

Currents of Thought Regarding the Rule of Law. The “Rationalist” School and the Social Contract

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Abstract

Among its most prominent representatives, René Descartes, a special personality, characterizing himself as „full of enthusiasm”, discovering the foundations of an admirable science”, it lays the foundations of modernity, a science that places man at the center of scientific and philosophical concerns. If antiquity pays special attention to collectivity, man being only a means to achieve its goals, for modernity, the goal is man. The true orientation towards self-knowledge begins with Descartes, through that famous maxim "cogito ergo sum" (I think therefore I exist) which highlights human reason and aims to place man at the center of the entire universe. It is established with Descartes, legal formalism, and this because its philosophy eliminates any possibility of a given reality imposing itself as such. Descartes' cogito is therefore the expression of the existence of a fortress that cannot be invaded by the collectivity and the human interiority that is revealed to be foreign to any social inclusion. In other words, "the irreducibility of the individual and the social is constituted in the reason for Descartes' silence on the political". However, it can be seen in his work how "he fights tyranny and supports the legitimate monarchy in its absolutist sense".

Keywords: the foundations of science, scientific and philosophical concerns, human reason, "cogito ergo sum".

JEL Classification: K10

1. Introduction

Among its most prominent representatives, René Descartes, a special personality, characterizing himself as³ "full of enthusiasm", "discovering the foundations of an admirable science", he lays the foundations of modernity, a science that places man at the center of scientific and philosophical concerns.

If antiquity pays special attention to collectivity, man being only a means to achieve its goals, for modernity, the goal is man. The true orientation towards self-knowledge begins with Descartes, through that famous maxim "cogito ergo sum" (I think therefore I exist) which highlights human reason and aims to place man at the center of the entire universe.

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Descartes' cogito is therefore the expression of the existence of a fortress that cannot be invaded by the collectivity and the human interiority that is revealed to be foreign to any social inclusion. In other words, "the irreducibility of the individual and the social is constituted in the reason for Descartes' silence on the political"⁵. However, it can be seen in his work how "he fights tyranny and supports the legitimate monarchy in its absolutist sense".⁶

Another representative of the rationalist school, Benedict Spinoza, after in-depth studies of the work of Descartes, will write *Tractatus theologico-politicus* (1670), a work in which he presented his political ideas, but his reference work remains *Ethics*.

Spinoza's philosophy is part of the rationalist current, which considers reason as the essence

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³ Rene Descartes, *Discurs asupra metodei*, Ed. Gramar, 2012, p. 54. The author is revolutionary in thought and work. In his conception, man puts himself as a subject, a conception that leads to the idea that man can affirm his autonomy only to the extent that he affirms himself as a universal being. This foundation as a subject, contains in itself two terms that are apparently irreconcilable: individuality and universality, but which will lead, over time, to the evolution of modern philosophical thinking.

⁴ Cartesian philosophy emphasizes thinking that gives its own object and legitimacy.

⁵ Yves Guchet, *Histoire des idées politiques*, Tome I, Ed. Armand Collin, Paris, 1995, p. 341.

⁶ Nicolae Popa, Ion Dogaru, Gheorghe Dănișor, Dan Claudiu Dănișor, *Filosofia dreptului. Marile curente*, Ed. All Beck, 3rd edition Bucharest, 2010, p. 133.

of things. His point of view is a purely intellectual one, which rigorously developed ends up excluding any element borrowed from the will. It creates another image of the world, totally different from the one we live now, when man and society chose production and not the activity itself. Spinoza explains in his political work the fact that freedom belongs to knowledge, to reason and not to will, he therefore describes a freedom based on the knowledge of causes.

2. The "rationalist" school and the social contract

In Ethics, a freedom without limits is achieved, in contemplation, in the Treaty, freedom is limited by the supreme power in the state, to which people must obey unconditionally. According to this conception, *"the supreme power is not limited by any law, but all must submit to it in everything, for all had to bind themselves; either tacitly or openly, to do so, when they have transferred to society all their power to defend themselves, i.e. all their right"*⁷.

