

**HEGEL'S EARLY CRITIQUE OF THE FOUNDATIONS OF MODERN
SOCIAL CONTRACT THEORY**

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İSTANBUL BİLGİ UNIVERSITY

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HEGEL'S EARLY CRITIQUE OF THE FOUNDATIONS OF MODERN
SOCIAL CONTRACT THEORY

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GRADUATE SCHOOL OF SOCIAL SCIENCES**

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**(HEGEL'İN ERKEN DÖNEMİNDEKİ MODERN TOPLUMSAL SÖZLEŞME
KURAMI TEMELLERİ ELEŞTİRİSİ)**

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**PHILOSOPHY AND SOCIAL THOUGHT
Master Thesis**

**Advisor
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ABSTRACT

The aim of this thesis is to show that both the modern social contract theories of Hobbes, Locke and Rousseau and the Young Hegel's critique of these theories are normative. In the first chapter, I present the outlines of this study. In the second, I try to critically evaluate the grounds of social contract theories of Hobbes, Locke and Rousseau in terms of the distinction between theoretical and practical knowledge. In the third, I present the main tenets of Hegel's early epistemology in relation to his critique of social contract. The last chapter consists of my presentation and critical analysis of Hegel's theory of right and society with reference to his early writings like *Difference Between Fichte's and Schelling's System of Philosophy*, *Natural Law* and *System of Ethical Life*.

ÖZET

Bu tezin amacı, hem Hobbes, Locke ve Rousseau'nun toplumsal sözleşme kuramlarının, hem de Genç Hegel'in bu kuramları eleştirisinin normatif olduğunu göstermektir. İlk bölümde, bu çalışmanın anahatlarını sunuyorum. İkincisinde, teorik ve pratik bilgi ayrımı açısından Hobbes, Locke ve Rousseau'nun toplumsal sözleşme kuramlarını eleştirel biçimde değerlendirmeye çalışıyorum. Üçüncü bölümde, Hegel'in erken dönemindeki epistemolojisinin ana ilkelerini, toplumsal sözleşme eleştirisiyle ilişkili olarak serimliyorum. Son bölüm ise *Fichte ve Schelling'in Sistemleri Arasındaki Fark*, *Doğal Hukuk* ve *Etik Yaşam Sistemi* gibi erken dönem metinleri aracılığıyla ortaya konan Hegel'in hak ve toplum kuramının serimlenmesi ve eleştirel analizinden oluşmaktadır.

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I. INTRODUCTION

A. The Aim of The Work

The theories of the social contract in modern time defend the view that the origin of the state and civil society is a convention of men. As far as society is seen as a matter of human creation whose beginning is not known, there emerges the need for the justification of the origin. An inquiry into the possibility of justification turns into a problem of knowledge which entails demonstration in order to make the knowledge of the origin valid for all times and places. The known history of men does not supply the need for such justification. However, the philosophers of the social contract focus on the qualities of men living in a society in order to find the origin of convention through these qualities. This attitude in methodology leads them to create an artificial or possible history which is determined in accordance with the common characteristics of men. Hobbes, Locke and Rousseau apply this method which requires the division of the whole, which is the object of inquiry, into its parts, and they reintegrate them as fixed particulars into the whole so that its nature can be known through the parts. According to this point of view, the society that is formed is the unity of particular individuals who voluntarily join that society, and then, who submit themselves to the government of a political body, which is the result of their unity. In order to justify the foundation of political body, also the individual is to be decomposed into its constituents such as feeling, desire, need, belief, reason, understanding and so on, that it could be possible to construct the knowledge of the nature of human being.

This method is borrowed from natural sciences that allow men to explain a certain natural phenomenon in terms of a determined common measure. Because only through such fixation, it is possible to discover the laws of the formation of society and the state.

The laws concerning the practical matters of human life are tried to be derived in the same way that the laws of theoretical science are found. In fact, what furnish the ground of reliability of natural sciences are the universally accepted axioms of geometry, the principles of mathematics and arithmetics and the rules of logic. Hence, any study of an object, if this study is to be raised to the level of a science, must be done with adequacy to the axioms or principles of these certain sciences. But whereas an object in nature can be conformed to such science, a human creation like society can not, since the latter proceeds from the complex process of human convention and it is artificial according to the philosophers of social contract. This inconsistency reflects itself as the incommensurability of theoretical science with practical science, or in the distinction between theoretical wisdom and practical wisdom, or through the opposition between theoretical reason and practical reason. In order to solve this problem, the philosopher tries to find the rules of the practical, and to liken them to the laws of the theoretical. Hence, in this way, he tries to justify his claims on morality, justice, natural right, the formation of society and of government. However, this attempt results with the normative claims about the object of study and turns into a dogmatic commitment to an idea of a utopia. In Hobbes, it is the attempt to justify both the need for the restoration of civil society after the civil war, and the need for a powerful and enlightened sovereign to protect the unity. We see in Locke that he tries to ground the formation of political unity in order to protect the right of the industrious and morally cultivated individual over his own life, freedom, property and value of his labour. For Rousseau, the aim is to demonstrate the necessity for a free and equal political order, in which each has an equal right to vote and a right to join the government and in which no citizen is subjected to another through his work.

In this dissertation, one of my aims is to show how the dogmatic character is inherent to the theories of Hobbes, Locke and Rousseau by discussing each approach in and through itself with regard to the separation between the theoretical and the practical

knowledge. Second, I will try to present the main tenets of Hegel's early philosophy in accordance with its significance for the possibility of uniting these two realms both in epistemology and political philosophy. Lastly, I will try to critically analyze Hegel's critique of the modern social contract theory with respect to the discussions about right, freedom, community, morality and legality that are brought by Hobbes, Locke, Rousseau, Kant and Fichte.

B. The Plan of the Work

My discussion about Hobbes through his *Leviathan* is focused on exposing the deficiencies of so-called demonstrative quality that he tries to conform to his account for the formation of body politic. According to Hobbes, philosophy or science is divided into two as natural and civil. Natural philosophy deals with having the knowledge of consequences from quantity, motion and quality of the accidents of natural bodies, whereas civil philosophy with the consequences from the institution of the commonwealth, such as duties and rights of both sovereign and subjects. For Hobbes, the convention is a necessary result of human passions. A passion is explained in terms of a physical phenomenon of motion, which emerges in cause and effect relation and which is studied by physics that is a natural science as a part of the theoretical science. However, the discovery of the consequences of motion that causes change in man is made possible through one's reflection upon his own self, not through the observation of external beings in motion. Accordingly, the knowledge of the nature of man becomes dependent on the proper reflection of one's own self, so that he will then be able to foresee the feelings, passions and thoughts of others. But the knowledge of the nature of man can not be held as a problem of natural science or civil philosophy, rather it is a matter of practical "wisdom." It is through which the origin of the formation of society and government can be explained,

because it is a problem of education in practical matters, habit and prudence.

Nevertheless, it is at the same time the acceptance of the failure in the articulation of the mechanistic explanation into the study of the nature of man, which Hobbes himself admits. Therefore, the legitimacy of sovereignty that Hobbes tries to ground, through showing the necessity of the formation of society of the separated individuals, who are motivated to act merely by their passions, is not derived as a consequence within theoretical science. But it is tried to be shown as true in accordance with the practical wisdom which admits no proof other than the reflection of each man on himself in order to have the knowledge of the nature of man. Hence this knowledge is supposed to justify the foundation of government. Consequently, I will try to show that Hobbes's theory imposes itself as true, but in terms of a non-justified ground.

According to Hegel, modern philosophies try to deal with the problems that they posit through the opposition that is put forward, such as between reason and nature, subject and object, understanding and sensation, freedom and necessity, thinking and being, individual and community, theoretical and practical. But modern philosophies up to Hegel can not unite them in a higher synthesis according to him, rather, they attach themselves to one of the opposed elements or make an incomplete mixture of them which results with the reduction of one element to another. This proceeds mainly from the free act of thinking which is a function of the understanding that attempts to set itself as the sole determinant of the laws of the object studied rather than discovering the inner necessity of the object in accordance with Reason.

In Hobbes, reason is considered as instrumental so that its function is reduced to that of understanding which can make logical inferences, calculation and connection of things perceived in certain context. Hence, Hobbes's approach can not overcome the oppositions rather merely posits and maintains them. In the same way, as I will try to discuss as the second, right after Hobbes, Locke adopts two antagonist approaches for the justification of

the explanation of his account of the formation of society as a result of his conception of reason in his *Essay on the Law of Nature* and *Second Treatise of Government*. Locke considers human mind as *tabula rasa* (empty tablet) and it is furnished with the content that comes from sense-experience. Reason is a discursive faculty which operates on the simple ideas that are obtained from the content. It forms complex ideas from these simple ideas, like from the idea of a single object perceived, to the idea of God. Both sensation and reflection are the sources of knowledge. Reason can reflect upon the object sensed which stands for the object of understanding and can obtain the knowledge of the things unknown or not sensed like axioms of geometry and the principles of morality. According to Locke, moral laws are deduced from the complex idea of God and of His will. In this sense, moral ideas are supposed to govern human action and are what constitute the natural law. However, Locke is aware that moral laws are ineffective and not obligatory since they need effort to be deduced by a rational human being. In order to explain the formation of civil society, he appeals to the desire for self-preservation which leads men to establish a political body to protect themselves, their property, labour and rights to enjoy their property. I will try to show in details how Locke employs the hedonistic principle for the demonstration of the establishment of political body, and that this is inconsistent with his views on moral principles that are expected to be valid for all places and all times. As I will discuss, Locke's theory of the natural law falls short of explaining why there is a necessary relation between the theoretical and the practical as a result.

I will develop a critical reading of Rousseau's approach which has certain common characteristics with that of Hobbes and Locke in terms of the antagonistic nature of modern philosophy. Rousseau in his *Second Discourse* and *Social Contract*, although he does not explicitly develop a specific type of epistemology, objectifies nature in his physical investigation¹, as opposed to the capacity of reason. In this sense, reason and nature seem separated from each other. Like Hobbes and Locke, also Rousseau develops a conception

¹ Leo Strauss, *Natural Right and History* (Chicago: The University of Chicago Press, 1965), p. 266.

of the state of nature where each individual was to live independently from others. The qualities of men in the state of nature are determined through abstraction from some specific qualities of men living in society. Apart from others, Rousseau takes into consideration that these qualities of men may have changed throughout history. Nature seems first to have an ambiguous use in Rousseau's theory. On the one hand, it is the condition of perfect freedom so that it is desirable for the individual who is born free but in chains in modern society, on the other hand, it is the negative aspect of the spiritual and rational development of individual in society, so that it must be overcome. In this sense, reason and nature are not reconciled, because the perfectibility of man necessitates reason to prevail. From this opposition, Rousseau infers that men must organize themselves so that they will be free almost as in the state of nature, minimize the economic inequalities that are brought by civil society, mitigate the negative effects of the social life (that has caused to lessen the compassion that individuals have naturally), and make the laws by themselves. But in order to establish such organization properly, Rousseau thinks that it must be founded by a wise legislator, who can also teach men to discriminate what is right from what is wrong when they will be legislating. Accordingly, Rousseau's critique of modern bourgeois society turns into a normative one which has its origin in the investigation of the true nature of man. The determination of the capacities and qualities of man is instrumentalized in order to justify the foundation of the ideal of a good life for all. Rather than making his critique in terms of the inner laws of the society by considering it as a whole, Rousseau imposes a transcendent utopia which is to be embodied through the enlightened founder and the unity of atomistic individuals.

I will present the objection that the Young Hegel brought to the normative critiques of philosophies. Those critiques do not focus on the inner necessity of the laws of the subject matter and so they transcend the task of philosophy. According to Hegel, these philosophies do not restrict themselves with “what is” that is to be comprehended by

philosophy within its totality in certain period of history. This tendency in philosophy, which offers the transformation of society or tries to justify the existing condition through its arbitrary determinations concerning human nature and society, stems from the free act of thinking. Whether it is empiricism (we can count Hobbes, Locke and Rousseau in this category) or formalism (Kant and Fichte), it is a philosophy of reflection which merely produces conflicts and contradictions through free thinking of the understanding and it is not able to reconstruct the identity of oppositions that it posits. The work of reason is replaced with that of the understanding which can not conceive in a whole, the differences like subject and object, reason and nature, or understanding and feeling. Philosophy of reflection displays in itself the bifurcation in the modern social life such as the separation of legality from morality, or the tension between economy and politics, or the alienation of individual from his community. Rather than reconciling them, it deepens and causes them to root also within philosophy. Therefore, according to “the need of the time” as Hegel says in his *Difference*, it is again the task of philosophy to make a critical analysis of modern bourgeois society and modern political philosophy through demonstrating their “formal” character in terms of speculative philosophy. I will try to show this formality of philosophy of reflection which is seen in its epistemology and political philosophy.

In Hegel's epistemology, speculation refers to the God-like vision of the whole. Spirit and nature are the different degrees in the comprehension of this whole, they are not separated. Like the Christian God intuitively himself through his creation, consciousness that is spiritual can intuit itself as one with nature in the absolute point of indifference in which the subjective and the objective are identical. Such conscious identity can only be reconstructed through philosophy, art and religion. Whereas philosophy provides the theoretical aspect of this identity, the practical is intuited through the work of art and in the religious ritual. In this context, also art and religion are the types of awareness of consciousness besides the theoretical cognition through intellectual intuition in philosophy.

Hegel thinks that the understanding in philosophy of reflection can not suffice to explain this identity because it sees only contradictions in what it is immersed into, rather than comprehending the identity through the oppositions. Spirit is superior to nature, but in the sense that reason has a non-conscious connection with nature and it develops gradually a conscious relation with it so that the individual can cause change in it by working.

I will present how Hegel conceives the concepts like right, freedom, justice, family, property, class, society and government in terms of speculation, how he deals with the problems about these concepts as they are brought by the social contract theory, and on which ground Hegel criticizes this theory from the perspective of his conception of ethical life. First of all, according to Hegel, the philosophical comprehension of an object of study is the science of it, the laws of which are discovered through its comprehension in a totality. In this sense, speculative philosophy will not appeal to the division of the whole into its parts in order to know the whole through the determination of some qualities of the part. Like community as a whole is prior to the individual and the individual reflects in himself the whole, the part can not be conceived separately from the whole. In this sense, as I will try to show, Hegel considers the individual as an organic totality which is not separated from a people (*Volk*) that is an organic ethical unity. The proper study of right can be done only through conceiving this unity as a whole in which the individual as a totality of his life, right, freedom, possession, and property is recognized.

As Hegel shows in *Natural Law*, *System of Ethical Life* and *Difference*, the reconstruction of identity includes both the formal and the real aspect of a totality that contains both natural and ethical relations. In the social contract theories, only the formal unity of individuals is tried to be shown in accordance with the arbitrarily determined qualities of man, which are supposed to lead men to form this unity. However, this unity would be a “dead” one since its “living” aspect is neglected. Feelings, beliefs, virtues, shared customs and so on, which are practical, would have to be added externally to the

formal relations posited by a philosophy of reflection. This living aspect constitutes the practical side of the ethical life. For instance, when right is to be studied, this living aspect can not be ignored. Nor freedom can be understood outside of the relations within ethical life. Right and freedom are not absolute or in themselves, rather they emerge out of the ethical life itself. Furthermore, the ethical life is life of a people, in which individuals interact, work and recognize the right and freedom of each other, and for which they fight in a battle. War gives the shape or the form to the people, and religion provides the feeling of being a community.

According to Hegel, community does not emerge from convention, rather it is natural. The individual defines his own self through the whole to which he feels belonged. Hence, the community must be represented in individual consciousness as where he feels at home. However, in modern society, this identification of individual or citizen himself through the whole has become weaker. Hegel thinks that this may result with the dissolution of ethical life. Because the universal system of need has developed itself in an independent realm, has caused the classes to lose their distinctive virtues and has set itself determinant in the regulation of the laws which define individuals as legal persons. The social contract theory, since it considers the totality as composed of formal relations, coheres with the system of need and with its science (political economy), and even makes contribution to the justification of the existing condition through its conception of atomistic individual and legality that it grounds upon this conception. The ethical life, that is defined through mainly the legal system rather than *mores* it has or the inner laws of the people, unfolds itself to the individual as an externality which causes the alienation of the individual from community.

In the last analysis it will be shown that also the Young Hegel joins the tradition that founds its normative critique upon a transcendent ideal. The normative content can be seen embodied in his *System of Ethical Life*, where he determines the function of the Elders and

the Priests of the class of nobility as protecting the class structure and by doing so, preventing the dissolution of the ethical life. Of course, it can be seen also in his *Natural Law* essay where he emphasizes the need for the reconciliation of individual with community in accordance with an ideal. Even though Hegel himself tries to develop an immanent critique of modern civil society, his ideal that leads him to form the critique has its origin in the idea of beautiful ethical totality in the Ancient Greek cities. Moreover, although the standard he has in mind is retrospective², he is aware that the reconciliation, at least of individual with community, is difficult. Because the modern social life is highly individualized and the class structure has been distorted on behalf of the bourgeoisie inevitably.

² Seyla Benhabib, *Critique, Norm and Utopia* (New York: Columbia University Press, 1986), p. 32.

II. THE NORMATIVITY OF MODERN SOCIAL CONTRACT

A. Hobbes

In the “Introduction” of *Leviathan* it is claimed that the knowledge of man in general should be acquired by the sovereign if he is to govern a whole nation. Because both the matter and the artificer of the commonwealth is man.³ Hobbes makes an analogy between man and commonwealth. As man is created by the God as a whole with all of its organs, commonwealth is another organic whole which consists of men and it is constituted by the consents of men. Man is a natural body whereas commonwealth is a artificial body politic. It is said that a man is healthy when his all organs function properly. In a similar way, a government is healthy if it consists of men, who function properly and fulfill their own duties to the sovereign with respect to what the sovereign himself (or sovereign assembly) commanded. The officers of judicature, magistrates and other members of the state are the organs of the body politic, and their function is to perform their duties to the sovereign as it is commanded by the will of the sovereign.

The dissolution of the commonwealth would be its death and this is a danger for all the individuals form it. Hobbes, as a witness of the English Civil War in 1642-1651, is well aware of the results that the dissolution may bring about. Accordingly, he determines the intention in the formation of commonwealth as protecting each particular individual. The dissolution is contrary to the purpose in the establishment of a commonwealth due to it causes a chaotic, dangerous and miserable condition for all. Hobbes's aim in *Leviathan* is to remind and also to teach the sovereign what is the source of power and rights of the

³ Thomas Hobbes, *Leviathan* (New York: Oxford University Press, 1998), p. 7.

sovereignty. Because only through a powerful sovereign such an ill condition can be prevented. What gives motion and life to the whole body politic is the sovereign that is an artificial soul.⁴ He must be powerful, prudent and infallible enough to keep the whole in safe. The sovereign must learn about the nature of this artificial man called commonwealth, and also how and why men formed it by making covenant with each other. Then, first of all he must have the knowledge of man in order to learn the nature of commonwealth. Because individual human beings are who form it. Such an investigation into the knowledge of man necessitates a searching for the causes and consequences from actions, thoughts, opinions and passions of man.

Hobbes in his investigation into the nature of man, tries to derive the principles that govern the actions of man. This aim is similar to that of a natural scientist who tries to discover the laws that govern the whole nature. In this sense, he focuses on particular observable qualities to discover the unobservable through them. This investigation starts from the visible effects of motion of bodies natural. Also human being as a body natural is subject to cause and effect relation, and is *generally* led by the passions that arise in causality of motion. Passions are important because, on the one hand, they are the causes of the quarrel among men; on the other hand, they are what compel men to submit themselves to government⁵ in order to be protected against the threat of violent death in the absence of commonwealth. At first sight, Hobbes's theory of political philosophy and of civil society appears as if based on a mechanistic explanation of human nature. But it will be shown that such a mechanistic understanding will have secondary importance.

Hobbes's empiricism reveals itself through his accounts of sense, imagination and understanding. Ideas are derived from sensations. The external body or object is the cause of a sense: it presses on the proper organ for each sensation. In touch and taste, sense occurs immediately; in seeing, hearing, and smelling, the pressure that is made by the

⁴ *Ibid.*, p. 7.

⁵ *Ibid.*, p. 212.

object is moved to the heart and brain. It causes a resistance there or an outward endeavour that is from the heart. This “seeming or fancy”⁶ in men is called sense. Sensation occurs in a causal chain either mediately through the motion in the body or immediately by the pressure of the object on the sense organ. Imagination is a “decaying sense” or a weaker degree of sense after the sensation emerges. When the object we sense is removed, we can still form ideas about that object but in a less clarity. Although imagination and memory are held as the same, memory signifies the sense decayed which is a sense that belongs to the past. Imagination can be simple or compounded. It is called in terms of whether the object formerly perceived by sense is imagined at once, or by parts at several times.⁷ Imagination is capable of bringing two distinct images together and conceiving a compounded image in mind, such as forming an image of centaur from the images of a horse and a man. Understanding, however, is the imagination that is raised in man by words or voluntary signs, or it is called as a conception caused by speech.⁸ It has a certain relation to language because it intends to grasp what others signify by the use and the connection of words. Understanding functions as a tool for conceiving the conceptions and thoughts of others. Also beasts can understand one's will, like as a dog understands the will of its master, but men are distinguished from the beasts in the sense that they can understand thoughts and conceptions besides the wills of others.

Mental discourse is a train of thoughts or a succession of thoughts. Through the help of imagination or memory, one is able to control and direct his own thoughts. When thoughts are regulated in terms of a desire or design, we seek either causes of a certain effect imagined, or possible effects that an imagined thing may produce and what we can do with them. The former is common to both man and beast whereas the latter is seen only in man. Man can conceive the causes of certain effects that are past or present. He can also imagine the effects of a thing also. In this sense, mental discourse of man has an impact on

⁶ *Ibid.*, p. 9.

⁷ *Ibid.*, p. 12.

⁸ *Ibid.*, pp. 15 – 26.

the course of deliberate action. Hobbes believes that the regulation of train of thoughts is caused by passions (desire or fear, etc.) and uses for it the term “passionate thought.”⁹ This is significant because a passionate thought will lead men in state of nature to search for peace in Hobbes's account. A passionate thought governs other thoughts for the sake of attaining a certain end. When thought is directed by curiosity to knowing the future events, men concentrate on the similitude of actions by “supposing like events will follow like actions”¹⁰ and try to foresee what a certain course of action will bring about. Although it is difficult for a man to observe all circumstances, one acts in a way to foresee the events as far as he. At least his experiences allow him to do so. Experience, in this sense, is a kind of storage of past events and it is what makes a person more prudent or less vulnerable to failure in his expectations. Foresight, prudence, providence, wisdom are similar. But providence is distinguished from them because it is belonged to the one whose will is to *become*, this is why providence is generally attributed to the God. All others are related to the practical wisdom one can have. Even though such a wisdom is not infallible as in theoretical wisdom, it is based on having more experience of past. To have more various experiences than others means being more prudent. A beast can be said to be prudent up to a certain degree in pursuit of its own good by its senses to survive, on the other hand prudence in man like other faculties of mind can be improved by instruction, discipline and study. Besides five senses that man naturally has, all other faculties of men are acquired and developed. They proceed from “the invention of words and speech.”¹¹ Both understanding words and speech and training upon the use of them are the capacity which essentially distinguishes man from the beast. In addition to this, what a man can know and conceive is grounded in magnitude and space, and limited by finitude. All that which are not subject to senses, go beyond conception and thought, thus inconceivable. Therefore, it can be said that only the things that are based on experience can be known as far as man

⁹ *Ibid.*, p. 16.

¹⁰ *Ibid.*, pp. 16-17.

¹¹ *Ibid.*, p. 19.

trains himself to do this.

Memory of many things is called experience, says Hobbes.¹² The present is in nature, past in memory, but future is nowhere. Hence, prudence is a presumption of future events, an act of mind which takes assumptions on future to be true until disproved. Experience gives us this content to reflect the outcomes of it in order for the future to be anticipated. The mediator tool between the past and the future is the language itself. Because one registers through speech (language) the causes and effects found by cogitation; and in this way he acquires skills of design, thoughtful projects, knowledge etc. He is able to show and teach with speech the knowledge he has, and to declare his will and purposes in future so that he may communicate and compromise with others. Rather than the invention of printing, and of letters, Hobbes defends that the invention of speech is the most important among them:

“But the most notable and profitable invention of all other, was that of SPEECH, consisting of *names* or *appellations*, and their connexion; whereby men register their thoughts; recall them when they are past; and also declare them one to another for mutual utility and conversation; without which, there had been amongst men, neither commonwealth, nor society, nor contract, nor peace, no more than amongst lions, bears and wolves.”¹³

Through speech one transfers his mental discourse into verbal, trains his thoughts into words, and uses what he has in memory. Names are used, first, as marks for remembrance of an idea or an object; second, they are used as signs when names are ordered and connected in order to utter others a certain matter or passion. If the consequences of the causes and effects are to be remembered, the application of the *true connection* of names is needed. The connection and relation of names (proper names, common names, universals) is directly related to truth also. Because truth lies in the right

¹² *Ibid.*, p. 12.

¹³ *Ibid.*, p. 20.

ordering of names in propositions. Accordingly, true and false are only attributes of our speech, that is, not of things themselves. One must know and remember the proper definitions of names in order to find what is true about a certain subject. In speech, if speech is to be true, names must be combined into a consequence so that they will be in the right order and will be used properly. Proper names refer to things singular such as “this man”; common names to many things particular in one name, like man; universals do not exist for Hobbes, they are nothing but only names. However, universality can be derived from particular consequences, says Hobbes.¹⁴ For example, one can infer the universal rule, that every triangle has its three angles equal to two right angles, from particular instances of defined triangles, or geometrical axioms. On the other hand, a person who was born deaf and blind, who can not use speech, can do the same reasoning to infer that three angles of a triangle are equal to two right angles when he is given before his eyes a triangle and a couple of right angles. By meditation and comparison he can do this inference but can not have the universal rule that is valid for all triangles. Because for such principle in order to be put, there must be speech that is being used through certain names and their relations. In this sense, Hobbes denies the possibility of *a priori* knowledge. However, one who uses speech can find an equality of another consequence from the definition of a triangle. He can register this and make his claim to validity “to be true in all times and places.”¹⁵

Understanding is conception caused by speech. Although there are true and universal affirmations of words connected, sometimes it is not possible to agree upon naming what we conceive. The names like virtues and vices in general, wisdom, fear, stupidity, justice etc., are inconstant and can not be “true ground of ratiocination.”¹⁶ Because there are some factors other than the signification of words, which affect our reception and cause us to name conceptions in different ways. Such as our prejudices of opinion, differences in

¹⁴ *Ibid.*, p. 22.

¹⁵ *Ibid.*, p. 23.

¹⁶ *Ibid.*, pp. 26-27.

constitution of body, and “the nature, disposition and interest of the speaker”¹⁷ make agreement difficult. But this controversy originates in inconstant names, not in others.

Reasoning, in general, is a type of reckoning of the consequences from general names and numbers. Adding, subtracting, multiplying, dividing and other alike operations of mind are the works of reason itself. But in the widest sense, what reason does is either addition or subtraction when it unites parts to the whole or divides the whole into the parts, when calculates through numbers, derives consequences from the names defined. We can say that reason works as a computer in man, both in processing numbers and the use of words. Nevertheless, ratiocination demands acknowledging value of numbers and definitions of words. Also, reason is not given to man by birth unlike sense and memory, nor reason is merely based on experience as prudence is, but it can be attained through industry.¹⁸ Reason as held by Hobbes, appears as a formal capacity that can be gained and trained with a true methodological discipline. A child is called rational only because he or she is a potential owner of reason. Until a child will have learned to use speech, he or she is not a true rational being but only potentially he or she is. Most of men, says Hobbes, are not far better than children due to men are able to reason to the degree that they can manage only their common lives.¹⁹ A rational man is supposed to be able to make adding and subtracting names, and to do simple calculation with numbers, and so forth.

Hobbes's epistemology is a kind of empiricism, he denies that there is knowledge that comes before one's eyes. Reason by itself alone, in this sense, is not the source of knowledge. On the contrary, the sensation is the source of our ideas. In a causal chain of perception these ideas or thoughts are being formed. Memory or imagination uses the marks to correspond to the objects in mind. Reason works upon these marks, names, numbers and significations. Significations amount to a conventional (or intersubjective) use of names whereas marks refer to an association of names with objects in personal

¹⁷ *Ibid.*, p. 27.

¹⁸ *Ibid.*, p. 31.

¹⁹ *Ibid.*, p. 31.

degree. The use of reason and language, then, is what objectifies our thoughts both in managing the common life and in building scientific knowledge. Without proper signification and order, knowledge can not be objective and demonstrative. The proper use of reason is to derive true conclusions from premises and, then, to apply true use of words, numbers and definitions. We add names together to make affirmations, and add “two affirmations, to make syllogism; and many syllogisms to make a demonstration; and from the sum, or conclusion of a syllogism, they [the logicians] subtract one proposition, to find the other.”²⁰ The demonstration of a truth entails both accurate “signifying” and avoiding error in reasoning. There must be agreement on what is signified by words and also on the definitions of words in order for the demonstration of a syllogism to be true. One can not make a claim for truth in any science or philosophy without appealing to such convention. By using names accurately, imposing them in an order to make assertions, by connecting the assertions to other related ones and by inferring conclusions about a subject matter, man can have knowledge of all consequences that proceed from definitions that are appropriate for the aimed investigation. This sum conclusion from definitions, the conditional knowledge is called science.²¹ One is capable of reasoning upon the rules of geometry by himself through “marking” things in his mind. But when he is to show to the others his conclusions in geometry or in any other science, there will be needed a convention upon marks (names, or axioms) to demonstrate it. Among all sciences, only the principles of geometry are agreed upon. Other sciences too demand this type of agreement.

