverb “powers tends to corrupt; absolute power tends to corrupt absolutely”. Acton is also to be remembered and studied as the only liberal who openly rejected both nationalism and ‘the nation-state’, denouncing them as the embodiments of illiberal, arbitrary power, and of the essentially absolutist character of the modern democratic theory and practice. However, unlike his contemporary, John Stuart Mill, who is still celebrated as the very paradigm of the 19th-century liberalism, Acton is nowadays almost completely forgotten and his argument in favour of liberty is regarded as being quite far from the mainstream of liberal thought. This chapter attempts to correct this failure and points to Acton’s significance for the study of both liberalism and nationalism.

In the words of the author of one of the very few studies of his political and moral philosophy, Acton was an anomaly in many worlds: he was a Catholic in bad standing with the hierarchy, a politician without portfolio, and, for the most part, an historian without academic status and, still, commonly described as the most erudite man of his times,⁴¹¹ who “knew everyone worth knowing and had read everything worth reading”.⁴¹² His influence upon Gladstone was well-known both among his friends and among his adversaries and, yet, paradoxically, the traces of this influence were hardly visible in any of the official policies pursued either by Gladstone himself or by his liberal successors. Acton was distinguished from his fellow liberals by his privileged social position and from his fellow Englishmen by his Catholic religion. Acton’s liberalism, just like that of his stepfather, Lord Granville, “came to him together with the tradition of political power, as an adjunct of his inherited estate”.⁴¹³ Acton’s Catholicism was also rather inherited (from his German mother) than chosen, and he stuck to both with a rare persistence of a convinced moralist, attempting to promote his accidental heritage into the very standard of universal morality.

Having had problems with the idea of studying at the universities in England, where attendance of the Protestant service was compulsory for all students, Acton eventually

⁴¹¹ Himmelfarb, Gertrude, *Lord Acton: a study in conscience in politics* (Chicago-London: The University of Chicago Press, second edition, 1962), p. 190.

⁴¹² Himmelfarb 1962, p. 1.

⁴¹³ Himmelfarb 1962, p. 9.

went to study at the University of Munich, where he met his teacher, Doellinger, a famous historian and theologian, whose theory of history left a life-long impression upon Acton. Doellinger's was the idea that Christianity was essentially a history rather than a doctrinal system or philosophy, that its dogmas were not fixed for all time but underwent change and development. Thus the test of dogmas was not the logical consistency of the system, but historical evidence and fact.⁴¹⁴ The idea of Christianity as a history led Acton to believe that the theory of liberty based on Christianity which he himself preached was, actually, the very history of freedom. Thus whatever was in accordance with this – Acton's and Doellinger's – view of Christianity was to be regarded as part of the history of freedom; and, whatever represented a discontinuity with Christianity as the historical unfolding of the abstract, Absolute Liberty, was to be condemned as an adversary of freedom itself. Hence every secular state was to be principally denounced as absolutist, despotic or tyrannical, merely by virtue of not having been a Christian, that is, free state. Thus the dilemma between liberty of religion or the Christian State would not be relevant to Acton; he would simply reply: both, for the unique character of the Christian State is liberty.⁴¹⁵ In a similar manner, he would defend his inherited aristocratic status, proclaiming aristocracy and monarchy the most compatible with true liberty and thus turning on its head the modern democratic theory that aristocracy and monarchy are the paradigm of the absolute, arbitrary and illiberal. He thus declared not monarchy alone, but monarchy by divine right, to be the necessary condition of liberty. Liberty is secure and inaccessible to arbitrary change, he would argue, only when there is a recognised “divine, objective right, anterior to every human law, superior to every human will”.⁴¹⁶

Turning current theories on their heads seems to have been Acton's favourite procedure. In his early essay, *The Protestant Theory of Persecution*,⁴¹⁷ Acton proposed a theory according to which the modern absolutist State had been created when Protestantism had abolished the autonomy and privileges of the corporate bodies that had formerly made up society. In Acton's view, the only liberty recognised by the Protestants was the liberty of the individual, just as the only

⁴¹⁴ Himmelfarb 1962, p. 23.

⁴¹⁵ Himmelfarb 1962, p. 43.

⁴¹⁶ Himmelfarb 1962, p. 72. Acton's quote from “Foreign Affairs”, *Rambler*, new series, VI (1862), 555.

⁴¹⁷ *Rambler*, new series, VI (1862), 318-351. Reprinted in *Essays on Freedom and Power*, ed. by Himmelfarb (Boston, 1948), p. 88-127.

authority recognised was that of the State. The individual thus acquired the right to worship in whatever religion he wished, but the Church – as one among many corporate bodies deprived of their previous power – was deprived of the right to administer its own laws. For Acton, this meant that emancipation of the individual became a refined technique for ensuring his utter subjection, and a limited power previously exercised by the Church was replaced by absolute power of the State.⁴¹⁸ Whereas the Protestants introduced the revolutionary idea that persecution could be justified by purely speculative reasons and directed against purely speculative errors, the Catholic Church had persecuted only for practical-political reasons, in defence of religious and political unity threatened by the practical subversiveness of heresy.⁴¹⁹

During the American Civil War, Acton did not hesitate to publicly defend the South, claiming that the real enemies of the Constitution were not the Southern slave owners who were forced to secede, but the opponents of slavery who appealed from the Constitution to an abstract law of nature. Unlike absolutism, he claimed, slavery was not immoral since it did not suspend the divine law in favour of human will, but only denied to the slave certain specified rights; moreover, slavery was not anti-Christian in principle, but always in the concrete, because the master was not necessarily a good Christian.⁴²⁰ In some stages of history, slavery was not only morally permissible, but prescribed as a necessary step in discipline,⁴²¹ provided that the society administering discipline was Christian.⁴²² This is not to say that Acton considered slavery a Christian virtue that should be perpetuated; he clearly saw slavery as an evil to be eventually eliminated, albeit a lesser evil when compared to the revolutionary act of its abolition. Hence, the only way to eventually eliminate it was to patiently labour to reform mankind, as the Church had always done, by assimilating realities with ideals.⁴²³

Accordingly, he thought that the English had achieved their freedom due to the intensity of their conservatism, not due to the fanaticism of revolution. The conservative found law in history, the revolutionist found it in the will of ‘the

⁴¹⁸ Himmelfarb 1962, p. 44.

⁴¹⁹ Himmelfarb 1962, p. 46.

⁴²⁰ Himmelfarb 1962, p. 79.

⁴²¹ Compare to Mill’s position on slavery as a commencement of civilised life, as shown in the chapter on Mill.

⁴²² Review of E.M. Hudson’s *Second War of Independence*, in *Home and Foreign Review*, II (1863), 658. Cited in Himmelfarb 1962, p. 80.

⁴²³ *Essays on Freedom and Power*, p. 246.

sovereign people’;⁴²⁴ the conservative laboured patiently to preserve the existing order by gradual change, assimilating ideals into realities; the revolutionist acted violently to introduce change by appealing to a higher order, imposing ideals onto realities. Acton thus pointed at the profound chasm within the liberal tradition itself, between the school of Macaulay that held the will of the people supreme, and the school of Burke preaching that only the authority rooted in history could produce legitimacy. He even went so far as to assert that “between these two families there was more matter for civil war than between Cromwell and King Charles”.⁴²⁵ However, whereas a government in which the people were unrepresented was to be seen as ‘defective’, one in which the law was not supreme was to be considered ‘criminal’.⁴²⁶ Still, his position was that of an untypical conservative liberal rather than that of the typical liberal conservative: while rejecting all radicalism, he nevertheless advocated the rule of law as a means to the pursuit of liberty, rather than gradual change as a means to the preservation of authority.

Since Acton consistently appealed to the higher authority, as indeed many of the historical conservatives did, he also principally rejected the theory that located the origin of the state and of civil rights in the social contract, assembling a number of individuals together to promote their common interest. For in that case, he thought, right would become “a matter of convenience, subject to men, not above them”.⁴²⁷ Based on the higher law, Acton’s ideal society would be one of organic growth of both institutions and corporations (including a delicate balance between the Church and the state), evolving through a process of “weighing instead of counting”, so that classes and interests, rather than single individuals, were represented.⁴²⁸ Thus his ideal was principally projected into the Middle Ages, where society was composed of distinct corporations and classes, each represented in their own way in the organism of the state. The mortal sin of modern society was the abolition of corporations: it replaced persons with moral duties towards their respective corporations and classes with mere units, with equal and isolated individuals without any duties towards any

⁴²⁴ Himmelfarb 1962, p. 71.

⁴²⁵ Review of Frederick Arnold’s *The public Life of Lord Macaulay*, in *Home and Foreign Review*, II (1863), 656.

⁴²⁶ Review of B. Carneri’s *Demokratie, Nationalität und Napoleonismus*, in *Home and Foreign Review*, II (1862), 555. Here Acton clearly follows the tradition of Locke and Montesquieu, with respect to the role of laws in the preservation of liberty.

⁴²⁷ Himmelfarb 1962, p. 73.

⁴²⁸ Himmelfarb 1962, p. 74.

body other than the state.⁴²⁹ Thus modern society acquired its mechanical character, and the state was promoted into the sole object of the individuals' allegiance, thereby preparing the ground for the introduction of the concept of 'the nation', as a concept of artificially created community of *free individuals* to which alone the individual owed allegiance.

Although Acton did not state it explicitly, it is very likely that he regarded the sovereignty of the isolated individual and the isolation of 'the sovereign nation' not only as two analogous but as two essentially related concepts. What was still missing in his analysis of the difference between modern and pre-modern society was the insight that in modern society all classes were either abolished – if higher – or absorbed – if lower – by *the middle class*. The middle class was thus self-represented not as one among the classes but as a *quasi-organism* called 'the nation', which swallowed all other classes and corporations in the process of its own emergence. This quasi-organism – consisting mainly of the middle class and representing its particular values and interests – then asserted its presumed sovereignty in relation to other such quasi-organisms through the seizure of the modern state's sovereignty. At the same time, quite paradoxically, the middle class was self-represented as a *mechanical* collection of sovereign individuals, thereby asserting their presumed absolute freedom from any commitment to classes and corporations as such, as well as to other individuals, while simultaneously promoting absolute commitment to 'the nation' (as some sort of a 'greater middle class'), as related to the modern state. In fact, the 'free individual' itself was part of the middle class mythology of social mobility,⁴³⁰ which in historical reality was realised through eminently collectivist acts of 'national revolutions,' aimed at the seizure of power of the modern state by elevating the whole middle class onto the level of the sole source ('the nation') of the state's legitimacy.

In Acton's own view, which he called 'the English theory of nationality', "nationality or the nation was an essential but not the supreme element in the State: the nation was only one of a multitude corporations that went into the making of the free state, and the heterogeneity of nations within the State, like the variety of

⁴²⁹ Himmelfarb 1962. In his criticism of modern society's mechanical character, Acton strongly resembles Rousseau.

⁴³⁰ See the first chapter.

corporations, was the test and security of freedom”.⁴³¹ Indeed, “anything that might serve to divide society and prevent the levelling, unifying action of the State, however distasteful in itself the particular expedient might be,” would be approved by Acton, and he thus supported slavery as much as he opposed the modern state. Therefore, “the traditions and idiosyncrasies of history, the diversity of classes, corporations, nationalities and races in society, the delicate balance of forces maintained by a constitution in which obsolete patterns of conduct and principles of organization were deliberately perpetuated – all were of use in resisting the ultimate evil, absolutism”.⁴³² However, given the absence of traditional corporations in modern society, Acton found the state consisting of diverse ‘nationalities’ the only possible form for the promotion of what he considered to be liberty. This brought him into the direct opposition to the mainstream English liberals (such as John Stuart Mill), who claimed the state consisting of only one ‘nationality’ to be the only possible framework for the promotion of ‘free institutions’ and, therefore, of freedom in society.

The Dialectics of ‘Nationality’ and ‘Multi-Nationality’

Acton’s essay *Nationality*, first published in the *Home and Foreign Review* in July 1862, was originally written in response to John Stuart Mill’s *Considerations on Representative Government*, where Mill claimed that, in general, “free institutions are next to impossible in a country made-up of different nationalities”; therefore, the general condition of liberty in society is to be found in the congruence between the boundaries of the state and those of nationality.⁴³³ While nowadays, following Gellner’s definition of nationalism, one has no great difficulties in identifying such a principle with what has later become known as nationalism, in Mill’s and Acton’s time these considerations were regarded as part of a broader theory of liberty, and their debate was in those times probably perceived as a minor disagreement between two liberal comrades. However, it was a great credit for Acton that he had denounced the nascent ‘theory of nationality’ as ‘absurd’ and ‘criminal’⁴³⁴ long before the

⁴³¹ Himmelfarb 1962, p. 85.

⁴³² Himmelfarb 1962, p. 86-7.

⁴³³ See the previous chapter.

⁴³⁴ *Nationality*, in *Essays in the History of Liberty, Selected Works of Lord Acton*, Vol. I, ed. by J Rufus Fears (Indianapolis: Liberty Fund, 1985), p. 433.

absurdities and crimes in the name of the nationalist doctrine were actually committed.