The closeness between knowledge and regulation, between individual self-improvement and collective life characterized by obedience, consequently between freedom and obedience, Spinoza discovers it in the form of a democratic state, but only when people understand to work and not to judge and reason through - a joint decision. *"Actually, according to Spinoza, in the democratic state - which is the closest to the natural state - everyone is bound, as I have shown, to work and not to judge and reason through a common decision; that is, since people cannot all have exactly the same opinions, they have made a covenant that the opinion that meets the most approvals will have the force of law, reserving the right to change it when they see that it is better otherwise. Therefore, the less freedom of thought they are allowed, the further we depart from the state of nature, and consequently the more violent the government becomes"*⁸.

Natural law for Spinoza is given by *"the rules of the nature of each individual, rules according to which we conceive that he is naturally determined to exist and work in a certain way"*⁹. Each individual can therefore do everything to preserve his own existence and this he does, because that is how he was determined by nature. From this point of view, Spinoza claims, no distinction can be made between those endowed with reason and those who do not, between fools and demented people, etc., because *"the one who does something, according to the laws of his nature, performs it according to the most perfect right, because it works as it is determined by nature and cannot be otherwise"*¹⁰, it therefore follows that men live only according to the laws of lust.

Nevertheless, Spinoza concludes, it is better for men to live according to the laws and commandments of their reason, which really have their benefit in mind. It is certain that no one wants to live in hatred and deceit, but wants to live in safety, without fear. If they do not obey the laws of reason, people are exposed to evil. It can be seen that *"in order to live without care and in very good conditions, people had to understand each other and do in such a way that the right that everyone had by nature over all things was held in collectively and no longer be determined by the power and desire of each individual, but by the power and will of all"*¹¹. For this reason, *"people had to decide and bind themselves through a very strong covenant, that they will govern themselves in everything only after the initiation of reason, which no one dares to oppose to the face, and that they will restrain their lust when he will urge them to do something to the detriment of another, that they will not do to anyone what they would not want done to them, finally, that they will defend the right of another as their own"*¹².

We notice that Spinoza pays attention to the so-called **contract** in which the **surrender of natural rights is not total, the individuals keeping a part of their natural rights**. The

⁷ Spinoza, *Tratatul teologico-politic*, Scientific Publishing House, Bucharest, 1960, p. 236.

⁸ Spinoza, *op.cit.*, p. 303.

⁹ Idem, p. 230.

¹⁰ Ibid, p. 230.

¹¹ Ibid, p. 232.

¹² Ibid, p.232.

philosopher claims that total surrender can only be achieved at a theoretical level, because practice never offers this possibility; "*never will someone be able to transfer his power and, consequently, his right to another, in such a way that he ceases to be human; and there will never be a power that can do everything as it pleases*".¹³ The preservation of natural rights is meant, for Spinoza, to challenge state power, if it contradicts its obligation to watch over the safety and freedom of citizens.

The differentiation between thought and facts, between theory and practice, is nothing but the distinction between thought and action, reason and will, a distinction that is the basis of the entire work of the rationalist Spinoza. "*The faculty of thinking reveals the single person who is inalienable, while the right to act refers to society and is transferable. (...) Every individual, Spinoza claims, can give up his right to act according to his own will, but he has nothing to alienate from his right to reason, nor to judge*".

The sovereign is, according to Spinoza, oriented by reason in his own interest, to avoid the possibility of being removed by demanding the impossible, as well as from wisdom, reason tempering the excesses that could appear in the exercise of unlimited power, devoid of any control.

The elimination of intolerance is, for Spinoza, synonymous with **democracy**. In his opinion, **this form of government is the closest to the exercise of natural rights**, and therefore **in democracy people are allowed to think freely**. In democracy, freedom of thought and expression constitutes an absolute limit for the state and political power. We thus conclude that in his political work **Spinoza gives primacy to the individual in relation to the political community**, because, in the last resort, **individual freedom of thought ensures social peace**. That is why, in order to achieve this goal, he emphasizes the role of education, both of the people and of the sovereign, which must give the opportunity to follow the paths of reason, to exclude the dangers of passion.

