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## THE RENAISSANCE OF THE INDIVIDUAL

THE RENAISSANCE OF THE INDIVIDUAL, a new book of Dr Kurt Lachmann, is a searching analysis of our present discontents. Hitherto, law, politics and economics have served only to consolidate the increasing enslavement of the individual and, in Dr Lachmann's view, a Universal Law valid for everyone must be created to safeguard against the restrictions which State Law imposes on choice of work and freedom of movement.

In clear and sober language this most stimulating book defines not only the requirements for the adequate legal protection of the individual, but, in suggesting a new outlook on State sovereignty and world economy, offers constructive proposals of an original and convincing character for reinstating man in his rightful place in society.

This book presents an eloquent defence of man's personality and a vigorous attack on the practices which are reducing the individual to the condition of an automaton. A brief summary can scarcely do justice to the merits of this new publication.



**THE  
RENAISSANCE  
OF THE  
INDIVIDUAL**

**KURT LACHMANN**

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## INTRODUCTION

THE individual is everywhere and yet nowhere. In society which has its source and support in him, the individual has become virtually an intruder to-day. It is in order to rescue him from this invidious position and to restore to him his human dignity that Dr. Kurt Lachmann has written this book.

Our present plight is the fruit of past contingencies. Before suggesting a practical solution, the author first shows that the progressive decline in the status of the individual, his loss of relevance within existing society, must be seen against the historical background of the nineteenth century and in the light of the change in mental climate over the last hundred years.

'At the present rate of progress,' wrote Henry Adam in 1905, 'it will not need another century or half century to tip thought upside-down. Law, in that case, would disappear as theory or *a priori* principle and give way to force. Morality would become police. Explosives would reach cosmic violence. Disintegration would overcome integration.' Critics are agreed that the civilized and cultural standards of Europe are slowly disintegrating; at a moment when every prospect might be pleasing, only man is vile!

Less than a century ago the supremacy of the individual was incontestable; it was the hey-day of *laissez-faire* and Benthamist individualism. By the middle of the nineteenth century, Carlyle condemned both dogmas as 'false, hereti-

cal and damnable', at the very time when the growing forces of liberalism rejected the ideas of the rights of man, natural rights and concepts of liberty, equality and fraternity. In his book, *Law and Public Opinion In England*, Dicey claims that the issue between individualism and collectivism was fairly joined towards the forties of the last century. Humanitarianism and the factory movement fostered the development of socialism and the idea of State collectivism. The extension of State interference and the recognition that regulation and direction of labour was a State affair precipitated the decline of Benthamist liberalism. The vast extension of trade and commerce through scientific invention and discovery destroyed all the fine hopes and beliefs in individual enterprise and self-help, which had for long been the pillar and support of the liberal edifice. From early combinations, trade gradually passed into the hands of corporate bodies, recognized or created by the State. The individual trader was ousted by corporate trading. Hard experience convinced him of the inevitability of State interference and faith in unlimited competition was moribund. When large businesses developed into monopolies, the era of modern commerce was born. State patronage and protection, limitations of contractual freedom, Workers' Combination Acts, legalization of Trade Unions, educational demands for equalization of advantages and opportunities and collectivist legislation were so many steps along the road to authoritarianism. In short, Dicey's conclusion is that the cult of utility favoured State absolutism, that parliamentary sovereignty passed to the workers and administrative machinery was extended and reinforced.

A naive faith in technics brought contempt for ideologies; humanitarianism was a myth, individualism an illusion. It is not surprising therefore that the belief of our ancestors in libertarian individualism has deserted us to-day. The modern generation cannot claim any special privilege which permits them to escape the logic or the vagaries of history. The attendant virtues of the past have become the vices of the present. In the fields of economics, politics and ethics, nineteenth-century integration prepared twentieth-century disintegration. The achievements of progress are seen to be little more than a projection of our own egos; we have inherited a world of irrelevancies.

The ancient guilds, corporations, associations, groups and communities, have succumbed to the centralizing forces of the State. The rationalization of industry, the development of vast trusts, combines, cartels, syndicates, the occult power of anonymous capital and credit are pointers to the even greater centralization and direction of nations' economic life. The Sovereign State promoted itself from middle man to managerial directorship. Its aim is frankly self-interest and economic advantage, to satisfy man's material wants and to multiply production and consumption in the name of general welfare and a higher standard of living. No matter that economic nationalism is a self-defeating policy, outrageous to common sense. In its zealous concern for the common weal, its subjects are coerced, regimented, drilled, disciplined and made to conform to the dictates of an oligarchy of bureaucrats. When an authoritarian or pseudo-democratic State takes over the people, all must adjust their work to the tempo of the national conveyer belt! The individual's economic life

is mortgaged, his corporate freedom abolished. The politico-economic State claims power of life and death over the lives and fortunes of its nationals. There are no limitations to the rights of the State over its own citizens or to its rights against neighbouring States. Force and chicanery become its cardinal virtues and a latent state of war is ever present.

The chronic economic tensions of the years between the two world wars have passed over into the political sphere. Against a background of fear and uncertainty, the individual found relief from emotional tension—from mental unrest and vague forebodings, from tribulations of the conscience, sense of futility and the neurosis of acute self-consciousness—in a surrender to the organic, in subjection of his ego to the life of the community, in the myth of nationalism. The downward thrust of the impersonal and mechanical emptied life of its values and left a legacy of cold, brute conflict. Man sold his spiritual heritage for a mess of national pottage; he abdicated his right to be the sole judge of the ends and means of his own actions. The 'welfare' of the community was to take precedence over every other object. But national planning, however idealistic, has brought only further curtailment and reduction of individual freedom. Hobbes knew at least that man's faculty for reason and calculation is counterbalanced 'by the privilege of absurdity'. 'There are things,' said Mazzini in *The Duties of Man*, 'which constitute your individuality and which are essential to a man's life. Over these the nation has no control. No majority, no collective force has the power to rob you of that which makes you man.' The recession to nationalism and statism marks the victory of the group, the species, the

genus, over the individual and the personal, of the average or normative over the particular and unique. *L'état, c'est nous!*

National idolatries and economic superstitions have proved to be illusory salvations. Absorption in a collectivist whole or system (an inverted craving for separateness) has brought only suffering and moral evil. 'What confronts us in international politics to-day is, therefore, nothing less than the complete bankruptcy of the conception of morality which has dominated political and economic thought for a century and a half.' (E. H. Carr, *The Twenty Years Crisis*). So long as principles of righteousness and good conduct no longer rest upon religious beliefs or the criterion of a revealed religion, ethical practice is at best hedonistic or pragmatic, when not openly mischievous, brutal and unjust. Utility, darwinistic, puritanic and mercantilist in origin, success and expediency are the criteria of ethical conduct for the majority of national States. In gaining the lower aim, the higher goal has been lost. Spiritual man is enslaved to social man. The worth of a State, in the long run, is the worth of the individuals composing it. The present generation will have to re-value its values and rebuild from new foundations.

This summary, and possibly highly selective analysis of our present malaise, prepares the ground for the positive sections of this book. A renaissance of the individual's freedom must proceed from Universal Law which protects him against wrongdoing, first by ascertaining what is just according to law, and if no law exists, according to conscience. It is manifestly impossible to codify ethically recognized rights, since potential forms of wrongdoing

are unlimited and cannot be anticipated. And even if such ethically established rights could be formulated, they would be subject to different interpretations, depending upon such variable factors as race, religion, geographical position and level of civilization. Applied ethics varies from people to people. The sole invariable ethical principle is that of man's uniqueness as a divinely created being, which entitles him to claim the indivisible 'right to live', to develop his personality to the full. Such a right cannot be incorporated in provisos, laws or constitutions as the events of the last 150 years have abundantly made clear. All mankind without discrimination can only be protected from wrong, if State-independent judges, as guardians of man's inner conscience, are permitted to take into account the different and ever varying ethical concepts, and by their verdict to protect every individual from the violation of his prerogatives as a human being. The executive authority for such a verdict will be world opinion, founded upon man's innate sense of justice. The criticism that such verdicts will need a basis of force or the threat of force underestimates the potential dynamic of ethics. Coercion, it is true, may enforce consent at a price, but 'one can do everything with bayonets except sit on them'. Ultimately, the verdict of the Supreme Court rests upon the 'Law of Nature', a law which is everywhere the same, incorporates principles recognized by all men and is universal in its compass, rational in content and equitable in its application. Such Law is written in the hearts of all men and needs no enforcement by human authorities. Obedience to the conscience of the world, the spirit of tolerance and the feeling of compassion acting as an uncoercive yet compelling force, offer not only a practical

alternative, but carry also the sanction of history and religion.

The second and third parts of the book are applications of the proposals advocated in the first part\* in the spheres of politics and economics.

The second part of the book rejects any solution through a federation of States which rests upon identity of political interests and is directed against rival ideologies. In the opinion of the author, any future confederation of States presupposes the acceptance by all member-States of the competence of the Supreme Court which guarantees protection to all individuals.

In the economic sphere, which is the subject of the third part of the book, U.N.O. should mark the beginning of a new era. The economic omnipotence of the State and of other economic organizations should be reduced to their legitimate functions and be guided or controlled by a Supra-State organization which mediates between interested parties and takes also into consideration the legitimate interests of the individual whose claim to a full life supersedes all sectional interests. The recent internationalization of Danzig and Trieste is the first indication that States which cannot agree to political frontiers are prepared to transfer sovereignty over disputed territories to international rule. In like manner, there seems to be no sufficient reason why unpopulated territories, where national disputes cannot exist, should not be taken over in order to give asylum to all individuals who feel themselves to be oppressed in their own countries.

\* The first part, in a modified form, was read before the Grotius Society in July, 1944, and published under the title '*Common Sense*'—*To-day*.

'The rout and destruction of the passions,' wrote Philo, 'while a good, is not the ultimate good. The discovery of wisdom is the surpassing good. When this is found, all the people will sing.'

A. H. PARKER.

## PART ONE

The Rights of the Individual,  
the Sovereignty of the State  
and Universal Law.



# I

## PREFACE

### THE CONCEPT OF THE FUTURE UNIVERSAL LAW

**I**N A brief review it is impossible to enter into a detailed analysis of the legal position of the individual, the legal concept of sovereignty or the legal sphere of a universal Law. The most that can be hoped for is to show their interrelation. The sovereign State has deprived the individual of his rightful position in society, and new measures must be found to allow the free development of man without interference from politics and discriminative laws.

In order to provide the reader from the outset with a clear and coherent picture of the whole problem, it would seem best to anticipate the conclusion. The proposed solution is a separation between two spheres of Law, the political and social sphere on the one hand and the purely ethical sphere which is non-political on the other. The one sphere refers to State Law—National or International Law—which is subject to national sovereignty and sets out to preserve order within the political community and between political communities. The other sphere refers to a future Law which might conveniently be termed 'Universal Law', a Law which is valid for all individuals and protects them against any infringement of their legal

status as individuals. Whilst International Law is based, in the main, upon Treaties concluded from time to time between one State and another, or between several States with each other, Universal Law would depend upon a single Treaty between all nations of the world which once and for all binds all States to submit automatically and irrevocably to such Law. Whilst, at present, International Treaties 'create obligations solely between the contracting States and not between one of them and the Nationals of the other or Nationals of both',<sup>1</sup> future Universal Law should create a common and unconditional obligation between all nations, between every nation and the nationals of all other nations, and between all nationals irrespective of their nationality.

The fundamental problem is to show how this separation can best be achieved and how such Universal Law can be made operative. First, however, it must be stated that Universal Law, once it is separated from State Law, no longer stands in need of that 'apparatus of compulsion' which in our days is recognised as the very essence of all Law.

### UNIVERSAL LAW AND THE APPARATUS OF COMPULSION

The concept of compulsion, as commonly used in legal terminology, has given rise to a fatal misunderstanding. The will of the individual is the agent which determines the course of human action from within. Whether, philosophically, free will is recognised or denied, does not concern us here. If, however, mental or physical pressure is brought to bear upon the individual, then he acts

<sup>1</sup> McNair, *The Law of Treaties*, p. 337.

through, and in accordance with, the medium of another will. He is forced to act from external constraint and conforms 'against his will' or 'without a will of his own'. If men no longer act from their own free choice, then they no longer follow an inner compulsion, but yield to coercion, which in legal terminology is often termed 'external compulsion'.

Law is the result of the sociological consciousness in men which compels the social-minded individual to submit voluntarily to Law and to obey common rules of conduct even at the cost of his free personality. The compulsion of his conscience which makes the individual law-abiding is the most reliable guarantor of Law, and the growth of the law-abiding spirit in men must be regarded as one of the most characteristic symptoms of men's development from barbarism to civilization. But, in modern times, State reason has widely abused this spirit, with the result that Law has been employed as the most powerful instrument of political expediency. Men's spontaneous sense of Justice was thereby stifled. In most countries, the legal profession became the tool of the body politic, and the individual the innocent victim of the tyranny of Law which, by means of external compulsion, enslaved him from the cradle to the grave.

Professor Pound has thrown light on the reasons for the deterioration which the power of Law has suffered in the eyes of the present generation. 'Perhaps nothing', he said, 'has done so much to create world-wide dissatisfaction with Law and made problems of law-reform acute almost everywhere, as the persistence in juristic thinking and juridical decision of nineteenth-century ideas of the futility of effort at a time when the efficacy of effort had become

part of the sociological and the political creed.<sup>2</sup> It would be wrong to assume that this criticism was concerned with the failure of Law to exercise decisive influence upon social and political developments; for it is doubtful whether the abstract concepts of the legal mind can ever retard the course of these developments, let alone direct them. It is obvious that something different was implied, namely, the indifference of jurists which prevented them from exploiting the self-creating power of Law in those spheres where no external compulsion, no coercion, but inner compulsion plays the decisive role.

And this leads me to the conclusion which I wish to anticipate, namely, that this so-called 'apparatus of compulsion', though regarded as the real essence of Law, is not only unnecessary, but must work disruptively in a legal sphere which is dissociated from the political domain. It is essential to make clear in what respects external compulsion is indispensable and in what respects it is superfluous.

In the political sphere, the two extremes—freedom without external compulsion and external compulsion without freedom—have proved to be equally disastrous. The Weimar Republic offers the best example of the former, Hitlerite Germany of the latter extreme. No nation, however politically mature, can achieve full political freedom without safeguarding it by positive Law and defending it by an apparatus of external compulsion.

In the sphere of positive Law, the function of the State is not to make provisions to exclude wrong-doing, but to protect the citizen against suffering wrong. 'The State is

<sup>2</sup> As quoted by Sir Maurice Amos, *Modern Theories of Law*, p. 97.

not an institution for promoting morality; it is a legal association which is not directed against the natural egotism of the individual, but which protects its members from the detrimental effects of that egotism.<sup>3</sup> In order to fulfil this function the State cannot remain satisfied with the aspects of the moral Law which prohibits wrongdoing. Through clear-cut provisions of positive Law, it must define precisely the rights and duties of all citizens and impartially provide for the protection of legal rights and the observation of legal duties. Yet the 'Sovereign Will' of the modern State is not confined to compulsory measures which restrict the freedom of the individual in order to make possible an ordered social life.

C. K. Allen, in his book *Law in the Making*, emphasized the distinction between two kinds of legislation, the one which decided 'the relationship between man and man', the other which dealt with 'the relationship between man and the State'.<sup>4</sup> In the first case the State functions as arbitrator, in the second as a self-interested party. This dualism has created a problem which must be faced: for the apparatus of external compulsion which is a necessary instrument of the arbitrary power of the State has become a most effective weapon of self-interested State-power to prevent the individual from following, when the occasion arises, the dictates of his own conscience.

The romantic doctrines of Hegel and of the conscious or unconscious Hegelians in other countries deprived the individual of his 'unrepeatable personality' and made him an 'unrepeatable impersonality' in the hands of the almighty State. Hobbes' rational idea that the State is

<sup>3</sup> Schopenhauer, *Die Welt als Wille und Vorstellung*, IV, par. 62.

<sup>4</sup> C. K. Allen, *Law in the Making*, p. 351.

based upon agreement between all and everybody was converted into the irrational concept of a relationship between the State and the 'Nobody'. The European peoples were nurtured on the myth that the State was an individual who embodied the absolute, the good, the beautiful and the true, and—these are Hegel's own words—'that the individual owed the sum total of his value and of his spiritual capacity to the State alone'.<sup>5</sup> The deified National State became endowed with a morality of its own and was entitled to employ all and every means in defence of its divine vocation.

Different as were the ends which the various protagonists of State power had in view, the means—coercion by the State and enslavement of the individual—were the same. The State has successfully utilised these means in order to exploit the so-called 'unsocial sociability' of man for its own ends. The same tradition and education, the same environment and language have welded together the people of every nation. The peculiar characteristics which unite the members of one nation and distinguish them from other nationals were the seed of future talents which, as Kant said, 'in Arcadian shepherd life, in complete harmony, contentment and mutual love would have for ever remained hidden and never germinated'.<sup>6</sup> This, together with the establishment of the reign of Law, must be reckoned amongst the positive virtues of the State. For the State has curbed the brutal instincts of men and has saved mankind from unlegalised slaughter. But the State did not act from disinterested motives: it demanded from its citizens sacrifices and services in return for granting

<sup>5</sup> Hegel, *Philosophie der Weltgeschichte* I, p. 90.

<sup>6</sup> Kant, *Werke* I, p. 228 (translated by Aris, *History of Political Thought in Germany*).

them protection. 'When the safety of the country is at stake, no consideration of justice or injustice, of honour or dishonour can find a place.'<sup>7</sup> Since the State is reluctant to accept any fixed standard of ethics, its behaviour is dictated by opportunism. The State cannot afford the luxury of 'ideal' values and, in its own interests, must rely upon an apparatus of compulsion to enforce its laws.

Now compulsory ethics are a denial of ethics. 'If a man acts, because he accepts certain moral norms, his action is the outcome of the principles which compose his moral code. He merely carries out orders. He is a superior kind of automaton.'<sup>8</sup> 'The sovereign State claims the right to dictate and to suspend moral Laws and, in the exercise of this right, has reduced the individual to servitude. Man can only recapture his freedom when he becomes aware within himself of his own enslavement. In his recently published work, *Slavery and Freedom*, Nikolas Berdyaev has touched upon this vital issue. 'The slavery of man consists not only in the fact that external force enslaves him, but still more profoundly in this, that he consents to be a slave, that he in a servile way accepts the action of the force which enslaves him. . . . A servile society is the outcome of the inward slavery of man. Man lives under the sway of an illusion which is so powerful that it appears to be normal consciousness. . . . Man easily becomes a slave without noticing it. He is set free',—i.e., he can free himself—'because there is in him a spiritual principle, a capacity which is not determined from without.'<sup>9</sup>

<sup>7</sup> Machiavelli, *Discorsi* I, IV.

<sup>8</sup> Rudolph Steiner, *The Philosophy of Spiritual Activity*, p. 164.

<sup>9</sup> Nikolas Berdyaev, *Slavery and Freedom*, p. 131.

Violence can only be checked by counter-violence, coercive measures can only be answered by coercive counter-measures; but no coercion can ever crush the conscience of man, when this conscience acts as the motive force of his spiritual life. History bears witness to this fact, from the blood of the Christian martyrs to the struggle of the Maquis all over Europe who sacrificed their lives in defence of their convictions. Whilst it is recognised that, ultimately, inner conviction will always prove to be stronger than external pressure, the individual needs the additional support of the new 'Universal Law' already advocated, in order to protect himself against the invasion of his personality.

Individual moral judgements are autonomous and external compulsion can never deputize for inner convictions. When men have lost their capacity for differentiating between the dictates of external and inner compulsion, coercion can neither deliver them from previous, nor immunize them against future coercion. The devil cannot be driven out by Beelzebub. Through persuasion and exhortation, through precept and example, men must discover for themselves that every human being has a claim to the protection of his unrepeatable personality. The Universal Law on which this claim should be based stands in no need of an apparatus of external compulsion. But the individual must be able to ascertain through the promulgation of Universal Law the degree of protection to which he is entitled. Without external compulsion, this Law will possess such inner compelling force that no other power, no class or State can ever disclaim it.

The problem is now clearly defined:

- (1) What are the so-called rights of the individual to free development of his personality?
- (2) What limitations must be imposed upon sovereignty in order to ensure to the individual his rightful legal position?
- (3) Wherein lies the guarantee that all individuals will submit and readily adhere to such Law which relies upon an apparatus not of external, but of inner compulsion, and how can such Law best be promulgated and administered in practice?

## II

### THE INDIVIDUAL

#### THE INADEQUATE LEGAL PROTECTION OF THE INDIVIDUAL IN MODERN SOCIETY

To divert attention from temporal discontents the Church promised mankind compensation in the next world, the sovereign State compensation in the next generation. It is always the same old story. Every sketch of a future 'brave new world' places the State, the Nation, the Government, the People, in short, the body politic in the foreground of the picture, whilst the solitary individual, as the modern Moses, is permitted to catch a glimpse of the Promised Land from the mountain top, but still awaits his entry permit. Thanks to the naive belief that protection against wrong was a monopoly of his home country, man accepted with apathy and resignation the increasingly destructive assaults upon his legal position.

International Law has consistently turned a blind eye

to the predominant position which State reason has occupied in relation to moral Law. At the New York session in October, 1929, the Institute of International Law adopted a declaration on the Rights of Man, but the idea of promulgating a Law for the protection of the individual which should be binding upon all nations met with no response from the political powers. "The so-called rights of mankind—they could only be municipal and not international rights—do not in fact at present enjoy any guarantee whatever from the Law of Nations."<sup>10</sup> This statement not only points to the failure of the Law of Nations to protect the individual, but also to the reluctance of legal theory to abandon its illusion that only State Law can determine, and the State alone can administer, the protection of the individual.

By virtue of its autonomy the modern constitutional State claims the right, not only to protect the individual from wrong, but also, if necessary, to inflict wrongs upon him with impunity. By appealing to an existing or pretended State interest, the State is in a position to justify every kind of measure which would deprive the individual of his rights. Consequently, the position of the individual is not determined by generally recognised principles of moral Law; it depends solely upon the contents and extent of the protection which the single State is willing, at its discretion, or able, according to the degree of its power, to grant its members. But this is not the only result that follows from a State monopoly over the individual's protection. A further consequence is that individuals who do not enjoy *de jure* or *de facto* protection on the part of their home government are no longer

<sup>10</sup> Oppenheim-Lauterpacht, *International Law*, Vol. 1, 5th ed. par. 292, p. 508/9.

entitled to appeal to the provisions of International Law which allow for the protection of the rights of aliens. Finally, the legal position of the individual is seriously impaired in the event of armed conflict between States : the State forces its own citizens to exercise violence against the enemy and, at the same time, exposes them to the hazards of enemy action.

