

## CHAPTER II

# SOCIETY AND THE INDIVIDUAL

### *Antiquity and the Middle Ages.*

The social ideas which were fermenting at that time centered round the great question of free personal initiative and its relation to society as such. Personal liberty and the solidarity of society represented two opposed equally strong claims which seemed to debar each other, but which were set forth both by those who dreamed of a communistic society, and by those who wanted to restrict the interference of society as far as possible.

The problem in general was: where should the limits to the power of the State be drawn. These limits might be of two kinds, either, if we may call it so, quantitative or qualitative. In the case of quantitative limits there are some spheres of life which lie outside the authority of the State; in the case of qualitative limits there is a distinction between the right and wrong exercise of the authority of the State within its quantitative limits.

Antiquity was aware of the latter problem, but gave no thought to the former. The State was omnipotent and the citizens' subservience to the State was a matter of course. When there were domains in which the State did not interfere it was only because it took no interest in them. Where the State omitted to interfere with the liberty of the individual it was not due to the citizen's right to independence, but to the State's lack of interest. The liberty of individuals within the State was not based on any right of theirs to oppose the State, but was caused by their all having a share in the government. The State was omnipotent (*imperium*), but it was its duty to vindicate the rights of property of its citizens (*dominium*).

Christianity first gave a prominent place to the problem of the

extent of the power of the State by claiming the existence of an important sphere of life where the State had no right to interfere, even though it might desire it. "Render unto Cæsar the things that are Cæsar's and to God the things that are God's" was a maxim which definitely limited the sphere of power of the State. All men were, to an equal degree, God's children and therefore their life together must, ideally, be a life in community, in equality and fraternity of a completely communistic character. It was sin which had created wanton desire and the demand for personal property, and temporal dominion was therefore a consequence of sin, but also a means of ridding oneself of sin. No dominion and no property are justified, when they are not exercised or used in accordance with the will of God. Towards God no individual has any independent right to his own opinion, God's will being the infinite care for the welfare of the individual. The State has thus from the Christian point of view both a quantitative and a qualitative limit; her domain is only the sphere of temporal power, her right rests on her fulfilment of the will of God.

This state of affairs was the cause of the wars between State and Church in the Middle Ages. The worldly potentate was apt to become a despot and allow himself to be guided by unjust desire; the Church became the guardian of the unprotected, the champion of order and justice. Thomas Aquinas, who may be regarded as the most perfect exponent of the medieval conception of the universe, saw clearly that it was the individual persons who must be mainly considered. All souls were created by God, equally free and independent and with the same hope of attaining to God. For the sake of those souls the whole order of the world was made. It is the duty of every man to become good, and the State, the Kingdom and the Officials, the Church, the Pope and the Bishops are only to be considered as tools which aid the individual to develop in the right direction. The omnipotent Pope is "servus servorum Dei". The duties and rights of all men are wholly determined by their place in society and by the work they are able to perform. The State or society does not exist either outside or above the individuals. It is the individuals and only those who are real. God is the source of all authority and he delegates the right of government to mankind, who then in their communities determine whether they will leave

the administration of it to one or more, whoever they may think most suitable, and in the way which seems to them the best. The people is the sovereign in its obedience and devotion to God. Left to himself, having no wise counsel or moral support to guide him, man is without sufficient means of sustaining life. Therefore man is by nature a social being, but he is not a slave with no will of his own; he should in his full consciousness of his rights take up an independent attitude towards society and claim the right of providing for his subsistence, the right to marry and beget children, the right to develop his intellect and seek knowledge, the right to speak the truth and live in society. Those are his natural eternal rights, his very human nature.

Thus it will be seen that the State is only a useful function which can set up no special claim for herself. The kingdom does not exist for the sake of the king, but the king for the sake of the kingdom. He who abuses his power for selfish purposes is a tyrant and it is not only right, but a duty to oppose him and if necessary depose him.

*Hobbes, Spinoza, Rousseau.*

Thus this view takes it for granted that the State is subject to a valuation, both quantitative and qualitative, which takes as its measure the divine consideration of the individual. But as far as the practical relation between the individual and the State is concerned, the most important question is whether the constitution contains the organs of a just criticism and re-valuation of the exercise of the power of State. For the individual's opposition to the encroachment of the State is exposed to exactly the same danger as all human abuse of power, i. e. of becoming arbitrary and sinful. The controversy as to whether the will of the sovereign or the will of the people should be supreme had not yet arisen.<sup>1)</sup> For, whether the decision was made in one direction or the other, the individual's opposition to the existing authority must, in any case, be a function of the social will if it would be just. The opposition of an individual could

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<sup>1)</sup> Otto v. Gierke, Johannes Althusius, 3. Aufl., 1913; Das deutsche Genossenschaftsrecht, 1881, III. p. 514; Die soziale Aufgabe des Privatrechts, 1889.

only be justified by the grounds that he may sometimes be better able to find the right expression of what was God's intention than could the depositaries of the power of the State.

But how was this to be decided? Was it old customs and usages which ought to regulate arbitrary innovations, or was it the sum of self-evident natural rights, or was it the very basis of the power of the State which demanded a definite form for its exercise? Whatever decision were made, authority became the kernel of all. God's will was the authority, and when at the close of the Middle Ages the Church became subordinate to the State, this became the only expression of authority.<sup>1)</sup> The limits of the powers of the State, both quantitative and qualitative, became again fluid. It had to rest with the State herself which spheres she wanted to control and in what manner she would do it.

The controversy as to whether the will of the people or the power of the government should be the theoretical basis of sovereignty took up the first century of modern times. Althusius and Bodin who, each in his own way, endeavoured to restrict the power of the government as the only organ of sovereignty, had to give way to Thomas Hobbes.<sup>2)</sup> The State authority became to him the direct expression of the claim which everybody must make to sovereignty: this must be unconditional and indivisible or cease to exist. The system of the State is not a natural condition for sinful individuals, at variance among themselves, but it is the means of ridding them of sin, which is the war of all against all; and to express this Hobbes used the image of a contract, by which the individuals instituted a State authority to secure the maintenance of peace. In order to be able to do this the State authority must be stronger than those elements that want to restrict it. But this consideration of the maintenance of peace contained nevertheless a scale of judgment to which the State authority must subject itself; it was in its exercise of authority neither self-sufficing nor supreme; the State authority should fulfil a definite function, and even Thomas Hobbes maintained that it lost its right when it could not vouchsafe the citizens safety in life and property. The question of the forms of

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<sup>1)</sup> S. Figgis, *The divine Right of Kings*, 1914.

<sup>2)</sup> Th. Hobbes, *Leviathan*, 1651.



government became then merely a question of where the best security for the fulfilment of the social contract, the maintenance of peace, was found. If greater safety was found under the government of an absolute king than under that of a group of citizens or of the people itself, absolutism was preferred. But if one of the other forms was chosen the question of the single individual's right of judgment remained unsolved. The individuals had renounced their right of independent judgment under constitutional just as much as under absolute personal government.