Reason produces the conditional knowledge, not the absolute. The desire of knowledge is that which governs the discourse to attain such knowledge.²² In such a paradigm, the function of reason is instrumental, and Hobbes defines this function thus: “the use and end of reason is not the finding of the sum, and truth of one, or a few consequences, remote from the first definitions, and settled significations of names; but to

²⁰ *Ibid.*, pp. 27-28.

²¹ *Ibid.*, p. 43.

²² *Ibid.*, p. 42.

begin at these and proceed from one consequence to another.”²³ The knowledge of consequence is merely conditional whereas the knowledge of fact is not. However, the knowledge of consequence must be demonstrated to be universal and true, in all time and places. Thus, it must have certainty and infallibility. According to Hobbes, some “signs” of science (or sapience) are infallible and certain, so that their truth is demonstrable to others always; some are uncertain, but verified by particular instances and supposed to meet other occasions as well.²⁴ Hobbes seems to mention here the two methodologies of scientific explanation, the former of which is deduction, the latter is induction. Reason obviously has a role in deduction and induction as explained through its work on consequences to make things true and universal. Moreover, reason has a role in determining the means for practical concerns although they are not scientific and infallible. Hobbes does not attribute infallibility to prudence for instance, and he makes a distinction between prudence and sapience. In addition to this, “signs of prudence” are uncertain due to the fact that it is impossible to remember all particular circumstances observed. Prudence always remains in personal degree and does not provide a basis for making generalizations valid for all time and places. Although both prudence and sapience are called as wisdom in general, only sapience is related to science and it is infallible. Such a distinction is similar to the distinction made between “theoretical wisdom” and “practical wisdom” in ancient philosophy. Sapience is closely related to theoretical wisdom whereas prudence to practical. However, the use of reason in Hobbes's account is instrumental in both of them.

The end of a certain action does not need to be rational nor its motivation needs to be based on reason. In science, desire of knowledge leads one to know. On the other hand, prudence means being more experienced at knowing and determining the conformity of means to a certain practical end, but such an end stems from a passion, not from reason itself. Hobbes considers prudence as a mental ability (or wit) to which the variety of his

²³ *Ibid.*, pp. 28-29.

²⁴ *Ibid.*, pp. 32-33

experience contributes when he has a design in mind:

“When the thoughts of a man, that has a design in hand, running over a multitude of things, observes how they conduce to that design; or what desing they may conduce unto; if his observations be such as are not easy, or usual, this wit of his is called PRUDENCE; and dependeth on much experience, and memory of the like things, and their consequences heretofore.”²⁵

Men in equal age do not have much difference in the quantity of the experience of each. However, each man has his own private design and private life, so they have different sorts of experience that might contribute to their own designs. In this sense, if there is no quantitative difference between them, then there is only qualitative difference which means a difference in degree of their prudence. Because, this difference of prudence lies in different sorts of business that each individual deals with as Hobbes mentions: “no more than to draw a picture in little, or as great, or greater than the life, are different degrees of art. A plain husbandman is more prudent in affairs of his own house, than a privy-councillor in the affairs of another man.”²⁶

Hobbes has an obvious distrust towards the books on moral philosophy, the wisdom of councillors, or any man who tries to show others how wise he is on practical matters. His doubt about philosophers especially originates in their beginning ratiocination not from definitions of words.²⁷ Accordingly, their ratiocinations are not indubitable in contrary to the definitions and conclusions of geometry. Because it is a rigorous science. Neither moral nor political philosophy can attain this kind of certainty that geometry has. Because, as we mentioned above, Hobbes says that the concepts like wisdom, fear, justice, etc., are inconstant names and it is almost impossible to agree upon their definitions. This means that any truth concerning practical philosophy can not be demonstrated as in the way that we do in a certain science. Therefore, ethical rules in the books are mere arbitrary

²⁵ *Ibid.*, p. 47.

²⁶ *Ibid.*, p. 47.

²⁷ *Ibid.*, p. 30.

determinations made by philosophers.

Philosophers tried to determine the precepts that should govern the actions of man in order to live in accordance with the highest good, and to attain tranquility of mind. These moral philosophers defended that man has an end in this world, that is an utmost aim (*finis ultimus*) or the highest good (*summum bonum*).²⁸ But in this world, the satisfaction of mind is impossible due to the endless motion in nature causes constant change in man as long as he lives. The change in man that is caused by motion reveals itself as appetite (desire) or aversion and it shapes the imagination and thoughts of man. In this sense, desires, senses and imagination are never at rest in human life. Hobbes believes that the only end in life we can consider is felicity, and it is:

“....the continual progress of the desire, from one object to another; the attaining of the former, being still but the way to the latter. The cause whereof is, that the object of man's desire, is not to enjoy once only, and for one instant of time; but to assure for ever, the way of his future desire. And therefore, the voluntary actions, and inclinations of all men, tend, not only to the procuring, but also to the assuring of a contented life; and differ only in the way: which ariseth partly from the diversity of passions, in divers men; and partly from the difference of knowledge, or opinion each one has of the causes, which produce the effect desired.”²⁹

As Hobbes puts, each man has his own peculiar thoughts, opinions and projects (aims) in his life. What is common to them is the inclination to guarantee the satisfaction of future desires and of a contented life. In order to provide this assurance, one primarily seeks for power and more power. Man through deriving consequences from his own past experiences projects his designs to the future in order to have such power. On the other hand, what he, the man seeking for power, has in mind specifically is not manifest to us, namely it is not possible to be known by us. This claim may seem quite controversial if the whole content of *Leviathan* is taken into account. Because the “how to know the thoughts,

²⁸ *Ibid.*, p. 65.

²⁹ *Ibid.*, pp. 65-66.

motivations to act, and passions of others” problem is very central throughout *Leviathan*. The possibility of such knowledge is held as if it were a scientific problem, but tried to be solved as a matter of certain science. This issue is directly related to the matter of the knowledge of man since man is both the matter and the artificer of the commonwealth as Hobbes mentions in the introduction.³⁰ Sovereign must learn about the nature of man if he is to govern a whole nation. Having obtained the knowledge of the nature of man, he can comprehend how and why the state is constituted, where his rights are derived from, and he can see what preserves the commonwealth or dissolves it. However, the knowledge of man can not be acquired by reading books. This is a practical matter and one can learn it only by himself through knowing thyself as the dictum *nosce teipsum* commands.³¹ In order to know the thoughts and passions of others, one should first examine what there is in himself. In other words, sovereign should learn to read in himself all mankind. This knowledge is different from the scientific one and concerned with one's practical wisdom, or prudence. Through analyzing passions and their objects, one can learn to predict the possible actions of others. The similitude of his own passions to that of others helps him to understand what others may have in their minds and how they may act in accordance with their own designs. Truth of this knowledge lies neither in deduction nor in induction. It does not give universally valid consequences about the nature of man in contrary to geometry and mathematics for instance. Hobbes himself says that the knowledge of the nature of man can not be demonstrated by any method other than reflection. He also thinks that others who read his book will find in themselves the truth of his words. Only in this way, the demonstration of this type of knowledge becomes possible.

It can be said that both science and prudence are future oriented since they contribute to our understanding of causes; thereby they contribute to anticipate or predict what effects will be produced. To put it clearly, the present is in nature, the past is in memory, but the

³⁰ *Ibid.*, p. 7.

³¹ *Ibid.*, p. 8.

future is nowhere. In this context, prudence is a kind of presumption of the future as well as science is. Natural science can explain the cause-effect relation in nature and predict the effect that can be produced in an event. Also the concept of passion can be explained as the effect in human body which is caused by motion. But a human action is not always predictable since one can hide his passion, and then his motivation to act can not be known definitely. Therefore, human action is not completely an object of science. According to Hobbes's account, we can know what an object causes in human body, on the other hand, we can not know what others think, opine, believe exactly nor what they will do. In the schema of science that Hobbes drew in *Leviathan*, he defines ethics as the “consequences from the *passions* of men”, and places it among the branches of physics which is a part of natural philosophy or science.³² Hobbes is aware of that his account for motion will not suffice to explain the nature of man. The knowledge of man consists of both scientific knowledge (passions of man) and his designs. The knowledge of the former should be provided by empirical science through the use of the concept of motion whereas the knowledge of the latter is not yet supposed to meet the demands of an empirical inquiry. However, the problem is actually in Hobbes's account of the relation between physics and ethics. He already admits that knowledge of man can not be demonstrated empirically. At the same time, if the knowledge of passions (ethics) is taken as a part of physics, then it must entail the demonstration of the qualities of man as in the way that the knowledge of the quantities and motions of any natural body entails. But the knowledge of passions can be justified only through one's looking inward and reading in his own self what Hobbes tells about passions. Hobbes is inconsistent in his explanation of the nature of man. Although he knows that his explanation admits no other proof than reflection, he does not hesitate to liken his theory of passions to a theory of demonstrative science through applying the concept of motion as the cause of passions.

Hobbes's position as the narrator in *Leviathan* is similar to the moral philosophers

³² *Ibid.*, p. 56-57.

whom he disapproves. He can not avoid advising the potential sovereign to be prudent and to learn to be prudent by himself. When he does so, Hobbes is consistent with his own methodology of science in which we derive consequences from certain definitions. He gives the definitions and moves from one to another in their connection. But the definitions are the chosen by the philosopher himself, it is not shown why we should accept the definitions given by Hobbes. Moreover, he chooses introspection as the foundation of his own theory, and claims that others will find in themselves what he finds in himself when speaking of the knowledge of man. Upon such knowledge, he builds a theory of social contract. In Hobbes's theory, the explanation related to the transition of men from the state of nature to civil society is provided by a research on passions. On this basis, he determines the passion as the source of man's choice to live under a government. But of course, the rules of political science is different from natural science or natural philosophy (i.e., physics) and it constitutes the other main branch of philosophy. However, the connection between these two branches is not given by Hobbes.

Hobbes defines politics and civil philosophy as “consequences from the accidents of *politic* bodies.”³³ Only by the establishment of commonwealth, civil philosophy obtains its research content: first, as “the *rights*, and *duties* of the *body politic* or *sovereign*”, and second as “the *duty* and *right* of the *subjects*.”³⁴ Both natural and civil philosophy are based on experience, but they are still two distinct areas of philosophy. Neither of them alone is capable of explaining why and how social unity of men, government or sovereignty have been formed. Civil philosophy entails a study of the nature of man, and this study is a part of natural philosophy also. However, the bridge between natural and civil philosophy can not be set up easily. Leo Strauss points out this difficulty:

“The difficulty to which Hobbes's view of science is exposed is indicated by the fact that, as he says, all philosophy or science 'weaves consequences' (cf. *Leviathan*, chap, ix) while taking its beginning from

³³ *Ibid.*, p. 56.

³⁴ *Ibid.*, p. 56.

'experiences' (*De cive*, XVII, 12), i.e., that philosophy or science is ultimately dependent on what is given and not constructed."³⁵

Commonwealth is something constructed. If it were something just given, then we could examine it scientifically. But it is constructed, it can be dissolved and reconstructed. The reason why the transition from state of nature to civil society is necessary can not be expounded by science alone then. Hobbes's account of science separates theoretical wisdom from practical, natural philosophy from civil philosophy, demonstrative sciences from prudence, the man in the state of nature from the man in civil society, ahistorical concept of man from citizen. But this makes more difficult to explain the transition. Because it annihilates the holistic conception of history. The explanation related to transition is a problem concerning a practical matter due to it is produced by man. That is, the source that we learn how the transition becomes possible is found in human experience and in the history of human actions. Therefore, the demonstration of the transition, if there is, can be given only in terms of political philosophy.³⁶ Hobbes appeals to the concept of state of nature to justify the necessity of the existence of government. Both the inquiry of passions and the consequences derived from the experiences of civil war help Hobbes to justify his claims:

“As prudence is a presumption of the future, contracted from the experience of time past: so there is a presumption of things past taken from other things (not future but) past also. For he that hath seen by what courses and degrees, a flourishing state hath first come into civil war, and then to ruin; upon the sight of the ruins of any other state, will guess, the like war, and the like courses have been there also. But this conjecture, has the same uncertainty almost with the conjecture of the future; both

³⁵ Leo Strauss, *Natural Right and History*, p. 173.

³⁶ Also Leo Strauss draws our attention to the same issue from his own perspective: “Hobbes apparently tried to solve this new difficulty in the following manner: it is possible to know the causes of the political phenomena both by descending from the more general phenomena (the nature of motion, the nature of living beings, the nature of man) to those causes and by ascending from the political phenomena themselves, as they are known to everyone from experience, to the same causes (*De corpore*, VI, 7). At any rate, Hobbes emphatically stated that political science may be based on, or consist of, "experience" as distinguished from "demonstrations" (*De homine*, Ep. ded.; *De cive*, praef.; *Leviathan*, Introd. and chap, xxxii, beginning).” Leo Strauss, *Natural Right and History*, p. 173.

being grounded only upon experience.”³⁷

As an act of mind the “conjecture of the time past” enables man to guess what may have happened through considering the past or current occasions that are similar to the case in question. Accordingly, in the case of the natural condition of mankind, Hobbes's approach is shaped by the condition of civil war in England and by the life styles of savage people in America of Hobbes's own time. Because the state of nature according to his design is a condition of war, in which every man is in a war against every man; there is no common power, no commonwealth to keep them “all in awe.”³⁸ It is a condition where civil law, political obligation, property, moral laws, society do not exist. It can be a pre-government or pre-society condition, as well as a condition of civil war that emerged by the dissolution of the government. Chronologically, the question concerning whether there was such a condition in time before the establishment of the commonwealth is problematic to answer. We have not sufficient evidence to assert this condition of war had ever happened. Hobbes thinks that there was never such a time all over the world, but in his own time there were still savage people in some places of America, who live with regard to natural lust and without government. In addition to and as distinct from this, the independent sovereigns of commonwealths is said to be living in a kind of state of nature since they are always ready to fight.³⁹ Hobbes considering these instances designs his concept of the state of nature as if it were a real condition that had been prior to a government. Through abstraction from man living under the rule of a sovereign, he tries to determine the characteristics of man in natural condition. Having shown those characteristics, the necessary transition to the life under the sovereign authority can be demonstrated.

Passions lie behind the condition of war, they are the causes of the quarrel among

³⁷ Thomas Hobbes, *Leviathan*, pp. 18-19.

³⁸ *Ibid.*, p. 84.

³⁹ *Ibid.*, p. 85.

men. Each man desires power, wants to assure more power to his future desires and avoid death. Accordingly, in the condition that there is no common power to keep all men in awe, no one has assurance not to be killed by another man. The sovereign power, which is bigger than any power that one or a few men may have, and which is formed by the consent of all men, is supposed to be able to protect mainly the life of each. As well as passions are the causes of the quarrel, they are also the reason why people submit themselves to the supreme authority of sovereign power that will protect them and keep them in safe. Some specific objects cause certain passions in some men, but some others do not. The objects of passions vary from one man to another, the things feared, hoped, desired and so forth. But the passions that arise are same in all individuals, i.e., desire, fear, hope, etc.⁴⁰

Passions in man arise in a cause and effect relation in terms of endeavour and motion. Endeavour is defined by Hobbes as the beginning of motion in human body. Before the visible action of man, the endeavour reveals itself as toward or fromward something. When it is toward something that causes it, this endeavour is called appetite or desire; and it is called aversion when the endeavour is fromward or away from something.⁴¹ Desire refers to the absence of the object whereas love refers to the presence of the object desired. Similarly, aversion is in the absence, and hate is in the presence of the object we have aversion for. But sometimes neither desire nor aversion is shown to some objects, and this state is called contempt. The concepts of good and evil have their value for the person who acknowledges according to his appetites and aversions. Because good is the object in favour of one's desire in contrast with evil that is the object of one's hate and aversion. In this context there is no absolute, common rule in nature which determines what is good or evil. The controversy between men in the state of nature on what is good or evil can be solved by an impartial judge or arbitrator whom those men

⁴⁰ *Ibid.*, p. 8.

⁴¹ *Ibid.*, p. 34.

choose. However in a commonwealth, the measure of good and evil is the word of the person who represent the commonwealth. Hobbes divides each of good and evil into three categories, "...good in the promise, that is pulchrum; good in effect, as the end desired, which is called jucundum, delightful; and good as the means which is called utile, profitable; and as many of evil: for evil, in promise, is that they call turpe; evil in effect, and end, is molestum, unpleasent, troublesome; and evil in the means, inutile, unprofitable, hurtful."⁴² Accordingly, the concepts of pleasure and displeasure are defined in terms of good or evil in effect (in body). The object moving causes motion in body with its continuous action until it reaches to the heart. The effect that emerges in body is a motion or endeavour revealing itself as appetite or aversion. The sense of the motion of an object, that we have aversion from or appetite to, is called in turn either displeasure (trouble of mind) or pleasure. Some of pleasure and displeasure arise from the sense of the present object like in hearing, sight, taste, touch or smell, and they are pleasure (or delight) or pain. But some of them arise from an expectation of the end to come: if it is pleasure of the mind, it is a joy, and in the like manner displeasure of the mind is grief.⁴³

Hobbes defines simple passions as appetite, desire, love, aversion, hate, joy and grief and they have different names in accordance with the different considerations about what one may have or lack what he desires.⁴⁴ Hobbes presents an extended list of passions, but there are more significant ones than others in the sense that they have a more decisive influence on men in state of nature to form the commonwealth. For instance, hope stands for an appetite with an opinion of attaining; but without this opinion one would have despair. Likewise, fear is an aversion with an opinion of hurting from an object. One's constant hope means his confidence whereas a constant despair refers to diffidence.⁴⁵ Among the passions listed by Hobbes, there is another important passion (along with

⁴² *Ibid.*, p. 35.

⁴³ *Ibid.*, p. 36.

⁴⁴ *Ibid.*, p. 36.

⁴⁵ *Ibid.*, p. 36-37.

reason of man) which he conceives as distinguishing men from other creatures: curiosity. It is a desire to know why and how the causes and effects emerge, and it is a lust of the mind which exceeds the temporary and immediate pleasures. But, of course, there is a remote “delight” in attaining knowledge, and this is why men tend to generate and have knowledge according to Hobbes.

Besides hope, fear, and diffidence there are also glory and vain-glory. Men when they have a joy of imagining his own power, feels a pride, and this is glory. However, men sometimes imagine their own powers only to feel delight in the consequences of boasting or sometimes they are only flattered by others, but in both of those occasions their joy lack any ground that their past experiences can verify their powers in action. Then this type of glory which does not correspond to reality is called vain.

Before man performs an action, there is a process of deliberation and Hobbes defines it in this way:

“When in the mind of man, appetites, and aversions, hopes and fears, concerning one and the same thing, arise alternately; and divers good and evil consequences of the doing, or omitting the thing propounded, come successively into our thoughts; so that sometimes we have an appetite to it; sometimes an aversion from it; sometimes hope to be able to do it; sometimes despair, or fear to attempt it; the whole sum of desires, aversions, hopes and fears, continued till the thing be either done, or thought impossible, is that we call DELIBERATION.”⁴⁶

Every deliberation has an end, either as performing an action or omitting it. What follows a deliberation is the will, which is defined as the last appetite before the act. But if the will were a rational appetite as defined by the moral philosophers, then it would not be possible for a voluntary act against reason. In common language, we say that we have aversion towards such and such thing, and our action emerging from aversion would be involuntary in terms of the will as rational appetite. Hobbes says, “if the intervenient

⁴⁶ *Ibid.*, p. 39.

appetites, make any action voluntary; then by the same reason all intervenient aversions, should make the same action involuntary; and so one and the same action, should be both voluntary and involuntary.”⁴⁷ Then it means that not only the actions stemming from appetites are voluntary, but also those that stem from aversions are voluntary as well. We learn from our experiences what will bring more good, and the last inclination in deliberation leads us to act in accordance with our foresight of the consequences. The one who can foresee infallibly the chain of the consequences of action in terms of that it will bring more good or evil is the one who deliberates best. However these people are rare in number.⁴⁸ The will is not a judgment in Hobbes's account. Because judgment is the last opinion one has in the inquiry of truth of past and future. As I mentioned above, mental discourse has an end and it is “governed by desire of knowledge”. But we can say that a judgment is a breaking off of the train of thought, which means it only results in opinion. One has a chain of opinions about what will happen or not, what has been or has not been. In this sense, judgment is a conditional knowing. However, it is not possible to call it as scientific knowledge due to judgment is not the knowledge of consequences that can be valid for all. Rather, it is merely a private judgment of the individual. Private judgment as distinct from public judgment (sovereign's judgment) can produce conflicts between men on what is right or wrong.

Where there is no supreme authority of sovereign power, an independent and objective system of judicature is absent there. Thus, every individual is the judge of his own case and can execute the punishment according to his own private judgment when there is no common and obligatory law. At the same time, the concepts like justice and injustice in this condition becomes no more than arbitrary determinations made by private individual. Hence, the qualities of just and unjust have no meaning at all in state of nature. The private judgments are shaped through private man's considerations of what is true and

⁴⁷ *Ibid.*, p. 40.

⁴⁸ *Ibid.*, p. 41.

there is no common rule of them. Each man has his own private opinion upon certain cases. True and false have no ultimate objective basis in state of nature. The lack of a common right use of speech (or train of thoughts) may cause conflicts and quarrels among men as well as it may cause disagreement on good and evil do. Of course, the lack of the common definitions of words is the primary cause of those conflicts, and the need for the right use of speech is directly relevant to this primary cause.

The consequences derived from the accidents of political body are certain as in natural science. For the lawyers, judges and other representatives of the commonwealth should know that both public laws and moral laws proceed from the will of the sovereign. The definitions in laws are similar in certainty to those in science. In the condition of war, such certainty is absent. Accordingly, when it comes to what is right in politics or morality, this possibility of conflict exposes itself more clearly. In the absence of a common judge, such a judgment would be determined according to the passions that one has like in the case that his judgment contributes to one's own personal designs. Even in the commonwealth, it is unhealthy for the government that private individuals act according to their own judgments. In other words, it would be contrary to the common good of the people if they follow their private judgments in action.

The degree of prudence was said to show not much difference between men. But of course, there are several differences in their intellectual virtues. Hobbes prefers to use the term wit for virtues. Wits are either natural or acquired. A natural wit is not something that people have from birth but it is “gotton by use only, and experience; without method, culture or instruction”⁴⁹; on the other hand, acquired wit is reason which is acquired by method and instruction and it is “grounded on the right use of speech.”⁵⁰ The difference of wits proceeds from passions, and the difference of passions stems both from a difference of human bodies and from customs and education. However Hobbes believes that this

⁴⁹ *Ibid.*, p. 45.

⁵⁰ *Ibid.*, p. 48.

difference of wit proceeds essentially from a desire of power rather than other passions. Those other passions that cause the difference are actually different sorts of desire of power as Hobbes puts: “The passions that most of all cause the difference of wit, are principally, the more or less desire of power, of riches, of knowledge, and of honour. All which may be reduced to the first, that is, desire of power. For riches, knowledge and honour are but several sorts of power.”⁵¹ All sorts of power of man are instrumental to obtain a future good. Although Hobbes divides power into two kinds like natural and instrumental, power principally refers to the means one has in order to use to realize his aims. As well as intellectual virtues are praised in themselves, natural powers like body strength, prudence, arts etc., are eminent in themselves too. But to acquire more power one needs also instrumental powers like reputation, riches, friends one may have by his natural powers and by fortune. On the other hand, the greatest power of man is the power of a commonwealth⁵², the sum total powers of men united by consent in only one man to whose will the use of that power belongs. In the condition that the commonwealth does not exist, men are free to act to increase their power.

Never ending desires lead man to search for having more power to satisfy and to assure the satisfaction of those desires. Felicity, as said above, is a continual progress from one desire to another, from one object of desire to another. In the inclinations and voluntary actions, man is led to follow the ways to assure both the satisfaction of desires and a contention through his life. Nevertheless, the interpersonal relations in state of nature prevent human beings from attaining such end. Desire of more power is the cause of the competition among men. Even though one is satisfied with his own power, he himself and his property can be a target of another competitor who may satisfy his own desire by killing, subduing, supplanting or repelling that man.⁵³ Natural differences between men is not so considerable according to Hobbes. Because one may be quicker in mind whereas

⁵¹ *Ibid.*, p. 48.

⁵² *Ibid.*, p. 58.

⁵³ *Ibid.*, p. 66.

another be stronger in body. Thus, when all the faculties of mind and body are reckoned, it is seen that there is no big difference. Hobbes finds an equality of men in their natural condition and it is based on ultimately the ability to kill each other: “for as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himself.”⁵⁴ The equality of ability causes an equality hope for all in attaining their own ends. In the circumstances that two men desire the same thing, and that they cannot enjoy it together, they become enemies. One aims at self-preservation primarily, and sometimes at enjoyment, but they try to destroy or subdue one another. The need for self-preservation is the cause of distrust towards others. Even if the invader has no fear from the power of the other, he himself is in danger of being killed (principally), subdued, exploited, or of deprived from his liberty. The equality of ability leads to a condition of constant *diffidence* due to the lack of security for all. In order to secure himself, man will try to master other people if he can until he sees no danger. The invasion is necessary, according to Hobbes, for security. Sometimes the invasion can go beyond the security need because of the fact that some people take “pleasure in contemplating their own power in the acts of conquest.”⁵⁵ There is nothing wrong about invasion. As a matter of fact it is even necessary for one's self-preservation since one can not subsist for a long time by only standing in defence.

Then the three causes of the quarrel among men are competition, diffidence and glory. All these proceed from the nature of human beings. Individuals are led by competition to engage in action against each other for gain in order to sustain their lives. Through the use of violence, man tries to master other's persons, his children, wife, or even his cattle.⁵⁶ Since one must defend himself against possible threats to come at the same time, each must be ready for fight even there is no actual fighting. That is, diffidence makes men search for safety and defend themselves, but this is only possible by the use of

⁵⁴ *Ibid.*, p. 81.

⁵⁵ *Ibid.*, p. 83.

⁵⁶ *Ibid.*, p. 83.

violence again. Glory makes men invade for reputation, says Hobbes.⁵⁷ It uses violence mentally towards others, such as “a word, a smile, a different opinion, and any other sign of undervalue, either direct in their persons, or by reflection in their kindred, their friends, their nation, their profession, or their name.”⁵⁸ In the condition that there is no peace, there is neither assurance of security for all. Each man is in war with each other and this war consists of both actual battle and a threat of battle. Accordingly, no one is obliged to fulfill their promises to each other, there is no contract binding the parts, no laws of government, no moral values which men have to act in accordance with, no social bounds, but only constant threat and continual fear of death:

“In such condition, there is no place for industry; because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving, and removing such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish and short.”⁵⁹

No man could do injustice to another due to there is no common power to determine the law. A man can get whatever he wants, consequently neither property nor dominion of a man is recognized by others. Moreover possessions of a man are not considered as personal belongings because of the fact that the division between mine and yours is absent. Justice and injustice are not found among the faculties of body or of mind. The concept of justice, if it is defined as giving to each man his own, has no meaning in state of nature since there is no owner.⁶⁰ All of these are related to men in state of nature, in solitude. Having shown that men are in competition all the time before the commonwealth erected, it becomes obvious that a natural agreement between men is impossible. Unlike Aristotle's

⁵⁷ *Ibid.*, p. 83.

⁵⁸ *Ibid.*, pp. 83-84.

⁵⁹ *Ibid.*, p. 84.

⁶⁰ *Ibid.*, p. 96.

concept of political animal, the natural men in Hobbes's thought are not sociable creatures nor they form a unity naturally.⁶¹ Each man follows his own interest rather than a common good until there emerges an artificial and conventional society. In the peace time (under the government) people are subjected to the laws, and thereby the common good is to be realized in society through those laws put by the sovereign. Only after the determination of the laws by the sovereign, what is just, right, or true becomes clear and binding for all.

The state of nature is a brutish and miserable condition for all men. Hobbes says that there is a way to come out of it, and this possibility emerges partly from passions and partly from reason.⁶² It is quite interesting that Hobbes counts reason besides passions. At first glance, this seems controversial and counterintuitive in the light of Hobbes's explanation of passions since passions are all the causes of human action. For instance, one is led even to know only by a passion, a desire of knowledge stemming from curiosity. All other actions and mental discourses shaped by passions as well. A human being, if he is not a child or mad, is always in the pursuit of a good to himself: a good in accordance with his appetites and aversions. Reason can have only an instrumental role to determine the most suitable means to attain a certain end, or a good to himself. Since men have no source of knowledge of practical matters other than experience, they can learn to infer what would be good for themselves in their lives. The ultimate conclusion that will bind all people to agree upon is something that can be learned: there is always a danger of violent death ahead of me. Because of the fact that all people strive for sustaining their lives at the same time, they will have to seek peace to avoid violent death. Such binding inference is a matter of prudence that each man can basically have in life. Hobbes once mentioned that men of equal age have no big difference in their prudence, and that even a beast can have prudence up to a certain degree. Then, man with reason can easily infer that there is a threat for his own self-preservation. In order to sustain his life he is led to search for the

⁶¹ *Ibid.*, p. 113.