Although Acton did not hesitate to immediately proclaim ‘the theory of nationality’ ‘false’, he nevertheless saw “theories of this kind” as “a normal and necessary element in the social life of nations”. As such, they are “useful in opposition, as warning or a threat, to modify existing things, and keep awake the consciousness of wrong”.⁴³⁵ Thus, from an absolute point of view (and Acton attempted to express that view), such theories are necessarily seen as errors when related to what is presumed to be the absolute truth; however, they still remain a historical necessity, which helps the historical unfolding of the absolute truth itself. Here the influence of Doellinger’s dialectics upon Acton is most visible. Doellinger sought to incorporate the existence of presumably anti-Catholic theories and principles (errors) into the unfolding of the errorless, Absolute Spirit. However, Doellinger’s philosophy of history, despite its being formally less rigid than Hegel’s triadic system, remained stuck in some form of ethical rigidity, regarding every antithesis as necessarily morally flawed. Thus the very existence of facts (or theories) which seemed embarrassing to a consistent Catholic could be justified by including error as a normal and necessary step in the unfolding of the errorless Spirit; but, in this way, all that seemed embarrassing to a Catholic moral outlook was not only to be proclaimed wrong but also to be fixed as such. Indeed, there was a room left for what was claimed to be wrong to be overcome; but there was no room left for it *not* to be overcome.

Nowhere else has this theory of history proved so detached from historical reality as in the case of nationalist principles, which to the present day have resisted to be overcome by a ‘necessary’ next stage of historical development. Of course, their mere historical persistence does not confirm their ethical or even logical correctness, but this ‘false’ theory has nevertheless failed to be overcome by a ‘true’ one. Still, with a touch of double irony, Acton’s prophecy that ‘the theory of nationality’, while being “more absurd and more criminal than the theory of socialism”, “has an important mission in the world, and marks the final conflict, and therefore the end, of two forces which are the worst enemies of civil freedom – the absolute monarchy and the revolution”,⁴³⁶ has indeed proved correct, with regard to the fact that the former theory has eventually survived not only the historical fall of these two forces but also

⁴³⁵ *Nationality*, p. 411.

⁴³⁶ *Nationality*, p. 433.

the historical fall of the latter theory. In this respect, Acton's theory of history, based on Doellinger's dialectics, has – quite paradoxically – proved both wrong and right: while being wrong in its claim that false principles are necessarily to be overcome by the true ones, it has proved right in its claim that 'the theory of nationality' has put an end on both absolute monarchy and revolution. Indeed, in the contemporary world, not only has absolute monarchy become unviable; it is also revolution – be that social or 'national' one – that has become practically impossible: the ultimate triumph of Mill's 'theory of nationality' (which is commonly conflated with the ultimate triumph of liberal democracy itself) has left room only for acts of nationalist secession or unification; by becoming a matter of common procedure within the 'international' system, the consistent application of 'the theory of nationality' has left room only for quantitative changes of borders, and not for qualitative changes of government within those borders.⁴³⁷ For, it has become commonly accepted that every act of secession or unification – thereby establishing a new 'nation-state' under 'the principle of national self-determination' – is to be regarded as the ultimate realisation of the principles of liberal democracy, as proposed in Mill's claim that the necessary – and, presumably, sufficient – condition of 'free institutions' in society is the congruence between the borders of the state and the boundaries of 'nationality', whatever 'nationality' may have meant or still may mean. In Acton's account, 'the theory of nationality' necessarily puts an end on, but also clearly originates in, the broader theory of revolution:

There are three principal theories of this kind, impugning the present distribution of power, of property, and of territory, and attacking respectively the aristocracy, the middle class, and the sovereignty. They are the theories of equality, communism and nationality. Though sprung from a common origin, opposing cognate evils, and connected by many links, they did not appear simultaneously. Rousseau proclaimed the first, Baboeuf the second, Mazzini the third; and the third is the most recent in its appearance, the most attractive at the present time, and the richest in promise of future power.⁴³⁸

Prior to the emergence of the theory of revolution, in the old European system, "the rights of nationalities were neither recognised by governments nor asserted by the people," so that "the interest of the reigning families, not those of the nations,

⁴³⁷ As Mazzini put it already in 1847, in his opening address to the International League of Nations: "There is no international question as to forms of government, but only a national question." (*Nationality*, p. 423)

⁴³⁸ *Nationality*, pp. 411-2.

regulated the frontiers; and the administration was conducted generally without any reference to popular desires”. And, says Acton, “where all liberties were suppressed, the claims of national independence were necessarily ignored.” Within such a system, “to dispossess a sovereign of his hereditary crown, and to annex his dominions, would have been held to inflict an injury upon all monarchies, and to furnish their subjects with a dangerous example, by depriving royalty of its inviolable character”. For, “after the wars of religion came to an end in 1648, the only wars were those which were waged for an inheritance or a dependency, or against countries whose system of government exempted them from the common law of dynastic states, and made them not only unprotected but obnoxious.”⁴³⁹

Thus, besides the wars against non-Christian and non-European countries and populations, the only war that the European powers of the old system waged was that against the only Christian and European country whose system of government exempted from the common law of dynastic states. Being an elective monarchy without a hereditary monarch, Poland “did not possess those securities for stability which were supplied by dynastic connections and the theory of legitimacy, wherever a crown could be obtained by marriage and inheritance”. Thus “the country was excluded from the European system by the nature of its institutions”. Having been excluded from the system, Poland was partitioned by its dynastic neighbours, as if it had not been a Christian and European country. Acton’s Christian sentiment finds this fact particularly painful:

Till then no nation had been deprived of its political power by the Christian powers, and whatever disregard had been shown for national interests and sympathies, some care had taken to conceal the wrong by a hypocritical perversion of law. But the partition of Poland was an act of wanton violence, committed in open defiance not only of popular feeling but of public law. For the first time in modern history a great State was suppressed, and a whole nation divided among its enemies. This famous measure, the most revolutionary act of the old absolutism, awakened the theory of nationality in Europe, converting a dormant right into an aspiration, and a sentiment into a political claim. (...) Thenceforward there was a nation demanding to be united in a State – a soul, as it were, wandering in search of a body in which to begin life over again; and, for the first time, a cry was heard that the arrangement of States was unjust – that their limits were unnatural, and that a whole people was deprived of its right to constitute an independent community.⁴⁴⁰

⁴³⁹ *Nationality*, p. 412.

⁴⁴⁰ *Nationality*, pp. 413-4.

Thus the partition of Poland, as the most revolutionary act of the old absolutism, awakened not only ‘the theory of nationality’, but legitimised revolution as such. However, what may also be seen as implied in this statement is that non-Christian peoples, even those belonging to civilisations which an impartial Westerner would label as ‘highly advanced’, are not to be regarded as ‘nations’, given the fact that they had already been deprived of their political existence by the European colonial powers and that Acton did not even take these acts into account, let alone proclaim them illegitimate. Thus only Christian peoples – be that in Europe or North America – were to be regarded as ‘nations’ and, consequently, were not to be legitimately deprived of political power over the territory they inhabited, merely on the basis of their being Christian. The further implication is, then, that Christian powers may well be licensed to deprive non-Christian populations of their political and physical existence, simply on the basis of the latter’s being non-Christian. This is also the point where Acton probably differs from Mill: whereas for Mill any people would be considered ‘civilized’ – regardless of their religion – provided that they could legitimise themselves as ‘the nation’ by a revolutionary act of ‘self-liberation’, for Acton probably only a Christian people would be recognised as ‘the nation’ and therefore could not be legitimately deprived of political existence by Christian powers. This, again, points to Acton’s traditional understanding of political legitimacy, which could only stem from the recognition of political power by the supreme institution of Christianity, not from an act of what he would label as arbitrary revolutionary violence.

Liberty as Inequality

The old despotic policy which made the Poles its prey, says Acton, had two – both principal and geopolitical – adversaries: these two were “the spirit of English liberty”, and “the doctrines of that revolution which destroyed the French monarchy with its own weapons; and these two contradicted in contrary ways the theory that nations have no collective rights”. The old system, which “overlooked national divisions”, was thus opposed not only by the two countries concerned with their respective geopolitical interests, but also “by liberalism in two forms, the French and the English”. Therefore the – essentially revolutionary – system that insists upon national divisions “proceeds from two distinct sources, and exhibits the character either of

1688 or of 1789.”⁴⁴¹ However, for Acton, this means a fundamental difference: while the English liberalism is still to be regarded as the authentic one, the movement derived from the principles of the French Revolution, despite the fact that it calls itself ‘liberal’, is to be seen as essentially ‘national’. For, “if liberty were its object, its means would be the establishment of great independent authorities not derived from the State, and its model would be England; but its object is equality; and it seeks, like France in 1789, to cast out the elements of inequality”.⁴⁴²

It is no secret that the French Revolution, unlike the English one, sought to cast out the elements of inequality. But in Acton’s account this claim is not seen as socially but *racially* grounded (Acton was sometimes confusing and conflating the notions of ‘race’ and ‘nationality’): the elements of inequality in the French society were, according to his view, introduced among the ‘Gaules’ by the ‘Teutonic race’:

Roman Gaul had so thoroughly adopted the ideas of absolute authority and undistinguished equality during the five centuries between Caesar and Clovis, that the people could never be reconciled to the new system. Feudalism remained a foreign importation, and the feudal aristocracy an alien race. (...) Monarchy unconnected with aristocracy became popular in France, even when most uncontrolled; whilst the attempt to reconstitute the throne, and to limit and fence it with its peers, broke down, because the old Teutonic elements on which it relied – hereditary nobility, primogeniture, and privilege – were no longer tolerated. The substance of the ideas of 1789 is not the limitation of the sovereign power, but the abrogation of intermediate powers. These powers, and the classes which enjoyed them, come in Latin Europe from a barbarian origin.⁴⁴³

What seems particularly painful for Acton is the abolition of the classes – to which he himself belonged – that enjoyed ‘intermediary powers’. Understandably, this personal bias made him anti-egalitarian, albeit somewhat less anti-revolutionary, given his approval of the 1688 English Revolution, which re-asserted the ‘intermediary powers’ at the expense of both the royalty and ‘the people’. However, due to the changes in the public discourse of the 19th century, Acton found himself in a difficulty to defend privilege as an end in itself. Given the centrality of the idea of liberty in his own time – the idea that usually did not have to be legitimised by any other external point of reference – Acton launched a theory that claimed the existence of the privileged classes essential to the preservation of liberty; and those who sought to abolish them necessarily plotted against liberty and could only be driven by some irrational

⁴⁴¹ *Nationality*, p. 414.

⁴⁴² *Nationality*, pp. 417-8.

⁴⁴³ *Nationality*, p. 417.

motives. Thus it did not suffice for the theory that the privileged, intermediary classes were abolished simply because of their privilege; quite the contrary, it was the privilege itself that was abolished simply because it had been established by the classes of a 'barbarian origin' ("and the king perished because of the origin of his authority rather than because of its abuse"). And having been of a 'barbarian origin', their very existence had to be regarded not only as an offence against 'egalitarianism' of the subjugated 'non-Teutonic races'; it was to be regarded as an offence against their presumed 'racial superiority' over those 'barbarian' ones.

Interestingly, this state of permanent offence had lasted for more than one thousand years, until it was abolished by the French Revolution, and throughout this entire period it had never been recorded in the public discourse of the time that the issue of the 'Latin' vs. 'Teutonic race' had ever been raised: in the Europe of Acton's Universal Church, such an argument would have been simply inconceivable. Racist discourse, to which Acton here subscribes, was a product of his own, post-1789 epoch; it was far beyond the intended scope of the secular universalism employed by the Revolution itself to raise the issue of 'racial injustice' when the social one sufficed to legitimise its egalitarian claims.

Yet, says Acton, the idea of equality proclaimed by the French Revolution was essentially an idea of revenge of the once-defeated: its declared universalism was, actually, a disguise for a racist resentment; and the liberty proclaimed was just a 'national', and not a universal one, since it only sought to "cast out the elements of inequality which were introduced by the Teutonic race". Curiously enough, the concept of liberty that sought to establish 'great independent authorities' – as a safeguard of that inequality which had presumably been transmitted to the English through their own, 'Teutonic race' – was to be regarded as non-racially or non-'nationally' biased, despite its having been promoted by the Anglo-Saxon branch of 'the Teutonic race' in opposition to the presumed egalitarian traditions of the 'non-Teutonic races'. And then, the liberty promoted by the advocates of racial and social inequality can be plausibly suspected of being deliberately designed for, and confined to, the privileged classes, whose privilege is to be justified as naturally stemming from their practically demonstrated racial superiority. Hence, nothing would seem more 'unnatural' to Acton than to abolish such, 'naturally' gained, social privileges. Acton's personal antipathy towards social equality led him so far as to imply that the 'Latin nations', by adopting the principles of equality, only demonstrated their

‘natural inferiority’ to, and envy of, ‘the Teutonic race’ – as the chief agency in the spreading of inequality throughout Europe – and, consequently, their natural inferiority to, and envy of, its Anglo-Saxon branch, as the main promoter of the inequality-based liberty i.e. the liberty of, and for, the socially privileged classes.

