

# REFLECTIONS ON NATION, SOCIAL State and sovereignty

*PAULO BONAVIDES*

## The idealist concept of nation

**N**ation is soul, conscience, sentiment, humanism, citizenship and apotheism of values. Nation is the people in its intuition of fraternity, justice and freedom; nation is law, integrity and civic dignity in a shared destiny, in the solid compact of values, in the patrimony of times laden with the grandeur of tradition; in the perpetual and collective memory of identity, in the flow of ideas that carry forth the energy of the people to remain as one in adversity and stand firm before bitter setbacks.

Nation is the march toward universality, the moral path man must take toward the apotheosis of triumph and the successful co-habitation of all social partners.

Nation is sacrifice, abnegation and blood spilled in the interest of causes that rim the heroism of humankind; and it is also the expression of the immortality of a people steeped in suffering, but rescued in hope.

Nation is the cult of the earth, the genius in language, the inspiration in poetry, the music in patriotism, the faith in religion, the power in ideology, the vocation in liberty and in law; all of these values that generations memorize and consecrate, driven by hope, and by the intent and purpose of making them as eternal and indestructible as the supreme forces of nature, above which man has no jurisdiction, which man cannot sentence to death or snuff out.

Nation is the homeland that begets the brave, the just, the artisans of progress and civilization, weaving the thread of equality so that it can extend throughout all social spheres; nation is homeland even when it rejects haughtiness, hate, privilege, prejudice and discrimination.

Nation is the breviary that psychologically frees the human being from the spiritual pitfalls and material subjections that corrupt the human spirit; It is likewise the commitment to the cause of the oppressed; the pavilion of the patriotic warriors raising the constitutional arms and voice of resistance to put the State at the service of the magnanimous social interests that make human dignity reach the heights of fruition of all the possible fundamental rights.

Nation is history and language forging the links that bind generations past, present and yet to come, thus projecting the immortality of the homeland and the eternity of man's natural right to consciousness.<sup>1</sup>

Among the peripheral peoples, nation represents the struggle of the State for free, democratic and participative citizenship, guaranteeing peace, meting justice, conciliating classes and protecting categories of the social body.

Nation is the subject in the courts as they ponder upon the hermeneutics of equity in a bid to resolve cases in which capital, taking the course of ambition, avarice and injustice, stifles and squashes the cause of labor and wages criminal war against cooperation and social peace among peoples.

Nation, according to the concept outlined above, comes already linked, through new interpretive methods and instruments, with the principle, notion and idea of the social State; which will soon be the subject addressed by the conspectus of these present reflections.

In relation to the juridical domain, the concept of nation is bound to that of constitutional sovereignty, because thus is the deepest contemporary root of law; it is, to a certain extent, the supreme and absolute form of creating, exercising and concretizing the constitutive powers as organs of sovereignty legitimized as the expression of the national will.

Consequently, nationhood incorporates the legitimacy of the sovereign people by promulgating the democratic constitutions of the social contract.

However, taking the specificity of a fundamental preference derived from ideology and axiological pre-understanding that little bit further, as impelled to do, there is more to the concept of nation than that sketched out above in its jusociological and jusphilosophical dimensions, but there is also that which then flows from the pluralism and generality of its existential sources of matter and spirit and declares the nation, in a substantial synthesis, to be the earth, the homeland and people crystallized and condensed in time and space as the will and determination of life.

In this long sequence of reflections on the meaning and axiomatic concept of nation, collated from history, tradition and its moral, cultural and spiritual roots, we can establish the entity and vocation of peoples to perpetuate elements of culture, life, solidarity, consensus and value that Renan compacted and encapsulated in his famous phrase: "the nation is a daily plebiscite".

With the development of the doctrine, the complex concept of nation, prior to reaching the intelligence, reason and brain, had already filtered through intuition, feeling and the heart. And it was there, in the latter, that it made its abode for no brief time, rather than in the former, because it is there in the noble muscle of life, in its beating and throbbing, that the nation is born by patriotism and dies by the circumstances and vicissitudes of time, by the scourge of discord and dissidence, by the ferocity of irreconcilable civic hatreds, by the separatism and succession that light the fires of civil war, and by the treachery of extremist and radical elites that all too often leave the gates to the homeland ajar to the interventions of foreign arms.