Another personality of the times, now considered "the last universal genius" who had a major influence on the evolution of human thought, **Gottfried Wilhelm Leibniz**¹⁴, starts, in his philosophy, from individualistic premises based on the supreme value - independence, "*the individual is free only to the extent that he can be independent in his private life*"¹⁵.

His individualist position is grounded in Monadology, "*the monad - Leibniz shows - is nothing but a simple substance, which enters into everything that is composed; simple, i.e. without parts*". A monad is absolutely independent of other monads, it does not come into being naturally, because it "*cannot be formed by composition (...) what is composed begins or ends with parts*". Starting from this independence, the real world is founded, the world in which the only holders of reality are simple substances, everything else is just appearance. The setting in motion of the interior of the monad is due to desire, called by Leibniz, appetite; and the changes inside the monad - "*multiplicity in unity*" are perceptions. Perceptions and petitions are part of the internal nature of monads that can be called souls when they are endowed with consciousness. In this way "*The Universe is somehow multiplied by as many times as there are substances*".

"In this sense - Leibniz's freedom - is therefore not an autonomy at all, submission to a law that we give ourselves, but it is only the fulfillment, by each monad, of the constitutive law of its being, the self-development of its own determination and not self-determination; the law that organizes the real precedes any decision, and instead of the will being the one that affirms this law, the law immanent to the real is the one that is actualized by the appearance of a monad and its wills".

¹³ Ibid, p.246.

¹⁴ G. W. Leibniz, unlike R. Descartes and B. Spinoza, benefited from a university philosophical education, which influenced him both positively, through the in-depth knowledge of the philosophical thought of his predecessors, and through a discipline, even if in a certain "scholastic" measure of the philosophical approach, as well as negative, by the limits in which it fell when it allowed itself to be influenced by the conclusions reached by B. Spinoza, some of which were not yet published in the year Leibniz met him, bibliography available on the site: http://www.wikipedia.org/wiki/Gottfried_Leibniz_leibniz_philosophz.

¹⁵ G. W. Leibniz, *Noi eseuri asupra intelectului omenesc*, translation by Marius Tianu, Ed. All, Bucharest, 2003. p. 58.

3. The "social contract" school

Thomas Hobbes will expose the model of the organization of society in his work¹⁶ considering that the starting point is man, who lives in society to satisfy his needs and achieve his interests. Therefore, there can be no natural right, the totality of individual interests has nothing to do with the general interest. Everyone defends their interests before all, without offering any guarantee of compliance with a possible contract.

It is appreciated that **society is born and develops through coercion**, it constitutes a natural environment of man who becomes sociable out of necessity, in order to feed and defend himself, and when interests oppose and people are in conflict, war appears, phenomenon characteristic of the natural state. To avoid it, **a new contract must be established** that obligates people to the state, first renouncing their natural rights in favor of the state that protects them. It is a transfer of private law in favor of the sphere of public law, just as, after the fall of the Roman Empire, a free man preferred to become a slave in exchange for the protection of his master, in the same way, society as a whole entrusts its sovereignty to the state.

People retain no right for themselves, no will of their own, as a result of the definitive renunciation of the exercise of sovereignty, entrusted to the State once and for all. The power of the state is unlimited, ethical or religious considerations are removed, since only the state establishes the norms of good and evil.

The state, represented by the sovereign, has no obligation to the people, the contract made between them to obey it does not affect it, between the sovereign and the people there is no contract.