"Right" is according to Hobbes only an artificial institution which is not found in the natural state. Expressed in terms of theology right is only created when, from his natural sinful state of self-sufficiency, man becomes subject to the will of God which unites him with his fellows under common conditions. Expressed in more scientific terms "right" first comes into existence as a means of securing for the individual a security which in the natural state may constantly be destroyed. The logical principle is then as follows; you have originally right as far as you have personal power, or, expressed in ideas which only grew up after the institution of the State, your right is equivalent to your power. The individuals have only given up their natural state, the war of all against all, in order through the State to obtain a greater power in certain domains, i. e. more than personal power, namely the collective power of the community, i. e. right. The phrase that might is right which, in the organized society, sounds so very immoral does then only mean, that you have a right to all over which you have power, but that this power increases when it becomes something more than mere personal power, the power of the entire society. Right, it will thus be seen, is always power, but only social power. The logical difficulty remains, however, whether social power and social right are one and the same thing, or whether the power of society in order to become right should be measured by something which is greater and stronger than society. This thing may be God, but it may also be the very social will, the social contract, that created society.

Spinoza made a modest addition to Hobbes's doctrine that power is right and that the State therefore has the right to everything

over which it has power. One ought, he said, in order to obtain power everywhere endeavour to adjust one's desires for power in such a way as to be able to carry them through, as they are only in this way transformed into right. In this way does Spinoza distinctly transform the desire for power into the consideration of the general welfare, and he acknowledges that the basis of the authority of the State, and the task of statesmanship, are to act in such a way as to gain the confidence of the citizens. Thus Spinoza was the first to emphasize instinctive social life as the foundation of the State. With less perspicuity John Locke set forth the same train of ideas in England. He built wholly on Hobbes's fundamental idea that it is right which society uses its power to assert. Therefore every society has the right to make itself happy by instituting that form of government which the majority of its members consider best suited for promoting the good of society. This "good" depends, in the first instance, on the individuals' getting the best possible conditions for the development of their powers. But these conditions are not the same at all times; you cannot fix the laws of a State in unchangeable forms; life is constantly flowing and the conditions of life changing. The citizens should therefore be given an opportunity of setting forth their opinions and having the laws brought into accord with new conditions. But whether we consider Spinoza's philosophy or that of Locke, the right of the State always goes as far as its power, and the individual's right as against society is correspondingly sacrificed.

In the natural state it was the individuals who were principally considered; in the State, however, after the contract had been entered into, the groups became all-important. Rousseau (1712—1778) set forth this fact in all its logical conciseness. In society the individuals' rights have wholly disappeared, the rights of the group, the community, the State prevail as in the States of antiquity, and yet the State only exists in order to assert the liberty of the individuals. The quantitative limit to the power of the State has disappeared, no citizen having any personal liberty different from or superior to that which is granted him by the State. The qualitative limit has also disappeared and everything depends on the social will. Rousseau sets himself the task of representing the individual's

unconditional subordination to the State as the right and perfect assertion of the individual's liberty and self-determination.<sup>1)</sup>

He begins his book "Du Contrat Social" with the following words. "Man is born free, but everywhere he is in bonds. One believes himself to be master of the others, but is more a slave than these. How has this change been brought about? I do not know. What can justify it? I think that I am able to answer this question".<sup>1)</sup> Thus he is not going to make any attempt to break the bonds, but only to make men believe that they are wise to wear them.

The State to which the individual surrenders himself, wholly and completely, is that in the government of which he takes his share. It is the State of general franchise, the State of the rule of the majority. It is reasonable to take it for granted that the citizens, all of whom vote according to their best judgment, may be in error. But it must also be assumed that this possibility of error becomes less, the more people agree in their voting. Therefore the majority are always in the right.

Rousseau does not know how men have formed themselves into society and thus been laid in bonds. He finds no links which lead from man's nature to society. Society is in his view only a number of entirely disconnected individuals. Condillac's wholly schematic view repeats itself in Rousseau, with this exception only that man, who to Condillac is a mere sum of senses, to Rousseau is a sum of feelings and passions. Each single individual stands isolated in society, and society is not the place where the individual may attain a further development, but only a contract he enters into with other equally free and independent men. Whatever may have been the reason for such men to associate, whether it was the desire for peace or, as Rousseau seemed more inclined to think, pleasure in the common life,<sup>2)</sup> the principle of association must be that all subordinate themselves wholly to the will which sustains the association and

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<sup>1)</sup> Cf. E. Durkheim, *Le contrat social de Rousseau*, Rev. de Métaphysique et de Morale, 1918; L. Duguit, *Jean-Jacques Rousseau, Kant & Hegel*, 1918; H. Cunow, *Die Marxsche Geschichts-, Gesellschafts- und Staatstheorie*, 1920. 4te Aufl., 1923, Bd. I; G. Jellinek, *Die Erklärung der Menschen- und Bürgerrechte*, 3te Aufl., 1919.

<sup>2)</sup> J.-J. Rousseau, *Du Contrat Social*, Liv. I, Chap. I.

<sup>3)</sup> Rousseau, *Essai sur l'origine des Langues*, Chap. IX.

which must always rank above all individual desires. This theoretical preponderance which the will to associate must have when association is the purpose, was by Rousseau called the general will, "la volonté générale". In so far as Rousseau's volonté générale was in its nature supreme it contained the germ of Kant's and Hegel's eternal reason; it lacked completely, however, the inner bond which the two German philosophers, each in his own way, sought to show between the world of eternal reason and the multiplicity of the temporal world. It is a purely logical, formal deduction when Rousseau asserts that by associating the citizens completely subordinate their wills to the general will and in this way obey themselves only and remain as free as before.<sup>1)</sup> He who only obeys his instincts is a slave, he who obeys the law he has set himself is free.<sup>2)</sup>

One might think that the individual citizen, who by the social contract only renounced that part of his independence which was of importance to the community, might have reserved all the rest to himself, so that it was unnecessary to go such a roundabout way as to make everybody surrender all claims to self-determination to the community, in order afterwards to accept the personal liberties which the community thought fit to grant him.<sup>3)</sup> But if the individual himself could decide which rights he wanted to reserve, the consequence would be, either that no contract was made or that the individual, before entering into the contract, would have to subject himself to a judgment of what rights he might reserve to himself without injury to the common interests. So, after all, it became the common interests which decided the issue.

How this doctrine of the State's absolute power to decide everything was abused in the time of the Jacobins is well known. Everybody was simply faced by the alternative: Have you a social spirit, do you gladly sacrifice your will for the sake of society. If you are not willing to do this you have no social spirit and are excluded from society. There seems to be no room for a third possibility. But then no guarantee is needed for the right use of the State authority when the will of the State is the will of the majority. For as the State is made up of the individuals it is impossible that

<sup>1)</sup> J.-J. Rousseau, *Du contrat social*, Liv. I, Chap. VI.

<sup>2)</sup> *Opus cit.*, Liv. I, Chap. VIII.