In brief, it appears that the position of the individual within modern society is inadequately safeguarded in the following respects:

- (1) insufficient protection within the home country (class-rule, discrimination, minority problem);
- (2) insufficient protection outside the home country (problem of statelessness and refugees);
- (3) insufficient protection in case of conflict between States (war).

At first sight, the legal problem appears to be twofold, namely, how to protect the individual from injurious State interference and how to protect the State from the inroads of other States. Fundamentally, however, it is one and the same problem. Whether it is the individual who suffers injustice at the hands of the State or the plurality of individuals united in State communities who suffer injustice at the hands of other States, it is man who is the victim in every case. The individual is the sole victim and at the same time the sole author of the wrong-doing which has to be prevented; for individuals represent the State and through their initiative the State becomes guilty of wrong-doing at home and abroad.

International Law has failed to prevent wrong and is quite incapable of doing so, because the individual has been transferred from the centre of interest to the

periphery. On the whole, there exists in the sphere of International Law only one personality, namely, the artificial personality of the State. Provisions of International Law which enable the individual to establish his claim independently are exceptional cases. Even in these exceptional cases, the question of a uniformly applicable law does not arise; States agree to protect certain interests of their respective nationals so long as reciprocity is guaranteed. Included amongst such laws are, for example, international conventions concerning the protection of patent-rights, copyrights, etc., in short, those individual rights whose maintenance in foreign countries is dependent upon the protection of equivalent foreign interests in the home country. Usages and customs of commerce occupy a special place. They are not created by the States, yet are recognised and obeyed in international relations. They form part of International Law and are the sole manifestations which deserve the title of International Law in the sense of a universal Law. This kind of International Law assumes particular importance, because it shows that the less enforcement there is, the stronger is the tie, and that common interests and convictions have more permanent effect than the sovereign will of States.

The problem of how to reinstate the individual in his rightful position in human society must be approached from two different angles. First, it seems necessary to comment upon the accumulated prejudices and false beliefs that have reduced the individual to an impersonal entity within the body politic to which he belongs and, secondly, a clear distinction must be drawn between the claims of the individual which derive from positive laws and his claim to protection from wrongs which are inflicted upon him through the violation of moral laws.

## FALSE BELIEFS

'In a rationalised and technical civilisation', says Nikolas Berdyaev, 'myths continue to play an enormous part. They are born of the collective subconscious. But these myths are made use of in a very rational manner. . . . All these myths stand out in opposition to the truth of personalism, they are always hostile to the humanisation of life . . . they all legalise the slavery of man.'<sup>11</sup> It would take us too far to enumerate the unconscious forces which influence the communal life of man or to specify the sectional and sectarian prejudices of group, class, party and nation, which give every single individual the feeling of superiority and every Lilliputian the idea that he is a Brobdingnagian. The majority of these myths and false beliefs have their roots deep down in the unconscious. They develop imperceptibly into blind elemental driving forces which cannot be brought under control by rules of Law. But, at least, it is possible to prevent State reason from deliberately exploiting men's lower emotions with the aid of legal concepts and methods.

In the search for the best form of State the fundamental problem has been neglected, namely how best to establish and defend the claim of the individual to protection by Law which no nation, irrespective of its form of government, can be permitted to transgress. In the past, when States were independent and isolationism was still possible, State policy depended less upon the form of government than upon State reason and State interests. Despotic States waged war on despotic States; and monarchies and republics, autocracies and democracies concluded alliances in pursuance of a common political goal. The most

<sup>11</sup> Berdyaev, *Slavery and Freedom*, p. 163/4.

hallowed traditions, the most sacred ethical principles were sacrificed to the common goal. Now that the States have become interdependent, the form of government matters less and the individual leadership of the State more than ever. And even in our time it is still to the form of the State that people look for their political salvation, with the result that the precautions necessary for forestalling wrong-doing against the individual are perpetually ignored. The individual has had to pay a heavy price for his apparent share in determining the form of his government. He could no longer dissociate himself from the misdeeds of his State, since, politically, 'every country gets the government it deserves', and, legally, 'the men who form a State are not allowed to disclaim their part in the offences alleged against it'.

The idea of salvation through national self-determination was a legacy of the first World War and inclined the European peoples all the more to mistake the means—the independent personality of the State—for the end—the independent personality of the individual.

England, through its long political tradition, did not succumb to this fatal tendency. Since the British Parliament is recognised almost everywhere as an outstanding example of democratic self-government, how was it that no other European nation successfully copied this model? Why do the British people as a whole assume that the establishment of others' right to national self-determination must automatically imply a form of self-government on the British pattern? Neither the Franchise Act, nor the regulations referring to universal suffrage or eligibility, nor any special rules which are in operation in England offer any adequate explanation. All such rules could

easily be copied and adopted elsewhere. Not parliamentary Law and procedure as such, but the living spirit which animates them is the decisive factor. From the linguistic point of view, striking confirmation of this is to be found in Logan Pearsall Smith's book, *Words and Idioms*. He points to the word 'committee' which has been taken over from English into almost all the languages of the world, and to the word 'fair play', for which no equivalent can be found in any other language. He regards 'the spirit of give and take, of playing the game and the voluntary submission of the individual to the group as the most original manifestations of the national genius'.<sup>12</sup>

To these two words could be added a third, the word 'compromise'. The meaning of these three terms is sensed instinctively by the British people. For this reason, they find difficulty in understanding other Nations which lay claim to national self-determination and yet are unable to act in this spirit, a spirit which teaches a majority never to abuse its power, to listen to reasoned argument and to find a *modus vivendi* acceptable to all, even at the cost of preconceived principles. This spirit is diametrically opposed to the absolutism of governing majorities in other countries where sectarian interests refuse to submit to 'committees, fair play and compromise', and dictate political life by silencing troublesome opposition.

Self-determination in the democratic sense can only be realized if each individual member of a nation enjoys at all times freedom of thought and speech, of religion and beliefs, is permitted to develop undisturbed his own personality and is prepared to make equal concessions to

<sup>12</sup> Logan Pearsall Smith, *Words and Idioms*, p. 65.

his fellow-men. Such self-determination presupposes a political tradition which has developed in the people a sense of political and social responsibility, and has taught them to oppose all rules and regulations which interfere with the freedom of the individual. National self-determination, as interpreted by most of the European nations, is in no way connected with any free determination of the individual self. It provides the group, class or race, which is numerically superior, or politically more powerful, with the necessary credentials to oppress or to humiliate their opponents by virtue of the letter of the Law.

To establish self-determination in countries which are politically immature and then to deduce the rights—and the duties—of the individual from it, is to ‘set the wolf to mind the sheep’. Individual freedom does not proceed from national self-determination, but is the indispensable prerequisite for the establishment of national self-determination!

National self-determination as practised to-day is the source of virulent nationalism. The idea of the people’s ‘right to self-determination’, the claim of the State to its own morality, honour and prestige, its claim to ride roughshod over personality, in brief, all these consequences of fanatical nationalism have penetrated so deeply into the human mind that men have come subconsciously to accept a transvaluation of values and have sacrificed essential human virtues to the collective unit, to the impersonal whole. ‘We are on the eve of a radical, revolutionary, personalist transvaluation of values in the world, and then only will profound social changes be possible.’<sup>13</sup>

<sup>13</sup> Berdyaev, *Slavery and Freedom*, p. 145.

## PROTECTION OF RIGHTS AND PREVENTION OF WRONG

Any delimitation of the political and moral sphere must recognise, on the one hand, the claim of society to the protection of its established rights against the individual offender, and, on the other hand, the claim of the individual to the protection of his free personality against the encroachments of modern society. Out of this dual conflict is born the antithesis between positive and moral Laws, between State Law and Universal Law. The starting point of positive Law—national or international Law—is the protection of rights; the starting point of Universal Law is the prevention of—and the defence against—wrong. It is not the sphere of rights, but of wrong which is the subject matter of Universal Law. It is not the creation of new rights, but the prevention of wrong, which is its final goal. Three hundred years ago Grotius, the father of legal philosophy, clearly recognised the primacy of wrong: 'Jus hic nihil aliud, quam quod justum est significat, idque negante magis sensu, quam ajente, ut jus sit, quod injustum non est' (Right is solely that which is designated as just, and implies, more in the negative than in the positive sense, that right is that which is not unjust).<sup>14</sup>

Wrongs were committed before the concept of rights was invented. This initial wrong-doing was considered morally wrong, because, by violation of human life, violence was done to God. The increase and multiplication of rights in modern society coincided with increased opportunities to commit wrong. Two new forms have arisen, the wrong that proceeds from infringement of established rights and the wrong that proceeds from the

<sup>14</sup> Grotius, *De jure belli et pacis*, L.I., c.i, par. 3.

establishment or vindication of rights which never had, or ceased to have, any foundation in Justice.

The forms of government and the kind of sectional interests to which governments have lent the support of their power have differed from State to State and from epoch to epoch. The contents of rights which were under State protection and the sections of society which were granted or denied protected rights were also different. But different as were the external forms and the internal administration of the various States, to-day, as in former times, State Constitutions are answerable for maintaining traditional rights and revolutionary movements aim at establishing new rights in place of old rights. Moreover, the State has added to the traditional and hard-won rights of its citizens new rights which it claims for itself alone. In his desire to acquire new rights and to defend existing rights, man has failed in his duty to prevent wrong. Rights became, as Taine once expressed it, 'the daggers pointed at human society'.<sup>15</sup>

Feudal custom can be regarded as the most important body of custom which has ever existed in Europe. It divided mankind into different classes, each of which was endowed with rights and duties of its own. Hobbes' State theory which derived from this custom assumed the existence of a feudal hierarchy with a fixed and inviolable legal system. 'Hobbes succeeded in absolving the owner of State-power from all contractual duties and limitations by the ingenious idea that his authority need not rest, as had hitherto been taught, upon a contract between the sovereign and the people, but upon a contract between all citizen members.'<sup>16</sup> Thus the authority of the State was

<sup>15</sup> Allen, *Law in the Making*, p. 87.

<sup>16</sup> Meinecke, *Die Idee der Staatsraeson*, p. 264.

invested with an almost unlimited power and Hobbes was justified in describing 'right and wrong as conventional and arbitrary ideas unworthy of consideration so long as they were not sanctioned by positive Law'.

' To-day we claim that every trace of feudalism is eradicated. This claim seems justified to a certain extent in the political sphere; for, whilst feudalism united people exclusively through the sovereignty of their common ruler, the national State rests upon the apparent spiritual unity of its members. The same claim applies also—to a minor degree—in the social sphere; for slavery has been abolished and the various strata of society have more or less lost their rigid demarcations. Legally, however, the idea of the primacy of rights which the State at its discretion conferred upon the individual has survived unimpaired. The sole difference to-day is that certain rights, though relics of feudal times, no longer correspond with duties and certain privileges no longer correspond with functions.

The idea of the Rights of Man was tainted from the first. Rousseau destroyed the old hierarchical order 'from God through the King to the serf', only to substitute for it a new order 'from the general will through the State to the individual'. The unique right of man, his inviolable claim to live, was converted into human rights which were entrusted to the care of the State and ever since have been withheld from—or apportioned to—the individual by the State at its own discretion.

The claim of the individual to protection against wrong admits just as little of division into single rights as man's life admits of being subdivided into the right to eat, to

drink or to sleep. Even if the right to live could be subdivided into a number of single rights, it would still be impossible to prevent wrong-doing. All legislative plans have failed to formulate a positive Law which is fool-proof. Any attempt to forestall future wrong-doing by inventing and promulgating rights is a waste of time; for even the boldest imagination cannot anticipate all the possible devices for wrong-doing which men may invent in order to evade prohibitive Laws and thus to reap the fruits of their misdeeds undisturbed.

The experience of the last hundred and fifty years has shown that the creation of so-called human rights has neither prevented wrong-doing nor preserved mankind from suffering wrong. Once human rights had been incorporated in national Constitutions, they were made to subserve political rather than ethical ends. They were used as window-dressing whenever internal unrest threatened the regime in power or whenever a stimulus was needed in order to reconcile war-weary peoples to their miserable lot. A detailed examination of the innumerable provisions which, under the title of human rights, were incorporated in the Constitutions of the various nations is superfluous. Probably no other Constitution is so ambiguous as the Japanese Constitution of February 11th, 1889, which in §31 states: 'The provisions contained in the present chapter' (this chapter proclaimed human rights) 'shall not affect the exercise of the powers appertaining to the Emperor, in times of war or in cases of a national emergency'. And even the American Constitution could not prevent a war to abolish slavery, nor the Constitution of the Weimar Republic prevent the most infamous attack upon humanity in modern times. In England, where, centuries ago, the

doctrine 'jura naturae sunt immutabilia et leges legum' (laws of nature are immutable and over-rule all other laws) was generally recognised, there has been no need to create particular rights in order to establish a supreme Law which even the State had to obey. Without legalising human rights, England abolished the slave-trade by the Act of 1807 and for centuries has been the asylum of those who *de jure* enjoyed human rights, but *de facto* were denied them.

Rights and national Constitutions are neither adequate, nor are they even necessary, to guarantee to the individual his human dignity. If Law is effectively to prevent wrong-doing, it must be a universally valid Law which can be adapted to 'changing circumstances of particular times, places and society'. It must be sufficiently flexible to give judges sufficient scope to adjudicate upon any wrong-doing against the individual which violates generally recognised principles of humanity and yet is not prohibited in national legal provisos. The new Universal Law must be—to use Stammeler's definition of 'just Law'—'a natural Law with variable content'.

It was probably in the light of such ideas that the American President, in his New Year message to Congress, 1940, omitted to refer to inalienable rights, but spoke of four essential freedoms which he declared to be the necessary basis for promoting universal peace. President Roosevelt's four freedoms are all freedoms for the individual. Whether expressed as freedom 'from' fear and want, or freedom 'of' speech and worship, the accepted goal of all these freedoms is the prevention and removal of wrong. These freedoms refer to wrongs which undermine the life of man and are pointers to the legal development

of the future. They are all the more important since 'in politics and international affairs the security from freedom is prior to, and superior to, the freedom that comes from security'.<sup>17</sup>

### A NEW LAW FOR THE INDIVIDUAL

In his presidential address to the International Law Conference, 1944, Sir Cecil Hurst severely criticized the notion that the effectiveness of International Law is solely dependent upon voluntary agreement between nations. He said that a State which deliberately repudiates generally recognised principles of International Law automatically outlaws itself and therefore ceases to be a State. This conclusion has much in common with the idea which once led to the Pact of Paris. Whilst the Pact of Paris denied to nations the right to break the peace by virtue of their sovereignty, the new proposal denies to them the right to break International Law at will.

It may well be that the new plan will awaken in all nations a sense of their interdependence and of their common responsibility and will give the outworn principle of 'pacta sunt servanda' a new lease of life. It may even happen that Hobbes' law-denying Leviathan will have cause to fear in future the challenge from the totality of its equals and prefer to abide by the Law rather than face the uncertain consequences of being outlawed.

Nevertheless, just as the Pact of Paris which was intended to promote peace ultimately brought about total war, the possible exclusion of one nation from the comity of nations will not necessarily prevent a confederacy of

<sup>17</sup> David Thomson, *The Four Freedoms in The New Commonwealth Quarterly*, July 1941, p. 9/11.

self-imposed governments from attempts at invalidating rules of International Law. The Pact of Paris declared war to be a crime on the part of the aggressor State. But, contrary to Houghton's warning in 1927 and despite the later critics of Bustamante<sup>18</sup> and Wehberg<sup>19</sup> the individual who would be willing to refuse participation in this crime could find no support in International Law. The inviolability of International Law can only be guaranteed if it is realized that loyalty to Law has its origin in man and not in the body politic. Man must be free to place human ideals before political expediency.

The individual citizen of the State, this unknown citizen who is the counterpart of the unknown soldier, is not free to act independently under the present system of autonomous national States. His status will in no way be improved if he becomes a citizen of a 'stateless State'. The only alternative left to him is either to sever allegiance to his home country and to become a martyr (or a refugee, i.e., a second-rate martyr), or to pocket his conscience and conform, thus facing the gloomy prospect one fine day of sharing in the responsibility for his rulers' misdeeds. The unfortunate individual cannot be blamed if he prefers to save his skin at the cost of his soul. It is the Law which is at fault when it leaves him no other alternative but the choice between these two evils.

Sir Cecil Hurst's proposal implied that agreements and treaties between States should be not only legally binding, but ethically inviolable. My proposal, the protection of the individual through Universal Law, is an amendment thereto and refers to the relationship between State and

<sup>18</sup> Bustamante, *Droit International Public* I, 1934, No. 18.

<sup>19</sup> Wehberg, *Outlaws of War*, p. 83/4.

the individual. Both proposals can only be realized, if the concept of Sovereignty, as it is understood to-day, is readjusted to meet the urgent demands of a new world.

### III

## SOVEREIGNTY

### THE CONCEPT OF SOVEREIGNTY

At first sight it appears as if the autonomy of a Universal Law which overrules all positive national Law might be such as to undermine the authority of the State. The fixed idea, even amongst the smaller and weaker nations, that the State, by surrendering its monopoly over legislation, would commit political hara-kiri is the greatest obstacle to the establishment of any Universal Law. Groups, classes and associations of all kinds have long ago deprived the State of that monopoly. But the constant curtailment of State authority had no direct effect upon national consciousness so long as the dogma of State-sovereignty remained unimpaired. The State, as well as the States within the State, were interdependent. The various interested groups appealed to the prestige of the State in order to be able to pursue undisturbed their own particular interests and the State, for its part, relied upon the support of those groups in order to maintain its absolute sovereignty. As a consequence of the political developments following upon the 1914 war, all States, without exception, became socially and economically more

dependent upon each other than ever before. State-sovereignty which had already been undermined by the process of 'devolution' proved to be inadequate to strike a balance between the conflicting interests within the country. Even the most carefully drawn-up Constitutions did not prevent Mussolini, Hitler, Pétain and others from seizing power by so-called legal means.

Every nation hoped to overcome its own internal political difficulties by relying upon its absolute sovereignty. But this mania for sovereignty merely increased the political tension between nations and rendered impossible any common action in face of the impending catastrophe. The war and many events during the war—France's refusal of Mr. Churchill's offer of union in 1940 provides a striking example—have revealed what State-reason refused to recognize, namely, the bankruptcy of the idea of State-sovereignty in its present form.

Sovereignty is a technical and legal expression derived from the Latin 'supremitas'. The relativist meaning of the word 'supremitas' has been lost; State reason has invested sovereignty with an absolute meaning which has worked destructively in the life of nations.

At the time when Jean Bodin formulated the doctrine of sovereignty in his *Six livres de la République*, in 1576, Europe was ruled by a dual universal monarchy, the Holy Roman Empire in the secular sphere and the Ecclesia Universalis in the religious sphere. The doctrine of sovereignty taught 'that the State, in essence, represents the highest legal authority'.<sup>20</sup> The French king was made independent of the Emperor and the Pope, and State

<sup>20</sup> Kelsen, *Souveraenitaet*, in *Die Deutsche Rundschau*, 1929, p. 434.

power invested in the king became the bearer of supreme authority within the frontiers of France. Upon the *de facto* State-power was superimposed a legal attribute which entitled the king to govern with 'sovereignty'.

Sovereignty, as an effective instrument of independent State-power, was for centuries the bone of contention in intra-State conflicts. In their struggle against the nobility and the people, the princes appealed to traditional or arrogated sovereignty. In the name of sovereignty the central power of absolute monarchies suppressed federalism, whilst, in the name of a sovereignty of their own, the common people took up the struggle against princes and the nobility. The doctrine of the 'sovereignty of the State' was born when it became evident that the exercise of sovereignty was not determined by any particular form of government, but by the distribution of power within the State. Every State became its own sovereign, and sovereignty, which hitherto had merely been the instrument, now became the quintessence of State-power. The supreme power 'in' the State was transformed into the supreme power 'of' the State.

Jurists have experienced difficulty in defining precisely the conditions which determine the claim to sovereignty. The claim of other States to 'supreme power' was impossible to reconcile with the claims to sovereignty for one's own State. This difficulty was solved by the so-called 'theory of recognition' which stipulated that the right to recognise other sovereign States formed an essential part of one's own sovereignty.

Jurists argued whether sovereignty was possible without *de facto* power and attempted to define the minimum of *de facto* power consistent with the idea of sovereignty.

The qualification for State-sovereignty was made dependent upon adequate territory and population, adequate natural resources and military power. The extent of legal authority which a State must possess before its sovereignty could be recognised was also a subject of dispute. Within a federal State, sovereignty was only granted to the central government, within a confederation, only to the member-States. The single States united under the Federal State were denied sovereignty in order to avoid any limitation of the central power. Sovereignty was refused to the confederation of States, lest the independence of the member-States should be infringed.

Unity has never been achieved upon these controversial issues. In the United States, in Switzerland and Germany, for example, there were States to which sovereignty was not attributed. In the case of the Holy See and legitimate governments in exile, there exists sovereignty which, in the one case, does not possess territorial rights, and, in the other, cannot exercise them. Whereas accepted legal theory granted sovereignty to Danzig and Liechtenstein, sovereignty was refused to the British Empire!

The sovereign States did not recognise any Law which debarred them from freedom of action. But anxious as they were to cling to the dogma of absolute State-sovereignty, 'the slowly but steadily increasing organization of the world', the growing interdependence of nations made the maintenance of this dogma a travesty of the true facts. The content and scope of the contractual obligations which were mutually entered upon between States were subject to their free will. This was a perfectly normal procedure. But the desire of the 'High Contracting Parties' to play fast and loose with the obligations which

they had voluntarily entered upon, made it impossible to create an international Law which was binding upon the States without the State's consent. In Kelsen's words : 'In order to adapt the Law of Nations to the dogma of State-sovereignty, a last despairing effort was made to distinguish between the realms of international Law and municipal Law and to isolate them from each other'.<sup>21</sup> In municipal Law the machinery of legislation was the final resort, whilst the final extremity of international Law was war. The State was not prepared to acknowledge any higher Law, but was always ready to appeal to the power of violence. And legal science obediently supported the endeavours of the State to preserve its absolute sovereignty—even at the expense of international peace.