Thus, for Acton, ‘the theory of nationality’ itself, springing from the French Revolution, had begun as “a protest against the dominion of race over race” and then “grew into a condemnation of every State that included different races, and finally became the complete and consistent theory, that the State and the nation must be co-extensive”.⁴⁴⁴ Quoting Mill’s famous claim that “it is, in general, a necessary condition of free institutions, that the boundaries of governments should coincide in the main with those of nationalities”, as the ultimate stage of development of the theory, Acton rightfully argues that Mill had been the first one to articulate a well-elaborated theory of congruence between ‘national’ and state boundaries (an earlier, less elaborated theory was introduced by Sidney, see the first chapter), later echoed by Gellner in his famous definition of the nationalist doctrine. However, it remains quite obscure whose theory was that which protested against “the dominion of race over race”. The only available explanation, already suggested by Acton, is that the French Revolution promoted such a theory as its hidden agenda, by secretly fighting the ‘Teutonic’ racial dominion over the ‘Latin’ Gaules while openly advocating a universally valid and applicable egalitarianism.

It was only due to the post-revolutionary Napoleonic conquests, says Acton, that “men were made conscious of the national elements of the revolution”, not having been aware of them during the revolution’s rise, so that the popular movement against the Napoleonic conquests was essentially “national, because it was directed against foreign institutions”. Thus, practically, it was Napoleon that “called a new power into existence by attacking nationality in Russia, by delivering it in Italy, by governing in defiance of it in Germany and Spain”.⁴⁴⁵ In all these cases, ‘nationality’ is assumed to have asserted itself in opposition to the French ‘*national*’ (perhaps even to the French ‘*racial*’) and not to the French *imperial*, institutions. The French imperial conquest was thus to be regarded as an export of the French ‘national’ institutions, which helped other ‘nations’ to become aware of their own ‘nationality’ by merely opposing it to the French one.

⁴⁴⁴ *Nationality*, p. 422.

⁴⁴⁵ *Nationality*, p. 418.

However, rather inconsistently, Acton elsewhere⁴⁴⁶ claims that a similar export of the English liberal institutions to the colonies did not cause settler's resistance to these institutions, but rather, in American case, a demand for these institutions to be consistently implemented. Although the American Revolution was, in its consequences, as 'nation'-creating as the French one, Acton never refers to it as the one that actually brought about American 'national' institutions: American institutions, by virtue of being English in their origin, were so designed as to promote the spirit of English liberty, which for Acton necessarily meant the spirit of social inequality.⁴⁴⁷ Thus the non-egalitarian concept of liberty, as long as it remained rigidly non-egalitarian, was safe from becoming '*national*', in spite of its openly proclaimed *English* spirit. Also, such a concept of liberty, as advocated by the South in the American Civil War, was safe from being denounced by Acton as racist, despite its having been openly based on the concept of racial inequality. However, the egalitarian concept of liberty, by virtue of its being French and therefore presumably 'anti-Teutonic', was to be simply denounced as racist and therefore – in Acton's peculiar understanding of 'the nation' as 'race' – as nationalist.

Liberty as Disunity

To what extent social inequality is essential to Acton's understanding of liberty is evident in his radical rejection of the underlying principles of the French Revolution, particularly the principles of equality and unity. For Acton, even French republicanism is not to be seen as a true one, since "true republicanism is the principle of self-government in the whole and in all the parts",⁴⁴⁸ and self-government must either be sacrificed to unity, or preserved by federalism.⁴⁴⁹ Since French republicanism did not introduce federalism, it follows that it sacrificed self-government, and therefore true republicanism, to unity. And then, Acton suggests, this unity is to be understood as meta-historical rather than historical category. In Acton's interpretation, it was thus assumed by the Revolutionaries that the unity of

⁴⁴⁶ See the essay *Colonies*.

⁴⁴⁷ It is, therefore, understandable that Acton, in his famous defence of slavery in the course of the American Civil War, resisted the mere possibility of introducing the principles of social equality – no matter how modestly defined – into his own promised land of fixed social inequality, as had been attempted by America's own leaders in the course of the Civil War.

⁴⁴⁸ *Nationality*, p. 414.

⁴⁴⁹ *Nationality*, p. 415.

‘the French nation’ had existed prior to, and independently from, any social or historical institution:

The France of history fell together with the French State, which was the growth of centuries. (...) The state of nature, which was the ideal of society, was made the basis of the nation; descent was put in place of tradition, and the French people was regarded as a physical product: an ethnological, not historic, unit. It was assumed that a unity existed separate from the representation and the government, wholly independent of the past, and capable at any moment of expressing or of changing its mind. In the words of Sieyes, it was no longer France, but some unknown country to which the nation was transported. The central power possessed authority, inasmuch as it obeyed the whole, and no divergence was permitted from the universal sentiment. This power, endowed with volition, was personified in the Republic One and Indivisible. The tile signified that a part could not speak or act for the whole – that there was a power supreme over the State, distinct from, and independent of, its members; and it expressed, for the first time in history, the notion of abstract nationality.⁴⁵⁰

Interestingly, while referring to ‘the state of nature’, Acton announced the future common places of the nationalist ideology, as referring to the timeless, abstract unity of ‘the nation’; but, he borrowed a concept that, actually, had never been articulated in that form by any of the thinkers who had introduced the notion. Although Acton accurately depicts the logic of the Revolutionaries (and, subsequently, of their nationalist followers), he nevertheless – while confusing and conflating Rousseau’s ‘general will’ with his ‘state of nature’ – does not attempt to clearly associate Rousseau’s theory with the nationalist one.

For Acton, it was “the idea of sovereignty of the people, uncontrolled by the past”, that “gave birth to the idea of nationality independent of the political influence of history”. As such, “it sprang from the rejection of the two authorities – of the State and of the past”.⁴⁵¹ Perhaps it would be more accurate to say the idea of ‘nationality’ *seized*, rather than rejected, both the state and the past (hence not only the revolution but also Hobsbawm’s ‘invention of tradition’). However, it still remains obscure in Acton’s account whether ‘the idea of sovereignty of the people’ is to be found in its entirety in Rousseau’s theory or its foundations may also be traced back to Locke and Sidney. This question is not merely a formal one, since Acton claims that ‘the spirit of English liberty’, springing from the 1688 Revolution (supposedly inspired by Locke’s and Sidney’s ideas), is fundamentally opposed to ‘the spirit of equality’, as promoted by the 1789 French Revolution (supposedly inspired by Rousseau’s ideas).

⁴⁵⁰ *Nationality*, p. 415.

⁴⁵¹ *Nationality*, p. 415.

These two constitute “two views of nationality, corresponding to the French and to the English systems”, which “are connected in name only, and are in reality the opposite extremes of political thought”:

In one case, nationality is founded on the perpetual supremacy of the collective will, of which the unity of the nation is the necessary condition, to which every other influence must defer, and against which no obligation enjoys authority, and all resistance is tyrannical. The nation is here an ideal unit founded on the race, in defiance of the modifying action of external causes, of tradition, and of existing rights. It overrules the rights and wishes of the inhabitants, absorbing their divergent interests in a fictitious unity; sacrifices their several inclinations and duties to the higher claim of nationality, and crushes all natural rights and all established liberties for the purpose of vindicating itself. Whenever a single definite object is made the supreme end of the State, be it the advantage of a class, the safety or the power of the country, the greatest happiness of the greatest number, or the support of any speculative idea, the State becomes for the time inevitably absolute. Liberty alone demands for its realisation the limitation of the public authority, for liberty is the only object which benefits all alike, and provokes no sincere opposition.⁴⁵²

However, the assumption that unity of ‘the nation’, as a necessary condition for imposing the perpetual supremacy of the collective will, presupposes a unit founded on *race* is *not* grounded in the theories – such as that of Rousseau – which were the first to promote the notion of the collective, ‘general will’. In Rousseau’s theory, it is ‘the general will’ that founds ‘the nation’, and unity (which is not one of Rousseau’s favourite terms) is just another name for this Will, not a precondition of its coming into existence. By tacitly assuming that in Rousseau’s theory unity of ‘the nation’ somehow precedes the emergence of ‘the general will’, Acton suggests that this unity is not to be seen as a historical stage arrived at by the public deliberation by which the Social Contract is established, but as an a-historical state – which he conflates with Rousseau’s ‘state of nature’ – in which unity is already *given* as a *unit*; and then, the only unit which is supposed to have preceded the Social Contract, as well as ‘the general will’ reflected in the Contract, can be a *pre-political* unit of *race*.⁴⁵³

This error in interpreting Rousseau’s and Revolutionaries’ categories allows Acton to assert that Rousseau’s theory of collective, ‘general will’ presupposes that ‘the nation’ – seen as a pre-political and pre-societal, ethnological unit – can be founded *on race alone*. True, Acton accurately describes the subsequent interpretation of this theory and of historical events by his own nationalist contemporaries; but he nevertheless distorts both the theoretical and historical foundations of the French

⁴⁵² *Nationality*, p. 424.

⁴⁵³ On the problem of *political* vs. *pre-political* see the first and second chapters.

Revolution itself. As for the theoretical foundations, the claim to supremacy of race would necessarily contradict the claim to supremacy of the Will: for, a will based on, and therefore limited by, pre-voluntary (and hence pre-political) categories, such as race, would cease to possess the unique quality of the free will, namely its absolute freedom; such a will would cease to be supreme over race and therefore over any other cognitive or historical category.

With regard to the historical foundations, Acton simply omits the fact that the Revolutionaries had no grounds in the socio-historical reality of *their* own time to claim ‘the French nation’ to be a unit based on the pre-voluntary and pre-political category of race: it was, actually, due to the visible absence of any such French *race* in the physical-ethnological sense that a need arose for many such pre-voluntary ethnological units to merge into ‘the French nation’ by the (revolutionary) act of establishing ‘the general will’. While it is true that some of the Revolutionaries, such as Sieyès, claimed that ‘the nation’ had precedence over all other ethical, cognitive and voluntary categories, it is both illogical and historically inaccurate to suggest that they ever seriously claimed that ‘the nation’ seen as a *pre-political, pre-societal, racial* unit had actually preceded its own historical – and therefore voluntary and political – birth. Otherwise, if that birth had not been a historical, voluntary and political one, the Revolution itself would have lost its principal rationale, that of asserting ‘the general will’ of ‘the nation’ by establishing ‘the nation’ itself. In other words, if ‘the French nation’ had always existed as a unit of the French race, there would have been no need for the Revolution to actually bring it into being, and there would have been no grounds for the Revolution to legitimise its own outbreak in the name of ‘the nation’s’ liberty. For, according to the Revolution’s self-referential logic, it was logical for the emerging ‘nation’ to demand liberty to assert itself as ever-existing, as it would be absurd for a presumed, ever-existing racial unit to demand liberty to assert itself as emerging.

The fact that Acton nationalist contemporaries subsequently adopted the view that ‘the nation’ was to be regarded as a pre-voluntary, pre-political and pre-societal unit, based on race, language or religion, does not say much about the theory of the Revolution itself. On the contrary, the claim that the French Third Estate – in whose name the Revolution was supposedly launched – was *racially based* only reflects Acton’s own view that the former was not to be regarded as a social class (which, by definition, it was), but as a representative unit of the socially inferior ‘Latin’ race,

which had rebelled against the dominion of the first two Estates (which are, for his purpose, presumed to be of the socially and politically superior ‘Teutonic’ race) on purely racialist grounds. To prove his own racialist logic right, Acton practically redesigns the whole European history in racialist terms, including the episode of the French Revolution.

On the other hand, paradoxically, it is exactly Acton who stresses the essential connectedness of ‘the theory of nationality’ with “the democratic theory of the sovereignty of the general will”. While quoting Mill’s claim that “one hardly knows what any division of the human race should be free to do, if not to determine with which of the various collective bodies of human beings they choose to associate themselves,” Acton clearly sees that “it is by this act that a nation constitutes itself”; for, “to have a collective will, unity is necessary, and independence is requisite in order to assert it.”⁴⁵⁴ Acton’s insight obviously refers to Rousseau’s concept of ‘the general will’. Unlike most of his contemporaries (e.g. Mill and other promoters of the nationalist doctrine), Acton here does *not* presuppose the existence of ‘the nation’ as a given, a-historical, pre-political category, whose ‘general will’ is to be articulated only in its own, independent state (thus exercising a collective form of ‘negative liberty’); for him, such a ‘nation’ is constituted at a particular point in history, by a voluntary, political act of contractual association (as an exercise of ‘positive liberty’). Thus it is suggested that the existence of ‘the nation’ does not precede the will “to exist and have name”, as Mazzini put it: it is the will-to-exist-and-have-name that, actually, constitutes ‘the nation’.