<sup>3)</sup> *Opus cit.*, Liv. II, Chap. IV.

it could have any interests which went counter to theirs. It is out of the question that the sovereign should want to injure all her members. The State is therefore, by virtue of her very existence, always all she ought to be.<sup>1)</sup>

G. Jellinek proved with great sagacity that the movement for independence in the 18th century was a continuation of the movement for religious independence which put an effective limit to the power of the State. In England the idea of the individual's subordinate position in relation to the State prevailed, on the Continent there was a conflict between the view of absolutism that the State creates the rights of the citizens, and the old Germanic view that the State guards and acknowledges the liberty of the individuals, that is to say, it acknowledges but does not create it.<sup>2)</sup>

Rousseau stands, so to speak, at the crossway of the two views. He therefore sets himself the task of proving the identity of the State and the individual. The strength of his point of view is to be found in the logic of his claim that the individual should seek his place in society according to the way in which it most promotes the true good of society, which can be nothing but the true good of the individual. This way of thinking expresses two ideas, that the components of the general will are determined by the individuals, and that it is the judgment of the individuals which ratifies this definition. Beyond the judgment of the individuals as rational beings we cannot get. In reality their judgments will be based on fancies and passions; but it is the principle Rousseau emphasizes, and the general will is to him a demand rather than an existing reality. Without discipline no society nor any individual personal life is possible, but the discipline must be reasonable and is only the expression of the individual's own personal will. Rousseau is thus at bottom an individualist: no reasonable individual wants to meet his own ruin or corruption. The domains which may be left to the individual's independent judgment may vary, but it must devolve on society to curtail these liberties. An everlasting controversy becomes possible as to whether the supreme authority is the indivi-

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<sup>1)</sup> Opus cit., Liv. I, Chap. VII.

<sup>2)</sup> G. Jellinek, Opus cit.

dual's own inmost being or something different from the individual, namely, the general will. We see the germ of "pure reason", "the categorical imperative", "the central will", which is to the individual both what he ought to be, and what in his heart of hearts he wants to be. Rousseau only falls short because he is without any actual criterion of the general will and accepts the will of the majority as its visible organ.

This contains a faint reminiscence of the distinction between State and society which was made by Spinoza. For we find in Rousseau a strange contrast between the instincts which cause people to associate and the principles according to which the association is made. Therefore Rousseau sets forth a demand that this organization should be as satisfactory as possible, but he gives only a merely logical criterion as to whether it is so. The adherence of the citizens must always be the source of the power of the State, but what security does this give us that the right use is made of the power of the State? After all we must look upon it in the same way as did Rousseau. Is there any other or greater security that the decisions of the social will are right, than the free judgment of the majority? Perhaps there is a faint notion of a Deistic nature that such judgment of the majority will lead to the goal. Can we get any other security for the utility of the social will than the fact that it is intelligent beings' capacity of judging of the conditions of life and acting accordingly?

The difficulties with which Rousseau met in trying to apply his principles to a large State and to sustain the belief that the sovereignty of the people could really be preserved, even where all the actual authority was exercised by a government which decided for itself, whether it was in accordance with the law or not,<sup>1)</sup> made, in proportion as society increased, the need more urgent of an organ which could always control and determine whether the government (*le gouvernement, le prince*) was really a mandatory of the sovereign, the will of the people, or only the executive "de facto", the issuer of decrees. Rousseau declared it to be absolutely necessary in order that a government might be good, that it must be stronger, the greater the population. The reason was, he considered, that the

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<sup>1)</sup> J.-J. Rousseau, *Du contrat social*, Liv. III, Chap. I.

more individual wills are concerned the more difficult will it be to determine the common will.

These circumstances caused the authority holding the power of government in accordance with the will of the people to assume more and more the form of a metaphysical, divine power that creates a State, which is in reality an autocracy in which it is the duty of the subjects to obey, and made the executive dictatorship, to a constantly increasing degree, become the true form of the maintenance of independence. This evolution is found in Kant and Hegel, — it only ends in modern democracy.

*Immanuel Kant.*

In his strange treatises, "Ideen zu einer allgemeinen Geschichte in weltbürgerlicher Absicht" (1784), "Muthmasslicher Anfang der Menschengeschichte" (1786), and "Zum ewigen Frieden" (1795) Kant endeavours to show how history unfolds itself through the fight of reason against the instincts; the State is not a natural product, but it originates in an ever more marked preponderance of man's transcendental powers in the governing of the empirical world of the instincts. The social process seems to Kant an eternal war which hankers for peace, "eine ungesellige Geselligkeit". What was by Rousseau and his predecessors called a social contract, is to Kant a movement which, through the interference of reason in the play of the instincts, leads through war to law and order, to the formation of the civic Law-State. "It reads", he says, "like a novel to see how man's struggle for power leads to an organized government whose first step is to subject the individual to a master who may coerce him, but who is himself human and who may consequently abuse his power. In order to preserve his power the master must look after the welfare of his subjects; to become strong in war against his neighbours he must watch over the inner development of his own State. There is evidently a connection between war and peace which is absolutely vital". The efforts to draw a distinction between the two ideas of State and society which had been made by Spinoza and which we saw germinating in Rousseau, are here more pronounced; Kant did not, however, succeed in proving what was the nature of this interrelation between the influences of war

and order.<sup>1)</sup> There was a close relationship in the tasks which Kant set himself in the above treatises and those he had set himself in his astronomic reflections, except that the sociological tasks still remained outside the sphere where Kant considered it possible to attain to a sure "erkenntnis", as the rational matter prevails over the empirical. The coming into existence of the civic Law-State seems to point to a secret design in nature which makes the independence of our instincts which reason gives us constantly more prominent under an organized system. In his later accounts of the forms of the State and her relation to the citizens Kant makes no use of his sociological hypotheses, as his systematic explanations, like those of Rousseau, have for their object to represent the rationality and not the development of the institutions of the State.

The subjects should not, says Kant, examine into the origin of the State. They are only to obey her. She is as such that on which the welfare of the State depends and the welfare of the State is the supreme demand of the true general will.<sup>2)</sup> The good of the State is not the same as the well-being of the citizens, but is found in a firmly instituted constitution, built upon legal principles. The holder of the power of the State has therefore rights in relation to the people, but no duties which can be enforced.<sup>3)</sup> Disturbances are completely unlawful, but if a revolution succeeds the unlawfulness of the new government cannot justify the citizens in refusing to obey it.<sup>4)</sup> The social liberty of the individual has in reality wholly disappeared in Kant; it is only found in the circumstance that pure reason, which is the inmost will of all individuals and therefore also their categorical imperative, demands that they should support the existing Law-State. As the moral law in Kant is retained in an abstract form as the duty to act unconditionally according to the conception of law, but not according to a valuation of happiness, so is also the will of the State defined as unconditional obedience to the existing law system which binds the citizens together. As Rousseau does not want to rid free individuals of their bonds, but

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<sup>1)</sup> K. Vorländer, Kant und Marx, 1911, p. 8.

<sup>2)</sup> I. Kant, Metaphysik der Sitten, VI, p. 318.

<sup>3)</sup> Opus cit. p. 319.

<sup>4)</sup> Opus cit. p. 323.



instead wants to prove that the bonds are in reality the expression of their actual liberty, so Kant does not set out to prove how the State becomes the means of happiness, but tries to explain it as the instrument of pure reason.

The purpose of our existence is not happiness, but the performance of our duty. It may be true that all States would fall into ruin if the citizens, in the first instance, demanded that the State should secure them their personal well-being. Possibly Kant is right when he says that the foundation of the welfare of the State and the existence of lawful conditions consist precisely in the citizens' waiving their own happiness and only considering the performance of their duty. But in that case we must demand that the decision as to whether the existing State is really a legal society should be made dependent on something different from the mere existence of it as a State.