It was the delusion of the indivisibility of power which during the last two decades has brought ridicule upon the democratic idea and has led people, not only in Germany and Italy, but in most other countries, to find in the leader principle and in the centralisation of power the solution to their social, economic and political ills. There can be no compromise between an absolute sovereignty of the State which enslaves man and universal Justice which shall make man a free personality.

### A NEW DEFINITION OF SOVEREIGNTY

Berdyaev has seen, perhaps more clearly than any other writer of our times, the dangers arising from the theory and practice of absolute sovereignty, and his view is worth quoting at length. 'The weird and horrible phenomenon of human life which to-day is called the totalitarian State, is certainly not a temporary and acci-

<sup>21</sup> Kelsen, *Souveraenitaet*, p. 438.

dental phenomenon of a certain epoch. It is a revelation of the true nature of the State, of sovereignty. The totalitarian State itself wishes to be a church, to organise the souls of men, to exercise dominion over souls, over conscience and thought, and to leave no room for freedom of spirit, for the sphere of the Kingdom of God. But the State by its very nature lays claim to a universal all-embracing significance. It is willing to share its sovereignty with no-one, with nothing. . . . Spirit is never incarnate in States and in historical bodies politic; spirit is incarnate in the human body, in human communion, in human creativeness, in a person and in personality, not in a State and not in the great bodies politic of history. In the objectivised world there are only necessary functions, nothing more than that. And this is an emancipating thought . . . What exists is not a right to power but a burdensome obligation to power as an organic function for the protection of man . . .'<sup>22</sup>

Berdyayev's answer is as simple as it is conclusive: 'The State ought to defend freedom and right. That is the justification of its existence. But every process by which the State is made absolute is a great evil . . . The State should be limited, it should be brought within the bounds which it ought not to go beyond'.<sup>23</sup>

At the International Law Conference of 1944, the late Lord Finlay warned the legal profession that the British Parliament would under no circumstances be prepared to surrender one iota of its sovereignty. But would anyone venture to assert that the sovereignty of the British Parliament would be curtailed in the event of the estab-

<sup>22</sup> Berdyayev, *Slavery and Freedom*, p. 140, 146, 150.

<sup>23</sup> Berdyayev, *ibidem*, p. 148, 149.

lishment of an autonomous world organization whose duty is to prevent encroachments upon every individual's right to live? Would it not, on the other hand, be a signal triumph for the British Commonwealth of Nations—this applies also to other democratic countries such as the United States, Switzerland, Norway—if principles of humanity which free peoples regard as the essence of human dignity were accepted as a basic Law of human solidarity and if eternal Justice and the administration of such Law were entrusted to a world organization? No State which is determined to respect moral Law can have any reason to fear interference with the legitimate functions of its sovereignty from a world organization which is under obligation to prevent wrong-doing. Only a State which is actuated by bad conscience or evil intentions, will feel impelled to raise objection against such organization. And precisely because such States do, in fact, exist, this world organization is urgently needed to-day!

The creation of a Universal Law in the moral sphere is indispensable for the two following reasons:

(1) The establishment of an autonomous organization which issues universally binding laws within the scope of its competence, is a natural consequence of the sociological development of mankind. All States, in the course of their development, have striven for absolute power, irrespective of their form of government. In order to achieve absolute power and to safeguard themselves against any limitation of their sovereignty, the States appealed to cunning and violence (Machiavelli), cold and calculating reason (Erasmus and Hobbes), Natural Law (Rousseau), enlightenment (Kant) and chauvinism (Hegel). Every State stressed its duty to protect its citizens against every

form of wrong. The assumption that this obligation carries with it the exclusive right of the State to fix, of its own free will and through the agency of its laws, the nature and extent of this protection, has militated against the creation of a Universal Law.

The development of the last twenty-five years has shown that this assumption is no longer valid to-day. For the State, with the best will in the world, can no longer protect the individual without the assistance of a Universal Law which appeals to, and relies upon, the individual himself and substitutes for the arbitrament of violence the appeal to Justice.

(2) The last war has shown that the sovereign State is no longer in a position even to protect its own independence. In a study of Intergroup Relations, Landecker has clearly outlined the legal necessities which arise therefrom: 'The first step of social organisation, especially if the group consists of several factions, is not the creation of an organ for the enforcement of Law, but of one for the making of Law. That is why it is sociologically wrong to propose the establishment of an international police force without suggesting the previous or at least simultaneous establishment of an international legislature. . . . The establishment of a legislature would not abolish the nations as such, yet it would make clear that all nations are subject to a law-making agency common to the whole international community. This would stress the unity of the international aggregate and manifest the interdependence of the nations within a larger whole.'<sup>24</sup>

<sup>24</sup> Werner S. Landecker, *The Study of Intergroup Relations and its International Aspect in The New Commonwealth Quarterly*, Oct., 1940, p. 126.

To sum up: the distinction which sovereignty has drawn between the federal State and a confederation of States is purely artificial; it is a difference of degree, but not a difference in substance. Once the disruptive idea of absolute State sovereignty is eliminated, then the difference of degree will cease to exist and the legal community of all nations will become at the same time the legal community of all individuals. The nations, relieved of the obligations accruing from a false conception of their sovereignty, will be in a better position to promote the economic, social and cultural progress of their people. Nations will no longer be prevented from establishing direct communication between all individuals within the international community and the innate sense of Justice in man will no longer be limited to national boundaries.

The evolution of man's community life proceeds from family to group, from group to tribe and from tribe to State. The establishment of a legal community which morally unites all nations completes the circle whose starting point and final goal is the individual.

## IV

### UNIVERSAL LAW

#### POINTERS TO UNIVERSAL LAW

An autonomous world organization which acts as a clearing house for the various problems of an international character realizes the idea which led to the

foundation of the League of Nations. This idea was expressed in the Preamble of the Covenant as the 'desire to promote co-operation amongst nations and to achieve international peace and security', and in Article 24 of the Covenant as the intention 'to place under the direction of the League all international bureaux and all commissions for the regulations of matters of international interest'.

The League did not fail because the problems before it were incapable of solution. It failed because its own autonomy and the autonomy of the organizations affiliated to it were permanently subject to State sovereignty and to the autonomy of State-protected groups whose sectarian interests proved to be stronger than their desire for—and their interests in—unity of action and organization. The many international organizations and committees of the League which were engaged upon economic, social and humanitarian problems have rendered valuable services in the international sphere. All these organizations should be retained as a framework for the future world regime.

The multiplicity of functions which can best be performed by a central and universal authority cannot be covered by an all inclusive formula. It can safely be left to the future to decide which particular functions will be allotted to such authority. But it is imperative to set up without delay a machinery capable of dealing effectively with every task entrusted to it. In the foregoing pages some of the obvious reasons for the failure to create such machinery in the past have been discussed. But from past experience we also learn which ideas are best calculated to produce better results in the future.

The American Constitution provides the first example of an attempt to whittle down the omnipotence of the

State through the power of Justice. In contrast to other States which, in the course of their development, provided themselves with a Constitution or imposed a Constitution upon the people, 'the United States is built on known declared Law and principle'.<sup>25</sup> The authors of the American Constitution had learned a lesson from the contemporary conditions in Europe, and the conclusion they have drawn is most instructive for us to-day. The judicial power of the United States was not handed over to political authority, but to the Supreme Court. This is not the place to discuss in detail the merits or demerits of the Supreme Court. But whatever the scope of its achievements, 'the Court has been a unifying and harmonising force in a vast country of mixed populations, with great differences in economic and cultural levels and has proved that rule by judges is better than anarchy by soldiers'.<sup>26</sup> The Universal Law of the future will have a wider basis than the American Constitution and the sphere of its autonomy will be much greater than the autonomy of the Supreme Court. But this does not detract from the value of the Supreme Court as an outstanding example of the supremacy of Jurisdiction over the Executive.

In Europe, the National States have rejected any self-imposed limitation of their legislative power. It was the Weimar Constitution of 1921 which first granted authority to International Law without necessitating its ratification by the legislative bodies of the State. Article 4 of this Constitution stated 'that the generally recognised rules of International Law are valid as binding constituent parts of the Law of the German Reich'. The practical results

<sup>25</sup> D. W. Brogan, *Politics and Law in the United States*, p. 1.

<sup>26</sup> Brogan, *eodem*, p. 122.

of this well-meaning innovation were relatively insignificant, because the decision whether an international principle, though not expressly ratified, should be regarded as 'generally recognised' was referred to national jurisdiction. When the Nazis seized power and the German judges lost their power of independent judgment, Hitler decided which International Laws were to be regarded as 'generally recognised' or not. But in the event of a declared Universal Law it will no longer be possible to take advantage of the loopholes in national Laws in order to circumvent common rules of humanity.

The example of the Third Reich shows how urgently is needed a World Charter in order to make Universal Law effective and indisputable. Much material for such a Charter can be found in the Preambles of Treaties for the peaceful settlement of International disputes. During the ten years immediately following the 1914 war approximately 200 Treaties were concluded, and more than fifty States demonstrated in this way their peaceful intentions or pretended to do so. Nearly all Treaties were preceded by Preambles expressly declaring the intentions which inspired the parties when they concluded these pacts. A list of these Treaties should be included in the Preamble to the future World Charter and the compilation of their Preambles (e.g., the Treaty of Versailles, Part XIII, Section 1, i.e., the Preamble for the organization of labour) should supply the contents of this Charter. It is significant that the Permanent Court has repeatedly referred to the Preambles of Treaties and that Australia, on the occasion of the Pact of Paris, has expressly insisted that the Preamble of this Pact must be considered as an integral part thereof.

One of the most important steps towards the realization of Universal Law was the establishment of the Permanent Court of International Justice in the Hague. The history of the Permanent Court is the history of a period of transition from International Law to Universal Law during which the idea of an autonomous supra-State authority slowly matured. This progressive development tended in two directions, towards the extension of the competence of the Court and towards a reinforcement of the Court's authority to determine the rules of Law on which its decisions were based. The first report of the Informal Inter-Allied Committee on the future of the Permanent Court is opposed to these tendencies, particularly as far as the competence of the Court is concerned. It is to be hoped that the policy advocated in the Report will be modified in the future.

The American Constitution, the American Supreme Court, Article 4 of the Weimar Constitution, the Preambles of International Treaties, the Permanent Court and its jurisdiction—all these sources offer in one way or another valuable material for a new world organization. But of paramount importance for such a world organization are the functions of the Judicial Committee of the Privy Council. This Committee, which for more than a century has been one of the strongest links of the British Commonwealth, shows how, in practice, political traditions can be reconciled with modern requirements and how the claim of the individual to higher Justice can be reconciled with the claim of independent political communities to self-government. 'We are', said Viscount Haldane, 'not Ministers in any sense . . . we have nothing to do with politics or party considerations; we are really judges, but

in form and name we are the committee of the Privy Council', and he continued: 'The practice which has grown up, or the unwritten usage which has grown up, is that the Judicial Committee is to look closely into the nature of the case . . . that the sovereign is not advised to intervene normally unless the case is one involving some great principle or is of some very wide public interest.'<sup>27</sup>

The Judicial Committee of the Privy Council is privileged to grant special leave to appeal in all cases where an important point of principle is involved. A world regime which is endowed with a similar privilege will be in a position to guarantee to every individual full legal protection against any infringements of principles of Universal Law. Every individual will be entitled to lay claim against any State which treats him in a way contrary to—or incompatible with—Universal Law. The case will be brought before the Supreme Court of the country for adjudication. If the case is dismissed by the national Court, the individual has the right to ask the Supreme Court of the world regime for special leave to appeal. Should the appeal be allowed, yet the judgment not be obeyed by the government of the respondent State, then the individual claimant is entitled, at his own discretion, to sever his allegiance to the guilty State and to ask for immediate protection of the world regime which will automatically be granted him. The political aspects of this procedure and the new status which the individual will ultimately acquire raise important issues which would take us beyond our present context. At least, it can be stated with some degree of certainty, that no government will

<sup>27</sup> *Hull v. McKenna and others* (1926). I. R. 402.

ever run the risk of ignoring judgments given by a world authority.

### ADMINISTRATION BY JUDGES

Only a few tentative suggestions can be given here of the organization and machinery of the future world regime. Nations, far more than is generally realized, are prepared to risk their destiny on a throw of the political dice or to be treated as pawns in the political game of the Great Powers. Admittedly, the duty of the politician is to think in broad outlines, to range over wide areas and to reckon with unlimited periods of time. It is the duty of the administrators of Justice to protect and care for the helpless individual and to restore equilibrium when High Policy weighs too heavily, and the fate of suffering humanity too lightly in the balance. 'He alone can claim to have obtained a real vision of Law, of justice and of injustice to whom life has revealed itself in its fullness.'<sup>28</sup> Only great judges are capable of ascertaining what is just according to Law, and, in the absence of Law, qualified for administering Justice even without written Laws. The future world regime will only find unconditional acceptance on the part of the peoples of the world, if great judges are installed to preside over it.

The high judges of the world organization who will ultimately form a Supreme Senate will not, of necessity, be selected from the legal profession and under no circumstances should political considerations determine their appointment. The United Nations Organization shall nominate twelve judges in all, with a proviso that no single nation shall be allowed to name a judge from

<sup>28</sup> Rudolf Sohm, *Institution des roemischen Rechts*, p. 31.

amongst its own nationals or to supply more than three judges. The duty of these twelve judges, who will constitute a temporary quorum of a Supreme Senate, will be to draw up the Constitution of the autonomous world organization. When this Constitution has been drafted and sanctioned by U.N.O., the twelve judges will have to co-opt twelve further judges from amongst those other nations which are not represented on the quorum. If, from the quorum of twenty-four members, a judge dies or attains the age-limit laid down in the Constitution, then the remaining members will elect his successor. The method of election will be fixed by the Constitution.

The high position enjoyed by the members of the Supreme Senate will be reflected in a new status which every judge acquires at the moment of his nomination. He becomes 'State-independent'. He not only enjoys extra-territorial rights, but is granted the citizen rights of every State without owing any obligation or allegiance to any particular State. The plenum of the Senate alone exercises jurisdiction over its members and they are solely responsible to this plenary body. The extent of the judge's responsibility is expressed in the oath which he swears when he is introduced into the Senate. Every judge swears: 'I undertake to work for the common welfare of mankind and, under all circumstances and to the best of my ability, to follow nothing but the dictates of my conscience'.

The Supreme Senate determines which existing organizations shall be taken over by the world regime and what new committees shall be set up. It elects a body of experts as permanent or corresponding members of the world regime. In order to maintain the closest contact between

the Supreme Senate and all special organizations, the plenum of the Senate shall appoint the chairman of all these institutions from its own body.

It is of decisive importance that Universal Law should not be rigidly defined by code or precedent and that the legislative body should remain self-perpetuating. The traditional separation of powers into executive, judicial and legislative functions should be abolished in the world regime. For such a regime governs without being a government. It exercises its own administration only in such matters where global interests are paramount, and it restricts its jurisdiction to conflicts which cannot be solved satisfactorily in any other way. Its chief privilege and its primal duty, however, is to promulgate, if necessary, Universal Law which embraces the basic principles for the protection of the individual against wrong.

### THE MORAL BASIS OF UNIVERSAL LAW

A Universal Law which brands the acts of a single group or class or government, because they are at variance with the declared will and common faith of the rest of mankind, will have a more lasting effect than any Law based on coercion. Coercive Law does not inquire into the deliverances of the individual conscience. But when the individual is free to follow his intuitive sense for moral values, he feels himself to be answerable to nobody and nothing but his conscience and learns to identify Law with his own conscience and his own conscience with Law. Thus a positive moral force inspires him freely to obey and adhere to the rules of Universal Law.

Inquiry into the origin of such moral power is assumed to be largely a theoretical issue. People are inclined to be

more interested in the consequences than in the motives of moral behaviour; they look for results rather than for reasons. Prevalent misconceptions about the motive force of ethics have undermined human relationships and have prepared the omnipotence of the State. Hence Bjoernson's ironical comment 'Place no confidence in men, but all the more confidence in their institutions!'<sup>29</sup>

Moral acts are often supposed to have their origin in an absolute command, in the categorical imperative of duty to which is attached the promise of reward or the threat of punishment. In its effects, this command is hypothetical and not categorical; for it is conditioned by expectation of good or fear of evil consequences. Obedience to a command may, under certain circumstances, be a moral duty, but duty performed under external compulsion can never be the mainspring of moral action.

A morality of duty enforced by threats or promises was a veritable godsend to the Power-State. Possessing the most effective means for inflicting punishment or granting rewards, the State was in a position to enforce obedience to its laws, irrespective of whether they were morally justifiable or not. Commands of duty thus became the true expression of morality. And the extremes of wealth and poverty, abundance and scarcity, rights without obligations and obligations without rights were felt to be morally virtuous rather than morally shameful! Every citizen was in duty bound to serve the totality of the State. But the welfare of the State was identified with the well-being of the privileged few to whom was sacrificed the well-being of the many. In the name of duty, State-reason induced

<sup>29</sup> Bjoernstjerne Bjoernson, *Beyond Our Strength*, Part 1, act 2, sc. 4.

whole peoples to abandon their religious beliefs in favour of a national mystagogy and to sacrifice human solidarity to racial hatred. The categorical imperative of duty can never be the source of morals. It has become a favourite device for covering the egotism of the individual and State-autolatry with a veneer of morality.

The source of morality is to be sought elsewhere. Amongst the motives which impel man to conscious action, those actions which aim either at the well-being of the self or are designed to work to the detriment of others are without moral value. It is in actions directed towards the well-being of others that true morality is to be found. 'Thou art that.' 'To feel another's sufferings as one's own, to suffer with another, to experience compassion is an undeniable fact of human consciousness; this quality of man is peculiar to human consciousness and does not need the support of any presuppositions, concepts, religions, dogmas, myths, education and culture, but is primal and independent, is rooted in human nature, holds good for all circumstances and manifests itself in all lands and at all times. Whosoever appears to lack compassion is called a monster and humaneness is often a synonym for compassion.'<sup>30</sup> When man is set free from the principle of individuation, he comes to realize 'that a happy life amidst the sufferings of the countless many is, after all, a beggar's dream in which he is king'.<sup>31</sup>

Whilst the State Laws aim at protection from wrong, i.e., protection from encroachments which the State recognises to be wrong, compassion seeks to heal the

<sup>30</sup> Schopenhauer, *Die Grundlage der Moral.* par. 17.

<sup>31</sup> Schopenhauer, *Die Welt als Wille und Vorstellung*, IV, par. 63.

consequences of wrong (this is the goal of mercy), and to prevent wrong-doing (this is the goal of Eternal Justice).

Mercy has found legal recognition in humanitarian Laws of a Universal character. The Geneva Convention, the Red Cross and other humanitarian organizations bear testimony to these Laws. But as yet rules of Eternal Justice have met with no recognition in Universal Law. Mankind is ready and willing to remedy the consequences of wrong-doing, but has envisaged no preventive measures against any wrong-doing which lies outside State prohibitions or which is practised by the States themselves.

Legal Justice protects from wrong, mercy mitigates the suffering arising from wrong deeds and eternal Justice prevents wrong-doing. This threefold method of meeting wrong prepares for human solidarity in the future. The mission of the various States shall be to preserve Justice, and of the various humanitarian organizations to exercise mercy. But the duty of abolishing existing Laws and, if necessary, of establishing new Universal Laws, so that Injustice shall be eradicated, is indivisible. Such duty can only be fulfilled when it is entrusted to a single supreme authority which is recognised by individuals and States alike. For there is no such thing as a separate Asiatic, American, or European Justice, nor a specifically Christian or Buddhistic Justice. There is only a single Universal Justice, the same for all and for all time.

## THE ULTIMATE AIM OF UNIVERSAL LAW

In contrast to the external life where unity of interests leads to unity of action and organization, the spiritual life of man, his personality, is characterized by an infinite diversity of ideas and ideals. The different modes of life,

the peculiar characteristics, the diverse capacities, the mingled hopes and aspirations of men can only find expression and support within the framework of a world organization which protects them from encroachments upon their individual freedom.

If the freedom of a British citizen, or even of a tribal chieftain under British jurisdiction, whose deportation has been ordered,<sup>32</sup> is unduly imperilled, the aggrieved person, or others on his behalf, can appeal to the Court for a writ of Habeas Corpus. His body will be brought before the Court, and, if he is in the right, his freedom will be restored without delay. There must be a Habeas Corpus Act for the unknown citizen of the world. There must be a Supreme Court of the world, which is endowed with authority to summon the offending State before the bar and, when the case so justifies, to pronounce: 'It is ordered that a writ of Habeas Corpus do issue directed to the respondent, commanding him to have the body of this and this individual before the Court to undergo and receive all and singular such matters and things as this Court shall then and there consider of concerning him in this behalf'. In such a way not only the body physical, but the body spiritual of the unknown citizen will be set free from the enslavement to which modern civilization has condemned him.

<sup>32</sup> *Eshugbayi Eleko v. Government of Nigeria* (1928) A.C. 459.

## PART TWO

# Federal Union and the Union of Man



# I

## INTRODUCTION

**I**N THE evolution of mankind the transition from barbarism to civilization is confined to two spheres, to the life of the individual and to the community life. These two spheres, though separate and distinct in themselves, are closely interrelated: the individual assimilates the characteristics of his group and is moulded by them, whilst the community, for its part, reflects certain common characteristics of its members.

"The word civilization was first met with in the economists of the years which immediately preceded the French Revolution. Littré, who had ransacked all French literature, could not trace it any further back. Thus the word civilization has no more than a century and a half of existence"<sup>1</sup> and in that century and a half it has been given widely different interpretations. German writers distinguish between civilization and culture as two distinct and often contrary spheres of human activity—science, technics, law, social institutions and the outward life belong to civilization; art, religion, philosophic contemplation, 'the unity of all man's spiritual activities and their expression', the collective soul of the people ('der Volksgeist') belong to culture. There is an eternal conflict between social morality and spiritual values, between an ordered and conditioned life and a life in creative freedom,

<sup>1</sup> René Guénon, *East and West*, p. 27.

between the logic of science and the inspiration of art. On this analysis, a state of civilization can lead to cultural degeneration, reason can deform culture and the conscious dethrone the unconscious. We are familiar from the pages of history with those 'civilized barbarians' who destroyed the long established cultures of other peoples.