The Declaration of Rights (The Bill of Rights - 1689), which includes the imprescriptible rights of the people and the clear limits of royal power, can be considered the institutionalized expression of **John Locke's** thought, the embodiment of his contractual ideal. Locke believes that "*natural law is based on reason and a natural state*", above all peaceful. "*People have lived in society since the beginning, not to fight, but to ensure permanent peace*"¹⁷. Being under the rule of reason, people naturally organize themselves in families, own personal property and live in the harmony ensured by natural law, recognized and accepted. At the same time, this first stage of society is losing ground to progress, which increases the complexity of relationships between people and leads them to sign a social pact to protect themselves. This pact is accepted freely, without the need for coercion and, above all, it does not represent, in the form of delegation of sovereignty, only a momentary, accepted, modifiable renunciation of only a part of human rights. Where, in Hobbes, man renounces forever all his rights, Locke substitutes a provisional delegation of a part of sovereignty that the state needs very much to ensure the security of all.

The analysis of civil powers comes back in most cases, to the analysis of the limits imposed upon it as a result of the freely concluded contract, Locke distinguishes **three types of powers**, which he does not separate as clearly as Montesquieu. He makes a subtle distinction between powers, as well as a precise delimitation of executive power. However, the careful study of this work reveals that he actually believes that there are five powers: first, *the constituent*, which allowed the creation of the state, *the legislator*, *the judge*, the executive power and, finally, the federative power. Locke ends by proposing **two classifications of powers**. **The first** appears when he analyzes **the inadequacies that justified the adoption of the social contract**, by which man renounced the natural state (when people lived in isolation) and grouped themselves into political society. In this analysis, Locke implicitly uses the **tripartite scheme**, which will become **the foundation of the political theorists of the century. the 18th and 19th: the legislature** (legislator), *the executive*, *the judiciary* (judiciary). He does not name these powers except to note their absence

¹⁶ Thomas Hobbes, *Leviathan*, Ed. Polirom, Iași 2001. Even the representation of Leviathan on the frontispiece of Hobbes's work specifies his conception of the State: Leviathan, a name taken from the book of Job, is a giant who holds in one hand the papal crutch, in the other a sword, uniting the spiritual with the temporal and whose body is made up of agglutinated little men. The State - Leviathan, portrayed in this way, is based on the contract that binds all people to each other and completely subjugates them.

¹⁷ John Locke, *Eseu asupra intelectului*, Scientific Publishing House, Bucharest, 1961, p. 18.

in real states¹⁸.

The second classification is highlighted when Locke analyzes the functioning of political society. It is the only moment when **he states the idea of federal power**, and the triangle becomes: *legislative power, executive power, federal power*. As can be seen, the judicial power disappears from this differentiation, but we must not deduce from this that Locke gave up on conceiving it as a power. He goes on to remind in his book *Second Treatise of Civil Government*, that "*there must be a judge known to all, impartial, having jurisdiction to judge in all disputes, according to established law*"¹⁹.

Judicial power remains the determining criterion of any political society, the initial, indispensable legal foundation of legislative and executive power, as well as of governments and societies. The trilogy of power (legislative, executive, federative) is for the philosopher the only valid constitutional expression of power in political society. It remains to a certain extent subordinate to the existence of the constituent power (the one that gives the Constitution) through which the individuals created the respective society and by the permanent necessity of the existence of the judicial power which must not be put under the sign of doubt.

Locke precisely defined this trilogy of political power. *The legislature* is the power that establishes the procedures by which the force of political society is directed for the preservation of the community and its members. Its main mission, but not the only one, is the adoption of laws. **The executive is the power to execute the laws and to decide what is convenient for the reconciliation between the protection of the public interest and the interests of individuals.** *The federal power is the power to make peace or war*. It refers to the management of foreign affairs, including the function of collective representation of the people and the state, outside the national territory. In this way, the federal power combines *jus tractum* (the power to sign treaties), *jus legationis* (the power to appoint and have an ambassador, but also to receive embassies on the national territory) and *jus ad bellum* (the power to make war). Locke's originality consists in the fact that he includes *jus tractum* here, which constitutes a normative function, which the *School of Natural Law* rather placed in the legislative function. This makes the executive stronger. However, we must not conclude that the philosopher would establish a strict separation between powers.²⁰