As unity is seen as a precondition for ‘the general will’ to assert itself, both unity and ‘the general will’, according to the theory’s self-referential logic, are presumed to be already contained in a demand for political independence; it is thus understood that a demand for political independence alone always signals the existence of both unity and ‘the general will’; or, in other words, that such a demand itself signals the existence of ‘the nation’. According to this arbitrary principle, any number of individuals may claim its own will to power in the form of political independence to be ‘the general will’ (as, indeed, people like Mazzini actually did), thereby asserting themselves as ‘the nation’, whose unity is presumed to have been expressed by their very claim to independence. Thus the arbitrary will to power, presented as ‘the

⁴⁵⁴ *Nationality*, p. 423.

general will' and centred around the hitherto unknown entity called 'the nation', may well bring such a fictional entity into being, while retrospectively depicting it as a 'natural division of the human race'. Or, as Gellner famously put it so many years later, "nationalism invents nations where they do not exist". Acton's great achievement was that he had recognised this arbitrary power of 'the theory of nationality', as promoted by both Mazzini and Mill, as well as its essential connectedness with another theory which he saw as a theory of arbitrary power, that of democracy.

Democracy as Tyranny

In Acton's view, both theories, one of democracy and that of 'nationality', inevitably lead to the establishment of absolute power, insofar as the people's sovereign power is, by the very definition of sovereignty, absolute:

The true democratic principle, that none shall have power over the people, is taken to mean that none shall be able to restrain or to elude its power. The true democratic principle, that the people shall not be made to do what it does not like, is taken to mean that it shall never be required to tolerate what it does not like. The true democratic principle, that every man's free will shall be as unfettered as possible, is taken to mean that the free will of the collective people shall be fettered in nothing.⁴⁵⁵

Absolute power – to paraphrase Acton's most famous statement – threatens individual liberty absolutely, more so since the latter, too, aims at being absolute. Unity, too, is the absolute threat to individual liberty, since the former, quite like the latter, by definition, also aims at being absolute. The sovereignty of the people, then, by being defined as absolute, one and indivisible, presupposes the people's absolute unity; and, since this sovereign power, by virtue of being indivisible, cannot be divided among several states, it follows that the people, in order to assert their sovereignty, must possess not only moral but also physical unity within the boundaries of one state.

Of course, an argument can be made that the physical extension of the state sovereignty may well determine '*who are the people*', whose physical unity within the state boundaries is assumed to reflect the moral unity, centred in the allegiance to the state itself (this is what Acton calls 'patriotism'). However, such an argument

⁴⁵⁵ *Essays on Freedom and Power*, p. 159.

would be directly opposed to the central assumption of the nationalist theory, that of the state boundaries being a product of historical accident, which must not determine the people's destiny, since it would thus inevitably deny the sovereignty of the people's will to determine its own destiny. And, although not being directly opposed to the democratic theory, this argument would nevertheless pose a problem for the theory itself: once it is admitted that the question of 'who are the people' may be determined by anything which is *not* the people's sovereign will (e.g. by historical accident), the claim to sovereignty of the people's will ceases to be absolute, and so does sovereignty itself. For Acton, this confirms the essential affinity between the nationalist theory and the democratic one, provided that the latter is consistently applied. Diametrically opposed to the democratic and nationalist theories, both of which Acton puts under the joint label of 'the theory of unity', is his theory of liberty:

While the theory of unity makes the nation a source of despotism and revolution, the theory of liberty regards it as the bulwark of self-government, and the foremost limit to the excessive power of the State. Private rights, which are sacrificed to the unity, are preserved by the union of nations. (...) The co-existence of several nations under the same State is a test, as well as the best security of its freedom. It is also one of the chief instruments of civilisation; and, as such, it is in the natural and providential order, and indicates a state of greater advancement than the national unity which is the ideal of modern liberalism.⁴⁵⁶

Thus a 'multi-national' state, modelled after the British and Austrian empires, becomes Acton's ideal form of government, in terms of imposing "a firm barrier against the intrusion of the government beyond the political sphere". In his favourite terms, "the presence of different nations under the same sovereignty is similar in its effect to the independence of the Church in the State".⁴⁵⁷ Still, in Acton's 'multi-national' empire, unlike in the traditional ones, 'nations' do not merge into a numberless mass of empire's subjects nor do they dissolve into an atomised society, consisting of isolated individuals: 'nations' remain not only present within the empire but internally fairly homogenous, in order to be able to act as corporate bodies and thus check and balance each other. This implies that the homogeneity of 'nations' within the 'multi-national' empire is still regarded as a useful means to liberty – which can only be achieved through a system of checks and balances – and not as the necessary precondition of liberty itself, as Mill tends to see it.

In this way, Acton's 'nations' are portrayed as analogous (although not necessarily

⁴⁵⁶ *Nationality*, p. 425.

⁴⁵⁷ *Nationality*, p. 425.

as historical successors) to the medieval corporations,⁴⁵⁸ acting as a check against potential absolutism of the empire and balancing each other's position within the empire. Thus it may be said that the level of homogeneity required for such 'nations' is lesser than that of 'nations' within 'the nation-state system': it never rises to the point of absolute collective individuality possessing a single collective mind and will, but remains on the level of corporate integration, where common will is not presupposed but is rather to be permanently *opted for* through complicated consensus-reaching procedures. Acton's 'nations' are thus to be seen as corporate bodies, endowed with a means to produce their own corporate will, rather than as collective individuals endowed with their own individual will. However, 'nations', as a cognitive frame and a practical-political category, still remain uncontested in Acton's account of the 19th-century political reality. What is contested, in relation to Mill's account, is whether they should produce a state of their own (and state, for Acton, necessarily tends to be absolutist), which would remain unchecked and be balanced only against other such states (which, then, could only strengthen their inherent absolutist tendencies); or, they should only check potential absolutism of the existing empire and balance each other's interests within the empire.

Clearly, Acton's ideal society, in which corporations check and balance each other as well as the state, was to be found in the Medieval Europe:

The three-cornered struggle of Pope, emperor and feudal lords left no room for ideas of absolute sovereignty. (...) From these cross-currents of interests there emerged a fund of constitutional principles: representative government, no taxation without representation, the moral right of insurrection, the extinction of slavery, trial by jury, local self-government, ecclesiastical independence, even the ideas of Habeas Corpus Act and the income tax. If there was any notion of sovereignty, it adhered primarily to the corporation, and it was in the impunity enjoyed by the corporation, by powerful classes and privileged associations, that liberty took refuge.⁴⁵⁹

What Acton failed to see was that it was exactly the sovereignty of the corporation that was simply translated into the sovereignty of 'the nation', once a coalition of corporations or a single corporation – the middle class or the Third Estate – had been elevated onto the level of the entire 'nation', that is, proclaimed 'the nation' itself

⁴⁵⁸ Acton portrays the early 'Teutonic' communities as "a system very favourable to corporations, but offering no security to individuals. The state was not likely to oppress its subjects; and was not able to protect them." (*History of Freedom in Christianity*, in *Essays in the History of Liberty, Selected Works of Lord Acton*, Vol. I, p. 31)

⁴⁵⁹ Himmelfarb 1962, p. 138.

and, as such, made coextensive with the state whose power it had forcefully usurped.⁴⁶⁰

Christian vs. 'National' Unity

However, it was far more important for Acton that the Middle Ages was also the period of undisputed supremacy of the Catholic Church, in which “all Western Europe obeyed the same laws, all literature was contained in one language, and the political unity of Christendom was personified in a single potentate, while its intellectual unity was represented in one university”. Thus “it was the mission of the Church to overcome national differences” from the previous epochs. For, unlike in the Middle Ages, “in pagan and uncultivated times”,

Nations were distinguished from each other by the widest diversity, not only in religion, but in customs, language, and character. Under the new law they had many things in common; the old barriers which separated them were removed, and the new principle of self-government, which Christianity imposed, enabled them to live together under the same authority, without necessarily losing their cherished habits, their customs, or their laws. The new idea of freedom made room for different races in one State.⁴⁶¹

Acton never claimed that the political and intellectual *unity* of the Christendom may have ever been an obstacle for liberty to develop, as he claimed to have been the case with ‘national’ unity. Thus Acton says that “the new principle of self-government” was *imposed* by Christianity, *enabling* ‘nations’ to “live together under the same authority”: in the European ‘society of nations’, established by the Universal Church, ‘nations’ were, to use Rousseau’s famous paradox once again, *forced to be free*. Indeed, the old barriers which separated them were removed without necessarily depriving them of their cherished habits, their customs or their laws, but only provided that they all accepted one religion, obeyed one supreme authority of the Universal Church and subscribed to the unity imposed on them: thus, practically, no one was permitted *not* to be ‘free’ to “live together under the same authority”.

The fact that it was the authority of the Church and not the authority of ‘the nation-

⁴⁶⁰ Similarly, in the European part of the former Ottoman Empire ‘nations’ have developed from the former autonomous religious communities, called ‘millets’, which in such a multi-religious state played the role analogous to that of the medieval corporations in other, mono-religious European states.

⁴⁶¹ *Nationality*, pp. 426-7.

state' was, of course, crucial to Acton; but, that does not necessarily provide his argument with moral authority, let alone with the authority of historical truth: the argument itself seems to be a simple inversion of the common nationalist claim that the principle of self-government, imposed by 'the nation-state', enabled people to live together under the same authority, without necessarily losing their cherished religious rites. Thus the nationalist may well claim that the new idea of liberty, embodied in 'the nation-state', made some room for different Christian denominations within one state, provided that they all obey the same laws, the same political and intellectual authority (e.g. 'national academy of arts and sciences'), and write literature in the same language. And, indeed, beginning with the French Revolution, nationalist ideologues regularly claimed that it was the mission of 'the nation-state' to overcome religious differences. Thus, to the nationalist, the worshiping of 'the nation-state' would be an ethical equivalent of what the worship of the Church was to the clerical. The fact that they would both refer to a transcendental being – invoking, respectively, 'the nation' and God – does not make their allegiance to the earthly institutions less significant. In both cases, the degree of freedom in a society dominated by the institutions of the Church and 'the nation-state' was proportionate to the allegiance to these institutions, with freedom (and sometimes life itself) having principally been denied to all those who denied, or failed to perform, such a commanded allegiance. In this sense, the record of the Inquisition was no less notorious than that of the Terror, and Acton's simple inversion of the nationalist claims fails to persuade an impartial reader.

The Isolation of 'Nations'

However, Acton's claim that "the combination of different nations in one State is as necessary a condition of civilised life as the combination of men in society"⁴⁶² has much greater persuasive power. Thus, protesting against "the isolation of nations"⁴⁶³ imposed by 'the theory of nationality', he warns – quite in the opposition to Mill – that "where political and national boundaries coincide, society ceases to advance, and nations relapse into a condition corresponding to that of men who renounce

⁴⁶² *Nationality*, p. 426.

⁴⁶³ *Nationality*, p. 427.

intercourse with their fellow-men”.⁴⁶⁴ It is significant that Acton does *not* extend the parallel with “men who renounce intercourse with their fellow-men” so as to label the phenomenon as ‘the *self*-isolation of nations’. His intuitive insight thus implies the existence of an unnamed external agency – which he tends to identify with ‘the theory of nationality’ itself – that actually *isolates* ‘nations’ and thus prevents them not only from combination but, more importantly, from communication with each other.

It is not disputable for Acton that this agency’s goal – that of ‘isolation of nations’ – is contrary to the principles of civilised life. What is striking, however, is the hint that ‘nations’ themselves do *not* freely choose to renounce intercourse with their fellow-‘nations’, but that such a choice is made for them by an agency external to them. A successful ‘isolation of nations’ – provided that it is generated by an external agency – would soon promote such an agency into a power controlling actions and lives of these ‘nations’. Thus understood, Acton’s claim that the “greatest adversary of the rights of nationality” is exactly ‘the theory of nationality’ looks less paradoxical:

By making the State and the nation commensurate with each other in theory, it reduces practically to a subject condition all other nationalities that may be within the boundary. It cannot admit them to an equality with the ruling nation which constitutes the State, because the State would then cease to be national, which would be a contradiction of the principle of its existence. According, therefore, to the degree of humanity and civilisation in that dominant body which claims all the rights of the community, the inferior races are exterminated, or reduced to servitude, or outlawed, or put in a condition of dependence.⁴⁶⁵

‘The nation’, for Acton, ought to be derived from the state in the political process, not supreme over it; hence, “a State may in course of time produce a nationality; but that a nationality should constitute a State is contrary to the nature of modern civilisation”. For, “the difference between nationality and the State is exhibited in the nature of patriotic attachment: our connection with the race is merely natural or physical, whilst our duties to the political nation are ethical”.⁴⁶⁶ The ‘nationality’ formed by the state, then, “is the only one to which we owe political duties, and it is, therefore, the only one which has political rights”.⁴⁶⁷ In this respect, Acton’s view is not unlike that of Rousseau.

However, in this way, far from entirely dismissing ‘nationality’ as an organisational

⁴⁶⁴ *Nationality*, p. 426.

⁴⁶⁵ *Nationality*, p. 431-2.

⁴⁶⁶ *Nationality*, p. 427.