Civilization implies a transition from the life of unconscious instinct to the life of conscious control and the renunciation of violence in human relationships. The use of violence in inter-State conflicts is proof enough that the old unconscious atavisms still persist. The fate of mankind is determined by the political power of the State and this power is still based upon violence or the threat of violence.

Modern science with its unlimited destructive potentialities can only further perpetuate man's inhumanity to man, if placed in the service of political violence. Hitherto, every weapon of offence has been answered by a corresponding weapon of defence; but once the offensive power of the new weapon was neutralized, there began an eager search for ever more terrifying instruments of destruction. Methods of violence have changed the state, but not the heart of man. But the recent use of atomic energy, an extremity of violence of cosmic proportions, may so shake the moral conscience of mankind that at last they will be compelled to find an answer in terms of non-violence. This compelling need for a re-orientation of mind may well be the final chapter in the long history of man's successive adjustments to every new weapon of destruction.

The menace of stone-axe, bow and arrow, gunpowder, grenade and bomb drove men to seek protection in trees

or caves, behind village stockades, walled towns and fortified frontiers. Every introduction of new and destructive weapons of warfare forced people to unite, if only from motives of self-preservation, and thus, unwittingly, promoted a growing sense of social solidarity. To-day, the invention of the atom bomb makes all existing methods of defence hopelessly inadequate. Military alliances between national blocs have now become obsolete and the sole escape from the new-found terror is a world unity which expands local protection for the group to universal protection for all.

The development of technics has revealed the need to re-discover and to cultivate that feeling for oneness which joins men together in communion and acts as a prophylactic against the disease of their own destructive inventions. 'Modern man is the victim of the very instruments he values most. Every gain in power, every mastery of natural forces, every scientific addition to knowledge, has proved potentially dangerous because it has not been accompanied by equal gains in self-understanding and self-discipline. We have sought to achieve perfection by eliminating the human element.'<sup>2</sup> Technical developments have brought greater comfort and prosperity, but at the same time have sapped the foundations of the spiritual life. The more man became subservient to a soulless machine, the more was he fashioned in its likeness. Depersonalized and robotized, he abandoned the ideal of the brotherhood of men. In a world of plenty the destitute were left to fend for themselves. For all his conquest of the external world man remained a prey to the old Adam within. This unregenerate self with its elemental passions

<sup>2</sup> Lewis Mumford, *The Condition of Man*, p. 393.

and selfish desires had little interest in organizing a world-embracing union which would serve the cause of humanity.

Six years of total war have shown how necessary it is to restore the dignity of the person and to protect him from wrongs committed against him through no fault of his own. It has already been suggested in the earlier part of this book<sup>3</sup> in which respects the individual within modern society is inadequately safeguarded and the solution there proffered was a delimitation of Law which presupposes that the human conscience shall be represented by the supreme authority of the Great Judges of the world and that all mankind will find a common belief in the capacity of this authority to protect all individuals from any violation of their personality. Once the people have learned to place confidence in the wisdom and impartiality of such authority, then an apparatus of compulsion will no longer be needed to enforce its laws and judgments. The question whether such a proposal can be reconciled with the basic principles of a Federal Union of States is a matter which calls for further examination.

On the question of the ultimate goal, namely, the protection of the individual against wrong, there is no cause for disagreement. But whilst the Federal Union seeks to merge collective units into federations and federations into a central World Confederation, my own proposal is to centralize the protection of all individuals so that no collective unit—whether merged in a federation or in a single World Confederation—can infringe the legitimate position of the individual in human society. The idea of the Federal Union is to proceed from a federation of

<sup>3</sup> Part 1, p. 13.

States to a World Confederation of all States and from the Confederation of all States to the unity of all men. The alternative proposal is to create a Confederation of all States through the union of all men.

An important difference which makes these two points of view difficult to reconcile should not be overlooked. For a hundred and fifty years mankind has striven to give practical expression to the theoretical idea of the equality of all men. But in so doing, men have agreed to place 'the whole emphasis upon the transformation of institutions instead of giving equal attention to the re-education of men'.<sup>4</sup> Attention was focussed upon questions of organization and forms of government rather than upon the fundamental issue—how best to promote the unity of all mankind. The executive power has been entrusted by all nations with a function which rightly belongs to the competence of the judicial authority. Whilst the Federal Union believes that the centralization of the executive power of States suffices for the protection of the individual, the proposal here advocated anticipates the primacy of the judicial over the executive power. Herein lies the fundamental divergence between the two points of view.

<sup>4</sup> Mumford, *The Condition of Man*, p. 322.

## II

### UNION OF MAN

#### THE BASIS

The diversities of outlook, character, intelligence<sup>a</sup> and mode of life which account for the differences between man and man are seeming hindrances to a union of all men.

When not of a purely biological origin, the source of the union between individuals is usually to be found in identity of interests on the material plane. Union makes for strength, individualization makes for separateness; ideologically as well as physically, the collective unit wields more power than the single individual. In the affairs of everyday life combinations for the protection of mutual interests are conditioned by the play of opposing interests : sometimes, it is a question of defending or enforcing one's own interests 'against' other interests, at other times, of fighting 'against' foreign interests. Though they may share little else in common, men find an adequate and justifiable motive for union in the collective drive to overpower a common enemy. Just as the representatives of social or economic interests combine, in defiance of the interests of the State to which they belong, to form international unions, cartels and syndicates, so too, States combine, with a fine disregard for their own mutually conflicting interests, to eliminate the common enemy who threatens their existence.

All these various unions, associations and alliances have a fatal defect—they have no unbroken continuity of aim. The moment their immediate aim is achieved, the alliances fall apart and the old controversies which were

temporarily suspended break out anew. A union of men which depends upon the stimulus of opposition has at best only a negative value; the unity of federated nations in arms is a negative unity grounded in fear and directed 'against' others. A union whose sole aim is to protect the personality of every individual from violation is directed 'against' nobody; such a union is inspired by—and derives its strength from—a feeling of solidarity amongst all its members.

The sense of solidarity is ultimately bound up with the feeling of compassion. Both these sentiments are pointers to man's common origin. The feeling of solidarity arises spontaneously when danger is threatened from without. Friend and foe sink their differences in the face of immediate danger and realize that they share a common destiny. Compassion expresses itself through an understanding sympathy with the sufferings of one's fellowmen; it is a feeling of solidarity which reaches beyond the individual Self and is therefore the true source of moral action. From the feeling of pity arises the desire to heal the wounds of wrongs endured, as well as the urge to prevent the perpetration of wrongs. The innate sense of Justice which has its source in the feeling of compassion is not limited to the legal Justice administered by the State; it belongs to the sphere of eternal Justice and must be accounted of transcendental origin.

### THE LAW OF ETERNAL JUSTICE

From the idea that human compassion provides the basis for a union of all men which shall protect all individuals, two conclusions can be drawn.

First, the protection of the individual in modern society could not be guaranteed so long as the question

was approached from social, economic and political angles or so long as its ultimate solution was sought in arbitrary provisions of Law. 'The spiritual life has always been in danger of legalistic deformation which originates in the process of social objectification and adaptation to everyday life. But the spiritual life is not determined by rules, laws, norms, or general principles.'<sup>5</sup> As a cog in the State machine, man becomes a victim of the various social, economic and political forces which ultimately dictate the entire pattern of his existence. But, as a creature of the Creator, he is of transcendental origin and is endowed with divine attributes: 'The belief in man's Divine nature is common to all religions, although they have often given imperfect expression to this'.<sup>6</sup> Rules affecting the dignity of man must recognize the autonomy of the spiritual life and the primacy of that life over all human rules and conventions which govern the community life. To ignore or deny this, is to substitute for ideal values a crude materialism and the dictates of expediency.

Secondly, a Law which refers to ethical principles, i.e., a Law which is founded upon Eternal Justice, cannot be entered upon a Statute Book. Whether such Law be termed International Law, Laws of Humanity, or, as I have called it, Universal Law, it must reflect the commands of conscience, the voice of spiritual values intuitively sensed. The real problem is how to make of these inner promptings of conscience a Common Law.

Now, only the Great Judges who are to be the members of the Supreme Court of the World can in effect create such Law. That which the human conscience

<sup>5</sup> Berdyaev, *Spirit and Reality*, p. 194.

<sup>6</sup> Berdyaev, *idem*, p. 198.

recognizes to be just is modified in the light of new experiences and knowledge and changes with the changing conditions of the time and with the evolving consciousness of the individual. To find the true expression for this ever-changing sense of Justice is a task which presupposes not only a deep understanding of human nature, but also profound insight into human relationships within the single group and between groups, between man and man and between man and the universe. To this task the Great Judges must bring the virtues of wisdom and a comprehensive knowledge of life; their political and professional qualifications are of secondary importance.

Man's conscience, from which springs his sense of Justice, is an integral part of his personality, and the conscience of mankind, like mankind itself, is a 'unitas multiplex', a 'unity in the manifold'. In order to do justice to the personality of every individual, it is the duty of the Judge to sense intuitively the conscience of the 'unitas multiplex' and to see that the protection of every individual is determined in a way that is commensurate with his human dignity.

The institution of the Judicial Committee of the Privy Council which is the Appeal Court of the British Commonwealth of Nations offers a practical example of an administration of Justice which is not bound to norms, to rigid provisions of Law and to abstract principles. The members of the Judicial Committee of the Privy Council, in their capacity as advisors to the King, are subject to no other command than the dictates of their own conscience. When a case comes up for adjudication in which local traditions and customs or other local factors are of decisive importance, members who are experts upon local

conditions are called in to supply their fellow-members with the necessary information and knowledge. 'The Sovereign', as Lord Haldane once said, 'is everywhere throughout the Empire in the contemplation of the Law. . . . He may as well sit in Dublin, or at Ottawa, or in South Africa, or in Australia, or in India, as he may sit here, and it is only for convenience, and because we have a court, and because the members of the Privy Council are conveniently here that we do sit here.'<sup>7</sup> In this way, the Judicial Committee of the Privy Council first proceeds to ascertain the opinions and reactions of the communities concerned before arriving at their own decisions.

The establishment of a supreme and State-independent court for the equal protection of each individual against wrong brings to a close a long period of development in the course of which the equality of all men found gradual recognition and came to replace the former belief in a divinely ordained inequality of man. So long as inequality was an accepted principle, every incentive to give uniform protection to the human personality was virtually a crime against the State, whilst to refuse such uniform protection to a recognised equality between all men is a crime against humanity.

### EQUALITY

De Tocqueville, the pioneer of the democratic idea, rightly claimed that 'the history of the past seven hundred years has been a history of the progressive extension of equality'.<sup>8</sup> With every successive century the

<sup>7</sup> *Hull v. M'Kenna and others* (1926) J.R. 402.

<sup>8</sup> Mumford, *The Condition of Man*, p. 322.

idea of the equality of men was given widely different interpretations and its meaning must therefore be clearly and precisely defined before proceeding to institute a uniform legal protection for all individuals.

The uniform protection of all individuals against wrong is to be sought not only in equality of their legal status irrespective of their station in life (in their equality before the judge), but also in their equality before God (in the equal claim to respect of their personality). Eternal Justice has no need of the autonomy of Law to determine that men are equal; it asks for a universal guarantee that men's equality shall not be contravened by discriminatory Laws.

Christianity has always preached that men are equal in the sight of God, but has been unwilling to concede the idea of equality in the social sphere. The Book of Common Prayer enjoins upon the faithful to accept that station in life in which it shall please God to call them. Throughout his life on earth man cannot escape the consequences of original sin. Thus, circumstances of birth decide man's social lot, whether he is to be master or slave, freeman or serf, servant of God or of the devil. The different rights to which the individual was entitled by virtue of his status were protected by Law, whilst his one equal right to the fulfilment of his personality was not countenanced in Law. Life on earth was a pilgrimage leading to the eternal life in which the faithful, purified from sin, would stand in perfect equality before God and each other. It was in order to win men's souls for God, even in their own despite, and to compel them to enter the Kingdom that the Crusaders put unbelievers to the sword. Intolerant of other faiths and imbued with a

fanatical zeal for saving the lost sheep of Israel, the mediaeval Christians were prepared to destroy the body in order to rescue the soul.

Within a few centuries 'the dark night of the Middle Ages' was over. Scholastic thought had ended in empty disputation, intellectual jugglery and verbal dexterity. Dogma had hardened into obscurantism. Humanism and the Renaissance breached the walls of the medieval citadel and the Reformation poured in through the gap. The fetters of constraint were thrown off and a new spirit of intellectual curiosity, an ardent zeal for enquiry, fired the minds of men. In the search for knowledge and truth even the church dogma did not escape critical analysis. But the deep-rooted belief that men were born unequal and that this inequality persisted through life still remained unshaken.

Art and science were the instruments through which humanism sought to create a union of man; limitations of spiritual freedom and all forms of violence were felt to be irreconcilable with the humanistic ideal of universal harmony. But even the humanists could not bring themselves to acknowledge every individual's right to personality. Society still remained hierarchically ordered, embracing the upper strata of the educated few and the lower strata of the uneducated many. Intellectual independence and free enquiry were restricted to the 'Clerks' and the right to personality was reserved to this new intellectual aristocracy to the exclusion of the plebs. It was to the interest of the secular and ecclesiastical arms to perpetuate the ignorance of the people in order the more easily to keep them in subjection.

The common intellectual interests of scholars and the

spiritual kinship between artists created a fellowship which scarcely extended beyond their own circles. A community of individuals loosely held together by professional and scholastic pursuits became a prey to sectional interests. Through their social indifference their attention was diverted from the more pressing problems of eternal Justice. The right of each individual to be an end in himself admits of no limitation and cannot be subordinated to any system of values, whether scientific or artistic, which claim priority for themselves.

‘The political revolutions that took place throughout the western world from the seventeenth to the twentieth centuries were important events in the life of western man. . . . They awakened in the common man everywhere a sense of his own personality, a new self-respect. They gave him hope of overcoming his disabilities by uniting with his fellows and putting his social relations on a rational basis. . . . Above all, they promised him a fully human life.’<sup>9</sup> The reason why these hopes and promises have not yet been fulfilled is that Rousseau’s egalitarian doctrine, for all its political and social advantages, implied such a levelling down that finally the individual and his personality were submerged in the mass.

The principal of equality undermined the authoritarian basis of the feudal hierarchy. ‘The spirit of revolution challenged irrational customs and invalid privileges; it broke down the barriers between classes and gave the poorest boy the hope that he might achieve a place in society commensurate with his abilities. . . . In the name of equality the revolution respected the inequalities of

<sup>9</sup> Mumford, *The Condition of Man*, p. 323.

intelligence and professional ability, and drew upon the whole community for its leaders instead of confining itself to the established classes. . . . It opened up occupations and professions as the discovery of the new world had opened up territory.<sup>10</sup>

Unfortunately, these innovations which were practical expressions of men's equality, ultimately deprived the individual of a large measure of his personality. In return for the equal rights and privileges of citizenship, every individual was in duty bound to accept equal obligations to compulsion. Thus the 'levée en masse' and the conscript army were born. Slavery had been abolished only to re-emerge as the new slavery of the 'Contrat Social' which enslaved the individual to the majority. The ostensible claim of the individual to equality and to the free expression of his personality was turned against him and became an obligation unconditionally to submit to the political and economic powers which depersonalized him. The 'Contrat Social' demanded that each citizen should acknowledge a civil faith fixed by the sovereign State; compulsory sentiments of sociability, for example, were to produce good citizens. Those who openly refused to accept the dogmas of this new civil religion were to be banished and the death penalty awaited the citizen who lived a life of hypocritical pretence. Dictatorship and censorship of thought are both implicit here. There is neither liberty nor equality for the individual, but an omnipotent and infallible 'general will' which controls his whole life. The *égalité* of the First Republic leads to the standardization (*Gleichschaltung*) of the Third Reich; Rousseau's idea of the general will leads directly to

<sup>10</sup> Mumford, *The Condition of Man*, p. 323/4.

Hitler's 'Ein Reich, ein Volk, ein Fuehrer'.

The slogans under which equality is understood to-day are equal political rights, social emancipation and economic security. Anybody and everybody, in so far as they possess the requisite papers of legitimization, are granted, under certain provisos, the right to employ their labour-capacity to the best of their ability. But these papers of legitimization delimit the individual's sphere of activity. His right to work, his freedom of movement and, in some countries, even his freedom of thought are rigorously controlled by the powers which rule society. 'There is no freedom of the individual', declared one of the Nazi leaders in an address to students of the University of Berlin in 1937. 'There is only freedom of peoples, nations or races; for these are the only material and historical realities through which the life of the individual exists.'<sup>11</sup>

In modern society the claim to equality is limited to equal civic rights granted by the national State to its own nationals at its own discretion. But the title to exercise equal civic rights through universal suffrage has the grave defect that majority verdicts, which may have their own justification in determining the forms of external life, have trespassed upon the spiritual freedom of the individual and so have invalidated his oft-claimed equal right to live.

The individual pays dearly for the rights which are granted him in his own country. His nationality, which is decided by accidental factors of birth, stamps him with an indelible impress which he carries with him through life. The 'foreigner' is first and foremost a national and a human being afterwards; he is judged by the character-

<sup>11</sup> Gangulee, *The Mind and Face of Nazi Germany*, p. 114.

istics, real or seeming, of the group or nation to which he belongs. So long as man is envisaged only as a herd-man, as a recapitulation of the group, it is the group which determines his equality of status in relation to his fellow-men. Outside his national frontier his status is at best equivocal.

Whereas the Old Testament declares that the sins of the fathers will be visited upon the children unto the third and fourth generations, the new political dispensation demands that every individual shall answer for the sins of his community. If the individual is to be held responsible for the deeds of a community, he can only re-discover his personality as distinct from other personalities when his national characteristics are blended with the characteristics of a collective unit which embraces all mankind. In such a collective unit are represented all the widely differing characteristics of the human kind and there is no room for those prejudices which breed suspicion and distrust between man and man.

Equality within a Union of Man implies that all individuals have an *equal* claim to the protection of their *diverse* capacities. To refuse to the individual the right to develop his natural capacities to the full, is a violation of his personality. Equal protection of every individual against wrong implies that neither his fellow-men, nor his own State nor any foreign State, should be allowed to trespass upon his personal freedom.

### III

## FEDERAL UNION

### THE BASIS

The proposal suggested in the previous chapter starts from the idea of equality and finds its ultimate fulfilment in a union of all men. The focal point of this plan is the individual himself: for he is both mediator and recipient of that Justice which is administered by the Great Judges in their capacity as trustees of mankind. The question at issue is how far a Federal Union of States can contribute to this plan.

'The proposal of the movement known as Federal Union is that a number of different peoples should form a common government which will, in certain respects, supersede the existing national governments of those peoples.'<sup>12</sup> Apart from centralising the executive power with the object of abolishing political and economic conflicts between Federal States, the Federal Union proposes to develop 'in the present anarchy of ethics a creed to live for and a principle to live by'.<sup>13</sup> The creed of the brotherhood of man shall then replace the worship of the State and a common sentiment of patriotism shall link together the members of all Federal States.

Within the limited scope of the present theme it is impossible to enter into details of the political and economic implications which follow from the principles of such Federal Union. Nor is it possible to review at this juncture the immediate question of how far the sovereign State could be induced to accept limitations of its sovereignty which would result from the centralization of the

<sup>12</sup> C. E. M. Joad, *The Philosophy of Federalism*, p. 3.

<sup>13</sup> Joad, *ibidem*, p. 36.

Executive. One factor, however, must be taken into consideration.

Irrespective of whether certain specific powers should be delegated to the Federal government, whilst the State governments retain residuary powers, or whether the States should retain certain specified rights, whilst all the other sovereign rights are transferred to the Federal government, the National State—to-day more than ever—identifies sovereignty with the right to practise power-politics. It may be possible to rouse public opinion—the legacy of an intolerant nationalism has already done much to restore political sanity—and to induce national States to surrender the administration of ethical principles to a supreme authority, i.e., to give their sanction to an organization which, rightly understood, in no way interferes with the legitimate functions of the sovereign States. But nothing is better calculated to offend the vanity of sovereign States, whether small or large, than the suggestion of the Federal Union that the administration of foreign policy, the supply of arms and the control of armed forces should be transferred to the Federal Government. It is possible to diminish the exaggerated importance which nationalism and the prevailing concept of sovereignty attach to the physical power of the State. But it is asking too much of the National State to surrender that same physical power on which it still considers, rightly or wrongly, its very existence to depend.

In discussing how the present or an amended Constitution of the Federal Union can best promote a Union of Man, one cannot afford to ignore the imponderabilia of State-reason which still determine the policy of National States.

## FEDERATION OF NATIONAL STATES

It is not possible, within the scope of our present theme, to undertake a detailed analysis of the various legal forms and definitions of State Federations. Once the plan of a Federation of National States has been accepted in principle, its constitution would, of necessity, assume one or other of these forms which would reflect the conditions prevailing at the time. The existing Federal Unions, it must be remembered, are distinct in origin and purpose and it remains to be seen whether the organized establishment of a Federation of National States can be justified by reference to a pattern or formula which has proved to be successful in the past.

The essential difference between the various types of Federation may be briefly summarized as follows:

Certain Federations have their origin in an instinctive group feeling and action: they are expressions of a collective whole. Just as tribes, in the course of their development, have merged into groups and groups into societies, so societies have merged into nations and nations into Federations. These natural associations derive either from tacitly accepted conventions or are determined by irrational factors. In some instances a common language has acted as a social cement, in others they have been held together by a common ruler, by common beliefs or common traditions, customs and usage. In every case the source of their strength was derived from a spontaneous and unhurried growth and from a lasting equilibrium which was created, not by considerations of political expediency, but by the unconstrained will of free peoples. Switzerland and the British Commonwealth of Nations are examples of such spontaneously evolving Federations.

By contrast, the United States of America did not develop automatically out of existing political unities, but owes its existence to the foresight of individual men who, learning a salutary lesson from the political conditions in Europe, drafted a Constitution which Gladstone once described as 'the most wonderful work ever struck off at a given time by the brain and purpose of men'.