Arms that are, in general, the habitual perpetuators of the enfeeblement of national unity, undone in an ideological clash, ruining nations, spreading rancor,

opening the wounds of bitter passionism – wounds that not even time, which erases and heals all with historical distance, can close.

Effectively, such disasters always occur, faced with the rupture of the cohesion, balance and unity of systems, dissolved in the fragility of the bases of agreement and contractualism. This occurs when good sense no longer has the language, the force or capacity to oppose, victoriously, the degeneration and moral bankruptcy that plunged them into corruption; when the two powers – the Executive and the Legislative – shun their responsibility to exercise jurisdiction of legitimacy over the citizenry; when the Legislative, converted into an assembly of capitulations and desertions of the duties of *legislatio*, having abdicated its powers as an organ of sovereignty and yielded to the despotism and arrogance of a rival power, is but the sorry shadow of a parliament; when the Executive, overreaching its domain, invades the prerogatives of the constitutional powers of parallel action in the exercise of sovereignty, when the two most active powers in that same sovereignty – one to make laws and the other to enforce them -, with neither the ethics of governors nor the trust of the governed, stray from the democratic path and wade into the mire of tyranny and the fatality of dictatorship; when that very Executive takes the provisory measure as license to usurp and violate the principle of the division of powers, and the ruling power, shredding the Higher Law, transfigures itself into the phantom of the Constitution and disgrace of democracy and State of Law.

### **The formation of nationality, from colonial Brazil to the monarchy**

In the times of the Brazilian colony, the colonial wars, which were largely nativist in essence, were undoubtedly the first embryonic manifestations of a nationality in the making, particularly so because they stemmed from social struggle, resistance and adherence to a human element agglutinated in the assimilative process wherever the set of assets, interests and values that would precursoryly house a sense of self-determination was slowly taking shape.

But it was the tragedy of the Inconfidência (the aborted 18<sup>th</sup>-century revolt in Minas), the execution of Tiradentes, the banishment of patriots to the wilderness and hardships of the African savannah, as well as the blind repression decreed in the Metropole and enforced by the iron hand of its agents, that converged to form a coarse and rudimentary awareness, a slightly autonomist substrate, a colonial element.

In effect, everything that had earlier flowed into the estuary of violence and oppression. Yet the fierce power of colonialism was impotent to scratch out and erase the memory of the Brazilianity of Porto Calvo and the Guararapes, crowned by feats that culminated in the expulsion of the Dutch invaders and in the establishment of strong ties of blood and cooperation among the three ethnicities of which the primitive weft of nationality was spun. This was a union

the historiography has celebrated as one of the factors that planted the seed of national conscience in a time of still retracted colonization.

In the deaf war of colonial Brazil the scene was set for the replacement of the colonial spirit of vassalage of the native populations with a diverse spirit that encouraged the secessionist verve of emancipation, as would become clear in the tribulations of the Minas Gerais Inconfidência at the end of the 18<sup>th</sup> Century. From this lasting spirit would come two seedlings: that of the State, which upgraded Brazil from colony to united kingdom under the banner of the Bragança, and that of the nation, with the Pernambucan revolution of 1817, on the spur of the republican and federative influence of the American Union.

The phase immediately preceding formal emancipation, however, would only occur with the transposition of the Portuguese Court to the colony, with the flight of D. João VI from Napoleon's invading armies under Junot, and would last until the king's return to Portugal in 1821. In the coming of D. João VI and his entourage we have one of the episodes that most accelerated the constitutive process of nationality.

Fundamental steps were taken in this direction. The relocation of the Court made Brazil the temporary seat of the Portuguese monarchy, generating positive effects of progress for the administrative organization of the emerging nation.