⁴⁶⁷ *Nationality*, p. 429.

principle of (or within) the state, Acton only rejects the principles of *ethnic nationalism*, which advocates *pre-political*, ethnic units, as the bases for modern 'nations'. Inconsistently for someone who advocated the theory of checks and balances against the absolutist state, he practically endorses the principles of the state-promoted, *civic nationalism*, regardless of whether these principles lead to a greater unity within society (and thus threaten the 'liberty' based on the system of checks and balances) or not.

History of Freedom

The historical unfolding of the concept of liberty in Acton's account is regarded as the end of all human history. He considered the idea of liberty "the unity, the only unity, of the history of the world, and the once principle of a philosophy of history".⁴⁶⁸ His ambition to write a history of liberty was thus conceived as no less than an effort to write a teleological history of mankind. History of mankind, thus understood, necessarily becomes the history of ideas: for, "the history of institutions is often a history of deception and illusions; for their virtue depends on the ideas that produce and on the spirit that preserves them; and the form may remain unaltered when the substance has passed away."⁴⁶⁹ Still, liberty itself depends upon no single idea or institution; all ideas and institutions depend upon it.⁴⁷⁰

However, despite its being understood as the end of all history, liberty for Acton is, paradoxically, clearly associated with a particular historical and geographic context. Taking a particular time- and space-bound concept as a universal end to which the human race ought to aspire is, of course, a highly problematic endeavour; as such, it tends to denounce all the diverging and opposed concepts and practices as a-historical or even anti-historical. This equally applies to diverging concepts and practices within the given historical and geographic framework, as well as to those that diverge from, and are opposed to, the proclaimed end of history simply by virtue of not belonging to that particular framework. Acton does not seem to be aware of this problem when he concedes that "at all times sincere friends of freedom have been rare, and its triumphs have been due to minorities, that have prevailed by associating themselves with

⁴⁶⁸ Cambridge University Library, Add. MSS., 4991. Cited in Himmelfarb 1962, p. 132.

⁴⁶⁹ *Essays in the History of Liberty*, p. 6.

⁴⁷⁰ Himmelfarb 1962, p. 143.

auxiliaries whose objects often differed from their own”.⁴⁷¹ However, such a concession makes it difficult to appreciate the historical significance of the social concept that has almost always been opposed by the majority within the given historical, geographic and social context. And the problem is even worsened by postulating the concept of liberty so narrowly as to fit practically only one particular social stratum within such a context, as the opening paragraph of *The History of Freedom in Antiquity* suggests:

Liberty, next to religion has been the motive of good deeds and the common pretext of crime, from the sowing of the seed at Athens, 2,460 years ago, until the ripened harvest was gathered by men of our race. It is the delicate fruit of a mature civilization; and scarcely a century has passed since nations, that knew the meaning of the term, resolved to be free. In every age its progress has been beset by its natural enemies, by ignorance and superstition, by lust of conquest and by love of ease, by the strong man’s craving for power, and the poor man’s craving for food.⁴⁷²

The sphere of liberty’s application is thus conceived as confined to the intermediary social stratum, squeezed between those who ‘crave for food’ and those who ‘crave for power’. However, by demarcating the boundaries of liberty’s application as confined to a particular social stratum (practically, the middle class proper, plus the lower clergy and the lower nobility), Acton practically admits that liberty’s significance, far from being universal, is also confined to that particular class. The craving for liberty thus arises as a particular interest of the class that holds that the cravings for food and/or for power are to be dismissed as illegitimate or irrelevant and who regard their own craving for liberty as the only relevant and legitimate aspiration of human kind. The delicate fruit of liberty, in Acton’s interpretation, thus remains not only confined to a particular class (his own); it remains equally confined to a particular civilisation (his own), defined in terms of time (his own) and race (his own).

However, what is striking in this account of liberty is that such liberty, whose meaning was known only to those who belonged to one particular social, racial and historical context, was actually known to, and realised by, ‘nations’ and not by individuals, as one might expect. Of course, it may be said that both ‘our’ class and race comprise a number of ‘nations’, as well as a number of individuals; but the statement nevertheless suggests that ‘nations’ have been, or were to be seen as,

⁴⁷¹ *Essays in the History of Liberty*, p. 5.

⁴⁷² *Essays in the History of Liberty*, p. 5.

proper (that is, *legitimate*) units for the historical realisation of liberty. In addition, it is also suggested that these ‘nations’ are to be seen as some kind of collective individuals, possessing both collective knowledge (of what liberty is) and collective resolution i.e. will (to actually be free). Rather inconsistently for someone who previously dismissed Mill’s ‘theory of nationality’, Acton thus portrays the eventual attainment of liberty not only as an inevitable (i.e. involuntary) fruit of a ‘mature civilisation’ but as a result of these collective individuals’ *voluntary* resolution to finally be free.

It should still be noted that this view implies that ‘nations’ are to be seen *not* as ethnological (i.e. pre-political) but as *voluntary* (i.e. political) categories, subject only to the law of history, which unevenly distributes the knowledge of what liberty is and therefore unevenly distributes liberty itself among the units of (‘Teutonic’ or Anglo-Saxon?) race called ‘nations’. What is also striking is that Acton sees liberty as having been historically realised only in the era in which ‘nations’, as collective individuals possessing their own will, “resolved to be free”; and, it is difficult to link this ‘resolution’ of ‘nations’ with anything other than the 18th- and 19th-century ‘national revolutions’, which Acton had principally rejected as illegitimate.

Liberty as Conscience

In more individualistic terms, Acton defines liberty as,

The assurance that every man shall be protected in doing what he believes his duty, against the influence of authority and majorities, custom and opinion. The state is competent to assign duties and draw the line between good and evil only in its own immediate sphere. Beyond the limit of things necessary for its well-being, it can only give indirect help to fight the battle of life, by promoting the influences which avail against temptation – religion, education, and the distribution of Wealth. In ancient times the state absorbed authorities not its own, and intruded on the domain of personal freedom. In the middle ages it possessed too little authority, and suffered others to intrude. Modern states fall habitually into both excesses. The most certain test by which we judge whether a country is really free is the amount of security enjoyed by minorities.⁴⁷³

While for Mill liberty is a license to do what one pleases, whereby the only moral duty is not to inflict injury upon others, Acton’s conception of liberty seems rather related to the Kantian conception of the categorical imperative. However, while for

⁴⁷³ *Essays in the History of Liberty*, p. 7.

Kant obedience to this inward moral law alone can make the individual free, for Acton the individual is free only when it is assured that his doing what he believes to be his moral duty is not interfered with by any external agency or structure. Thus Acton practically made some kind of a not-so-happy compromise between these two, mutually contrasted, concepts of liberty. Mill's hypothetical objection to this compromise might be that one's highest duty is to do what he pleases (provided that it is about the pursuit of 'higher' rather than 'lower' pleasures), so that the concept of duty employed by Acton would simply appear to him as redundant. Kant's objection might be that what one believes to be his duty does not necessarily correspond to what his moral duty actually is. While Acton would certainly dismiss the first objection as immoral and worthy of contempt, he would have more problems to address the second one. What he would probably do in response to it is to employ the external point of reference, by invoking the concept of 'the higher law', revealed to man in the form of religion. Thus what one believes to be his duty would be determined by 'the higher law', which he would flawlessly follow.

But, the problem with this argument is contained in Acton's own understanding of religion. Although Acton would undoubtedly declare religion as a matter of man's conscience, it is difficult to relate his understanding of religion to anything resembling "a private matter between man and his Maker", as Mill put it. There is very little in Acton's account of religion that points to the essentially private sphere of personal faith. Religion is there rather understood as a set of socially institutionalised, externalised collective practices (and, as such, principally distinct from, but essentially related to, the public sphere), whose main quality is its presumed sovereignty in relation to any other external authority within the public sphere. Thus the central event in the whole history of liberty is the moment when the sphere of religion was distinguished and separated from the public sphere proper i.e. the state:

The Stoics could only advise the wise man to hold aloof from politics, keeping the unwritten law in his heart. But when Christ said: "Render unto Caesar the things that are Caesar's, and unto God the things that are God's," those words, spoken on His last visit to the Temple, three days before His death, gave to the civil power, under the protection of conscience, a sacredness it had never enjoyed, and bounds it had never acknowledged; and they were the repudiation of absolutism and the inauguration of Freedom. For our Lord not only delivered the precept, but created the force to execute it. To maintain the necessary immunity in one supreme sphere, to reduce all political authority within defined limits, ceased to be an aspiration of patient reasoners, and was made the perpetual charge and care of the most energetic institution and the most universal association in the world. The new law, the new

spirit, the new authority, gave to Liberty a meaning and a value it had not possessed in the philosophy or in the constitution of Greece or Rome, before the knowledge of the Truth that makes us free.⁴⁷⁴

Therefore, liberty is understood as the point of distinction between these two realms and, as such, it is regarded as “the essential condition and guardian of Religion”.⁴⁷⁵ Perhaps a more consistent believer in the Transcendental, Absolute Being would say that the essential condition and the only guardian of religion is one’s own faith, as a category beyond the sphere of temporal power. As such, faith – just like Kant’s categorical imperative – cannot be ‘essentially’ conditioned by any particular socio-political concept; nor can it be conditioned by the scope of its application. On the other hand, by defining religion as essentially dependent on the existence of one particular socio-political concept, that of liberty, Acton practically reduced religion to a simple exercise of one’s religious ‘duties’, which is just another name for the set of socially institutionalised, externalised collective practices.

Thus Acton practically took the idea of conscience out of metaphysics and placed it within the public sphere. While conscience itself was the metaphysical warrant for liberty, the conflict of consciences was its empirical security: “Our conscience exists and acts for ourselves. It exists in each of us. It is limited by the consciences of others.... Therefore it tends to restrict authority and to enlarge liberty. It is the law of self-government.”⁴⁷⁶ Compared to Mill’s concept of liberty, in which the scope of freedom of the individual – just like in Hobbes’s ‘war of all against all’ – is limited by, and potentially always in conflict with, the scope of freedom of others, Acton’s concept of liberty is essentially *self-restrictive*, in terms of limiting the liberty of action by the scope of conscience itself, thereby preventing a Hobbesian war of one liberty against others.

Following the proposed logic of externalisation of conscience, Acton would probably claim that the adherence to a set of social practices that refer to the inward moral law is practically identical with the adherence to the inward moral law itself. And various 20th-century theories would certainly claim that such a set of institutionalised practices necessarily and decisively shape the inward articulation of what Kant termed as the categorical imperative. However, the problem with the

⁴⁷⁴ *Essays in the History of Liberty*, p. 28.

⁴⁷⁵ *Essays in the History of Liberty*, p. 7.

⁴⁷⁶ Cambridge University Library, Add. MSS., 4901. Himmelfarb 1962, p. 240.

externalisation of Kant's categorical imperative – be that its identification with, or causal linking to, the set of institutionalised social practices – is that it practically abolishes this concept's essential features, one of being 'categorical' and that of being 'imperative'. For, there is nothing 'categorical' or 'imperative' in the public sphere where Acton places his conscience-based concepts of religion and liberty: as such, all the categories within society, including the dominant moral codes and practices, are essentially *relational* and therefore negotiable. Thus what one believes to be his duty, as referring to the commonly accepted religious and moral practices, does not necessarily correspond to what his moral duty actually is, as defined by the Kantian principle. Nor does the obedience to those practices necessarily make the individual free. While that might be conditionally true within the framework of Rousseau's 'general will', in both Mill's and Acton's accounts of liberty such obedience to 'authority and majorities, custom and opinion' would be regarded as the exact opposite of individual freedom.

Liberty as Privilege

Notwithstanding the problem related to Acton's flirting with the Kantian concept of categorical imperative, Acton's more fundamental problem is to prove that the adherence to a set of socially institutionalised religious practices is in any way morally superior to adherence to any other set of socially institutionalised practices, which he contemptuously calls 'authority', 'majority', 'custom' or 'opinion', and that, as such, should be given a freer scope of expression, as compared to that of other social practices.

A related problem is also present in his advocacy of a freer scope of expression and action for the socially privileged classes, as compared to that of the less privileged ones. As Acton's public defence of slavery in America suggests, he seems to have considered the slaveholders' claim to liberty morally superior to that of the slaves. While he may well have sympathised with the confederative principles advocated by the South rather than with the federative ones promoted by the North, it is hard to understand why the liberty of the slaveholders should principally take moral precedence over that of the slaves, unless one assumes that the former have some intrinsic moral quality which distinguishes them from the latter. This quality, then,

can only be related either to the former's social, racial or religious superiority, all of which were appreciated in Acton's accounts of the American Civil War.

Along the same lines, it is morally equally problematic to prove, say, that the liberty of the Catholic minority in England and the liberty of the aristocratic minority in the same country (both of which he himself accidentally belonged to) should be given priority over the liberty of both the Anglican majority and the majority of the underprivileged. However, Acton never really attempts to address this problem: instead, he simply employs the axiom that liberty is essentially a matter of protection of minorities, regardless of whether it practically protects their rights or their privileges, and regardless of whether it checks the omnipotence of the majority or deprives it of any power. In both cases, the gap between the universalist nature of the concept of liberty and the rigid social stratification regarded as a *conditio-sine-qua-non* of the liberty of a particular social class led Acton to employ an ideology which attempts to make the gap logically sustainable. That ideology is necessarily based on arbitrary exclusion of one racial or social group from the scope of liberty's application by virtue of its being temporarily or permanently unprepared for liberty's blessings. Regardless of whether such an ideology is to be labelled as 'racism' or 'classism', it necessarily reduces the significance of liberty to an exclusive concept, designed for a particular social or racial group.