When the Union of 1789 was formed, there were thirteen separate American States in existence and each sought to preserve its independence as jealously as the national States of to-day. Their independence did not grow out of historical necessity or popular sentiment; it was the fruit of their common dependence upon the British Crown. At the end of the War of Independence they assumed the character of independent States, because the need for a military alliance against the English Crown no longer existed. When George Washington and Alexander Hamilton set up a Federation they intended to lay the foundation of a new State, to go beyond the merging of existing States. In order to reconcile divergent opinions, they finally compromised between the 'Virginia Plan' which proposed a unitary State and the 'New Jersey Plan' which recommended the continuance of the American League of Friendship, a Confederation similar to the League of Nations. The control of domestic affairs was left to the federating States, whilst in matters concerning federal affairs the central government was authorized to deal directly with the individual citizen.

The American Constitution is not a Law which was made by the State, but a Law which made the State. In order to protect the Constitution the State-executive was

ubordinated to the judicial power of the Supreme Court. But a vital difference distinguishes the American Federation from other Federations. The American Federation embraced vast unpopulated territories which were awaiting exploitation and, in the course of later development, the original thirteen Federal States were increased to forty-eight. The real strength of the Federation of the United States did not lie so much in the fact that thirteen States which could not survive of themselves were welded into a unity, but that the Federation possessed sufficient unclaimed territories from which to create thirty-five additional States.

Finally, between Federations which developed independently without compulsion from without and Federations which represented a new State whose form of government was determined by purely rational considerations many intermediary forms exist. The German Empire of Bismarck, for example, was an extension of the North German Customs Union; thus a purely economic Union was the starting point for a later political Federation.

This reference to Germany raises at once an objection to which every proposal for a federation of National States is open, namely, that a federation of single States or even of all European States, whilst establishing unity and peace between the member States, tends to intensify rather than diminish the rivalry with non-member States or other federations. The idea of a Federation which shall be gradually extended into a World Federation is an illusion. Such a Federation, however peaceful its intentions, both attracts and repels. It relies for its success upon that same physical power which it seeks to abolish and thus endeavours, with the aid of the armed forces of

all federal States united under a central authority, to forge a world unity. The threat of violence by one particular State or Federation necessarily drives other States and Federations to counter-violence.

‘Three powerful contributory forces, militarism, nationalism and capitalism, have raised the Great Powers to a level of power and economic potential such as was never known before, but thereby have brought temptations unknown to the State-reason of former days, when it had fewer instruments of power at its disposal. This very limitation of the instruments of power was the salvation of European mankind and, ultimately, of the States themselves and had constantly curbed excessive power. To-day, the apparent unlimited power of States has been their undoing.’<sup>14</sup>

Will a Federation which seeks to transfer the patriotism of the members of the particular federal States to the Federal Union as a whole be in a position to resist temptations to power and to avoid conflicts with nations against which this new patriotism is directed?

A further objection is no less important. The underlying idea of the American Constitution and of Kant’s essay *On Perpetual Peace* was a federal union which would subordinate power to Law and political caprice to the test of conscience. ‘There is no rational stopping place, once the logic of democracy is accepted, short of the United States of the World.’<sup>15</sup> It was this idea which lay behind the concept of a federation of States one hundred and fifty years ago, many years before the national State came into being. Kant’s idea assumed a division between the spiritual and temporal authorities within the community.

<sup>14</sup> Meinecke, *Die Idee der Staatsraeson*, p. 13.

<sup>15</sup> Mumford, *The Condition of Man*, p. 320.

The individual was, as yet, untouched by the growing industrialism, and the national State which depersonalized the individual whilst it deified itself was not yet born. 'We must extend the authority of the Union to the persons of the citizens—the only proper objects of government',<sup>16</sup> said Hamilton in one of his essays published in *The Federalist*. Does there exist a national State in Europe to-day which is prepared to surrender its rights over its nationals to a central international authority?

The fusion of existing national States into a Federation of National States will in no way neutralize the absolute power which the State of to-day, the body politic, wields over the individual and his spiritual life. A World Federation must be founded in a Union of Men, not in a Union of States. A common ideal which unites all individuals without exception must be substituted for physical power. It is for the men of all States who share this common ideal to take the initiative and give the lead to their own governments.

<sup>16</sup> *The Federalist*, Essay XVI.

## IV

## THE FEDERATED WHOLE

Any federation of States which is based upon the political interests of its members is inevitably open to the suspicion of being directed against other States, a situation which is more likely to intensify than to alleviate political conflicts. Only that federation can claim to be directed 'against' nobody whose condition of membership no longer rests upon political expediency or geographical proximity, but is determined by the willingness of the sovereign State to entrust the protection of the individual to a supreme and State-independent authority.

At the present time 'a certain unification of the world is taking place on the subhuman level of matter and technique, whereas on the human level itself the most savage conflicts come into being. In an apocalyptic upheaval, which imperils the very foundations of life, the advent of men to a new age of civilization is thus being prepared, which doubtless will indicate not only an historical transformation of great importance, for good as well as for evil, in the forms of consciousness and culture, but also the coming of a higher state of unity and integration. In the meantime—and it is this which lies at the root of our unhappiness—technical progress has outstripped the mind, matter has gone faster than spirit. And that leaves to those who would hope only one hope: hope in a heroic effort of spiritualization thanks to which all progress in the material and technical order—a progress we must utilize, not condemn—can at last serve to effect real progress in the emancipation of the human being.'<sup>17</sup>

<sup>17</sup> Jacques Maritain, *Redeeming the Time*, p. 113/4.

The function of the State is to apply its authoritative power for the benefit of the common weal, i.e., to create and maintain a social order that is best suited to the customs, traditions and the particular outlook of the community. Since the State is compelled in the interest of the community to impose certain limitations upon the freedom of the individual, it is not in a position to participate actively 'in the emancipation of the human being', in the creation 'of a higher state of men's unity and integration'. In the conflict of the individual between obedience to the laws of the land and his own conscience, the State is an interested party and cannot act as arbitrator.

The unwritten laws of humanity can only be applied without discrimination and win universal validity when they are administered by impartial and State-independent judges. The submission of the sovereign State to a supreme authority which, as the highest Court of Appeal, is summoned to protect all individuals against wrong that violates generally recognised ethical principles, forms a new starting point for a Federal Union open to all States. Such a Union would neither spring from, nor depend upon Treaties which States are prepared to conclude on the strength of their absolute sovereignty, a sovereignty which enables them, at the behest or in pursuance of State-reason, to withdraw from obligations freely entered into. Membership of States to such a Union shall automatically follow from the voluntary surrender of that part of State-sovereignty which trespasses upon the sphere of ethics and offends against the laws of humanity. Thus every State which recognizes the supreme authority of an autonomous World Court for the pro-

tection of the individual against wrong-doing becomes *ipso facto* a member of the Federated Whole. Such a Federated Whole may prove an ideal means for healing the fissure which is created by the unwillingness of peoples to feel their way into the life and thought of other nations.

This fissure manifests itself in an extreme form in the separation between East and West. The present gap between East and West threatens, unless bridged in time, to widen even further and to divide the world into two mutually hostile camps. Differences of periodicity in growth cycles, varying stages in the evolution of consciousness, different psychic and physiological characteristics, dissimilar life-conditions and environment, in brief, fundamental differences of nature and nurture are some of the factors which divide East from West.

The ideal of non-action, of the harmony of the Yin and the Yang, of the anchorite, the 'angler of the mists and waters' and the teachings of the ineffable and incommunicable Tao have encouraged amongst the people of the East a passive attitude towards life, a spirit of renunciation in face of the ineluctable Laws of Karma. This spirit of renunciation, this surrender to destiny, the hierarchic ordering of society in which each has his appointed station and narrowly circumscribed sphere of action may to some extent account for the spiritual stagnation of the East. 'All that we are is the result of what we have thought'; evil and suffering are self-created through our desires. Cease the unequal struggle to desire, kill the will and peace is yours!—such is the teaching of the East which holds the inner world to be more real than the physical world.

To the Western mind good and evil are closely interwoven in our life. The Pauline injunction to overcome evil with good, the Faustian drive to rise upon our dead selves to higher things, this cult of the will seeks embodiment in action. The Western ideal is one of active interest and participation in the world around. 'An ounce of action is worth a pound of metaphysical theory!' To accumulate wealth, to acquire knowledge, possessions and power; to conquer nature and exploit it for utilitarian ends—such is the message from the West. The Promethean type, the man of action, self-conscious, proud and self-sufficient, is the prototype of Western man. The 'Renaissance-man', the Conqueror, the Warrior and the Hero—Alexander and Caesar, Frederick II and Napoleon—are the idols of the market place. But, in gaining this pseudo-world, Western man has lost his own soul. 'No international or social cure is possible if there is no psychological change. You must change human nature. All the other ills flow from that. Whatever else you do to ameliorate conditions, unchanged human nature will always re-create chaos.'<sup>18</sup>

Human nature cannot be transformed from without, and neither coercive measures nor arbitrary planning will reconcile the conflicting ideologies of East and West. The spiritual life of man admits of no compromise, of no compulsion; it is the only true 'untouchable'. Whilst the Japanese envisages spring through the symbol of a twig in full bloom, the Western artist portrays it through an accurate and faithful transcription of a landscape in springtime. Each must be allowed to discover for himself his own language of symbols, but each must learn to

<sup>18</sup> Gerald Heard, *Man the Master*, p. 243.

understand and respect differences of idiom. East and West will cease to be separate worlds when differences of idiom are tolerated and protected within a Federated Whole.

'Not in Asia alone, but throughout the earth forces are arising, growing, to demand that birth of a new freedom of which Abraham Lincoln prophetically spoke, so that the world shall not be half-free and half-slave.'<sup>19</sup> The plan of the Federal Union to create a World Confederation through a Federation of States is doomed to failure, unless it is realized that the new freedom which Lincoln envisaged depends upon 'a common standard' (i-k'uei) of moral power and not upon Treaties between Nations. A philosophy of peace has yet to be created, whose moral force is sufficiently powerful to strike the weapon<sup>a</sup> of military compulsion out of the hands of the State.

The ravages of six years of total war cannot be healed nor the hatred born of war be eradicated within a short space of time. Despite these years of tribulation man still obstinately believes that arms and armaments, war potential and power politics are the sole guarantees of future security and peace. Only the vanquished have been compelled to lay down their arms and to surrender the industries which supplied them. The President of the United States recently declared 'that the latent strength of untrained citizenry was no longer sufficient protection' and he asked Congress 'to create a military organisation which should provide universal military training'. He added that 'America's geographical security is now gone with the advent of the robot bomb, the rocket, aircraft carriers and modern airborne armies'. Though he empha-

<sup>19</sup> Lin Yu Tang, *Between Tears and Laughter*, p. 21.

sized that he was not asking for conscription, it is obvious that this appeal is not far removed from the ancient 'levée en masse'.

Nietzsche's words of more than fifty years ago are a fitting comment on the world situation to-day: 'The so-called armed peace that prevails at present in all countries is a sign of bellicose disposition, of a disposition that trusts neither itself nor its neighbour, and, partly from hate, partly from fear, refuses to lay down its weapons. Better to perish than to hate in fear, and doubly better to perish than to make oneself hated and feared—this must some day become the supreme maxim of every political community! Our liberal representatives of the people, as is well-known, have not the time for reflection on the nature of humanity. . . . The tree of military glory can only be destroyed at one swoop, with one stroke of lightning. But as you know, lightning comes from the clouds and from above.'<sup>20</sup>

It is vain to look for miracles. Man can only save himself through his own undivided efforts. The individual must come to terms with his destiny; for the spirit of the sword must be substituted the sword of the spirit. 'Evil is that which makes for separateness; and that which makes for separateness is self-destructive. This self-destruction of evil may be sudden and violent, as when murderous hatred results in a conflict that leads to the death of the hater; it may be gradual as when a degenerative process results in impotence or extinction; or it may be reformatory as when a long course of evil-doing results in all concerned becoming so sick of destruction and

<sup>20</sup> Nietzsche, *The Wanderer and His Shadow*, as quoted by Daniel George and Rose Macaulay in *All in a Maze*, p. 340.

degeneration that they decide to change their ways, thus transforming evil into good.'<sup>21</sup>

We are sick of destruction. Let us change our ways. Let us unite in trying to find the best way to transform present evil into future good.

<sup>21</sup> Aldous Huxley, *Ends and Means*, p. 301.

## PART THREE

# Moral Aspects of Economic Justice



# I

## ECONOMIC JUSTICE

JUSTICE is inconceivable without an existing moral order and no order can claim to be moral unless founded upon Justice. The constant changes in man's moral attitude towards life is the reason why, in practice, the concept of Justice has been interpreted in widely different ways. Legal Justice, for instance, is determined by the will of the State, is expressed in Law and bound to Law and by Law. Social Justice implies the just distribution of rights and privileges in accordance with the different Constitutions under which Nations live. Economic Justice, as commonly understood to-day, is bound neither to norm nor to code, but is decisively conditioned by men's conduct in 'the ordinary business of life'.

From the ethical point of view, economic Justice which is primarily concerned with applied economics or, as they are termed to-day, 'realistic economics', has only a limited field of reference. This field must be enlarged to include an economic Justice to which ethical principles of a general nature can be applied and which can incorporate fundamental ideas of eternal Justice.

Through the art of political propaganda the public has been led to expect from economic Justice a permanent condition of material well-being. But 'to say that the end of social institutions is happiness is to say that they have

no common end at all'.<sup>1</sup> There can be no permanent state of happiness for the individual, since 'even when satisfied, the human will can just as little cease from willing anew, as time can end or begin; a final satisfaction of the will that fully satisfies its every ambition is unknown. The will is like the sieve of the Danaides; it knows no supreme good, no absolute good'.<sup>2</sup> Economic Justice does not aim at an absolute good, a 'summum bonum', but at a relative good: it seeks to strike a balance between conflicting interests, a balance which could hardly be achieved so long as total production did not cover man's total needs, and so long as one section of the community could only be satisfied at the expense of another.

At the beginning of the nineteenth century Malthus pointed out that, whereas the existing food supply increased in arithmetical progression, populations continued to grow in geometrical progression and 'that populations could avoid starvation only through limitation by means of the positive checks of continence, or the negative checks of misery, disease and war'.<sup>3</sup> The Malthusian law of population first suggested to Darwin the hypothesis of the 'struggle for existence'. Society became the scene of a permanent struggle in which the fittest would survive if natural forces were allowed to take their course. The ground was thus prepared for a crude economic individualism which soon joined forces with a system of 'laissez-faire'. Every man endeavoured to enrich himself at the expense of his neighbour and nations strove to increase their own prosperity at the expense of

<sup>1</sup> R. H. Tawney, *The Acquisitive Society*, p. 32.

<sup>2</sup> Schopenhauer, *Die Welt als Wille und Vorstellung*, IV, par. 65.

<sup>3</sup> Mumford, *Technics and Civilisation*, p. 186.

other nations or to divert attention from their economic maladjustments by exploiting the poor for the benefit of the rich.

The Malthusian theory is no longer tenable. Thanks to modern technological developments, the total economic resources and productive capacity of the world are adequate to cover the needs of all mankind. Under primitive methods of agriculture the conquest of famine was a question of production, a purely economic issue; to-day, with scientific farming and adequate means of transport, it is a question of distribution, a social issue. In an epoch when productive capacity is unlimited, the responsibility for famine-conditions must be laid at the doors of the modern State. 'In England abolition of want just before this war was easily within the economic resources of the community; want was a needless scandal due to not taking the trouble to prevent it.'<sup>4</sup> If a balance sheet is drawn up in which the world's resources represent the assets, and misery and want the liabilities, it will be found that the assets are far in excess of the liabilities, provided all nations are prepared to pool their resources and to distribute them equitably.

'The Malthus-Darwin doctrine explained the dominance of the new bourgeoisie, people without taste, imagination, intellect, moral scruples, general culture or even elementary bowels of compassion, who rose to the surface precisely because they fitted an environment that had no place and no use for any of these humane attributes.'<sup>5</sup> Economic Justice cannot be reconciled with the naked materialism of an acquisitive society. It seeks to create

<sup>4</sup> *Beveridge Report*, par. 445, p. 166.

<sup>5</sup> Mumford, *Technics and Civilisation*, p. 187.

conditions for a balanced life, to relieve poverty, to prevent the accumulation of excessive wealth and to guarantee to each his rightful share in the world's goods. Mankind, as a united whole, is trustee for the goods of life, and economic Justice is the outcome of an administration which rewards all men in accordance with equitable principles.

## II

### ECONOMICS AND ETHICS

#### THE SOURCES OF CONFLICT

The field of pure economics covers the production and distribution of goods for man's material needs. The effect of economic activity upon the satisfaction or non-satisfaction of the individual raises ethical implications.

From the ethical standpoint the economic problems of all epochs admit of only one answer—'as long as men are men, a poor society cannot be too poor to find a right order of life, nor a rich society too rich to have need to seek it'.<sup>6</sup> Such a right order of life can only spring from the permeation of economic methods with ethical principles. The real cause of our present political and economic discontents is that politics and economics, from motives of expediency, have elected to dispense with ethical principles in practice.

Orthodox economic theories which treat of economics and ethics as unrelated spheres, and socialist theories

<sup>6</sup> Tawney, *The Acquisitive Society*, p. 7.

which seek to integrate both into a single whole, too readily forget the fact that the laws of economics derive from the external world, whilst ethical principles are of transcendental origin. Economic methods which ignore human solidarity can as little promote human happiness as Utopian ideas which attempt to conceal the fundamental acquisitiveness of mankind.

There is no single all-embracing formula which covers the mutual interaction between economics and ethics, because the volume of economic goods at man's disposal at any given time is as much subject to variation as the prevailing moral standards at any given time. One fact, however, is undeniable: a mere increase in the production of goods, even assuming that it may lead to a higher standard of living, will not, of necessity, bring greater happiness. During the last century, food, clothing and housing have improved, both quantitatively and qualitatively, public services have made possible greater ease and comfort and have provided extended opportunities for leisure. And yet, despite the multiplicity of economic goods which modern technological development has conferred upon mankind, man is to-day economically more dissatisfied than ever.

The demand for a higher standard of living can be justified both on economic and ethical grounds. Men living at starvation level are no longer receptive to higher ideals. The sheer necessity for physical survival makes havoc of ethics, for 'pearls are of little use to those who die of thirst in the desert'.<sup>7</sup> But freedom from want alone brings no abiding satisfaction to men. In order to experience the plenitude of life they need the additional

<sup>7</sup> L. Cranmer-Byng, *The Vision of Asia*, p. 31.

stimulus of hopes, desires and aspirations, and of faith in a happier future.

'The accumulations of the materials of external life exceeded', said Shelley, 'the quantity of power of assimilating them to the internal laws of human nature.' Spiritual impoverishment was the penalty of exclusive devotion to material well-being and thus economic prosperity was purchased at a prohibitive price.

When, a century ago, Thomas Carlyle adjured his contemporaries 'to have an ideal in them, to have some Soul in them, were it only to keep the Body unputrified . . . , to dethrone the Brute-God Mammon and to put a Spirit-god in his place',<sup>8</sup> the industrial revolution was still in its infancy and the inducements to amass wealth were fewer than to-day. 'The philosophers of industrialism from Bacon to Bentham, from Adam Smith to Marx, insisted that the improvement of man's condition was the highest requirement of morality',<sup>9</sup> and the expansion and satisfaction of man's material wants were, in their opinion, the best means to this end. The idea that satisfaction could only be achieved through increased production of material goods served to herald the victory of that very Mammon-god whose advent offered, in Carlyle's opinion, the gravest threat to ethical principles.

The evil spirits which the economists of the machine age conjured up have haunted mankind ever since. There was a prevalent notion that the field of economics was related only to the production and consumption of material goods and their exchange on a profit-making basis. And 'at the moment when a vast surplus was available for the

<sup>8</sup> Thomas Carlyle, *Past and Present*, p. 211 (Collins).

<sup>9</sup> Mumford, *The Condition of Man*, p. 304.

goods of leisure and culture, the very ideals of leisure and culture were cast into disrepute—except when they could be turned to profit'.<sup>10</sup> This was not the only consequence of the mania for increased production. Leading economists shut their eyes to the plain fact 'that economic welfare depends on the relation between income and needs and that an increase in income involves, after time of adjustment has been allowed, such an increase of needs that the original relation between income and needs is established'.<sup>11</sup>

Since increased production has added little to the economic satisfaction of mankind there are no grounds for assuming that an artificial restriction of production will, of necessity, bring economic contentment. Human wishes and desires cannot be dictated from without. Compulsory prohibition will not convert the toper to teetotalism. And the fact that Eskimos can dispense with a hot water system is no reason for depriving others of the luxury of a hot bath.

So long as industrial development was exclusively devoted to the satisfaction of man's essential needs, ethical standards were in no way impaired. But a moral crisis was precipitated by the artificial stimulation of human desires for the purpose of increasing national wealth, and by the determination of those who controlled the means of production to wield despotic power over their fellow men.

### SATISFACTION, NEEDS AND DESIRES

The sorry condition of the world to-day shows conclusively that the gospel of Utilitarianism, the gospel of

<sup>10</sup> Mumford, *The Condition of Man*, p. 414.

<sup>11</sup> M. Rousquet, *Weltwirtschaftliches Archiv*, Okt. 1929, p. 174.

'the greatest happiness of the greatest number', has signally failed to bring lasting satisfaction. Most economic theories of the nineteenth Century were tarred with the brush of Utilitarianism. Utilitarianism is an offshoot of Eudemonism which recommends a life of pleasure and the avoidance of suffering. The disciples of these theories believed that individual self-interest—action motivated by expediency—would be to the advantage of all, since the personal satisfaction of every individual would promote the welfare of the whole.

To pursue economic satisfaction is to pursue a will-o'-the-wisp, unless there is general agreement that a morality of action is totally unrelated to motives of expediency and can only be founded on the promptings of the human conscience and upon the natural feeling of compassion in all men. 'Il n'y a que deux amours. L'amour de soi, ou l'amour des autres créatures vivantes. Et derrière l'amour de soi, il y a la souffrance et le mal. Et derrière l'amour des autres, il y a le Bien, il y a Dieu.'<sup>12</sup> The well-being of the whole, the economic satisfaction of all men, cannot spring from an egotism that wears the mask of altruism; it has its source in a feeling of human solidarity which inclines the individual to renounce personal advantage from disinterested motives in the full knowledge of the penalties which that sacrifice may incur.

