

# A STATE IS A NATION, IS A PEOPLE, A BODY, A COMMUNITY, A SOCIETY...<sup>1</sup>

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## I. “Terminological license” and power games

Deploing that “the word ‘nation’ is today used so widely and imprecisely”, Eric Hobsbawm remarked in the introductory paragraphs of his 1990 book on *Nations and Nationalism*: “Concepts, of course, are not part of free-floating philosophical discourse, but socially, historically and locally rooted, and must be explained in terms of these realities.”<sup>2</sup> Yet, Walker Connor called the phenomenon in the seventies a “terminological license”.<sup>3</sup> Friedrich Hertz wrote in 1944 that “great confusion is caused by the fact that the word ‘nation’ is used in many senses.”<sup>4</sup> A collection of studies on nationalism by Chatham House in the 1930s has spent a number of pages explaining the different meaning of these terms in the main European languages.<sup>5</sup> C.A.

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<sup>1</sup> This title is a paraphrase of one of Walker Connor’s studies, quoted below. The text in the following pages contains excerpts from a larger study by the author, under preparation. *GB*

<sup>2</sup> Eric J. HOBBSAWM: *Nations and Nationalism since 1780: Programme, Myth, Reality*. Cambridge, Cambridge University Press, 1990, p.

<sup>3</sup> Walker CONNOR: *A Nation is a Nation, is a State, is an Ethnic Group, is a ...*. Ethnic and Racial Studies. ¼. 1978, 379-88. (Reproduced in John Hutchinson – Anthony Smith Eds.: *Nationalism*. Oxford Readers, Oxford, Oxford University Press, 1994). See also: *Ethnonationalism in the Contemporary World -Walker Connor and the Study of Nationalism*. Ed by Daniele CONVERSI. Routledge, London, 2002.

<sup>4</sup> And he continued: „Its meaning has changed in the course of time, different nations and different parties within a nation frequently do not connect the same ideas with it, and even the same politician or writer often changes its connotation according to the demand of certain interests which he defends. The concept, of course, is seldom clearly formulated and is mainly implied in practical conclusions.” Friedrich HERTZ: *Nationality in History and Politics*. New York, Oxford University Press, 1944, p. 5.

<sup>5</sup> *Nationalism. A Report by a Study Group of Members of the Royal Institute of International Affairs*. Oxford University Press, London-New York, 1939, p. XVI-XX.

Macartney dedicated considerable parts of his book on the protection of minorities in the system of the League of Nations to the terminological problem. The difficulties he highlighted regarding the term “minority” are still with us.<sup>6</sup> Johann Kaspar Bluntschli was at pains at explaining to his English readers the subtleties of *Nation* and *Volk*.<sup>7</sup>

As many languages, as many modalities of the interchangeability of the notions people, community, society, nation and state, and other terms used historically to designate political units. Until mid 18<sup>th</sup> century the problem was not so ardent. As Emer de Vattel summarized the dominant European formula in the very first line of his widely read book on the law of nations: “Nations or states are bodies politic, societies of men united together for the purpose of promoting their mutual safety and advantage by the joint efforts of their combined strength.”<sup>8</sup> Kant in the *Second Definitive Article for a Perpetual Peace: The right of nations shall be based on a federation of free states* made it clear how he perceives the difference between peoples and states, regarding the state of war.<sup>9</sup> Jacob Burckhardt, in mid

<sup>6</sup> C. A. MACARTNEY: *National States and National Minorities*. London, Oxford University Press, 1934.

<sup>7</sup> „In English the word ‘people’ like the French ‘peuple’ implies the notion of a civilization, which the Germans (like the old Romans in the word ‘natio’) express by *Nazion*. The political idea we rather express by ‘Nation’, which the Germans call *Volk*. Ethimology is in favour of German usage for the word *natio* (from *nasci*) points to birth and race, *Volk* and *populus* rather to the public life of a State (polis).” Johann Kaspar BLUNTSCHLI: *The Theory of the State*. Oxford, Clarendon Press, 1885, p. 82.

<sup>8</sup> In the original French: “Les Nations ou Etats sont des Corps Politiques, des Sociétés d’hommes unis ensemble pour procurer leur salut et leur avantage à forces réunis.” Emer de VATTEL: *The Law of Nations, Or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns, with Three Early Essays on the Origin and Nature of Natural Law and on Luxury*, edited and with an Introduction by Béla Kapossy and Richard Whitmore. Indianapolis: Liberty Fund, 2008.

([http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=2246&layout=html](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=2246&layout=html)) The French original, entitled *Le droit des gens ou principes de la loi naturelle appliqués à la conduite et aux affaires des Nations et Souverains* can be read online: <http://www.larecherchedubonheur.com/article-28500919.html>.

<sup>9</sup> Available English translations of this text do not make a difference between nation and state. In the original *Völkerrecht* is translated as „*the right of nations*”, as *nation* is the translation of *Staat*. Kant’s explanation is this: „That a people might say, There should be no war among us, for we want to form ourselves into a nation, i.e., place ourselves under a supreme legislative, executive, and judicial power to resolve our conflicts peacefully, is understandable. But when a nation says, There should be no war between me and other nations, though I recognize no supreme legislative power to guarantee me my rights and him his, then if there does not exist a surrogate of the union in a civil society, which is a free federation, it is impossible to understand what the basis for so entrusting my rights is. Such a federation is necessarily tied rationally to

19<sup>th</sup> century also wrote about “states, i.e. peoples as constituted orders.” Violence, according to him plays always a role in the process, but the real question is, that “whatever the origin of a State may have been (‘the political epitome of a people’), it will only prove its viability if force is transformed into strength.” Consolidation is cruel and ruthless: „Every power, of course, as long as its period of growth lasts, aims at completion and perfection within and without, and has no regard for the rights of the weaker.”<sup>10</sup> His frustrated former colleague, Friedrich Nietzsche exclaimed in horror and disbelief around 1882: “A state, is called the coldest of all cold monsters. Coldly lieth it also; and this lie creepeth from its mouth: ‘I, the state, I am the people!’”<sup>11</sup>

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Beyond the concerns of theorists the significant fact is that by and large until the creation of the League of Nations mostly men active in politics, and among them professional revolutionaries on the first place, determined the content of the “people”, “nation”, “nationalities”, etc. At least you knew where you are, and where they stood - one may say, but the fact is that their 18<sup>th</sup> and 19<sup>th</sup> century interpretations still dominate discourse. After 1945 international organizations used these terms without providing any precise definition or clear orientation as to what they cover.<sup>12</sup> Peoples,

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the concept of the right of nations, at least if this latter notion has any meaning.” Immanuel Kant: *To Perpetual Peace: A Philosophical Sketch*. Hackett, Indianapolis, 2003, 14.

<sup>10</sup> Jacob BURCKHARDT, *Force and Freedom: Reflections on History*. Ed. James Hastings Nichols. New York, Pantheon Books, 1943, 114.

<sup>11</sup> „XI. The New Idol. Somewhere there are still peoples and herds, but not with us, my brethren: here there are states. A state? What is that? Well! open now your ears unto me, for now will I say unto you my word concerning the death of peoples. A state, is called the coldest of all cold monsters. Coldly lieth it also; and this lie creepeth from its mouth: ‘I, the state, am the people.’ It is a lie! Creators were they who created peoples, and hung a faith and a love over them: thus they served life.” Friedrich NIETZSCHE: *Thus Spoke Zarathustra. A Book for All and None*. Translated By Thomas Common. trans. RJ Hollingdale, New York, Penguin Classics, 1961 [1883–85] (<http://www.gutenberg.org/files/1998/1998-h/1998-h.htm>)

<sup>12</sup> The 1933 Montevideo agreement, the Convention on Rights and Duties of States (inter-American) might be an exception, since it contains some orientation on when a state shall be regarded “as a person of international law”. According to article 1 it should “possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states.” It can be deduced that the nation-state shall have three elements in order to exist: population (citizens), territory, and a government exercising sovereignty over the territory and the population.

nations, and states (as here, all usually in plural), are basic concepts of contemporary international law without unequivocal determination of content. We know what it is, when we see it, as the saying with regard to minorities goes.

According to Article 1 of the 1920 Covenant of the League of Nations members of the organizations are the signatory states mentioned in the Annex of the document. The same article provides that “Any fully self-governing State, Dominion or Colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly” and it satisfies the conditions thereto. Article 22 of the treaty deals with “peoples not yet able to stand by themselves under the strenuous conditions of the modern world”, making a “sacred trust of civilization” to take care of them, and of designated states to undertake that care. With all the deficiencies and hypocrisies the covenant apparently was instrumental in the consecration of the term “nation-state”. Its title corroborated with the first provision indicates that in the perception of the drafters nation and state were not only linguistically synonymous. Notably, the question of self-determination, or the words themselves do not appear in the Covenant. At its adoption President Woodrow Wilson was not in control anymore, the US Senate refused ratification and the Soviet Union was not yet a party to the agreement. Article 1 indirectly refers to self-determination by making a difference between the notions of “fully self-governing State, Dominion or Colony”, not named in the Annex.<sup>13</sup>

The commutability of the nation, state, and people is apparent in the 1945 Charter of the United Nations. The introductory words of the document, “We the peoples of the United Nations”, modeled on the American Constitution of 1787 (“We, the people of the United States”) may be interpreted in different ways. The logic of representative (and federal) government suggest that the real decision makers are the peoples living on the territory on the founding states of the United Nations Organization (UNO), who entrust the realization of their goals set out in the preamble of the Charter to the Organization. But the formulation and indeed the

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<sup>13</sup> The British Empire, with separate membership for: the United Kingdom, Australia, Canada, India, New Zealand and South Africa. ([http://en.wikipedia.org/wiki/League\\_of\\_Nations\\_members#cite\\_note-members-geneva1920-2](http://en.wikipedia.org/wiki/League_of_Nations_members#cite_note-members-geneva1920-2))

content of the goals of the preamble are universal, in particular the most important: “to unite our strength to maintain international peace and security.” Therefore, the peoples of the founding member states (53) also legitimated, through their representatives (the nation-states) for those peoples whose states were not among the members, or did not have their own independent nation-states. The historical context in 1945 excluded any objections of procedural nature, for understandable reasons, and the nature of the goals was in conformity with reason and common sense. This does not change the fact that the peoples mentioned in the Charter exercised their rights to self-determination collectively. Yet the founding members of the organization have been again nation-states, who were presumed to represent the will of the peoples living on their territory, in their capacity of nations. In this regard the commutability of the terms opened the way to a legal fiction which underpinned international legitimacy. The Charter does provide for suspension of membership or expulsion, and certainly not for free exit, since the latter would contradict reason and common sense, and would mean the questioning of all or some the purposes of the organization by the member willing to quit.

*The principle of popular self-determination appears in the Charter, as a corollary of another principle, the equal rights of peoples. Article 1 (2) on the purposes of the organization, which is unequivocally an organization of states, provides that one of these goals is “To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.” In this context self-determination is interpretable in the context of enhancing friendly relations among nations (states) and strengthening universal peace. As Antonio Cassese noted, “since self-determination was not considered to have a value independent of its use as an instrument of peace, it could easily be set aside when its fulfillment raised the possibility of conflicts between States.”<sup>14</sup>*

Common Article 1 of the 1966 international covenants on human rights provides that „All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue

<sup>14</sup> Antonio CASSESE: *Self-determination of peoples. A legal reappraisal*. Cambridge, Cambridge University Press 1995, p. 43.

their economic, social and cultural development.” The wording is about a universal (collective) human right of peoples, stipulated by two pacts among states. Paragraph 3 of the same article makes it unequivocal that state parties „shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.” The 1970 UN declaration on the principles of international law and friendly relations between states detailed the duties of states in this regard, and at the same time with similar wording as Article 1 of the 1966 treaties instituted the right of self-determination of states, with the difference that while peoples have the right to determine their political status, states do have the right to choose their political systems, but not only: „Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.” The Helsinki Conference Final Act of 1975, modeled on the 1970 declaration in its provisions on sovereign equality and respect for the rights inherent in sovereignty, has reiterated the same language, giving one of the most comprehensive formula of absolute state sovereignty in the 20<sup>th</sup> century.

The states establishing the European Union had listed among the goals of the organization the creation of “an ever closer union among the peoples”, aimed at promoting *inter alia* the “well-being of its peoples”, while respecting “the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government.”<sup>15</sup> All these international instruments, and those with similar wording, not cited here, omitted to list the peoples mentioned. There is an implicit agreement that these “peoples” denote the populations of the signatory state parties. The member states of the UN enjoy sovereign equality, those of the EU equality without qualification, while the peoples have equal rights. States do have a personality according to the 1970 Declaration (“Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law”), while peoples

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<sup>15</sup> Consolidated Version of the Treaty on European Union. Publ. 2010, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0013:0046:EN:PDF>.

national identities (“The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.”) The EU consolidated treaty, as seen above, mentions the national identity of member states.

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The commutability of these terms would not be noteworthy in a „good shepherds”“ and culturally neutral inter-state system, or in the framework of a world-state. While a world-state is a mere hypothesis, the existing inter-state or international system designed in 1945 as culturally neutral was evolving around a hierarchy of privileges, one the most important being statehood itself.

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By the end of the 1970s, mid 1980s the general view was that the nation-state has reached its apogee, and it will remain for long time, if not forever, the only universally legitimate political unit of domestic and international coexistence. Decolonization accomplished, all inhabitable territories have been brought under the sovereign control of states, and the status of the rest of the surface of Earth and the atmosphere has been regulated by inter-state agreements. This situation has changed after the 1991 dissolution of the Soviet Union. Talk about the contemporary crisis of the nation-state intensified in the press and the academia. With Somalia the first and the textbook example, the number of failed states has constantly increased. Within the European Union, member states were and are still asked to give up more and more of their sovereignty. What is called economic and financial globalization has also contributed to serious losses in the status of nation-states to the gain of non-State actors, mainly multinational companies and business enterprises. The nation-state is formally still the most important geopolitical unit, and from this perspective it really did not matter that it was legally, and in some case practically identified with the nation, the people, the society, etc, until it was able to preserve the peace within the realm.

The question of the world state was in one form, or another, raised in the past centuries in Europe, and after 1945 in the United States, but it was far from becoming a feasible political alternative to the international system.<sup>16</sup> As an ideal, however, a desirable „universal cure for the many special evils” (Lord Acton) tormenting mankind proved to be more viable. One coherent concept was elaborated by Marxists in the form of the theory of „the withering away of the state.” World government movements were flourishing in America after WWII.<sup>17</sup> Writing about the international society in the 1970s Hedley Bull was of the opinion that the „world order” is „morally prior” and „more fundamental and primordial than international order”, because the ultimate units of the great society of all mankind are not states (or nations, tribes, empires, classes or parties) but individual human beings, which are permanent and indestructible in a sense in which groupings of them of this or that sort are not. This is the moment for international relations, but the question of world order arises whatever the political or social structure of the globe.<sup>18</sup> In Europe there are powerful supporters of a United States of Europe, a federal super-state transcending its present members, but still is conceived as a structure mirroring the nation-state.

## II. Political Order, democracy and self-determination

The search for the perfect political order ended in failure repeatedly. Wars and warfare, as the slogan goes, have a healthy future. The ideal of the nation-state that was offered in the past centuries as a paradigm world-wide is losing ground by the day. Expectations attached to the idea of self-determination of peoples have remained largely unmet. So far, no consensus has been achieved on what democracy means. Is it an all

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<sup>16</sup> Among the relatively recent proposals of Western descent are: a universal empire (in the sense of Dante’s *De Monarchia*), a free association of peoples (possibly a *civitas gentium* or *Völk-erstaat* by Kant, or a Society of Peoples by John Rawls), a World Soviet Republic (Lenin), or a world government and/or world state as advocated by American associations in the late 1940s).

<sup>17</sup> See Wesley T. WOOLEY: *Alternatives to Anarchy. American Supranationalism since World War II*. Bloomington and Indianapolis, Indiana University Press, 1988

<sup>18</sup> Hedley BULL: *The Anarchical Society. A Study of Order in World Politics*. 2<sup>nd</sup> ed. New York, Columbia University Press, 1995, p. 21.



too distant ideal subject to local interpretations? Or is it a sum of self-balancing, and assumedly self-correcting procedures on how decisions are made? Is it an open ended debate on freedom? Or all of these together? Answers, proposed standards, and principles abound, one of the latter being that none of the former shall be imposed. Yet, these concepts and the ideals they express could have in the future, as they had in the past, great potentials of mobilization. Nation-states may decline, fail, or disappear, but constituent peoples will certainly not.