⁶² *Ibid.*, p. 86.

ways to peace:

“The passions that incline men to peace, are fear of death; desire of such things as necessary to commodious living; and a hope by their industry to obtain them. And reason suggesteth convenient articles of peace, upon which men may be drawn to agreement. These articles, are they, which otherwise are called the Laws of Nature...”⁶³

In somewhere else, Hobbes mentions explicitly that what lead men to submit themselves to the government are passions.⁶⁴ Then, reason itself is not the source of the idea of peace and it has only an instrumental role in leading men to search for peace. The laws of nature that are found by reason are in fact conditional in the sense that they are based on life experience, and these laws manage us to preserve what is given to us. According to Hobbes, a law of nature is a command to avoid death, what is harmful to his life, and he defines a law of nature as “a precept, or general rule, found out by reason, by which man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved.”⁶⁵ All inclinations and voluntary acts of men lead him to preserve his own life. Consequently, his reason dictates them to use their own powers, the best suitable means for self-preservation.

Law of nature is distinguished from the right of nature which is the liberty to use one's own power to preserve his own life. The right of nature, since it proceeds from self-preservation, is the right that all natural men have. In the condition that there is no security for any men, each man has a right to everything (including killing others, subduing, mastering them, etc.) to stay alive. The right of nature, in this sense, is the natural right which is principally the right to self-preservation. By liberty, Hobbes refers to “the absence

⁶³ *Ibid.*, p. 86.

⁶⁴ “Hitherto I ve set forth the nature of man, (whose pride and other passions have compelled him to submit himself to government;) together with the great power of his governor, whom I compared to Leviathan...”
Ibid., p. 212.

⁶⁵ *Ibid.*, p. 87.

of external impediments.”⁶⁶ Accordingly, right and law differ so that right consists of a liberty to do or to refrain from whereas law of nature binds men either to refrain from or to do. Hobbes conceptualizes the laws of nature through with respect to the right of nature. Because there is for all men a good in searching for peace. Reason helps men to foresee this far good through the basic past experiences; and this good consists of self-preservation for each distinct man in contrary to the danger of violent death in state of nature.⁶⁷ Hobbes defines the fundamental law of nature in this way:

“...it is a precept, or general rule of reason, *that every man ought to endeavour peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of war.*”⁶⁸

All other laws of nature are derived from the first and the fundamental one. The fundamental law of nature is derived, however, from the right of nature, namely, from the right to self-preservation. The right of nature, in fact, brings about a constant war and evil consequences to the life of man. Therefore, the Laws of Nature can be said to cancel out the threats for all in state of nature. Since the fundamental law commands to seek peace, it demands also transferring one's own right to kill, to an artificial person. But the condition that one man lays down his own right whereas others do not, means that the former is open to violent actions of other(s). All people ought to act to bring peace together. Then, peace consists of laying every one's own right aside, which means each should divest of his own liberty. In the natural condition of mankind, there is no guarantee that every man will perform the needs of mutual laying down of their rights.

⁶⁶ *Ibid.*, p. 86.

⁶⁷ “These dictates of reason men used to call by the name of laws...are but conclusions, or theorems concerning what conduces to the conservation and defence of themselves...” *Ibid.*, p.106. Also Laurence Berns says: “The task of reason then is to devise means of redirecting and intensifying the fear of death and the desire for comfort, so as to overpower and cancel out the destructive effects of the desire for glory, or pride. By understanding human nature mechanistically, we become capable of manipulating and finally, Hobbes seems to hope, conquering it. Hobbes calls these rules of reason, Laws of Nature, the Moral Law, and sometimes dictates of reason. In using these names he admits he is bowing to traditional usage, for him the rules are merely conclusions or theorems concerning what conduces to self-preservation.” Laurence Berns, “Thomas Hobbes,” in *History of Political Philosophy*, edited by Leo Strauss and Joseph Cropsey, (Chicago: The University of Chicago Press, 1987), p. 401.

⁶⁸ Thomas Hobbes, *Leviathan*, p. 87.

Justice entails all covenants or contracts to be performed, the laws of nature command men to perform their promises and to obey the nature of a covenant. Unlike contracts, there is no mutual transferring during a covenant being made. Although there is a good to come by the transfer of rights, it is not guarantee that one will perform the requirements of the covenant on his part. For instance, the second law of nature, which is in fact the Golden Rule, refers to the obligatory aspect in theory as it says: do not do to others what you would not wish to be done to you. However this does not guarantee that others will not offend me, even though we have a mutual oath together. Of course, out of civil society there will not be peace valid for all, but on the contrary, only in civil society there is peace for all provided by the most intimidating power that human beings can form. Men who act in contrary to their promises as demanded by covenants, or who never perform the requirements, do a harm, an injury to other people. But there are no concepts of justice and injustice in state of nature and Hobbes says: “before the names of just, and unjust can have place, there must be a coercive power, to compel men equally to the performance of their covenants, by the terror of some punishment, greater than the benefit they expect by the breach of their covenant; and to make good that propriety, which by mutual contract men acquire, in recompense of the universal right they abandon: and such power there is none before the erection of a commonwealth.”⁶⁹

It is obvious that there is a difference between contract and covenant. Contract is a mutual transferring of right, whereas covenant is a one side contract which is based on the trusts of one part to the other that this other will perform his promise. Since people see some good, they take part in contract and covenants. There is actually *one* contract valid, and this is the social contract made by a multitude of people to form the civil society and to oblige themselves to obey a certain authority. Social contract entails a mutual laying down of rights, and binds the parts of a covenant to perform their responsibilities. Men make social contract to protect their lives, and make it clear either by expression or by inference.

⁶⁹ *Ibid.*, pp. 95-96.

Expression, as one of the two signs of contract, is an explicit sign since people use words “with understanding what they signify”; and “signs by inference, are sometimes the consequence of words; sometimes the consequence of silence; sometimes the consequence of actions; sometimes the consequence of forbearing an action: and generally, a sign by inference, of any contract, is whatsoever sufficiently arguest the will of the contractor.”⁷⁰ The sign by inference refers to what other social contract theoreticians after Hobbes called as “tacit consent.”

In contracts or covenants, some passions may intervene and cause men not act in accordance with their commitments. Before the commonwealth erected, contracts or covenants are then merely promises of which their fulfilment is based on a trust to another. But not all men are bounded by their words or significations. Because of the fact that laying down one's right is a voluntary act which proceeds from one's own will, it is clear that not all men follow the dictates of reason even though there is a good in the contract as instructed by reason itself. Leo Strauss mentions that, in Hobbes's teaching, the strongest passion is the most rational passion which can be the basis of all societies.⁷¹ Then, what is rational for each is to preserve one's own life from the invasion of foreigners and also from the others who follow their interests other than their own safety. In Hobbes's narration, the laws of nature bind men only internally, that is, only in their conscience due to still there is no binding fear of the punishment that will follow the non-performance of contracts. Neither the dictates of reason (or moral laws), nor the fear of God is sufficient to bind all of the people. However, a worldly power of sovereign authority that is the most powerful artificial creation of men will suffice to bind by fear the parts of a contract, defend them against injuries from others and from invaders, and also to solve the controversies of men emerging from the absence of a common judge.

Every man will acknowledge others as his equal in making covenants since nature

⁷⁰ *Ibid.*, p. 89.

⁷¹ Leo Strauss, *Natural Right and History*, p. 201.

made them equals. Each will lay down his right to everything, but only his right to resist someone who tries to kill him will be reserved. Otherwise it would abolish the basis of all contracts since it would defeat the aim of preserving one's life. The end of a commonwealth is the particular security of each individual. Individuals of a great multitude (not a few, nor conjunction of families) restrain their liberties, make covenants with all the others to submit themselves to the will of an artificial person for their own safety and defence. This person who represents all others in his own unity in accordance with the consents of them is the sovereign:

“This is more than consent, or concord; it is a real unity of them all, in one and the same person, made by covenant of every man with every man, in such manner, as if every man should say to every man, *I authorize and give up my right of governing myself, to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner.* This done, the multitude so united in one person, is called a COMMONWEALTH, in Latin CIVITAS. This is the generation of that great LEVIATHAN, or rather (to speak more reverently) of that *Mortal God*, to which we owe under the *Immortal God*, our peace and defence.”⁷²

The sovereign is a legal person to whom all the wills of men are reduced. He (or the assembly of men) is authorized to use his own power: to sustain peace at home, to defend his subjects from the enemies, to direct his subjects to the common good. He bears in his person the unity of the wills, and then his will is the will of all subjects. In this context, his artificial status as a legal person that is constituted by the wills of all, makes him the sole legislator. Hence, subjects can be also said to be self-legislating. Since the sovereign as a person is not a part in the contract and still has the liberty, he is in the state of nature. On the issue of who will be the sovereign, Hobbes says, “reputation of prudence in the conduct of peace or war, is power; because to prudent men, we commit the government of

⁷² Thomas Hobbes, *Leviathan*, p. 114.

ourselves, more willingly than to others.”⁷³ There are two ways to attain sovereign power: first, by acquisition, second, by institution. Both of them are based on the fear of the sovereign. The former is possible in paternal dominion and conquest: “as a man maketh his children to submit themselves, and their children to his government, as being able to destroy them if they refuse; or by war subdueth his enemies to his will, giving them their lives on that condition”; the latter (also called political commonwealth) “is when men agree amongst themselves, to submit some man, or assembly of men, voluntarily, on confidence to be protected by him against others.”⁷⁴

The rights and duties of the sovereign, as well as the rights and duties of his subjects, are derived from the contract. As in mathematical deduction, those rights and duties must be deduced from the contract itself with certainty. Once the contract is made, there is no way to change the form of the government or the sovereign. Otherwise it would be unjust to take from the sovereign what he has. On the other hand, breach of a covenant on the part of the sovereign is impossible, because the sovereign himself is not a part of it. Any attempt of men to free themselves from the sovereign power would result in facing with the sword of the sovereign. Neither man can protest the institution of the sovereign without injustice, nor can accuse the sovereign himself. If “every subject is by this institution author of all the actions, and judgments of the sovereign instituted”⁷⁵, then the sovereign can not do injustice to his subjects nor can be accused by them, which is impossible for one to do injustice to himself. Accordingly the sovereign can not be punished. All attempts to resist, protest, and accuse the sovereign would be a non-performance of covenant which refers to do an injury to the choice of the multitude. In

⁷³ *Ibid.*, pp. 58-59. Leo Strauss does not deny Hobbes's emphasis on the need for a prudent sovereign, but Hobbes's statement is of secondary importance according to him: “...if everyone is by nature the judge of what is conducive to his self-preservation, consent takes precedence over wisdom. But consent is not effective if it does not transform itself into subjection to the sovereign. For the reason indicated, the sovereign is sovereign not because of his wisdom but because he has been made sovereign by the fundamental compact. This leads to the further conclusion that command or will, and not deliberation or reasoning, is the core of sovereignty or that laws are laws by virtue, not of truth or reasonableness, but of authority alone.” Leo Strauss, *Natural Right and History*, p. 185.

⁷⁴ Thomas Hobbes, *Leviathan*, pp. 114-115.

⁷⁵ *Ibid.*, p. 117.

addition to this, the sovereign as a person in state of nature has his own power and right to be judge of the end and means for peace and defence. The sovereign has right to everything, as well as right to prescribing the rules concerning what is good for his subjects to prevent controversies like those that arise in the state of war. Those rules are the civil laws that include rules of propriety, and of good, evil, of what is lawful and unlawful in the actions of subjects.⁷⁶ The subjects who follow and obey the rules and laws can not interfere with the right of another due. From now on, the consideration of good and right is not left to the private judgments of subjects. Furthermore, one of the important rights of the sovereign is right to judicature, so he can solve the controversies between men if he sees necessary with his own decision in order to protect the injury of his subjects. Because if he can not protect his subjects against injuries, this would be contrary to the end of commonwealth, and subjects would go in a condition of war to protect themselves by their own powers in accordance with their natural appetites. The sovereign directs and commands the wills and opinions of subjects in accordance with what is right, good and evil through civil laws and moral rules determined. The right of choice of all officers, counsellors and magistrates within the institutions of commonwealth belong to the sovereign. He is also the person who can decide on whom will get titles of honour, dignity, who will be rewarded with riches or will be punished according to those laws determined. Hence, with his last right mentioned he is the cause of the inequality among men living under government, which is contrary to the equality of men living in the state of nature. In international relations, the only person who can decide whether there will be war or peace with other nations is the sovereign himself.

These all rights of the sovereign are indivisible since they form the essence of

⁷⁶ *Ibid.*, p. 119. The sovereign has judicial, legislative and executive power. The determined laws are the main prescriptions to prevent controversies before they arise. Even the acknowledgement of one's possessions and property is dependent on those laws so that no one can disagree with the decision of the sovereign. In this way, the question concerning what is just or just is being solved before any problem arise.

sovereignty. Sovereign power ought to be absolute in all commonwealths.⁷⁷ Otherwise it may cause the dissolution of commonwealth. Among the three types of commonwealth (monarchy, democracy, aristocracy), Hobbes claims that monarchy is the most suitable one in terms of its uniting the private interest with the public interest most closely.⁷⁸ The sovereign as a natural man has private interest, and his private interest is directly effected by the condition of his subjects, their contentment and their own interests. Both subjects and sovereign enjoy the benefit of peace and wealth.

Liberty or freedom is defined in *Leviathan* as the absence of opposition, or external impediments of motion.⁷⁹ A human being is free when he is able to use his own power to do whatever he wants in accordance with that power. In the absence of physical impediment, or of physical coercion that hinders his will to act, he is said to be free. In fact, we can only name men as free, not other bodies. Certainly, we can say that an action of man is free, or he had such and such liberty to do or to omit. The liberty of subjects lies in civil laws. Men by making mutual covenants have fastened themselves to the will of the sovereign. Thus, they have chosen and formed the artificial man called commonwealth, so at the same time they have bounded themselves by civil laws that are artificial chains. The liberty of subjects is a liberty to do whatever their reason suggests them as long as their actions are not restricted by the laws.⁸⁰ Again, as in the state of nature, subjects will follow their own interests in all their actions in commonwealth but within the boundaries of the laws. Men are free when submitting themselves to the sovereign power. Accordingly, their obligation and liberty must be derived from this authorization of their sovereign. Subjects are obliged to obey the absolute power of the sovereign until this power lasts, but at the

⁷⁷ *Ibid.*, p. 138.

⁷⁸ *Ibid.*, p. 124.

⁷⁹ *Ibid.*, p. 139.

⁸⁰ *Ibid.*, pp. 177-178. There is needed a restriction of the natural liberty for the sake of peace. This is the end of making civil laws: to prevent people to hurt each other, to promote assistance between them and to make them join together against a common enemy. Hobbes also says: "For the use of laws, (which are but rules authorized) is not to bind the people from all voluntary actions; but to direct and keep them in such a motion, as not to hurt themselves by their own impetuous desires, rashness or indiscretion; as hedges are set, not to stop travellers, but to keep them in their way." *Ibid.*, p. 230.

same time they have certain unalienable rights that “every man may justly disobey any command to kill or wound himself or abstain from anything that he requires to live.”⁸¹ In this context, man has liberty to disobey when the sovereign commands him to kill or wound himself; he has liberty not to confess his crime and accuse himself that will bring harm to himself; and he has also liberty to avoid battle when the sovereign commanded a soldier to fight against enemy, etc. A subject who runs away from a battle is not unjust, but merely a coward.⁸² If no rule about a certain action is not prescribed by the sovereign, then men have the liberty to engage in such action or to forbear it according to their own reason. The doctrines, words, opinions, actions, customs (i.e., of conquered lands) are allowed if there is no rule prescribed by the sovereign to forbid them, and it is called the silence of the law. Law, in general, is a constraint, irrespective of whether it is a civil law or law of nature. Because even the laws of nature put constraints to man's right to everything which rules out the possibility of peace.

As it was said, the sovereign power is absolute, because he is the absolute representative of all subjects, the highest worldly authority. The sovereign as a person (legal, not natural) is the soul of the commonwealth which gives motion to it. Subjects can not form any government-like organizations or large families with more servants than the necessary. Otherwise this would be a threat for the absolute power of the sovereign. The sovereign as the political authority assigns public ministers to teach his laws, what is lawful or unlawful, to his subjects. Hobbes mentions that the monarch or the assembly has the immediate authority, from God, to teach and instruct the people, and that only the sovereign received his power from Him.⁸³

All judicature system is annexed to the sovereign, and the judges who are assigned represent the sovereign authority. In contrary to state of nature, all possessions and properties are distributed (or left) by the sovereign to the subjects. The constitution of mine

⁸¹ Laurence Berns, “Thomas Hobbes,” in *History of Political Philosophy*, p. 408.

⁸² “It is the sovereign's task to see that the fear of desertion outweighs the fear of battle.” *Ibid.*, p. 408.

⁸³ *Ibid.*, pp. 160-161.

and thine clears away the uncertainty about property or community through distributing to every man his own. The sovereign will distribute the land to men according to his will, but of course he will do that in accordance with a reasonable equity and for the common good with respect to his own will. Because laws are actually the will of the sovereign, they proceed from that will, not from reason. The sovereign by his counsellors is given reasonable advices, but the sovereign says the last word that will be the law. The sovereign determines also the ways of all kinds of contract that subjects can make with each other, which includes trade, transference of property, labour etc. Hobbes considers labour, by the way, as a commodity: “for a man's labour, is a commodity exchangeable for benefit, as well as any other thing.”⁸⁴ The issues of exchange and transference in a commonwealth are arranged in terms of the law prescribed.

Subjects are obliged to obey the commands of the commands of their sovereign since they are members of a certain commonwealth. Then members should be informed about what laws are commanded by the will of the sovereign through some sufficient signs like words, writing or something else, so that they can know the distinction between right and wrong. In civil law, right and wrong refer to just and unjust. If something is not determined as unjust, then it is *not* contrary to law. The free status of the sovereign that he is not subject to laws provides him the basis to make laws again and again. He is not bound by the laws, but bound only by himself. However, his laws ought to be binding his subjects, so that the ordinances which are made by sovereign must be declared. These ordinances are related what is equity, justice, moral virtue, etc., and punishments for people who will break them. The difference between private men, and also between their private judgments according to their understanding of virtue, justice and morality, such ordinances should be made to bind them truly by the fear of punishment.⁸⁵ It is true that one can find by his own reason that what would be just or unjust both in state of nature and

⁸⁴ *Ibid.*, p. 164.

⁸⁵ Among passions, fear is the one which inclines men least to break the law.

in commonwealth. The principle that one should treat others in the way that how he wants to be treated by others refers to the basic definition of justice since it includes also the idea of giving every man his own. The laws of nature are consistent with civil laws more or less. Reason can help subjects to find what is just or unjust, but their being civil law comes after the commonwealth being erected:

“The law of nature, and the civil law, contain each other, and are of equal extent. For the laws of nature, which consist in equity, justice, gratitude, and other moral virtues on these depending in the condition of mere natura, are not properly laws, but qualities that dispose man to peace and obedience. When a commonwealth is once settled, then are they actually laws, and not before; as being then the commands of the commonwealth; and therefore also civil laws: for it is the sovereign power that obliges men to obey them.”⁸⁶

Since men made covenant to obey the civil law itself, the law of nature, in a sense, involves the obedience to the civil law. But this does not mean that a subject in all his actions that are performed according to his own reason will be just. Because the representative of commonwealth and the judge of it is the sovereign himself, and also his will, but not a common reason that commands that law. Subordinate judges in all courses of justice should try to follow the reason and command of the sovereign, who makes the law: not to follow their own reasons.⁸⁷ Laws need to be interpreted by the judges to apply them to certain particular cases. In order to be a good judge, the natural reason of judge should be good enough: namely he should have a right understanding of equity (the principal natural law), have contempt for riches, should be inclined to meditate, be objective and practical. On the other hand, also subjects should have means to understand

⁸⁶ *Ibid.*, p. 177. Hobbes also says: “That which I have written in this treatise, concerning the moral virtues, and of their necessity, for the procuring, and maintaining peace, though it be evident truth, is not therefore presently law; but because in all commonwealths in the world, it is part of the civil law. For though it be naturally reasonable; yet it is by the sovereign power that it is law: otherwise, it were a great error, to call the laws of nature unwritten law...” *Ibid.*, p. 183.

⁸⁷ “For example, if the sovereign employ a public minister, without written instructions what to do; he is obliged to take for instructions the dictates of reason; as if he make a judge, the judge is to take notice, that his sentence ought to be according to the reason of his sovereign, which being always understood to be equity, he is bound to it by the law of nature...” *Ibid.*, p. 180.

the laws made known to them. Except mad men and children, men ought to be able to follow the Golden Rule in order to avoid actions that would be unjust even though these actions are not known to be forbidden by the law. Otherwise, men become have committed to a crime. In order to prevent crimes, men must be instructed to have correct understanding of laws and true reasoning from true principles. False doctrines including the ancient political thoughts must be forbidden in a commonwealth due to they can cause subjects to have false opinions about the form of commonwealth. If such doctrines become adopted by subjects, they might become dangerous for the health of government and cause its dissolution.

Crimes are either private or public: they are private, if someone attempts to cause injury to private men; public, when the commonwealth is the target of crime. Subjects, by the establishment of the sovereign power, laid down their right to punish to the sovereign to use their own rights according to his will. The sovereign is the highest common judge in every cases in fact, and he is the one who executes the punishment through his representatives to do that. The liberties and duties of subjects are multiple and determined principally in terms of their submission to the sovereign power. There are many things that subjects ought to avoid as determined by the laws. But there is one thing which is contrary to both civil laws and the fundamental law of nature that dictates peace. It is rebellion which directly targets the dissolution of commonwealth and it is against the law of nature. The sovereign can hurt those subjects, who rise against his power, according to right of war, not of punishment. Because such acts are acts of hostility, not crimes.⁸⁸

Vulgar men tend to break the law since they are more vulnerable than other men to a sudden passion may arise in him. The difference between vulgar and rational is drawn with regard to their ability to restrict their passions. Reason, here, is supposed to restrict or control the passion. But Hobbes does not refer to any type of Stoic meditation that will contribute to a strong reason which may emancipate men from their chains called passions.

⁸⁸ *Ibid.*, p. 207.

It must be kept in mind that reason is instrumental in Hobbes's account and to be used for foresight of practical consequences, good or evil, that will come. This consequence is violent death, which is followed by wounds as a result of punishment, and deprivation of the means required for one to live. There are several references in *Leviathan* to emphasize the need for meditative development of reason in judges, ambassadors, public ministers and counsellors: judges in order to understand the commands of their sovereign and the laws of nature, and not to be affected by his passions in making judgments; ambassadors and public ministers to understand both the commands and the interests of sovereign; counsellors to have meditated upon the matters concerning the health of a commonwealth, to divest himself of the effects of passions. On the other hand, as I said above for sovereign, the sovereign and his counsellors must be experienced at having the knowledge of disposition of mankind and be prudent in practical matters. The sovereign (and also counsellors) must promote contentment of his subjects as well as keeping them under pressure of punishment for retaining his own power (for he is also a natural person) and safety of his subjects.

The sovereign should not act like a philosopher king in Plato's *Republic* nor should he represent in a commonwealth the rational part of the soul.⁸⁹ First, the sovereign is both an artificial and natural person, thus he has to follow his own interests as well as public interest (namely, not only public interest). Second, he does not rule in terms of reason, but the law is his word proceeds from his will which can not be perfect in his commands. Every natural person might have some defect in reasoning and judgment. Third, any division within commonwealth as in *Republic* would refer to division of the absolute sovereign power, which ought to be the sole power, so that this may cause dissolution of the commonwealth. It is clear that Hobbes's approach does not confirm the doctrines of moral philosophers of Rome and Athens. As he believes, even his own doctrine in *Leviathan* can not demonstrate the validity of moral rules with certainty as in mathematics:

⁸⁹ *Ibid.*, p. 219.

“... I am at the point of believing this my labour, as useless, as the commonwealth of Plato; for he also is of opinion that it is impossible for the disorders of state, and change of governments by civil war, ever to be taken away, till sovereigns be philosophers. But when I consider again, that the science of natural justice, is the only science necessary for sovereigns, and their principal ministers; and that they need not be charged with the sciences mathematical, (as by Plato they are,) farther, than by good laws to encourage men to the study of them; and that neither Plato, nor any other philosopher hitherto, hath put into order, and sufficiently, or probably proved all the theorems of moral doctrine, that men may learn thereby, both how to govern, and how to obey...”⁹⁰

Hobbes hopes that his speculative (in a pejorative sense) thinking will be converted “by the exercise of entire sovereignty, in protecting public teaching of it” into “the utility of practice.”⁹¹ Hobbes, as he himself confesses, can not bridge properly his theoretical philosophy into his political philosophy, he can not demonstrate the necessary relation between them. In fact, he is aware that natural science and political science have different principles in themselves, so that each proceeds by its own methodology. On the one hand, mathematics is to be the foundation of the all natural science, on the other hand, the principles of political philosophy “are provided by experience, by the experience which every one which has of himself, or, to put it more accurately, are discovered by the efforts of self-knowledge and the self-examination of every one.”⁹² Those principles are not that which make the essence of civil laws at first glance. Because the principles of political philosophy which are related to the civil laws, the rights of the sovereign and the subjects, and their duties are derived from the institution of commonwealth. Political philosophy as an exact science deals with drawing conclusions from this artificial institution. However, the formation of commonwealth is a work of natural men, who can be the subjects of natural science in research. The will, reason, passions, thoughts of men are considered as if

⁹⁰ *Ibid.*, p. 244.

⁹¹ *Ibid.*, p. 245.

⁹² Leo Strauss, *The Political Philosophy of Hobbes*, translated by Elsa M. Sinclair (Chicago: The University of Chicago Press, 1963), p. 7.

they could be investigated by natural science. A theory of motion can conduce to the explanation of passions, but from those passions we can not derive neither the right to self-preservation nor the wills of men to create an artificial being. The constitution of commonwealth as a future design of men in state of nature is not possible to be demonstrated by principles of natural science. Nor political philosophy is capable of demonstrating the necessity of the formation of commonwealth in terms of its *sui generis* principles that are to be used only after the commonwealth erected. The justification of Hobbes's claims about the formation of his ideal state is based on the right to self-preservation. From this right, the other rights of men derived and they are laid down by the contract. But he postulates right to self-preservation, to the passion called the fear of violent death in the hands of another men. Thus, this right by which the other rights are laid down becomes have emerged from a passion. Since the demonstration of passion is only possibly by a reflection of each man upon his own experiences, such reflection and self-knowledge becomes the ground of principles of political philosophy.

Civil society and commonwealth are not natural, but conventional. There is a reasonable end for all men in state of nature to agree upon to form them. This end is rationalized in the sense that reason itself accompanies the strongest passion. But this does not mean that reason has a superior authority to the will. In opposition to this, by the wills of each individual, the sovereign power is supposed to be formed. Individuals must lay their rights for the sake of their own preservation as reason also dictates to them. But it is also possible that some men may refuse to join the others, or may refuse to obey the sovereign power. In this case, it is the task of the sovereign power to punish them or make them obey. The sovereign is not supposed to be rational, but to be infallible as much as he can. He is the soul of the commonwealth, and he is what moves it. His decisions must conduce to the preservation of the order then. Infallibility about practical matters means also being prudent. Prudence is different from mathematical infallibility, or from having

the knowledge of natural science. All those explanations that Hobbes articulated contributes to the formation or preservation of his ideal monarchy. Even though he knows that political philosophy can not fully have characteristics of an exact science, he maintains his analysis of the state and of its formation (that is based on human passions) in order to make political philosophy (from parts to the whole) similar to a natural science in exactness. As I tried to show, Hobbes designs his state on the foundation of power. On the part of men in state of nature, such power refers to a vitalistic conception that stands for striving of individuals to stay alive and have a contented life; whereas this power, at the hands of the sovereign, refers to the unity of the wills of individuals. All the problems in the absence of commonwealth as Hobbes points out can not be solved rationally. These are, as well as the solutions to them are, practical matters. Accordingly, this is why Hobbes's right order can be justified by others only in their self-examination and self-knowledge, and why the sovereign and his ministers must be trained with the science of natural justice rather than mathematics.