Such a decision is according to Kant made on the basis of the legal idea itself. Reason is the sovereign judge of how far reason is reason. Men cannot arbitrarily, according to whim or fancy, define legal ideas. Those ideas are the reasonable definition of our demands to create a system of conditions which may unite one man's arbitrary decisions (*Willkür*) with those of others according to a fixed rule, which is the law of general liberty. Kant therefore set up the fundamental definition that every action is right which agrees with the maxim that everybody's liberty should accord with that of others under a general law. Nobody can be justified in interfering with anybody else in the performance of actions which accord with the equal right of everybody.<sup>1)</sup> But he who decides whether my will is of such a nature that it may accord with that of other people is not the empirical individual himself, but the society or State. The intricate relation which is found in Kant's doctrine between the empirical individual as the sum of impulses, instincts, and momentary inspirations and the ego ruled by reason, which is his real ego and the system of maxims which is to control all his actions, makes it difficult to define the relation between that part of the will of the State which is "de facto" power and that which is justified by reason. Life may make it necessary on occasions to

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<sup>1)</sup> *Opus cit.* p. 230.

change the constitution by force. Logically this cannot easily be brought into accord with the conception of the will of the State as an expression of reason. We must apply ourselves to the above pamphlets of Kant in order to understand how it happened that he could talk of any movement and development in the rigid legal form of government. Apparently there is no demonstrable connection between the claim for order made by reason and the myriad of our living instincts. In the "ungesellige Gelligkeit" which characterizes the empirical social life, however, a quiet regulating hand makes itself felt, which through struggle leads us towards eternal peace and subjects the instincts to the rule of reason. But Kant does not describe how this is brought about. In his eternal reason man possesses the valid source of every order it creates.

The secret design in Nature which Kant makes us suspect is a power that guides us rather than a goal that we can clearly perceive. The State is a power. It is reason which makes it a lawful power to which we must submit in our inmost being. As Kant does not in his philosophy bestow any psychological attention on either theoretical or practical reason, he never set himself the task of explaining how social evolution on the basis of reason takes place. It is postulated as the fulfilment of a secret design in Nature, in the same way as all our powers are destined to be realized. For this reason a very inferior value has been attached to Kant's social-philosophical explanations by many people, who in those explanations only see echoes of Locke's and Rousseau's ideas.<sup>1)</sup> But we consider this judgment to be one-sided. Kant points onwards in essential respects. The idea of evolution, which is conditioned by a close interaction of the individual empirical instincts themselves, is evidently germinating in Kant. The interplay of "gesellige" and "ungesellige" impulses describes exactly how something different from merely useful forms of social life will be formed, i e. a legal order. There is in Kant a distinct tendency to imagine evolution as a result of the operation of reason on the natural instincts, "gesellig" (sympathetic) and "ungesellig" (egoistic), so that reason stands both as a guiding force, independent of the instincts, and as the result of the operation

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<sup>1)</sup> H. Cunow, Die Marxsche Geschichts-, Gesellschafts- und Staatstheorie. 1920, 4. Aufl. 1923. Bd. I, Achstes Kapitel § 204—223.

of this force on the instincts. Reason is in part a power which guarantees us that evolution will take place and in part a guiding principle immanent in Nature. No small significance should be attached to the fact that the "erkenntniss-theoretisch" distinction, the division between the "Ding an sich" and the empirical world which determined Kant's philosophy, in his sociological studies was transformed into a realistic exposition of the laws of society.

*W. v. Humboldt.*

It is a certain sign of moral force to be able to take up an independent position towards mere physical power. The State only becomes more than mere physical power when she becomes the realization of the moral will. In the times which followed many attempts were made to unite those views. The French Revolution with its outbreak of the passion for liberty inaugurated, as Kant realized, the beginning of a new era. In the minds of Fichte and his contemporaries the creative power which the free authoritative ego possessed became the true reality, the State the moral order of the world. A remarkable treatise written by Wilh. v. Humboldt in 1792 before Kant had brought forward his speculative system, as set forth in his theory of State in "Metaphysic der Sitten" (1797), illuminated strangely the whole period of transition between Kant's authoritative doctrine of liberty and Hegel's historical inspiration and deification of the omnipotence of the State. Humboldt's treatise had no influence on his own age, as it was only published in fragments in Schiller's "Thalia" and Bilster's "Berlinische Monatschrift". It was not published until 1857 and was then only of literary interest. The title of the treatise was "Ideen zu einem Versuch die Gränzen der Wirksamkeit des Staates zu bestimmen", and it was written with enthusiasm for the French Revolution and Kant's doctrine of liberty; but in less than a year's time his views took a different direction. The execution of Louis XVI aroused his deepest distrust in government by the people, and the study of the culture of antiquity in which he now buried himself, and which took up all the rest of his life, gave him views on the relation between State and individual that had a remarkable likeness to those of Kant and Hegel. All his life through Humboldt's ideal was free, strong indi-

viduals, and he maintains in his youthful writings that the essential thing is in every way to increase man's inner spontaneous power and that the ideal must therefore be the most unlimited liberty.<sup>1)</sup> Originally he was strongly influenced by the English moral philosophy which rested on an empirical valuation of the range of the instincts and the significance of their harmonic interplay. But through Kant's doctrine of the categorical imperative he was led to find the principle of order that creates such harmony in the individual's own free choice of what he shall eternally answer to. He therefore proved in his youthful treatise that the State has no other tasks than the safeguarding of the citizens' safety. Through all other attempts at regulation the State will weaken the citizens' belief in their own powers and make them mutually indifferent towards each other.<sup>2)</sup> Those who are in the habit of trusting to decisions which lie outside themselves are apt to part with all sense of their own power of judgment, to lose the clear conception of merit and demerit and become unable to look after themselves under unexpected conditions.<sup>3)</sup> Trade regulations, care of education, of religion, and a definitely prescribed morality all lie outside the tasks of the State. Every regulating State tends to deprive men of their moral dignity and make pleasure their only object in life.<sup>4)</sup> In antiquity people found compensation for the violation of the sanctity of private life in the share in the government which constituted the liberty of the citizens and by which the strength of character of individuals was prevented from weakening to such a degree as would be the case in our States, where no compensation is given in the form of direct participation in the government.<sup>5)</sup> In our society the guardianship of the State would only produce a weakening in the character of individuals and it could only be justified by the erroneous belief that you can develop men by weakening them.<sup>6)</sup> The State is obliged to allow the citizens to decide for themselves in a great number

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<sup>1)</sup> W. Humboldt, *Ideen zu einem Versuch die Grenzen der Wirksamkeit des Staates zu bestimmen*, 1857, p. 15.

<sup>2)</sup> *Opus cit.* p. 22.

<sup>3)</sup> *Opus cit.* pp. 21 and 23.

<sup>4)</sup> *Opus cit.* p. 35.

<sup>5)</sup> *Opus cit.* p. 55.