In principle, taken together, the concepts of political order, democracy and self-determination make sense only in relation to the territorial or the nation-state - a result of a previously unknown combination of ingenuity and necessity, expediency and Romanticism, universal ethics and the logic of the market, self-defense and belligerence. Not to empires, nor to *sui generis* supranational arrangements driven by whatever considerations of integration. To endure, the nation-state needs to attract the esteem, loyalty, and self-sacrifice of its population, and impose the respect of others. Like its historically distant predecessor, the Greek polis, it must convincingly and continuously prove that is the framework of the best life available for *all* those who live within the realm. But not only: it is a *res publica*, a public good in itself, in the sense of the Roman Republic. A common good that ought to be preserved at any price, developed and magnified as possible, and ensure that future generations will enjoy it. Life, security, property, but after all, self-regard, honour and pride depend on its survival.

At the time when Jean-Jacques Rousseau began thinking of a society that makes salvation possible here and now, the Greek polis and the Roman Republic looked again as the perfect political edifices that ever existed.<sup>19</sup>

<sup>19</sup> "But whoever dares to say: *Outside the Church is no salvation*, ought to be driven from the State, unless the State is the Church, and the prince the pontiff. Such a dogma is good only in a theocratic government; in any other, it is fatal." (*Social Contract*, Book IV Chapter VIII. Italics in the original) The English quotations are from: *The Social Contract or Principles of Political Right in The Social Contract and Discourses by Jean-Jacques Rousseau*, translated with an Introduction by G.D. H. Cole. London and Toronto, J.M. Dent and Sons, 1923. ([http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=638&layout=html](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=638&layout=html)) The original French quotations, from the *Social Contract* and other writings of Rousseau are from Volume III of the édition published in the Bibliothèque de la Pléiade. Jean-Jacques Rousseau: *Oeuvres complètes*. Paris, Gallimard, 1964.

For our subject his book on the social contract is a landmark. Rousseau was convinced that civilization caused all evil to men, but knew that there is no way back to paradise, to the innocence of the state of nature. His mind was concentrated therefore on: first, to exonerate human nature and God of responsibility for evil, and second, to design the basics of a society which returns and guarantees individuals their humanity.<sup>20</sup> In mid 18<sup>th</sup> century the contours of nation-states have been already in place and were housing “peoples” as the “lower orders” of the country, commoners who earned their existence by the work of their hands. Rousseau by birth, instinct and experience was a believer in the majesty of the people, a man who took seriously the dictum “Vox populi, Vox Dei”, and at the same time a strange kind of individualist, a solitary wanderer. An inheritor of the radicals in search for the perfect community, ambivalent on the relationship between the sovereign people and its divine, external lawgiver (“neither magistracy, nor Sovereignty . . . an individual and superior function”), created a distinct tradition, and by it, a lasting source of confusions.

The Greeks, notably the Spartans, much admired by him, thought that the perfect community was a community composed of free males living in the *polis*, the city-state.<sup>21</sup> Large empires and dispersed tribal populations have been regarded as inferior. Rousseau idealized small communities, sometimes he called peoples, sometimes states, and found large nations irretrievably despotic and dangerous. The smaller the community, the more “self-centered” it is, we may add. Self-help, self-defense, self-sacrifice, self-sustainability, and later self-determination (as distinct from self-rule), are among the organizing terms and criteria of such groups.

<sup>20</sup> J-J. ROUSSEAU: *A Discourse on the Moral Effects of the Arts and Sciences*. 1750 in *The Social Contract and Discourses by Jean-Jacques Rousseau*. cit. supra. See also the interpretation of Ernst CASSIRER: *Le problème Jean-Jacques Rousseau*. Paris, Pluriel, 2010, p. 53-64.

<sup>21</sup> The question of the perfect political community resurfaced in the Middle Ages, in a form that openly or just implicitly determines thinking on the subject ever since. Ernst Kantorowicz gave a detailed analysis on how the concept of *Corpus mysticum* “lost much of its transcendental meaning and having been politicized and, in many respects, secularized by the Church itself, easily fell prey to the world of thought of statesmen, jurists, and scholars who were developing new ideologies for the nascent territorial and secular states.” “Vincent of Beauvais, he noted, in order to designate the body politic of the state, used the term *corpus reipublicae mysticum*, ‘mystical body of the commonwealth’.” Ernst H. KANTOROWICZ, *The King’s Two Bodies: A Study in Mediaeval Political Theology*. Princeton, Princeton University Press, 1957. The quotes are from pages 207 and 208.

City-states have a stable territorial core with a limited membership. Their populations live by their own norms. The principle of self-help in practice means also self-defense, therefore such groups can be called also security communities. Consolidated nation-states in the 20<sup>th</sup> century formally possess all these characteristics. As it will be addressed below, for Rousseau “self” meant much more than the sum of all this.

The two great revolutions of the 18<sup>th</sup> century, the American and the French brought the principle of self-centeredness to completion against a domineering environ. The principle of self-determination helped identifying the people with the nation as a political frame, and with the state as order and institution, and the country, its geographical and cultural realm, but more than all these: the homeland, *la patrie*. The liberties of Englishmen were made universal, but in a very different context than in Britain or America.<sup>22</sup> The geopolitical situation in Europe and the military campaign against revolutionary France made necessary by mid 1793, unlike in America, the mobilization of the whole of the population of France. *La nation militaire* took shape, and with it, the formidable potential of a self-centralized and totally integrated community began to reveal itself for the first time in history.

The 18<sup>th</sup> century brought also about a number of other changes. Peoples were regarded by early Romantics as the basic units of world history, endowed with spirit and individuality. After 1793, strategic calculations could not afford to not take into account the people. Carl von Clausewitz, a man of the 18<sup>th</sup> century, made still a clear difference between the government, the military and the people, but even he could not disregard the potentials of the people in arms. The war gradually was transformed from the war of the king or the cabinet into people’s war, first of self-defense, and then of liberation of itself or other peoples. The seeds of future total wars came into life.

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<sup>22</sup> See for example Hans KOHN: *Nationalism Its Meaning and History*. Princeton, D. Van Nostrand, 1955, p.19-20.

For the purposes of this writing, a political order is established when the relationship between the rulers and the ruled is stabilized, individual and collective actions do have foreseeable consequences, and force is used as last resource. God's will is by itself the perfect order, but once humans are commanded or undertake by themselves to emulate it, the emergence of a defective, that is a political order may follow, usually accompanied by a remedial claim for a universal empire. A "closed" political order can also claim universal validity, as the nation-state indeed had. In any case, "someone", God, a person (a divine human, as Rousseau suggested), a select group, or a body ought to initiate the new order of things and give it rules; then the process for a period of time becomes self-replicating. There are several propositions as to when the first, the primordial political order came into existence. Various genealogies usually find their beginnings in myths and legends.

Political orders vary on a large scale of possibilities, shaped by a number of factors such as the level of certainty within which a specific action leads to previously calculable results, including their territorial range. There can be longer or shorter periods when no political order exists on given territories. The identity of a specific political order, however, shall be consistent both in space and time. Abrupt changes usually lead to a new order, with its own profile. Even after massive upheavals some elements of the old order survive in the same forms, as patterns, or as representations in the minds of people, as in the present transitional age. It follows from this portrayal of "a political order" that a hierarchy of political orders is possible, with the caveat that so far the basic units have been preponderantly territorially defined.

According to social contract theories the "association", "Commonwealth", "civil government", or "state", is the primordial political order for it is constituted by individuals for the purpose of creating an integrated community subject to a single authority. Preserving the state, that is the guarantor of security and welfare ought to be a duty of all. According to one tradition which became dominant in the West, and practice in the past two decades in some regions, the duty to seek freedom from repressive government is paramount, even at the cost of bringing down the political order.

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The concept of peoples' self-determination occupies a prominent place among the grand political visions which took shape in Europe in the 18<sup>th</sup> century. Its morality cannot be questioned, insofar as it is taken for granted that all choices against freedom are, as Kant put it, "absolutely null and void". In his view Enlightenment was "man's emergence from his self-imposed immaturity", and "immaturity is the inability to use one's understanding without the guidance from another."<sup>23</sup> In today's dominant discourse in the West, freedom is guaranteed best by liberal parliamentary democracy, based on political and cultural pluralism, respect for universal human rights and a free market economy. This was the preferred choice during the transition in Eastern and Central Europe in the late 1980s, indeed the only feasible and valid alternative as opposed to any previous forms of authoritarianism.

### III. An attempt to bypass natural law: Jean-Jacques Rousseau

That duties precede rights is not an 18<sup>th</sup> century idea. "The *Law of Nature* asserts, as Pufendorf summarized it, that this or that Thing ought to be done, because from *right Reason* it is concluded, that the same is necessary for the Preservation of Society amongst Men."<sup>24</sup>

For Rousseau freedom was the paramount duty of man. His contract (*contrat social*, hereinafter *Contrat*) creates a symmetry of obligations and rights, which inevitably blurs their distinctive nature: I always do what I ought to do, since I obey no one else than myself, while preserving my freedom. Alike, the Sovereign is always "what it should be." The inherent automatism of the *Contrat* made sure that the general will, once coming into existence separates itself from the will of the people as a

<sup>23</sup> Immanuel KANT: *An Answer to the Question: What is Enlightenment?* (1784) in *Perpetual Peace and other Essays*. Indianapolis, Hackett Publ., 1983, 41. and 43.

<sup>24</sup> Samuel von PUFENDORF: *The Whole Duty of Man According to the Law of Nature. (The difference between the Law of Nature, Civil Law and Moral Theology) 1673*. Trans. Andrew Tooke. Ed. by Ian Hunter and David Saunders. Indianapolis, Liberty Fund, 2003 ([http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=888&layout=html](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=888&layout=html))

sum of its members and prevails over it in any circumstances. That the political body is similar to the human organism and is at the same time a moral person endowed with its own will, and „the great village of the world” is also an entity with a general will, composed of peoples and states appears already in the article on the political economy, published in 1755 in *l'Encyclopédie*.<sup>25</sup> For its being sacrifices have to be made: humans not only shall totally give themselves and renounce their natural rights to the community (*l'aliénation totale de chaque associé avec tous ses droits à toute la communauté*); their very nature must change. (*Contrat* Book I Chapter VI)<sup>26</sup> Rousseau admitted, however, that even such a construction may implode along the tensions of the two hypostasis of the human being: the “natural man” and the citizen. As he remarked when addressing the “death of the body politic”:

If we would set up a long-lived form of government, let us not even dream of making it eternal. If we are to succeed, we must not attempt the impossible, or flatter ourselves that we are endowing the work of man with a stability of which human conditions do not permit. (*Contrat* Book III, Chapter XI) The sanction on the individual for the breach of the contract is the falling back into the state of nature – as he wrote before in Book I Chapter V: “each regains his original rights and resumes his natural liberty, while losing the conventional liberty in favour of which he renounced it.” In general, as he warned bleakly in the first sentence of this chapter, the actual “primitive condition can then subsist no longer; and the human race would perish unless it changed its manner of existence.”

Rousseau’s social contract was interpreted in different ways, mostly selectively and with bias since its second and final version has been published in 1762 in the Netherlands. The original title of this famous book is *Du contrat social (About the social contract)*, with the subtitle

<sup>25</sup> „Car alors la grande ville du monde devient le Corps politique dont la loi de nature est toujours la volonté générale, et dont les États et peuples divers ne sont que des membres individuels.” *Discourse sur l'économie politique* in Jean-Jacques ROUSSEAU: *Oeuvres complètes*. Paris, Gallimard, 1964, p. 245.

<sup>26</sup> As to the larger metaphysical context, Ernst Cassirer noted in his famous study on Rousseau, that the order of the nature, that of the Providence, and of reason have been placed on the same level, whereas sentiments shall have no influence or role to play. Ernst CASSIRER: *Le problème Jean-Jacques Rousseau*. Paris, Pluriel, 2010, p. 77.

*Ou, principes du droit politique*, translated usually as “or *Principles of Political Right*.”<sup>27</sup> In French the word *droit* means both law and right. What Rousseau understood here under the subtitle political right had different meanings in his times, from the law of nations (*Droit des Gens*) to what is today in general called constitutional law (or *Staatsrecht* in German). His contemporary fellow citizen of Geneva, whom he disliked, the influential Jean-Jacques Burlamaqui’s work published in 1751 is entitled *Principes du droit politique* deals mostly with the political obligations of the monarchs and their subjects, and those of sovereigns among themselves. Rousseau’s initial intention was to work on a larger study, called by him *Political Institutions*, of which the *Contrat* was planned as introduction. Despite references to civil rights in certain paragraphs, what we have in the *Contrat* as preponderant elements of the *droit politique*, are obligations in an absolute sense; in the Chapter *On slavery* he claims that “To renounce liberty is to renounce being a man, to surrender the rights of humanity and even its duties.”<sup>28</sup>

Rousseau has seen better and before anyone else the tensions inherent in individual claims to personal autonomy and freedom and the share in the exercise of political power. In his outstanding book on the history of people’s sovereignty in France from 1789, Pierre Rosanvallon examined various aspects of this contradiction, pointing out among others that the triumph of law in the enlargement of the notion of citizenship and afferent democratic procedures, has led to the transformation of the latter into “a moral and social norm.” The broadening of the former has brought with it by the end of the 20<sup>th</sup> century a new strain between the solidarity of

<sup>27</sup> As in *Social Contract. Essays by Locke, Hume, and Rousseau*. With an Introduction by Sir Ernst Barker. Oxford University Press, London, 1947, p.237. In the 1997 Cambridge edition of *The social contract and other later political writings* the text is entitled: *Of the Social Contract. Principles of Political Right*. Cambridge, Cambridge University Press, 1997. German translations are under the title: *Der Gesellschaftsvertrag oder die Grundsätze des Staatsrechts* or *Vom Gesellschaftsvertrag oder Grundlagen des politischen Rechts*.

<sup>28</sup> “Renoncer à sa liberté, c’est renoncer à sa qualité d’homme, aux droits de l’humanité, même à ses devoirs.” (Book I Chapter IV ) The English quotations are from *The Social Contract and Discourses by Jean-Jacques Rousseau*. Translated with an Introduction by G.D. H. Cole. London and Toronto, J.M. Dent and Sons, 1923. ([http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=638&layout=html#chapter\\_70986](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=638&layout=html#chapter_70986)) The original French from Volume III of the édition published in the Bibliothèque de la Pléiade. Jean-Jacques Rousseau: *Oeuvres complètes*. Paris, Gallimard, 1964.

citizenship and the solidarity of humanity.<sup>29</sup> Duties have then been extended and reformulated, but their essence apparently remained the same.

As mentioned, the thought that obligations come first, and rights cannot be claimed before duties are fulfilled, was general in Europe at the time. Another famous Swiss, Emer de Vattel in his widely read and influential work published first in 1758 on the law of nations leaves no doubt that (...) the entire nation, whose common will is but the result of the united wills of the citizens, remains subject to the laws of nature, and is bound to respect them in all her proceedings. And since right arises from obligation, as we have just observed, the nation possesses also the same rights which nature has conferred upon men in order to enable them to perform their duties.<sup>30</sup>

Rousseau admitted that the contract may not last forever, it can be terminated, or terminate itself, for example when “the Prince usurps the Sovereign power.” Chapters X (*The abuse of government and its tendency to degenerate*) and XI (*The death of the body politic*) of Book III of the *Contrat* speak out the mind of Rousseau the realist. His verdict is gloomy, but in conformity with the organic view: “The body politic, as well as the human body, begins to die as soon as it is born, and carries in itself the causes of its destruction.”<sup>31</sup> This was something different than the change

<sup>29</sup> „S’opposent toujours plus visiblement dans nos sociétés deux conceptions de la solidarité: la *solidarité de l’humanité*, d’un côté, et la *solidarité de citoyenneté* de l’autre.” (*Italics in the original.*) Rosanvallon, Pierre: *La démocratie inachevée. Histoire de la souveraineté du peuple en France*. Paris, Gallimard, 2000, p.417; 421.

<sup>30</sup> Emer de Vattel: *The Law of Nations, Or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns, with Three Early Essays on the Origin and Nature of Natural Law and on Luxury*, Edited and with an Introduction by Béla Kapossy and Richard Whitmore. Indianapolis: Liberty Fund, 2008. ([http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=2246&layout=html](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=2246&layout=html)) The French original, entitled *Le droit des gens ou principes de la loi naturelle appliqués a la conduite et aux affaires des Nations et Souverains* can be read online: <http://www.larecherchedubonheur.com/article-28500919.html>. It should be emphasized that for Vattel, as for his predecessors and contemporaries the concepts of „nation” and „state” were synonymous, meaning in fact „a body politic, or a society of men united together for the purpose of promoting their mutual safety and advantage by their combined strength.” *The Law of Nations ...Chapter I, §.1 Of Nations and Sovereign States*. As mentioned below, Rousseau was not entirely content with this equation.