In similar fashion, the decree opening the ports, followed some years later by the Carta Regia of 1815, which established the united kingdom, thereby issuing the birth certificate of a new institutional branch of the Portuguese monarchy, one erected on colonial soil, would appear to have instilled a certain degree of autonomy in a bid to stem the successive eruptions from the separatist volcano, which D. João VI intuited so clearly in his advice to his son during that fond farewell in which he urged him to hang on to the Imperial crown.

Next came the "cry of Ipiranga", which proclaimed independence, dissolved the united kingdom and put an end to the political union of the two peoples; an unequal union that had masked the continuity of the colonialist bond to the former motherland, as was made clear by the reactionary and restorative decrees issued by the Lisbon Court, the very ones that triggered the independence movement, formally consummated on September 7, 1822.

The State had broken ground in the form of the Empire, but the nation continued on its way to defining and consolidating an identity.<sup>2</sup>

With independence, José Bonifácio was the Monarchy; with the Confederation of the Equator, Frei Caneca the Republic – though this would only come to fruition 67 years later. The former occupied almost the whole of the 19<sup>th</sup> Century, while the latter abides to this day. Counting that of 1988, there have been five republics since the fall of the Empire.

The Empire was childhood, the Republic, a coming of age of our people as nation and State. Adulthood attained, despite the white feudalism of the

oligarchs. The social and political phenomenon of oligarchic “colonelism” prevailed throughout the First Republic, having displaced the society of masters and their slaves, or the manor and the slave quarters, the hegemony of which would disappear with abolition.

The “colonels”, the undeclared successors to the slave owners, nonetheless kept a large contingent of the rural population in a servitude of their own, deprived of legitimate citizenship, because there was no citizenship to be won from voting with an x on a rigged ballot.

The toil of the peasantry in the hinterlands and along the coast ensured the wealth of the landowners, maintaining the opulence of the privileged few and the disparity of an unjust, unequal, inhuman and atrocious social status quo.

The monarchy ousted, slavery abolished, and the Europe-inspired institutions of the system suppressed, the sacrifice of parliamentarism to a presidential form of government was the single gravest political error of the nascent Republic. The main culprit for this error was Rui Barbosa. It was a folly that would soon ruin a representative legitimacy already rocked by the sheer weight of corruption and ethnical decadence among the legislature in both Houses of the National Congress. Hence the misery of presidentialism and the coup d'états from which would derive the worst military dictatorships the continent had yet seen.

When drawing the political structure of the Republic, Rui Barbosa, the main author of the Carta Republicana, took his inspiration from the American model, which introduced three novelties hitherto unknown to Portuguese America: the republic, presidentialism and the federal regime; the latter two, in fact, being the original creations of the genius of the authors of the American Carta Magna.

The coup of 1889, which altered the entire institutional panorama in Brazil, came completely out of the blue for the monarchists of the Ouro Preto cabinet and other figures of the regime, including the emperor himself, who had thought themselves faced with a clearly very serious ministerial crisis, but nothing capable of overthrowing the Empire.

The suddenness of the coup that broke the imperial system surprised even Deodoro, who would seem not to have been wholly aware of the full and immediate consequences of his actions when he mounted his horse on the battlefield of Campo de Santana.

This hero of the Paraguay War and friend of the emperor perhaps reckoned himself the author of a simple army backlash that would result in just another ministerial collapse, but not the silent revolution of the dissolution of an empire; because silent revolutions at the foot of the throne were something the Monarchy had seen before, without so much as a glitch in continuity, first back on April 7, 1831 with the abdication of D. Pedro I, bringing an end to the First Reign, and again in 1840, when Pedro II came of age by degree, with his ascension inaugurating the Second Reign.

## **The advent of the national foundations of a social State**

In the second half of the 19<sup>th</sup> Century Brazil ceased to be just a State or Empire and showed its face as a fully-fledged nation, or at least what looked like one.

It thus began to revolve around national causes, such as abolition, on the social level, or issues of the federation or republic, on the institutional plane. All huddled under the flag of elements organized and supposedly capacitated enough to open the channel of communication between society and the State through a political corps and citizenry in gestation.

When we look to history in search of the intellectual precursor to the social State in Brazil, we are surprised to find that it was born not in the Republic but in the Empire.