The fundamental notion that connects the leadership to the people is that of **trust, of received mission**, expressed by the term *political trusteeship*. This law, in case of breach of the contract, can be developed at the initiative of the people, who withdraw their trust in the leadership. Holder of sovereignty, the people take back their power when they consider that the goals entrusted to the leadership, i.e. the protection of life, liberty, prosperity, are not fulfilled. The system drawn up by Locke legalizes the right to revolt, legitimizes the revolution and grants a wide space to the individual, thus laying the foundations for a social contract of free association.

The true theoretician of the sovereignty of the people, which, later, becomes the national sovereignty understood as the totality of the citizens, is, however, **Jean Jacques Rousseau**. The author makes a political analysis starting from the natural state²¹. Man, in his natural state, is a pre-moral being outside of any notion of good or bad, free and equal to other people, by his very nature, and thanks to this freedom, he is perfectible and this perfectibility gives him the possibility to return to history. **If he enters an alienated society, he becomes corrupt, loses his freedom and equality, but if, instead of bearing the power of the state, he is provided with the appropriate legislative framework, through a contract that guarantees everyone's freedom, equality, both on the plan civilly as well as ethically, then he becomes a new man**. This man, who willingly renounced his natural state, is part of the sovereign people and manifests his will, guided by reason, seeking the laws to ensure the good of all. Through the social contract, man as an individual conforms to the general, unanimous and universal will.

The general will presents certain special characteristics: it is **inalienable, infallible and**

¹⁸ Ibid, p. 76.

¹⁹ John Locke, *Al doilea tratat despre cărmuire*, Ed. Nemira, Bucharest, 2007.

²⁰ Ioan Alexandru, Mihaela Cărauşan, Sorin Bucur, *Drept administrativ*, Ed. Lumina Lex, Bucharest, 2005, p. 24 and next.

²¹ J.J. Rousseau, *Contractul social*, Scientific Publishing House, Bucharest, 1957, p. 102.

indivisible. It is **inalienable** because each individual represents a part of the people, therefore owns a small segment of sovereignty and must exercise it directly, without using an elective system or mandates. It is **infallible** because, in order to make a decision, the will of all is needed, that is, the totality of the citizens' wills, giving the possibility of forming a majority, a criterion achieved through the general will. **The minority, excluded from the general will, is not right**. The general will, defined in its entirety by each citizen who makes up the people, is indivisible.

The expression "*general will*" is **the law, voted by the people, in order to achieve the good of the community**. The law is the same for all and must be respected by all. Man, leaving the natural state, creates laws for himself, an expression of the general will and submits to them, because his freedom cannot exist without accepting the law. To want to act outside the law is alienation, because **the law expresses the general will**.

The general will can force, but not blind obedience, devoid of will, but freedom. "*Anyone who refuses to submit to the general will - says Rousseau - will be constrained by the whole body; which means nothing but that he will be forced to be free*".²²

After defining the criteria according to which reason must establish the social contract, J.J. Rousseau examines the possible forms of political regime. **It accepts the monarchy**, provided it is **elective**, the prince being chosen by the people, but preferring an aristocratic leadership, understood as a **democratic state**, in which the **leaders are elected in a limited number**, a fact that creates the cohesion of the state. There is no contradiction with the general will which cannot be transmitted, since it refers to sovereignty and not to leadership itself. **The ideal would be direct democracy**, but **Rousseau considers it impossible**, for practical reasons, the people not being able to be reunited all the time, *the democratic regime remains the prerogative of the people of the gods, people being still far too corrupt*.²³