Liberty Under Divine Authority

While defining liberty as the essential condition of the exercise of religious practices, Acton finds the first illustration of this claim "in the history of the chosen People". This example reveals once again that his understanding of liberty is essentially related to groups rather than to individuals (as much as that of the rest of authors analysed in this thesis). For Acton, however, it suffices that "the government of the Israelites was a Federation, held together by no political authority, but by the unity of race and faith, and founded, not on physical force, but on a voluntary covenant", to recognise that its result was – liberty.⁴⁷⁷ Ironically, this understanding of liberty is, actually, not so far from that of modern nationalists, who regard the ideal collective individual called 'the nation' as being held together not only by a voluntary covenant but, much more

⁴⁷⁷ *Essays in the History of Liberty*, p. 7.

importantly, by ‘the unity of race and faith’. The difference between Acton’s view and theirs is that, for them, such a unity, based on a voluntary contract, is sufficient to preserve liberty – indeed, that it is liberty itself – while Acton regards federation as a necessary check against that unity, that is, against the potential hegemony of the majority within it. However, it is difficult to see how, actually, the breaking up of unity into sub-units can in itself protect *individual* liberty within these sub-units. These sub-units, once established, also run the risk of internal homogenisation and may well come to be perceived as collective or corporate individuals, within which, by definition, hegemony of the majority is absolute. What federalisation may certainly protect is the liberty of a particular sub-unit, against encroachments of the whole. As such, this liberty is not at all concerned with the individual and is necessarily a collective or corporate one.

Still, for Acton, “the example of the Hebrew nation laid down the parallel lines on which all freedom has been won – the doctrine of national tradition, and the doctrine of the higher law”. ‘The doctrine of the higher law’ certainly plays an important role in Acton’s understanding of liberty as a license for one to do whatever he thinks to be his duty. However, as demonstrated above, even this duty is less about one’s individual relationship with the Absolute; much more importantly, it is about exercising certain practices within the religious community to which one belongs. But the claim that all freedom has been won on ‘*the doctrine of national tradition*’ has even less individualistic implications than the doctrine of duty towards one’s religious community. As such, it shows that Acton’s departure from the 19th-century Millian ‘*national liberalism*’ was much less radical than the rhetoric of his essay *Nationality* might suggest. For Acton, no less than for Herder, “the operation of these two principles”, one of ‘national tradition’ and one of ‘the higher law’, occupies the whole history of freedom.

*The history of freedom is thus seen as the history of “the conflict between Liberty under divine authority” – defined as the joint operation of the principles of ‘national tradition’ and ‘the higher law’ – and “the absolutism of human authorities”.*⁴⁷⁸ “To that conflict of four hundred years,” says Acton, “we owe the rise of civil liberty.” If the struggle had terminated speedily in an undivided victory, “all Europe would have sunk down under a Byzantine or Muscovite despotism”. For, “the aim of both

⁴⁷⁸ *Essays in the History of Liberty*, p. 8.

contending parties was absolute authority". Thus liberty was not the end for which they strove; but "it was the means by which the temporal and the spiritual power called the nations to their aid". In the process of such group mobilisations in the name of liberty, "the towns of Italy and Germany won their franchises, France got her estates general and England her parliament out of the alternate phases of the contest; and as long as it lasted it prevented the rise of Divine Right."⁴⁷⁹

The logic of this asymmetric relation, consisting of 'liberty under divine authority' on one side and 'the absolutism of human authorities' on the other, suggests that Acton finds it axiomatic that *'divine authority' necessarily presupposes liberty, whereas the human one necessarily presupposes absolutism*. While pessimists in all times would easily join him in the latter claim, he would probably find little support for the former one in the late modern, thoroughly secularised world, in which liberty is commonly portrayed in Mill's terms, as a mere licence for doing as one pleases. However, what is much more problematic for Acton's argument is his inability to develop the liberating principle of moral duty, as derived from that of 'divine authority'. True, he quotes with approval the words of the Stoic Zeno, that "true freedom consists in obeying God",⁴⁸⁰ which were also taken up by Kant and Rousseau respectively in their own concepts of freedom as obedience to 'the categorical imperative' i.e. to 'the general will'. However, Acton's understanding of 'duty' remains confined to the sphere of practice, as an externalised exercise of the obedience to 'divine authority', thus falling too short of the sphere of inward principles. This externalised, institutionalised and ritualised exercise alone seems incapable of liberating its adherents; by virtue of being expressed as a social practice, such obedience to 'divine authority' requires a free scope for itself, that is, for its own externalised exercise.

Liberty thus – contrary to Acton's claim that it is the "highest political end"⁴⁸¹ – arises as a means to the end of *socially institutionalised religious practice*, not as an end of that practice, as the formula 'liberty under divine authority' might misleadingly suggest. Although religion is thus granted priority over liberty, the former alone is unable to generate the latter: understood as a set of institutionalised practices, it can only demand liberty for its own social application and reproduction.

⁴⁷⁹ *The History of Freedom in Christianity*, in *Essays in the History of Liberty*, p. 33.

⁴⁸⁰ *Essays in the History of Liberty*, p. 24.

⁴⁸¹ *Essays in the History of Liberty*, p. 22.

What, then, actually constitutes liberty, and thus provides religion with a free scope for its social application and reproduction, is the mere distinction between religion and the public sphere proper (i.e. the state). However, it remains obscure why liberty needs ‘divine authority’ for its own existence, unless it is understood as a mere instrument for ‘divine authority’ to manifest itself on the societal level. But, if that authority requires the temporal category of liberty to actually manifest itself (presumably, in the opposition to the state’s temporal power), its divine nature can then be rightfully put into question.

National vs. Religious Communities

Although Acton portrays the history of freedom as the history of the lasting conflict “between Liberty under the divine authority and the absolutism of human authorities”, the logic of his own statement does not prevent him from claiming that “Liberty is ancient; and it is Despotism that is new”.⁴⁸² Regardless of whether one historically precedes another or not, it should be noted that the logic of the latter claim is based on Acton’s insight that “until societies are tried by the complex problems of civilisation they may escape despotism, as societies that are undisturbed by religious diversity avoid persecution”.⁴⁸³ Despotism is thus depicted as a matter of degree in development of civilisation. According to Mill’s supreme criterion of ‘the progress in civilization’, despotism should then be understood as necessarily superior to liberty. However, in Acton’s philosophy of history (very much like in Rousseau’s), what is ancient is necessarily superior to that what is new. Still, this does not clarify how a ‘mature civilisation’ can, and why it actually should, re-discover the supposedly ancient concept of liberty. For, the proposed logic suggests that the complexity of problems does not decrease with the maturity of civilisation, so that despotism, as a proposed solution to this complexity, does not wither away, but only strengthens as the complexity increases. And, then, the ancient concept does not seem adequate to respond to the growing complexities of a mature civilisation.

The implications of the other claim, that “societies that are undisturbed by religious diversity avoid persecution”, are even more problematic. For, it is suggested that religious diversity as such ‘disturbs’ society, and that societies that are ‘disturbed’ by

⁴⁸² *Essays in the History of Liberty*, p. 8.

⁴⁸³ *Essays in the History of Liberty*, p. 9.

religious diversity do not, and perhaps even can not, avoid persecution. Thus, in order to avoid persecution – which in Acton’s system of values is regarded as the most negative of all social phenomena – it may well be proposed for such a diversity to be broken up into several homogenous or semi-homogenous units, and thus prevent any possible ‘disturbance’ of society and avoid ‘persecution’. Acton does not go so far as to explicitly propose such a solution but, nevertheless, *he* seems *disturbed* by religious diversity and prone to simplification of such complexities. His discomfort with diversity thus corresponds with Mill’s suggestion that countries ‘disturbed’ by the presence of different ‘nationalities’ cannot possibly possess ‘free institutions’ that would make persecution unfeasible. The difference between the two, of course, resides in Acton’s adherence to the concept of religious community as the most (or, perhaps, the only) relevant social unit, and his refusal to adopt Mill’s unit of ‘nationality’ as the most relevant for determination of the state’s character. Otherwise, a state that would be determined by, and demarcated as coextensive with, the unit of religious community would probably be quite acceptable to Acton, which can be seen in his frequent use of terms like ‘Christian country’, ‘Christian state’, and ‘Christian people’. What is not clear, however, is whether Acton would go as far as Mill does in suggesting that the despotism of the state, as a response to religious diversity, should be overcome by breaking up all the societies ‘disturbed’ by such diversity into smaller homogenous religious communities, in order to eventually pave the way for liberty.

Acton’s permanent swinging between individual and communal/corporate liberty makes it difficult to understand to which of these two he actually granted priority. On one hand, he denounced Protestantism for the abolition of medieval corporations and the isolation of the sovereign individual. On the other hand, with regard to the collective rights of ‘nations’ and races, he seems to have held the position that it was only “the individual man, created in the image of God and partaking of His sanctity, who possessed moral and political rights”, while races and ‘nations’ principally had no rights.⁴⁸⁴ However, unlike those of races and ‘nations’, the rights of religious groups were for Acton essential for the promotion, and indeed, for the very existence of liberty. Of course, he would probably claim that these groups’ relation to God was a result of individuals’ relation to God and that this relation was the essential aspect

⁴⁸⁴ Himmelfarb 1962, pp. 182-3.

of the latter's liberty, implying both the right of individuals to relate themselves to God and their responsibility before God for doing so. But, this theological dimension in his understanding of individual liberty does not necessarily grant religious groups the collective rights he otherwise denied to races and 'nations'. On the contrary, the fact that for most part of his life he was a militant Catholic only testifies to his personal biases with regard to the categories which he himself held important, but does not preclude racists or nationalists from exercising the same rights which Acton wanted to reserve for Catholics. While principally rejecting Gobineau's doctrine of race as "one of many schemes to deny free will, responsibility, and guilt, and to supplant moral by physical forces",⁴⁸⁵ Acton thus failed to apprehend that for a racist or a nationalist, racism and nationalism are both physical and *moral* categories. Thus they would probably claim that membership in a community of race or in 'the nation' presupposes certain moral outlook and that such a membership is, indeed, a condition of morality, regardless of whether this condition itself is practically conditioned by physical forces or not. Although it is convenient for a racist or a nationalist to think of their races or 'nations' as having been physically determined, it is nevertheless of the utmost importance for them to depict their membership as morally credited. In this sense, their advocacy of collective rights and liberties for their races and 'nations' was no less grounded than Acton's advocacy of collective rights and liberties for a presumably purely moral community, such as the Catholic Church. Conversely, it may well be said that, within the category of religious community, the free will of the individual and therefore his moral outlook tend to be subjected to the will of the community and to its moral outlook, due to the permanent pressure on every individual to accept and defend the acts of the community, regardless of whether they can be accommodated with his personal convictions or not.

Colonies

Acton's article named "Colonies"⁴⁸⁶ is certainly one of his most controversial texts, in which he advocated some of the ideas that nowadays would probably be labelled as politically and morally unacceptable. However, its significance lies in the fact that

⁴⁸⁵ Cambridge University Library, Add. MSS., 4940. Himmelfarb 1962, pp. 182-183.

⁴⁸⁶ Published in the *Rambler* n.s. (3d ser.) 6 (March 1862), pp. 391-400. J. Rufus Fears (ed.), *Selected Writings of Lord Acton, vol. I, Essays in the History of Liberty* (Indianapolis: Liberty Fund, 1985), pp. 177-188.

Acton there pushes his concept of liberty – founded on the principle of checks and balances – to its ultimate conclusion, which leads him to adopt the stance that even slavery, based on the presumed racial inequality, serves the purpose of freedom. Its opening paragraph immediately exposes the core of Acton's views on racial, cultural and religious equality:

First we may assume (as part of the divine economy which appears in the whole history of religion) that the conquest of the world by the Christian powers is the preliminary step to its conversion. In paganism and in heresy there is a national and political character which identifies the religion with the nation, and requires for it the support of the State. The religion is the life of the State, and the pride of the people. The whole system of government, the whole condition of society, the literature, the cultivation, and the language are penetrated by it. Here the Church cannot at once find entrance. If the nation is civilised, the national religion must first have lost its strength, the national faith must first be weakened, and a longing for something new must first be awakened. But if the race is degenerate, something new must be done to elevate and to prepare it for the Church. For the Church cannot triumph either over a finished civilisation or over an extreme barbarism.⁴⁸⁷

Acton thus assumes that the conquest of the world by the Christian powers was a matter of 'the divine economy', which inevitably leads to this world's conversion. This assumption is, of course, highly problematic from the point of view of the entire non-Christian world, subject to the Christian powers' conquest. However, it does not render any service to the concept of the Christian faith, either. By linking conversion, as a presumably voluntary act of the converted, to their entirely non-voluntary subjection to the political domination of, and to the economic exploitation by, the Christian powers, Acton makes conversion to Christianity a matter of further compliance with such a non-voluntary subjection: the subjected are thus expected to legitimise their own political and economic subjection by further non-voluntary subjection to 'the divine economy'. This also implicates 'the divine economy' into the enterprise determined by the entirely non-divine economy of capitalist exploitation and self-interest, and thus seriously puts its 'divinity' into question.