The last problem that Hobbes's explanations caused is the problem concerning the study of history in a holistic way. This whole consists of natural history and civil history. But Hobbes's account of history excludes the history of men in state of nature:

“The register of *knowledge of fact* is called *history*. Whereof there be two sorts: one called *natural history*; which is the history of such facts, or effects of nature, as have no dependence on man's *will*; such as are the histories of *metals, plants, animals, regions*, and the like. The other, is *civil history*; which is the history of the voluntary actions of men in commonwealths.”⁹³

We know that Hobbes does not assert that state of nature had ever existed certainly. But he considers it as if it were a necessary period of time in the way to the establishment of commonwealth. Since the commonwealth emerges as a result of voluntary actions of

⁹³ Thomas Hobbes, *Leviathan*, pp. 54-55.

men, namely it emerges from the wills of men, there must be a history of pre-social condition of men whose wills had not yet constituted the commonwealth but produced a constant war. On the one hand, it is possible, because “knowledge of fact” demands only sense and memory in work for the witness so that there can be a history of natural men but unwritten due to there are no letters, arts, tools of registration before society. On the other hand, there is no need for such registration of the history of men in state of nature, because, as Leo Strauss says, Hobbes's political philosophy itself becomes historical rather than a philosophized history and gives the *a priori* principles for a future, ideal state.⁹⁴

B. Locke

Locke's political philosophy is complementary to his moral philosophy. The rules of morality are antecedent to the establishment of political power and civil laws, and these rules are eternal and they sustain their validity within a political society and even after the dissolution of it. The law of nature, as the source of morality, is what inclines men to join society and what keeps men in a social unity. Body politic is formed in the existence of a society in order to make known the laws, to solve the controversies may arise between men, and to execute punishments. Both society and political society are formed for the protection of property, and this is why men need to stand together as a unity, to make laws, and to enforce them. Whereas the law of nature is sufficient for binding the rational and industrious men about not harming the properties of others, civil laws are made in order to bind “all men” in society including the lazy and quarrelsome. This does not mean that not all people are rational, but the knowledge of natural law entails a specific effort to be

⁹⁴ Leo Strauss, *The Political Philosophy of Hobbes*, p. 106. L. Strauss says also: “In the case of human things, the foundation is not a free construct but the most powerful natural force in man. In the case of human things, we understand not merely what we make but also what makes our making and our makings. Whereas the philosophy or science of nature remains fundamentally hypothetical, political philosophy rests on a nonhypothetical knowledge of the nature of man.” Leo Strauss, *Natural Right and History*, p. 201.

acquired and some people do not make this effort to understand the nature of that law. Accordingly, some people may not act in accordance with natural law. The need for protection of property leads men to form a legislative power to make laws known for all.

On the one hand, people are made bounded by their conscience in themselves, on the other hand, they are made subject to civil laws that are made with respect to the principle of reward and punishment. Whereas the knowledge of natural law provides an internal motivation to obey in accordance the law which is found by man himself, civil laws create obedience by reward and punishment. Locke's moral and political theory bring two incompatible views together, and because of this, Locke's account will not suffice to be a consistent system. First, we see a rationalistic theory of moral motivation in the *Essay of the Law of Nature*, and second, a hedonistic account in the *Second Treatise of Government*. In the former, men obey the law for the sake of the law, whereas in the latter for the principle of utility. Locke claims in the *Essay* that utility is a result of the natural law, but in the *Treatise* utility becomes the dominant principle due to the fact that the law of nature can not necessarily regulate the actions of people.

Men are the members of same species and they born equal since nature has given them the same advantages to be used and it has furnished them the same faculties like reason and sense. In the condition of mere nature, men have no superior power to subject themselves. Hence, a man does not have to consult to, nor to subject himself to any other power than his own. Since God placed in all men equal faculties, a man is subjected to the law of nature which makes the essence of his liberty in the state of nature. Man, if not child or mad, has to consider others as his equals, since they have the same faculties with him, and as independent beings who are not subjected to the will of any other man. Therefore, one ought not to “harm another in his life, health, liberty or possessions.”⁹⁵ In contrary to Hobbes, Locke considers the state of nature as a condition of peace rather than a state of

⁹⁵ John Locke, “The Second Treatise,” in *Two Treatises of Government and A Letter Concerning Toleration*, edited by Ian Shapiro (New York: Yale University Press, 2003), p. 102.

war. The state of nature, according to Locke, was and is a real condition of men with regard to their relation in reference to each other: such as in international relations, princes are in the state of nature or a Swiss man is in this condition with an Indian in their relations. Since they are not members of a society in relation to each other, a possible contract between them which is not a social contract can not put an end to the state of nature. They act in accordance with their reason and perform or do not perform a contract. The only law that binds them to keep their promises in the absence of a common superior authority is the natural law.

The state of nature is a state of perfect freedom, in which all men are equal to one another and no one is subject to the will of another. Men are restrained only by the law of nature, and this laws makes the essence of their freedom. Because without any law, one can not be said to be free. Every man is bounded by the law of nature in order not to destroy neither himself nor any creature that he possess, and every man is a servant and property of a wise Maker (God). Locke says:

“Every one, as he is bound to preserve himself, and not to quit his station wilfully, so by the like reason, when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind, and may not, unless it be to do justice to an offender, take away or impair the life, or what tends to the presrvation of life, the liberty, health, limb or goods of another.”⁹⁶

Accordingly, one has a right to preserve himself and others as well. But this does not prevent controversies. In state of nature there is no superior judge to solve controversies and a system to execute the punishments to the offenders. Every man is the judge of his own case and has executive power of the law of nature. The controversies between men may arise in the commonwealth as well as in the state of nature. In commonwealth the solution is supposed to come from an indifferent judge, but sometimes

⁹⁶ *Ibid.*, p. 102.

men may be in a position to act in accordance with their reason when their life, liberty, possessions and property are in danger. For instance, when a robber attacks a man when a judge is needed, this man shall defend himself and he will be the judge of his own case in this emergent condition. This condition is a state of war and it may emerge in the commonwealth as in the state of nature. Locke distinguishes the state of war from the state of nature in contrast with Hobbes. The state of nature is distinct and different from the state of war so that the former is “a condition of peace, good-will, mutual assistance, and preservation” and the latter is “a state of enmity, malice, violence, and mutual destruction.”⁹⁷ The state of war emerges in civil society where there is a force performed against another without right. An aggressor when he attacked me or my possessions that I need for my own preservation, I have right to kill him because, whether it is in the state of nature or commonwealth, there is no time to appeal to the law or to a common superior judge. Locke characterizes this state of war as a matter of performing a force without right, for instance one does not have a right to attack me: “want of a common judge without authority puts all men in a state of nature: force without right, upon a man's person, makes a state of war, both where there is, and is not, a common judge.”⁹⁸

In state of nature, unlike Hobbes's account, according to Locke there prevails a condition of peace and people are naturally led to preserve themselves and others. In this context, Locke's account offers an other-regarding explanation related to the nature of men. Since the law of nature is supposed to bind all people with its rational content, an attack to a human being is an attack made to all human kind. The offender actually threatens himself with his act against the law. Hence, a rational men must know that rights of others must be acknowledged in accordance with the law. The law prescribes good sentiments to men to have towards others such as neighbours, parents and deity.⁹⁹ Men are led naturally to

⁹⁷ *Ibid.*, p. 108.

⁹⁸ *Ibid.*, p. 108.

⁹⁹ John Locke, “Essay on the Law of Nature,” in *Locke: Political Essays*, edited by Mark Goldie (Cambridge: Cambridge University Press, 2002) p. 122.

socialize in necessity which partly emerges from their inclinations. God put man “under strong obligations of necessity, convenience, and inclination, to drive him into society, as well as fitted him with understanding and language to continue and enjoy it.”¹⁰⁰ First society is between man and wife, which leads to the one between children and parents and to them that between master and servant can be added. But the bonds between them fall short of being a political power or civil society.

Political power is distinguished from the state of nature because two powers or rights of men are laid down to the authority in commonwealth. The first of those powers is to do whatever one thinks fit to preserve his own self as well as others if he is not in danger, and the second, is to punish the offenders who acted against the law of nature. Then, the political power has a right to use his force with right against who commits crimes, and Locke defines political power principally as having a *right* and this is its legitimate ground: “political power, I take to be a right of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, and in defence of the commonwealth from foreign injury: and all this only for the public good.”¹⁰¹

Before the political society and the state come into existence, men form a society or community. This society is formed by the consent of free men in any number (who are capable of majority) in order to have a safe and comfortable life, to enjoy their properties and defend themselves against foreigners. By incorporating into society men form a body politic with a power to act as one body. Their coming together in one unit is for creating a government. In other words, men join a society to be ruled by a common and known law. This is why a society is a political society at the same time: to establish both a legislative power and an executive power. But the movement of this body politic is dependent on the majority that is the greater force. Men whose consents gave the unity to this body politic

¹⁰⁰ John Locke, “The Second Treatise,” in *Two Treatises of Government and A Letter Concerning Toleration*, p. 132.

¹⁰¹ *Ibid.*, p. 101.

accept that the majority will move it as a whole, and this is the source of obligation of each member to submit themselves to the determination of the majority. The majority in society will govern the whole. However, this does not mean necessarily that the government will be a type of democracy, rather, if majority sustains to have the legislative power then government will be a democracy, if the rule is given by the consent of majority to a person, then it is monarchy, if it is given to an assembly of people it is an oligarchy. This power of rule is essentially responsible with enforcing the law, and it is what is called as commonwealth.

The consent of every individual is the legitimate basis of a government whether it is by expression or it is tacit. Those or the one who will rule is a part in the contract. In contrast with Hobbes's theory, Locke thinks that the dissolution of government does not result with the dissolution of society. Whoever has the power to rule ought to enforce the law to preserve the property of each. In Locke's account, the sovereign power can not be unlimited. Because it would make property open to the violation by the will or order of an absolute sovereign. This would contradict the end of a contract and put the sovereign and the people in state of nature in their relation to each other. Since the sovereign is part in the contract, the sovereign and the people are not in state of nature in Locke's theory. Thus an unlimited sovereign power is impossible in a commonwealth. The key point is that, unlike Hobbes, Locke thinks that the existence of an indifferent judge is necessary even in the relation between the sovereign and the people. Otherwise people could not defend their properties against the will of the sovereign where there is no indifferent judges to appeal to solve the possible controversies between them. In the condition that the government which is in power violates the compact, then people can change the government or limit its power. The positive laws must defend the property, and the government is bound with these laws that it makes.

Locke says, "the first and fundamental positive law of all commonwealths is the

establishing of the legislative power.”¹⁰² Because the first and fundamental need for commonwealth is a common, known and established law which determines the standard of right and wrong. The second reason is the want of an indifferent judge who has authority to determine the differences with regard to the established law. Third, there must be a power to execute punishment and make good the injustice by force and with right. In the state of nature, every man is the judge of his own case and execute punishments with regard to his reason. Even though the law of nature is intelligible for all men, some may be influenced their own interest and remain partial in his judgments, or biassed by his passions, or some may remain indifferent to the study of the law of nature. This causes the law to remain unknown for all and not binding them as a whole. Hence, in the state of nature, as Locke agrees with Hobbes, there are uncertainties, dangers and thereby a fear of insecurity. Government is a remedy for these negative effects of the state of nature. Hobbes said that man submits himself to the government for security and peace. Locke shares this idea that man aims at preserving his own life by submitting his right to judge and execute, but Locke adds to them that man wants to maintain his liberty and defend his property. According to Hobbes, property is defined, determined and distributed or left to men by the sovereign, and liberty is where the law is silent. However, for Locke, liberty is determined by the law of nature and must be kept in the limits that prescribed by reason even within commonwealth, and property has its source in man who rightly owns with his own labour and makes it his, so that property must be acknowledged by the commonwealth also.

The great and chief end of government is to protect property according to Locke. The transition from the state of nature to the establishment of government is caused by the need for preservation of property. Locke, unlike Hobbes, considers property as existing in the state of nature, that is property is prior to government. In order to prevent the state of war emerging out of any violation to property, the government makes laws and other regulations. Even though threats are never cleared away neither in the state of nature, nor

¹⁰² *Ibid.*, p. 158.

in commonwealth completely, the government through bringing sanctions makes this condition of war only more difficult to arise. Locke does not say directly that self-preservation is the cause of transition to political society, but says that property is. However, since property consists of one's body, liberty, health, labour, work, possessions and estates and of all the things that contribute to his own self-preservation, it is obvious that the motivation that leads men to form a political society comes from the need for self-preservation. Not in the Second Treatise, but in the First Treatise, Locke mentions it clearly: "the first and strongest desire God planted in men, and wrought into the very principles of their nature, being that of self-preservation..."¹⁰³

Locke says, first of all, "God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life and convenience."¹⁰⁴ At the beginning there is no private dominion which excludes others to enjoy it. But Locke says every man has a property in himself, in his person to which nobody else has right. Furthermore, in addition to his body, the labour of his body and the work of his hands belong to him. Man, through his work on nature, adds something from himself to that thing and makes it his own. Labour changes the status of a thing. Something that is considered as common becomes a private thing through labour. There are two conditions to be met in appropriation according to the law of nature: first, there must be always enough and good left to others, and second, what is appropriated by man must be used, that is, not to be wasted. The state of nature is a state of abundance that every one can find enough to eat, wear or use in order to preserve himself. God has given men everything plenty of, but forbidden to waste, spoil or destroy them.¹⁰⁵ One can gather fruits and vegetables in nature if he can use or consume them all. He labours even in gathering. In the case of lands to be cultivated, Locke presupposes that there is enough for every one to cultivate, improve or

¹⁰³ John Locke, "The First Treatise," in *Two Treatises of Government and A Letter Concerning Toleration*, edited by Ian Shapiro (New York: Yale University Press, 2003), p. 57.

¹⁰⁴ John Locke, "The Second Treatise," in *Two Treatises of Government and A Letter Concerning Toleration*, p. 111.

¹⁰⁵ *Ibid.*, p. 113.

plant, etc. As far as one works on the soil, he owns it and also the product of it.

There are some other things found in nature, which do not spoil or decay, such as gold and silver. Because of this, they can legitimately be gathered or collected from nature. However, by putting a value in these things, man made it something to be used in exchange. Thus, money was introduced to men and they started to enlarge their lands in order to get more through the exchange of his products.¹⁰⁶ The use of money became possible by the tacit consent of men and as a result of their agreement on value. This agreement is prior to society. But the use of money is the source of inequality at the same time. It caused private property to emerge. Men by enlarging their lands to make more products as long as their power or labour allows, started to stock more than their needs. As a result of it, the preservation of property (including life, liberty and estates) became a problem.

In order to preserve their property, men submit themselves to a government. The state of nature is not a safe condition for preservation, this is essentially why each individual makes contract with each other to form a political power. As it was said above, men transfer their two natural powers into the hands of society. First, the power “of doing whatsoever he thought fit for the preservation of himself and the rest of mankind”¹⁰⁷ is transferred but there is a condition for this transfer and it says as far as the preservation of himself and of others shall require. Second, the power of punishing is wholly transferred to society “to assist the executive power of society, as the law thereof shall require.”¹⁰⁸

On the one hand, according to Locke’s theory, man is driven into society since God made him so, on the other hand, he does so because he searches for peace, security, enjoying his state. If the political power is given to a prince, people must be cautious about the intent of him. Because he is responsible with meeting the expectations of men who

¹⁰⁶ “Thus in the beginning all the world was America, and more so than is now; for no such thing as money was any where known. Find out something that hath the use and value of money amongst his neighbours, you shall see the same man will begin presently to enlarge his possessions.” *Ibid.*, p. 121.

¹⁰⁷ *Ibid.*, p. 156.

¹⁰⁸ *Ibid.*, p. 156.

gave this power to him through transferring his own powers that they have in the state of nature. This political power must be used in a right way and people can check whether the prince is exercising his own power for harming the people or not. This right to harm is never given to him, nor a man has such a right to harm himself. Locke says, “where the body of the people, or any single man, is deprived of their right, or under the exercise of a power without *right*, and have no appeal on earth, then they have a liberty to appeal to heaven, whenever they judge the cause of sufficient moment.”¹⁰⁹ However, such exercise of power against the body or a man can be a great inconveniency that the majority can recognize it, so it is quite dangerous position also for princes themselves. Hence, a wise prince must avoid this kind of circumstances according to Locke. The right of people to be judge of their own cases in a condition that does not contribute their own self-preservation is still reserved.

Men in the state of nature are not subjected to “the inconstant, uncertain, unknown, arbitrary will of any other man”¹¹⁰, but are under the dominion of what the legislative power prescribes them not to be done. They follow it with a trust put in the legislative power with regard to their consent in the government. Men are free in the state of nature so far as the law of nature allows, they have liberty under government to follow their own wills in all things “where the rule prescribes not.”¹¹¹ However, at the same time men as rational beings are capable of evaluating whether the government is in the pursuit of the public good in the exercise of its power or not. Moreover, society holds the power to change the government according to the inconveniences that the government shows. The inconveniences are contrary to the law of nature. But the law of nature in order to be acknowledged needs to be studied by man. Having the knowledge of the law of nature, man can act in terms of the prescription of the law. Even though the law is a sacred and heavenly thing that can be acquired by man, we can see that all men do not act in terms of

¹⁰⁹ *Ibid.*, p. 175.

¹¹⁰ *Ibid.*, p. 110.

¹¹¹ *Ibid.*, p. 110.

the law. Rather they tend to preserve themselves and their property both in their consent to the government and in the dissolution of the government. Therefore, irrespective of whether men studied the law of nature or not, there is a more effective binding principle in men, which is the desire of self-preservation. They form and dissolve government only for their own self-preservation by intending to protect the property.

Locke designs the state of nature as a condition of peace but does not claim that human is good in his nature. Although the natural law commands men to have a social convention by assisting each other and not harming, men must know at the same time that both on earth and in afterlife there will be reward and punishment for his actions. On earth, harming others may cause a threat for the offender himself due to it may bring bad consequences. The inference of this possible bad consequence is easier than appealing to proofs and deductions that can be made by reason in order to have knowledge of the natural law. Second, even though one can get the knowledge of the law through his reason, the rational inference to the existence of a wise Maker does not necessitate that, for instance, the world is given to men in common, or that there will be reward and punishment in afterlife. Consequently, man also needs to have belief in God, miracles and biblical texts and to have the knowledge of them as positively given, namely man can not know and demonstrate the validity of such things solely by his own reason.

If all men followed the law of nature in their actions, then it would not be needed a convention to form a society. But their convention does not proceed from the dictates of reason, rather, from self-preservation. Man assisting each other rather than harming another knows that the state of nature is an uncertain condition, and that he can be offended by others as well. Locke says that without law men can have no social intercourse or union among themselves, would not obey the laws of commonwealth, and could not be restrained by those laws.¹¹² If the law demands from man a careful study to derive principles of action in terms of reason. Because of this, the law is not known by all men,

¹¹² John Locke, "Essay on the Law of Nature," in *Locke: Political Essays*, p. 87.

then how the law of nature binds men both to join society and to obey the laws of state is problematic to answer.

The law of nature is not planted in man, neither revealed by God to him directly nor transmitted by a man who receives the message from God. If it were planted, then it would be known by all; if it is transmitted, then it would be a positive law, namely, not a natural one. And the revelation is not the case. Because the law must be knowable to all not to a few, but it is obvious that there are only a few to whom God speaks. People are endowed with the faculties of understanding, reason and senses. These faculties constitute the foundation of knowledge. According to Locke, the law of nature can be known by the light of nature, and reason is the chief light of all knowledge.¹¹³ Hence the law must not be positive, but open to discovery by all. However, what Locke refers to by reason is not the faculty of understanding dealing with training and forming thoughts and deducing proofs; but the source of definite principles of action. It is a right reason about the law of nature. Provided by the fact that Locke is an empiricist and he thinks that the mind is an empty tablet (*tabula rasa*), how can reason be the source of those principles? In fact, there is no innate moral principle in mind and all material for knowledge comes from the sense-experience. This is what Locke says:

“The nature and properties of figures and numbers appear obvious and, no doubt, knowable by the light of nature; yet from this it does not follow that whoever is in possession of mental faculties turns out a geometer or knows thoroughly the science of arithmetic. Careful reflection, thought and attention by the mind is needed, in order that by argument and reasoning one may find a way from perceptible and obvious things into their hidden nature.”¹¹⁴

The law of nature is not written in our hearts. As we do not have, before we learn it or prove ourself by induction and by observing particular instances, the knowledge of the

¹¹³ *Ibid.*, p. 90.

¹¹⁴ *Ibid.*, p. 94-95.

first and basic principle of the science, such a law of nature can not be found us innate. Neither we have innate ideas related to practical moral principles. Locke gives the principle of non-contradiction as the first principle of sciences that can be learned from teachers or proved by a person to himself through certain methods. In the same way, a practical rule such as the Golden Rule is not self-evident, one can ask why it is valid for all men.¹¹⁵ Speculative (i.e., what is, is) and moral principles can be demonstrated only in relation with other ideas. Sensation and reason must work together in order to have knowledge of the natural law. Sensation furnishes reason with the ideas of sensed objects and gives the material for reason to process it. Reason, on the other hand, guides the simple ideas of objects that are sensed, arranges them, and forms new ideas that are complex. Reason in this sense, is “discursive faculty of the mind, which advances from things known to things unknown and argues from one thing to another in a definite and fixed order of propositions”, and it is “by means of which mankind arrives at the knowledge of natural law.”¹¹⁶ Therefore, it is reason which works on the sense data and constructs the knowledge of practical and moral principles, as it does for mathematical science through using its axioms and general principles to construct further knowledge of it.

If natural law is to be a law, there must be a law-maker behind it who commands that law. At the same time, if one is to be bound by that law, this law maker must be superior to him so that he will be subject to his will. Hence, a man if he is to obey the will of that superior power, he must know that it exists. Locke in his reasoning departs from the causality in nature to derive the law of nature from the existence of God. Since in nature we perceive objects and their motion, we can infer that there is a regularity and order in the making of all things. This regularity and order can not be by chance. There is always a cause of something other than that thing itself. Therefore, there must be a powerful and wise creator which causes all things in the world to exist in an order. According to Locke

¹¹⁵ Uzgalis, William, "John Locke", *The Stanford Encyclopedia of Philosophy* (Spring 2016 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/spr2016/entries/locke/>>.

¹¹⁶ John Locke, “Essay on the Law of Nature,” in *Locke: Political Essays*, p. 101.

we infer and at the same time believe in God since we as men can not create mortal things nor anything from nothing. We believe because we can not have such perfections of God as far as we can conceive in our minds.

Furthermore, this world is created by God with a purpose. This is why we are furnished with reason and other faculties: to contemplate God's work, wisdom and His power. All men who are indifferent to use of those faculties in himself can grasp this purpose. Although men are furnished with same faculties, they have different considerations about what is right and good. Their convention on morals does not prove that a natural law can be derived from their consent in the convention. Because in different areas on the world, there are nations whose moral agreements are not the same with that of another. Thereby, each man has to acquire the knowledge of the law from the first principles of nature not from someone else or something else. One is bound by it because there is a superior will who owns power and right over us and to whom we are subject. The wise law-maker has right since he has created us and everything else. The being and work of men are belonged to the will of God. Since they are received from Him, men are "bound to observe the limits He prescribes."¹¹⁷ According to Locke, it is a rational apprehension of what is right, so the all obligation of men does not proceed from a fear of punishment, but rather an obligation can bind men in their conscience through rightful authority and dominion.

Another source of obligation is created, then, by the transference of the natural right to the authority. One submits himself to the will of another, such as sovereign power, by the right of contract. The obedience to a ruler is something that man can find its source in himself through the law of nature. The law commands man to obey the will of a ruler since he is the law-maker and he commands with right. This is, according to Locke, for conscience's sake because through conscience one can discern the condition in which he is captive from the condition where he gave his right voluntarily. Thus, man does not obey

¹¹⁷ *Ibid.*, p. 117.

the king or other ruler only out of fear, but the law also commands this.

The moral rules are permanent and unchangeable, and the binding force of the law of nature is all encompassing. The kings, the subjects, and even any people of a nation which is considered savage are bound by the law. Men have several duties that are determined particularly in terms of their positions in the world. Of course, the duty of a king must be different from that of a subject. However, Locke points out the conventions that mankind maintains all around the world have their sources in the rationality and equality of mankind. Locke does not derive the law of nature from *a posteriori* and particular determinations of human convention. On the contrary, he says that all other laws are dependent on the law of nature since this law is the fundamental basis and the standard measure of these other laws. Personal interest can not be the basis of the law because “the strongest protection of each man's private property is the law of nature.”¹¹⁸ If self-interest were the basis of the law, there would not exist dutiful actions, nor virtues, good sentiments, tender affection for parents, fear of deity, love of one's neighbour. Justice, friendship and generosity could be taken from the life with regard to the principle of utility, or of self-interest. Since utility allows men to have any possessions they find useful for their self-preservation, the conflict of interests would become unavoidable cause a constant state of war. Consequently, the social bonds that are based on trust would be destroyed.

However, Locke does not consider the increase of wealth through stocking money as something that can violate the law. Because the increase of wealth is not based on the waste of things in nature, and then it is done by right as long as men produce things with their labour in terms of their power. But it is obvious that the immoderate appropriation of things in nature (like soil or lands) by some men will make it harder for others to find lands to be owned. This is actually contrary both to equity and to the other-regarding aspect of the law. In the same way, people were led to increase their wealth more than they need because of the desire of self-preservation. Reason dictates men to preserve the lives of

¹¹⁸ *Ibid.*, p. 128.

others in order to preserve his own life, teaches not to harm others since he may be punished as a result of his action, to obey the positive law for protecting the property. The source of obligation, obedience, need for protection, immoderate appropriation is self-preservation. Also the commentators like Robert A. Goldwin and Leo Strauss share this view that self-preservation is the essential force that lead men to submit themselves to a political power in Locke's political thought. Goldwin says, "what counts is what is universal and powerful, what exists with controlling force within every man, what can be relied upon to govern the behavior of man"¹¹⁹, because the strongest desire planted in man is the source of the law of nature, and "it will be obeyed because of the universal desire for preservation."¹²⁰ Also Strauss mentions that, first, the law of nature is not a law in strict sense, because it is not promulgated by a superior will, like the will of God. What can be found as the basis of human convention is derived from a right to self-preservation, and this right is dependent on a passion for self-preservation. Accordingly, Strauss says it is a natural necessity, which goes along with the law of nature if it is a law, that desire for self-preservation can not be hindered. Reason only teaches men that they have a right to self-preservation and to the means of preserving it, this is the fundamental moral fact as Hobbes considered.¹²¹

Provided by the fact that each man is the judge of the means whatever he thinks fit for his own self-preservation, the peace and security is not guaranteed in the state of nature. Because the conflict is unavoidable in the absence of a common law and judge. This is why the state of nature is an ill condition, and reason teaches men to heal it through the establishment of government and society. The social bonds created proceeds from this need for self-preservation. However, this does not mean that good sentiments toward othes have no meaning at all, but rather they are not so essential in the formation of society.

¹¹⁹ Robert A. Goldwin, "John Locke," in *History of Political Philosophy*, edited by Leo Strauss and Joseph Cropsey, (Chicago: The University of Chicago Press, 1987), p. 484.

¹²⁰ *Ibid.*, p. 484.

¹²¹ Leo Strauss, *Natural Right and History*, pp. 227 -228.

Strauss says, in accordance with the lesson taught by reason that the ill condition of the state of nature must be remedied:

“Reason accordingly dictates how civil society must be constructed and what its rights or bounds are; there is a rational public law or a natural constitutional law. The principle of that public law is that all social or governmental power is derivative from powers which by nature belong to the individuals.”¹²²

Even though Locke considered the state of nature as antecedent to society, the state of nature must be in the beginning a kind of social state in which men could have learned what is conducive to their own self-preservation so that they can reflect upon the uncertain and insecure condition so that they can decide to join the society since they find it reasonable. Locke said that nowhere in the world men are “so savage” that they do not partake in humanity, nor they are naturally so separated from each other. Because of the fact that only a small number of men can make a study of the law of nature properly even though the law is intelligible for all, others act not from the law of nature but from their self-interest then. Accordingly their convention does not emerge from their appealing to the law but from reflecting upon determining the right means to secure their property. The fundamental moral code that is taught by reason is the right to self-preservation. Therefore, the law of nature is not necessarily needed for forming a political power through convention.

In order to be happy, whether it is personal or public happiness, men avoid negative results of the state of nature and desire enjoying the peace and quiet of civil society. In the absence of civil society, the law of nature turns into a mere ideal which is supposed to regulate actions and behaviour of men. Locke, by considering the law as it can be derived from an “idea” in the mind, can not promote it as superior to desire for self-preservation. The acquisition of the knowledge of this ideal is possible through reflection upon the

¹²² *Ibid.*, p. 228.

objects of sense-experience. Even though it is attained, it can not suffice to explain the principles of human convention in a demonstrative way as it was expected. Locke in his attempt tries to derive those principles in the same way that the inferences are made from mathematics and mathematical sciences. The rules concerning practical matters, as is shown, are possible to be derived through the light of nature. Hobbes tried to derive those principles from the knowledge of human nature through looking into his own self, and advised others to do the same in order to justify the foundation of his ideal state. Locke, in a similar way with Hobbes, defends that man has no other source than his own self to learn about the law of nature which is permanent. But, at the same time, unlike Hobbes, he emphasizes more the empirical data that come from the observation of human relations and of the relation between man and nature.

C. Rousseau

In the Epistle Dedicatory of *On the Origin and the Foundations of Inequality Among Men*(or the *Second Discourse*), Rousseau gives the outlines of his ideal commonwealth in his mind. According to this, he says, he would have chosen living in the State in which the people and the sovereign are the same person, which is a democracy but a wisely tempered one.¹²³ Also this State is where, every one performs his own duty, does not meddle with those of others, and where each man is equally subject to the common law and each shares the right to make laws. In that State, as Rousseau wished, there must prevail love of country which is mainly a love of citizens that emerges from knowing each other. Moreover, its size must be well-defined for making it possible to govern well the whole, and in it men must be able to judge what is good or bad about the matters that concern the whole.

¹²³ Jean-Jacques Rousseau, "The Second Discourse," in *The Social Contract and The First and Second Discourses*, edited by Susan Dunn (New York: Yale University Press, 2002), p. 72.

Rousseau says “the most useful and least perfected of all human studies is, in my opinion, that of man, and I dare say that the inscription on the Temple of Delphi did alone contain a more important and difficult precept than all the vague volumes of the moralists.”¹²⁴ The dictum *know thyself*, self-knowledge on the part of the citizen contributes to the true shaping of society and government.