'Even though the elementary feeling of compassion bids us feed the hungry, refresh the thirsty and succour the needy, this appeal loses none of its cogency when the hungry and needy are reckoned in their millions. And if, of myself, I cannot help these millions and am therefore under no obligation to do so, nonetheless, I can and must

<sup>12</sup> Van der Meersch, *Corps et Ames*, p. 339.

help them with the co-operation of others. My personal duty passes over into a general obligation; it becomes an obligation for me, an extension of my own duty as a member of the whole and its common goal.<sup>13</sup> Though I have the same moral obligation to help the individual in his need as to help the totality in their need, the source of my moral action is in both cases different. It is a spontaneous reaction in the one case and, in the other, conscious volition which releases the springs of moral action.

Between the reality which is perceived with the outward and physical eye and the 'reality' which can only be conceived with the inward and spiritual eye, there exists a dualism which affects every aspect of human life and exercises a decisive influence upon the economic satisfaction of man's needs. In the existential world, the world of physical reality, the ultimate aim is the fulfilment of man's demands; in the transcendental world, the world of spiritual reality, life begins to lose direction and drifts aimlessly when no longer imbued with unfulfilled desires; for the stimulus of unfulfilled desires is needed to overcome the force of inertia, which threatens to paralyse the human soul.

When the temperament of the individual is such that he falls an easy prey to routine and lacks all initiative, nature offers compensation by endowing him with an active urge to imitate. Aristotle referred to the physiological implications of the imitative instinct in these words: 'Imitation is natural to man from childhood, one of his advantages over the lower animals being this, that he is the most

<sup>13</sup> Wladimir Solovjeff, *Die Rechtfertigung des Guten, eine Moral-Philosophie*, p. 427.

imitative creature in the world and learns at first by imitation.' Of the sociological effects of the imitative instinct Tarde said: 'Imitation is a wholly indispensable quality in the continuity of a society—if society is to have any continuity, or, in other words, life. La société, c'est l'imitation!'<sup>14</sup> But it is in the economic life that this instinct shows its most far-reaching effects. 'If apes could experience boredom,' was the cynical comment of Helvetius, 'they would share the fate of human beings', and the modern art of advertising has exploited the simple and obvious truth that most men, like apes, freely imitate others in order to escape boredom.

So long as the hierarchic ordering of society drew a sharp line of demarcation between the social classes, men took for granted a certain disparity between their needs, and the lower classes felt no urge to ape their social superiors. But when feudal society disintegrated and the new conception of social equality captured the popular imagination, the long suppressed impulse to imitate received new and fresh impetus. The egalitarian idea of the French revolution paved the way to the economic individualism of the industrial revolution. Mass-production threw upon the market a wide selection of industrial goods and, whilst in former times man's desires had been largely conditioned by his needs, his needs now became increasingly conditioned by his desires. The tempo of modern civilization is such that it creates artificially more needs than it can possibly satisfy. 'It could have been no hardship to men to do without things that did not exist and of which they have never dreamt; now, on the contrary, they are bound to suffer if they lack these things,

<sup>14</sup> Allen, *Law in the Making*, p. 99, referring to M. Tarde's *Lois de l'Imitation*.

since they have become accustomed to consider them as necessities.<sup>15</sup>

The early stages of mass-production failed to bridge the gap between the different economic classes. 'This gap was glibly accounted for in terms of Victorian economics by a differentiation between necessities, comforts and luxuries. The bare necessities were the lot of the mass of workers. The middle classes, in addition to having their necessities satisfied on an ampler scale than the workers, were supported by comforts: while the rich possessed in addition—and this made them more fortunate—luxuries.'<sup>16</sup> When luxuries, formerly accessible only to the aristocracy of birth or of wealth, were within reach of everyone's purse, then the possessions of one's neighbour became the measure of one's own; for 'men do not desire to be rich, but to be richer than other men'.<sup>17</sup> In an industrialized community where every good, including human labour, was valued in terms of cash, every Lazarus was a potential Dives. In such a world man became the victim of his own acquisitiveness. An insatiable greed for gain lured him to the industrial centres and to the big cities. He fell victim to the general craze for money-making; for it was money that enabled him to purchase the things he most desired. Henceforth, a full purse was thought to be an adequate compensation for an empty life, whilst an empty purse made a full life impossible. Want which existed amidst plenty was a more potent factor for discontent than want which could not be relieved on account of scarcity.

<sup>15</sup> René Guénon, *The Crisis of the Modern World*, p. 135.

<sup>16</sup> Mumford, *Technics and Civilisation*, p. 392/3.

<sup>17</sup> J. S. Mill, *Posthumous Essay on Social Freedom*. Oxford and Cambridge Review, 1907.

Economics has moved in a vicious circle. In order to satisfy the elemental needs of the people, production had to be increased, production methods rationalized, and production costs reduced. This task was solved by the division of labour, by mechanization and mass production. But the more production was mechanized and centralized, the less was purchasing power able to absorb the increased output. Money could buy anything and everything, but only a few had money enough to satisfy their growing desires. A movement, initially intended to satisfy men's demands, led to increased production; increased production, in its turn, stimulated men's needs, but failed to satisfy these needs through lack of purchasing power.

The unpredictable nature of men's needs, satisfaction and desires and the complex issues involved show that the neo-marxian plans for economic reform are oversimplified almost to the point of naivety. Well meaning attempts to end the incessant conflict between needs and desires, expectations and satisfactions, are doomed to failure, since this conflict is necessarily part and parcel of our life and belongs equally to the realm of nature. It is common knowledge that the plant withers if watered too little and becomes diseased if watered too much. The soil in which it grows, the air it inhales, in short the particular conditions under which it develops, determine the quantity of moisture necessary for a healthy growth. The needs of the individual cannot be assessed in terms of statistical averages nor can they be satisfied if statistical findings are made the sole measure of his rightful due. The equal claim of all individuals to economic Justice does not imply that all life must be reduced to a common denominator, but that every individual has the right to live a life which accords with his own peculiarities and propensities.

## NATIONAL WEALTH AND ECONOMIC SECURITY FOR THE INDIVIDUAL

One of the functions of the modern State is to provide for the individual adequate opportunities for a stable life and a contented existence. In the course of its development the national State arrogated to itself a right to a separate and individual existence to which the interests of its citizens were sacrificed.

The political consequences of the personification of the State were the enhancement of the idea of sovereignty, the emergence of a particular State-morality and State-prestige, and the attribution of human qualities to the body politic. And the economic argument in favour of mercantilism, that wealth confers power on the individual and that the State must therefore build up its own wealth in order to develop a corresponding sufficiency of power, was thus heavily reinforced. The sovereign State set out to achieve national wealth without any consideration for the immediate well-being of its individual citizens or for possible repercussions upon the well-being of the citizens of other States.

During the century between the Congress of Vienna and the first World War, the National State pursued two clearly defined aims: to preserve the possessions of the power groups within the State from any encroachments on the part of the unpropertied many and to enlist the support of the many in defence of the possessions of the few. Through appeals to patriotism and, in later years, through the additional promise of economic security, it was hoped to convince the masses that a harmony of interests existed between the traditional interests of the State and their own interests and that therefore, by

serving the State, they best served themselves.

The Napoleonic wars had kindled the spark of nationalism all over Europe and, within a few years after the peace of 1815, the nations of Europe succumbed to reactionary tendencies which denied them political freedom. The patriotism of the people was exploited for political ends and passed over into the extremes of chauvinism, xenophobia and glorification of the self.

The crisis which overtook the national State—a crisis which has not yet ended to-day—first became apparent in the forties and fifties of the last century. The patriotic idealism of the romantics was crushed out by the growing materialism of the industrial revolution. The majority of the population lost contact with the soil and were made to serve the soulless machine. The clash between the group-consciousness of the patriotic citizen and the class-consciousness of the industrial worker, between nationalism and socialism, subjected national unity to a heavy strain.

In the earlier stages of the socialist movement no compromise seemed possible between the national State which, according to Marxian theory, was 'nothing more than a form of organization representing the interests and reflecting the ideas of the dominant class', and a future classless society in which 'each individual should be given the opportunity to develop and exercise all his faculties, physical and mental, in all directions in which therefore productive labour would become a pleasure instead of a burden'.<sup>18</sup> The central idea of the First International was the protection of the toiling masses against their exploitation by the State, by private capitalism, or by

<sup>18</sup> Friedrich Engels, *Anti-Duehring*, p. 25.

both. The various socialist movements represented in the First International were agreed upon the final goal—the social and economic liberation of the working classes—but opinions differed widely as to the best means of attaining this goal.

The First International collapsed because it was found impossible to reconcile the conflicting views of Anarchists and Marxists. The Anarchists sought to establish a new social order by the immediate abolition of the State, the Marxists by 'establishing the dictatorship of the proletariat', i.e., by taking over the power of the State for their own purposes. The Hague Congress of 1872 widened this rift. The split between Marx and Bakunin extended to the socialist groups, and with the break-up of the Congress 'the Great Alliance through the brotherhood of the working man' was destined to remain for ever unrealized.

Whilst the rival socialist groups were divided on the question whether ethical and universal principles or economic and political theory should have first consideration, the national State seized the golden opportunity to take advantage of their dissension. State propaganda was so successful in denouncing every form of anarchism as nihilism and every form of socialism as treason that the socialists abandoned their internationalism and returned to the national fold. Socialist 'Realpolitik' now accepted the principle of State-power which was ready to hand whenever the future socialist State required it. The day which marked the end of the First International saw the birth of 'national' socialism!

The growth of a 'national' socialism as distinct from international socialism was only made possible by forty

years of uninterrupted peace in Europe. During these years economic welfare—that part of total welfare which can be brought directly or indirectly into relationship with the money measure—had reached an unprecedented level in all countries, and the national dividend, the absolute income of nations, was steadily increasing. The long years of peace and the general improvement in the standard of living dispelled the fear of socialists that the Power State was a menace to peace and convinced the Power State that the socialists could offer no effective opposition to power politics. The anti-militarism of the socialists was the relic of their early association with Christian ethics. But, with few exceptions, their anti-militarism was directed less against armaments as such than against the vast profits which accrued to the private manufacturer of arms.

As the membership and political influence of the socialist movement increased within the particular nation, it was less able to offer effective resistance to the excesses of State reason and the gulf between the socialists of the different countries perceptibly widened. Socialists shelved their original idea of a universal union of men in favour of economic security through the State and within the State, independently of—and, if necessary in opposition to—the economic security of their socialist brethren in other States.

In conformity with earlier socialist principles, the more nationally-minded socialists found in the guarantee of economic security a powerful additional reason why the working man should participate in increased production. They ceased to distinguish between genuine and 'false or spurious' security. Genuine security, according to Thomp-

son, an early English socialist, meant 'the exclusive possession by every man of all the advantages of his labour', whilst false or spurious security, on the other hand, was something designed 'to soothe the imaginary alarms of the rich, protecting mere possession, however acquired'.<sup>19</sup> The economic security granted to the industrial worker was simply an artificial substitute for the lack of material goods and spurious, because it was dependent upon arbitrary political changes or was awarded at the discretion of the State which, at all times, was ready to wage war in defence or extension of its power. To entrust the economic security of the working man to the Power-State was to set the wolf to mind the sheep.

The attitude of the broad masses on the one hand, and of the possessing classes on the other, underwent imperceptible modifications which were of decisive significance for the economic and political development of the last seventy years. The unpropertied many felt themselves increasingly drawn towards the national State, whilst the possessing classes looked outwards beyond their own frontiers.

Wherever socialists participated in the direction of the State, the power of the State which they had once coveted in order to destroy it became the most valued treasure in their possession. Stalin's declaration of 1928 that 'socialism could be realized in a single country' finally disposed of socialism's claim to universality.

In contrast to socialists who claimed pre-emptive rights for their own specifically national form of socialism, international financiers and big industrialists, large and small

<sup>19</sup> William Thompson, *Inquiry into the Principles of the Distribution of Wealth*, p. 145/7.

capitalists were prepared to place their common economic interests before national sentiment. Without active co-operation or assistance from the State or even against the will of the State international concerns, cartels and monopolies began to flourish. They felt surer and more confident of themselves than of the State to which they belonged. Between those industries which were directly or indirectly concerned with providing the Great Powers with war materials, an international combine, fraught with the gravest dangers to international peace, grew up. Industrial barons, careless of political alignments or animosities, provided armaments and accessories for any nation which was capable and willing to pay for them. And the industrial worker who forged these lethal weapons unwittingly prepared his own doom. These armaments made possible a new total warfare which, by its very nature, could no longer be limited to the fighting soldier, but was directed indiscriminately against the civil population.

Total war, deliberately planned and ruthlessly executed, is one of the greatest crimes in human history. A brief review of events over recent centuries may possibly offer a tentative explanation why mankind has actively permitted or tacitly tolerated preparations for this crime.

Adam Smith has castigated the economic folly of armaments in these words: 'Great nations are never impoverished by private, though they sometimes are by public prodigality and misconduct. The whole, or almost the whole public revenue, is in most countries employed in maintaining unproductive hands. Such are the people who compose . . . great fleets and armies, who in time of peace produce nothing, and in time of war acquire nothing

which can compensate the expense of maintaining them, even while the war lasts. Such people, as they themselves produce nothing, are all maintained by the produce of other men's labour . . . Those unproductive hands, who should be maintained by a part only of the spare revenue of the people, may consume so great a share of their whole revenue, and thereby oblige so great a number to encroach upon their capitals, upon the funds destined for the maintenance of productive labour, that all the frugality and good conduct of individuals may not be able to compensate the waste and degradation of produce occasioned by this violent and forced encroachment.'<sup>20</sup>

Economic considerations became of secondary importance when, following upon the French Revolution, the majority of nations introduced compulsory military service. Every able-bodied citizen willingly answered the call to serve his country without thought of pecuniary reward for himself. Conscription not only relieved the national State of a heavy burden of expenditure which the maintenance of a professional army would have entailed, but provided also a unique opportunity for moulding loyal citizens. Youth could be steeled mentally and physically, infused with a stern sense of duty and inspired by a spirit of unquestioning obedience. On the Continent, military drill became the counterpart of English sport and the barrack-square of Potsdam the Teutonic substitute for the playing fields of Eton.

So long as industrial development remained in its infancy, the training of young men for military service was not felt to be an economic wastage. Military training provided a natural continuation of school life and an ideal preparation for a future career. But when industrial

<sup>20</sup> Adam Smith, *Wealth of Nations*, Book II, chapter 3.

development offered ample opportunities for productive work, the use of productive hands for unproductive labour had immediate economic repercussions. The economic wastage of an essential part of the population saddled the remainder of the population with additional expenditure, reacted upon the country's peace production and, consequently, diminished the National Dividend.

The development of mechanical warfare brought the national State face to face with a new economic situation. Victory in war was no longer decided by the fighting qualities of the common soldier, but by the use of a quantitative and qualitative superiority in mechanical arms at the right time and in the right place. To this end countless new inventions and discoveries of hitherto unsuspected destructive powers were perfected. The struggle between rival nations to secure the latest and improved types of weapons played into the hands of the rapacious armament manufacturers who seized this golden opportunity to feather their nests. International armament industries began to flourish; they fed the associated industries and stimulated the market for raw materials from overseas. Increased wages for the worker and increased dividends for the investor emphasized the importance of rearmament for economic prosperity. The declared object of armament policy was to avoid war; its real purpose, however, was to maintain economic prosperity, even at the cost of peace. Inevitably therefore, a nation's war potential became an essential part of its peace potential.

Warnings against the dangers of an armaments race to the future peace of Europe passed unheeded, until the Czar surprised the world by inviting all nations to a disarmament Conference at the Hague in 1899 and again

in 1907. In the first Conference all European States, U.S.A., Mexico, China, Japan and Siam participated and in the second forty-five States in all. The first Assembly skilfully by-passed the Czar's initial proposal for universal disarmament by the resolution 'that the limitation of military expenditure was desirable'! Having disposed of the embarrassing question of disarmament, the second Assembly then proceeded to codify the rules of war, a codification which was epitomized in the Preamble at the Hague Convention IV: 'According to the views of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war *as far as military requirements permit*, are intended to serve as a general rule of conduct for belligerents in their mutual relations and in their relations with the inhabitants'.

The provisions of the Hague Convention IV which, in legal terminology, are usually referred to as the 'Hague Regulations', are popularly known as the 'Laws of War'. These so-called 'Laws of War' are not Laws which serve the ends of justice, but are 'instructions of the Contracting Powers to their armed forces, how to make war'. Apart from specific humanitarian regulations concerning the treatment of wounded and prisoners-of-war, these Laws are, on the whole, not of a prohibitive, but of a permissive character, and, by lending a pretence of legality to the crime of total war, they defile the very name of 'Law'.

The breakdown of the disarmament conference failed to shake the people out of their complacency or to wean them of their false sense of security. All unbeknown to them, the time-honoured distinction between members of

the armed forces and civilians had for ever lost its significance and the innumerable cruelties of modern warfare—economic pressure upon the enemy, the starvation of women and children, the use of all kinds and all degrees of force—had now found their sanction through the Laws of War.

National economics which were increasingly dependent upon production of arms created an atmosphere of suspicion and uncertainty. The political events of 1914 precipitated a catastrophe which had long been impending during the preceding years of armed truce. 'To some extent imagination, to a much greater, instinct is warning the mass-men that war will be the end of all things, because it now involves the social organism in the sacrifice of its own life.'<sup>21</sup> The 'mass-man' was fully alive to the evils of war, but lacked the knowledge and necessary insight to understand the factors which made for war. Once war was declared he stood helplessly before a *fait accompli* and was powerless to reverse the course of events.

The passive toleration by the European people of an armament policy as a guarantee for peace can best be explained by the persistence of two deep-seated prejudices.

The first was a touching faith in economic stability, a legacy of the facile optimism and proud self-confidence of the spacious days of the late nineteenth century. There was no problem, so it was believed, which could not be solved by the inventive genius of mankind, and not a day passed that did not bring some new contribution to progress. Life seemed a glorious adventure in the best of

<sup>21</sup> John Middleton Murry, *The Necessity of Pacifism*, p. 37.

all possible worlds. 'Progress', said Herbert Spencer, 'is not an accident, but a necessity. It is certain that man must become perfect!' The second was the firm conviction that the destructive power of modern weapons was such as to render a war between the European peoples unthinkable.

The outbreak of the War in 1914 was not seen as the end of an epoch, but as an unhappy accident, as a political blunder which would be rectified by a few months of fighting. An early return to the piping days of peace would end for ever the horrors and conflicts of the past. In effect, however, these pious hopes were never fulfilled. In every respect man was the loser. The individual once more succumbed to the national State, to the collective unit, and nationalism triumphed over the Laws of morality.

During the first World War the time-honoured principle of International Law 'that war was a contention between States through their armed forces only' and 'that the life and property of those private subjects who did not directly or indirectly belong to the armed forces ought to be safe' had become a dead letter. The common people who had been induced by the State to sacrifice their lives for the sake of a better future found themselves at the end of the war faced by a future which gave them little hope of an economic satisfaction such as they had enjoyed in the past. War memorials and rolls of honour were the posthumous rewards of the dead; suffering, impoverishment and despair were the bitter lot of the survivors.

The belligerent nations—both victors and vanquished—saw the collapse of the capitalist system on which their political power had rested. Despite the hatred and bitter

antagonism of war, State-reason was anxious to perpetuate the idea of national sovereignty and to gloss over the true conditions of economic bankruptcy amongst the nations. By collecting reparations from the vanquished, the victors hoped to be discharged from bankruptcy, even though it soon became only too obvious that the reparation-demands could never be fulfilled. Subsequently, the defeated nations were granted loans which enabled them to meet their debts out of their creditors' money. In a short space of time 'the world was caught within a network of unreal ghosts of personal obligations. A situation arose in which the whole world was, in theory (but the theory was acted on), head over heels in debt to itself. Huge sums of money were owed to nobody and withdrawn from circulation to liquidate that spectral debt.'<sup>22</sup> The mutual indebtedness between nations—an indebtedness not only between victors and vanquished, but also between the allies themselves—was not the sole reason for the economic collapse of the post-war years. The real cause lay deeper; scarcely was the private capitalism of pre-war days cast into disrepute, than a new form of capitalism emerged which the Power States practised for their own ends. In the following context this form of capitalism is termed 'State-capitalism'.

### STATE-CAPITALISM

The term 'State-capitalism' has widely different connotations in different languages and a precise and unmistakable definition is called for in order to obviate possible misunderstanding.

<sup>22</sup> Owen Barfield, *Equality*, vol. 7 of the *Quarterly Review of Anthroposophy*.

At first sight, State-capitalism seems to be a contradiction in terms; for, in the opinion of the majority, the decisive characteristic of the capitalist system is that the means of production are privately owned and that production is carried out for private profit. Such an interpretation does not do justice to the true causes which have brought the capitalist system into discredit. The moral conscience of mankind has been mobilised for the struggle against the system of private capitalism, not so much because the means of production were privately owned as because they were misused for selfish ends to the detriment of the community, and because the legitimate title of the capitalist to adequate profit resolved itself into an increasing demand for excessive profits entailing the exploitation of workers and consumers. From the moral standpoint it is of little moment who owns the means of production; the vital question is how and for what purpose they are used.

The State-capitalism which gradually developed between the two World Wars is a system which places the control of the means of production *de facto* or *de jure* under State-autonomy and enables the State to assess the economic needs of the single individual and to impose its own conditions. The main purpose of private capitalism is profit-making; of State-capitalism, the maintenance and extension of the power of the State. Though these two systems pursue different aims, they reveal the same defect—for the realization of both systems the moral element, the economic satisfaction of the individual, is of secondary importance.

It is too often forgotten that in the economic process the working man plays a dual role, i.e., that he is both

a producer (or an active agent in production), and a consumer. He is in no way better off when, as a worker, he is protected by the State against exploitation at the hands of private capitalists and at the same time, as consumer, is denied his legitimate share in the world's economic goods. Holding dictatorial powers over production, the State is in a position to persuade the worker that guns are more necessary for his economic welfare than butter. And, ultimately, the consumer can be induced to content himself with those goods which the State, at its own discretion, is prepared to supply.

The tendency of State-capitalism to standardize everywhere the economic life of individuals appeals to those nations whose social and political development is still in its infancy. It is true that within such nations the introduction of State-capitalism increases, relatively to the past, the living standard of the vast majority. The certainty that Jack shall receive neither more nor less than his master brings deceptive consolation to that section of the population which has never known a better life. The effect of State-capitalism upon those nations which were accustomed freely to exchange the fruits of individual labour on the world market, is of a different order. The individual no longer enjoys the freedom to determine for himself his own essential needs, and standardization imposed upon him impoverishes both his economic and spiritual life.