Secondly, the assumption that in paganism and heresy religion is identified with 'the nation' and therefore requires support of the state is also very problematic, since it depends on the specific definition of both 'the nation' and the state, which applies the concepts of Acton's time to the ages and places very different from his own. 'Nations' to which Acton actually refers may, at best, be understood as tribal societies, in which religion, indeed, deeply pervades social life, but in which, then,

⁴⁸⁷ *Essays in the History of Liberty*, p. 177.

there can hardly be any place for the state in the modern sense. It is really difficult to apply the image of the modern state, with its system of surveillance and control, as one that corresponds to pre-modern, tribal societies in which religion plays an important role but, without the means of the modern state, is wholly unable to penetrate “the whole condition of society, the literature, the cultivation and the language”.

What is also highly problematic is Acton’s teleological interpretation of history as the history of conversion to Christianity. He does not see non-Christian ‘nations’ as necessarily barbarian or ‘degenerate’; they may even be regarded as highly civilised but, as a rule, they necessarily advance as they convert to Christianity. And even then, Acton’s understanding of Christianity is reduced to his vision of the specific role of the Catholic Church in its relation to the modern state: thus even the conversion to Catholicism is seen as a means to the end of checking the presumed absolutism of the modern state, regardless of whether there is a need for it (i.e. whether there is a modern state to check) or not; and this checking alone suffices to produce the condition which Acton labels as ‘liberty’. To this end, everything, including the Church itself, may legitimately be used as a mere instrument, and entire civilisations may legitimately be destroyed in order to create favourable conditions for checking the modern state. In this respect, colonisation – as a ‘great instrument’ by which the idea of conversion to Christianity “has been partially realised”, which, in turn, has established the necessary preconditions for checking the modern state – is regarded as more efficient and therefore more desirable than the military conquest by the Christian powers.⁴⁸⁸ Thus Acton concedes that “these colonies, however injurious to the natives, have been most advantageous in their reaction on the parent state. All colonies strengthen the element from which they originate in the home country – in Spain, the crown; in England, the middle class. In the former case, therefore, the influence was monarchical; in the latter, liberal.”⁴⁸⁹ Thus, following this logic, in order to eventually strengthen both the English middle class and its concept of liberty, it becomes legitimate (and even desirable) to “destroy the tenacity of old institutions, of social divisions, of moral customs, of political habits” of all those who are regarded as “the savage races.”⁴⁹⁰

⁴⁸⁸ *Essays in the History of Liberty*, p. 178.

⁴⁸⁹ *Essays in the History of Liberty*, p. 183.

⁴⁹⁰ *Essays in the History of Liberty*, p. 178.

While distinguishing between the “real colonies” where English emigrants – having already destroyed the native civilisations and institutions – “form the nation” and the Asiatic possessions where the Englishmen “govern a foreign race”, Acton goes so far as to claim that “what we must desire, for the sake of religion, is that the oriental career of our country should extend beyond the destruction of Eastern politics, even to the demolition of Eastern society”.⁴⁹¹ For, the assumption is that “in time these possessions will exercise the same powerful reaction on the mother country which the others have already exerted”,⁴⁹² and for that purpose, and for the “sake of religion”, it is desirable to destroy the very foundations of the conquered societies. To what extent the demolition of society may be regarded as ‘governing’ remains contestable; however, regardless of such a dubious end, Acton admits that even the means of ‘governing a foreign race’ may be the opposite from those desired at home. For, as a matter of principle, it is admitted that “we cannot be so free from State control in our intercourse with them as in our intercourse with men of our own country”. Thus the principles of liberty, craved for in the ‘mother country’, are to be simply inverted in the colonies, where “the State ought to step in... with regulation which we would not tolerate at home”.⁴⁹³

Racism as Paternalism

The case for liberty of the English middle class is to be further promoted by confining the scope of its application only to the colonists themselves: “The colonists were free; at least they enjoyed more liberty than the people at home. They governed themselves. An inferior race could not have existed among them on terms of equality. Such a race would have been quickly reduced to pauperism, and would have fallen into bondage, and have been exposed to unmitigated cruelty.”⁴⁹⁴ Along the same lines, it is claimed that “the exclusion of the Red-skins has been the safety of North America, and the introduction of the Blacks only fails to be a fatal evil because they are slaves. If they were free, there would be an end of freedom, both for them and for the whites”.⁴⁹⁵

⁴⁹¹ *Essays in the History of Liberty*, p. 182.

⁴⁹² *Essays in the History of Liberty*, p. 181.

⁴⁹³ *Essays in the History of Liberty*, p. 182.

⁴⁹⁴ *Essays in the History of Liberty*, p. 179.

⁴⁹⁵ *Essays in the History of Liberty*, p. 180.

Of course, according to some zero-sum logic, it might be said that the freedom for the slaves would be 'an end of freedom' for the masters. But, Acton's is not a zero-sum logic, and he claims that the liberation of slaves would be 'an end of freedom' both for the masters and for the slaves. It is difficult to follow such a logic, since it goes well beyond the point of a most striking paradox; however, it would be too easy to dismiss it as simply absurd: after all, Acton's consistency in the pursuit of this line of thought obliges the reader to try to understand its underlying assumption. And then, it seems that the only grounds for a possible explanation can be found in Acton's previous claim that 'inferior races' could not exist among the white colonists 'on terms of equality'. If they were to exist among the members of the 'superior' race 'on terms of equality', it would necessarily aggravate their presumed natural 'inferiority' and therefore lead to the actual worsening of their social position and thus 'reduce them to pauperism'. The presumed 'bondage' and 'cruelty' to which such a race would be exposed by the 'superior' one if the two of them were to compete 'on terms of equality' would be presumably much graver than the actual bondage of slavery and the cruelty of the slaveholders. Thus, according to the proposed logic, slavery arises as an institutional protection for the 'inferior' races within the context of capitalist society. For, the capitalist principle of free competition applies only to 'equals' without producing the gravest effects on society. The 'inferiors' have to be protected by institutional checks, and slavery supposedly plays this role, balancing the existing disproportion between the 'superior' and the 'inferior' races within one society. This means that, far from being the most ruthless form of capitalist exploitation, racially-based slavery is regarded as effectively checking the degree of exploitation and balancing the 'natural' racial inequality. Thus racism employed in defence of slavery necessarily arises as a form of *paternalism*; perhaps it may even be said that paternalism itself finds its ultimate logical conclusion in racism. That Acton's understanding of Catholicism is not inconsistent with this ultimate form of paternalism can be seen in his claim that,

The Church alone can undertake the spiritual care of the savage, and protect him against the rapacity of the invader. For she is not the Church of the invader alone, she belongs to both, and has duties toward both; the conversion of the heathen is as much her business as the preservation of the faithful. She does not allow the natives to be oppressed; she does not even allow them to be neglected or ignored. She also differs from Protestantism in her influence on

the State, on its laws, and on the clergy; and she has in her provincial councils the means of legislating for the good of the savage natives.⁴⁹⁶

Therefore, the exclusion of other races that constituted the system of slavery in North America “was possible only with Protestants. The [Catholic] Church must have resisted such a policy, and then the colonies would probably have assumed a totally different shape.”⁴⁹⁷ The commercial spirit of Protestant capitalism is thus, for Acton, fundamentally opposed to the spiritual mission of the Catholic Church:

By themselves the laws of trade and economy must ruin the natives, as soon as they come in contact with us, and establish an exchange between us. The promotion of our trade requires us to awaken new desires in them; indeed, these new desires are the inevitable consequences of new knowledge and new ideas. Their old manner of life does not suffice to satisfy these new ideas—to purchase spirits, weapons, gunpowder, domestic animals, and medicine. As hunters they are destitute of stored wealth. The craving for the new commodities, irrespective of their immoral or dangerous character, must gradually exhaust their means. So the missionaries justly dread the contact. But they cannot prevent it without the closest alliance with and support of the civil power. But how can commerce tolerate such restrictions, or the missionary hold his own against the trader?⁴⁹⁸

Acton thus suggests that both extremes – ruthless capitalist exploitation and racial exclusion – are consistent with other principles and values of the Protestant colonisers, such as republicanism, self-government and liberty. This is explained by the fact that “the English colonies had not, like those of Spain, the protection of a supreme controlling power in the sovereign at home.” For, when “there is no supreme power to keep repulsive forces in combination, there can only be equality among equals”. But, “where there are several unequal races in a republic, the political domination of race over race is sure to arise”. Since this in itself is “an evil and a political enormity”, “the races require a supreme power to secure their several rights”. Without this supreme control, which monarchy alone cannot exercise without the assistance of the Church, “self-government slides into the independence of the several races, and this into anarchy”.⁴⁹⁹ Therefore, it follows that only racial exclusion and slavery can check the presumed ‘natural’ inequality of races in a secular republic, and thus prevent society from sliding into anarchy and abolishing the very system of

⁴⁹⁶ *Essays in the History of Liberty*, p. 178.

⁴⁹⁷ *Essays in the History of Liberty*, p. 180.

⁴⁹⁸ *Essays in the History of Liberty*, p. 183.

⁴⁹⁹ *Essays in the History of Liberty*, p. 180.

checks and balances which Acton sees as the necessary and sufficient condition of 'liberty'.

Slavery as Freedom

It still may be questioned whether slavery to which they are to be subjected is to be called 'liberty'; but, it should be borne in mind that Acton's concept of liberty, entirely based on the principle of checks and balances, is not one of absolute liberty:

The ideal of an absolute liberty is necessarily incompatible with the kind of Liberal spirit that governs English institutions. Liberty in English sense is a modest conception. It is tolerant of opposing philosophies, parties and interests. It welcomes diversity and pretends to no final truth. It takes expediency and practicability as its criteria. It is a philosophy of moderate means and limited ends ... it is in short, Whiggism, "a policy aiming at a philosophy", not a "philosophy seeking a policy".⁵⁰⁰

For such a 'moderate' concept of liberty, it suffices that the system of checks and balances is present in the form of *fixed social institutions*, which check the absolute forms of power, be that absolute power of the modern state or absolute anarchy. Since slavery is one of such fixed social institutions (quite unlike raw capitalist exploitation under the condition of free competition which may lead to an unchecked, un-institutionalised, absolute domination of one race over another), it is believed that slavery prevents society consisting of 'unequal' races from sliding into either absolute domination of one race over another or absolute independence of races from each other (i.e. anarchy). Thus slavery may legitimately be employed to protect society from these extremes and promote the ideal of *moderation*, which is crucial to this concept of liberty.

Of course, moderation in the public sphere is an eminently middle-class ideal, and so is liberty derived from it. Since this ideal of liberty tends to gradually abolish all the possible extremes and further advance moderation as its own *conditio-sine-qua-non*, it may easily lead to the promotion of mediocrity as the chief ideal of society, and Mill was warning against exactly these tendencies in modern society.⁵⁰¹ For

⁵⁰⁰ Himmelfarb 1962, p. 219.

⁵⁰¹ Perhaps the difference between Mill's and Acton's philosophies may be best seen in the difference between their respective approaches to colonisation. While for Acton this issue, as a matter of liberty for the colonisers, was to be left entirely within the domain of their self-interested enterprise, for Mill it was to be conducted under the state protection and guidance of 'philosophical legislators'.

Acton, this danger was to be avoided by promoting moderation as a *mechanical* principle (which he himself would probably call ‘organic’). Moderation would thus be an optimal outcome of the process of checking and balancing rather than the ideal state of unity to which – as most of the 19th-century liberals believed – society ‘naturally’ aspired. In this respect, it is obvious why Acton so strongly opposed nationalist claims to ‘organic’ unity and homogeneity; however, his ideal of moderation led him to employ equally dubious mechanical means of institutionalised racial and social segregation. Slavery is one of these extreme institutional tools, fixed aristocratic privilege another one; Acton passionately defended both of these extreme means in the name of moderation of the extreme, absolute principles.

Conclusion

The significance of Acton’s critique of Mill’s ‘theory of nationality’ – and, consequently, of all nationalist theories – can hardly be overemphasised, since Acton was the only one among the classical liberals who has openly rejected the idea of ‘the nation-state’ and instead endorsed the idea of a ‘multi-national’ one. In this way, Acton created an alternative to the mainstream of the liberal doctrine (presented in the previous chapters through its paradigmatic authors), the alternative in which the pursuit of liberty could be detached from the pursuit of state for the particular ‘nation’, based on the presumed unity of this ‘nation’s’ presumed collective will. Since ‘the nation-state’ attempted to become the embodiment of both ‘unity of the nation’ and absolutism of the state – and these two, both respectively and jointly, were regarded by Acton as the gravest threats to liberty – such a state was to be rejected as eminently anti-liberal. Hence a liberal state could only be a ‘multi-national’ one, and Acton praised both the British and the Austro-Hungarian empires for having realised the ideal of ‘multi-nationality’ while preserving a rigid social stratification founded on aristocratic privilege.