<sup>31</sup> Book III Chapter XI: “*Le Corps politique, aussi bien que le corps de l’homme, commence à mourir dès sa naissance, et porte en lui-même les causes de sa destruction.*”



of status of various states, populations or territories, as discussed by the legal treaties of the era. It was also in contradiction with the presumption of natural law theories, and to their eternal and universal validity. Sovereignty, whether of the monarch or of the state later, was not only supreme but also perpetual; it was the only reliable connection between generations past, present and future. The dictum *Le roi est mort, vive le Roi!* (“The King is dead. Long live the King!”) was self-explanatory.<sup>32</sup> As Ernst Barker explained in his introduction to the collection of essays mentioned above, Rousseau, when discussing rights and obligations used the language of natural law theory, but was not comfortable with it. As Barker noted, “he felt in his bones that the nation made the law, and not law the nation.”<sup>33</sup>

Once the body politic is born, the general will (*volonté générale*) permeates each member of the community. The people might be wrong, but the *volonté générale* never: “It follows from what has gone before that the general will is always right and tends to the public advantage; but it does not follow that the deliberations of the people are always equally correct.” The dilemma is explained by the optimization of individual views, in fact the elimination of the elements that otherwise would mutually annihilate 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. (Book II, Chapter III)

Freedom means allegiance to the laws that we ourselves have adopted, as he stated clearly at the end of Chapter VIII of Book One, therefore one could be coerced into freedom. The logic is this: individuals make a contract first with themselves, and then everyone “is bound in a double capacity; as a member of the Sovereign he is bound to the individuals, and

<sup>32</sup> See: Ernst H. KANTOROWICZ: *The King's Two Bodies: A Study in Mediaeval Political Theology*. Princeton, Princeton University Press, 1957, 409-419..

<sup>33</sup> *Social Contract. Essays by Locke, Hume, and Rousseau*. Introduction., p. XXXIX. On Rousseau's ambivalent position on natural law see also Leo Strauss: *Natural Right and History*. Chicago, University of Chicago Press, 1965, 270-72.

as a member of the State to the Sovereign.” (Chapter VII *The sovereign*) In this way those who do not submit to the *volonté générale* are to be constrained by the whole body politic: 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 legitimizes civil undertakings, which, without it, would be absurd, tyrannical, and liable to the most frightful abuses.

The unity of the *corps politique*, as an organic body is thus realized, and every individual becomes “an indivisible part of the whole.” One of the key results of the *Contrat* is the inception of the *moi commun*, which in the first version of the text (1761) is created by the act of association (*reçoit de ce même acte son unité, son moi commun*);<sup>34</sup> in the final version provides the moral body with a formal unity, life and will (*auquel le moi commun donne l’unité formelle, la vie et la volonté*). This “*moi*” is translated unusually as identity or personality, but is more encompassing. It is itself a person with its own individuality. As Nanine Charbonnel noted in an impressive study on the metaphysical-religious roots of Rousseau’s thinking, the only mean to achieve the “*co-* of the social life is to create a statist, socio-ethnic-etiquial-political Community, that will receive genericity,” that is, its independence from of its constituents.<sup>35</sup>

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The gains and the losses are clearly defined: “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”, Rousseau wrote in Chapter VIII of the *Contrat*, on the civil state. But in the next sentence the allusion to

<sup>34</sup> First Version of the Social Contract (1761) *On the Social Contract or Essay about the Form of the Republic*. (Commonly called the Geneva Manuscript, 1761) in *Rousseau on International Relations*. Ed. by Stanley Hoffmann and David P. Fidler. Oxford, Clarendon Press, 1991.

<sup>35</sup> „Il [Rousseau] continue à croire à cette conception du genre-comme-étant-de même nature qu’un individu. Et puisque le seul moyen, selon Rousseau, de faire advenir le *co-* de la vie sociale est la création d’une Collectivité étatique, socio-ethnico-éthico-politique, c’est elle qui va recevoir la généricité.” (*Italics in the original*) Nanine CHARBONNEL: *Philosophie de Rousseau*. Vol. II. *À sa place. Déposition du christianisme*. Éd. Aréopage, 2006, 178.

the possibility of the sickness or *maladie*, the dysfunctions of this body appear indirectly: 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; and possession, which is merely the effect of force or the right of the first occupier, from property, which can be founded only on a positive title.

Despite the universalist language, these principles were envisaged by Rousseau in relation to a small community of individuals. The distant model was Sparta under Lycurgus, the immediate Jean Calvin's Geneva. From mid 16<sup>th</sup> century reformed citizens of the city indeed accepted declarations close to Rousseau's *Contrat*.<sup>36</sup> By the time Rousseau became interested in public affairs, Geneva has been ruled by a small number of families. In fact, out of some 20,000 inhabitants only 1,500 had a say in the affairs of the city. Elements of original Calvinism, such as the reciprocal control of citizens, still persisted, as well as a peculiar control of executive power by the same citizens through yearly assemblies.<sup>37</sup> "It is therefore essential, if the general will is to be able to express itself, that there should be no partial society within the State, and that each citizen should think only his own thoughts", Rousseau wrote and meant that the minimal requirement of the manifestation of individual freedom must be self-control. In other words, only individuals who are able of self-limitation for the sake of the common good can act as a community in full freedom. Self-sacrifice is a

<sup>36</sup> Following the declaration of independence of the House of the Savoy after a short armed conflict, on 25 May, 1536 „all Genevan citizens, as Helena Rosenblatt described, had assembled in a General Council, to accept the Reformation." A couple of month later Jean Calvin arrived in town, and „(T)he people of Geneva were asked to accept the confession of faith at the same time as they swore their loyalty to the city. Over the years, Genevans would take many such oaths, essentially to confirm their covenant." Helena ROSENBLATT: *Rousseau and Geneva: from the first discourse to the social contract 1749-1762*. Cambridge, Cambridge University Press, 1997.

<sup>37</sup> A detailed description of life in Geneva from the times of Calvin until the years Rousseau has become politically aware is found for example in Gerhard GRAN: *Jean Jacques Rousseau*. Edinburgh and London, William Blackwood and Sons, 1912. Among others, he wrote: For centuries Geneva was the model state for evangelical followers throughout Europe, the most enlightened witness of the reformed church's marvellous power of regeneration. So it meant something to be a Genevan. And it was not only religious but political distinction that lay at the bottom of the Genevan's nationalism." p. 25.

peremptory patriotic duty, representative government is not only rejected, but is also superfluous.

Under such conditions is the principle of popular self-determination formulated in Book Two Chapter VI, entitled *On laws* of the final version of the *Contrat*:

But when the whole people decrees (*statue*) for the whole people, it is considering only itself; and if a relation is then formed, it is between two aspects of the entire object, without there being any division of the whole. In that case the matter about which the decree is made is, like the decreeing will, general. This act is what I call a law.<sup>38</sup>

The interchangeability of the basic notions employed to designate various associations of humans did not escape Rousseau's attention, and was not seen as a problem as long as the general will prevailed and every member of the state was equal before the law. The "public person", a "moral and collective body" taking shape from the association was once called – as he noted – *Cité*. In his days: republic (*Républic*) or political body (*corps politiques*). Its members call it State (*État*) when it is passive, Sovereign (*Souverain*) when acts, and Power (*Puissance*)" when compared with similar entities.

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. But these terms are often confused and taken one for another: it is enough to know how to distinguish them when they are being used with precision. (Book I Chapter VI)<sup>39</sup>

In Rousseau's thinking the "real" people may be sometimes wrong, disoriented or even deceived, but the general will never, and as a consequence

<sup>38</sup> It is worth quoting the French original „Mais quand tout le peuple statue sur toute le peuple il ne considere que lui-même, et s'il se forme alors un rapport, c'est de l'objet entier sous un point-de-vue à l'objet entire sous un autre point de vue, sans aucune division du tout. Alors la matière sur laquelle on statue est générale comme la volonté qui statue. C'est cet acte que j'appelle une loi.”

<sup>39</sup> Still, Nanine Charbonnel wrote in relation with this confusion, “we never know if we speak about (or rather, that homogenization is the constitutive of the new Rousseauiste concept of the State) of social (like ‘social species’), of sociable, of societal, of socio-economique, of politics, of the state, of ethics, of ethnic, or of national.” Nanine CHARBONNEL: *Philosophie de Rousseau*. Vol. III. *Logiques du naturel*. Éd. Aréopage, 2006, p. 107.

the “people legislator”, when the people disposes on itself as a whole, is capable of correcting the will of “the many”, that is the *volonté public*. (Book Two. Chapter III. *Whether the general will is fallible*.) Formulated in other words elsewhere: “Of itself the people wills always the good, but of itself it by no means always sees it.” (Book II Chapter VI)

The law is supreme, while the members of society, individually “see the good they reject; the public wills the good it does not see. All stand equally in need of guidance,” therefore:

The former must be compelled to bring their wills into conformity with their reason; the latter must be taught to know what it wills. If that is done, public enlightenment leads to the union of understanding and will in the social body: the parts are made to work exactly together, and the whole is raised to its highest power. (Book Two. Chapter VI.)

In such a context there shall be no difference between the sovereignty of the state and the sovereignty of the people, because they aim at the same good. The introduction of the super-human Legislator into the scheme is perplexing at the first glance, but it makes sense once the act of this person makes sure that sovereignty remains absolute and indivisible as long as the community exists, by elevating his initial legislative power and authority above both the state and the people.

The chapter of the *Contrat* on *The Legislator* is a logical consequence of Rousseau’s general view on the contract: it is not an agreement between the people and the ruler or the arbiter. The Legislator, the divine human is outside the political community, has no interest in its internal affairs. “In order to discover the rules of society best suited to nations,” he wrote, a superior intelligence beholding all the passions of men without experiencing any of them would be needed.” By changing human nature he creates (*institue*) the people out of the multitude by “transforming each individual, who is by himself a complete and solitary whole, into a greater whole from which he in a manner receives his life and being.” This divine person is neither sovereign nor a magistrate, he is a solitary genius who has nothing to do with “the human empire”, because who commands the

law cannot rule over humans, and who rules over humans cannot influence the law. The task is huge: “It would take gods to give men laws.”<sup>40</sup>

As a number of commentators observed, the problem of sequence that occurs is similar to other social contract theories. In order to make any social contract, not only in Rousseau’s sense, a community (in practice communities, as the Roman and American history illustrate best) must exist already, at least at the pre-political level of being ready for the contract, with itself, or a would be sovereign. Rousseau was aware of this problem when he criticized Grotius (and others without mentioning them by name in Book I Chapter V) who treated the contract as a transfer of sovereignty from the people to the ruler.

What he had in mind, however, was something more fundamental: God, or a divine human by giving the norm – the idea of the *Contrat* – creates and simultaneously initiates the people. Individuals closing the contract with themselves, give themselves to all, i.e. to no one, and oblige to a superior entity, that both pre-exist this operation and is born through it.<sup>41</sup> This is why in such a society “the union is as perfect as it can be, and no associate has anything more to demand” (Book I Chapter VI), each thinks for himself, votes for himself, etc. The rest is automatism, repetition. Julek Michelet (just to mention one influential author inspired by this thinking, with influence in Eastern Europe in his time), had retaken it in mid 19<sup>th</sup> century in his passionate book on the people (*Le peuple*): “the highest idea of the people is difficult to find it in the people itself,” he wrote. In its “truth and most superior force is found in the man of genius. His voice is the voice of the people.” In this respect is right to speak about “Vox populi, vow Dei”. “Is he a God, or a man?”<sup>42</sup>

<sup>40</sup> Livre II Chapitre VII. Du Législateur. “Il faudrait des Dieux pour donner des lois aux hommes.”

<sup>41</sup> See Nanine CHARBONNEL: *Philosophie de Rousseau*. Vol. II. *À sa place. Déposition du christianisme*. Éd. Aréopage, 2006, p. 163-179.

<sup>42</sup> “Le peuple, en sa plus haute idée, se trouve difficilement dans le peuple. Que je l’observe ici ou là, ce n’est pas lui, c’est telle classe, telle forme partielle du peuple, altérée et éphémère. Il n’est dans sa vérité, à sa plus haute puissance, que dans; l’homme de génie; en lui réside la grande âme. ... Cette voix, c’est celle du peuple; muet en lui même, il parle en cet homme, et Dieu avec lui. C’est là vraiment qu’on peut dire : «Vox populi, vox Dei.» Est-ce un Dieu, ou est-ce un homme?” Jules MICHELET: *Le Peuple*. Cinquième édition. Paris, Calman Lévy, 1877 [1846], 199.

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The main problem from our point of view regarding self-determination is that the scheme is made of principles lacking any substantial content, and despite Rousseau's occasional remarks on democracy and Republic, is compatible virtually with all forms of rule. This has been remarked by early critics, like Benjamin Constant, who wrote around 1810 that the principle of general will "does not deny the legitimacy of any government", adding that "there are only two forms of government, if we may even give them that title at all, which are essentially and eternally illegitimate, because no society could want them: anarchy and despotism."<sup>43</sup> Rousseau would have approved the last statement.

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Rousseau, the man of the people, and not of the (high) society, as Hippolyte Taine rightly noted,<sup>44</sup> used in the *Contrat* the term people in a narrow, political sense. As mentioned, he regarded the people as the supreme ruler over itself, but was also aware of the fact that not every people is able to be subject of legislation. Beyond the size of the people and its territory, that must not be too large or small, a number of further conditions should be satisfied. As he explains in Book Two, Chapter X:

What people, then, is a fit subject for legislation? One which, already bound by some unity of origin, interest, or convention, has never yet felt the real yoke of law; one that has neither customs nor superstitions deeply ingrained, one which stands in no fear of being overwhelmed by sudden invasion; one which, without entering into its neighbors' quarrels, can resist each of them singlehanded, or get the help of one to repel another; one in which every member may be known by every other, and there is no need to lay on any man burdens too heavy for a man to bear; one which can do without other peoples, and without which all others can do; one which

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<sup>43</sup> Benjamin CONSTANT: *Principles of Politics Applicable to All Governments*. Indianapolis, Liberty Fund, 2003, 7.

<sup>44</sup> "Rousseau est du peuple et il n'est pas du monde." Hippolyte Taine: *Les Origines de la France contemporaine*. Partie I. Vol. II. *L'ancien régime*. Paris, Hachette, 1902 {1875} p. 35

is neither rich nor poor, but self-sufficient; and, lastly, one which unites the consistency of an ancient people with the docility of a new one.<sup>45</sup>

As he himself admitted in the following lines, such peoples rarely exist, except maybe, in Corsica: “There is still in Europe one country capable of being given laws—Corsica.”

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The language of the *Contrat* is universalistic in many respects, although Rousseau himself was not a universalist, as far as politics is concerned. He was convinced of the primacy of the politics, but not in a global sense. In the first version of the *Contrat* he stated firmly that “Certainly the term *human race* suggests only a purely collective idea which assumes no real union among the individuals who constitute it.” (*Italics in the original.*) The road of knowledge of general societies starts from particular ones, about large states from smaller republics. He remarked sharply: “It is apparent from this what should be thought of those supposed cosmopolites who, justifying their love of the homeland by means of their love of the human race, boast of loving everyone in order to have the right to love no one.”<sup>46</sup>

Rousseau’s way of extrapolating abstract principles and rules from and for specific situations has become customary in reflections on politics, understood in its 18-19<sup>th</sup> century sense as politics among nations. In this context, the theory of the social contract, from a fiction legitimizing rule has been first reduced to a *contrat civil*, in the sense of Napoleon’s Civil Code, and later extended to international relations, within which politics among nations was supposed to slowly dilute. However, the substitution of peoples to monarchs in international relations led to as many problems as the substitution of the King’s sovereignty by the sovereignty of the people (nation, state etc). In this regard Rousseau was, as we could call it today, a Realist. He cannot be fully included neither in the tradition of

<sup>45</sup> This is partly in accordance with the original sense of the Greek *demos*, as a people “bound by some unity of origin, interest, or convention”. See Aristotle: *Politics* (1252b 20 and 1326b 5)

<sup>46</sup> *First Version of the Social Contract (1761) On the Social Contract or Essay about the Form of the Republic*. in *Rousseau on International Relations*. Ed. by Stanley HOFFMANN and David P. FIDLER. Oxford, Clarendon Press, 1991, 108-9.