If for Hobbes the natural state is devoid of any freedom, as it is a war of each against all, for Rousseau this is the state of absolute freedom. This freedom will be surrendered to constitute the social body, but the state of society is an evil, a depravity. Rousseau thus paves the way for absolute mistrust in social structures and then in the state. Acknowledging their conjunctural necessity, but denying their necessity in principle, he shows them for what they are, states resulting from a decay of individuality. We thus observe that Rousseau rejects intermediate bodies, social structures: "*It is of great importance, he says, if we really want to have the enunciation of the general will, that there are no more partial societies in the state and that each citizen expresses only his opinion*".²⁴ He is also disgusted by government institutions, which are often confused with the state, even if they are elected. He says that "*from the moment a people chooses its representatives, it is no longer free*".²⁵

In Rousseau's conception, without the exercise by the people of its sovereign right, there is no legitimate power, legitimacy. This is the deep meaning of the contract. Thought in this way, the popular will cannot be represented. "*Sovereignty cannot be represented for the same reason that it cannot be alienated. It essentially consists in the general will and the general will cannot represent. All laws which the people in person have not ratified are not laws*".²⁶

By virtue of sovereignty, the theory of representing the popular will is excluded. The government must be exercised directly, that is, the legislative power must belong to the citizens. Under these conditions, the people can transmit only the power, not the will. There is therefore a government, but it only has executive functions; he does not benefit from a delegation of the general will, because it is inalienable; it is not an instrument of the general will that can only do particular acts, never general ones.

In the era, the difference between the **Sovereign and the Government** is made²⁷, **the latter**

²² Ibid, p.106.

²³ Florence Braunstein-Silvestre, Jean Francois Pepin, *Marile Doctrine – Politică, economie, religie*, Ed. Antet, Bucharest, 1998, p. 51.

²⁴ Jean Jacques Rousseau, *op.cit.*, p. 122.

²⁵ Idem, p. 225.

²⁶ Ibid, p. 129.

²⁷ See J.J. Rousseau, *VI^e Lettre de la Montagne, Oeuvres complètes*, Tomes III, <https://gallica.bnf.fr/ark:/12148/bpt6k206992p/f3.item.texteImage>, p. 808. He states that: "The legislative power, which is the sovereign, needs another power that executes, that is,

being understood as **public authority**, which differs from the supreme authority, called sovereignty; the distinction between the two consists in the ownership by the **Sovereign of the legislative right**, a right that can bind, in certain cases, the social body of the nation itself, and the **executive power** held by the government, which can bind only individuals.

It seems somewhat surprising that **Rousseau would want to distinguish the Sovereign from the Ruler**, since this automatically implies the impossibility of direct rule. However, the paradox is only apparent. Rousseau first claims that the sovereign can coincide with the state. This relationship of identity would lead to a direct democracy in which, logically, government would be useless. Therefore, in a second phase, he admits that in order for a republic of men, not of gods, to be well constituted, it needs a government that establishes a mediation between the generality of the laws of the Sovereign and the particularity of the behaviors of the subjects, which subsumes private affairs to the rules public.

Rousseau thus claims that if the sovereign wanted to govern, he would be too strong in relation to the government; but if the government wished to legislate, its abusive power would make it too powerful in relation to the Sovereign. In both cases, despotism would set in. If the subjects no longer obey the laws, the Sovereign and the Government would be so weak that anarchy would be established. To avoid these two extreme tendencies, the citizens' obedience to the law must be offset by the citizens' authority over the government.

In the tradition of classical typology, Rousseau finds that "*Government can take three different forms depending on the number of those who compose it*"²⁸: **democratically** – present when the Sovereign confers the government on the whole people or the largest part of them; **aristocracy** – present when the government is conferred on a small number of magistrates and **monarchy**, when the government is in the hands of a single magistrate. In all cases, however, the distinction between Sovereign and Government is preserved. The sovereign wants, the Government executes: he has the force, not the will. And, for force to be legitimate, "*any government must be republican.*" The monarchy is doomed.²⁹

We note that the theory of the social contract, as it is supported by J.J. Rousseau seems to replace monarchical absolutism with **democratic absolutism**, manifested by the **dominance of the majority over the minority**.