The absence of adequate knowledge of human nature made difficult to understand the essence of natural law. For Rousseau, modern thinkers established many metaphysical principles on their accounts for natural law so that most people of his time could not understand it, but maybe a few, nor were men in the state of nature capable of grasping and of acting in accordance with it to form civil society. In contrast to Locke's account for the natural law, a law, if it is to be a natural law, must be speaking directly by the voice of nature without demanding a specific effort to be known. However, man in the state of nature must have been subject in action to the mechanical laws according to natural law theoreticians who describe that man as miserable. If this condition is to be known, one must distinguish the essential characteristics of man in the state of nature from that of man living in civil society. Because “as long as we remain unacquainted with the constitution of natural man, it will be vain for us to attempt to determine what law he received, or what law suits him best”, but “we shall not be obliged to make man a philosopher before he is a man.”¹²⁵

Rousseau determines the two main natural instincts in man as “the first and most simple operations of the human soul.” The first is desire for self-preservation, and the second is compassion, that is an aversion that emerges when we see any other being, especially human being, suffering or dying. The natural law, if there is, can be derived from these two without any need to supply another principle such as sociability. The other rules that can be found by reason must have been added in another stage in the history of

¹²⁴ *Ibid.*, p. 81.

¹²⁵ *Ibid.*, p. 84.

man, but these two are substantive. According to these principles, man will not harm others or any other living being if he does not resist the feeling of compassion except in the situation that his life is in danger. Rousseau thinks that man shares desire for self-preservation and compassion with other animals, but what distinguishes him from those animals is that he has a *will* to choose, which is an act of liberty. That is, unlike animals, man does not act from mere instinct but he is free to resist the commands of nature. Man when he perceives that he is free to act, this acknowledgment of his own freedom is the beginning of his spirituality:

“... for natural philosophy explains, in some measure, the mechanism of the senses and the formation of ideas; but in the power of willing, or rather of choosing, and in the consciousness of this power, nothing can be discovered but acts, that are purely spiritual, and cannot be accounted for by the laws of mechanics.”¹²⁶

The predecessors of Rousseau, as Rousseau says, who dealt with the foundation of society felt the necessity of tracing back to the state of nature, but they could not get there.¹²⁷ Rousseau, by following Hobbes, considers man in the original state of nature as isolated, completely in solitude and as always open to the threats of savage life. Unlike Hobbes, he characterizes man as amoral but good in the beginning, however in society man has become corrupted. If we consider that man has both a desire for self-preservation and compassion or pity, then he is not bad nor perfectly good in moral sense but at least he is not led directly to harm others. In Rousseau's account, reason has not developed yet nor morality has emerged in the pure state of nature. Accordingly, in this prepolitical and even presocial condition, man is led to satisfy his basic needs himself for his own preservation. Rousseau does not consider man in solitude as selfish, because selfishness emerges in social relations and any account of selfishness can be given only in terms of a relation to others. Man in the state of nature has only a self-love (*amour de soi*) through which man is

¹²⁶ *Ibid.*, pp. 95-96.

¹²⁷ *Ibid.*, pp. 87-88.

inclined to preserve himself. The first feeling that man had was of his existence, and the first care he had was to preserve it. Since the passion of self-love is mitigated by compassion, this self-love alone is not harmful to others. Rousseau believes that man has the faculty of improvement, “a faculty which, as circumstances offer, successively unfolds all the other faculties, and resides among us not only in the species, but in the individuals that compose it.”¹²⁸ It is a capacity to learn and develop himself in finding the ways to satisfy his needs and in adjusting himself to new conditions of life. Perfectibility alongside with his freedom is what makes him unique.

The faculty of improvement is at the same time the cause of all misfortunes since it takes man out of his original, peaceful and innocent condition through making him discover virtues and vices which will master man as a tyrant of himself and of nature. Man starts learning in the state of nature all things except his basic operations like sense, want or fear. Unlike Hobbes, Rousseau does not think that man in the original state of nature had the notion of death or violent death. Man learns even the terror of death by deviating from the natural state. Rousseau criticizes Hobbes's account for the state of nature as a the state of war, and he says that Hobbes “should say that the state of nature, being that in which the care of our own preservation interferes least with the preservation of others, was consequently the most favorable to peace, and the most suitable to mankind.”¹²⁹ Furthermore, Hobbes did not consider compassion as one of the chief feelings to protect others. According to Rousseau, without compassion, man would be slave of his self-love, and become a monster. Nevertheless, man will turn into a monster by the weakening of his compassion in civil society. Also in contrary to Locke's approach that the law of nature leads him to protect himself and all mankind in the state of nature, Rousseau employs compassion as the natural feeling that balances the act from self-love and contributes to the mutual preservation. Aversion from doing harm to others proceeds from this feeling, then

¹²⁸ *Ibid.*, p. 96.

¹²⁹ *Ibid.*, p. 105.

preservation of others is not a result of reflection in opposition to Locke's claim.

As different from Hobbes's and Locke's accounts, Rousseau brings a clear definition to the essential characteristics of man in the state of nature and distinguishes them properly from that of man in civil society. In the beginning, man did not have any idea of prudence, respect, vanity, mine and thine nor was he able to understand the metaphysical basis of natural law, do reasoning in abstract terms, have the the notions of justice and injustice, etc. Moreover, he was not able to speak in his solitary life. Only after the emergence of some social interactions, he probably developed language that consists of cries, then in a further step by assigning names to objects in a basic way, and made progress in development of his reason, intelligence, and knowledge. But this process probably needed to take many thousands years to make man as the man in a civilized state: “he had in his instinct alone everything requisite to live in a state of nature; in his cultivated reason he has barely what is necessary to live in a state of society.”¹³⁰

Of course, since his needs demanded and the natural conditions forced him to do, man started to across with other human beings seldomly, cooperated with them for hunting. Temporarily they made a unity, but it was suddenly dissolving after hunting for instance. Sexual partnership was also temporary, and it did not lead man to have a permanent relationships. But he had to have the notion of his attractiveness due to he needs to engage in competition for attracting a possible sexual partner. He has this notion because he compares himself with his rivals and starts caring for himself in order to achieve mating. He develops a mechanical process to act in the way that he will get advantages against others. This relational conception of self gives rise to another passion called love of the self (*amour propre*). *Amour propre* is the foundation of other passions that man will have in society, such as pride and glory. The origin of the differentiation of other passions from *amour propre* is in the invention of building houses and in their entering into a settled life. Each man wanted to be noticed, praised and respected by others

¹³⁰ *Ibid.*, p. 104.

since they started to come together more than ever in their leisure time.

There are three main stages of man in history: first, the the original state of nature, second the naturally social state which is prepolitical, third the stage in which man has become both social and political. The transition to society presupposes convention or agreement. Besides language, the idea of morality, right and justice emerges from agreement too. In prepolitical social state, before the enactment of laws, the feeling of revenge determined the intensity of punishments. Because, “goodness of heart suitable to the pure state of nature by no means was suitable for the new society.”¹³¹ Man was acting from self-love in the pure state of nature and in the collective and prepolitical life, but by the transition to civil society the rules of morality were regulated in terms of amour propre. But first, man will need to invent agriculture and metallurgy that will give rise to private property, deprive him from his collective life, cause him to institutionalize moral rules, and finally establish positive laws.

Material conditions like climate, savage life, food shape the life of man, and man also shapes the nature in order to use it to make his life easier. All the changes in the life of man is dependent on events that are accidental¹³² but necessary for a true analysis of the foundation of right. By the emergence of cultivating the soil, it became a necessity to share the lands, determine the definite limits of property in order to avoid uncertainties. Once the right to property (even though it is temporary) was acknowledged, the emergence of the first rules of law followed it: “for to secure every man his own, every man had to be able to own something.”¹³³ Also men started to foresee that they can lose something since they have from now on. They have because they worked on the soil and must get what is his right that he has through their labour. The stronger men produced more than others, some smart people made tools of iron to lessen the time of production, and consequently some earned more than others even though they spent the same time for work. Men stored

¹³¹ *Ibid.*, p. 119.

¹³² “... the events I am about to describe might have happened many different ways.” *Ibid.*, p. 113.

¹³³ *Ibid.*, p. 121.

themselves almost fully developed in mental abilities in the end of this process of production. This caused an inequality of exchange which proceeds from the differences of their natural abilities, and as long as this condition was remained men obtained reputation in accordance with their abilities:

“Behold all natural qualities put in motion; the rank and lot of every man established, not only to the amount of property and the power of serving or hurting others, but likewise as to genius, beauty, strength or skill, merits or talents; and as these were the only qualities which could command respect, it was found necessary to have or at least to affect them. It became to the interest of men to appear what they really were not. *To be* and *to seem* became two very different things, and from this distinction sprang haughty pomp and deceitful knavery, and all the vices which form their train.”¹³⁴

Man loses his own independence since he requires to satisfy his own needs that are newly produced. He becomes dependent on his other fellows, besides on nature, even when he thinks that he is the master of others. The rich needs the service of the poor for satisfaction of his needs, the poor on the other hand needs the assistance of the rich for the same reason. Each follows his own interest in this economic condition of interdependence. Accordingly, this pursuit of self-interest directs man to deceive others, to conceal his true feelings and intentions, to be more cunning in order to master himself superior to others in this competition of interest whereas he shows sincerity and good wishes to them. Each wants to satisfy his new desires. The unlimited passions of man cause him to believe that he can get whatever he wants, then there arises horrible conflicts and the state of war in which nobody is in safety.

In order to escape from this state of fear of dangers, all men agrees to establish a political order for peace and justice. Men by a social contract provide security and protection for all of them and their freedom, against the illness of the state of nature. Men,

¹³⁴ *Ibid.*, p. 122.

whether they are owners or not, prefer this condition of peace and freedom even though freedom under government is not so perfect as in the state of nature. Why the have-nots or the ones who have less power accept the contract is actually based on the belief that they really secure their freedom. However, Rousseau thinks that this is a deceiving contract because it is in favor of the ones who are in the power to keep their own power, and that it results from the conviction of the have-nots about they will be free whereas in fact they are subject to the land owners in satisfaction of their own needs. Natural inequality that proceeds from the difference of natural capacities of man turns into only a political equality through the contract:

“Such was, or must have been the origin of society and of law, which gave new fetters to the weak and new power to the rich; irretrievably destroyed natural liberty, fixed forever the laws of property and inequality; changed an artful usurpation into an irrevocable right; and for the benefit of a few ambitious individuals subjected the rest of mankind to perpetual labor, servitude, and misery.”¹³⁵

But how to solve this problem? For Rousseau, the human development throughout history is irreversible. That is, as contrary to Locke and Hobbes, it is impossible for man living in a social order to return to the state of nature. Through the conventional instruments like language, custom, religion before political association, and also through the artistic, agricultural and technological inventions, man made a considerable progress both in having the experience of living in a social unity and in the development of reason. However, the form of government has constantly changed. Because, only through experience men could notice the deficiencies in the political state, and they changed the form but could not cure the problem in its origin.

Civilization and political society distance man from his original state of nature, corrupt him that he becomes slave to his passions, to power, and reputation. Man living in

¹³⁵ *Ibid.*, p.125.

the pure state of nature acts from self-love (*amour de soi*), tries to satisfy his basic needs, does not and can not consider others since he is in solitude and has feeling of only his existence. Hence, his happiness is based on his natural freedom. But man living as a member of society, develops a conception of his own self, and acts from his love of self (*amour propre*) which is constituted in the eyes and testimony of others, demands the acknowledgement of his own value that he builds by considering the judgments of others, and derives the feeling of existence from others living in the same society. Moral values are created within society so that they teach him to seem good-natured, sweet, other-regarding and virtuous where in fact he hides his true feelings and instincts. The compassion man that man has becomes gradually weakened in society, and he becomes more indifferent to the suffering of others, therefore to their rights, gains, losses, freedom and lives. He is dependent on others in civil society to satisfy his basic needs and artificial needs. Whether he is rich or poor, he accepts to submit his original freedom and unlimited right, to a common power for safety and peace. The economic interdependence, moral corruption and inequality are institutionalized by political order. Now, he has less freedom than he had before since he puts himself in chains through legitimizing his social condition by establishment of positive laws. Therefore, his own happiness and also happiness of others become dependent on this political order.

Although Rousseau criticizes the existent social and political order as they corrupted the conceptions of good and evil in general, there remains a hope in Rousseau's teaching that the difference between the state of nature and the civil society can be educative in terms of providing a true measure for public good. It is possible for man to store his freedom in civil society almost like he had in the original state of nature. It is true that man can not lose all his abilities acquired during the historical process, nor can forget all his knowledge that is gained in many years, but can use them to maintain or get his freedom. As a matter of fact, political experience might contribute to the formation of good

government. Through the social pact men form the body politic which then gives to government the responsibility of both the execution of laws and the maintenance of civil and political liberty. Since this fundamental pact also substitutes the moral and lawful equality for the inequality that proceeds from natural differences, a good government should prevent this apparent equality from being abused in favor of the powerful ones.¹³⁶ In other words, it is not the sovereign power which violates the principle of public good but the governments. Because it is government which may abuse the executive power given to it, try to seize the right of legislation or use it in the way that a man or a certain faction in the whole, will benefit.

By the social contract, each man gives himself to all so that no one is actually subjected to any other. Rousseau says, “each of us puts in common his person and all his power under the supreme direction of the general will; and in turn each member becomes an indivisible part of the whole.”¹³⁷ The act of contracting provides the unity which is a living moral and collective body, a common self and a common will. The sovereign power that men form does not have any interest contrary to the individuals since it is composed by the individuals themselves. Others who are outside of the multitude are forced to be free, in Rousseau's words, because the concept of general will protects man from being subjected to any other will. But there are many criteria for this sovereign power to be effective in making enduring laws. Such as it should be a nation who is settled in a relatively small area which should not expand so that the customs, culture and ethnic similarities of its people¹³⁸ may vary, nor that its population may exceed the average which

¹³⁶ Rousseau says in *The Social Contract*: “Under bad governments this equality is only apparent and illusory; it serves only to keep the poor in their misery and the rich in their usurpations. In fact, laws are always useful to those who possess and injurious to those that have nothing; whence it follows that the social state is advantageous to men only so far as they all have something, and none of them has too much.” Jean-Jacques Rousseau, “The Social Contract,” in *The Social Contract and The First and Second Discourses*, edited by Susan Dunn (New York: Yale University Press, 2002), p. 169.

¹³⁷ *Ibid.*, p. 164.

¹³⁸ Rousseau says that “the more the social bond is extended, the more it is weakened; and, in general, a small State is proportionally stronger than a large one” and “the laws cannot be suitable to so many different provinces, which have different customs and different climates, and cannot tolerate the same form of government.” *Ibid.*, p. 185-186.

is suitable for gathering in assemblies in cities.

In *Social Contract*, Rousseau asserts that the civil state has many advantages for man to realize his potential of perfectibility. Although in *The Second Discourse* Rousseau criticized the degenerative aspect of civil society, he claims in *Social Contract* that moral freedom one has in civil society will make him master of his own self. It will contribute to the achievement of a good life through enabling him to participate in law-making as an independent citizen. Because, ontologically Rousseau once distinguished man from any other animal as he has his freedom to act, freedom to choose and resist the nature. Historically, the development of this characteristic of man has become irreversible alongside with his other developed faculties. In his actions, man in civil society has to consider justice and obligations rather than merely acting from instincts. Accordingly, as a member of the whole he must listen to his reason in acting rather than following physical impulses. Since liberty is the noblest faculty¹³⁹ and his other faculties are ennobled with it, he should not let this new condition degrade him below as he was in the pure state of nature. Therefore, the civil condition, in fact, releases him from the condition that he was a limited animal and it assists him to realize his own self as a rational being and then as a human.

Man under the influence of mere appetite then is a slave. The unlimited right to everything in the state of nature refers to a negative freedom. However, in civil society he is only limited by the general will, which proceeds from the deliberate act of contracting. The law determined by the general will is a result of the participation of citizens in it. Then, citizen will be subject to the law that he prescribed himself. In addition to this, the object of the general will is the common good and the society is to be governed in accordance with it. The sovereign is the whole people who express their wills in the promulgation of laws. Individuals, naturally, follow their own interests. But if they identify

¹³⁹ Jean-Jacques Rousseau, "The Second Discourse," in *The Social Contract and The First and Second Discourses*, p. 129.

themselves as equal citizens in the state, consider the general will as their own wills, leave their self-interests aside in favor of their common good in making equally obligatory laws, then there will be not a tension between the individual interest and general interest.

By contract, citizen makes himself a member of a collective whole in which all men are equal and their freedom is protected. In a well-ordered state, citizens are obliged by their own wills, that is, in a positive way rather than in Hobbes's commonwealth. Because it is not the fear of punishment that directs man to obey the law, but their own conviction that the law proceeds from the general will. In this sense, the body politic refers to the union of obedience and liberty.¹⁴⁰ The sovereign authority can not be divided, since once it is formed as one will. The institution of government is based on a law, it is not a matter of contracting. First, it is an act of law that determines that there must be a governing body, second, as it is derived from this act, there is going to be a choice of the leaders at the same time. The objects of legislation are general determinations, that is, legislation does not concern with particular people or particular cases. But in the appointment of leaders, the act of sovereignty has a democratic character since it deals with the appointment of this or that individual or group of individuals. Accordingly, the appointed leaders of executive power are the officers of people, who are to obey their assignments and to fulfill their duties as citizens toward the sovereign power.

It is obvious that when a prince demands absolute and unlimited obedience, it is against his duties. Thus the appointment of the prince or other leaders is dependent on the sovereign power, and they can be dismissed by the people if necessary. Prince himself is not above the laws, rather merely subject to them.

Through the contract, each man admits equally that the basis of government is their submission to one will, and that majority will conclude the rest. In this way, the general will promulgates the laws that bind all the people in a state without exception. The laws

¹⁴⁰ Jean-Jacques Rousseau, "The Social Contract," in *The Social Contract and The First and Second Discourses*, p. 219.

can not be unjust because it is impossible for man to be unjust to himself. The law is not a chain for people, because they are the authors of the law. Law, says Rousseau, is merely the register of the wills of people.¹⁴¹ Under the law, liberty and equality are protected, and the right to property as well. Also magistrates should act to protect them since they accept that they will look after the well-being of the whole, not their own self-interest, and that they will work for the continuation of peace. What they should do is to act in accordance with the law in their acts.

Subjects should come together to make legislation and to appoint the officers in certain periods. In public assemblies, each should express his own opinion about the point and vote in order to make the public good prevail. But this burdensome work of the whole was generally handed over to the representatives. Then, this violation of public good became inevitable. This is why public assemblies are necessary for the health of a political body. On the other hand, the political body is not dissolved when the government collapses or is dismissed. In order to prevent that the inconveniences and the illegitimate actions of government become possible, the officers of the government can be changed in short periods.

Even though the general will always desires good of the whole, does not it err? This is a problem for Rousseau's account which concerns us. Because, on the one hand, Rousseau excludes the guidance of philosophy in acquiring virtue and good since it does not contribute to make us better. On the other hand, he appeals to the legislator for building an enduring constitution in the light of the good for all nation, whereas he defines the legislator as a wise-like, self-conscious, rational and generally infallible man so that he can guide the public and individuals by persuading them about what is good. The natural science and philosophy, according to Rousseau, are the jobs of selfish men. Because the ones who engage in such contemplative activities withdraw themselves from the public concerns. Since theoretical science or philosophy is done for the sake of a pleasure in

¹⁴¹ *Ibid.*, p. 179.

itself, Rousseau does not think that it helps to improve the conditions of living in general. But the practical philosophy or wisdom, however, assists men to become better and virtuous citizens. Because it deals with self-knowledge which is unavoidably related to one's liberty and then to his being equal to others. Liberty and equality, in this sense, are correlatives. Hence, as a citizen, I must actively engage in *the political* because it “concerns me greatly that my liberty is not abused.”¹⁴² Therefore, citizen must be able to see that his liberty consists in the equal liberty of all, and that his private good consists in ultimately the public good. Since the general will must be protected against the seduction of private interests, a virtuous citizen as a free moral agent should appeal to his reason both in action and legislation, in order to promote the public good.

According to Rousseau, people even if they desire good can not discern it in general. He says, “the general will is always right, but the judgment which guides it is not always enlightened” and “individuals must be compelled to their wills to their reason; the public must be taught to understand what they want.”¹⁴³ Through the enlightenment of the public, the will and understanding will unite, and strengthen the social bond for a powerful whole. This is why a wise legislator that will in fact constitute the republic is needed. The founder of republic should be free from the effects of passions, but be able see what the nature of man is, be prudent to foresee the future needs of the whole, should have withdrawn himself from any particular human interest except the good for all which is essentially general. Otherwise the laws that this superior intelligence brings would serve the private interest and would cause injustice. The legislator, irrespective of how wise he is, should speak the language of individuals who pursue their own interest, and not tell them his brilliant ideas in the language of philosophers who speak the general ideas only. He should with his authority convince people who are the members of a young nation to

¹⁴² Jean-Jacques Rousseau, “The Second Discourse,” in *The Social Contract and The First and Second Discourses*, p. 130.

¹⁴³ Jean-Jacques Rousseau, “The Social Contract,” in *The Social Contract and The First and Second Discourses*, p. 180.

form the social spirit before he founds the institution which in fact shapes the social spirit. Hence, he will make people whom they ought to be, by means of the institutions and laws. He should guide them to be able to understand what is a good law and what is necessary for the good rule of the state and not to reject the useful opinions of others when legislating. This office of the legislator, since he can not employ reasoning to convince the vulgar men who form prejudices from mere beliefs, should “have recourse to an authority of a different order, which can compel without violence and persuade without convincing.”¹⁴⁴ Then, he will use the language of miracles to bind the immoderate people as Moses and Mohammad did. But it must be put that Rousseau does not claim that religion and political association have the same aim, religion is used in order to establish a true political order with “moderate” people. Because only by the characteristics of men and their social associations it becomes possible that the good laws root within civil society. In *Social Contract*, Rousseau articulates also the need for civil religion to the idea of good political order for the sake of the maintenance of the order itself. Thus, civil religion in the service of the sovereignty will lead men to have pleasure with their duties toward the whole, to be faithful and good citizens, to feel happiness from justice, and to believe the sacredness of the contract and laws.

It is a historical fact that no constitution lives forever and not all laws and institutions are suitable for all nations. A wise legislator should know the character of a local people, their local situation and their social associations. Thereby, he can check the laws he writes in terms of whether it fits to a particular people and they can maintain them. Once the sovereign power is established, the author of legislation should consider the fact that the nation is self-sufficient so that they can make suitable laws. There should be no so rich to buy another man, nor so poor to enslave himself to another; no so big difference in the power of each though this does not mean that all will have same wealth and power. Then the wealthy ones should have a “moderation in property and influence” whereas the

¹⁴⁴ *Ibid.*, p. 182.

ordinary citizens have “moderation of avarice and covetousness.”¹⁴⁵ Also the laws should conform to the natural relations that people have in nation in order to secure, support and rectify them.

Rousseau determines the custom as the most type of law, because it is written in the hearts of citizens. The real constitution of the state is actually dependent on custom. Whereas other laws may become obsolete and pass away, custom “preserves a people in the *spirit* of their institutions, and imperceptibly substitutes the force of habit for that of authority.”¹⁴⁶ Since its formation is based on custom, it is difficult to give civil society its true shape which will make it endure more than any average political body. But once it is established in proper way, it will help to educate the citizens through the established institutions. Nevertheless, the law and the institution are preceded by custom, and custom is shaped by natural ties. Hence, each nation if its civil organization will endure more than others should have a national political order. Leo Strauss says, in Rousseau, custom is the equivalent action of the legislator.¹⁴⁷ Then, a national political order when it is shaped mainly by custom is questionable in terms of whether it can promote the public good in legislation and government since individual citizens may not discern what is good for them. If the condition of the state gets worse where it can not provide equality and freedom by its laws, then revolutions may take place. Because, as Rousseau says, “when once customs are established and *prejudices* have taken root, it is a perilous and futile enterprise to try and reform them.” There may be some circumstances in which the civil society can not solve its problems and this conditions is not solved “until new revolutions entirely dissolve the government, or bring nearer to its legal constitution.”¹⁴⁸

Rousseau accepts that there is a universal justice that is found by reason, but he thinks that in the absence of natural sanction this justice should lay on reciprocity in order

¹⁴⁵ *Ibid.*, p. 189.

¹⁴⁶ *Ibid.*, p. 191

¹⁴⁷ Leo Strauss, *Natural Right and History*, p. 289.

¹⁴⁸ Jean-Jacques Rousseau, “The Second Discourse,” in *The Social Contract and The First and Second Discourses*, p. 133.

to be accepted by all. Although, the wise legislator or civil religion teaches citizens to protect the justice and obey the contract, there is no guarantee that each will perfectly obey or that most men in society will be virtuous citizens in Rousseau's account. Theoretical reasoning and argumentation to convince them do not work in a society where prejudices have taken root. This is why philosophers has a bad reputation in Rousseau's thinking: the philosophers considered justice as attached to metaphysics so no ordinary man can easily understand, made sophistry¹⁴⁹ about their love of state of nature, but could not understand the nature of a law of the state.¹⁵⁰ However, both *The Social Contract* and *The Second Discourse* are produced by a philosopher who defends that universal account of justice can be found by reason alone and who uses the method of “inference from the actual to the possible.”¹⁵¹ Rousseau also determines the qualities that the legislator should have in accordance with the qualities of a philosopher who withdraws himself from civil associations and divests himself of the effects of passions in order to have genuine wisdom. Such pursuit of wisdom actually results from the need for acquisition of truth which is also connected with theoretical philosophy, rather than merely the practical. It requires a specific effort to acquire such wisdom. Still it is a mystery how ordinary citizens can acquire such relatively sufficient self-knowledge and wisdom, so that they can discern what is a good law by themselves in the absence of a wise legislator. At the same time, morally free agent which is an ordinary citizen should be cultivated so that he can appeal to his reason to approve or refuse, in the light of a common good, the maxims presented by others in legislation process. We know that Rousseau says that the two objects of legislation are equality and freedom, but he also distinguishes “appearance” from “to be”. Therefore, citizens should also be educated to see the difference between appearance and

¹⁴⁹ “Politicians argue in regard to the love of liberty with the same sophistry that philosophers do in regard to the state of nature.” *Ibid.*, p. 128.

¹⁵⁰ “...when they stated what a law of nature is, they will know no better what a law of the State is.” Jean-Jacques Rousseau, “The Social Contract,” in *The Social Contract and The First and Second Discourses*, p. 178.

¹⁵¹ *Ibid.*, p. 218.

reality, that is, they should be aware that the poor are not made slaves to the rich by the given political equality which is only in appearance, which in fact can be understood by man through a rational analysis. Although Rousseau thinks that the freedom of the will can not be explained scientifically since its nature consists of being independent from the mechanical laws, he accepts at the same time that reason must accompany and even rule the will in order to actualize freedom within civil society. Because only reason can be the right guide to make civil society suitable for the achievement of a good life.

Rousseau sees that the existent customs or settled institutions may not conduce to the realization of his conception of good life. The desire for self-preservation and the feeling of compassion together are the causes which lead man to form society. But the rules for a good political society must be determined in accordance with reason. On the part of citizens, the concept of “moderation” has an important role in the formation of equal and free society. Citizens are advised to be moderate and to be distant to the excessive desires. This is basically the need for reason to be superior to passions. On the part of the wise legislator, the state should be founded by him in the way that it will be protected from the temptations of private interest, and of passions in legislation. Hence the state should be formed in accordance with reason. According to Rousseau, the legislator needs to be careful in the formation of the political power so that he will not transcend the actual requirements of society with respect to its bonds, qualities and customs. Rousseau's methodology, that is, the “inference from the actual to the possible”, does not prevent him from putting forward normative claims about the ideal formation of good society and opens way to the possibility of revolution, even though his claims are softened since he conformed them to what is immanent in natural association of a people.

III. HEGEL, NORMATIVE CRITIQUE AND EPISTEMOLOGY

A. Political Science Against Normative Critique: the “Preface” of *Philosophy of Right*

According to the Mature Hegel, the concept of good can not correspond to the actual good if good is considered as a thing-in-itself found by reason alone which transcends the moral fabric, set of shared beliefs, culture and institutions in a given society. It has actuality only within society like other concepts such as right, justice or equality, but it emerges not as a normative criterion that is valid for all time and places as a universal maxim of reason. In social and historical progress, the concepts like equality and freedom gain their content and meaning, and also rational form through being institutionalized in society and the state. For instance, slavery in the Ancient Greek society was not regarded as a problem or evil for the Greeks since it was natural to be born as a slave, but in Europe of the modern times it is seen as an institution that must be abolished due to it remains as an obstacle for the emancipation of humanity as a whole. Because only after the societies have internalized the concepts like freedom, equality, humanity, emancipation, or modernity, it became possible for those people to consider slavery as a shame in human history. However this does not mean Hegel is a relativist as if he defended that freedom and equality are good only for the Europeans or a few other nations. Rather, such Ideas constituted the reference point for all other nations since they were obtained and then objectified by the people through fights and wars, such as the nations like the French people who actualized them in the stage of the world history by the Revolution. Irrespective of the negative side of the terror of the revolution for Hegel, this achievement constitutes a necessary stage in historical process, acquires positivity as a historical fact whose rationality as a form can be given by philosophy to it after it happened. In this sense, freedom, equality, or right are not normative standards that can be determined

rationally as ahistorical or as transcendent to what is historical. On the contrary, their rationality is inherent to historical necessities and social determinations that can be cognized as a whole through a speculative mode of thinking. In the same way, since right proceeds from the free will, the system of right can be cognized in the actualized freedom. It is at the same time “the world of spirit produced from within itself as a second nature.”¹⁵² The history of the free will is the history of its externalization of itself in social institutions and in the state. Because freedom is both substance and destiny of the will.