Enlightenment, asserting the universality of politics, nor of Romanticism, exalting the universality of one people (nation, etc.).<sup>47</sup>

#### IV. A new *raison d'État*

The centralized state in France was born in a struggle for survival: the necessity of dealing with the internal and external enemies of the king. (For the earliest European thinkers on this issue, for example Machiavelli, *lo stato* was something very different of the state in modern terms.<sup>48</sup>) Cardinal Richelieu was to lay down the basis of the future centralized state of Louis XIV, and he is among the few who gave a more or less coherent description of his goals. The second, explicitly prescriptive part of his political testament opens with the statement: “reason shall be the rule and the behavior of the state.” “Authority, he claimed, compels to obedience, the reason persuades to it”, after emphasizing in the opening lines of that chapter that man shall not do anything without reason, otherwise “he acts against his nature.”<sup>49</sup> Of course, sometimes *la raison d'État* leads to morally untenable acts, but the dilemma is neither new, nor resolved. *Lo stato* and the 17<sup>th</sup> century *État* were autonomous hierarchical orders, based on birth, tradition, and higher authority. If men acted against it they could only blame themselves for their ignorance. *L'État*, the power-State, had its own morality, above and different of the individual. During the 18<sup>th</sup> century the view that the State must also seek the realization of ubiquitous and self-sufficient reason and justice for all has gained prominence. The interest of the rational approach, as Ernst Cassirer noted in *The Myth of the State*, was not “the beginning, but the ‘principle’ of the state – its *raison d'être*.”<sup>50</sup>

<sup>47</sup> On whether there is a universal development of politics see Blandine KRIEGLER: *Existe-t-il un développement politique universel?* in *La politique de la raison*. Paris, Payot 1994, p. 72-78.

<sup>48</sup> See on the subject: Herbert BUTTERFIELD: *Raison d'état: the relations between morality and government*. Brighton, University of Sussex, 1975, and Friedrich Meinecke: *Machiavellism. The Doctrine of Raison d'État and its Place in Modern History*. New Brunswick, Transaction Publishers.

<sup>49</sup> RICHELIEU: *Testament politique*. Éd. en français modernisé par Françoise. Hildesheimer. Paris, Honoré Champion, 2012, 221, 224.

<sup>50</sup> Ernst CASSIRER: *The Myth of the State*. New Haven and London, Yale University Press 1974, p. 179.

The major achievement of the French Revolution, the new concept of the nation, “coagulated” the meanings of the ensemble made of the corp of citizens equal before the law (the social sense of “nation”). It established the priority of the constituting power over the constituted power (the legal sense), and the historical sense given by the continuity of the same past and common future, or destiny. In the process, a new dynamism was provided to its meanings, henceforth difficult to separate, like the Kingdom it preceded, and against which it has mobilized; the *Republique*, that was to mark the form of the new regime; the State, always contaminated by a “*monarchique mercantilisme*”; the homeland, “*la patrie*”, most charged by emotions and sentiments, and finally France herself, whose identity was consolidated by history, culture and will.<sup>51</sup>

The new reason of the state, while preserving its old meaning, was to realize beyond it the goals and stabilize the achievements of the Revolution: equality, liberty and fraternity among men, intrinsic to the *volonté générale*. Rousseau, as seen, left no doubt that individuals can be constrained into liberty. Men of the Revolution made sure that this is possible in case of entire peoples. The use of military force in this sense was proclaimed as legitimate.

From the perspective of this paper, one of the immediate and most important results of the Revolution was that, as J.L. Talmon noted in one of his books dedicated to this subject,

“(…) the idea of a people becomes naturally restricted to those who identify themselves with the general will and the general interest. Those outside are not really of the nation. They are aliens. This conception of the nation (or people) was soon to become a powerful political argument.”<sup>52</sup>

This aspect has long captured the attention and sharp criticism of many observers. For example, John Stuart Mill has dealt with the dilemma of the majority-minority in the framework of representative government,

<sup>51</sup> François Furet-Mona OZOUF et coll.: *Dictionnaire critique de la Révolution Française. Idées*. Paris, Flammarion {1988}, 337.

<sup>52</sup> Jacob L. TALMON, *The Origins of Totalitarian Democracy*. New York: Frederick A. Praeger, 1960, 48.

with reference to the French practice. He wrote in the famous passages of the essay on representative government among others, that:

“It was now perceived that such phrases as “self-government,” and “the power of the people over themselves,” do not express the true state of the case. The “people” who exercise the power are not always the same people with those over whom it is exercised; and the “self-government” spoken of is not the government of each by himself, but of each by all the rest. The will of the people, moreover, practically means the will of the most numerous or the most active *part* of the people; the majority, or those who succeed in making themselves accepted as the majority; the people, consequently, *may* desire to oppress a part of their number; and precautions are as much needed against this as against any other abuse of power.”<sup>53</sup>

Maximilien Robespierre, an admirer and careful student of Rousseau, has detailed how the general will shall function in practice in his passionate and frightening discourse on the principles of political morality. The presumptions from which he started are difficult to refute. To the rhetorical question: „What is the end of our revolution?” his answer was „(T)he tranquil enjoyment of liberty and equality; the reign of that eternal justice. (...)” Her laws, he said, „are graven, not on marble or stone, but in the hearts of men”, adding apparently paradoxically that they are to be found „even in the heart of the slave who has forgotten them, and in that of the tyrant who disowns them.” The motivations are also beyond debate: „We wish, in a word, to fulfill the intentions of nature and the destiny of man, realize the promises of philosophy, and acquit providence of a long reign of crime and tyranny.” Since the goals are noble, the motivations free of second thoughts, those who will question them or actively oppose will be dealt with force:

If virtue be the spring of a popular government in times of peace, the spring of that government during a revolution is virtue combined with terror: virtue, without which terror is destructive; terror, without which virtue is impotent. Terror is only justice prompt, severe and inflexible; it is then an emanation of virtue; it is less a distinct principle than a natural

<sup>53</sup> John Stuart MILL: *On Liberty*. 1859, Chapter I. ([http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=233&layout=html#chapter\\_16550](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=233&layout=html#chapter_16550)). Also in: J.S. MILL: *Utilitarianism. On Liberty, and Essay on Bentham*. London, Fontana Press, 1962, 129.

consequence of the general principle of democracy, applied to the most pressing wants of the country.<sup>54</sup>

The people has become a moral principle and any references to it a directly guided daily political action – depending on who spoke.<sup>55</sup>

## V. The people, eternally

Before reaching that stage, the writers of the Enlightenment brought to the forefront a problem that they regarded more pressing and actual, and explaining to some extent the deepness of the passions raised by the Revolution. This was, in their formulation, the treatment of peoples by the monarchs of the era as “mindless cattle” (*quand le peuple ne serait qu’un vil troupeau sans raison*), or mere instrument of their “fantasies” (*l’instrument de leurs fantasies*)<sup>56</sup>. These words made powerful, emotional images that still persist, together with the condemnation of the practice of using people as cannon fodder in wars that they do not initiate or wish to pursue. As Condorcet passionately wrote:

“The people being more enlightened, and having resumed the right of disposing for themselves of their blood and their treasure, will learn by degrees to regard war as the most dreadful of all calamities, the most terrible of all crimes. The first wars that will be superseded, will be those into which the usurpers of sovereignty have hitherto drawn their subjects for

<sup>54</sup> M. ROBESPIERRE: *Report upon the Principles of Political Morality Which Are to Form the Basis of the Administration of the Interior Concerns of the Republic*. Philadelphia, 1794. (<http://www.marxists.org/history/france/revolution/robespierre/1794/political-morality.htm>). That Rousseau was at best selectively read and misunderstood by the Jacobins is concisely demonstrated by Bernard Manin: *Rousseau in Fr. Furet- M. Ozouf: Dictionnaire critique de la Révolution Française*. Idées. Paris, Flammarion, 1992, 457-481.

<sup>55</sup> See Pierre ROSANVALLON: *La démocratie inachevée. Histoire de la souveraineté du peuple en France*. Paris, Gallimard, 2000, p. 78-81.

<sup>56</sup> ROUSSEAU: *Polysynodie de L’Abbé de Saint-Pierre*. [Written 1756; published 1782. MS. Neuchâtel, 7829.] Chapter I. in *The Political Writings of Jean Jacques Rousseau*. Edited from the original manuscripts and authentic editions, with introductions and notes by C. E. Vaughan. (Cambridge University Press, 1915). In 2 vols. Vol. 1. ([http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=710&layout=html#chapter\\_88780](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=710&layout=html#chapter_88780))

the maintenance of rights pretendedly hereditary. Nations will know, that they cannot become conquerors without losing their freedom; (...).<sup>57</sup>

The disposal of people as inheritance and their treatment as “beasts of the field” has been rejected by Thomas Paine in his polemical writing against E. Burke’s considerations of the French Revolution. He wrote in 1791:

“There was a time when kings disposed of their crowns by will upon their deathbeds, and consigned the people, like beasts of the field, to whatever successor they appointed. This is now so exploded as scarcely to be remembered, and so monstrous as hardly to be believed: But the parliamentary clauses upon which Mr. Burke builds his political church, are of the same nature.”<sup>58</sup>

It was Kant who summarized in the most eloquent way the problem. In Preliminary Article 2 on the perpetual peace among nations he stated: “No independent nation (*State, in the original –BG*), be it large or small, may be acquired by another nation by inheritance, exchange, purchase, or gift.”<sup>59</sup> This statement has run contrary to the general practice of Europe both as regards the territory and the population living on the concerned piece of land. The main argument is classical Kantian, and in conjunction with his previous stands:

A nation is not (like the ground on which it is located) a possession (*patrimonium*). It is a society of men whom no other than the nation itself can command or dispose of. Since, like a tree, each nation has its own roots, to incorporate it into another nation as a graft, denies its existence as

<sup>57</sup> M. de CONDORCET: *Outlines of an historical view of the progress of the human mind*, being a posthumous work of the late M. de Condorcet. Translated from the French. Philadelphia, 1796. [http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=1669&layout=html](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=1669&layout=html)

<sup>58</sup> Thomas PAINE: *Rights of Man: Being an Answer to Mr. Burke’s Attack on the French Revolution*. 2nd edition. London, J.S. Jordan, 1791. ([http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=798&layout=html](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=798&layout=html))

<sup>59</sup> *State in the original*: “2. *Es soll kein für sich bestehender Staat (klein oder groß, das gilt hier gleichviel) von einem andern Staate durch Erbung, Tausch, Kauf oder Schenkung erworben werden können. Ein Staat ist nämlich nicht (wie etwa der Boden, auf dem er seinen Sitz hat) eine Habe (patrimonium). (...)*” Immanuel KANT: *Zum ewigen Frieden*. Werke in zwölf Bänden. Band 11, Frankfurt am Main 1977, S. 195. (<http://www.zeno.org/Philosophie/M/Kant,+Immanuel/Zum+ewigen+Frieden.+Ein+philosophischer+Entwurf>)

a moral person, turns it into a thing, and thus contradicts the concept of the original contract, without which a people has no right.

He added that based on the same principle the hiring of troops in wars that were not waged against common enemies shall be forbidden, “for by this practice subjects are used and wasted as mere objects to be manipulated at will.”<sup>60</sup>

From the last decades of the 18th century public discourse on „the people” as a question of power developed in marked contrast with earlier periods. The notion and reality of the people as a mass of political maneuver, a bottomless source for the military, as unit of the law of nations, and a constant reference of legitimacy for various, sometimes mutually exclusive ideologies and daily politics – all of these have been perfected and applied during the late 18<sup>th</sup> and in the course of the 19th century. WWI has been the culmination of all these processes politically and militarily, while in the past one hundred years no significant innovations occurred. Therefore the „short” 20th century will not be addressed separately here, only the similarities will be mentioned, where appropriate.

The differentiation, and more often the opposition of the people, the multitude, and the ruling elite are as old as documented history. Protests, rebellion, large scale armed revolt, civil war and revolution in the modern European sense of the word are a feature of all times and places. The question that has come to the forefront since the 17th century was on one hand the justification of the uprising of the people against despotism in the name of freedom (basically of movement, speech, conscience, and commerce), and on the other, the consolidation of the results achieved by a victorious upheaval. As Hannah Arendt summarized it succinctly in relation with legitimate rebellion, defiance of disobedience of the people as something admitted to some extent in Medieval thought,

“the people might be admitted to have the right to decide who should *not* rule them, they certainly were not supposed to determine who *should*, and

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<sup>60</sup> KANT: *Perpetual Peace. A Philosophical Sketch*. Hackett, Indianapolis, 2003 {1795-6} p. 108.

even less do we ever hear of a right of people to be their own rulers or to appoint persons from their own rank to do the business of government.”<sup>61</sup>

The people, at the dawn of European modernity was in general considered one of the orders in the state. The British Bill of Rights understood it as the population of the realm, a view persisting into our days.<sup>62</sup> It was also a strong current of opinion in Western Europe that a good ruler shall give protection to the people against individual abuses or external threats. The „power of the sword”, ranging from self-defense to tyrannicide was summarized in the most authoritative way by the end of the Middle Ages by Aquinas.<sup>63</sup> His thoughts on just war have been developed into a coherent and detailed doctrine in the following centuries. Cardinal Richelieu, while noting in his *Political Testament* the tradition of the guardianship role of monarchs, emphasized that all involved in the affairs of the state (*tous les politiques*) agree that the people (part of the Third Estate, likened with „mules”) shall not be overloaded with burdens and once left too easily on their own, „it will be impossible to contain them within the rules of their duties.”<sup>64</sup>

The notion of popular sovereignty by that time had a long and diverse history. There was no question that, both in the spirit and the letter of the Old and the New Testament, the aggregate of individuals created by God on his image deserves a special treatment as a whole as well. The incoherence of the *Corpus Iuris Civilis*, due to the circumstances of its editing, led to different interpretations on the relation between the people and the monarch, none questioning, however, that the people shall play a role in specific schemes of government. The historically controversial *lex*

<sup>61</sup> Hannah ARENDT: *On Revolution*. London, Penguin Books, 1965, p. 40.

<sup>62</sup> “Whereas the Lords Spiritual and Temporal and Commons assembled at Westminster, lawfully, fully and freely representing all the estates of the people of this realm, (...)”. *English Bill of Rights 1689. An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown*.

<sup>63</sup> See for example John FINNIS: *Aquinas. Moral, Political, and Legal Theory*. Oxford, Oxford University Press, 1998, p. 275-293.

<sup>64</sup> RICHELIEU: *Testament politique*. Éd. en français modernisé par Françoise Hildesheimer. Paris, Honoré Champion, 2012, p. 172.

*regia* and the subsequent references to it raised key aspects of power, as a web of relations between the ruler and the ruled.<sup>65</sup>

The Christian tradition incorporated two competing positions. The New Testament's words „repay to Caesar what belongs to Caesar and to God what belongs to God”, confirmed by St. Paul's *Epistolae to the Romans*: „Let every person be subordinate to the higher authorities, for there is no authority except from God, and those that exist have been established by God,” have been challenged over time, in cases of rulers who terrorized their subjects and conducted an unholy life. Tyrannicide is spelled out explicitly as early as in John de Salisbury's *Policraticus* (1159):

“Hence even in secular literature, the caution is given that one must live one way with a friend and another with a tyrant. For it is lawful to flatter him whom it is lawful to slay. Further it is not merely lawful to slay a tyrant but even right and just. He that taketh the sword is worthy of perishing with the sword. But the words *by taking the sword* refer to the one who usurps it in his temerity, not to him who receives from God the right to use it.”<sup>66</sup>

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With the emerging interest in republican ideas following the rediscovery of classics in the universities of Italy and France during the Renaissance, the interest in the people and its role increased further. From Alcuin's warning that “Vox populi” is anything but “Vox Deus”<sup>67</sup> to Rousseau's people as a source of all legitimacy was a long way to go, marked by

<sup>65</sup> „Whatever the truth about the *lex regia*, wrote in his important book on Medieval political thought J. Canning, its significance for political thought was that it expressed the idea that the emperor's power derived from the people, and thus provided a model for the popular source of governmental power to be elaborated later in the Middle Ages and the early modern period. The *lex regia* raised a fundamental problem concerning the origins of authority, because its inclusion in the *Corpus iuris* meant that both divine and popular sources of rulership coexisted.” Joseph CANNING: *A History of Medieval Political Thought - 300-1450*. New York, Routledge, 1996. p. 9.