In fact, the social omission and neutrality of the Constitution of 1891, the First of the Republic, make it look obvious, retrograde and touchy in comparison with the content of the Constitutional project of 1823, or the Political Constitution of the Empire passed by D. Pedro I in 1824.

Title XIII of the Draft Constitution that Antonio Carlos, who had written the framework for that of the ill-fated Pernambucan Revolution of 1817, submitted to the Constitutional Assembly dissolved by the emperor, versed on the following: On public instruction, charities, correction houses and workhouses.

Article 250 read as follows: “The Empire shall have primary schools in each neighborhood, secondary schools in each county and universities where appropriate”.

Title XIII finished on article 255, no less kissed by the precursory vocation of the social State, as can be inferred from such content as: “Workhouses shall be built for those who cannot find jobs...”

The Constitution passed by Pedro I in 1824 contained the same seed of social rule in the form of art. 179, which guaranteed that the State would provide public aid, that primary education would be free, and that colleges and universities would teach the sciences, literature and arts.

Thus a future social State would seem to have been augured, outlined and introduced in these two texts, both written from a broad prospective vision.

Indeed, there have been many attempts to construct such a state from constitutional foundations since 1934, but at such a slow pace as to be almost analogous to the sluggishness with which Christianity erected its cathedrals across the West.

There were, therefore, in those first elements of constitutional reason in our country, express dispositions toward social protection, extended to education and employment, as we were beholden to show in 1992, during our Rui Barbosa Medal acceptance speech at a National Congress of the Brazilian Bar Association.

Effectively, that documental evidence clearly demonstrates that the constitutionalism of the Monarchy, though inspired by and steeped in the canons of liberal doctrine, in all the purity of its most authentic and authoritative

sources, had nonetheless been, decades before, less conservative than that of the Republic when it came to social issues.

Rui's constitutional silence therefore revealed itself to be not only behind the times, but – note the singular irony – paralytic at the rear guard of ideas by contrasting so starkly with a century's end that had already seen the materially constitutional realism of Lassalle, in our view resuscitated and updated so brilliantly in Konrad Hesse's classic text on the normative power of the Constitution. Hesse, perhaps unwittingly or without placing any store on the matter, is the constitutionalist of the juridicity of the social State. And he is this insofar as hermeneutics, in its contemporary version as methodological change and renovation, seconds him in declaring the normative and immediate applicability of a second generation of fundamental rights - social rights -, thus recognized and proclaimed by the greatest constitutionalist juridical revolution of our time.

The political, social and constitutional struggles caused by the social immobilism of the liberal State in the first half of last century in Brazil had their roots in the reformist yearnings for undefined change that underpinned the agitation of the 1920s, in the two July 5<sup>th</sup> uprisings, in the states of siege decreed by the oligarchic and contradictory Bernardes government, which, paradoxically, fueled a respectable and powerful sense of nationality and protectionism toward the national riches long dormant in the iron mines of Minas Gerais, and, last but not least, in the revolutionary explosion of the 1930s, in the wake of the Constitution of 1934.

An explosion dubbed the Liberal revolution, its reformism bore the social seeds from which would emerge the concept of a new State in which ideology saw prevail, within the institutional organization of the system, certain constitutional ideas and proposals, or suggestions, taken from the genuinely innovative devices legislated by the constituents of Mexico in 1917, and of Weimar in 1919, and which drew up the precursory agenda to the normative reality of these second generation rights.

Thus were inaugurated the first concrete, though rudimentary forms of social State, which, despite their ephemerality and their largely programmatic constitutions, as was later definitively proved in the case of Germany, had considerable resonance within and influence upon the *Cartas* promulgated during the Inter-war period, both in Europe and in Latin America.

However, the effects of this influence were to plummet with the realization of the merely rhetorical and doctrinarian nature of those precepts introduced by the social revisionism of the Fundamental Laws.

In terms of social material, the Weimar years, in a world on the brink of all-out war once again, and in proportions never before witnessed, represented a cycle of reduced normative density, though one that seems laudable for the reach and inventiveness of the advances it brought to the constitutionalism of its day.