However, in this chapter I have attempted to demonstrate that a consistent application of the liberal doctrine of checks and balances, which Acton saw as the only barrier against the threat to liberty posed by ‘national unity’, logically leads to the adoption of principles of rigid social stratification and, ultimately, of social and racial segregation. Thus the only alternative to the ‘isolation of nations’, based on the presumed unity and homogeneity of these ‘nations’, would be to isolate intra-state

units instead of the inter-state ones. These intra-state units – be they ‘nationalities’, classes, corporations, religious communities or other social and racial groups within one state – would enjoy a degree of internal unity and homogeneity analogous to that of the inter-state units called ‘nations’; still, that degree of unity and homogeneity would serve as a principal check against, and not as the main pillar of, the omnipotence of the modern state. This assumption sufficed for Acton to endorse the most radical forms of social and racial segregation, provided that they played a role of a check against both ‘national unity’ and absolutism of the modern state and balanced each other’s influence over the state itself.

CONCLUSION

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From its earliest beginnings, liberalism promoted '*nations*' as the only legitimate units through which its ideals of '*liberty*' and *liberal democracy* could be articulated. Comprising the common conceptual core, which is constituted around the very term '*the nation*', liberalism and nationalism were also overlapping in their historical application to the modern political system; indeed, they jointly constituted the modern system by promoting the case for '*liberty*' and *democracy* through '*national revolutions*' and the consequent establishment of '*nation-states*'.

In fact, to be more precise, nationalism is being constantly perpetuated within a wider, *omnipresent umbrella-discourse of liberalism*. Due to the omnipresence of liberalism's principles, norms and values in modern society, which serve as an umbrella under which *nationalization* of all aspects of human life takes place, nationalism's perpetuation passes largely unnoticed. However, it is exactly this discrete but permanent and omnipresent *nationalization of narrative and interpretative frames, of perception and evaluation, of thinking and feeling* (Brubaker's 'nationhood') that makes people '*behave the nation*' (Beissinger), thereby *substantiating* it as a social fact. This omnipresent *nationalization*, including its ability to make people 'behave the nation', is an inherent property of liberalism as an umbrella-discourse under which nationalism is being perpetuated. As such, it ostensibly stands in sharp contrast to the sporadic but vigorous mass-manifestations of the nationalism-proper, which rather *happen* in social reality as '*contingent events*' (Brubaker's 'nationness'), assertively signalling the existence of 'the nation'. However, these simultaneous and mutually pervasive processes both *substantiate* '*the nation*' and make it omnipresent in everyday life. Still, the omnipresence of the umbrella-discourse of liberalism in modern society, rather than the sporadic mass-manifestations of the nationalism-proper, is what makes 'the nation' essentially omnipresent, thus marginalising all non-nationalist discourses and nullifying "complex identities by the categorical simplicity of ascribed nationality".⁵⁰² 'The nation' is being embraced by the majority of population as a *natural* political and social arrangement precisely because it is promoted by *the liberal elite*, through

⁵⁰² Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe*. (Cambridge: Cambridge University Press, 1996), pp. 18-21.

permanent *nationalization* of everyday life, *as the only conceivable form of existence*.⁵⁰³ Nationalism is thus being perpetuated and ‘the nation’ is being *perpetually substantiated* under the umbrella of liberalism, unchallenged by other, individualist or cosmopolitan, aspects of liberalism, which thus appear simultaneously with nationalism (rather than in opposition to it).

Through the analyses of the paradigmatic liberal thinkers, I have demonstrated that nationalist principles are deeply built-in into the very core of mainstream liberalism. From that, it *logically* follows that practical-political efforts to create a liberal-democratic state by projecting liberalism’s principles, norms and values onto the societal level necessarily produce not only the omnipresent *nationalization* of everyday life, but also the sporadic, homogenising, illiberal mass-manifestations of the nationalism-proper. The societal projection of liberalism’s built-in norm, the norm which prescribes ‘*the nation-state*’ as the only legitimate unit of governance, necessarily generates and perpetuates nationalism as a social phenomenon, as a means to produce on the societal level such a prescribed unit. This point, of course, can only be *logically* proven within the scope of a theoretical analysis, and I have convincingly done so by demonstrating to what extent ‘*the nation-state*’, as a built-in norm, permeates liberalism in its most relevant, paradigmatic versions.

The first chapter of this thesis answers the question “What do ‘nations’ and ‘liberty’ mean in the liberal discourse and how has that specific interpretation established the nationalist doctrine?”. The analysis of Algernon Sidney’s *Discourses Concerning Government* clearly demonstrates that for both early and contemporary liberals the title of ‘the nation’ has served to legitimise claims to *legislative power* (labelled as ‘*liberty*’) by those parts of society which practically demonstrate the ability to impose their claims onto the rest by monopolising the title of ‘*the nation*’ for themselves. Nationalism, as a doctrine of political legitimacy, takes up this principle and makes it its own main postulate. Sidney’s theory shows that the sociological content of the term ‘the nation’ is, by both early and contemporary liberals and by nationalists of all types, treated as a *variable*, subject to arbitrary adaptations that always depend on particular political circumstances. The very term ‘the nation’, however, is treated as the *constant cognitive frame* that universally legitimises claims to legislative power by those who can practically manage to impose their monopoly on the use of this

⁵⁰³ See Mark Beissinger, ‘Nationalisms that bark and nationalisms that bite. Ernest Gellner and the substantiation of nations’. In John A. Hall, op. cit., pp. 173-176.

term to brand themselves. Whatever their original constituting principles and their political, sociological, ethnic, or religious profile, *they constitute themselves as 'the nation' by monopolising legislative power for themselves*, by eliminating or absorbing other claimants to that power. The struggle for this type of monopoly is the essential property of the nationalism-proper as a social phenomenon. Sidney has established the word '*the nation*' as the sole source of political legitimacy, whose semantic or sociological content is essentially *arbitrary*. This principle of political legitimacy, in which the source of political legitimacy is verbally fixed and politically and sociologically arbitrary, has become the founding principle of liberalism, as an umbrella-discourse under which the nationalism-proper is being perpetuated in the form of *contingent events*.

The second chapter answers the questions "How do individuals 'liberate' themselves by perpetually identifying themselves with 'their nations' as abstract concepts, and how do these individuals' mass-identifications with 'their nations' *substantiate* these 'nations' as really existing social phenomena?". The analysis of Jean-Jacques Rousseau's *theory of liberty* demonstrates that 'the nation' as a social phenomenon is perpetually being brought into existence through the socio-psychological process which perpetually establishes *identity* between the will of the individual and the presumed '*general will*' of the entire society. Through the articulation of society's '*general will*' (that is, through the procedure of society's *making its own laws*), society is being *homogenised* and thereby rises to the status of 'the nation' (as already implied in Sidney's theory). In this process of *perpetual identification* between the individual's will and the will of 'the nation' (this process is by Rousseau defined as the only path to '*individual liberty*'), 'the nation' is being *substantiated* and the term 'the nation' gains its sociological content. Rousseau's theory, defining 'individual liberty' as the process of perpetual identification of the individual's will with the presumed '*general will*' of the entire society, has thus produced the socio-psychological mechanism through which the nationalism-proper is being manifested, through the mass-manifestations of the individual's identification with 'the nation', in pursuit of 'individual liberty'. This mechanism is the mechanism through which the nationalism-proper actually *substantiates* 'the nation' as a social phenomenon. Still, this process of *perpetual identification* is mainly carried out in the form of discrete but permanent *nationalization* of the individual's everyday life under

the umbrella of liberalism's pursuit of 'liberty', rather than through the contingent manifestations of the nationalism-proper.

The third chapter answers the question "How is 'the nation' being perpetually substantiated and homogenised on the person-to-person level, through uniform ritual procedures of members' reciprocal recognition of one another as 'free and equal'?" This answer is contained in the analysis of John Rawls's theory of '*justice as fairness*', which provides the most elaborated philosophical framework and socio-psychological *micro*-mechanism through which permanent *nationalization* is being intensively perpetuated within the liberal umbrella-discourse, in the form of *permanent inter-personal mobilisation*. Rawls's '*justice as fairness*' is based on the idea of perpetual display of procedural reciprocity in individual relations, through the intensive perpetual extension of *the ritual recognition of one another as 'free and equal'* between 'the nation's' individual *members*. This ritual recognition, reciprocally extended between the members, that is, between 'co-nationals', is non-reciprocally denied to all non-members. They can only be recognised *collectively*, as members of analogous collective bodies i.e. of other 'nations'. However, between 'the nation's' members, this ritual recognition of one another as 'free and equal' does not remain only *procedural*: an abstract procedure of individuals' mutual recognition of one another as 'free and equal' evolves into a *ritual* of members' perpetual endorsement of one another *as members of 'the free nation'*, equal to all other 'nations'. This collectivistic ritual practically imposes '*national*' *homogeneity and uniformity* on all individual members of 'the nation'. In this ultimate form of *nationalization of all inter-personal relations*, which *permanently* takes place under the umbrella-discourse of liberalism, individuals can not even be recognised *as persons* outside '*the nation*', which is the only form of inter-personal and social cooperation that provides their recognition *as persons*.

The fourth chapter answers the question "Is liberalism's concept of 'liberty' inevitably conditioned by the existence of the homogenous 'nation-state' and its institutions?". John Stuart Mill's '*theory of nationality*', analysed in this chapter, demonstrates that his advocacy of *individual* 'liberty' is derived from the eminently *collectivist* utilitarian principle of '*the greatest happiness for the greatest number*', whereby a full assertion of '*the sentiment of nationality*' (through the establishment of the 'nationality's' own 'nation-state') is regarded as the fullest realisation of both the principle of '*the greatest happiness for the greatest number*' and 'the principle of

liberty', as projected onto the collective level. The existence of '*free institutions*', as essential for the promotion of *individual 'liberty'*, is held by Mill as "next to impossible in a country made up of different nationalities", so that only in 'the nation-state' can the individual actually be free, and the square of *individual 'liberty'* can only be circled through the collectivist enterprise of '*nation-building*'. Mill's '*theory of nationality*' thus establishes the full conceptual convergence between the seemingly opposed doctrines of *liberal individualism* and '*national*' *collectivism*, which actually coexist as mutually pervasive under the umbrella-discourse of liberalism.

The fifth, final chapter, analysing Lord Acton's theory of liberty, addresses the question "Is it possible for a liberalism that rejects nationalism and 'the nation-state' to remain faithful to liberalism's true nature?". Lord Acton was the only among the classical liberals who openly rejected the idea of 'the nation-state' and instead endorsed the idea of a 'multi-national' one. Acton advocated a consistent application of the liberal doctrine of *checks and balances*, as the only barrier against 'national homogeneity' that leads to 'state absolutism'. This led him to the adoption of principles of rigid social stratification and, ultimately, of social and racial segregation. Acton's alternative to the '*isolation of nations*' (as Acton saw the consequences of Mill's '*theory of nationality*') would be to isolate intra-state units instead of the inter-state ones. These intra-state units – be they ethnic groups, classes, corporations, religious communities or other social and racial groups within one state – would enjoy a degree of internal unity and homogeneity analogous to that of the inter-state units called 'nations'. Still, that degree of unity and homogeneity would serve as a principal check against, and not as the main pillar of, 'the omnipotence of the modern state'. This assumption led Acton to endorse the most anti-liberal strategies, such as radical forms of social and racial segregation, provided that they could serve as a check against both 'national homogeneity' and 'state absolutism'. Given the eventual triumph of the concepts of social and racial equality, democracy and 'the nation-state', such ideas nowadays sound clearly anti-liberal, so that Acton's liberalism looks like a total betrayal of the basic liberal principles. However, the episode with Acton demonstrates that liberalism does not have a capacity to produce a conceptual alternative to the homogenous 'nation-state', no matter how illiberal the latter may have proved in its practical incarnations.

This thesis demonstrates that application onto the societal level of the concepts and norms developed under the umbrella-discourse of liberalism logically leads to nationalist practices, through which ‘nations’ are actually being substantiated. This symbiosis between liberalism and nationalism is a logical consequence of liberalism’s endorsement of ‘the nation’ as the exclusive unit of political legitimacy, and of nationalism’s endorsement of ‘liberty’ as the exclusive concept to legitimise its own political claims. This research into the common history of liberal/nationalist ideas shows that attempts to *conceptually* separate these two *nominally* separated ideologies inevitably remain futile. That, I believe, gives a definite answer to the question of nationalism’s philosophical roots and intellectual and historical origin, as well as to the question of the conceptual, political and historical framework within which it perpetually reappears. The answer to both questions is: liberalism, as an umbrella-discourse whose principles, norms and values are built-in into the foundations of modern society.

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