<sup>66</sup> *Frivolities of Courtiers and Footprints of Philosophers*. A Translation of the First, Second, and Third Books and Selections from the Seventh and Eighth Books of the *Policraticus* of John of Salisbury. New York, Octagon Books-University of Minnesota, 1972. *Chapter Fifteen. It Is Lawful to Flatter Only Him Whom It Is Lawful to Slay; the Tyrant a Public Enemy*

<sup>67</sup> The entry “Alcuin” in *Encyclopædia Britannica. Encyclopædia Britannica Online*. (Alcuin's letter to Charlemagne c. 800, contains the following commentary: „These words have often been quoted, but Alcuin was himself quoting what other people said rather than expressing his own sentiments. The larger context: ‘Nor should we listen to those who say, ‘The voice of the people is the voice of God,’ for the turbulence of the mob is always close to insanity.” Alexan-



violence, abuses, and manipulation. There have been periods, when as Quentin Skinner noted, „the revival of classical republicanism was a relatively short-lived spectacle in early Renaissance Italy.” The doctrine and practice of elected government recurrently became object of criticism and „widely questioned, as he noted further, not least because it seemed to many observers that self-government had simply proved to be a recipe for endless and debilitating civil strife.”<sup>68</sup>

Pessimists of human nature, as Machiavelli and Hobbes, appeared to be vindicated by the almost continuous warfare in Europe, culminating with the thirty years wars, and then the siege of Vienna, to mention only two outstanding events. Brutality in combat, atrocities against civilians, diseases and misery were general on the territories raided by armies. The endeavor in Western Europe in the second half the 17th century of making war an institution of inter-state relations and towards moderation in warfare, thus somehow reducing its destructive effects on populations, opened the way for a cautious optimism. Thus the assumption that peoples wanted to live in peace, preferably a prolonged if not eternal peace, was more than a theoretical stand. Usually peace has been regarded at the time as a period, a break between two wars. Conscious, methodic peace-making and peace-keeping was a „modern invention”, in a sense that reflections on the subject occurred in the beginning of the 18th century.<sup>69</sup> Large battles gradually became the exception, not because the lords of war changed their minds, but because „armies were expensive to raise, took years to train, and could be lost almost in an instant”, the authors of an important book on the history of warfare note, adding that the spread of the ideas of the Enlightenment reduced religious hatred and opened minds. As one consequence, „as much as possible, Europeans sought to

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der Pope wrote in his *Imitations of Horace*: The People’s voice is odd; It is, and it is not, the voice of God.”

<<http://www.britannica.com/EBchecked/topic/13477/Alcuin/13477suppinfo/Supplemental-Information>>.

<sup>68</sup> Quentin SKINNER: *Visions of Politics: Renaissance Virtues*. Vol. 2 . Cambridge, Cambridge University Press, 2002, 5.

<sup>69</sup> See: Michael HOWARD: *The Invention of Peace. Reflections on War and International Order*. Profile Books, London, 2000.

insulate military forces and the actions of war from the general populace.<sup>70</sup> The 18th century was under the aegis of what military historians call the „Clausewitzian universe”, a separation of the people, the army and the government. War was the business of the monarch or the cabinet, carried out by professional armies, and civilians were severely punished for taking to arms unauthorized.<sup>71</sup>

Before the French Revolutionary wars the officer corps of armies were dominated by noblemen, and the bulk was composed of recruited mercenaries or conscriptions by force or deception. For the former it was a duty to fight for the king, for the latter motivations were trivial and loyalty was not an issue. Armies were feared, loathed, considered corrupt and the profession despicable. Reforms in weaponry, organization and logistics took place in a number of countries in the 18th century, but the real change was brought by the French Revolution. The war of the king or the cabinet became the war of the people, of the nation.

As Colmar von Goltz noted in his book on the subject, *The Nation in Arms*: “The French Revolution marks the commencement of the present era of the conduct of war, which will endure until new and universal social changes shall produce other bases of both political life and military institutions.” The Revolution, he continued, „annihilated at a single blow the scrupulous hesitation to make war support war, to annul civil rights at the first roar of the cannon, and to live on the country in which the campaign takes place.” Universal conscription, which started with the levy en mass (*levée en masse*) decreed between February and August 1793 in Paris, „had furnished men in sufficient numbers to allow of their being lavishly sacrificed in case of emergency.” When von Goltz’s book was first published, European great powers supplemented „their armies proper by legal enactments providing for a levy en masse of all men fit for military duty.”<sup>72</sup> It should be emphasized that, as the records of the Assemblée

<sup>70</sup> ARCHER, Christian I.-FERRIS, John R.-HERWIG, Holger. H-TRAVERS, Timothy, H.E.: *World History of Warfare*. London, Cassels, p. 321-2.

<sup>71</sup> Succinct presentation in Martin van CREVELD: *The Transformation of War*. The Free Press, New York-London, 1991, p. 33-42.

<sup>72</sup> Colmar von der GOLTZ: *The Nation in Arms. A Treatise on Modern Military Systems and the Conduct of War*. Trans. by Philip A. Ashworth. Popular Edition. London, Hodder and Stoltgh-ton, 1914 [1883], p.5; 10.

Nationale prove, the process was carried out with many serious difficulties at the beginning. An atmosphere of generalized suspicion, public hysteria and war paranoia were necessary both for the approval and the start of conscriptions in the France of 1793.<sup>73</sup>

Under Napoleon universal conscription became regular and regarded largely as legitimate, while the mentioned distinction between the government, the army and the people as non-combatants (except the guerilla in Spain) has been maintained on the continent until the Greek war for independence. However, the „revolution’s ability to combine hardware, training, doctrine, organization, and patriotic fervor into a decisive whole forever changed the nature of combat.”<sup>74</sup> As men close to the Emperor testified in their memoirs, Napoleon shared the view that „the army is the nation (*l’armée c’est la nation*).” The soldiers are the sons of the citizens, therefore the commander must have all the abilities to govern as a civilian, who has in front of his eyes only the common good, he stressed repeatedly to his entourage.<sup>75</sup>

It took less than a century and a half that the theory of total war has began to be implemented. It was technology that made the transition from destruction of armies to massive destruction inflicted upon large geographical areas and populations. Nuclear weapons made elusive all previous distinctions between government, military command, armies and civilians, and paradoxically opened the ways for the so called 4th Generation Warfare and contemporary insurgencies, although the two overlap in many respects.<sup>76</sup> Taking into account the historical experience

<sup>73</sup> See *Histoire parlementaire de la Révolution Française ou Journal des Assemblées Nationales depuis 1789 jusqu’en 1815*. Tome 28. Paris, Paulin, 1836, p. 466-471. (<http://catalogue.bnf.fr/ark:/12148/cb312626069>) and Adolphe THIERS: *Histoire de la Révolution Française*. Neuvième édition. Tome IV. Paris, Furne et comp. 358-370.

<sup>74</sup> ARCHER, Christian I.-FERRIS, John R.-HERWIG, Holger. H-TRAVERS, Timothy, H.E.: *World History of Warfare*. London, Cassels, p. 389.

<sup>75</sup> Napoleon: *De la guerre*. Présenté et annoté par Bruno Colson. Paris, Perrin, 2011, p. 426.

<sup>76</sup> According to one author, 4GW “It is an evolved form of insurgency. Still rooted in the fundamental precept that superior political will, when properly employed, can defeat greater economic and military power, 4GW makes use of society’s networks to carry on its fight. Unlike previous generations of warfare, it does not attempt to win by defeating the enemy’s military forces.” Thomas X. HAMMES: *The Sling and the Stone. On War in the 21th Century*. Zenith Press, 2006, p.2.

and the prospects of the future, Martin Van Creveld concluded already at the end of the 1980s, that

“in the future, war will not be waged by armies but by groups whom we today call terrorists, guerillas, bandits, and robbers, but who will undoubtedly hit on more formal titles to describe themselves. Their organizations are likely to be constructed on charismatic lines rather than institutional ones, and to be motivated less by ‘professionalism’ than by fanatical, ideologically-based, loyalties.”<sup>77</sup>

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The best elaborated argument that the people has a duty to take up arms in defense of its freedom and properties came from America in the second half of the 18th century. The classic example is the *Declaration by the Representatives of the United Colonies of North-America, Now Met in Congress at Philadelphia, Setting Forth the Causes and Necessity of Their Taking Up Arms of 6 July 1775*, a work by Thomas Jefferson and John Dickinson. The final paragraphs of the text reflect both the determination to fight and the hope to avoid war:

“In our own native land, in defense of the freedom that is our birthright, and which we ever enjoyed till the late violation of it -- for the protection of our property, acquired solely by the honest industry of our fore-fathers and ourselves, against violence actually offered, we have taken up arms. We shall lay them down when hostilities shall cease on the part of the aggressors, and all danger of their being renewed shall be removed, and not before. With a humble confidence in the mercies of the supreme and impartial Judge and Ruler of the Universe, we most devoutly implore his divine goodness to protect us happily through this great conflict, to dispose our adversaries to reconciliation on reasonable terms, and thereby to relieve the empire from the calamities of civil war.”<sup>78</sup>

The Enlightenment’s ideas on self-determination and popular sovereignty have been implemented for the first time also during the American struggle for independence. Among the “self-evident truths” of the Declaration

<sup>77</sup> Van CREVELD: op. cit. p. 197.

<sup>78</sup> In Samuel Eliot MORRISON - Henry Steele COMMAGER - William E. LEUCHTENBURG. *The Growth of the American Republic*. Volume 1. Seventh Edition. New York: Oxford University Press; 1980. The text is accessible also on [http://avalon.law.yale.edu/18th\\_century/arms.asp](http://avalon.law.yale.edu/18th_century/arms.asp).

of Independence of 4 July 1776 all the elements of democratic self-determination have been in fact listed. In order to secure the unalienable rights of individuals, as the right to life, liberty and the pursuit of happiness,

(...) governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to affect their safety and happiness.

Opposition to despotism, abuses and usurpation was proclaimed not only in conformity with reason, therefore lawful, but also as a duty of the people. As the American Declaration of Independence of July 4, 1776 formulated:

“But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security.”

During the French Revolution some of the elements of the concept of people's self-determination have been legitimated with a claim to universality. The formulations used in different documents are highlighting different aspects. However, the demarcation between the sovereignty of the people and the sovereignty of the nation, that is the state, have not been clarified from a legal point of view ever since. The general agreement, later proved as unquestionable on any basis in a great number of states, was on the indivisible and inalienable character of sovereignty. Article 3 of the *Declaration of the Rights of Man and of the Citizen* stated that „The principle of all sovereignty resides essentially in the nation. No body nor individual may exercise any authority which does not proceed directly from the nation.”<sup>79</sup>

<sup>79</sup> Déclaration des droits de l'homme et du citoyen du 26 Août 1789. Art 3. “Le principe de toute souveraineté réside essentiellement dans la nation. Nul corps, nul individu ne peut exercer d'autorité qui n'en émane expressément.” According to the French Constitution of 1958, in force: “Article 3. La souveraineté nationale appartient au peuple (...).”

The audacious claim made by Joseph Sièyes in his famous pamphlet published in January 1789 has been later accepted by acclaim: the Third Estate became the nation, and all privileges have been annulled by the Constitution of 1791. „The Third Estate, wrote Sièyes, thus encompasses everything pertaining to the Nation, and everyone outside the Third Estate cannot be considered to be a member of the Nation. What is the Third Estate? Everything”.<sup>80</sup> Rousseau’s influence is reflected literally in Article 6 of the Declaration: „Law is the expression of the general will.”

The Constitution of 1791 was in force only one year. The wars waged against revolutionary France have changed the setting, and in June 1793 a new Constitution was adopted. In the new act the sovereignty of the people was emphasized, and a distinction has been made between the nation, as abstraction of the state, and the people, the „living” reality. It stated, among others, that „The French people is, for the purpose of exercising its sovereignty, divided into primary assemblies according to cantons”, and that „The sovereign people embraces the whole of French citizens.” As a preamble, a reformulated declaration on the rights of men and citizen provided explicitly that any people is entitled to exercise its right to self-determination by „revising, reform, and change its Constitution”, because „one generation cannot subject to its laws future generations”, under the direct influence of Thomas Payne, who with Condorcet and others submitted a draft Constitution earlier in February.<sup>81</sup>

On foreign affairs, this Constitution stated in art. 118 that the French people is „the friend and natural ally of free peoples”, and in the following article formulated the principle of non-interference in the affairs of other nations on the basis of reciprocity; other nations shall not intervene in the affairs of France.<sup>82</sup> These formulas were significantly weaker than the language used in the Convention a couple of months earlier, when foreign

<sup>80</sup> “What is the Third Estate?” in Emmanuel Joseph SIEYÈS: *Political Writings: Including the Debate between Sieyes and Tom Paine in 1791*. Indianapolis, Hackett, 2003, p.98.

<sup>81</sup> „Un peuple a toujours le droit de revoir, de réformer et de changer sa Constitution. Une génération ne peut assujettir à ses lois les générations futures.” See the original text at: <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/la-constitution/les-constitutions-de-la-france/constitution-du-24-juin-1793.5084.html>.

<sup>82</sup> Article 118. - Le Peuple français est l’ami et l’allié naturel des peuples libres. Article 119. - Il ne s’immisce point dans le gouvernement des autres nations ; il ne souffre pas que les autres nations s’immiscent dans le sien.

affairs and the question of wars of liberation have been on the agenda. It was a sign that revolutionary fervor and the fulfillment of universal duties assigned on France by the Revolution have gradually decreased due to geopolitical realities.

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The fascinating course of events between 1789 and 1793 can easily justify the view – as it did in fact later - that while all peoples have the right to self-determination, only those are capable of realizing it in practice that are not only politically ready for it, but also willing to take up arms. The debates in the revolutionary Convention in December 1792 brought up the legitimacy of war waged for others' freedom as a duty of the Revolution and the French nation. In the post-Westphalian world of politics the victors of wars usually grabbed territories, while the defeated suffered reprisals and were obliged to compensations, all in line with the accepted law of nations and natural law.

The reality of the „*nation militaire*” surrounded by enemies, the duty of fighting tyranny, and the asserted universality of people's sovereignty made up an irresistible combination that led to the idea that if reason does not prevail by itself, then force can be legitimately used to enforce it. Old just war theories did not apply anymore. Liberation wars threatened to become open-ended and total. (It should be noted here that France under the Directorate returned to the old practices in matters war and diplomacy, duly reflected by Title XI on foreign relations of the Constitution of 1795.)

Between December 1789 and May 1790 there have been a number of debates in the French National Assembly on the feasibility of a declaration on a new law of nations, aimed at marking a total break with the monarchic tradition of making politics. Such a document, according to Robespierre and others, ardent supporters of the cause, shall begin with a solemn undertaking that the Republic will renounce to any future war of conquest. As historian Marc Belissa noted, none of the participants in the debate had any illusions that such a declaration will result in “eternal peace”. As Robespierre stressed, people do understand natural law without

difficulties. The important change is that “through the act of proclamation, the constituent power transforms the natural rights of nations into political rights.”<sup>83</sup> One of the supporters, Count de Volney submitted even a draft text providing that no people has the right to take over the properties of another people, strip it of its freedom or its natural advantages. The draft also was explicit on the prohibition of wars of conquest: all wars waged for another reason than a right cause are acts of oppression, and shall be repressed by the “great society” (of nations), because “an invasion of a state by another state endangers the freedom of all.”<sup>84</sup>

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The thought that peoples can be coerced into freedom occurred in this period, and was considered by the Convention as a duty of revolutionary France to take measures to this end. On 15 December 1792 deputy Cambon, on behalf of the Convention’s committees on finances, war and diplomacy presented a draft-decree on the aims and the tasks of French revolutionary armies on the territories under their control.<sup>85</sup> On a particularly bellicose tone, he made in his introductory speech a number of arguments for armed revolutionary intervention in the name of freedom. “We are going to destroy the old regimes” that oppress other peoples, and for that there is no need for special mandate or any cover; actions will be conducted under and towards the full triumph of reason, he continued, privileges will be annulled, as everything what is against the rights of the people. No tyrannies can resist the principles under which our power is exercised, Cambon assured the audience. “The aristocracy governs everywhere, therefore all existing authorities must be destroyed”, he exclaimed. The statement of course completely disregarded the fact that armed occupation of a country had its own constraints both on the occupying force and the

<sup>83</sup> Marc BELISSA: *Les guerres de la Révolution Française (1789-1795). Guerres de conquete ou «exportation de la liberté»?* Cahiers du CEHD N° 34. 2008, p. 70. (<http://www.cehd.sga.defense.gouv.fr>)

<sup>84</sup> Quoted by BELISSA, op. cit.: “Que toute guerre entreprise par un autre motif et pour un autre objet qu’un droit juste est un acte d’oppression qu’il importe à toute la grande société de réprimer, parce que l’invasion d’un État par un autre État tend à menacer la liberté et la sûreté de tous.”

<sup>85</sup> *Archives parlementaires de 1787 a 1860*. Tome LV. Paris, 1899, p. 70-76. For an extract of the Cambon-report and the text of the decree see: <http://gallica.bnf.fr/ark:/12148/bpt6k131926x.r=Cambon+1792.langEN>.



local populations, whatever the reasons underlying the measure, something apparently not learned ever since.