Affirming the supremacy of feeling over reason, **David Hume** formulated the most important objection regarding the foundation of politics and morality on the idea of natural law. However, feeling is also a natural constant of man, depending on which social cohesion is ensured. "*It is precisely these regularities that make political theory possible, whose first axiom is that any attempt to modify human nature through the interventions of political power is purely illusory.*"³⁰

However, Hume's theory differs from natural law theories, which are based on human reason. For the latter, morality and law have their source in human reason and not in spontaneous acts of human action based on feelings, as Hume claims.

He has a different opinion from those who claim that the state emerged as a result of a contract. Contractualist theories are based on the idea of consent, as a starting point in the formation of the state. Hume claims that people are capable of living in society in the absence of any government. "*This is possible when people limit themselves to the bare necessities, so that everyone has exactly what they need.*"³¹

David Hume states, in this sense, that "*the state of society without governance is one of the most natural states in which people can find themselves. If men can preserve a society without government, it is impossible for them to preserve a society in the absence of any justice, and without*

that reduces the law to particular acts. This second power must be established in such a way that it always executes the laws and only the laws. Does the institution of government intervene here? It is an intermediary body between the subjects and the sovereign created to ensure their mutual correspondence, empowered with the execution of laws and the maintenance of civil and political freedom".

²⁸ J.J. Rousseau, *Contractul... op. cit.*, p. 105.

²⁹ Nicolae Popa, Ion Dogaru, Gheorghe Dănișor, Dan Claudiu Dănișor, *op. cit.*, p. 191.

³⁰ A. P. Iliescu, E. M. Socaciu (coord.), *The foundations of modern political thought*, Ed. Polirom, Iași, 1999, p. 74.

³¹ Nicolae Popa, Ion Dogaru, Gheorghe Dănișor, Dan Claudiu Dănișor, *op. cit.*, p. 198.

observing the three fundamental laws of the stability of property, its transfer by consent, and the fulfillment of promises."³² All these laws predate the emergence of the state and presuppose the fulfillment of obligations that do not require obedience to a special judiciary. "Once the people perceive the necessity of government to preserve the peace and to administer justice, they will naturally unite, choose their magistrates, determine what their power is, and pledge their obedience to them."³³

4. Conclusions

Hume's theory establishes that people's **obedience to the state implies an obligation that does not exist in the natural state**, this being the result of people's **consent to move to civil society led by the state**. The transition from the natural law of promise to the state was done naturally, naturally, without the need for a contract, the basis being human interest - social cohesion. Hume claims that both in the state of nature and in the civil state, the same laws created by people work and whose role is to maintain stability in the relations between them. He thus demonstrates that the theory of the social contract is incorrect, based on the fact that both statesmen and citizens never invoke the fact that there is a contract between them. On the contrary, they are aware that their submission to the state is an inherited problem and accept it as such, a fact that also results from the leadership of magistrates who do not have any kind of authority or power, "they come from that tribe that led before, and from that branch, which usually succeeds to power."³⁴

Man undertakes in these situations to establish political societies, "with the aim of administering justice, without which there can be no peace between people, no security and no mutual relations".³⁵ The state apparatus, in this sense, is nothing but the distributor of justice, without it justice is not possible because people, most of the time, only see their own interests, neglecting those that ensure social stability. Obedience thus becomes a duty on which justice rests. In any state, in order to ensure social stability, a good part of freedom must be sacrificed, simultaneously with the contract to remove the abuse of authority.

Through his theory, David Hume founded the **liberal political ideology** according to which the politician must guarantee freedom by means of the law, of the government limited by the laws, the law must be thought of as a means of defense against personal abuses.

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³² David Hume, *Treatise on human nature*, in A. P. Iliescu, E. M. Socaciu (coord.), *op. cit.*, p. 84.

³³ Idem, p.84.

³⁴ David Hume, *op. cit.*, p. 85.

³⁵ Idem.