Rousseau distinguished the civil life from the natural in accordance with his conception of freedom of the will which differentiates man from animal life. Accordingly, by the deeds and actions of man, which arise from this freedom of the will, the life of man is shaped in terms of his choices. However, such freedom is not sufficient to change the life completely. Human being is at the same time a perfectible creature. This is why he could create, in Hegel's terms, a second nature in and through his life, a nature which is not subject to the laws of physical nature (mechanical laws). According to Hegel, it is thought by which the human being is distinguished from the animal. In this sense, the will and thought are not distinct from each other but each has different attitudes, whereas the will deals with the practical, thought is involved in the theoretical thinking. The will is a particular way of thinking that tends to give itself existence in the external world. But the will contains the thought. Man represents to himself in thought as what he wills. As well as I make an object mine immediately through thinking of it, the things I do in the external world are mine and since they bear imprint of my mind in terms of that I posit a difference and determination through my act which proceeds from my representation of myself as an object that is willing. But the practical attitude of the will begins with thought as an “I” that determines itself in the external world by acting. Accordingly, the “I” here is opposed to the world before the action takes place. This opposition is overcome through the action in

¹⁵² G.W.F. Hegel, *Elements of the Philosophy of Right*, edited by Allen W. Wood translated by H.B. Nisbet (Cambridge: Cambridge University Press, 2003), p. 35.

which the I externalizes itself as his will. In contrary to the practical attitude, in the theoretical attitude when I think of an object, I deprive of it its content and make it my own. However, when I say “I” and separate this pure, empty but active “I” from the object to which it is attached, I find the universal “I” which stands in opposition to the world. The opposition between the pure and empty “I” and the object as it is in the world, is overcome in knowing it and comprehending it in a higher unity.¹⁵³

In the Preface to the *Philosophy of Right*, Hegel says, “the truth concerning right, ethics, and the state is at any rate as old as its exposition and promulgation in public laws and in public morality and religion.”¹⁵⁴ Free thinking demands justification of those laws, moral rules, authority of the state, that is a justification of what is given to it. However, thinking does not stop at what is given to it. In its demand for truth, it becomes not content with its inner bound with the social and political order. This justification can be achieved by its knowing that it is united with truth. In this search for truth, it may not be convinced with its tie with the ethical nature of the whole that it lives in and might find itself in perplexity of how to distinguish the right and valid among the variety of particular opinions concerning that truth. It is in the position that it searches something other than what is acknowledged as universal and valid within the ethical substance and substantial right. Human being as a thinking creature if he adopts the criterion that the basis of ethics and freedom can be found in thought he may manage himself to find his own account of right. Hegel obviously claims that such invention would be wrong even if it is supposed to be the basis of a divine right.

The invention (by the political theoretician) is followed by other inventions as if there were needed such imaginary proofs or discoveries in order to found a state which corresponds to his ideal. In order to find convincing proofs, philosopher goes beyond the ethical substance and starts searching for it in nature itself by claiming that the immanent

¹⁵³ *Ibid.*, pp. 35-36.

¹⁵⁴ *Ibid.*, p. 11.

rationality and harmony in nature can contribute the findings of thought. However, this kind of attempt is false, vain and dangerous for philosophy. A law of nature can be discovered truly through correcting our notions, when they are false, to be appropriate for things in nature as they are. We do not change them, nor add something to them but only we can expand our knowledge of them. On the other hand, a law of right can be justified in terms of conscience, that is, it can be accepted as it is or man may think that it is not absolute and can be changed. Man does not stop at what is given and makes claim that he has the measure of right in himself. Thinking leads him to consider what *ought to* be rather than what is, and demands man to conform it to his own measure. Such tendency gives rise to the conflict between the right as in and for itself and the subjective measure of right. This is why predecessors of Hegel tried to conform their accounts of right to the mechanical law of nature. Against these superficial accounts of right, the true political science should consider first the rationality of right, must have true cognition of it by correct thinking and make the study of right in accordance with the concept. The rationality of right and ethics can not be founded upon feeling, like piety, compassion, desire, friendship, love etc., since the rationality of them is inherent to their objectivity, not subjectivity. Such rationality is at the same time immanent to the development of concept and thought. Against the threat of the theories that proceed from free thinking as opposed to what 'is', philosophy should attach itself to and comprehend the concept and thought of the thing (as the subject-matter of political philosophy) which does not allow producing mere arbitrary opinions about this or that right.

Hegel, both in his early and later period, identifies superficial philosophies with philosophies of the understanding. His genuine speculative philosophy or philosophical science is a philosophy of comprehension. In Hegel's early writings, this opposition was put forward as the opposition between reflective philosophy and speculative philosophy. Understanding is connected with an object of thought, or empirical object. It can not posit

the difference between itself and the object. It deals with grasping definitions, making logical inferences, conceiving the qualities of objects, and involves in collaborating with imagination that produces normative claims about what ought to be, conflicts and contradictions. It can grasp either form or content, not both of them together because such a unity demands a higher cognition of the difference. The conscious identity of form and content is the philosophical Idea, says Hegel.¹⁵⁵ The Idea of right as the unity of the concept of right and its actualization can only be comprehended by reason, not by the understanding. This comprehension necessitates the investigation of right to be made within historical conception by philosophy. Right, as well as freedom (in the state), does not belong to ahistorical or transcendent realm. Accordingly, philosophy must not try to find it out beyond what is actual:

“To comprehend *what is* is the task of philosophy, for *what is* is reason. As far as the individual is concerned, each individual is in any case *a child of his time*; thus philosophy, too, *is its own time comprehended in thoughts*. It is just as foolish to imagine that any philosophy can transcend its contemporary world as that an individual can overleap his own time or leap over Rhodes.”¹⁵⁶

Hegel's early conception of history is not so detailed as he developed it in his later period. But in these writings he almost does not refer to the free will. However, *what is* is important for also in his earlier writings, and it must be the focus of philosophy of a certain time. The Young Hegel develops also a metaphysics and logic on the grounds of transcendental philosophy and Schelling's philosophy of nature. Both the theoretical and the practical are to be conceived in a unity according to this metaphysics what Hegel calls as speculative philosophy. The principles of a particular science is discovered through the cognition of it within this philosophy which is an attempt to show the identity of the

¹⁵⁵ *Ibid.*, p. 22.

¹⁵⁶ *Ibid.*, pp. 21-22.

theoretical and the practical through departing from the need of a determinate time in history.

B. Speculative Philosophy

1. The Background: Kant and Fichte

According to Kant, we can perceive objects only if we can intuit them in the forms of space and time that are our sensory intuitions. To the objects, that we receive in the form of space and time, the faculty of understanding applies the concepts. However, what we can perceive are not the things in themselves, rather, they are the appearances of them which conform to our sensibility. Our faculties of understanding and sensibility yield the foundation of empirical knowledge, but if and only if they work together. Because the understanding without sensory objects can not provide knowledge but produces mere thoughts. When understanding is used in order to have the knowledge of objects, which we can not have a sensation of, it can produce dogmatic claims like the old metaphysics did about supersensible realm such as perceiving the thing in itself. In perception, “the phenomena of human experience depend on both the sensory data that we receive passively through sensibility and the way our mind actively processes this data according to its own a priori rules.”¹⁵⁷ These a priori principles constitute the conditions of possibility of all experience. The determination of the valid laws of nature is dependent on the unity of them. Any claim of knowledge which go beyond these conditions of experience would be that of a transcendent metaphysics.

Kant appeals to an inner necessity that binds all perception, experience and thinking in a unity. This is the unity of transcendental apperception, which provides the subject to

¹⁵⁷ Rohlf, Michael, "Immanuel Kant", The Stanford Encyclopedia of Philosophy (Spring 2016 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/spr2016/entries/kant/>>.

know itself as an I that thinks. This “I think” must accompany all of its representations. It is the possibility of subject to conceive itself as a thinking being. Kant refuses the *direct* intellectual intuition of the intellect itself which was defended by Descartes. Because such consciousness of the self requires mediation through experience. In this way the self-consciousness of the subject becomes possible and it can know that all the representations it had actually belongs to itself. Consciousness, through reflection upon representations, can find out the conditions of possibility of knowledge.

Kant distinguishes reason from understanding and attributes an architectonic nature to reason, which is his postulate, that it tries to systematize all the propositions into the highest unity, and to bring them to completion.¹⁵⁸ Since all human knowledge is conditioned, reason tries to find the unconditioned which is in fact inconceivable for the subject. Moreover, the ideas of reason (God, world, soul) leads us to make claims about the objects we can not grasp. In the case of world, Kant defends that it is a totality and we can not have a valid judgment about its finitude or infinity since experience itself is finite. Also in the case of God, reason can only function as speculative, can not escape thinking about it, hence it produces thoughts which are not justifiable. Kant, however, defends that this pursuit of the unconditioned is a regulative principle for morality and for progress in scientific researches. In morality, Kant employs the unconditioned as the source of categorical imperative which is concerned with the practical realm that is not the realm of appearances. Moreover, freedom is also belonged to the practical realm, since it is not possible to give an objective account of it through theoretical reason due to freedom is a thing in itself. However, it is the reality of freedom which is found in the axiom of moral law. Moral law can proceed only from an axiom that is conceived by reason as an imperative, and it is freedom of the subject which determines the axiom of moral law by theoretical reasoning. In Kant's thought, these two realms (practical and theoretical) must

¹⁵⁸ Grier, Michelle, "Kant's Critique of Metaphysics", *The Stanford Encyclopedia of Philosophy* (Summer 2012 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/sum2012/entries/kant-metaphysics/>>.

be regarded as if there were a harmony between them. Otherwise it would be impossible to explain the relation between them in reality. There must be a purposiveness in universe so that it will guide and regulate also the human conduct. The basis of this purposiveness relies on the idea of God, which inescapably emerges out of the nature of our reason. The idea of the unconditioned is the source of freedom that puts the moral law as categorical imperative, and the idea of God leads man to act morally as if the God exists. On the other hand, the purposiveness in nature is not demonstrable by theoretical reason, but we can consider nature as if it were an organism and this provides us a practical convenience to constitute our systematic knowledge of it in accordance with the idea of the unconditioned.

Kant uses the term speculation in a negative sense. It refers to making assertions concerning the unconditioned whose object is not given in experience, so it would lead to metaphysical errors or transcendental illusions. Kant associates it mostly with the theoretical endeavour of trying to prove God's existence.¹⁵⁹ However, Hegel does not hesitate to name his philosophy as speculative. Because, first, speculation shares the same etymological origins with the latin words like *speculatio* (contemplation), and *specere* (to see), and second, Boethius used *speculatio* as correspondant to *theoria* in Greek.¹⁶⁰ Then it makes a certain reference to theory or the theoretical. It is used by Hegel in the sense that it is “the intuition or vision of the true nature of the relations among God, nature, and self-consciousness or reason.”¹⁶¹ Hegel's speculative philosophy will contain the relation of consciousness to the feeling also. In this sense, feeling as practical, is not divorced from the awareness of consciousness. Hence, his philosophy is to be covering both the theoretical and the practical realms in a unity.

¹⁵⁹ Micheal Inwood, *A Hegel Dictionary* (Massachusetts: Blackwell Publishers, 1999), pp. 271-272.

¹⁶⁰ *Ibid.*, p. 271.

¹⁶¹ Walter Cerf, “Speculative Philosophy and Intellectual Intuition: An Introduction to Hegel's Essays,” in *The Difference Between Fichte's and Schelling's System of Philosophy*, edited and translated by H.S.Harris and Walter Cerf (Albany: State University of New York Press, 1977), p. xi.

2. Speculation

Hegel, in his essay *Difference Between Fichte's and Schelling's System of Philosophy*, presents the outlines of his metaphysics which, according to him, deals with the main problems of modern philosophy, in accordance with the need of his own time. Modern philosophy, starting with Descartes, separated subject as a thinking being from the extended nature, and caused the problem of the division between subject and object, the problem which also led political philosophy to create a conception of atomized individual as a difference and as a distinct part of his community. In speculative philosophy, which adopts Schelling's philosophy of identity in principle, these problems can be exposed, criticized and may be overcome through providing the way to the reconciliation of subject with object, individual with community, reason with sensibility, thought and being.

Hegel makes a distinction between the philosophy of reflection and the philosophy of speculation. According to this, almost all modern philosophies before the time of him are called by Hegel as philosophies of reflection including empiricism and formalism that is transcendental philosophy. They are also considered as pseudo philosophies. Walter Cerf gives the common characteristics of them:

“It is typical of reflective philosophy, though it does not exhaust its nature, that it relies on arguments, proofs, and the whole apparatus of logic, that it insists on clear-cut dichotomies in terms of abstract universals, dichotomies such as those of the infinite and the finite, subject and object, universal and particular, freedom and necessity, causality and teleology, etc.; that it tries to solve intellectual puzzles rather than give the true conceptual vision of the whole; that it sticks to the natural sciences as the source of only reliable knowledge of nature, thus committing itself, in the first place to, a concept of experience reduced to sense perception and a concept of sense perception reduced to some causal chain, and in the second place, to a pervasive atomism that reduces the whole to the sum of its parts, and to a mechanism that

excludes teleology from a positive role of cognition.”¹⁶²

According to this definition, Hobbes is a philosopher of reflection since he, first, reduces reason to an instrument of desire and to a tool of logical inferences, human being to a being which is composed of merely particular desires that are caused by motion; second, disconnects the theoretical science from the practical so that he can not reunite them in a causal relation that he adopted as a principle in his empirical approach. Locke's philosophy, in the same manner, determines the experience as the sole origin of human knowledge, but it can not articulate properly the principle of induction used in natural science to the knowledge of the whole including the a priori principles of morals, and just produces dichotomies that are not easy to reconcile. Rousseau, on the other hand, even if he does not adopt explicitly the subject-object dualism as his principle, he becomes attached to the dichotomy between reason and nature. Reason, in Rousseau's account, turns into a capacity to be developed whereas nature is supposed to be disciplined by it. According to Hegel, “every philosophical system can be treated historically” because “as every living form belongs at the same time to the realm of appearance, so too does philosophy.”¹⁶³ Philosophy of each has its own place among others in the history of philosophy. Since they are the parts in history, they are conceived by speculative philosophy as the necessary stages through which reason becomes actualized and represented within them. Roughly, they are important in the sense that they produced dichotomies or developed them so they in fact contributed to the emergence of the need for philosophy of a certain time, let us say, Hegel's philosophy which is supposed to cover also Kant's and Fichte's philosophies with their advantages and disadvantages.

The principle of speculation is the subject-object identity which can only be dealt with reason. Even though this principles is derived from the deduction of categories of

¹⁶² *Ibid.*, pp. xvii-xviii.

¹⁶³ G.W.F.Hegel, *The Difference Between Fichte's and Schelling's System of Philosophy*, edited and translated by H.S.Harris and Walter Cerf (Albany: State University of New York Press, 1977), p. 85.

understanding in Kant's philosophy, Kant himself made this principle an object of philosophical reflection, thus made reason subordinate to the intellect.¹⁶⁴ The identity, is held by Kant as a mere consequence of the act of understanding (nine acts, or nine categories), thus, in fact it turns into a non-identity, because human knowledge is reduced to only the knowledge of the natural sciences whereas there is an absolute realm of empirical objects that are to be conceived in a whole. Thus, the reflective judgment (which is attached to the empirical) becomes the sole guide of knowledge. Hegel says: “nothing else to be expected, once the identity, i.e., the rational, had been removed from the Idea, which is the product of Reason, and the Idea had been posited in absolute opposition to being.”¹⁶⁵

However, in Hegel's thought, some claims of speculative philosophy may sound controversial at first glance, but it is so only because it is judged from the perspective of a reflective thinking which is limited by the faculty of understanding, or the logic of understanding. But this must be an illusion then, and what reason needs is to raise itself to itself or above consciousness which is tarrying with particularities and to make the absolute its object. Only in this way, it is possible for reason to overcome the finitude of consciousness. Hegel claims that philosophies of reflection are groundless and reason must be aware of its ground in itself. Hence, also there it can consider the philosophical systems of different epochs as that which it becomes what it is in its own age.¹⁶⁶ Reason is supposed to oppose the absolute determinations of dichotomies which are made by the intellect in the certain period of history.

In relation to Kant's philosophy, the first thing that speculative philosophy must object to is the distinction of phenomena and noumena. Because even though we are not able to perceive a thing in itself, and if we can have only the knowledge of appearance of

¹⁶⁴ *Ibid.*, p. 80.

¹⁶⁵ *Ibid.*, p. 81.

¹⁶⁶ *Ibid.*, p. 88.

it, then it can be said that we are somehow affected by a thing in itself.¹⁶⁷ In the absence of the explanation of the necessary connection between subject and object (as thing in itself), it is difficult to solve this problem which is not solved by Fichte neither. Another question concerning this problem of interaction within the realm of appearances, is how is it possible to apply the a priori and universal principles of understanding to the a posteriori and particular impressions which are sensuous? In the application, the understanding is active, whereas sensibility itself is passive. For Kant, it is possible for a priori concepts to be applied to experience “only if they are its necessary conditions.”¹⁶⁸ This is basically the problem of Cartesian dualism. Fichte, in order to solve this problem, claimed that the knowing subject must be identical to the object known. The knowledge of the self forms the identity of the knower and the known. By its act of knowing itself, Fichte's Ego must ground its objects in knowledge. Fichte puts forward that Ego is not constitutive but regulative, and only in this way it is led to have knowledge of itself as a free being, which has free act of thinking. Thus Ego produces thoughts through its mere act of thinking, and in this act it can produce its knowledge of objects without being aware of it. Kant claimed that “the I think” accompanies all our representations, but we do not need to be aware of it always. Because sometimes subject is immersed into the object so that it does not reflect upon his perception, therefore does this unconsciously. According to Fichte's philosophy, “the idea of the absolute Ego is not only a useful heuristic principle but is a necessary postulate of morality itself” and “the moral law demands that we should become completely autonomous and independent agents, perfectly noumenal or intelligible beings subject to the laws of reason alone.”¹⁶⁹

Whereas Fichte only postulates the idea of an absolute Ego, Hegel thinks that this

¹⁶⁷ Walter Cerf, “Speculative Philosophy and Intellectual Intuition: An Introduction to Hegel's Essays,” in *The Difference Between Fichte's and Schelling's System of Philosophy*, p. xxvi.

¹⁶⁸ Frederick C. Beiser, “Introduction: Hegel and The Problem of Metaphysics,” in *The Cambridge Companion to Hegel*, edited by Frederick C. Beiser (New York: Cambridge University Press, 1999), pp. 10-11.

¹⁶⁹ *Ibid.*, p. 13.

postulate is necessary for explaining the identity of subject and object. Because through this distinction, we can be both aware of this distinction and not aware of it. On the one hand, we experience things but we become conscious of ourselves in that experience as we are one with that object. Hence, the “I think” (so its awareness) is the source of “the identity of identity and non-identity.”

Hegel, in fact, is in the pursuit of acknowledging rationally the absolute, which was considered by Kant as the unconditioned. The absolute is something that can be posited as that which consists of everything else. However, it must not be regarded as a particular and supersensible being. Hegel, by denying the noumena or any supersensible being, renders the idea of the beyond, to the immanence of the worldly life. In contrary to Kant, who hypostasized this idea of noumena, Hegel defends that metaphysics does not need the idea of transcendent beings, rather, all that which we can know is already given to our experience consists in nature.¹⁷⁰ Hegel is convinced about the organic structure of nature, as Schelling put it. According to Schelling's philosophy of nature, “all of nature is a hierarchic manifestation of this force, beginnings with its lower degrees of organization and development in minerals, plants, and animals, and ending with its highest degree of organization and development in human self-consciousness.”¹⁷¹ Then, nature is an organic *life*, which produces itself from itself and which has its own laws immanent to it. Electromagnetism and modern biology gave Hegel the idea that the matter is a dynamic element. Also Schelling considered the matter as it has a vital force. By starting a scientific investigation of nature from any given part of it, whether it is mineral, plant or animal, we can have the knowledge of the whole nature. In nature, also consciousness is a different degree of vital force which organizes it as superior to matter. Since consciousness is a part of nature and exists in it, nature can be conceived by consciousness as how it unfolds itself. The conception of living nature led Schelling to give an account of it necessarily in terms

¹⁷⁰ *Ibid.*, p. 8.

¹⁷¹ *Ibid.*, pp. 5-6.

of teleological explanation. Because nature is an organism which has its organs that reflect the properties of the whole. The Young Hegel accepts Schelling's philosophy of nature in principle and refuses a priori and a posteriori distinction.¹⁷² Furthermore, in opposition to Kant, Hegel defends that, nature as an organism and the teleology in it should not be regarded as mere suppositions which regulate the form of our knowing the nature, rather we must be able to show it is so in reality. Metaphysics, then, will be capable of grounding in consciousness the laws immanent to nature. Justification of the laws, again, can be found in experience. As well as the natural nature, the ethical nature is also subject to laws that are immanent to it. As we will discuss, Hegel considers also a people as an organic body which organizes itself into a whole and have its laws peculiar to itself.

The absolute must be shown as including the subjective and the objective which are identical in it. But the comprehension of the absolute was problematic by Kant due to the unconditioned itself is inconceivable, and the conditions of possibility of knowledge are mere possibility which can not be demonstrated within experience. However, Hegel and Schelling thought that these problems that are posited by Kant's philosophy stem from the understanding to which Kant attributed a derivative function. According to Hegel, reason lowers itself to the intellect (understanding) through the reflection of the intellect upon the conditions posited by the intellect itself, so the activity of reason is bound with that of the intellect which fixes the oppositions. Hence, the activity of reason becomes determined as an activity of the intellect. What is needed to be done is to suspend the opposition, "to comprehend the achieved existence of the intellectual and real world as a becoming."¹⁷³ This task of philosophy emerges from the need for constructing the absolute for consciousness. Suspension of a limitation, a limitation that is by intellect, is also finite and conditioned. But behind this consideration, there is a presupposed unlimitation. Hegel says that the intellect aims at a complete determination. However, as far as it determines, there

¹⁷² *Ibid.*, p. 8.

¹⁷³ G.W.F.Hegel, *The Difference Between Fichte's and Schelling's System of Philosophy*, p. 91.

will be left the indeterminate for it. This indeterminacy surrounds it. Then, the opposition now is between the finite and the infinite. What is suspended by reason here is the intellect and Hegel says: “if reason is placed in opposition to the objective infinite, this nullification of the intellect or reason's pure positing without opposing is subjective infinity: the realm of freedom as opposed to the objective world.”¹⁷⁴ Freedom also becomes something conditioned. Reason needs to nullify this opposition by uniting them, but their union consists of their not being united. This contradiction is in this way, connected with the absolute. In it, each part does not have its own independent standing, but subsists together as opposed in the absolute. This constitutes in fact their identity, and as Hegel puts it:

“In so far as the limited belongs to the synthesis of both totalities, its limitation ceases: it is free and necessary at the same time, conscious and non-conscious. This conscious identity of the finite and infinite, the union of both worlds, the sensuous and the intelligible, the necessary and the free, in consciousness, is knowledge. Reflection, the faculty of the finite, and the infinite opposed to it are synthesized in reason whose infinity embraces the finite within it.”¹⁷⁵

In its relation to the absolute, the intellect remains connected with its limited activity and in opposition to the absolute, that is, it nullifies itself, it is nothing. The absolute activity of reason is thinking but the identity that reason posits by freedom proceeds from abstraction, and its unity that is posited is subjective. Hence an identity between subjective and objective is knowledge but not truth. Of course Hegel makes a distinction between knowledge and scientific knowledge. When we consider empirical knowledge, it is merely based on the identity of concept and object for a particular subject-matter. This identity is a relative one, and not justified in totality of cognitions. Because any identity between subject and object in epistemology, between thought and being in ontology or between form and matter, is posited as in the form of subject and predicate which is a mere

¹⁷⁴ *Ibid.*, p. 96.

¹⁷⁵ *Ibid.*, p. 96.

equation. One can show that the equation of subject and object in a proposition may well take the form of $A=A$ or the form of $A=B$ at the same time. In this antinomic character of a synthesis of knowledge we find a formal contradiction that which “cancels itself is the highest formal expression of knowledge and truth.”¹⁷⁶ By acknowledging the antinomic character as the formula of truth, reason takes the control of the formal essence of reflection, and Hegel says that the purely *formal* appearance of the absolute is contradiction.¹⁷⁷

The formal character of the absolute is a negative in knowing because of the fact that it just shows the conscious nullification of opposites without intuition. The unconscious side of knowing is where concept and being becomes one in intuition. But this identity passes¹⁷⁸ because in empirical intuition when they enter into consciousness they become the identity of the subjective and the objective. Thus, the intuition itself becomes transcendental. For Hegel, nature has a dynamic character as well as intelligence has. Nature, here, is equated with the non-conscious, and intelligence with the conscious. What is intuited in philosophical knowledge is “an activity of both intelligence and nature, of consciousness and the unconscious *together*.”¹⁷⁹ On the part of intelligence and freedom the intuition belongs to the ideal, and on the part of the objective totality it belongs to the real in the realm of necessity. In the case of this transcendental knowledge (or transcendental intuition which is the same), the ideal and real worlds belong together to what is intuited. Hegel says, “in the transcendental intuition all opposition is suspended, all distinction between the universe as constructed by and for the intelligence, and the universe as an organization intuited as objective and appearing independent, is nullified.”¹⁸⁰ However, Fichte, although he as well defended that transcendental intuition is

¹⁷⁶ *Ibid.*, p. 107

¹⁷⁷ *Ibid.*, pp. 107, 109.

¹⁷⁸ Which Hegel reformulates this identity in the *Phenomenology* as now and here which take place and passes, and now their *were* in a perfect adequacy.

¹⁷⁹ *Ibid.*, p. 110.

¹⁸⁰ *Ibid.*, p. 111.

necessary for philosophizing, absolutizes one part as the constitutive, according to Hegel. Fichte, through reflection, determines the ideal¹⁸¹, the pure Ego, as constitutive but, in the result, it becomes conditioned by its opposite. Accordingly, in the absolute opposition of the finitudes he makes the being dependent on the concept. Hegel designates the philosophies, which disperse itself with finitudes, as formal philosophies since they conceive one of the finitudes as the form of the absolute. Moreover, some pass from one to another, from subjective concepts to objective things or vice versa.¹⁸² As we will discuss the distinction between the pure empiricism and scientific empiricism later, we see in Locke's and Hobbes's empiricisms also these transitions or unjustified leaps from one to another, or inconsistent mixture of intuition with concept.

Fichte intended to reunite the identity which was divided into the subjective and the objective in reason. This construction of identity was considered by Fichte as a striving of Ego for that perfect adequacy in the absolute which is supposed be reached at the end of a progress. In other words, since the objective world became subordinate to the subjective, the subjective always tries to constitute it in accordance with its own activity both in epistemology and politics. Thought, or the subjective, or reflection, precedes what is objective. It is the source of normative claims which go beyond what *is* and tries to conform the objective to the subjective. Hence this striving turns into an infinite progress, because it aims at adequacy but remains as something which *ought to be* realized. For the political state, this aim is determined as the realization of the rational state, in accordance with the subjective reason, which always precedes the objective and it is ahead of it. Free thinking produces its design of the objective world, “that the world is a product of the freedom of intelligence is the determinate and express the principle of idealism.”¹⁸³ In contrast with this conscious production, the non-conscious produces the objective world

¹⁸¹ In the *Difference* Hegel says that Fichte's idealism is dogmatic and a monism because “it posits one of the opposites the subject in its determinateness, as absolute.” *Ibid.*, p. 126.

¹⁸² On the other hand, “speculation produces the consciousness of this indentity, and because ideality and reality are one in it, it is intuition.” *Ibid.*, p. 111.

¹⁸³ *Ibid.*, p. 130.

from necessity not as an act of freedom. However, for speculation, the absolute is both the subjective and the objective, and what is constructed is the conscious identity of concept and intuition, which was the non-conscious identity that is original but lost. This conscious knowing of the identity is science of knowledge which is philosophy. In opposition to Fichte, Hegel says “the identity of pure and empirical consciousness is not an abstraction from their original opposition” and “on the contrary, their opposition is an abstraction from their original identity.”¹⁸⁴

In both Kant and Fichte, and in other philosophies of reflection, nature is fixed as an effect and a dead thing, in and through an antithesis of freedom and nature. According to them, the nature is to be dominated by the concept. Even in the developed form of reflective philosophy, that is Fichte's, the separation between freedom and nature is so profound that any connection between them is in the form of “dominating and being dominated according to the laws of a consistent intellect.”¹⁸⁵ On the other hand, in Fichte, the community of rational beings necessitate the reciprocal limitation of freedom. Such limitation is at the same time the nullification of the beautiful harmony in life. Because the living being is determined as a concept and matter while the natural is supposed to be serving to the intelligent. Hence all the relations between men are conformed and reduced to the formal conceptualization of freedom. In addition to this, the general will, as formal it is, determines itself as a law in accordance with this formal freedom.