The decree voted by acclamation on the same day, contained a number of provisions implying that a people can be coerced into freedom in the name of higher reasons, while – as Marc Belissa remarked in his study -, the concept of fraternity emerging from the debate excluded the reciprocity in the natural rights of peoples. First, as Article 11 of the Decree stated, The French nation declares that it will treat “as enemy the people that refuses the liberty and equality”, and renouncing to them wants to preserve the prince or the “privileged castes”. French generals of the occupying force were instructed to make a declaration of the sovereignty of the people concerned in the name of the French nation, proclaiming at the same time the suppression of all established authorities and all privileges. They will announce the people that they brought peace, security, fraternity, liberty, and equality, and then will proceed with the creation of local governing bodies on the French model. The members of such bodies will be obliged to take an oath to liberty and equality, and renounce in writing to any privilege they may have possessed.

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A hierarchy between the liberator people and those liberated was more evidently established during the Napoleonic era. The means of liberation were mainly conquest and annexation, but should we take for granted what the Emperor commented on the larger perspective following his defeat at Waterloo, the main goal was a united Europe under his rule. In his notes of the conversations with Napoleon during his exile to the island of St. Helene, Count Las Cases quoted among others the Emperor’s grand European designs and his views on the “great peoples” of the continent. He was convinced that the future was the unification of these peoples into a great „European family”, under the same sovereign. According to the notes of 11 November 1816:

“After alluding to some other subjects, the Emperor said, “One of my great plans was the rejoining, the concentration of those same geographical nations which have been disunited and parceled out by revolution and

policy. There are dispersed in Europe upward of thirty millions of French, fifteen millions of Spaniards, fifteen millions of Italians, and thirty millions of Germans, and it was my intention to incorporate these several people each into one nation. It would have been a noble thing to have advanced into posterity with such a train, and attended by the blessings of future ages. I felt myself worthy of this glory!”<sup>86</sup>

Napoleon continued his thoughts on the subject addressing the specific situation of these and other European peoples, and assessing their future as nations. He made this visionary comment on a unified Europe:

“After this summary simplification, it would have been possible to indulge the chimera of the *beau idéal* of civilization. In this state of things, there would have been some chance of establishing in every country a unity of codes, of principles, of opinions, of sentiments, views and interests. Then, perhaps, by the help of the universal diffusion of knowledge, one might have thought of attempting, in the great European family, the application of the American Congress or the Amphictyons of Greece. What a perspective of power, grandeur, happiness, and prosperity would thus have appeared!”<sup>87</sup>

As we know, these thoughts not only resonated through the centuries, but are very much alive in our days as well.

## **VI. *Nazionalita*, self-determination and democracy, as duties imposed by destiny**

The ideas of equality and freedom of the French Revolution, spread by Napoleon in most part of Europe among others through his *Code Civil*, have been first translated into mobilization to a national struggle for independence by the Italian Carbonari. The aftermath of Waterloo has proved once again that the Europe of Princes was different of the Europe

<sup>86</sup> *Napoleon at St. Helena Or, Interesting Anecdotes and Remarkable Conversations of the Emperor during the Five and a Half Years of His Captivity*. New York, Harper & Brothers, 1855, p. 472. In the French original „peuples géographiques” is used, and the end of the phrase is: „: j’eusse voulu faire de chacun de ces peuples un seul et même corps de nation. C’est avec un tel cortège qu’il eût été beau de s’avancer dand la postérité.” Le Comte de Las Cases: *Le Mémorial de Sainte-Hélène*. Éd. établie et annotée par Gérard Walter. Paris, Gallimard, Vol. II., 1956, p. 303-309.

<sup>87</sup> *Napoleon at St. Helena* ..., op.cit. p.472-473.

of Peoples, notably those people who were the ferments of revolutionary movements in the 1820s and 1830s from the Mediterranean to Northern Europe. Elements of the “*grande armée de la liberté*”, fidels to the Emperor after Waterloo, have spread not only over Europe but on other continents as well, entertaining a large spectrum of new ideas, from Liberalism, to Republicanism and Bonapartisme. Between 1819 and 1824 the flame of the revolution was raised in Germany, Spain, Naples and Greece. The public opinion in France was particularly sympathetic to national struggles for liberation, together with the spread of political liberalism as defined in the preceding century. All these facts created an atmosphere conducive to the feeling of duty on behalf of France towards these peoples, moreover, to a Holy Alliance of Peoples as opposed to the great powers alliance founded on monarchic solidarity.

That history is an irreversible process towards liberty and equality of men and peoples was interpreted in different ways in the 19<sup>th</sup> century. Alexis de Tocqueville, for example, remarked in his *De la démocratie en Amérique* that among the first waves of emigrants who set for themselves a political framework, notably the founders of New England, there have been “ardent sectarians” and at the same time “exalted innovators”, free of political prejudices.<sup>88</sup> From this combination, according to him, follows the view that political principles, institutions and laws are subject of change by will, adaptable to the specific conditions of the times. Therefore, he explained, “The barriers that imprisoned the society where they were born fall before them; old opinions that for centuries ruled the world vanish; an almost limitless course and a field without horizons open.” Morals and politics in such a world are “far from harming each other.” They are complementary and mutually reinforce themselves, creating a harmony, we may add, not known before. This is possible because

Religion sees in civil liberty a noble exercise of the faculties of man; in the political world, a field offered by the Creator to the efforts of intelligence. (...) Liberty sees in religion the companion of its struggles and triumphs, the cradle of its early years, the divine source of its rights. Liberty considers

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<sup>88</sup> The Articles of Confederation of the United Colonies of New England of 19 May 1643 begins with the words: “Whereas we all came into these parts of America with one and the same end and aim, namely, to advance the Kingdom of our Lord Jesus Christ and to enjoy the liberties of the Gospel in purity with peace.” ([http://avalon.law.yale.edu/17th\\_century/art1613.asp](http://avalon.law.yale.edu/17th_century/art1613.asp))

religion as the safeguard of mores, mores as the guarantee of laws and the pledge of its own duration.

The larger context is the democratic revolution started in the minds of the people, with the ideal of equality at its core. This revolution is irresistible and unstoppable, since it is ordained by Providence, it is the destiny of the peoples among whom it was started:

“If long observations and sincere meditations led men of today to recognize that the gradual and progressive development of equality is at once the past and the future of their history, this discovery alone would give this development the sacred character of the will of God. To want to stop democracy would then seem to be struggling against God himself, and it would only remain for nations to accommodate themselves to the social state that Providence imposes on them.”<sup>89</sup>

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Tocqueville was not alone with these views. The concept of nationality, an innovation and adaptation of the Italian notion of *la nazionalita* was perceived and interpreted in a number of ways by those who employed it, but at its core was regarded as „sacred” as equality and democracy. A brief overview reveals that it was used sometimes simultaneously as meaning:

- a principle of international politics, and a principle as well as a basic unit (in the sense of P. S. Mancini, as follows below) of the law of nations
- a people ready to become a nation endowed with its own state
- the desire of a people to establish its own state
- the common conscience of readiness and willingness of a people to fulfill its manifest destiny as a member of mankind
- and last, but not least, as an encompassing a revolutionary political program, a call to duty.

<sup>89</sup> *Democracy in America: Historical-Critical Edition of De la démocratie en Amérique*, ed. Eduardo Nolla, translated from the French by James T. Schleifer. A Bilingual French-English edition. Indianapolis, Liberty Fund, 2010. Vol. 1, Part I, Introduction. [http://oll.libertyfund.org/index.php?option=com\\_staticxt&staticfile=show.php%3Ftitle=2285&layout=html#chapter\\_218795](http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=2285&layout=html#chapter_218795) “Vouloir arreter la démocratie paraîtrait alors lutter contre Dieu meme, et il ne resterait aux nations qu’a s’accomoder a l’état social que leur impose la Providence.” *De la démocratie en Amérique*. Paris, Gallimard, 1986. 42.

All these elements are present and combined in a unique way in the works of Giuseppe Mazzini (1805-72), the great Italian professional revolutionary of the 19th century.<sup>90</sup> Everything he represented was opposed to the order of Europe as it was in place in the first half of the 19th century. The designated enemy was the Holy Alliance established in 1815, through which, according to Mazzini's words:

“The strong declared to the strong: We will join together to prevent any of the weak from rebelling against the yoke we impose upon them; should any rebel, we will crush them.

The target of repression were the peoples who, as he emphasized, animated by the spirit of nationality defeated Napoleon before 1815, like in Spain, and became conscious through the process, that they are „the true masters” of their native soil and „the sole interpreters” of their own life. In line with his general view of the duties of man and peoples, he draws the conclusion: „We are bound to oppose the league of princes by a Holy Alliance of the peoples. We are bound to constitute democracy.”<sup>91</sup>

Even in this formulation of an immediate political goal is transparent that in the substance of his arguments, Mazzini was in principal an inheritor of the 18th century, whose ideas he reformulated in a way understandable to the general public. Some authors who wrote about Mazzini and his work, complained at the same time of its accessibility to research. The mere size of all the books, pamphlets, essays, declarations, and other writings he left to us is huge by all standards, and scattered in various editions in Italian or translations in main European languages. It is true that, as Martin Wight noted, “wherever he is opened on any two pages, all his main ideas, broad simple themes, are indefinitely repeated with a richness of verbiage. One finds high generalities about duty, humanity, sacrifice,

<sup>90</sup> A recent publication containing texts by Mazzini is Giuseppe MAZZINI: *A Cosmopolitanism of Nations: Giuseppe Mazzini's Writings on Democracy, Nation Building, and International Relations*. Edited and with an introduction by Stefano Recchia & Nadia Urbinati. Princeton-London, Princeton University Press, 2009.

<sup>91</sup> *The Holy Alliance of the Peoples* (1849) in Joseph MAZZINI: *Life and Writings of Joseph Mazzini. Autobiographical and Political*. Vol. V. London, Smith, Elder, et Comp., 1891, p. 266-7, 272.

providence, improvement (...).”<sup>92</sup> Mazzini was not a theorist, although his writings stand as proof that he was not only connected, but also an active participant into the mainstream of political thinking of his time. He dedicated his life to the realization of the unified Italy, as a republic, and as a leader of a continental movement aimed at the creation of a unified Europe, a Europe of peoples.

Mazzini emphasized many times that a nation is a „living task”: „her life is not her own, but a force and a function in the universal scheme.” The life of the nation is divided in two stages. One in which it constitutes and organizes itself, and the second when it dedicates itself to the fulfillment of the higher task “ordained by God ... to the good of all mankind.” In this phase “the nation enters the list of humanity, and links herself, by noble deeds, with the general aim.”<sup>93</sup> Why the nationalities of Europe, the peoples who aim at independence and their own state cannot be recognized? - he asked rhetorically in a paper of 1847, addressed to the Council of the Peoples’ International League. “When a People is struggling to embody its inner life in new forms of outward institution, why not hail the event, and assist, instead of hindering its ascent to the dignity and capacity of a Nation? Is not the will of the People the will of God?”<sup>94</sup>

In one of his autobiographical notes attached to the quoted six volumes publication of his selected works, he explained why he found important the idea of nationality:

<sup>92</sup> Wight best summarized Mazzini’s political profile: “Mazzini’s career, of course, has a brilliant zenith or central tableau; for about three months, from March to June 1849, he stands in the full blaze of European history: as dictator of the Roman Republic. Out of modesty he refused the title of dictator, which the Roman Assembly would have elected him to; he preferred to be a triumvir, but the other two did not count, and he had sole power. The acts of the Roman Republic were promulgated under the heading ‘God and the People’, and a great banner bearing these words, ‘*Dio e Popolo*’, floated above the Vatican. This was the most famous of Mazzini’s many slogans, ‘these principle-involving and eternal words’, words that summed up a philosophy both of history and of international politics.” Martin WIGHT: *Four Seminal Thinkers in International Theory: Machiavelli, Grotius, Kant, and Mazzini*. Ed by Brian Porter, and Gabriele Wight. Oxford, Oxford University Press, 2005, 90-91.

<sup>93</sup> *Letter to and American Friend* (1863) in *Giuseppe Mazzini - Selected Writings*. Ed. by N. GAN-GULEE. London, Lindsay Drummond Ltd., 1945, p. 103.

<sup>94</sup> Joseph MAZZINI: *Life and Writings of Joseph Mazzini. Autobiographical and Political*. Vol. VI. London, Smith, Elder, et Comp., 1891, p. 293.

“I conceived that we might prepare the way for the only idea I believed to have power to resuscitate the Peoples - the idea of Nationality - and for the initiative influence of Italy in the coming movement. Nationality, and the possibility of an Italian initiative - such was the duplex ruling thought of all my labors from 1834 to 1837.”<sup>95</sup>

Mazzini's cosmopolitanism was different from that of the Carbonari movement. In the above quoted text he explains the difference. The common aim is humanity, but for him the starting point is the country, not the individual; „a vital difference”, in his words. Then he makes a direct reference to the French Jacobin tradition. The „*soi disant*” cosmopolitans „do not destroy nationality, they only confiscate all other nationalities for the benefit of their own.” Strong words, but even stronger follow.

A chosen people, a Napoleon-people, is the last word of all their systems; and all their negations of nationality bear within them the germ of an usurping nationalism; usurping if not by force of arms, which is not so easy at the present day by the assumption of a permanent, exclusive, moral, and intellectual initiative, which is quite as dangerous to those peoples weak enough to admit it, as any other form of usurpation.

In this spirit, Mazzini makes constant efforts to distinguish his views from any historicist or privilege-centered views of the nation, both he called nationalism. The concept of nationality, he emphasized, presuppose the free association of individuals into a people and further, the peoples among themselves into a higher integration, first in Europe, then world-wide. Humanity is the „association of Nationalities”, an „alliance of the peoples in order to work out their missions in peace and love; the organization of free and equal peoples that shall advance” God's plan in mutual help and with respect to the others' national „idiom and physiognomy.” The conclusion follows logically: „The Pact of humanity cannot be signed by individuals, but only by free and equal, peoples, possessing a name, a banner, and the consciousness of a distinct individual existence.”<sup>96</sup>

In a biography of Mazzini, Roland Sarti wrote that „Mazzini added the concept of democracy to the classical definition of the republic as *res*

<sup>95</sup> Joseph MAZZINI: *Life and Writings of Joseph Mazzini. Autobiographical and Political*. Vol. III. London, Smith, Elder, et Comp., 1891, p. 5.

<sup>96</sup> op.cit. p. 10; 13-15.

*publica*. He may have been the first to speak of government of the people, for the people, by the people.”<sup>97</sup> The advancement of European peoples towards democracy, Mazzini wrote in 1847, is a page in the world history „written by the finger of God” in the heart of the generations who undertake to carry out this movement. Democracy in his view means that people love one another like brethren; no divisions, selfishness and hostility of „city of city, nation of nation”; democracy is also a continuous protest against all inequality and oppression. We recognize, he wrote, „only the just and the unjust; the friends and the enemies of the law of God. This forms the essence of what men have agreed to call the democratic movement.” To those for whom democracy invokes the „phantom of 1793” or the „ever-recurring agitations” of Italian Middle Age city states, Mazzini responds that democratic representative government is a different thing, resembling only in words with those perceptions. Democracy „is not the mere liberty of all, he warns, but Government freely consented to by all, and acting for all. And once again one of the basic principles is enounced: liberty is needed „as much to fulfill a duty as to exercise a right.”<sup>98</sup>

Mazzini was fully aware of the fact that people, nation, nationality, are concepts of power, meaning that debates around their content and background is highly controversial and could become object of conflict at any time. Therefore he assigned the inevitability of freedom to God’s design:

“When the times are ripe, He {God} inspires the people that has suffered most and believed most, with the courage and determination to conquer or die for all the rest. That is the initiator-people. It arises, combats, triumphs, or succumbs; but either its ashes or the trophies of its victory, disclose the Word of the new epoch - the salvation of the world. All initiative has ceased in Europe; and instead of teaching each people the duty of endeavoring to seize it, we persist in assuring them that one nation still holds it, that it is by right her own.”<sup>99</sup>

<sup>97</sup> Roland SARTI, *Mazzini: A Life for the Religion of Politics* (Westport, CT: Praeger Publishers, 1997) 2-3, *Questia*, Web, 10 Apr. 2012.

<sup>98</sup> *Thoughts upon Democracy in Europe* (First published in the People’s journal, 1847) In Joseph MAZZINI: *Life and Writings of Joseph Mazzini. Autobiographical and Political*. Vol. VI, p. 101; 115; 120.

<sup>99</sup> Joseph MAZZINI: *Life and Writings of Joseph Mazzini. Autobiographical and Political. On the Revolutionary Initiative in Europe*, 1834 Vol. III. p. 60-61.