In effect, the nascent social State, whose cradle we shall find in the ideological commotion of 19<sup>th</sup>-century socialism, both that of Proudhon as of

Marx, was still far from maturing or penetrating, through normative efficiency, the positive spheres of juridical ordinance as its most solid title to legitimacy; only the concretion of second generation rights, the social rights, could grant and materialize aspirations to progress, equality and liberty, and define the advent of a new constitutional age, in which nationality is expressed through inner social peace and through which national governments attained legitimacy in the consecration of fundamental rights in all their dimensions.

Under the auspices of the State of Law, the nation-based social State strives to exercise a democratic, open, pluralist and honest power in a bid to check the spurious and devastating effects of crises of governability.

In general, these are crises derived from the incapacity and incompetence of those who govern without a republican view of power, who succumb to the selfishness of the elite, those most intent on revoking or ruining the juridical normativeness of the social system of the protection of labor, established to stave off the aggressions of capital.

This normativeness, cemented in principles, is, without doubt, the guarantee and pledge of sustenance to institutions during the darkest times of apparently insurmountable crisis.

On culminant occasions of national diathesis, the Brazilian people has revealed a pronounced vocation for harmony, compromise and transaction as a core trait of its personality, character and temperament; that is, a propensity to activate conciliatory channels, in the composition of interests, that defuse the bitterness of the class struggle perpetuated by capital, the stay of the power of the unjust minority ruling clique that suffocates society, kicking its Republican values of justice, liberty and democracy out from underfoot. Democracy, yes; but democracy of the participative citizen, of the human element moved by constitutional understanding and allegiance to the institutions of a sovereign people.

One cannot take the citizen out of the people, and any attempt to do so merely strips it of the dignity that is a constituent part of the citizen-nation, the people-nation, the consensus-nation, the sovereign constitutional nation. This alone can pacify the social corps of classes mutinous in the turbulent diversity of their conflicting interests.

Since the *Carta* of 1988, the social State and nation have been unified in Brazilian tradition; two decades lived and experienced in an axiological synopsis that translates the grandeur, solidity and vigor of the solidarity of the soul of the Brazilian people, embracing irrevocable commitment to the Carta Magna and striving for the concretization of social justice.

Being what it is, essentially a declaration of principles – and normative principles at that -, the *Carta* was the first to bring stability to the constitutional regime of the Republican era, ensuring that a period of some twenty years would pass without the conjuring of the ghosts of the coups d'état and military interventions that had haunted the past.



## **The federative dimension of the National State in Brazil**

Given its continental dimensions, the geography of Brazil, comprising vast and distinct regions, has proved a strong natural factor that not only recommends but demands, by imperative of governance, the federative organization of the State.

The specter of federation was a constant feature since the very cradle of nationality and throughout the unitarian and centralizing Empire. The Empire exorcised this phantom as best it could, but was unable to dispel it from the autonomist demands of the Additional Act of 1834, from the public and parliamentary debates that preceded it, since the abdication, and which would turn the regency into a constitutional period with a republican spirit.

The conservative pleiad of the Empire, the band of political chiefs more inclined toward the throne, lived under the pall of reformist ideas stirred up by the more advanced political current of Imperial liberalism, with its propensity to mitigate the rigidity of a stringently unitarist power system and government machine, introducing changes whose very mention was enough to instill the more conservative elements with the fear of secession, disorganization, ruin, rupture and loss of Imperial unity that the political critics of the day and a historical reading of crises in regency so clearly demonstrated.

The liberals, on the other hand, feared the opposite, that is, that the excess zeal to preserve the unity of a monarchic nation generated by such generalized apprehensions might determine, as it indeed did during the Second Reign, a suffocating centralizing and unitarist impulse. Its negative effects on the institutions actually occurred, incrementing a set of equally dismal factors, such as the abolitionist issue, the military question, the religious question, the party political question, the matter of the Emperor's own personal power – all of which unsettled the royalty's governability, undermined the Monarchy as institution and eventually toppled the Empire in 1889.