<sup>6)</sup> *Opus cit.* p. 87.

of cases, and the modern civilized State's superiority over that of antiquity is to be found in the growing prevalence of the view that the welfare of the State should be made one with the private interests of the citizens.<sup>1)</sup> But while we should, on the one hand, endeavour to make the citizens' self-determination as great as possible, we should, on the other hand, carefully watch whether they have attained to the necessary maturity. The maxims which Humboldt thus proposed presupposes, he said, that men were completely able to exercise a mature reasoning power.<sup>2)</sup> It must be borne in mind that we cannot say that liberty is granted where bonds are loosened which were not felt to gall.<sup>3)</sup>

It was exactly on this point that the study of antiquity led Humboldt to a different view of the tasks of the State. What characterized the Grecian spirit was not only the spontaneous power with which the individual displayed his particular qualities, but the sense of moderation and harmony, with which he shaped his life as a work of art. In the dialogue "Gorgias" this conflict between the wanton and the self-disciplined individual is set forth. "I believe," declares Kallikles, "that the laws were given by weak men. It is only the weak who dare not or are unable to surrender themselves to their instincts, and who from shame at their own weakness or from unmanliness praise reason and justice. To those who are capable of instituting a State through their force of character nothing would be more unbearable and miserable than reason and justice. Only provided that they have the necessary resources at their disposal all their virtue and happiness consist in voluptuousness, wantonness and liberty, and the rest is only pretty phrases, unnatural regulations, empty talk of no value." Against this Socrates maintained that order and harmony are the soundness and strength of the soul as of the body. What brings order and harmony into the soul we call law and justice, by which men become righteous and moral. A man who is without justice and reason cannot become a friend of other men or of God, as he cannot be admitted into their society; and where there is no society, there can be no friendship.

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<sup>1)</sup> Opus cit. p. 75.

<sup>2)</sup> Opus cit. p. 162.

<sup>3)</sup> Opus cit. p. 183.

But shortly after having written his youthful treatise Humboldt acknowledged that the State should aid the individual to attain to such order and harmony. The principal point is not that the individual should live in accordance with a law, but that he should unfold all his individual powers.<sup>1)</sup> Every individual is something quite new and cannot be previously conceived or constructed; he is the product of a spontaneous power, an independent creature, who perceives his own nature and who wants to be measured thereby. But Humboldt perceived that society can, to a high degree, supply the conditions for the unfolding of personality and that both the individual who is unable to develop into a harmonious self-dependent being, and the society that can offer no possibilities of such development, are lost. We should not attempt to lay down a definite general standard by which everybody should be measured; it is not the strictness of the conscience which is essential, but the vigour of the inner life. The general law of individuality should be acknowledged as the way that leads to all values but not as a fixed scheme. God is not the highest good, only the way which leads to it, the power which preserves against dissolution. Therefore the State must not reduce everybody to the same level. She is the powerful guardian of the free growth of the individual. We do not wish to be without a State, but we wish to be free individuals in the State. The great aim is that the individuals should be able to look after themselves. But there is a long way to go before this goal can be attained. The State must still for a long time teach the individuals to become free. As the Secretary of State for Home Affairs (from 1809) Humboldt concentrated all his efforts on promoting public education, which he had in his youthful writings declared to lie outside the sphere of the State. He saw how the State of antiquity made it possible to make law and justice supreme over wanton power in the individual. "The Greeks," writes Thomson,<sup>2)</sup> "were terrified at temptation because they still felt uncertain whether they had the power to control themselves. To him whom the gods intend to destroy, they grant the fulfilment of all his desires."

It was the problem of where the individual received the power

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<sup>1)</sup> E. Spranger, *Wilhelm von Humboldt und die Humanitätsidee*, 1909, Abs. V.

<sup>2)</sup> J. A. K. Thomson, *Greeks and Barbarians*, 1921. Chap. V. *Sophrosyne*.

to shape his personality as a work of art that made Humboldt develop Kant's ideas, as set forth in "Kritik der Urteilskraft", concerning the independence of genius, and constructive reason as the conception of a formative natural power that stood above the individual, and that made him regard the State as a different development of the same power. He thus drifted into the metaphysical train of ideas of which Hegel was the most eminent representative. In Humboldt we see the living testimony of how the explanations of the relation between State and individual swerve round opposite poles, and how impotent merely reflective reason is to determine this or that viewpoint. Logical reasoning will for ever lead to two conclusions, now defining the life of the individual as a function of the State and presently defining the life conditions of the State as depending on the individual's free development. The real state of affairs is this: no State will stand the free development of individuals when it is injurious to the State, while no vigorous individuals will submit to forms of government which quell them. We cannot directly apply the conditions for the existence and development of the State as a measure for those of the individuals or vice versa. We cannot decide, either logically or empirically, which State is the more vigorous, that which completely controls the individuals or that which gives them the widest sphere of activity. It is not sufficient to seek the laws for the existence and prosperity of the State, we must also know which State it is for whose existence we seek the laws. The absolutist States of antiquity, which existed for thousands of years, and the humanitarian States of the present day which have only had such a brief existence, differ so much in their conditions of life that the principles which made one set of States so strong and enduring could not be introduced into the other without ruining it. But whether the modern States can compare with the States of antiquity in vital power we are unable to decide.

#### *Hegel.*

It was Hegel who set forth in a definite form the problem of the relation between the individual and society. It is the problem of history that obtrudes itself, partly as the great power of the past which created and consumed societies and nations, and partly as the

revolutions which disturbed the peace of the age and created a new world. From his earliest youth the historic sense was alive in Hegel and the image, which had satisfied Kant, of the rational individual who took up an independent attitude towards the physical power of State whose right of existence he did not acknowledge, took on a new form in the eyes of Hegel. To him the problem became one of the relation between the individual and fate, and to a deeper consideration it might seem to be the fault of the rational individual's obstinate will when he was crushed by fate.<sup>1)</sup> If we take Kant's view on reason seriously as meaning something more than individual judgment and expressing universal reason as well, there can be no conflict between the world of reality and the world of reason. An individual who is crushed by reality has strictly speaking nourished a false ideal, and reason that is not realized is fantastic reason. The reason that unfolds itself in our consciousness as the power to think is not one with reality; it is only the reason that enfolds our existence which is one with reality. At an early age Hegel considered this reason to be represented by life itself. He who sins against the laws of life is knocked out. Life is not an extraneous power, but the very inmost kernel of the rational individual, and Hegel early felt himself as belonging to life, as part of that entirety of life which enfolds him and his fellow-beings. On this basis Hegel's philosophical and political system developed in the course of years. His impressions of the unfortunate State administration in his own country, the astonishing force of revolutionary France and new political formations, and especially Bonaparte's imposing display of power and great capacity for organization (Hegel always calls him "the great jurispudent") became decisive to Hegel's system. It was completed under the impression that Bonaparte himself, too, was merely a passing figure.