It should be recalled here that the Italian thinking on sovereignty and law, the interaction of autonomous political units, and the development of modern diplomacy go back centuries before the Italian school of international law as such has emerged to European influence in the first decades of the 19<sup>th</sup> century. The authors of this school of thought, although jurists, has asked themselves though questions such as how a state can become stable and functional? Why Spain (at its apogee) and France have been so powerful, while Italy so weak? They arrived, among others, at the conclusion that the mentioned countries, which had a turbulent relationship over the centuries with the city-states and principates of the Italian peninsula, have been inhabited by culturally homogenous populations who had their own state. Thus, the goal was given. Italian jurists of the 19<sup>th</sup> century, unjustly overshadowed by the 20<sup>th</sup> century mainstream, have elaborated the principles of a law of nations based on nationalities as its units, and also have advanced in the creation of the framework of a Society of Nations. Mazzini's ideas and programs had a solid legal background.<sup>100</sup>

The title of the basic legal text of the 19<sup>th</sup> century on these questions, authored by Pasquale S. Mancini is self-explanatory: "Of the principle of nationality"<sup>101</sup> as a fundament of international law.<sup>102</sup> As to the terminology, Mancini considered that the "nation" and not the "state" (*Nazione e non lo Stato*) was the elementary unit of science and the rational basis of international law (*base razionale*). From this perspective he defined "nationality" (*nazionalita*) as the natural society of men, a unity of territory, origin, customs (as traditions), and language, in accordance

<sup>100</sup> For a summary of the authors and their main works see: Enrico CATELLANI: *Les maitres de l'ecole Italienne du droit international aux XIXe siècle*. in Recueil des Cours No. 33. Académie de Droit International. Paris, Sirey, 1933. p. 709-823.

<sup>101</sup> Pasquale Stanislao Mancini: *Della nazionalità come fondamento del dritto delle genti. Prelezione al corso di dritto delle genti*. Tipografia Eredi Botta, Torino, 1851. (<http://gallica.bnf.fr/ark:/12148/bpt6k95897f/f1.image.r=Mancini.langEN>) Text of the speech presented at the University of Turin (Universita da Torino) in 1851. (Introduction of his course on international law and the law of the sea).

<sup>102</sup> The concept of „international law” was introduce by Jeremy Bentham in 1780, but during the 19th century the term „law of nations” was still prevalent, together with „Droit des gens”, from the Roman *ius gentium*. See: Jeremy BENTHAM: *An Introduction to the Principles of Morals and Legislation*. Oxford, Clarendon Press, 1907 {1789}, p. 143-5.

with a community of life and social conscience.<sup>103</sup> Throughout the text the moral and spiritual elements of nationality are emphasized: the duties flowing from its mere existence and the will of common life, aimed at “constituting progressively a State”. Quoting approvingly Hegel’s Philosophy of Right, Mancini concludes that the state is the result of neither artifice nor consent, but is preceded by the idea of nationality, as a principle of its life.<sup>104</sup>

## VII. The political instrumentalization of nationality

Woodrow Wilson, long before becoming President of the United States had a strong belief in the uniqueness of American democracy and its exceptionalism. “The conviction that our institutions were the best in the world, nay more, the model to which all civilized states must sooner or later conform, could not be laughed out of us by foreign critics, nor shaken out of us by the roughest jars of the system,” he wrote emphatically in 1885 in his principal work on politics.<sup>105</sup> According to a speech held in Genoa in January 1919, Mazzini’s ideas and the principles and aims he fought for, inspired him; in his words, he “derived guidance” from them. On the same day the President spoke in front of Mazzini’s monument paying homage to the „Soul of Italy”, highlighting that „It is delightful to me to feel that I am taking some small part in accomplishing the realization of the ideals to which his life and thought were devoted.”<sup>106</sup>

Wilson was a true idealist and a believer in America’s actions to the benefit of mankind. In one of his war addresses he said, and he meant it, that: “There is not a single selfish element, so far as I can see, in the cause we

<sup>103</sup> „La cosa dette fin qui mostrano ormai a discoperto in che consista una NAZIONALITÀ, e quali ne siano gli elementi costitutive, e ci porgono ragione di riconoscere in essa una *società naturale de unomini da unità, di origine, di costumi e di lingua conformati a comunanza di vita e di coscienza sociale.*” MANCINI, op. cit. p. 41. (Capitals and Italics in the original.)

<sup>104</sup> MANCINI op. cit. p. 48-9.

<sup>105</sup> Woodrow Wilson: *Congressional Government. A Study in American Politics.* Fifteenth edition. Boston and New York, The Riverside Press Cambridge, 1900 {1885}, p.3.

<sup>106</sup> *Speeches to the Officials and Citizens of Genoa, and at the Monument of Mazzini.* Italy, 5 January 1919. *The Messages and Papers of Woodrow Wilson*, vol. 1. New York, Review of Reviews Corporation, 1924, p. 602-3.

are fighting for. We are fighting for what we believe and wish to be the rights of mankind and for the future peace and security of the world.”<sup>107</sup>

His *Fourteen Points* speech was delivered against this background. He stressed that in what America demands at the end of the war, is “nothing peculiar to ourselves.” “It is that the world be made fit and safe to live in; and particularly that it be made safe for every peace-loving nation”, he stressed. While not using the words “self-determination”, the continuation of the phrase express it as a desire of any “peace loving nation”, who “wishes to live its own life, determine its own institutions, be assured of justice and fair dealing by the other peoples of the world as against force and selfish aggression.” “The programme of peace”, as the President called the principles he listed, will be approved by all the peoples, because is guided not by national selfishness but by the common good: “All the peoples of the world are in effect partners in this interest, and for our own part we see very clearly that unless justice be done to others it will not be done to us.”

As Russia concluded a separate peace treaty with Germany (Brest-Litovsk, 3 February 1918), the situation in Europe has dramatically changed. In a speech delivered to Congress on 11 February 1918 the President, after making a number of reproaches to Germany and Austria, laid down again his views on self-determination and post-war arrangements in this regard. Reiterating that the war „had its roots in the disregard of the rights of small nations and of nationalities”, the President emphasized again that there is a need of concluding covenants „which will render such things impossible for the future (...) backed by the united force of all the nations that love justice and are willing to maintain it at any cost.”

The principles of those covenants shall be, according to Wilson:

- „First, that each part of the final settlement must be based upon the essential justice of that particular case and upon such adjustments as are most likely to bring a peace that will be permanent;
- Second, that peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a

<sup>107</sup> *Wilson's Address to His Fellow-Countrymen on Ways to Serve the Nation During the War (A Proclamation, April 16, 1917) in The Messages and Papers of Woodrow Wilson. Volume: 1.* Ed. Albert Shaw. New York, Review of Reviews Corporation, 1924. p. 388.

game, even the great game, now forever discredited, of the balance of power; but that;

Third, every territorial settlement involved in this war must be made in the interest and for the benefit of the populations concerned, and not as a part of any mere adjustment or compromise of claims amongst rival states; and Fourth, that all well defined national aspirations shall be accorded the utmost satisfaction that can be accorded them without introducing new or perpetuating old elements of discord and antagonism that would be likely in time to break the peace of Europe and consequently of the world.”<sup>108</sup>

There have been a number of problems with the President’s views on the question of self-determination, analyzed in detail over the past decades. Naiveté and crusading spirit were usually the keywords of criticism. As a number of authors pointed out, Wilson, a convinced democrat regarded self-determination as self-government, as it was instituted in the United States at various levels. Popular consent to government was crucial, and the form of the system was federalist democracy. The terminology problem occurs also in Wilson’s speeches and the memoirs of his advisers: the concepts of nations, nationalities, peoples, were used interchangeably, with the main meaning of nation as state. For example, in a letter dated 27 August 1917, the President, through his Secretary of State Robert Lansing, addressed a letter to Pope Benedictus XV on his ideas of a post-war settlement. Wilson wrote that the American people firmly believed that

“peace should rest upon the rights of peoples, not the rights of governments - the rights of peoples great or small, weak or powerful - their equal right to freedom and security and self-government and to a participation upon fair terms in the economic opportunities of the world (...).”<sup>109</sup>

But it was not only about terminology. It was also about a specific world view, not shared by others, determined by geopolitical interests. As a careful student of the process, from 1928 secretary to the Minorities Committee of the League of Nations, C.A. Macartney, summarized best,

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<sup>108</sup> *President Wilson’s Address to Congress, Analyzing German and Austrian Peace Utterances* (Delivered in Joint Session, February 11, 1918) In *The Messages and Papers of Woodrow Wilson. Volume: 1*. Ed. Albert Shaw. New York, Review of Reviews Corporation, 1924, p. 477-8.

<sup>109</sup> Quoted by the former Chief of Staff of the President, Joseph P. Tumulty in his book *Woodrow Wilson as I Know Him*. Garden City NY, Doubleday, 1921, p. 283.

“If, then, we are to explain the enormously important part played by self-determination in the Peace Settlements, we must bear in mind the very peculiar circumstances prevailing at the time, where, of the four super-national empires, three had been defeated and were at the mercy of their enemies; the fourth was in the hands of men who took an entirely novel view of political relationships; and the law was laid down by an American democrat, and applied by the representatives of the national states of western Europe.”<sup>110</sup>

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With nationality becoming one of the major issues of the 19<sup>th</sup> century, leaders and ideologues of Leftist movements could not afford to remain idle on the issue, although in Marx’s and Engels’ views on world revolution and the class struggle of the international proletariat national affiliation, self-determination was of secondary importance. Lenin and Stalin, however both realized the political potentials of the principle of national self-determination. For our subject here, the following issues should be highlighted:

- the Marxist these on the “withering away of the state”, the state is an instrument of class struggle and an institution created and maintained to exercise coercion, and if needed, physical violence for determined purposes, clearly separated from “the people”;
- the accompanying gradual loss of importance of national specificities and differences: in Communism nations will “wither away as well”, together with - as creative minds added over time - class, ethnic, religious, and linguistic features;<sup>111</sup>
- until that happens, and this is Lenin’s contribution, the explosive

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<sup>110</sup> C. A. MACARTNEY: *National States and National Minorities*. London, Oxford University Press, 1934, 180.

<sup>111</sup> According to the famous phrase of the Communist Manifesto: „The working men have no country. (...) Since the proletariat must first of all acquire political supremacy, must rise to be the leading class of the nation, must constitute itself *the* nation, it is so far, itself national, though not in the bourgeois sense of the word. National differences and antagonism between peoples are daily more and more vanishing, owing to the development of the bourgeoisie, to freedom of commerce, to the world market, to uniformity in the mode of production and in the conditions of life corresponding thereto. The supremacy of the proletariat will cause them to vanish still faster.” *Manifesto of the Communist Party-1848. Chapter Two. Proletarians and Communists*. (<http://www.marxists.org/archive/marx/works/1848/communist-manifesto/index.htm>)

political potentials in the idea of self-determination shall be exploited to the benefit of the Socialist revolution through the instrumentalization of the national question;

- Stalin, as the representative of the thesis of the Socialist revolution in one country (against Trotsky's idea of permanent revolution), used the national issue to consolidate the Soviet state according to his designs.

Lenin and Stalin's views on the national question, including self-determination have directly influenced the way this issue was addressed in the following decades in large parts of the world. In a long polemical paper with Rosa Luxemburg and the Austro-Marxists' views, Lenin set out in 1914 his own position as following:

“Marxists cannot lose sight of the powerful *economic* factors that give rise to the urge to create national states. It means that “self-determination of nations” in the Marxists’ Program *cannot*, from a historico-economic point of view, have any other meaning than political self-determination, state independence, and the formation of a national state.”<sup>112</sup>

Lenin left no doubt that the Socialist revolution has absolute priority on any endeavor related to the exercise of self-determination and that the struggle against capitalism will spread „in all countries” and „*It will end in the victory of the World Soviet Republic.*”<sup>113</sup> (Or, as Stalin put it dryly in his 1913 pamphlet: “On the one hand are the *duties* of Marxists, on the other the *rights* of nations, which consist of various classes. (...) They are simply not comparable.” *Italics in the original*) Multiethnic empires, the Russian empire first, shall be dismantled along national lines, colonies liberated, and nationalities encouraged to secede from the state they belong to, should it be opportune, under the aegis of national self-determination.

According to Lenin's concept, the recognition of the right of nations and nationalities to secede is key to the future Socialist society. “There

<sup>112</sup> Vladimir Ilyich LENIN: *The Right of Nations to Self-Determination*. Lenin's *Collected Works*, Progress Publishers, 1972, Moscow, Volume 20. (<http://www.marxists.org/archive/lenin/works/1914/self-det/ch10.htm>)

<sup>113</sup> V. I. LENIN: *Two Years of Soviet Power*. 5 November, 1919 First Published: *Bednota* No 478, November 7, 1919. Lenin's *Collected Works*, 4th English Edition, Progress Publishers, Moscow, 1965, Volume 30, pages 124-126. ([www.marxist.org](http://www.marxist.org)).

is not, and cannot be, he stated categorically in 1916, any *other* road to internationalism and the amalgamation of nations, any other road *from the given* situation to this goal.” He emphasized that this program of action will have a direct influence on how future state frontiers will be demarcated. Socialism will not abolish borders, they „will be delineated *democratically*, i.e., in accordance with the will and “sympathies” of *the* population.” (*Italics in the original*)<sup>114</sup> In the *Declaration Of Rights Of The Working And Exploited People* of 3 January 1918, drafted by Lenin, and subsequently becoming a basis of the decree establishing the Soviet Union, there is a provision spelling out this program. The Soviet Power, it reads, will pursue a policy „of denouncing the secret treaties,” and to achieve „at all costs, by revolutionary means, a democratic peace between the nations, without annexations and indemnities and on the basis of the free self-determination of nations.” The emerging Russian Soviet Republic „is established on the principle of a free union of free nations, as a federation of Soviet national republics”, and among its fundamental aims is „to achieve the victory of socialism in all countries.”<sup>115</sup>

When the objectives of the class struggle come in contradiction with national aims, the former will prevail. Therefore, the application of the principle was highly selective, and that was made clear by Lenin on a number of occasions. In *Theses of the Socialist Revolution and the Right of Self-Determination* he was explicit on the longer goals justifying his approach: „The aim of socialism is not only to abolish the present division of mankind into small states and all national isolation; not only to bring the nations closer to each other, but also to merge them.” After repeating his attack on the positions of Karl Renner and Otto Bauer on national-cultural autonomies, he concluded that „mankind can achieve the inevitable merging of nations only by passing through the transition period of complete liberation of all the oppressed nations, i.e., their freedom to secede.” Therefore,

<sup>114</sup> V.I. LENIN: *The Discussion On Self-Determination Summed Up*. Written: Written in July 1916. Published: Published in October 1916 in *Sbornik Sotsial-Demokrata* No. 1. Signed: *N. Lenin*. ([www.marxist.org](http://www.marxist.org)).

<sup>115</sup> V.I. LENIN: *Declaration Of Rights Of The Working And Exploited People*. 3 January 1918. First Published: 4 January 1929 in *Pravda* No. 2 and *Izvestia* No. 2. Source: Lenin's *Collected Works*, Progress Publishers, Moscow, Volume 26, 1972. ([www.marxist.org](http://www.marxist.org)).

“[T]he proletariat cannot but fight against the forcible retention of the oppressed nations within the boundaries of a given state, and this is exactly what the struggle for the right of self-determination means. The proletariat must demand the right of political secession for the colonies and for the nations that “its own” nation oppresses.”<sup>116</sup>

This struggle was to be global, as he explained in the same text. First, it certainly had to be extended to „the advanced capitalist countries of Western Europe and the United States of America”, each of which „oppresses other nations in the colonies and within its own country.” Then to Eastern Europe, comprising Austria, the Balkans and „particularly” Russia. And finally, in the „semi-colonial countries, like China, Persia, Turkey, and all the colonies”, the Socialists must not only demand „the unconditional and immediate liberation of the colonies without compensation”, but must give support “to the more revolutionary elements (...) in these countries and assist their rebellion—and if need be, their revolutionary war—against the imperialist powers that oppress them.” The letter became one of the most important foreign policy objectives of the Soviet Union.

Lenin’s use of the notions of „nation” and „nationality” as synonyms was in conformity with the general practice of the era; essentially, a nationality meant a nation without a state. In his 1914 essay, quoted above, he wrote for example „Can there be greater freedom of nationality, as such, than the freedom to secede, the freedom to form an independent national state?”, in relation with the Ukrainian nationality. In Joseph Stalin’s 1913 pamphlet on *Marxism and the National Question*, aimed to discredit the institution of “cultural-national autonomy of nationalities” not living compactly on a given territory, the terms nation, national minority and nationality by and large also overlap. The problem this text focused on was a political one: “the wave of nationalism swept onwards with increasing force,” in the Russian empire,” threatening to engulf the mass of the workers”, and leading to their division, fragmentation „on ethnic and linguistic bases.”