However, as a counterpart, an historical judgment began to form according to which the matchless excellence of having the Monarchy in our midst resided in the fact that it succeeded in concretizing the miracle of miracles on a continent full of republics mirroring the irredeemable political divisions of the past, namely it pulled off the feat of creating national unity among emancipated peoples, something Spanish America had long craved but never attained. According to the prevailing view of Brazilian historiography, this was a goal achieved by Portuguese America alone, and it was done under Imperial government.

In fact, it is quite astonishing that Spanish America, which shared many of the Empire's features, such as an ethnic, linguistic, cultural and religious heritage that indicated supposedly homogeneous bonds of blood, tradition and faith, failed to establish the yearned-for continental unity of the states emerging from the colonial yoke in one, two or at most three major nationalities, all republican, under the auspices of a federative principle. The best defined and

most edifying inspiration could have come from the American Union erected on the foundations of the Philadelphia Declaration.

### **Is the nation the resurrection of the polis in peripheral countries?**

The nation is to the modern State what the polis was for the classical State of Antiquity.

Seen from a certain perspective, the nation is the contemporary polis. As the unit of values, it raises the State from the blocks and cement of political and social solidarity.

Its connection to the State is a measure of legitimacy and social justice in peripheral countries, and it is unbreakable when it comes to establishing the concept of sovereignty, or in this case national sovereignty.

Likewise indissoluble is the link it establishes with the people, because the latter is, qualitatively, the body of the nation, its human element, just as population is quantitatively the body of the State.

In the acceptance just outlined, then, nation is the people and national sovereignty is popular sovereignty; both fundamentals of the same legitimacy of power, of the same guiding force of ethical elements in the organization of the modern, democratic State in the contemporary age.

In reality, there is no way these two sovereignties can be separated or differentiated; unlike the distinction the constituent theory of the French Revolution, with its ideological determinants, upon writing the closing chapter of the Great Revolution, drew between the bourgeoisie and the people, between the moderates and the radicals.

Operated by the doctrinarian extremism of the revolutionaries, a scission was made between the nation and the people that created distinct political categories, two different and independent entities previously rallied to the same cause: the toppling of the feudal regime.

The nation, the holder of national sovereignty, approved the French Constitution of 1791, which abolished all of the institutions of feudalism.

The people, the holder of popular sovereignty, the sovereignty of the revolutionary people, promulgated – with emphasis on equality – the Constitution of 1793; both sovereignties were strong in doctrine but weak in reality, both eternal in Utopia but ephemeral in positivity.

In truth, the theory of national sovereignty is, as we see it, the only one that theorizes and establishes the unity of nation, people and State from a political angle, such that when we speak of the nation we speak of the people and at the same time of the State, because the State, according to this perspective, is only legitimate so long as it does not impinge upon the principle of nationality.

Conciliating the nation and the State, in the ideal terms of legitimacy, would seem to have dominated the dawn of the third millennium, just as it had the 19<sup>th</sup> Century.

But this can only work if we believe that the public franchises of the democratic regime and respect for the inviolable fruition of fundamental rights can be exercised among the continent's republics, almost all of which are located on the political periphery and laden with a past of grim and atrocious dictatorships.

It is in this direction - the only direction that leads to constitutional plenitude - that the republics must follow in their pursuit of the yearned-for State of social justice, legitimacy and participative democracy, under the auspices of the sovereign nation, a free people and active citizenship.

In this essay we have made mention of the concepts of nation, listed in the introduction, with the sole purpose of showing how they can be gathered together, restored and resuscitated were we to take the Athenian model, the classical model of democracy, as the ethical and axiological compass for a lasting spiritual aggregation that, in the participative democracy of our day, needs must speak more loudly through the voice of the heart, of fraternity, of feeling and of common values than through that of reason, in which the egoisms of class seek their legitimacy.

Only thus can the democracy of the future, by which the peripheral nations will be freed and the fundamental rights of man concretized, lean more toward the nation than to the State, with the national conscience of a solidary people overriding the reason of the State of autocratic governors.