It was the will of the State which to Hegel became the actual moral laws. Its end is the liberty of the citizens, but this cannot be brought about by mere imagination. Philosophy, the aim of which is the understanding of what reason is, must therefore rest on an exact

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<sup>1)</sup> For Hegel's development, cf. W. Dilthey, *Die Jugendgeschichte Hegels*, *Phil. hist. Abh. d. kgl. preuss. Akad. d. Wssch.* IV, 1905; Anton Thomsen, *Hegel, Udviklingen af Hegels Filosofi til 1806*. 1905; Franz Rosenzweig, *Hegel und der Staat* 1—2, 1920.



knowledge of reality, so that it is able to give the State a useful knowledge of what people need and what may consequently be attained. It is foolish and futile to try to give a people a constitution for which it is not ready.<sup>1)</sup> The right State is that which is the best organ of the life of the State. Hegel felt oppressed with sorrow and shame at the impotence of the German States in the first Wars of Coalition, and he perceived that a constitution which has once been an adequate expression of a people's needs may cease to be so, and that, in that case, "the spirit will have abandoned the constitution". This spirit will then crush and destroy the State herself. Revolution will ensue when the people is thus hampered by the past. History passes sentence on such a State and this is not only an utterance of its opinion, but it is the judgment of reason. By her very victory the State proves her excellence and her right to victory, by her ruin she proves that ruin is her deserts.<sup>2)</sup> Schiller's utterance, "Die Weltgeschichte ist das Weltgericht" is laid down by Hegel as the categorical imperative for the nations. Every nation gets the fate she deserves, i. e. she reaps the fruit which may be victory or ruin according to the decision and force with which she took up her tasks.<sup>3)</sup> It is the self-assertion of the State which matters. The fate of the State is the testimony of her value. "Es ist der Gang Gottes in der Welt, dass der Staat ist. Sein Grund ist die Gewalt der sich als Wille verwirklichenden Vernunft".<sup>4)</sup> To Hegel this view became the strongest motive for feeling the weight of each citizen's responsibility in his endeavours to bring himself into accordance with the central task of the State, which is to promote the citizens' liberty and guard them against the State herself.

Hegel formulates his belief in reason as the ruling power of the world in the much contested utterance: "What is reasonable is real, and what is real is reasonable".<sup>5)</sup> It is foolish to ascribe any value to ideals which cannot be realized and as regards existing conditions we should try to understand how they have developed into what they are and must be. The object is to recognize what are the neces-

<sup>1)</sup> G. W. F. Hegel, *Grundlinien der Philosophie des Rechts*, 1820, § 274.

<sup>2)</sup> *Opus cit.* § 324, § 334.

<sup>3)</sup> *Opus cit.* § 341—348.

<sup>4)</sup> *Opus cit.* Zusatz § 152 zu § 258.

<sup>5)</sup> *Opus cit.* Vorrede. p. 14.

sities of society and to be able to create organizations that precisely satisfy these necessities. But this task cannot be accomplished by a mere analysis of the ideas. Hegel sees in the State a growth on the basis of a broader reality. The nation begins as a mere form of life, a family, a herd, a tribe, a crowd, — the State supervenes as the organization of all this, i. e. all the forms become links in the realization of a collective idea.<sup>1)</sup> Cunow maintains with great force<sup>2)</sup> that it is an essential merit in Hegel that he sees the State as a superstructure on natural society, where volition is concentrated on carrying through definite rules for the decision of any quarrels between the individuals. Civic society is a fighting ground for the private interests during the fight of all against all.<sup>3)</sup> But individual isolation which this fight might seem to indicate, and which led Rousseau to try to construct a State of individuals, who were without the slightest inner connection, is a phantom of the imagination. No isolated individuals exist. The individuals are, like everything else in Nature, only real by being defined by their relations towards each other. We can imagine how order arises out of chaos in Nature, but only so far as we presume that the laws which reign in the existing cosmic system already reigned in chaos. And quite in the same way, we may understand the State as a regulated legal system on seeing that the laws which reign there already reigned unconsciously but decisively in Nature.<sup>4)</sup> Hegel therefore wholly rejects the fiction of the social contract and sees in the State the conscious expression of the interdependence which is the inmost essence of every individual. Therefore Hegel calls the State the realization of the moral ideal.<sup>5)</sup> When isolated the individuals are quite without any interest to the State, for as such they are unreal. The individual only attains to reality in or through the State. The task of the State is what is involved in its very nature, i. e. to assist individuals to realize their nature and become conscious of themselves in and through their inter-connection. The will of the State is not,

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<sup>1)</sup> Opus cit. § 349.

<sup>2)</sup> H. Cunow, *Die Marxsche Geschichts-, Gesellschafts- und Staatstheorie*, Bd. I. pp. 239 ff., 1921.

<sup>3)</sup> Opus cit. § 289.

<sup>4)</sup> Opus cit. § 258, § 331.

<sup>5)</sup> Opus cit. § 257.

as Rousseau says, justified by its being the will of all, but only by having all for its object, by protecting the liberty of all and guarding them against being crushed by the power of society.<sup>1)</sup>

Hegel had greeted the defeat of the Prussian State at the battle of Jena with supreme satisfaction. She was to him the type of a mechanical legal machinery, a dead remnant of the past. It was different with the new Prussian State, that took upon herself the war of liberation from Bonaparte, and with intrepidity, ability, and force created an order of State that was suited to the tasks of the new era. Hegel's system and the new Prussian State developed on the same lines so that Hegel, in the eyes of later ages, came to be regarded as the philosopher of the Holy Alliance, of Conservative reaction. But the central point with Hegel, to be ruled by a power of State which was the expression of the minds of the citizens, became day by day less expressive of the rule of the Holy Alliance. Hegel's historical sense, his deep comprehension of the course of history as the judgment of the world was to him identical with his feeling of being part of a whole, of being in vital connection with a people. This feeling of solidarity acts as an uplifting power on everybody who maintains his connection with the people, but like relentless fate it crushes all who relax their connection with the entirety. The action of the estates became very soon the expression of disunity instead of unity, and the principles by which they sought to defend and define their claims proved to be mere words, while real power, which as the judgment of God penetrated the whole life of the State, had its source elsewhere. In his profound book "Hegel und der Staat" Rosenzweig endeavoured to show how it was Marx who carried on Hegel's fatalism and gave fate, as the ruling power, a corporal embodiment in that part of the people that constitutes the whole itself, and which is as the wide sea of existence which carries all the individual groups like boats on its crest. Marx alone was able to keep alive the belief in God who went his way through history. It was Marx alone who saw his face and who showed as in a flash of lightning that this God of history or Fate is the proletariat, the huge majority that rules in the interest of the masses. Nobody but Marx saw with his own eyes, where and in what manner

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<sup>1)</sup> Rosenzweig, Hegel und der Staat, I, p. 113, II, p. 171.

the end of all ages rises on the horizon of history.<sup>1)</sup> It becomes our task to examine whether the fundamental ideas round which Hegel's thoughts centred remain unchanged when they assume the form Marx gave them. Hegel's idea was, as we have proved, to maintain the connection between the parts and the whole as being the great purpose of life. This train of thought prevailed all through the Middle Ages and held men together as the children of God, it was this idea which during the Reformation had made the feeling of religious independence so strong that it entailed as its political consequences the demand for unconditional liberty of conscience. As regards the relation between the individual and the State the most varied associations of ideas prevail.<sup>2)</sup> The State becomes, as the plenipotentiary of the will of God, the power to which men must submit. The individuals obtain through their unconditional obedience to God sufficient power to draw a limit to the authority of the State over them, and in this way they assert their sovereignty. But the sovereignty of the individual is placed in quite a different light, according as it is understood absolutely as the individual's condition for combining with others into societies, or according as it is seen in its historical relation as a sign of the individual's dependence on a religious authority that is above that of the State. Hegel's Liberal party with its efforts at replacing ideal abstractions with real values, led from Hegel's starting-point to a more intensive emphasis on the parts, leaving the unity in the background. Whether Marx, who issued from this Liberal party, did not lead the development in the precisely opposite direction, to emphasize unity and fight against the individual sovereignty, because he was dominated by the vision of the proletariat, is the problem which we are now about to discuss. The age after Hegel is the age of advancing democracy. But on the face of it, it is uncertain whether it designates an increasing power of the individual in his relation to the State or a stricter subjection of him to the power of State. Two great personalities meet us as characterizing the age after Hegel; they are

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<sup>1)</sup> *Opus cit.* II, pp. 200—203.