However different in form and method the various economic dictatorships as practised by communist, democratic and other national States alike may be, these dictatorships are almost identical in principle. Whether the State exercises a monopoly over exports, imports and

means of production as in Russia, or practises autarchy and imposes currency restrictions as in the Third Reich, or curtails freedom of action by prohibitive tariffs and embargoes upon the exports and imports of goods and of labour as in other countries, all these devices are insignificant variants of one and the same system, a system that transforms the State into an individual capitalist and converts the individual into a cypher.

State-capitalism is frequently confused with nationalization, a confusion which is all the more dangerous as State-capitalism and nationalization are different in origin and aims. State-capitalism is an off-shoot of the modern Power-State which has adopted the methods and egotistic aims of private capitalism and exploited them for its own purposes. The idea of nationalization—i.e., socialization within the State in contrast to universal socialization—can be traced back to Greek philosophy: in the third century B.C. Plato refers to 'an ancient saying that friends have all things in common'.<sup>23</sup> With certain modifications the Platonian idea was revived by the Christian Fathers and numerous medieval thinkers. St. Thomas Aquinas speaks of 'quantum ad hoc non debet homo habere res exteriores ut proprias, sed ut communes' (however many worldly goods man possesses, they are his not to own, but to share in common) and Thomas More of a Utopia 'where every man has a right to every thing and though no man has anything, yet they are all rich'.<sup>24</sup>

Upon the religious and ethical foundation of joint ownership of goods and co-operation in services was super-

<sup>23</sup> *The Laws*, Book V. 739 (Jowett's edition, Vol. 5, p. 12, i).

<sup>24</sup> Thomas More, *Utopia*, p. 162/3—*Ideal Commonwealth*, (Universal Library).

imposed the custom of ancient Germanic Law which created associations (*Genossenschaften*) where the whole was jointly owned by all members (*Gemeinschaft zur gesamten Hand*) in contradistinction to associations of Roman Law in which every member owned an individual (a 'several') share of the whole (*Gesellschaft zu Bruchteilen*). This custom established a common ownership in forests, farmland, pastures, dyke-land and agricultural equipment which were placed at the disposal of the community whilst the benefits derived therefrom were communally shared.

Historically, the co-operative movement of the nineteenth century is the application of the medieval idea of common ownership in the sphere of joint production and consumption. In England, the Rochdale Society of Equitable Pioneers of 1843, the Wholesale Societies in Manchester and Glasgow of 1865 and 1869 and the Co-operative Union, in Germany the Agricultural Association of Raiffeisen and the Craft Guilds of Schulze-Delitzsch, in France the ever increasing number of 'Sociétés Co-operatives de Consommation'—all these foundations embody the same fundamental idea, the idea of common ownership, mutual aid and co-operative services. It is this idea which has paved the way to nationalization.

State-capitalism aims at increasing national wealth and the national dividend in order to guarantee to the body politic economic satisfaction and an extension of its power. Nationalization, though it may trespass upon the particular interests of a few, seeks to protect the individual from exploitation and to guarantee to all individuals an equal claim to public and social services and equal rights to goods

which are owned by the nation as trustee for the whole.

The difference between State-capitalism and nationalization in the economic sphere has its political parallel in the difference between State sovereignty and State independence. State-capitalism and absolute State sovereignty are concerned to identify the State with an individual, to endow it, economically and politically, with all the characteristics of a single and separate life and to relieve it of its true mission, the protection and care of the individual citizen. Nationalization and State independence, on the other hand, are natural expressions of the common interest on the part of all individuals united within the State to enjoy the advantages of an ordered social existence without sacrifice of their national distinctions. The parallel between the two equally conflicting tendencies in the economic and political sphere shows the common determination of the national States to preserve their absolute sovereignty even at the cost of sacrificing the last remnants of the freedom of the individual.

A few selected examples may serve to illustrate the gradual political and economic enslavement of the individual between the two World Wars.

During the first World War all belligerents gave solemn assurances that they were not fighting against the enemy peoples, but against their regime and the leaders who represented them. After the war, they declared that since every nation was blessed with the government it deserved, each single individual must be held jointly and separately responsible for the actions of his country. A newly coined term — self-determination — was used to pin upon the individual responsibility for events and circumstances beyond his control. Whilst, formerly, the stupidity of the

masses had placed them at the mercy of their rulers, in the post-war years that same stupidity encouraged them to believe that self-determination through universal suffrage made them masters of their own destiny. Plebiscites were held, though the training and experience of no average man could qualify him to have any opinion at all upon those intricate problems which were left to the arbitrament of the general will. With an almost frivolous disregard for economic requirements, economic units which had been slowly built up through generations were now rudely torn asunder. The former twenty-six customs districts of the European continent were now increased to thirty-eight.

The gift of national self-determination provided a heaven-sent opportunity for the majorities in politically immature countries to suppress their rivals with the support of Law. Before 1914, the individual's pattern of life was determined by the power of the State. But 'there was no doubt that, should a State venture to treat its own subjects or part thereof with such cruelty as would stagger humanity, public opinion of the rest of the world would call upon the powers to exercise intervention for the purpose of compelling such State to establish a legal order of things within its boundaries sufficient to guarantee to its citizens an existence more adequate for the ideas of modern civilization'.<sup>25</sup> After 1918 the sovereign State, appealing to the self-determination of its citizens, claimed the right to dictate the entire pattern of the individual's existence. It now appeared 'to be a governing rule or assumption for which it is difficult to find specific

<sup>25</sup> Oppenheim-Lauterpacht, *International Law*, Vol. 1 (5th edition), par. 292, p. 509.

authority that international Law regards a State as being invested for international purposes with complete power—*vis-à-vis* another contracting party—to alienate and otherwise affect the rights of its nationals, both proprietary and personal, to surrender their property and claims and to impose liabilities upon them'.<sup>26</sup>

Before the first World War, the national States were reluctant to face up to social problems: but they would never have dreamed of refusing to the individual freedom of movement or the right to sell his labour wherever he wished. Under stable economic conditions, accumulation of wealth was the fruit of hard work and thrift: but once the livelihood of the citizen was assured, his income and earnings were free from currency fluctuations. Under the rule of self-determined States the working man enjoyed neither freedom of labour nor security for the rewards of his labour.

The sovereign States in their role as economic dictators repudiated any suggestion of their interdependence. They used every art and artifice to make themselves economically independent of other States, and, at the same time, to draw other States into their own economic orbit. The established law 'that the quantity of money in circulation must always and everywhere bear the same relation to the extent of goods in circulation' was abandoned. Money ceased to function as an international standard of value. Currencies were manipulated and dumping was practised with the sole object of conquering new markets and underbidding foreign competitors. Though article 10 (bis) of the Paris Agreement for the protection of industrial rights 'prohibited all competition which offended against custo-

<sup>26</sup> McNair, *The Law of Treaties*, p. 337.

mary decency in industry and trade',<sup>27</sup> the States did not hesitate to contravene the law which they themselves had promulgated. The exchange of goods was no longer determined by the natural laws of supply and demand, but by the competitive interests of the various States. Economic life no longer followed the policy of 'give and take' upon which the natural exchange of goods is based: it became a bureaucratic preserve with endless forms, formalities, restrictions and prohibitions which blocked the channels of trade with paper regulations. Banks were relegated to the status of State agencies, and capital was ultimately diverted from productive ends to preparations for war.

Export at all costs became the battle cry of all nations in their struggle for economic survival. And echo answered 'Down with imports!' Subsidies were granted to home production to forestall foreign competition on the home market and exports were subsidized in order to force an entry into foreign markets: in every case the onus of payment fell upon the taxpayer. Intensified production coincided with diminishing consumption. International banks and concerns collapsed overnight and one State after another went off the gold standard. The business world was swept by a wave of speculation. The most disastrous result of the general economic collapse was the rising tide of unemployment which soon engulfed the whole world.

In meetings and conferences ways and means were sought to arrest the economic landslide—free currency or controlled currency, free trade or protective tariffs, private initiative or planned economies. But all theories

<sup>27</sup> Compare the wording of the Hague amendments in November, 1925.

were heavily weighted with the bias of State-reason. A remedy for the economic crisis was out of the question so long as the political interests of the sovereign State took precedence over a just distribution of the world's goods.

Whilst political factors may well have helped Mussolini and Hitler into the saddle, it was the economic chaos created by State-capitalism which kept them in power and enabled them to arm and prepare for total war. The idea of the State as an economic person culminated in the battle-cry of the 'haves' against the 'have-nots'.

The system of private capitalism was one of the contributory factors of the first World War, and the system of State-capitalism created conditions which ended in the second World War. The moment has now come to divest the State of its economic omnipotence, and to secure for the individual his just economic due.

The lot of the ordinary man is no whit the better through the transference of economic power from private capitalists to national States. Sun Yat-Sen's teachings about the pitiless rich apply with equal force to the pitiless' sovereign States. 'Father Heaven and Mother Earth had never given to the few the right to abuse, for their own satisfaction, the properties of the millions. The Supreme Being had never given to the rich and powerful the exclusive use of the wealth which was the product of the labour and sweat of the millions . . . The sun with its radiant face, the earth with its treasures, the world with its joys, are a common good that must be taken back out of the hands of the few, in order that they may be universally enjoyed by the millions.'<sup>28</sup>

The future of mankind cannot be entrusted to a system

<sup>28</sup> *The Teachings of Sun Yat-Sen*, p. 24.

which allows the State, in the guise of a benevolent *pater familias*, to decide arbitrarily what shall be produced and consumed, exported and imported, a system which allows governments to squander the National Wealth in a political gamble, in the competitive struggle between Leviathan and Leviathan. In the eyes of State-capitalism the State becomes an end in itself. But, clearly, the State cannot be an end in itself because it is summoned to serve the individual and mankind!

The individual can no longer expect to find economic Justice within the framework of present national economies. He must look beyond a closed system to the wider field of global economy.

### III

## WORLD ECONOMY

The introduction of ethics into the future economic relationships of mankind presupposes two conditions. First, that within the framework of future world-economics, the just economic claims of each individual, irrespective of nationality or race, shall be taken into consideration and be met on a basis of Equity and Justice. And secondly, that the world's economic resources shall be pooled and adapted to ends which shall subserve universal Justice. The idea of a moral order which embraces the twin poles of the single individual and the totality of global economy must seem to the professional

economist a flight of fancy. But if economics are to be implemented by ethical considerations and if a new atmosphere of social understanding is to permeate human society, it is precisely these two polarities which will have to be reconciled.

### THE INDIVIDUAL

It is not the Nation, the State, the body politic, the social class or the economic group, but the individual who is the bearer of moral values—actively when he creates them, and passively when he accepts them. From the standpoint of morals, every individual is acknowledged to be an end in himself; from the economic standpoint he is viewed solely as a potentially valuable means of production. In his standard work *The Economics of Welfare*, Professor A. C. Pigou quotes two passages which illustrate this point. The first refers to Germany and is taken from Dawson's book *The Revolution of Modern Germany*, published a few years before the first World War. 'We know what the old Germany gave the world, and for that gift the world will ever be grateful; we do not know what modern Germany, the Germany of the overflowing barns and the full argosies, has to offer, beyond its materialistic science and its merchandise . . . The German systems of education which are incomparable so far as their purpose is the production of scholars and teachers, or of officials and functionaries, to move the cranks, turn the screws, gear the pulleys, and oil the wheels of the complicated national machine, are far from being equally successful in the making of character or individuality.' The other, referring to England, is taken from Dickinson's *Letters from John Chinaman*. 'By your works you may be

known. Your triumphs in the mechanical arts are the obverse of your failure in all that calls for spiritual insight . . . Your outer man as well as your inner is dead; you are blind and deaf. Ratiocination has taken the place of perception; and your whole life is an infinite syllogism from premises you have not examined to conclusions you have not anticipated or willed. Everywhere means, nowhere an end. Society a huge engine and that engine itself out of gear. Such is the picture your civilisation presents to my imagination.'

Whatever the services the individual performs for the benefit of mankind, his economic reward is usually determined quantitatively by the cash value of his services. 'We have profoundly forgotten everywhere that cash-payment is not the sole relation of human beings; we think, nothing doubting, that it absolves and liquidates all engagements of man.'<sup>29</sup> If realistic economics is to take moral factors into account, then a new scale of qualitative values must be established.

Hitherto, applied economics have studiously ignored these values. Non-economic man has been virtually ostracized and the worker has been sold in bondage to the machine. In reviewing the pamphlet *Tools for the Next Job*, issued by the Tory Reform Committee, an article in *The Times* of March 5, 1945, pointed out that 'the American industrial worker produces perhaps twice as much in an hour as the British worker, not least because he has at his disposal twice as much horsepower, mechanical power and power-operated equipment'. The object of this article was to show up the tardiness of British methods of production. At the same time, our eyes

<sup>29</sup> Thomas Carlyle, *Past and Present*, p. 163.

are opened to an ethical wrong, namely that the British workman is compelled to double his output in order to redeem the innate conservatism of his master. Neither an economic nor a political goal offers any moral justification for using sweated labour in order to economize in horse-power. If a particular nation can produce certain commodities under more favourable conditions than its neighbours, then the exploitation of men in order to compete on equal footing violates fundamental principles of economic Justice.

It is a sorry fact that with the advance of civilization land and capital have come to be rated more highly than the human beings as a means of production. A single example will suffice to illustrate this point. Labour, raw-material and capital, the three essential elements of peace production, are implemented in wartime by a fourth, namely by men's lives. In the war balance sheet of the year 1918, war credits, i.e., the expenditure of money and goods, were entered in their full value. But the item for 'killed or mutilated men', which represents their ideal value as individuals apart from their real labour value, was not entered in the books. An alliance between nations for the purpose of victory in war cannot be compared with a profit-making partnership in peace-time. In assessing the relative contributions of allied nations only two alternatives present themselves. Either the loss of goods and the loss of men is taken into account, or both must be ignored. The Lease-Lend Act of the second World War chose the second alternative. In computing the total damage of the first World War, no allowance was made for the loss of life and no protest was raised against such elementary violation of ethics.

This example is not unique of its kind. The non-valuation of human life is not a legacy of war or war-fever only. In peace-time nations clamour for export at all costs and home producers demand protective tariffs and the closing of frontiers against foreign competition. In the name of an intensified export drive and under the pretext of increasing national wealth, the individual is forced to accept a steady reduction in his standard of living. Economic experts suggest that the growth of unemployment should be countered by family limitation, the spacing of births, abolition of machinery and even a return to craft-work!

In a world that values goods and money above human life moral values are ignored. Only a world economy that takes every individual into account and recognizes everybody's right to life as a supreme value can restore the supremacy of ethical principles.

## GLOBAL ECONOMY

'Wealth', as generally defined, 'consists of the stock of marketable goods which, in his struggle to overcome scarcity, man has built up for the satisfaction of his wants.' Modern society, however, is not subject to the autonomy of mankind, i.e., the totality of individuals, but to the authority of States. The wealth of the world was never, and is not even to-day, joint-property at the common disposal of man; it represents the sum total of the wealth of single nations. World economy, therefore, is not, at present, an independent combine with its own property and organization, but an abstract conception. The various

national systems are not affiliated to a single and common concern, but are independent competitors. There does not exist a world economy in which production and distribution are so organized that they are capable of meeting the needs of all mankind at any particular moment.

World economy is to be regarded as an organism with its own peculiar characteristics. The analysis of any organism and its component parts appears to show no difference between an isolated element which forms part of an organism and an organism which is a unity of different elements. Formerly, Newtonian physics regarded every particle of matter as an independent entity; but to-day the sum of separate entities, no matter how varied their forms, is considered to be a unity of primal and universal energy, and this new physical conception has been of decisive importance for the development of natural science. World economy can no longer be considered as an accidental or artificial co-ordination of independent economic units; it must be viewed as an independent organism subject to its own biological laws. This is the starting point for a new orientation in economics.

This parallel between the organism of world economy and the organism of man should not be confused with Hegel's organic theory of the State. Since the economic life of man forms part of his organic life and since the development and organization of economy shows many essential points of similarity with the biological development and organization of human life, an organic theory may justifiably be applied to economics. Whilst the single organs in man are built up and developed apparently independently, they are nevertheless directed by a central

will. Through constant interaction the cell-formations react upon the individual organ, the individual organs upon the total organism and the functions of the total organism, in their turn, react upon the individual organs and cells. No single organ, however varied its functions, can function without being nourished and directed from a common centre. The health of the single organ is dependent upon the well-being of the total organism and upon a regular and healthy circulation which invigorates and nourishes every organ of the body. Disease in a single organ affects—directly or indirectly—the functioning of other organs, and unless treated in its early stages will endanger the health of the main organism.

To-day world economy is in a primitive state somewhat similar to the condition of man in prehistoric times. It is only in the last few decades that science has begun to discover new and unsuspected forces in nature and to release hidden sources of energy. The combination of geology and chemistry into a specialized branch of science is a new departure. Atomic energy, cosmic rays and the investigation of the ocean beds are new fields of research. These discoveries are of global significance and, of necessity, will basically transform the structure of world economy. 'Instead of a series of parallel systems, the world has conceptually become a single system and if it still cannot be unified by a single formula, it is even less conceivable without positing an underlying order that threads through all its manifestations.'<sup>30</sup>

World economics form part of a single world system from which all life springs. From the identification of world economics with a living organism composed of

<sup>30</sup> Mumford, *Technics and Civilisation*, p. 369.

countless single organs and cells, the following conclusions can be drawn. A universal organization of economics should not seek to arrest the development of the single organs which are capable of functioning of their own accord, and should protect these single organs from outside interference. Attempts to ascertain at random the best form of economic system and to plan its economic development according to a fixed scheme must fail for the same reason that it would be absurd to plan a child's career at birth. The right of nations to self-determination is not confined only to the choice 'of the form of government under which they will live'.<sup>31</sup> Every nation has equally the right to pursue its own Beveridge plan. And the new organization of world economics must provide an 'opportunity for every nation to pursue its own plan undisturbed.

The essential difference between the human organism and the organism of world economy is that the single organs in man, as a consequence of aeons of development, follow specific laws of functional purpose, whilst the single organs of an unfolding world economy are uncorrelated to any specific end. The single organ of the human body is only duplicated or multiplied when functional necessities demand it; the duplication of the same organ serves to safeguard and to enhance its actual and potential functions, but in no way claims to replace the potential activities of other organs or to compete with them. The natural subdivision of functions amongst the single organs of man ensures the smooth functioning of the whole. The real cause of economic disequilibrium is that the organism of world economy which follows the principle of the division of labour does not yet exist!

<sup>31</sup> Atlantic Charter, Point III.

The law of the division of labour does not cover the manufacture of the single finished product alone. It applies equally to human energy which must be directed to the right place at the right time and for the right purpose. So long as the independent State could supply its own needs, the organic structure of economics was limited to the State. In order to be economically independent the State exercised the function of a total organism and the principles of the division of labour were valid only within the sphere of the State's power. In place of husbanding human labour by a proportionate division of productive work between the nations, the States exploited to the full the labour of their nationals. The various States strove to increase their economic and political power, squandered the national revenue in unproductive undertakings, and so did irreparable damage to their own economic organism.

From the moment when, as a consequence of technical development, the economic self-sufficiency of nations became unworkable and their interdependence an urgent necessity, autonomous world economy was urgently needed in order to ensure not only a regular exchange of goods, but a division of labour within the total organism of world economy. The need was imperative, because in the words of Aldous Huxley, 'We are on the horns of a dilemma . . . During the last few years most of the governments of the world have had to choose between two almost equal evils. Either they could abandon the victims of economic maladjustment to their fate; but such a course was shocking to decent sentiment and, since the sufferers might vote against the government or even break out into violent revolt, politically dangerous. Or else,

they might help the sufferers by imposing a governmental plan upon the economic activity of their respective countries; but in this case they reduce the system of international exchanges to chaos and increase the probability of general war. Between the horns of this dilemma a way lies obviously and invitingly open. The various national governments can take counsel together and co-ordinate their activities, so that one national plan shall not interfere with the workings of another. But, under the present dispensation, this obvious and eminently sensible course cannot be taken . . . Twentieth century political thinking is incredibly primitive. The nation is personified as a living-being with passions, desires, susceptibilities. The National Person is superhuman in size and energy, but completely subhuman in morality. Ordinarily, decent behaviour cannot be expected of the National Person, who is thought of as incapable of patience, forbearance, forgiveness and even of common sense and enlightened self-interest . . . No scheme of co-ordinated international planning can be carried through, unless all nations are prepared to sacrifice some of their sovereign rights. But it is in the highest degree improbable that all or even a majority of nations will consent to this sacrifice. In these circumstances the best and most obvious road between the horns of our dilemma must be abandoned.'<sup>32</sup>

Is this eminently reasonable suggestion still impossible of realization after six years of war? Can the national State, as tribal divinity, still prevent a chastened world from entering upon the path which 'lies obviously and invitingly open'? Have nations not yet realized that the autonomy of an economic world organization is one of the

<sup>32</sup> Huxley, *Ends and Means*, p. 39/40.

most essential conditions for safeguarding their own independence?

The fear that an autonomous world-economy would threaten the existence and development of natural political units is as unfounded as the fear that a universal economic community can only be established by sacrificing the rich and varied social and political life of the individual nations. It is precisely in the diversity of their functions that lies the value of every organ and of every individual cell for the organism of world-economy. And it is precisely because a harmony between the different interests and an appropriate division of productive work presupposes the existence of a common organism that the single organs demand an autonomous world-economy.

### STATE INDEPENDENCE AND ECONOMIC INTERDEPENDENCE

Interdependence in the economic sphere presupposes that even the authority of the State is subject to the autonomy of an international organization, whose duty, in co-operation with the State as executive organ, is to define the basic principles of a world economy and to carry them into effect. The realization of an autonomous system of world economy, i.e., economic interdependence, increases rather than diminishes the sovereignty of the State; for the modern State, endowed with sovereignty and a monopoly of legislation, is subject to an evolutionary process which is termed 'devolution' in legal philosophy. 'This process has been forced on European peoples by the ever-growing complexity of social structure . . . Much of the time and interest of any government in power is

taken up with purely political expediencies which have little to do with the prosaic business of supplying the needs of the community.'<sup>33</sup> Because of the excessive demands made upon it, the modern State has been compelled to hand over a portion of its legislative power to other autonomous legislative bodies.