In their contemporary legitimacy, and alongside democracy, the social State and nation also presuppose the primacy of justice, because without justice authority cannot be legitimized, but remains a mere sham in which freedom is privilege; equality, rhetoric; security, the argument of repression; law, more a rule of force than a norm of right; and the State, more absolutism than harmony and division of powers.

Without justice, governability is the dogma of tyranny, the new reasoning of the State of constitutional dictatorships, the unjust and vile dimension of executive incursions into the jurisdictions of the legislator and the judge.

Without justice, government is ungovernability, and the Constitution forsaken, mortally wounded, humiliated, devastated, trampled underfoot and - we may as well say it - annexed by the arbitrariness, barbarity and omnipotence of an Executive that suppresses the free fruition of fundamental rights and public liberties; an Executive that, unless fettered, will annihilate the essence of citizenship.

Without justice, the nation teeters on the brink of an abyss in which democracy can no longer breathe and where the moral and political ties of republican union are dissolved.

Thus the social State ceases to be a State of law to become the social State of a totalitarian system in which the legislative, in a flagrant act of collusion and submission, becomes the phantom of the representative system and of a Constitution it has renounced and razed. Hand-in-hand with the Executive, the two could implant a sinister dictatorship as the future of nationality,

having severed all ties to democracy and the values that are its reflection in the Constitution.

The triad of liberty on the periphery is justice, nation and social State, beyond which lies only the shell of tribunals, the pall of absolutism and the silence of dictatorship.

## Notes

- 1 In Note 11 of Chapter 5 of our *Ciência Política* (São Paulo, Editora Malheiros, 2007, p.88) we reproduced some admirable passages from the work of Ramalho Ortigão in which this wonderful writer shows how Portugal is connected with *Os Lusíadas*. Effectively, having fallen under Spanish control, the nation, fatally wounded and stripped of its independence, nonetheless managed to live on to see its sovereignty restored after sixty years of captivity. Camões' poem, the memory and breviary of the glories of Portugal, conquered by its warships and navigators, directly inspired the resurrection, in 1640, of the independence it lost in the African desert, among the sands of Alcacer-Quibir. These are pages of history, in which the nation, illustrated by this example, sees itself restored to its role of maintainer and guardian of the past, a past that is part of the patrimony of civilization and which was immortalized in the genius of Camões, in the verses of his eternal poem, his "monumental stone", in which, according to Ortigão (*Figuras e questões literárias*, Lisbon, Livraria Clássica Editora, 2. Ed. 1945, t.I, p. 199, 200-3 and 213-9), "the Portuguese will have to sharpen their swords of battle [...] to resist this terrible invasion against which we must stand, and which is called – decadence".
- 2 It is possible to date the birth of a State, because the State is like a law, it comes into vigor at a certain point in time. The nation, on the other hand, is like a custom, it is a product of time that cannot be traced back to the moment it first arose or entered history.

**ABSTRACT** - This article starts by condensing the idealistic substratum of the concept of nation. It makes use of common nation related terms that, in general, express the utopian meaning of that expression, which has deep political and spiritual roots. In spite of all the conceptual and cognitive complexity, the nation is still, in a certain way, the driving force of the political universe of our time, as an expression of power and life. Some thoughts on the implications of its association to the theme of the social state, sovereignty and federation, which are detailed in the article, consider the Brazilian reality and its historical elements, covering three different periods: those of the colony, the monarchy and the republic.

**KEYWORDS** - Nation, Colony, Monarchy, Social state, National sovereignty, Democracy, Social justice.

*Paulo Bonavides* is professor emeritus at the Law Faculty of the Federal University of Ceará, in Fortaleza. He holds a doctorate *honoris causa* from the University of Lisbon. @ - pbonavides@uol.com.br

Translated by Anthony Doyle. The original in Portuguese is available at [http://www.scielo.br/scielo.php?script=sci\\_issuetoc&pid=0103-401420080001&lng=pt&nrm=iso](http://www.scielo.br/scielo.php?script=sci_issuetoc&pid=0103-401420080001&lng=pt&nrm=iso).

Received on 2.20.2008 and accepted on 2.22.2008.