<sup>2)</sup> Cf. Otto Gierke, *Die Staats- und Korporationslehre des Alterthums und des Mittelalters und ihre Aufnahme in Deutschland*, 1881; *Die soziale Aufgabe des Privatrechts*, 1889; Georg Jellinek, *Die Erklärung der Menschen- und Bürgerrechte*, 3te Aufl. 1919, Abschn. VII & VIII.

Proudhon and Marx, so different and yet so closely related, Proudhon with his centre in the individual, Karl Marx with his centre in society. Whether the difference between them should be sought in their ideas or in the different social problems by which they were faced, can only be shown by a further examination.

*Max Stirner.*

The purely literary, logical and formal continuation of the ideas of Hegel's Liberal party we find in Max Stirner's singular book "Der Einzige und sein Eigenthum, 1845", which so consecutively destroyed all ideas of unity, that the sovereign individual to whose glorification it was written seemed himself completely to disappear. There was not any social movement at the back of Stirner's book, it is not the testimony of the growing power of the individual; if we should seek its origin in any characteristics of the age it would most approximately be in the growing narrow-mindedness of the class of "petit bourgeois". But perhaps the book should only be regarded as an exercise in debate that its author, Caspar Schmidt, an unknown teacher at a girl's college, diverted himself by writing, or a protest, set forth in an ironical form, against the condemnation of the time-honoured values which Hegel's ideas involved. Marx realized at once that Stirner's book was not an expression of the movement for liberty which had seized him.<sup>1)</sup>

Stirner calls it a delusion when man believes that there exist independent, actual and supreme powers outside himself to which it is his duty to submit; he who believes in such reality outside himself cannot, however, help ascribing to himself the sole actual reality. For he is only bound by his own faith. He is a vague and involuntary egoist, but he is nevertheless an egoist. It is only his power of criticism which is paralysed. "As he does not want to be an egoist he seeks in heaven and on earth a higher being whom he may serve and to whom he may sacrifice himself. But however much he mortifies himself he does it all, in the last resort, for his

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<sup>1)</sup> F. Mehring, *Gesammelte Schriften von Karl Marx und Friedrich Engels*, 1841 bis 1850, II. pp. 95 f.

own sake and he does not free himself of the egoism of which he is accused."<sup>1)</sup>

The philosophical sophistry or formal sagacity which Stirner displays is without any importance and does not influence men's way of living. It is very superficial wisdom to maintain that man is an egoist because all that takes place in oneself, takes place in oneself. If Stirner's book had contained nothing else it would surely have been forgotten by now. But it gives such a searching analysis of all belief in authority that it enforces the view on the reader that without authority nothing but the immediate disconnected minutes remain. Every formation of complexes, unities, demands a display of self-discipline and effort to resist the impulses of the moment, so that he who throws off all constraint is not only unable to sacrifice himself to God, to the authorities or to mankind, but cannot even sacrifice himself to himself. This self-discipline need not be something to which I subject myself for my own sake. My self is my present moment, my empirical being which disappears in a mist when I want to retain it. To build one's existence on one's ego is therefore, in the last instance, to build it on a phantom, a nothing. "When I build my cause on myself, the only one, it is built on its transitory and mortal creator, who consumes himself, and I may say: I have built my cause on nothing".<sup>2)</sup>

Max Stirner lashes with the severest criticism man's foolish reverences for ideals whose value they shrink from examining. The man who does not consider his own good or who does not make it clear to himself of what value the ideals are to him, or in what way they add to his own intrinsic value, stands on the most unsafe ground, even if he nevertheless gives himself up to the service of a higher power. By such lack of criticism or of thought man has become a victim to religious and social ideals which in the name of God, of Humanity or of the State demand obedience to laws which are far from making man freer and life richer, but which, on the contrary, hamper and hinder existence. Existing society is so bad, exactly because it has not, on principle, made every individual's self-interest the standard of his adhesion. Existing society swarms

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<sup>1)</sup> Max Stirner, *Den Eneste og hans Ejendom*. Ovs. A. Garde, 1902, S. 31.

<sup>2)</sup> *Opus cit.* p. 224.

with oppression and misery, precisely because it gives its institutions the appearance of serving the causes of liberty and love, but forgets to examine into them, nay, condemns every attempt to make them conform with self-interest. We should not combine into societies in the same way as we enter into associations, i. e. in order to lose ourselves in something that effaces our own selves, but because we acknowledge such a union as being useful to our own selves, because the union does not possess us, but we possess the union and benefit by it.<sup>1)</sup>

Stirner's book is the antithesis of Hegel's. Stirner is not blind to the fact that it may be wise in the individual to take general welfare into consideration, but never for the sake of general welfare, always for the individual's own sake, for the sake of his positive benefit. There are in Stirner's book many signs of his perceiving that there may be many advantages for one man in attaching himself to others, but there is no evidence in his book of it being reasonable or wise to do anything for one's fellow-beings or for the general good, when one does not profit by it oneself. Stirner sets up the old problem of morality and happiness in all its logic, and he shows that it is not at all easy to answer the question of whether society and the individual should seek their welfare in justice, or whether that which shows itself to be for the good of society and the individuals is justice. In his description of Hegel's youthful development Dilthey<sup>2)</sup> points out that the greatest difficulty to Hegel lay in the combination of historical relativity which moral desire for a metaphysical absolute value. To Stirner the problem was practically the same, except that he became helplessly entangled in historical relativity. Hegel's powerful philosophical, religious and political views, in comparison with which those of Stirner seem petty and impotent, wound up with the conclusion that the State can only solve her task by uniting the individual and society under an organized legal system. This is the task which Stirner asserted the impossibility of solving. This it is which Proudhon and Marx, each in his own way, tackles by creating a new view of the world that makes individual and society correlative ideas within the actually existing solidarity.

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<sup>1)</sup> Opus cit. pp. 216 f.

<sup>2)</sup> W. Dilthey, Die Jugendgeschichte Hegels, p. 206.

Before we attack this task there still remains to be mentioned a singular attempt at solving the problem of the State's relation to the individual on the basis of the earlier theories. The constitutional forms of government which in different shapes arose in countries after the unruly years around 1848, were all sustained by the idea that the legal system acts as a protection to the citizens and not, as it was considered in previous times, as a means of keeping the citizens in awe. It can scarcely be an accident that it was the Hungarian baron, Josef Eötvös (1813—1871), who had been Secretary of State for a long time previous to the year 1848, who in the most peculiar way advocated freer thinking. In his work of two volumes "Der Einfluss der herrschenden Ideen des 19ten Jahrhunderts auf den Staat, 1851—1854", he describes how the danger to the inner solidarity of the Austrian monarchy would be increased, if she allowed herself to be forced into forms of government which were hostile to liberty. He also wrote a work on the equal rights of nationalities in 1850, and of the guarantees of Austria's power and unity in 1859.