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<sup>116</sup> V.I. LENIN: *The Socialist Revolution and the Right of Nations to Self-Determination*. Theses. January-February 1916. Printed in April 1916 in the magazine *Vorbote* No. 2. Printed in Russian in October 1916 in *Sbornik Sotsial-Demokrata*, No. 1. in *Lenin Collected Works*, Moscow, Volume 22. ([www.marxist.org](http://www.marxist.org))



The homogeneity of the working class was essential for Lenin and Stalin, who were long convinced, as Marx and Engels have been, that only a universal, unified, monolithic proletariat can take the cause of Socialism to victory. In this respect, the Bund, the Jewish workers' organization caused concern, because having had „previously laid stress on the common tasks, now began to give prominence to its own specific, purely nationalist aims: it went to the length of declaring “observance of the Sabbath” and “recognition of Yiddish a fighting issue in its election campaign.” In the Caucasus, one section of the Caucasian Social-Democrats, which, like the rest of the Caucasian Social-Democrats, had formerly rejected cultural-national autonomy, but “are now making it an immediate demand,” Stalin wrote with indignation. His arguments were organized around the centrality of the territory in the existence of the nation, and the assumption that „national autonomy leads to nationalism.”

To the question “What is a nation?” Stalin gave the following answer: „A nation is a historically constituted, stable community of people, formed on the basis of a common language, territory, economic life, and psychological make-up manifested in a common culture.” All these elements shall be in place at the same time, otherwise he stressed, „it is sufficient for a single one of these characteristics to be lacking and the nation ceases to be a nation.” Not a single word of the nation-state, of course. Empires, even stable over a period of time, are not nations, according to him. Stalin was firm in 1913 that Social-Democracy “in all countries therefore proclaims the right of nations to self-determination.” There is a negative formula of it, besides the right of each nation to determine its destiny, namely “that no one has the right *forcibly* to interfere in the life of the nation, to *destroy* its schools and other institutions, to *violate* its habits and customs, to *repress* its language, or *curtail* its rights. (*Italics in the original.*)” But essentially,

the right of self-determination means that a nation may arrange its life in the way it wishes. It has the right to arrange its life on the basis of autonomy. It has the right to enter into federal relations with other nations. It has the right to complete secession. Nations are sovereign, and all nations have equal rights.

The political saving clause is formulated here also: any nation's particular goals shall not come into contradiction with the interests of the proletariat,

if they did, Social Democrats will not support self-determination. Now, besides the „intellectual license”, the terminological problem of using randomly as synonyms nation, nationality, people, etc., makes easier political expediency, is this particular case the criticism of the Bund. Stalin formulated a number of serious charges against the Bund, repeated ever since by partisans of national and organizational homogeneity. Beyond advocating autonomy of representation not linked to territory, the Bund – in Stalin’s view - was „guilty” of federalism, confused here on purpose with separatism. „Organizational federalism harbors the elements of disintegration and separatism. The Bund is heading for separatism”, Stalin concluded, noting that the same was valid to the Austrian movement. “Federalism in the Austrian party has led to the most outrageous separatism, to the destruction of the unity of the labor movement”, he draw the conclusion.

As for the Caucasus, the approach was slightly different. What to do in the case “of nationalities, each possessing a primitive culture, a separate language, but without its own literature?” Stalin asked rhetorically. To complicate matters, the nationalities in the region “are in a state of transition, partly becoming assimilated and partly continuing to develop.” Stalin advocates here also assimilation, but of a different nature: “The national question in the Caucasus can be solved only *by drawing the belated nations and nationalities into the common stream of a higher culture.*” (*Italics in the original*) Regional autonomy here is acceptable, since it would help “to cast off the shell of small nation insularity.” Stalin regarded regional autonomy and the right to self-determination as essential elements of the solution for the national problem, adding that, *equal rights of nations in all forms (language, schools, etc.) shall be also an essential element, as regards national minorities.* As to the organizational question, the solution proposed was “to unite locally the workers of all nationalities of Russia into *single, integral* collective bodies, to unite these collective bodies into a *single* party.” (*Italics in the original*) This type of organization will “serve as a school of fraternal sentiments and is a tremendous agitational factor on behalf of internationalism,” he emphasized. In a couple of years he had the opportunity to transplant these ideas into practice, and indeed, he did it.

The authors criticized by Stalin have been also using the terminology according to the specific goals followed by them in the Austro-Hungarian monarchy, where the national question was the most urgent at the time. “Nationality, Stalin quoted disapprovingly a certain R. Springer (pen name of Karl Renner), is not essentially connected with territory; nations are autonomous unions of persons.” In this context, persons belonging to such groups who enter foreign territories constitute “national minorities”. In this system nations will be created by law: “If one wants to make a law for nations, one must first create the nations... ” Springer was quoted disapprovingly by Stalin.<sup>117</sup>

In his way Stalin remained consequent on the right to self-determination, including the right to secession. The 1936 Soviet Constitution expressly provided in its Article 17: „To every Union Republic is reserved the right freely to secede from the U.S.S.R.” The borders of the Union Republics have been drawn in such a way that all of them had common borders with foreign countries. This was the criteria to be a Union Republic. Smaller Republics had no such borders; they were surrounded by the territory of the Union. Stalin’s position had mainly two motives. One was of principle: he and Lenin, as mentioned, several times considered secession as a matter of high priority and an instrument of weakening “imperialist” powers. Second, it was the old Bolshevik argument addressed by Stalin in his 1924 *Foundations of Leninism*, regarding the right to national autonomy, as a mean of ulterior justification of annexations, unacceptable for the Soviets. Cultural autonomy, as national autonomy was regarded as a restriction. Limitations of self-determination of this nature, as Stalin wrote, leave “political power in the hands of the ruling nation.” As a consequence, he stated,

“the idea of self-determination stood in danger of being transformed from an instrument for combating annexations into an instrument for justifying them. Now we can say that this confusion has been cleared up. Leninism broadened the conception of self-determinism, interpreting it as the right of the oppressed peoples of the dependent countries and colonies to complete secession, as the right of nations to independent existence as states.”<sup>118</sup>

<sup>117</sup> Joseph V. STALIN: *Marxism and the National Question*. First Published: *Prosveshcheniye*, 3-5, March-May 1913. (<http://www.marxists.org/reference/archive/stalin/works/1913/03.htm>).

<sup>118</sup> Joseph STALIN: *The Foundations of Leninism. IV. The National Question. Works Volume 6*, pages 71-196. Moscow Foreign Languages Publishing House, 1953.

By 1936 Stalin could afford to be consequent and enshrine into the constitution the right to secession. The party's control on the Soviet Union was so tight that he could remark *en passant* during his intervention in the debate on the draft act: „Of course, none of our republics would actually raise the question of seceding from the U.S.S.R.”<sup>119</sup>

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It is a thankless task to briefly compare Woodrow Wilson's views on self-determination, nationality and democracy and those of Lenin and Stalin, beyond the fact that both exercised crucial, although different influence on 20th century world politics.<sup>120</sup> Democracy for the former was the ideal political framework of a self-governing people, while the exercise of self-determination was guided by a higher morality reflecting, among others, Mazzini's ideas of peace and harmony of peoples united in an all encompassing humanity. The Bolsheviks regarded the concept of self-determination and the principle of nationality as an instrument of class struggle, where violence by the force of arms was legitimized by the endeavor towards Socialism and Communism.

With all the differences of substance, both concepts were aimed at the creation of a new world order, advocated internationalism as an alternative to imperialism, and declared their own types of democracy (Liberal and Socialist, respectively) as models of universal validity. Wilson's was moral and peaceful in its intent and words, Lenin's and his followers bellicose and ruthless in its assertion of the interests of the poor and dispossessed whose representation revendedicated. The nature of the latter was spelled out openly as the dictatorship of the proletariat.

They both made an appeal to the people as a last instance, but understood it in a different way. For Wilson, “the people” was the people of the

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(<http://www.marxists.org/reference/archive/stalin/works/1924/foundations-leninism/index.htm>).

<sup>119</sup> Joseph STALIN: *On the Draft Constitution of the U.S.S.R. Report Delivered at the Extraordinary Eighth Congress of Soviets of the U.S.S.R. 25 November 1936*. Works Vol. 14. London, Red Star Press, 1978. (<http://www.marxists.org/reference/archive/stalin/works/1936/11/25.htm>).

<sup>120</sup> A short comparison is made by A. CASSESE in his *Self-determination of peoples. A legal reappraisal*. Cambridge, Cambridge University Press 1995, p. 21.

Declaration of independence and the Constitution. The Declaration, as Bettina Unterberger observed, “with its clarion call for national self-determination, was for him not merely a statement of political ideals but also a program for action.” Wilson regarded as a duty of the United States, rich and powerful, “to support, through moral influence, the legitimate aspirations of struggling peoples for self-government throughout the world.” Wilson, however, as the author noted, “recognized the importance of non-interference in the affairs of other nations.” After 1945 both became principles of international relations, formally accepted also, though for different reasons, by the Soviet Union and the Socialist bloc, and a number of Third World states.<sup>121</sup>

### VIII. A few final remarks

At present, the dominant Western idea is that a stable political order rests upon the exercise “of the power of the people, by the people, and for the people”, which is one formula for the people’s self-determination. In this context the political order is identified with the nation-state, providing relative welfare and security on an equal basis.

The indiscriminate use of the terms nation-state, nation, people, nationality, national minority, community, etc. led among others to discrimination as to the recognition of the status of different groups, with serious political and legal consequences on the individuals belonging to them and to the groups concerned, as a whole. European great powers, nation-states and colonial empires at the same time, initiated such practices in the 19<sup>th</sup> century.

Paradoxically, the most efficient limitation of popular self-determination known so far is the sovereign nation-state itself. With the nation-state significantly weakened, or failed, only chance or sheer force determines how groups which define themselves by other criteria than citizenship would act, and will be recognized by others. The broadest political definition of the people is the select group of those who are ruled with

<sup>121</sup> Betty Miller UNTERBERGER: *Woodrow Wilson and the Russian Revolution in Woodrow Wilson and a Revolutionary World, 1913-1921*. Ed. by Arthur S. Link. Chapel Hill, University of North Carolina Press, 1982, p. 49.

some degree of consent on their behalf. In the post nation-state context is not known neither which criteria will designate the subjects of rule, nor who will be the rulers who bear the ultimate responsibility – and the risk associated. Following the thoughts of an old document, peoples can and do exist without states, while states cannot without the former, even if in the past two centuries a number of states are in search of their peoples.<sup>122</sup>

Arguments belonging to natural law theories, or centered on reason, or organized around the notion of “duties” imposed by God and destiny, or received peremptory law are all used in these days haphazardly and in various combinations to advocate popular self-determination. The explosive subtext, as exposed and exploited by Lenin and Stalin has not diminished.

A causal link between the exercise of the right of self-determination and the sustained increase of the material welfare of the people concerned can neither be categorically assumed, nor negated. What is more apparent is that the concept is a particularly successful tool of political mobilization, and in final instance war. Esteem, proudness, honor, and great visions are easier to connect to popular or national self-determination than wealth in general, or money in particular. If the latter are present in an independent nation is good, if not, then other causes should be looked upon, not the free choice of the people or the lack of it. The peoples ‘choice will always be for welfare, but by itself the will is not sufficient. Since the market economy became global in the 19<sup>th</sup> century politics and economics have been in a constant race of dominating each other.<sup>123</sup> For a long time national economic self-sufficiency, in extreme forms autarchy is not possible, even

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<sup>122</sup> “Briefly, for so much as none were ever born with crowns on their heads, and sceptres in their hands, and that no man can be a king by himself, nor reign without people, whereas on the contrary, the people may subsist of themselves, and were, long before they had any kings, it must of necessity follow, that kings were at the first constituted by the people (...);” *A Defence of Liberty against Tyrants*. A Translation of the *Vindiciae contra Tyrannos* by Junius Brutus (1579). London, G. Bell and Sons, 1924. (<http://www.constitution.org/vct/vind.htm>).

<sup>123</sup> According to Karl POLÁNYI, 19<sup>th</sup> century civilization disintegrated as a result of “the measures which society adopted in order to not to be, in its turn, annihilated by the action of self-regulated market.” These measures were necessarily – in the circumstances of the “market society”- arbitrary, brought under the pressures of the moment, and as such dysfunctional, opening the way finally to fascism. Karl POLÁNYI: *The Great Transformation*. 1944, 249. See in particular the chapter on *Popular Government and Market Economy*, p. 223-236.

if some countries have been from time to time playing with the idea. It looked as an innovation to extend the rights of peoples' self-determination and sovereignty over natural resources in the 1960s, but this was never more than a formal declaration. After the transformations on the 1989-90s the issue was practically forgotten, while in the past decades the equation representative government means fair taxation does not hold anymore.

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## SUMMARY

### **A State is a Nation, is a People, a Body, a Community, a Society...**

GÁSPÁR BÍRÓ

The concepts that you see in the title can be arranged in various orders, for instance, a Nation is a State; a People is a Body, a Community; or a People is a State or a Nation, etc. As we are dealing with fundamental categories of political power, the several arrangements of those concepts relate to various hierarchies. The overlaps are, at least in part, due to historical reasons, including the history of ideas, and they are not independent from the political tugs of war of the past. The consequences are far-reaching, especially in transitional periods like the one we are witnessing today when the old “international order” (itself a problematic category) has not disappeared altogether while the new one is a wish rather than reality.

The concepts that are important historically and still tend to define public discourse and thinking were conceived by personalities who were active politically as from the second half of the 18th century, the majority of them being full-time revolutionaries. Although Jean-Jacques Rousseau

was neither a politician nor a practising revolutionary, his treatise on the social contract – an essay whose interpretation is still difficult – was itself tantamount to a revolution. He cannot be ignored when such issues are considered. What seems to be strange in this story is that the concepts presently at our disposal, imperfect and historically loaded as they are, had crystallized by the end of the First World War, and the “short” 20th century could not add too much to them. We do not know how the new order will look like. However, one thing seems to be certain: even if concepts that have been produced by modernity, such as State, Nation, Nation-State or Society, lose their meaning, the concept of the People, as understood in its political sense, certainly will not lose its meaning.

As the ancient saying goes: there can be no kings without their people, and neither can be states, whereas the peoples could carry on without them, without difficulties.

## RESÜMEE

### **Der Staat ist das Volk, die Nation, der Organismus, die Gemeinschaft, die Gesellschaft...**

GÁSPÁR BÍRÓ

Die im Titel angeführten Begriffe können wir in unterschiedlicher Weise auflisten, wie zum Beispiel: Die Nation ist der Staat, das Volk, ein Organismus, eine Gemeinschaft, oder: Das Volk ist der Staat, die Nation, und so weiter. Da es um grundlegende Kategorien der politischen Macht geht, verbergen sich hinter den einzelnen Reihenfolgen verschiedene Hierarchien. Die Überlappungen resultieren teilweise aus historischen Gründen, die Ideengeschichte mit eingeschlossen, aber nicht unabhängig von politischen Kämpfen in bestimmten Zeitaltern. Die Folgen sind weitreichend, insbesondere in Übergangszeiten, wie wir sie auch zurzeit durchleben: die alte „internationale Ordnung“ (eine weitere problematische

Kategorie) ist noch nicht ganz verschwunden, aber die neue existiert größtenteils nur auf der Ebene der Wünsche.

Diejenigen Inhalte, die historisch gesehen wichtig sind und auch in unseren Tagen den öffentlichen Diskurs und das Denken beeinflussen, wurden ab der zweiten Hälfte des 18. Jahrhunderts durch politisch aktive Personen, überwiegend durch Berufsrevolutionäre, vorgegeben. Jean-Jacques Rousseau war zwar weder Politiker, noch praktizierender Revolutionär, aber sein Text über den Gesellschaftsvertrag – dieses bis heute viel Kopferbrechen bereitende Werk – war eine Revolution an sich. Ihn kann man in dieser Frage nicht umgehen. Das Komische an dieser Geschichte ist eher, dass sich der begriffliche Rahmen, der auch heute zur Verfügung steht, mit all seiner Unvollkommenheit und historischen Last bis zum Ende des Ersten Weltkriegs konsolidiert hatte, und dass das „kurze“ 20. Jahrhundert nicht viel hinzugefügt hat. Wir wissen nicht, wie die neue Ordnung sein wird. Eine Sache ist jedoch wahrscheinlich: Auch, wenn durch die Modernität geschaffenen Begriffe wie Staat, Nation, oder gar Nationalstaat oder Gesellschaft ihre Bedeutung verlieren sollten, wird die Kategorie des Volkes im politischen Sinne ihre Bedeutung nicht verlieren.

Die Alten pflegten zu sagen, dass Könige nicht ohne das Volk auskommen konnten, wie auch die Staaten nicht, aber die Völker kamen sehr gut ohne die Erstgenannten aus.