Imperceptibly States have developed within the State. Autonomous groups, often better organized than the State itself, have stolen its thunder, have made and unmade governments and have directed State policy in their own interests. These autonomous economic groups which to-day are concealed beneath the cloak of the national State would to-morrow be ready to take over the official heritage, if economics were not divorced from politics and politics from economics. Economically the State must be neutralized.

The autonomous groups and associations which strive for economic power within the State undermine its sovereignty and their international fusion threatens its very existence. Every form of economic interdependence, practised without the consent of the State or in defiance of the State's will, undermines the sovereignty of the State. An autonomous world economic system established with the co-operation of the State is the strongest guarantee for the maintenance of national independence. The State depends upon an ordered system of economics; an autonomous system of world economy upon an ordered State. An exchange of goods which satisfies the common interests of the world, a world economic system which is unhampered by national ambitions, permits every State to concentrate on purposeful tasks which serve cultural

<sup>33</sup> Allen, *Law in the Making*, p. 442/3.

ends and enhance the national standard of living.

It is clear that an autonomous world economic system could not command the independent economics within the sovereign States. Such a system must provide for economic co-operation and for the preservation of economic units even when such units are sub-divided politically or distributed amongst particular nations.

A familiar example from history illustrates this point at issue. A century ago, there were constant political and economic conflicts between the petty German States which guarded their sovereignty as jealously as the European States of to-day. The creation of the Prussian Customs Union of 1833 was dictated by necessity and within a short space of time put an end to the economic crisis from which the German people had long been suffering. •

Economic interdependence makes an end of the tyranny of autonomous economic groups and associations which imperils the position of the individual in the economic field no less than the tyranny of the State in the political field. This does not imply that these autonomous groups should be deprived of their legitimate functions or be hindered in the exercise of the legitimate interests which they represent. The regime of economic interdependence must depend upon the co-operation of the State and the support of these autonomous bodies. Autonomous economic interdependence need not interfere with legitimate interests. Its aim is to unite all parties concerned and to reconcile the interests of the State, of industry and business on the one hand, and the interests of the workers and the individual on the other. In the event of a conflict of interests, the sectional interests of the State, of class or group must be surrendered in favour of the

common interests of mankind.

An autonomous world-economy would finally realize the idea which led to the foundation of the League of Nations. The League of Nations failed (see Part 1, p. 35) because its own autonomy and the autonomy of the organizations created by it were permanently subjected to State sovereignty and could not therefore survive in face of State-protected groups. The existing autonomous organizations of the League of Nations, particularly the International Labour Office in Geneva, the Institute for Cultural Co-operation in Paris and the various committees which were engaged upon economic, financial, social and humanitarian problems, form a natural framework for an organized autonomous regime of world-economy. Institutions such as the International Agricultural Institute in Rome, the International Statistical Institute in The Hague and the International Chamber of Commerce in Paris and countless other international associations can serve the same purpose.

But the drones of human society cannot be destroyed overnight. It is unrealistic to suppose that man's acquisitive instincts can be eradicated and his soul be compulsorily socialized. Good and evil are too closely interwoven with the fabric of our lives for the struggle of conflicting interests ever to cease. None the less, it is possible to create an authority which, trusting to the goodwill of a peace-loving world, shall alleviate injustice, anticipate economic conflict and settle differences by just arbitration.

'Social solidarity is nothing but the fact of interdependence uniting the members of human society, and particularly the members of a social group by reason of

the community of needs and the division of labour.<sup>34</sup> This is the essence of Duguit's *Le Droit Social* and of his teaching of social interdependence. But even Duguit has been compelled to admit 'that the law of social interdependence is insufficient to meet the case. Something more is needed, namely the sentiment of pity for human suffering. Whether it be acquired or innate matters not: it is one of the most precious attributes of civilised man in the twentieth century, it must find a place in our ruling political system, which would comprehend every aspect of man.'<sup>35</sup> The autonomous system of economic Justice must be founded on interdependence: if, in the economic sphere, every individual is treated in accordance with ethical principles, he is the more likely to acknowledge ethical principles in his personal life. Through sympathy and empathy, through mutual co-operation and mutual joy in their work and its results, men will wake to a sense of social solidarity.

<sup>34</sup> M. Duguit, *Le Droit Social*, p. 6 f.

<sup>35</sup> Duguit, *idem*, p. 67 f.

#### IV POPULATION STATE REASON AND THE POPULATION PROBLEM

To-day, mankind is confronted with a new and unprecedented situation which is destined to be as revolutionary in its effects as formerly the transition from cattle breeding to agriculture and from primitive handiwork to modern mechanization. Synthetic substitutes are increasingly replacing natural products. The working-up of raw-materials and the exploitation of natural resources in the home country are cutting across the monopoly of products from overseas.

Between 1929 and 1931 the trade turnover of countries outside Europe fell from 165.6 to 81.7 milliards Swiss francs<sup>36</sup> which represents a decrease of about 51 per cent., whilst the decline in the European turnover amounted only to 36 per cent. The recent war has intensified this critical situation. Almost all the nations at war have been compelled to readjust their economy in order to economize their raw materials and to eke out their supplies with the aid of substitutes. Only the years following the war will show to what extent the advance of technics has taught nations to make a virtue of necessity and to rely upon their own production.

In all European countries, in the Dominions, in U.S.A. and in Russia, new industries have been built up and a considerable number of these industries is dependent upon synthetic products. The era of a world economy which depended to a large extent on the exchange between agricultural and industrial countries or between countries

<sup>36</sup> According to table of the Swiss Statistical Bureau, 1931.

which supplied the raw-materials and countries which produced the finished goods is now over. The independence and self-sufficiency of European nations and of the United States are things of the past. The choice before them is clear—either they must safeguard and conserve a world-wide basis of exchange of goods or suffer impoverishment and ultimate ruin. The economic problem is no longer a question of the manufacture and distribution of goods, but extends also to the distribution—the exchange, the specialization and co-ordination—of labour.

In so far as technical progress has limited the undeserved benefits derived from the accidental ownership of natural resources, it has swept away one of the main obstacles to economic co-operation between nations. At the same time, this same technical progress has shown mankind how imperative is the need to rationalize labour and, instead of competing against each other in the uniform production of standardized goods, to make full use of the diverse capacities of men. The vital function of a world economic system lies in balancing as far as possible the import and export of goods and in promoting a natural give and take. As a consequence, the problem of the production and distribution of goods cannot be solved satisfactorily so long as the problem of the distribution of population remains unsolved.

In civilized countries the rise in the peace-time birth-rate and the extension of the average expectation of life through improvements in hygiene and medical science have led to a constant increase of population within densely populated areas. Furthermore, through the development of modern technics populations have been increasingly concentrated in industrial centres.

The redistribution of large sections of the industrial population over rural areas will not solve the problem of over-population in highly industrialized countries. The densely populated countries of Europe cannot maintain their own populations owing to shortage of arable land. They are, therefore, under the necessity of working at full industrial capacity in order to pay for their imported food-stuffs by exporting industrial products. Even if it were possible to ascertain statistically how the total working-potential of a country could most effectively be exploited, and even if, in accordance with these findings, the population could be compulsorily distributed over town and country, economic dis-equilibrium would still persist so long as the sum total of the population which is capable of productive work is in excess of the total labour force which could be gainfully employed. The consequences of enforced idleness affect directly the unemployed and indirectly those who are actively employed. Provision for the economically non-productive section of the community, such as the very old and the very young, is a social duty, and, equally, those who are denied the right to work through no fault of their own must be provided for.

Unemployment is not the only disturbing element in the economic life of over-populated nations. Equally with unemployment the lack of 'sufficient hands' for the production of the necessary economic goods endangers the living standard of a nation. When the normal ratio between the various age-groups within a particular nation varies, because the number of productive hands is reduced in relation to the total population, then not only the amount of work, but also the share in the total taxation

which falls upon earned income increases per head of the working population. Excessive taxation which falls upon the working population results in a perceptible reduction in their standard of living, and any sacrifices for the sake of the common weal will be felt as an unjustified curtailment of the reward which the individual expects for himself.

Unemployment, labour shortage, and the many anomalies of modern economics are neither unavoidable nor in accordance with natural laws, as so many Neo-Hegelians maintain. Active measures to make an end of these evils have never been undertaken because an insurmountable barrier exists between State-reason and moral laws, between the expediency of national economy and the claim of the individual to freedom of work and freedom of movement.

It is commonly accepted that the 'morality of group persons can only be social morality'.<sup>37</sup> This morality is an artificial morality which, according to requirements, either exploits ethical principles or ignores them. 'Social ethics renders primary and virginal moral acts and valuations impossible; they become overlaid with the social layers of beliefs and preconceived ideas of the group, the family, the class, the party, and so on, so that the pure and free moral judgment is not to be discovered. The greatest task of moral life lies precisely in detecting the primary, virginal moral act, not vitiated by social suggestions.'<sup>38</sup> Only a narrow margin separates social morality from 'national socialism' and—a morality which is parochial in its outlook is actively hostile to all outside the parish.

<sup>37</sup> E. H. Carr, *The Twenty Years Crisis 1919-1939*, p. 205.

<sup>38</sup> Berdyaev, *The Destiny of Man*, p. 121.

The laws of ethics cannot be reconciled with a State morality which acknowledges the sanctity of human life in peace-time, yet denies it in war-time. And they are equally irreconcilable with a State morality which calls for an increased birth-rate without first ascertaining whether the nation can provide a tolerable standard of living for the projected increase.

The expansionist policy of the national States was a policy of production for production's sake. It aimed at an increase of goods and men alike without consideration of the possible contingencies which might arise therefrom. Economically, the type and quantity of goods produced is determined by the desire to seize new markets and secure a profitable return; the needs of the consumer are of secondary importance. Politically, the national State, in its population policy, failed to equilibrate productive labour and productive hands. Rather did it seek to create reserves of man-power which could be usefully employed for peaceful or warlike purposes as the need arose, but which were thrown upon the dole when their services were no longer in demand. A surplus of goods differs from a surplus of men in this one respect—goods can be stored for future use, but man's labour cannot be allowed to lie fallow.

The 'proletarii' were the creation of ancient Rome. Those citizens with limited incomes who served the State solely through the breeding of a numerous progeny (proles) were exempted from taxation and termed 'proletarii'. The modern proletariat is the creation of the national State which, by appealing to the patriotism of its citizens and to the religious injunction 'to multiply and replenish the earth', advocates the procreation of an in-

creasing number of children without any forethought for the moral responsibility of the parents for the future of their children.

A nationalistic policy which the modern State feels in duty bound to pursue from motives of self-interest clashes with ethical principles, even when it sincerely strives for social betterment within its own autonomy. To what end the systematic reduction of child-mortality when more people perish in a single battle or a single air attack than are saved from premature death in early childhood through public health services? The French general Condé anticipated the answer to this question when he dismissed the public protest at the heavy losses suffered in a single battle with the cynical remark that these losses could be easily made good in a single night of spring. A similar moral conflict arises to-day when the extension of the average expectation of life evokes the cynical comment that the old are an unconscionable time dying and that the falling death-rate is a threat to a rising birth-rate! But the national State is guilty of the worst violation of ethical principles when, in the name of increasing the population, it destroys family bonds, takes possession of the child's body and soul and offers to convert youth, free of charge, into loyal citizens and faithful members of the collective whole. This youth enters upon its career already labelled, ticketed and docketed. Sociability blunts the edge of individuality and group-loyalty takes the place of filial affections.

The population problem is not solved by methods of State-reason which practise birth control behind the Chinese wall. It is not the affair of the State to relieve parents of the responsibility for the well-being of their

children. But it is the duty of the State to provide guarantees that future generations are free to roam the world over so that parents can take upon themselves, without qualms of conscience, the responsibility for bringing children into the world.

### DISTRIBUTION OF POPULATION

State reason has invented the myth that the welfare and prestige of a nation depend upon a permanently fixed and stable population bound to the soil. This myth does not differentiate between the various stages of the intellectual development of peoples. It stretches all men upon the same Procrustean bed and seeks to confine them forcibly to their environment. The legend of 'blood and the soil' perverts love of the homestead into hatred of all things foreign and makes the native beauties of a country which the slum dweller can never know at first hand an instrument of nationalistic propaganda.

The love of free men for their homestead rests upon their certain knowledge that freedom is theirs. Any limitation of this freedom, even the restriction of freedom of movement in the world, strikes at the very root of freedom, and humanity revolves in a squirrel's cage if, in the face of grinding poverty and political oppression, the transference of men and their labour from one country to another is arbitrarily withdrawn.

The British Commonwealth of Nations has grown out of a bond of kinship between its members. It is no mere extraneous love of landscapes and institutions, but a deep, inner, spiritual bond which holds together the English-speaking peoples of the world, peoples who have learned from their motherland that the freedom of the individual

is the most sacred privilege of the human race. Freedom of movement, freedom of settlement and labour are preliminary conditions for the establishment of economic Justice. If the autonomous regime of world economy cannot arrange for the transference of the surplus population from Europe and Asia to unpopulated territories, then economic instability and unrest will inevitably persist.

At the beginning of this century Professor Albrecht Penck, the former President of the Geographic Society of Berlin, estimated after careful scientific investigation that the optimum population of the earth was eight milliards, if all economic possibilities were fully exploited and the populations ideally distributed. At present, the entire population of the earth amounts to approximately two milliards. 80 per cent. is spread over Europe and Asia, 7 per cent. live in Africa, 9 per cent. in North America, 3.5 per cent. in South America and 0.5 per cent in Australia. Professor Penck produced a statistical survey to show that a distribution of population determined by natural conditions would produce an entirely different result. 26 per cent. of the total population would fall to Europe and Asia, 29 per cent. to Africa, 14 per cent. to North America, 25 per cent. to South America and 6 per cent. to Australia. The populations of Europe and Asia have virtually reached saturation point to-day and, even with the full employment of all economic resources, these two continents, in Penck's estimation, cannot support more than two milliards if they are to avoid economic collapse.

## LAND AND LABOUR

In dividing the unexplored territories of other continents amongst themselves the colonizing European Nations have incurred obligations as well as rights. In Utopia envisaged by Thomas More it was considered inadmissible 'for a nation to hinder others from possessing a part of that soil, of which they make no use, but which is suffered to lie idle and uncultivated; since every man has by the law of Nature a right to such a waste portion of the earth as is necessary for his subsistence'.<sup>39</sup> The national State has always rejected, and still rejects this idea as utopian. Though the colonizing European nations have made full use of their acquired rights, they have failed to fulfil their obligations to colonize the vast tracts of uninhabited land within these territories. Lack of technical equipment in the past may offer a partial explanation for this failure, but in view of the technical achievements of the last few decades, such an excuse can no longer have any validity to-day. Instead of making full use of existing opportunities, man, under the influence of a misguided nationalism, has striven to exact the utmost from the soil of Europe, only to exhaust himself in the struggle for ownership, whilst vast open spaces in other continents are crying out for immigrants.

Amongst the many suggestions for exploiting undeveloped territories a Munich geologist drafted, forty years ago, a detailed plan for the irrigation of the desert areas of Central Africa. The Congo and Zambesi rivers possess vast reserves of water power which have not yet been utilized. This plan proposed to dam the Congo and Tchad rivers and the Somerset Nile south of Victoria Falls and

<sup>39</sup> More, *Utopia*, p. 102 (Universal Library).

to create three artificial inland lakes. A waterway from Lake Tchad to the Mediterranean should be fed from the water of these inland lakes. An area greater than that of Europe was to be reclaimed in order to provide work and an asylum for men of all nations.

Quite recently it has been shown that such a project or similar projects present no insuperable difficulties to modern engineering. 'Scientists familiar with the convulsive forces released by the splitting of the atom of Uranium 235 have suggested, on more than one recent occasion, that the tremendous power thus available to mankind could be used for gigantic engineering projects hitherto considered commercially impracticable. To appreciate the vast potentialities of the split atom in work of this nature it is only necessary to recall the statement that one pound of Uranium 235, split at uncontrolled speed, is equal to the explosive force of 1,000 tons of T.N.T. In view of the ease with which explosive material of hitherto unknown power could thus be transported to inaccessible parts of the earth, it has even been suggested that mankind now has in its hands the means to implement Isaiah's prophecy that "the desert shall rejoice, and blossom as the rose". To accomplish this apparent miracle, atomic power could transform great desert tracts into a landscape of hills and craters, enabling lakes to be formed, irrigation canals to be constructed, and vast unproductive areas to be made into agricultural lands'.<sup>40</sup>

The end of the war offers unique opportunities for ending national rivalries and organizing the emigration and transference of peoples. The total costs of converting the vast uninhabited areas of Africa into productive

<sup>40</sup> Article on Massive Engineering Schemes, *Illustrated London News*, November 17, 1945.

settlements for millions of immigrants would be but a small fraction of the money expended on six years of war or on unlimited armaments in peace-time over an unspecified number of years. Commissions of work distributed amongst the various industries of all countries will help to facilitate the transference of industries from war- to peace-production and a substantial part of war materials which otherwise would be scrapped could be usefully employed. In contrast with former epochs, the lone pioneer need no longer reclaim the land with the primitive tools of billhook and spade. This work of reclamation will be undertaken by modern technics supported by the division of labour. It will be the duty of responsible authorities to provide the necessary public services. Whatever nation claims sovereign rights over the African territories which to-day are desert land or primeval forest and to-morrow are brought under cultivation by the industry of colonists—the fact remains that the political sovereignty of a particular nation over unexploited territories must be sacrificed to the economic sovereignty of a world regime. It would take us too far to enter into the political structure of those territories whose national autonomy is surrendered in favour of international administration. The simplest solution is to follow the pattern of those mandated countries which are administered by a single nation and to create denationalized areas which are placed under the mandate of a world regime.

In the dispute over inhabited areas such as Danzig and Trieste the Great Powers were willing to compromise by accepting the principle of internationalization. It should not pass the wit of man to find a similar solution for

uninhabited areas by allowing them to become the property, not of a single nation, but of all nations.

Within the new community the settlers shall be free to continue the activities of their own professions. Not the old life and new work, but the old work and new life await them. 'The property which every man has in his own labour, as it is the original foundation of all other property, so it is the most sacred and inviolable.'<sup>41</sup> The essence of personal freedom is that each individual shall be free to choose his own work. So long as millions of industrious and willing men cannot find an outlet for their labour, all fine words about the liberty of mankind will be so many empty phrases. When the work which a man can fulfil is no longer in demand, his most sacred possession is denied him. Labour as a commodity can only be exchanged freely in the world-market where 'every labourer is worthy of his hire'.

To-day men are denied freedom of work. The words of Adam Smith which characterized the England of 1776 are equally applicable to the world situation of our time. 'The obstruction which corporation laws give to the free circulation of labour is common in every part of Europe . . . To remove a man who has committed no misdemeanour from the parish where he chooses to reside, is an evident violation of natural liberty and justice. The common people of England, however, so jealous of their liberty, but like the common people of most other countries never rightly understanding wherein it consists, have now for more than a century together suffered themselves to be exposed to this oppression without a remedy.'<sup>42</sup>

<sup>41</sup> Smith, *Wealth of Nations*, Book I, chapter 10, part 2.

<sup>42</sup> Smith, *ibidem*, Book I, chapter 10, part 2.

Since those days mankind has grown no wiser. The word freedom is nowadays on everybody's lips, but freedom of labour and freedom of settlement have yet to be realized.

Protection of home labour by tariffs and refusal of labour permits to foreigners, attempted enforcement of wage increase by strikes or of a return to work by the threat of lock-outs—these are some of the crude devices adopted to keep the economic machinery running. Classes, groups and professions are anxious that no outsider shall interfere with their inherited rights and the noble army of Blimps whose sole claim to fame is their privileged position, fights tooth and nail against the competition of intelligence. Whilst paying lip service to the idea of freedom and economic Justice, men and nations remain fundamentally attached to the idea of blood and the soil.

In our time economic goods are the only products of human labour which are thought to be deserving of a just reward, and the solution of the economic problem is regarded as the be-all and end-all of our existence. Through this descent into materialism the idea of freedom has never really been understood and the concept of Justice has been forgotten. Economic Justice is not an end, but a means. When men are no longer harassed by the fear of insecurity, they will have the opportunity to realize freedom and Justice in their own lives and, compounded as they are of good and evil, will come to know each other a little better.

## V

## EPILOGUE

The future is fraught with danger.

We have lived through six years of war, a war unparalleled in its horrors. Mankind now at peace longs for a new and better world. The solemn promises of Justice, reconstruction and an end to war have a deceptive ring. Our high hopes are dashed when we realize, as we turn the pages of history, that after every war men have cherished similar illusions and harboured similar expectations which flattered only to deceive. 'The realist', 'the practical man' contemns ideas and ideals alike because they ruffle his complacency and spell danger to his cherished privileges.

Never was the need more urgent to make an end of traditional economic methods and to open up new paths, yet never was it so easy to revert to the old habits. The need to make good the shortage of commodities, the necessity for reconstruction and repairs in a war-damaged Europe create a temporary economic boom and silence the war-time demand for fundamental changes in the existing economic system. Unfortunately, the modern Bourbons who have learned nothing and have forgotten nothing are already demanding that public services of a universal character shall be subordinated to sectional interests and that, economically, the national spheres of interest—on land, sea and air—shall be rigidly demarcated. Nationalism is again reviving with redoubled intensity.

The present moment provides a unique opportunity for harmonizing the economic interests of all States with the demands of ethics, with the moral claims of all individuals. If, and this point has been stressed already, a continuous

'give and take' between nations is imperative for national wealth and if freedom of labour and movement for the individual is a prerequisite for the peace of the world, then to-day is the opportune moment and it is doubtful if it will ever recur.

We know that earlier attempts to enforce migration upon sections of a population have met with insuperable opposition. The fact that the Japanese could not be compelled to leave their island for settlement in Manchuria, that certain negro tribes resisted eviction from their villages to escape slave labour in the rubber plantations, is no criterion that war-weary Europeans would not be prepared voluntarily to emigrate in order to find peace, freedom and a living, wherever it is offered them.

It is fortunate that suffering mortals forget their ills the moment their pains are over . . . But pain is nature's danger signal which one cannot afford to ignore. Only in the conscious memory of past suffering is mankind prepared to undertake a radical cure. Let us throw open to all displaced and uprooted peoples a country which grants entry without permit, freedom without discrimination, community life irrespective of nationality and work for everyone in accordance with his capacities! It will then be found that common suffering has created a moral bond which will soon prove to be stronger than the chains with which the power of violence enslaved the man of yesterday.