*J. Eötvös.*

"The ideals that have gained power over men's minds are," maintains Eötvös, "liberty and equality." But they cannot be reconciled with the demands for a firm regulating power which are made by all existing States. A State that wants to administrate must mete out to the individuals the degree of liberty that may be granted them, and she must watch over their use of it. The liberty of the individuals will therefore constantly decrease and the State will constantly extend the limits of her authority. But in this way she will hamper the individuals more and more in their actions so that they become unable to support themselves and the State will then be forced to support them. "A State that can regulate the circumstances of every individual has a duty to do so and if in this way she paralyses his activity she must provide for him."<sup>1</sup>)

There exists therefore an insurmountable contrast between man's striving for liberty and society's demand for order. The striving for

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<sup>1</sup>) Josef Eötvös, *Der Einfluss der herrschenden Ideen des 19ten Jahrhunderts auf den Staat*. 1854. I. p. 138.



liberty is one with the striving for mastery. Everybody who has the use of his own power secured to him will strive to make himself master of the powers of others, and in this way the individual's striving for mastery must necessarily arise from his fight for liberty and finally mastery itself will ensue.<sup>1)</sup> Liberty violates equality and the demand for having it carried through in society imports the dissolution of all existing forms of government.

With great severity the Hungarian baron sets forth a demand in his large, somewhat heavy, but very penetrating work that either the forms of government must be quite transformed, so that they are brought into accord with the ruling ideas of liberty and equality, or the ideas must be transformed so as to accord with the forms of government. But we are here faced with a contradiction which cannot be solved so long as we try to explain the demands of the individuals and the State as having their origin in two different sources. If the State has an independent claim to rule, the liberty of the individual becomes merely idle talk. If, on the other hand, the individual's liberty is the fundamental claim the State becomes only an instrument of safeguarding this and the question is then, whether we have any reason whatever to regard the State as anything but an instrument which is useful for promoting the citizens' demands.

Eötvös declares without hesitation that the State is only such an instrument and has no other legal ground of existence, but he sees a fully valid ground of existence in the perception of the need of the State as such an instrument. Only when the State extends her tasks beyond these bounds we are on unsafe ground. What we saw Humboldt assert in his then unpublished youthful work we now see Eötvös maintain.<sup>2)</sup> The State is only to safeguard the citizens in order that they may use their liberty and enjoy their moral and material goods, but it is not her task to procure these. The desire to look upon the State as a kind of providence, a help and moral teacher, which caused Humboldt to change his opinion, Eötvös quite decidedly disputes as unjustified. It leads to bondage and arbitrariness and produces disturbance in the life of the State instead of making it more secure. He especially fears the State's dependence

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<sup>1)</sup> Opus cit. I p. 103.

<sup>2)</sup> Opus cit. II pp. 65, 73.

on the Church, and religious intolerance. The State has only the task to protect every single individual and every single group in the performance of what they consider good, provided that it does not interfere with the equal liberty of others. He maintains that the unity and solidarity of a government, on a parliamentary basis, are the conditions of an effective administration. The task of the State cannot consist in the transformation of her citizens' feelings and convictions, but only in guarding those which they already entertain against being violated.<sup>1)</sup> The State must therefore be able to unite the wills of all citizens for a common defence against an exterior enemy, who threatens the liberty of all, and in internal affairs to create a legal order, which all are anxious to maintain, because it gives all their due. This is attained by the widest possible decentralization. Centralization only creates conflicts and constant discords, it is both more expensive and more oppressive than decentralization. Being a Hungarian, Eötvös was the born spokesman for a system of government that allowed the individual parts of the State to lead their own independent religious and national lives. As the aristocrat he was, he emphasizes liberty rather than equality, but his ideas go much further, in the logical exactness with which he describes them, and there is in his work much that is reminiscent of Godwin's views, and many of his ideas are found again in Spencer, who in his work "Social Statics", written at exactly the same time, took up a fight for the free State and the free individual, although on an entirely different basis.

The relation between individual and society may be determined in two ways. In England the unity of the kingdom is the fixed natural centre in historical evolution, and the government has at no period had the task of keeping the kingdom together and suppressing any possible tendencies of secession in the different parts of the country. Political contests in England concerned the relation between the central power and the local authorities. The parts fought to guard their liberty and right of self-government within the kingdom, but not to break it up. England's history is the history of the counties' fight for self-government and participation in the central government, of the municipalities' and finally the indivi-

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<sup>1)</sup> Opus cit. II pp. 97, 103 ff.

duals' fight for the widest possible self-government, and participation in the central government. The solid English qualities of all Englishmen, their solidarity as a nation, is the self-evident basis of the individuals' life together in society; but concerning their liberty and elbow-room within this society there has raged the most vehement contests and, in the course of time, it became an important part of English national morality that nobody will submit to having his liberty curtailed. It became an Englishman's duty to adhere to his country and guard it against foreigners, but also to guard his own liberty and counteract the tyrannical propensities of the central government.

On the Continent, on the other hand, historical evolution consisted of a long fight for the building up of a State, where kings and princes endeavoured to consolidate their rule over countries which had no feeling of solidarity. The countries were held together partly by force, partly by making clear to them the advantages they would derive from belonging to the kingdom. But the main emphasis must for a long time be laid on the power of the central government. The rights of the subjects became of subordinate significance and obedience became their principal duty. Only towards the end of the XVIIIth century there arose in France and partially in Germany feelings in the nation which, to a certain extent, might constitute the basis of the formation of States, so that the faithfulness of the citizen could be reckoned with, and conditions similar to those in England be created. The relation between the individual and society became then a relation of natural solidarity, and police supervision over the citizens was felt to be an absurd remnant of the past. Only where such natural national States came into existence can we understand the evolution from a natural social feeling into a feeling of allegiance to the governing power. Where this solidarity is an artificial product no feeling of solidarity will develop.

But in Austria-Hungary the power of the State did not rest on a national feeling of solidarity. Eötvös is therefore unable to find the basis of the State's unity and strength in the citizens' feelings of solidarity and unity, but ascribes it to the fact that the State safeguards their national peculiarities to all groups of the people. The necessity of such safeguarding is the basis of the existence of the State, she has in herself no claim to existence, she is only an instru-

ment, while society itself is a growth of nature.<sup>1)</sup> Eötvös therefore lays down as a result of his examinations, that large States must seek their strength in safeguarding the liberties and peculiarities of the groups, while any attempt at enforcing uniformity in standards and habits of life will create discord, and become a source of the State's deterioration and dissolution.<sup>2)</sup> As a State that consists of heterogeneous parts should seek her strength in making her function as a protective power as efficient as possible, and her will to command and rule as little felt as possible, so should every State that is more than a mere frame that holds the local groups together, acknowledge that her task is to give the individuals the freest possible scope for their powers, to safeguard their peculiarities and to avoid all attempts at forcing them all into the same mould. The belief in the helpful and supporting capacity of the State which made the youthful Humboldt abandon his original theories of State do not perhaps, after all, go so very much counter to his original demand for liberty. The danger that help may grow out of proportion and deteriorate into guardianship and tyranny is always there, but it is not necessary that it should do so. If it does, the State will suffer.

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<sup>1)</sup> Opus cit. I p. 27, II pp. 65, 73.

<sup>2)</sup> Opus cit. II pp. 500, 506.