Hegel's concern here is directed to the decaying aspect of modern community which is put under the domination of reflective freedom by philosophies of reflection, which is conditioned and conditioning. In such a community laws seem to individuals as limiting the freedom of each individual in terms of property relations, therefore laws remain external to the living relations of men. Rights of individuals in community are determined by laws as they proceed from a conception of possessions, security and property.

¹⁸⁴ *Ibid.*, p. 121.

¹⁸⁵ *Ibid.*, p. 144.

Accordingly, through laws, right refers to what an individual can do or have. The social life becomes subjected to the system of need and to the determination of rights of all by laws. On the other hand, morality is restricted to the private sphere of the individual. Individual when acting, should consider his own conscience and also the laws which are external to him. The ethical life, in this sense, is divided into the realms of morality and legality. Hegel “views this separation of ethical life into the spheres of morality and legality as its very dissolution.”¹⁸⁶ As I will discuss later also, what Hegel had in mind is the ideal of a beautiful ethical totality, in which individual identifies himself with the laws, sees them as his own, where they are free through them and feels at home. In this ethical life “laws are made superfluous by customs”¹⁸⁷ according to Hegel. In such a community the private good is not divorced from the public good. Accordingly, as well as customs, also laws are not external but internal to the individual. Nevertheless, in modern society, laws precede both the custom and what is inherited as living in ethical life. Hence, the laws remain as positive determinations which are alien to the individual, and the public good is considered by the individual as something that limitates his freedom and hinders his own good. Among the social contract theoreticians, it was Rousseau who pointed out the importance of such identification of individuals with the laws or customs in a community so that they should not be alienated from the public good.

The beautiful ethical totality requires individual to be conscious of himself as both one with the whole and a part in it at the same time. This idea of totality is consistent with Hegel's concept of the absolute in *Difference*, where he says: “the absolute itself is the identity of identity and the non-identity; being opposed and being one are both together in it.”¹⁸⁸ Individual is, on the one hand, a subjective moral agency who is independent from and opposed to society in his thinking, on the other, he is immersed into society what is objective and represents its life in himself. Philosophical cognition must grasp these two

¹⁸⁶ Seyla Benhabib, *Critique, Norm and Utopia*, p. 27.

¹⁸⁷ G.W.F.Hegel, *The Difference Between Fichte's and Schelling's System of Philosophy*, p. 146.

¹⁸⁸ *Ibid.*, p. 156.

aspects in the absolute of the ethical. According to Hegel, the intelligence cognizes itself “in the will and places itself as itself [i.e., consciously] within objectivity nullifying the intuitions that it produced non-consciously.”¹⁸⁹ Therefore, it would not be wrong to say that intelligence realizes itself in objectivity, and at the same time, the objective in the ethical life is in intelligence itself. Ordinary intellect sees only a dichotomy in this, but, for reason from the point of indifference, this is the cause of “becoming” in the ethical life. The ethical life of a people emerges from a war, in which (as we will discuss later) individuals lose their particular determinations and become universal and one with the whole in form. In this case, the ethical life begins where the ethical whole is prior to any determined part. This “positive” nature of the whole is distorted during the time of peace. In the condition of peace, the distinctions become visible, and the “negative” determinations and fixations like in modern society start to be regulated in terms of negative absolute which shows itself as need, property, security of possessions, etc.

Before we discuss the ethical life in details, we should state how Hegel conceives it and where he settles it in speculative thinking. A people is a substance that moves itself and is conscious of itself.¹⁹⁰ Substance must be considered as it has subjective and objective moments. These subjective and objective moments are the predicates of the absolute. Like in both Spinoza's substance and the God of Christianity, the absolute becomes objective to itself and intuits itself in its self-shaping. The intellectual intuition can only grasp the absolute theoretically. However, the objective, the practical side of it requires another type of knowing which is based on experience, that is, feeling or intuition. The artistic experience is important in the sense that the work of art contains the universal idea which is given to the work by a genius; but it falls short of providing the type of knowing needed, since the intellect sees in the work of art only a dead matter which is still

¹⁸⁹ *Ibid.*, p. 168.

¹⁹⁰ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, edited and translated by H.S.Harris and T.M.Knox (Albany: State University of New York Press, 1979), p. 12.

subject to the consideration of theoretical philosophy. On the other hand, the intuition must be based on a living thing, a feeling or emotion which is realized only in the collective experience of religious rite. This communal activity brings together all the different classes in a society, and moves them as a living body. Whereas in war, a people (*Volk*) comprehends itself conceptually as a unique being which is a totality, the religious experience furnishes this people with its content that is based on intuition. As the God of Christianity is conscious of itself, through its self-shaping and making itself objective to itself, a people become conscious of itself objectively in collective rituals. In this context, the Idea of ethical life can be comprehended as a living thing which moves itself and becomes aware of itself through its practice.

We mentioned that Hegel used the term speculation with reference to a God-like vision of the whole. This vision aims at comprehending both the nature and the ethical order, both theoretically and practically. Otherwise it would not be a real synthesis. For the Young Hegel religion is complementary to philosophy for the cognition of the absolute. In order to cognize the Idea of the absolute, the conscious identity of concept and being must be reconciled with the non-conscious identity of concept and being. The conscious identity is higher in degree than the non-conscious, like the ethical is higher than the natural. As in God's self-intuition, speculation shows the identity of the ethical and the natural, as the highest culminating point of the absolute idea. Hegel unfolds this relation between the natural and the ethical, in his *System of Ethical Life*, as the possibility of reconstructing the identity, or of the *conscious* self-intuition of the whole itself as a people (*Volk*).

IV. HEGEL'S THEORY OF RIGHT AND SOCIETY IN HIS EARLY WRITINGS

One of the main themes of the essay *Natural Law* lies in showing the need for the science of right, like other sciences, to be studied by speculative philosophy so that the inner necessity and peculiar principles of this science shall be discovered. In this essay, Hegel does not present the outlines for a proper study of right, rather he aims at emphasizing the significance of the living ethical whole in dealing with right and freedom. *Natural Law* proposes a critique of the way of dealing with the problem of right as it was held by Hegel's predecessors. The ethical totality is reduced to the totality of formal relations of individuals in the theories of these philosophers, the collective life is added to those relations externally, the subject is fixed as an abstract determinacy, and the condition of man in modern civil society is absolutized. Accordingly, right is made only a matter of legality whereas its foundations in the living whole is neglected. The concepts like right, freedom, ethical totality are derived from a frozen notion of the individual in terms of the legal and economic system.

On the other hand, in Hegel's *System of Ethical Life*, it is shown that freedom and right are not things in themselves as asserted by the social contract theories, rather, they are realized only within and through the intersubjective relations in a living whole which is a people. *System of Ethical Life* is constructive in the sense that it provides the basis for understanding Hegel's conception of right, but here Hegel tries to avoid making a normative claim and to present the formation of right as a matter of recognition. Hence, right is an organic right that lives within the relations, not accidentally articulated to the subjects. Hegel's theory does not consist of mere accumulation of descriptive knowledge, rather, in every stage of natural and ethical relations, the rationality that is constructed within them is unfolded. Harris says:

“ 'Nature' embraces man as a living organism contextually embedded in

the organic life of the earth. It is important to remember that Schelling and Hegel regarded the world, and in particular our Earth, as an animate organism. The essential contrast between Natur and Sittlichkeit is a contrast between two levels of life. We begin in the side of natural life, and we move up and over toward the side of ethical life. Thus in all the stages of 'ethical life as relation'— which means the life of the rational organism in the context of natural necessity, there is a lower 'natural' pole from which we begin, and an opposite 'rational' or artificial pole, through which we move to the higher, truly ethical 'middle', which is their 'totality'. But when we arrive at the higher level of independent ethical life, this whole pattern is reversed. For Sittlichkeit is itself only a 'side'; it is the higher 'ideal' side of the Absolute, but it needs to be integrated with its lower analog in nature. So here it is the higher ethical pole, the pole of 'totality', from which we [and Hegel] begin; and we move through an opposite pole of reflective separation or difference to the natural middle which is the point of identity between them. Thus at the level of 'nature' we go from desire, through labour, to the tool; whereas at the level of Sittlichkeit proper we go (several times, at different levels) from the nobility, through the bourgeoisie, to the peasantry."¹⁹¹

From the lower forms of natural relations to the higher forms, in general, the rationality that is inherent to the relations of recognition is shown throughout *System of Ethical Life*. However, the text also implies an ideal that Hegel has in mind, an ideal which is revealed through showing the inconsistencies that may arise in the condition that the proper recognition of right is not realized, in other words, through non-recognition that may cause crime, civil wrong etc. In this context, Hegel has a measure of right which allows him to criticize the modern theories of right and the deficiencies brought by the modern life which is reflected in those theories. Both empiricist and formalist theories of right, as Hegel names them in *Natural Law*, are the appearances of bifurcation in the whole modern life and modern philosophy, like the appearances of the distinctions between morality and positive law, reason and nature, subject and citizen. These theories are,

¹⁹¹ *Ibid.*, p.19.

however, the description of the settled bifurcation in the modern society and they deepen the fission that is inherent to civil society through their theoretical contributions. Then, there must be a reconciliation of reason with nature, understanding with sense, morality with legality, individual with the whole, private good with public good and so on. For the sake of the undogmatic character of the philosophy of identity, Hegel does not want to imply any “ought to” for the reconciliation and to offer any transcendent ideal for the proper formation of society. However, Hegel can not prevent his philosophy from becoming dogmatic even though he does not make explicitly a normative claim. His critique provides a solid ground upon which the troubles of modernity are brought into the light, but also implicitly presents an ideal that Hegel is attached to. Because the critique “is based upon the normative image of a life form that has become 'transparent' and intelligible to the intellect, and in which individuals once again can recognize themselves as part of a 'living' as opposed to a 'dead' totality.”¹⁹² In order to understand the basis of this critique we need to consider both the critical aspect that is developed in *Natural Law* and the constructive aspect in *System of Ethical Life* together.

A. A People (*Volk*)

Hegel makes only one positive presupposition in *Natural Law*, and it is that the absolute ethical totality is nothing other than a *people*.¹⁹³ A multiplicity becomes conscious of itself as a people (*Volk*) in form through war. The individuation of people is possible within war, in which one distinguishes itself from another. In the end, one may surrender or they equally give up and makes peace, but they recognize each other and the formless one acquires its form. Only from the point of cognition of this whole, it is possible to posit the individuation of a human being. The whole is prior to the parts, so gives those parts

¹⁹² Seyla Benhabib, *Critique, Norm and Utopia*, p. 30.

¹⁹³ G.W.F. Hegel, “Natural Law,” in *Hegel: Political Writings*, edited by Laurence Dickey and H.B.Nisbet and translated by H.B.Nisbet (Cambridge: Cambridge University Press, 2004), p. 140.

their individuality. For instance, individuality of single human being emerges only within the existence of a people. Of course, an individual himself does not have to be conscious of a people to which it belongs, in order to posit himself as a distinct being which has individuality. Even in his natural relations he can know that he has a distinct being. Hegel has not yet distinguished the experience of a singular consciousness from the science of the experience of consciousness. Both of them are presented in a totality, sometimes from the perspective of the individual, sometimes from the perspective of the whole, the point of indifference. This is why I chose to mention that the individual has its individuality only within a people, from the perspective of speculation. The individual is conscious of himself as belonged to the whole as far as he identifies himself through the whole. However, the form of the whole is gained in and through war. This means that a people takes stance to other individual peoples in war.¹⁹⁴ Whether the other is a barbaric horde which is devoid of form, but not in absolute formlessness, or is a people with which peace can be made. War is more important since it is only war which shapes the individuality of the ethical totality, moves and changes it in contrary to peace which produces stagnation.¹⁹⁵ In this sense, through the courage of individuals in battle, the formation of a people acquires its essence. Because, courage, as we will discuss, is a feeling which annihilates the particular determinacies and raises the particular to infinity by the acceptance of the risk of death in war. Hegel says:

“This stance and this individuality are the aspect of reality, and if we think of these absent, they [i.e. the ethical totalities in question] are [mere] *creations of thought*; this would be the abstraction of essence without absolute form, and the essence in question would consequently be devoid of essence.”¹⁹⁶

Accordingly, in opposition to the claim of the social contract theories, the union of

¹⁹⁴ G.W.F. Hegel, “Natural Law,” p. 140.

¹⁹⁵ *Ibid.*, p. 140 -141.

¹⁹⁶ *Ibid.*, p. 140. My emphasis.

men is not created by the tendency of man to preserve themselves by making peace. Rather, it is the war which keeps them together more tight in their union than does peace. In this sense, in contrary to social contract, war makes people conscious of the form in which they constitute their own *organic* body (their essence) which does not proceed from consent. The quotation above includes a reference to rational creations, or creations of thought, or *entia rationis*.¹⁹⁷ Hegel refuses the ideas which regard the formation of society or a people as a result of rational consent because these ideas are mere creations of thought. Since Hegel considers the foundations of social contract theories as mere fictions, productions of the understanding, and as abstract determinations which lack correspondance to the vitality of the ethical whole, the individuation of a people can not be grounded on mere thought, but on feeling actually. The absolute formal virtue is courage that produces the essence, and this essence is not a creation of thought. In risking one's life in war, we find courage which means accepting the danger of death. Accordingly, the individuality of people can only be the product of negation of the fear of death in reality of feeling, which gives the shape of essence of people as it is freed from the abstract determinations of the understanding. They risk their lives together, or at least show courage in taking office in a kind of military work. The spirituality of ethical totality does not start with freedom of choice through which man becomes aware that he can resist the mechanical laws. On the contrary, this spirituality, since it essentially proceeds from death and liberates it from any category of determination, is what makes a people a unique totality in relation to other peoples. Therefore, war is “less an external manifestation in the life of a people than an inward necessity.”¹⁹⁸

Through war the people determines itself by negating the negativity of death. But this is not sufficient for the intuition of people as a people that is a whole. The

¹⁹⁷ In the translation of *Natural Law* by T.M.Knox, it is “entia rationis.” G.W.F.Hegel, *Natural Law*, translated by T.M.Knox, introduction by H.B.Acton and foreword by John R. Silber (Philadelphia: University of Pennsylvania Press, 1975) p. 93.

¹⁹⁸ Jean Hyppolite, *Introduction to Hegel's Philosophy of History*, translated by Bond Harris and Jacqueline Bouchard Spurlock (Florida: University Press of Florida), p. 52.

consciousness of such genuine togetherness is possible through an intuition in religious activity of the whole. The emergence of the conscious identification of a man with the whole is based on ethical relations starting from the basic natural ethical intuition to the Idea of the ethical life. For instance, a citizen of the Ancient Athens acknowledges oneself as belonged to the city, since the constitution of the city, its history and religion are known to him and have meaning for him when he says that “I am an Athenian.”¹⁹⁹ Not only by knowing externally the laws, constitution, history or religion of the city, but by identifying himself with the whole through religious experience *practically*. Moreover, the Idea of the ethical order consists of many other determinacies in relations, such as labour, speech, property, right, distinct social classes, constitution and the state. These determinacies emerge in the relation between ideal and real, universal and particular, and in their synthesis in the Idea of ethical life. The substance is a people, but the Idea of ethical life has its first name as the constitution which is its reality whereas ethical life is its concept.²⁰⁰ The natural ethical relations consists of the relations in a family and of the relations of the family with other families. On the other hand, the absolute ethical life is based on politics. Starting from inner family relations, the ethical life unfolds itself through the opposition between ideal and real, up to the stabilized Idea of the absolute ethical order. In war, a people is intuited as negatively or ideally, on the other hand, in the time of peace, a people has its positive constructions through ethical relation between family life and political existence. In this context, freedom becomes a matter of this relation which is not independent from a system of need. But for the explanation of these determinacies as constituting an identity in speculation, the basic differentiations must be shown both in the natural ethical and in the absolute ethics of politics. With reference to *System of Ethical Life*, Harris says:

“The family, whether in the context of marketplace equality or of tribal

¹⁹⁹ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, pp. 60-61.

²⁰⁰ *Ibid.*, p. 62.

aristocracy, is one *Potenz* (power) of the Absolute Idea, and political society is another one, the next higher one. They are connected by having the same 'negative' in crime and warfare. This is their indifference point as 'identity, the center point on the line of speculative development that Hegel is 'constructing' for us. At one end (in family-relations as a 'system of need') Nature, or the objective moment, predominates; at the other end (in the 'absolute estate' of the priests and elders who have passed out of the bonds of family life altogether) Spirit, or the subjective moment, predominates. The 'indifference point' is the consciousness of the 'Absolute Concept' as the unity of the opposites: life (the natural pole) and freedom (the ethical pole). This indifference point comes before us in its bare 'identity' in the 'middle term' of *battle...*"²⁰¹

B. The Ethical Life

Hegel starts the construction of the Idea of ethical life with natural ethical relations. According to this, feeling is natural ethical intuition, which is not universal in the basic level, but singular and particular only.²⁰² When need is felt, there emerges the feeling of satisfaction by the nullification of the object needed. Need is practical, but labour is too. Labour is an effort for the nullification of the separation between the subjective and the objective (which is external). As a result of need and labour, there arises the feeling of enjoyment. Desire is an ideal moment, in which the object to be nullified is absent. In labour one defers the satisfaction of desire and also the enjoyment in it. Labour needs taking possession, but also after the activity of labour it is possible to possess the product. Labour is at the same time the origin of the formative education of mankind since he ideally defers his need and has an effect in reality by causing a change in nature with his labour. Labour produces also the tool, and labour becomes universal in it since tool can be produced by others in the same form. In tool, he externalizes his idea, and shapes objective

²⁰¹ *Ibid.*, p. 56.

²⁰² G.W.F.Hegel, "The System of Ethical Life," in *System of Ethical Life and First Philosophy of Spirit*, edited and translated by H.S.Harris and T.M.Knox (Albany: State University of New York Press, 1979), pp. 103-104.

nature, and tool becomes an object which is open to the consideration of others. On the other hand, also speech is a tool, a rational middle term, which is immediately both subjective and objective. In order to use speech which is a highly developed form of communication, one should first intuit himself as a singular individual and distinct being. Also for labour to be considered in a universal totality, the singleness of the acting subject must be posited first. This intuition of oneself as another being is possible in love. In the unity of different sexes, one part intuits himself or herself in another. However, this recognition is not an ethical one, rather it is natural. Without desire such difference remains in a child as the objectification of parents, but this objectification is not a conceptual one since it is natural where the concept is subsumed under the intuition. The tool as a product, has the rationality of labour, and the intuition is subsumed under the concept in the a particular instance of it. Through the tool, the subjectivity of labour is raised to the universal but not yet discovered as universal.²⁰³

Speech is the rational bond between men. In this sense, it is an “ideal and rational middle term” of the intelligent being.²⁰⁴ It can be given any form, and speech (also sign besides speech) can convey also the knowledge of the possession and who possesses it, but in natural relations this is only for singular instances such as “this” individual, or “that” particular object. From the perspective of relations; speech, labour, culture or family are singular and they are not conceived in abstract terms. But there is still a universal element implicit in speech and labour, so the intelligent beings can share a singular work in its totality, and this work is no longer singular. Variety or singularity of things is lost in labour in its ideality, one work is divided for each worker. Such work is a mechanical one which alienates the labourer from the singularity of previous work. As long as the work becomes mechanical, it is possible to find another energy source to do the work, such as water,

²⁰³ *Ibid.*, p. 113.

²⁰⁴ *Ibid.*, p. 114.

wind, steam.²⁰⁵ Thus, production turns into a matter of quantity as a result, and the individual's quantity of the common product goes beyond the totality of individual needs which were satisfied by his *own* particular work. Since quantity is general, which is a surplus, it makes possible to exchange it. The subject is recognized as a possessor in the system of needs, in which subjects are also interdependent. Hegel considers this recognition of subject as possessor as negative, because the subject is fixed as owner by his possession in the eyes of others, and his personality is abstracted from such a possession. Accordingly, his possession is conceived as property, and he has a legal right to it. But this determination of right is a creation of thought, since the personality of subject is not a total unity, rather, it is mere abstraction. Hegel says, "it is laughable to regard everything under the form of this abstraction as legal right; right is something entirely formal, (a) infinite in its variety, and without totality, and (b) without any content in itself."²⁰⁶ There is no necessary connection between man and his possession since this possession or property as a surplus, which is not for *immediate* enjoyment of subject, is mere possibility for being a matter of right such as other rights can be. Hence, if it is enjoyed by the subject, this ideal possession can have a real being. Because yet the subject has not consumed his labour on this surplus possession. However, it must be put that "the relation to an object which this intelligence acquires for need and use [...] is the beginning of legal, and formally ethical, enjoyment and possession."²⁰⁷

In exchange, one sets legal ownership into motion, that is, he connects it with reality. Value, in exchange, is an ideal measure, an equality of things whereas price is empirical use of the value. Value is an ideal possession which is not useful to the owner. On the other hand, price is the realization of value in exchange, by which one gets the thing that he really needs and will use in the end of exchange. Moreover, exchange is

²⁰⁵ *Ibid.*, p. 117.

²⁰⁶ *Ibid.*, p. 118. "Right to property is a right to right" says Hegel, it is mere formal, abstract and negative aspect of the abstraction in property.

²⁰⁷ *Ibid.*, p. 120.

important for mutual recognition of *persons* through property. Contract is an important step in spirit and for the transition to absolute reality. Because in contract, exchange is transferred into ideal, and the contracting parties, as single individuals, are nullified. Even though spirit here is formal, it has objective essence through the contract which subsumes the individuals, excludes idiosyncrasy and caprice and invokes the absolute universality.²⁰⁸ However, faith or trust subsists in it as an internal element of spirit. Money as indifference of surplus is the possibility of satisfying all needs through possibility of universal exchange. Trade as an activity makes possible the realization of the exchange of surplus for surplus. For Hegel, the relation of property and exchange through money and trade is a relative identity, which must be conceived in an absolute identity. In the intuition of totality, the individual is a singularity and his individuality is to be recognized by others. This recognized subject is a person. First, the individual is intuited as in the form of living being, “he was recognized previously only as possessing single things, so now he is recognized as existing independently in the whole.”²⁰⁹ He, himself is the life, but individual as life is the indifference of any particular characteristics. The consideration of him as a person was possible through the abstraction from a possession, and in the same manner, now he is considered as an abstraction from a living particular being, such as a person in relation to life but as an absolute concept, which means he exists as a free being. The freedom in accordance with the concept has in itself the possibility of being nonfree or nonrecognized. Because the individual is independent from any specific characteristic except his life or intelligence: “at the absolute limite of abstraction, he is a living being and his life is human life.”²¹⁰

In the confrontation of two living individuals, there is an inequality between their powers of life. This inequality of power causes one of them to lose its indifference, namely

²⁰⁸ *Ibid.*, p. 123.

²⁰⁹ *Ibid.*, p. 124.

²¹⁰ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 40.

his freedom, and to become something determined (or fixed as having a specific character) in relation to the one who has more power and still remains as indifferent. This relation between them is the relation of lordship and bondage. This relation is based on the inequality of power of life, and there is no any matter of right or equality which is formal and dependent on abstraction. Hence the relation of lordship and bondage is natural and is concerned with one's being able to satisfy his basic needs with his own power or not. The master possesses the power for the need as surplus, whereas the servant lacks it and is bound with the external freedom of the master, and obeys the master for the satisfaction of his own basic needs. In contrast to the formal equality of legal right, there is an inequality of power in reality, which regulates the relations of a plurality of individuals. Hegel says that there is always a relation of lordship and bondage, where there is a plurality of individuals.²¹¹ This relation has influence also in the ethical relation when the formation of the ethical order is in question because the ethical order is framed by the individuality of genius and talent.²¹² However, the relation between the master and the servant is not yet a true ethical relation since there is no identity between them. The master is recognized as a person, yet the servant is not truly person until he is paid or given what he needs in return of his service. In family, the indifference between the members is not a formal one. The property, labour and surplus do not belong to one, but to the all in the family. Although the relationship of lordship and bondage subsists in family, the husband is not the sole owner of property or of the product of labor, just manages it for the family good. In relation to other families, the husband is the legal owner who has equal rights with the husbands in other families. The husband and wife are the in fact the one in holding the property. This proceeds from their particular undifferentiated relation in sex, and acquires universality in their marriage which fixes their particularity as a universality. Marriage is like a contract, but in it the parts give themselves to each other so that there can not be a relation of

²¹¹ G.W.F.Hegel, "The System of Ethical Life," in *System of Ethical Life and First Philosophy of Spirit*, p 125.

²¹² *Ibid.*, p. 126.

subjects as having private rights. Because they do not transfer their lives to each other, nor the ownership of their sexual organs for the use of the other in contrary to Kant's claim that each party in marriage has right to use the sexual organ of the other.²¹³ This would be irrational and something disgraceful to treat a subject as identified with a thing or as something which can be transferred to another like a possession. On the other hand, the family resists the formal and external determination by something like contract since the union of the parts is based on feeling. The inner identity of husband and wife is kept within this union, but also they turns their totality into an enduring being which is a child. Thus they reproduce their totality in reality. In contrast to the previous consideration of the child, which was not ethical, the care of the child is a duty imposed by nature: "in subordinating their own fully developed rationality to the natural needs of a living thing which is as yet human only in outward appearance, the parents come to terms with their own mortality as natural organisms."²¹⁴

When we have sensation of something, we have it also in thinking. Thought is determined as something nullified or negative. In this way, we raise this particular sensation to universality, and reality to ideality. In this universal, the particular also subsists. But in reflection, the particular is raised to infinity so that its objective reality in time and space is now a subjective one which can be recalled. The objective ideal is something determined in both reality and ideality, that is, we discriminate, the particular object of sensation in reality with regard to other particular things, and also the thought of it from other thoughts in ideality. Hence thought and sensation are bound together. In practical realm, this negation has its counterpart in ethical life. The idealization in ethical life is different from the negation in natural level. In the case of murder, what is destroyed is the objective existence of a living individual, whereas in ethical life what is negated is the subjectivity of subject, or the ideal character of a subject: "absolute ethical life directly

²¹³ *Ibid.*, p. 128.

²¹⁴ H.S.Harris, "Hegel's System of Ethical Life: An Interpretation," in *System of Ethical Life and First Philosophy of Spirit*, p. 43.

cancels the individual's subjectivity by nullifying it only as an ideal determinacy, as an antithesis, but it lets his subjective essence persist quite unaffected.”²¹⁵ The freedom of a subject in negating the life of another is a negative freedom. Even though the violence that the murderer did to the victim can not be repaired, the act of the killer is a negation which is open to a reaction against it which will come from the family of the victim. The *crime* gives rise to the *justice of revenge* which results with an action against the criminal. On the part of the criminal, the act is at the same time ideal, that is, he knows that he cancelled himself ideally by destroying a life. In his conscience, his consciousness of his own destruction makes him wait for his actual destruction. This is the danger of death which leads him to defend himself. But the fear of death becomes greater in every victory, and it must come to an end. The criminal knows himself as guilty, and he also knows that he has to face with in reality the danger of death which will be an approved response to his preceding action.²¹⁶ Besides murder, there are other types of crimes that Hegel presents such as havoc, robbery or theft. But they proceed from a negative freedom which is abstracted from the bonds of ethical life, and they are not determined as crimes in legal terms, namely, not recognized as crimes within the ethical life like also the recognition of freedom by all is not realized through a constitution yet.

Hegel does not give clearly the source or motivation of the crime.²¹⁷ It emerges most probably from acting with regard to natural necessity that leads, at least, one man to satisfy his need in the end by destroying the life or possession of the other. Whatever the source is, individuals or families are not conscious of their ethical formation yet it is merely natural, and accordingly they do not know what an offensive action destroys ideally. An offense or injury to life causes the emergence of a type of natural justice that is based on revenge, but

²¹⁵ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, p. 131.

²¹⁶ *Ibid.*, pp. 131-133.

²¹⁷ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 46; Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, translated by Joel Anderson (Cambridge: The MIT Press, 1995), p. 20.

the rules of this justice are unknown to apply in the punishment for crime. In reciprocity, an act of crime will be punished but it is not certain how it will be. The offense is considered as done to a personality, but in the case of the eastern barbarian hordes who attacked the west such conception of personality does not work since barbarians do not have any consideration of personality. According to Hegel, the first level of attack is the formal one, which is against a settled culture in general, not against a person or such determinacy. It is a “natural annihilation”, destroys “what is organic and individualized” and this destruction is a havoc.²¹⁸ Then in a settled culture, even though the individuals have no full consciousness of it, there is something superior to nature. But the eastern barbarians are completely unconscious in their acts, they are united as a clan can be, and they are free without any purpose to regulate their actions. On the contrary, Hegel thinks that the northern barbarians have developed a small range of culture and they belonged to the level of understanding in their invasions rather than to the mere fanaticism of havoc.²¹⁹ Hegel calls the eastern barbarians as the brooms of God, who sweep anything related to culture. A horde of this type, a united people but a formless people which does not know itself consciously since they lack a constitution.²²⁰ They create a devastation, and when they achieve to sweep in the end, whatever they find which can be destroyed, they turn their pure unity or formlessness into absolute formlessness or mere multiplicity of individuals. Even in the cultured individuals this devastation creates a fury that will end only when fury or mania will annihilate itself and turn into its opposite. In the end there is only the real being of an absolute subjectivity, namely, absolute freedom as a negative form. This condition of havoc which produces absolute subjectivity is similar to the state of war in Hobbes's account.

In havoc one only cares with the destruction of any object, whether it is a person or a

²¹⁸ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, p. 133.

²¹⁹ *Ibid.*, pp. 133-134.

²²⁰ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 48.

thing since they are just objects to him. On the other hand, in theft, the thief does not destroy an object since he needs it, but denies the relation between the possession and the possessor. He knows that what he steals belongs to another, hence what he offends is the recognized right of another who possesses. Here the personal integrity of a subject is not targeted, but only his ideal connection with the property is. Even, the victim may not react against theft since he is not threatened as an integrity, nor non-reaction is dishonorable in the absence of total recognition, where at the same time the stolen thing can be recovered also. Such denial of right is only in personal degree, not mediated universally so that it can be considered as a violation which is made against the legal system or the ethical order and so is something which is a threat for the all.

Robbery exists where there is no relation of lordship and bondage. Accordingly, the parts find themselves in struggle which is between two person, because one tries to subjugate one to himself even though for a moment. This attempt of robbery does not target the totality of the personality of the subject who is to be injured by the act, but these two are connected in the relation and there must be a reaction against the robber. The injured will resist since he “makes this personal injury a matter of his entire personality” and “must get the upper hand”, “because he posits himself as a totality while the other [the robber] posits himself as particularity only.”²²¹ Hence, in reality, this struggle shows itself as reversal of the initial attempt, and results with subjection which is seen (as a phenomenon) in singularity as a subjugation. But since the robber does not put his own personality in this relation, the subjugation is momentary. The robber is in level of mere particularity, and even he is “too bad to be a slave.”²²² A true bondage relation can be possible through warfare in which each sets forth his integral personality, and personalities are mutually recognized. Then it is a matter of honor where two distinct personalities see each other as an integral whole, and any injury that is done to the life or possession of the

²²¹ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, p. 136

²²² *Ibid.*, p. 137.

one is an injury of honor. But since each demands affirmation of their selves by their setting forth the personality as a whole and risks their lives for it, it is not a matter of mere injury. Rather it is a matter of threat to the wholeness of each party, which proceeds from their equal perfect freedom, and the question of demanding for justice or right is not concerned here. Harris says:

“Once the struggle has been accepted, however, all lesser questions of right and injury fall away. The threat to life confers right, and the willingness to put life at risk constitutes the justice of one's cause. The issue must be bondage or death for the vanquished party, though if their strength proves equal, both may die...”²²³

In this singular case of war, each is conscious of the equal danger of death for both. What is represented through its members in a battle is the family. Hence, each represents also the right of the family, but yet it is not recognized as a right by all. In the battle however, one party demands subjugating the other, and one of them will surrender according to this. But the result can be the case in which they equally give up. Because none of them can sustain this condition of war forever. Since they equally present themselves and recognize one another as a totality of personality in a war, their relationship gives rise to the problem concerning who will rule. In the condition that each equally gives up, or that one subjugates the other, a peace prevails there. This condition is the return of the older order but the cognition of the problems brought by negative freedom has become possible in it. Nevertheless, each party as champions of a family see each other as alien beings in accordance with family ties, or the tie of blood. In recognizing the other, there is no perfect equality which is truly ethical. According to Hegel, in the foregoing levels the absolute nature did not acquire a spiritual shape. Equality in natural terms remain as something inward, not realized in universality. Hegel says, “ethical life must be the absolute identity of intelligence, with complete annihilation of the particularity and relative

²²³ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 50.

identity which is all that the natural relation is capable of; or the absolute identity of nature must be taken up into the unity of the absolute concept and be present in the form of this unity, a clear and also absolutely rich being, an imperfect self-objectification and the intuition of the individual in the alien individual, and so the supersession of natural determinacy and formation, complete indifference of self-enjoyment.”²²⁴ Accordingly, the individual will see himself as conscious individual, an intelligent being as one with his natural existence. Of course, such a cognition of oneself is possible to be shown by intellectual intuition which supersedes the empirical intuition. This becomes possible in and through an ethical life. However, in the course of nature, even in the relations within the family such as that of the wife to the husband, the identification of individual himself with another is realized in terms of natural ties: “the husband sees flesh of his flesh in the wife, but in ethical life alone does he see the spirit of his spirit in and through the ethical order.”²²⁵

Individual must be a life which is grasped conceptually. In order to do so, individual must posit itself in itself both as an empirical being and as absolute consciousness. Thus, he will oppose his empirical consciousness in his absolute consciousness, which also intuits this empirical consciousness, and will see himself as subject the necessity in acting and somehow restricted. Since he distinguishes his empirical being or his action from his thinking, he sees his actions as idealized in the sense that there is an opposition between them. Hence his actions have a universal character, so that they are not merely singular deeds but have meaning that is universal at the same time. In ethical life, the intellectual intuition is capable of conceiving thought, being or action in a whole as it proceeds from God. However, in empirical consciousness of individual in natural degree, it does not show its wholeness to him in consciousness. In ethical life, what is natural is constructed into a whole in individual consciousness. Hegel thinks that this construction is realized in a

²²⁴ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, pp. 142-143.

²²⁵ *Ibid.*, p. 143.

people, which is the intuition of the Idea of ethical life. Individual immediately intuits himself in another, and represents this relation as an identity in his empirical consciousness, this ideality becomes possible through religious experience in which the universal is intuited particularly. Individual in his intuition, does not abstract from his relation to another, that is, he does not acknowledge another in an equality of citizenship. But rather, thought and intuition are one within his consciousness. He as a particular is one with the universal but in level of intuition which is immediate, namely, which does not need abstraction to nullify any particularity.

Empirical consciousness is immersed into the identity between the intuition and the concept which shows itself in a relation to the objective. In this sense, what is in consciousness is the absolute intuition of the identity of subject and object. Individual's practical relation to need and destruction, or physical need and his negative force which destructs any object, is superseded in this intuition. Because what is intuited objectively in ethical life destroys what is subjective, and the subjective and the objective is displayed in the objective (which is intuited) as an identity. The acting subject in practical realm is corresponded with the objective existence of a people in its organization through the constitution of the state (which is at rest) and the government (the movement of the constitution). The Idea as intuition here is the constitution, and the Idea according to relation is the concept of it, so they together compose the identity.²²⁶ Hegel says that it is the totality we can grasp the Idea of ethical life. However he also says, "the form under which this identity appears is something superficial throughout."²²⁷ This form, even though it is not mentioned in *System of Ethical Life*, is explained in *Natural Law*, as the form of a genuine whole which emerges from a war against another people. Their courage in war and their sacrificing themselves for all the others are what make a people they are and give their genuine being in a form, whereas in religious experience they *intuit* each other as

²²⁶ *Ibid.*, p. 145.

²²⁷ *Ibid.*, p. 145.

their fellows. Because “war produces only a recognition, an ideal positing of equality, a true living being.”²²⁸ The passages concerning the attack of barbarians, in *System of Ethical Life*, can be read as an analogy to explain this formation in a concrete example. Only in relation to another people, a people is said to be formed. What is defended against the barbarian horde is the settled culture that is spiritual. It is defended against the plurality of men, which is not absolutely formless but constitute a form through the tie of blood and consequently more natural. The civilized culture in comparison with the barbarian is not conscious of itself as a civilized people, but mere objective common life of an allness. Also Hegel says that they, the hordes, are not disconnected or mere plurality and that the universal or the spirit is in each of those men²²⁹, so we can say that they share something although they are not explicitly conscious of. Hence, before they identify themselves through the constitution of their state, they must first define themselves as distinct from an other people. Such formation is the result of a war against an other people. Hegel says, “the people that finds itself unrecognized must gain this recognition by war or colonies.”²³⁰

The ethical life shows itself as absolute, as it is intuited. In absolute ethical life individuality is superseded and one lives only for his own people and country. Men are devoted to the well-being of the eternal people, and Hegel denotes this characteristic of man is unselfishness. The absolute ethical life is a supreme freedom and eternal beauty according to Hegel. The formation (*Bildung*) of a child in this life is concentrated on nullifying the subjective determinacies. The individual will leave itself to the danger of death, for the sake of his people so the only virtue suitable for the individual of absolute life is the undifferentiated form of courage in war. But when the individual dies, it would be impossible to enjoy his freedom in being identified with the people. During the time of peace, individual contributes the whole through his mechanical labour because such labour is not based on a practical feeling. However, the subject here is not hypocrite nor has any

²²⁸ *Ibid.*, p. 164.

²²⁹ *Ibid.*, p. 144.

²³⁰ *Ibid.*, p. 164.

conception of inner or outer hypocrisy, rather he knows that this ethical substance is at the same time his morality and where his subjectivity lies. Relative ethical life allows the emergence of particular determinacies on the part of the concept, according to which legal right is produced and honesty is determined as the virtue of this life. This legal right is not a written one but known as giving one's his own. In this sense, since legal right is not fixed in the whole but considered as a matter of equity, the single individual will also pursue in his actions the interest of his family. The objectivity of legal right is mitigated in terms of the reality of necessary needs which set limit to the unselfishness, and the ethical life remains as a mere thought in the individual being. Honesty will demand from the individual to sacrifice his possessions or his life for the all, through taxation according to a universal principle of equality of justice or through a call for helping the poor or the suffering in particular cases. But this life falls short of carrying out its ends because the individual is something fixed as absolute in his life and personality, and he will act in terms of his understanding. The intuition of the people will stay as a thought in relative ethical life, which will make the individual think that he is one with the whole whereas he only pursues his own interest. He will not sacrifice himself or his possessions when it is needed, but will try to seem like honestly ready to do it. Hence, the dominant virtue of relative ethical life will turn into a vice, or a hypocrisy of the individual.

Lastly, Hegel asserts that trust is the peasant virtue because it characterizes the life of peasantry in which no legal right is conceptualized in accordance with understanding as in relative ethical life. Here, the intuition of the people is felt, the individual is ready to sacrifice his labour and his own life, but only through having trust in the absolute class (the military nobility) the individual with all of his production commits himself to the whole. These three forms of ethical life correspond to the three distinct social classes in which their fundamental peculiar virtues differentiate so that all other virtues are determined in terms of them. The class of the absolute ethical life is of military nobility; the class of

relative ethical life in which the honesty is the decisive virtue is bourgeoisie; and the class of the individuals who are characterized with the virtue of trust is peasantry. Each form or class is to be organized independently and is to have its own shape and individuality. Even though these classes must also be real, not created by mere thought, there may be a confusion about their forms, which proceeds from a lack of wisdom and of ability to give form to the naturally ethical.²³¹ In the totality of society, all these virtues are contained and each class represents its own virtue in this totality. However, “the single individual can only express the aspects of ethical life momentarily; but in the different classes each level of virtuous activity is presented as an objectively real way of life in a stable ethical and natural context.”²³² According to Hegel, every level must be in accordance with its concept, that is, it must be formed in terms of the concept. Every level presents its distinctive characteristic in reality through striving for satisfaction and independence. In order for society to achieve a self-conscious freedom, each level in it must represent their essences. They are real classes and universalities in themselves, and their relation to each other is not like between two individuals. In each level, the individual knows himself as equal in it and only in relation to the universality of the class he is a true individual and a person.²³³

In *System of Ethical Life*, Hegel says that the absolute class is free, and the class of natural ethical life and the class of bourgeoisie are unfree.²³⁴ However, in *Natural Law* essay, the peasantry and the military nobility are free, on the other hand, the class of bourgeoisie is unfree. This shift occurs because in *Natural Law* Hegel puts more emphasis on the sacrifice of oneself for the whole in the crisis of war. Since the military class always devotes itself for the well-being of the whole, it is free. But the peasantry is also ready to

²³¹ *Ibid.*, p. 150.

²³² H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 68.

²³³ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, p. 152.

²³⁴ *Ibid.*, pp. 150, 155.

do the same thing, hence capable of courage when needed, so they are potentially ready to break with the particular determinacies which bind them. Accordingly, this is the basis of their freedom whereas we can not say the same thing for bourgeoisie.

Hence, with reference to *Natural Law*, there are actually two main classes in terms of their being free or not free. In the first, there are military people who risk their lives in defence of the ethical whole and for public good, and so they are free. Second, the noble class, which consists of rulers or aristocracy who do not risk their lives for the well-being of the whole, but which tries to accumulate their wealth and property through their knowledge of right and calculation (namely, not knowledge of working on nature), is not free. The third class is peasantry, which consists of people that work on earth, transform the nature, but lack education. Their sole object is the object of need, and the production of goods for the satisfaction of that need. When it is needed, this class reinforces the first class with their courage and work.

The work of the absolute class is universal and it is not concerned with the production of any need which requires dealing with something particular. Its production is not a lifeless thing which is practical and particular. Rather the work of this class is “the waging of war or training for this work” and their immediate activity in the people is not actually a work but something organic, says Hegel.²³⁵ In relation to other classes, it provides twofold utility to them. First, the other classes intuit the people through their existence. The mode of this class is a model for other classes to submit themselves as classes, so that it moves them and makes them intuit in themselves the life of the people. Because “without this intuition, honesty and trust would decay into hypocrisy and natural hostility.”²³⁶ Hence, this class also bears some kind of wisdom which gives the ethical life its spiritual shape. Moreover, it also provides the foundation upon which political government can work in security. Second, apart from this security of the people in general,

²³⁵ *Ibid.*, p. 152.

²³⁶ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 69.

it also ensures the security of property and possessions of the other classes (at least bourgeoisie) who can not defend themselves due to the lack of courage. In return, the absolute class meets the satisfaction of its needs through the work of these two other classes. The peasantry is characterized by its work to satisfy physical needs, which does not require an intellectual work. Its virtue is also a natural one but also capable of courage. However, it is in the system of need or of universal dependence in its labour and gain, even though it has not education to understand the principles of this system.

Bourgeoisie, the class of honesty, works for needs by organizing possessions and property, and by calculating its gain. All its work is based on pure ideality which is a mere creation of human being and it realizes itself through the relations of property and contract, that is, through what is contingent. Hegel calls them as lacking wisdom since its work is about “the abstract empty might in general.”²³⁷ Its work is related to possession, also to a person which is fixed through what he owns, and to a universal system of needs which is founded upon its universal labour that deals with the totality of needs conceptually. In this sense, the labour of this class is connected with the variables, like value and price of a labour, and with the exchange of products in regard to the whole system of need. In the system of need, the price and value of a labour are compared to and determined by the common measure or the middle term, that is money, so that labour can be converted to and exchanged through it. Hegel sees in the system of need the abstract and private aspect of ethical life. All relations of property, exchange of labour and trade are raised to the universal degree by treating them as a matter of abstract contract. In the natural relations, a personal injury was considered as done to the honor of a person in its totality, but now an injury is the problem of civil life. Because the individual is a citizen now and he is determined as a person who has right on his property which is recognized universally. Since all particular relations are taken in abstract and universal way, any particular injury

²³⁷ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, p. 154.

is to be recovered through punishment which is a determinate form rather than the indeterminacy of revenge. The family is important in the sense that it is the living natural totality, so its life and property must be protected for the sake of the life of the whole. But the relations in family is also effected because the family is held as a matter of contract by which its members are connected to the head of the family in their service. On the other hand however, the virtue of honesty becomes impossible because it does not allow the emergence of free individuality for the embodiment of virtue: “honesty lies in the universality its class without individuality and, in particularity of its relations, without freedom.”²³⁸

C. Government, Legality and Freedom

The absolute class is organic in its organization, and the other classes are relatively organic with regard to the former. In government, the difference between them becomes clear. In their organizations, the classes form the constitution at rest, but it must be moved by government through overcoming the differences between these classes. This level of movement is also the unfolding of the former levels, and it makes cognizable the production of this unfolding. A government as power has a constitution which is its formal aspect. Through constitution the reality of its universality can be recognized “as a totality in the separation of powers.”²³⁹ In other words, government can provide the foundation for every class as particulars to organize themselves independently and distinctly through the separation. Freedom for all can be achieved only by giving each particular to determine itself in its self-activity. In the absence of form, the whole would be against every particular determination so that freedom would be impossible. In the absolute form of government, the might of the first class sets itself as universal and constitutes a formal

²³⁸ *Ibid.*, p. 155.

²³⁹ *Ibid.*, p. 157.

government. The absolute class as government having power in this level would be against what is particular, and annihilate the internal dynamics peculiar to other classes.

The absolute government of absolute class which is a universal reality, since it posits itself as an organic being so as a spirit, tends to consume the particular character of the inorganic nature that it finds in the relative classes. The inner spirit of the organic structure of the absolute class separates itself from those others because the former is not characterized with the necessary work or other particularities, rather it knows itself as a class of nobility in its consciousness in relation to the others. Hence, this class is at the same time displays its individuality in ethical life by *law* through which the other classes know the annihilation of particularity. However, the middle term that is law restricts the empirical freedom of each class reciprocally. Therefore, there must be for the maintenance of the whole a supreme government which consists of the members who are indifferent to all classes, namely “those who have [...] sacrificed their real being in one class and who live purely and simply in the ideal, i.e., the Elders and the Priests, two groups who are strictly one.”²⁴⁰ They are actually noble, or those who lived a noble life, but not a member of it anymore.

For Hegel, age is an important criterion since it makes one closer to death and takes away the individuality that is in real being to universality. Aging is key for having wisdom. The whole maintains its beings as far as it is linked to the supreme indifference, to God and nature.²⁴¹ This indifference is more possible to be conceived properly by the elders and the priests. Since the original unconscious unity has been lost, the identity must be reconstructed, between nature and ethics, body and soul etc. Hence, nature is a tool for the ethical in order to reconstruct the identity between them. The ethical posits nature as a negative form, although nature is itself already adequate to the Idea. But nature, here as body, is grasped as a unity in itself and its unity is considered as a tool. Body is something

²⁴⁰ *Ibid.*, p. 158.

²⁴¹ *Ibid.*, p. 159.

negative, present in reality, which is to be conformed to the ideal. In this sense, this ethical character shows itself as dealing with both particularity and universality in the same manner where the essence of construction of government is in question. Accordingly, the negative or destructive effects of individualization are prevented, and the supreme government preserves the absolute relation of the whole but at the same “it is absolute rest in the endless movement of the whole and in connection with that movement.”²⁴² Hegel says, “the wisdom of this government affects the life of all parts, and this life is the life of the whole and is only through the whole.”²⁴³ It does not cause any change in the self-formation of the classes, but maintains the system of classes which is already settled in the whole through their peculiar formations. However, its essence is negative since it is a government, but at the same it is positive since it is in opposition to particular. According to Hegel, its business does not lie in supervising the decisions, vetoing what it finds harmful, but it deals with providing the balance in the structure of the system of class which has developed naturally. What may disturb this class system concerns it. When one of the classes gains more power over others or tries to organize itself independently, or when there emerges a conflict between the rights of the classes, the supreme government finds the way for stability. Hence, for Hegel, the class system is important because it is the only way to prevent the emergence of tyranny of one class. On the other hand, he does not say how the supreme government must act, but it is clear that this government, in accordance with its characteristics, will try to prevent the “organ”ic structure from being spoiled. The government has power that is external to the classes even though it originates in the class of nobility. For government, the peasantry is undifferentiated and lacks wisdom; the bourgeoisie since it fixed the differences through labour, property, value, price and contract, provided a formal unity that is universal but independent in its realm of activity; the noble class is “clear, mirror-bright identity, the spirit of the other classes,

²⁴² *Ibid.*, p. 160.

²⁴³ *Ibid.*, p. 160.

though since it is fixed in antithesis [to the others], it is the infinite side, while the others are the finite one.”²⁴⁴ Hence, the noble class, especially the elders and the priests, is closer to the absolute since it is infinite. The government has its power for all the classes because it is above them. Its sanctity comes from God (his words and revelation) since it is the appearance of God. Accordingly, its sanctity is not based on the choice of the people, which proceeds from freedom and the will. It is given, like the people is something given, not formed by the act of will and judgment which occurs in time and space and is empirical and accidental.²⁴⁵ Nor the absolute government can be considered as acting in order to bind the people with its words and deeds since it has withdrawn itself from particular determinations that are accidental too.

Whereas the absolute government is “the restful substance of universal movement”²⁴⁶, the *universal government* is the cause of that movement. The business of universal government lies in regulating the constitution in terms of the needs of the people in a certain period of time. In its unity, government as universal will subsume the particular, in itself, so this is how its movement becomes possible in form, because something organic moves itself in reality. For instance, in the case of needs, the government is concerned with it in a totality in accordance with the universal character of need in a society. Justice, has already been rooted in the life of a people through the class relations and through the recognition of opposed particulars in these relations, then the concern of government with justice can be merely formal. Likewise, in war, also two opposing parties recognize each other, “the particular remains what it is.”²⁴⁷ There is nothing to determine externally. However in education, culture, conquest and colonization the universal is absolute, and determines the movement; hence the universal government is effective in relation to these issues. The division of powers, as held by all other political theoreticians, is formal

²⁴⁴ *Ibid.*, p. 162.

²⁴⁵ *Ibid.*, p. 163.

²⁴⁶ *Ibid.*, p. 163.

²⁴⁷ *Ibid.*, pp. 166-167.

according to Hegel, they are devoid of content. It is already the work of a government to legislate, give judgment and execute the action. The division of powers, in this sense, abstraction rather than having reality, because only executive power is what provides a content in reality so that the government can be known as an executive authority in both internal and external affairs. What is concealed as feeling in the totality is raised to the level of consciousness by the reflection of government upon the existent particular relations and its submitting them as independent systems of government such as the system of need, the system of justice and the system of discipline.

The system of need refers to the universal interdependence of men in the satisfaction of their needs. Even though one has enough capacity of labour to produce, his satisfaction of physical need is not guaranteed. Because in the system, the individual has no control over the value of his surplus. Also his total satisfaction is dependent on an alien power which causes change in the the value of surplus. The whole of needs and surplus is affected by this power which is incalculable and invisible. If government is to be known as a government, it must master this unconscious and blind fate of the whole system of needs and surplus²⁴⁸, so that a single contributor of the whole will not be subjected to the misery of a poor life. The government can, at least, cognize the fluctuations in the system of supply and demand to the degree that it can find out the relation between a certain type of surplus and the need that corresponds to that surplus in the whole. Although this atomistic conception of surplus and need can contribute to pointing out a possible threat that may come, it will not cover and control all of the universal system of need in totality. Since the economic change has influence on the social life of a people, this threat, whether it is a fluctuation or a coming crisis, must be repelled. Moreover, in order to keep the balance between the classes, the government should take precautions against the extreme growth of a certain class. Otherwise, the ethical class structure becomes “subjected to the destructive

²⁴⁸ *Ibid.*, pp. 167-168.

tension between rich and poor, the haves and the have nots.”²⁴⁹

The need does not set limit to itself, nor has an end. The enjoyment, even though it is fixed as singular, is endless ideally. Where the enjoyment evolves into ideality, it seeks purer enjoyment as in a civilized condition which demands more labour to be satisfied. In empirical realm it also requires more possession and property, that is, the ideality of enjoyment becomes endless empirically. This results with the inequality of wealth, because one will have more whereas another will have less. According to Hegel, “this inequality of wealth is absolutely necessary.”²⁵⁰ Natural inequality will display itself as the inequality of wealth. However, one who aims at increasing his wealth, should consider its business in a more universal aspect, so the ones who does it will secure a more gain to himself. The inequality of wealth reveals itself as specification of business realm and its division into many types. But as far as this inequality and the specific types of business becomes have rooted, the inequality produces relation of lordship and servitude, in which the one, who has more will have more might. Through his gain, he will also set himself as more powerful in the universal dependence rather than particular and physical dependence.

These relations between the owners and the non-owners are fixed through a principle of calculation of quantity. On the part of the poor, his physical labour turns into a mechanical one which has its quantitative significance in the universal. Hegel says:

“This purely quantitative element, the inorganic aspect of labor, which is parcelled out even in its concept, is *the unmitigated extreme of barbarism*. The original character of business class, namely, its being capable of an organic absolute intuition and *respect* for something divine, even though posited outside it, disappears, and *the bestiality of contempt for all higher things* enters. The mass of wealth, the pure universal, the absence of wisdom, is the heart of the matter (*das Ansich*). The absolute bond of the people, namely ethical principle, has vanished, and *the people*

²⁴⁹ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 75.

²⁵⁰ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, p. 170.

*is dissolved.*²⁵¹

This predominance of the system of need over the “higher things” in ethical life is the core of Hegel's critique of modern society. The living ethical relations are reduced to the relations of need and production, which are held only formally by the business class. In this condition, the business class loses its original character, and it only cares about increasing its wealth as far as it can, whereas the non-owners become subjugated to its own power. But this cause also the distortion of the class structure and may result with the dissolution of a people. According to Hegel, it is the work of the government to protect the structure of the ethical life, against the increasing inequality and the destructive effects it brings. Because this issue concerns the public life as well as the private. The “trust” of the peasantry is actually in the universal system of need when it shows a stable character, otherwise the peasants might lose it. In addition to this, the bourgeoisie in this extreme case of barbarism loses its peculiar virtue of honesty, and exhibits only hypocrisy for the sake of greater gain. As a result, the economic fluctuations and crises effect and even it may destroy the social life of a people. For Hegel, the government must take action against such barbarism which sacrifices one part of the class (of burghers) through its “mechanical and factory labour.”²⁵² What the goverment can make directly is to make more difficult to earn much, but it is not a permanent solution. Rather, the protection of the whole is immediately possible through the inner constitution of this class because the government remains always external in its activity. As Hegel believes, the inner constitution of the class is the organic structure of the class, which is created as a living dependence of its members to each other. However it is also restricted and in this sense it forms a universality which is in fact its law and right. The boundaries it has then lie in the realization of this right and law, in the individuals themselves, “through their will and their

²⁵¹ *Ibid.*, p. 171. My emphasis.

²⁵² *Ibid.*, p. 171.

own activity.”²⁵³ What is living in individuals is the moral values which bind men to others in the same class by the ethical, such as respect or trust, and the ethical life abolishes the reign of quantity and mass through the living bond. This is what may lead the wealthy man to modify his relation of mastery. But the wealthy man tries to diminish the distrust of others or modify its relation of mastery only through a charity work.²⁵⁴ Thus he opens the way for others to involve in a general participation in the living relation, but cancels the external inequality externally only. Here, Hegel can not go beyond what is, because his philosophy of identity does not allow him to make a utopic claim about the formation of an ideal society. His critique lies on showing the destructive effects of the increasing inequality, but also contains an ideal according to which he is allowed to set forward “what ought not to be”. In addition to this, all the precautions that can be taken in order to protect the poor or those who are completely dependent on others, will only maintain the miserable condition. The step that Hegel could not take is to give the prescription for the solution which will necessitate a sudden break with this condition. On the contrary, what Hegel assigns as duty to the universal government, except what we mentioned above, is to make improvements for public life, like building streets and temples. The universal government may restrict the gain, increase the taxes taken from the rich, but will not make any substantial change in the class structure. Hence, the maintenance of public life is to be made possible by external regulations that will not make any essential change in the economic life of a people.

What Hegel states about the second system of government yields the explanation of the stages in which personality is installed as a complete universality through the system of justice. The second system of government is this system of justice. A person has been recognized by others as he has possession in terms of his need. All selves establish the tie between person and possession. This connection is considered as belonged to the single

²⁵³ *Ibid.*, p. 171.

²⁵⁴ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 76.

individual for each particular case. The government, as the administration of justice, is indifferent to single individual, and consists of the entirety of all rights through which an individual is considered as a “completely indifferent universal person.”²⁵⁵ In this sense, it adopts the concept of right which was brought by the relations within the class structure. As distinct and free from personal judgments in judicial cases, the system of justice applies the principle of equity when the cases are brought into the court. Hence, in a civil case of controversy (about a contract for instance), each party claims for the right, but at the same time knows that they recognize each other and it is their freedom which brings them to solve the controversy in the court. In other words, “both want what is right, and although the judgment may go against them, they accept it without compulsion.”²⁵⁶ Hegel says that in the case of civil wrong one of the parts claim his right on a property whereas it belongs to someone else. But there is no act of theft or robbery in question here. One recognizes “the other man's competence to possess property.”²⁵⁷ The aim of the administration of justice here is to determine what is right, through negating a dispute affects the determinate. On the other hand, in *criminal law*, what is negated is the individuality as a whole, whether this is against its life, personality, or possession. Because the criminal wrong is a compulsive act, like murder, theft or robbery. It effects the whole, denies the recognition of one's freedom and the universal being that is recognized. In return, penal justice must cancel both the criminal act which tries to put one's private right as universal by force and the opposition to the universality of the victim. Hence, this cancellation will be the punishment. Civil law and criminal law together constitute the law living as real and universal in consciousness.

The third system of government, which is the system of discipline, is the

²⁵⁵ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, p. 174.

²⁵⁶ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 77.

²⁵⁷ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, p. 175.

complementary one of the universal government. The universal here is the absolute at the same time. The universal in the system of need, is about pure quantity, “wisdomless universal.”²⁵⁸ In the second, that of justice, the universal is formal (even though momentarily it deals with singular determination). The system of discipline, however, raises what is felt internally or formed externally to the consciousness in the whole people through the moments of education, training and discipline, and procreation. Education is concerned with the individual talents, singular inventions and science. In training (*Bildung*), the gainings from education or science contribute to the establishment of science “as a communal activity and achievement.”²⁵⁹ The particular inventions, or activity of science, become absolute in the form of philosophy. Although in philosophy they remain as having an ideal character, “the training in the truth, with the destruction of all appearance, is the self-developing and deliberating and conscious people.”²⁶⁰ The discipline is provided also by the police for singular cases. However, the discipline which is more substantial includes the social order itself as the universal ethical aspect, the training of war in which the reliability of individual is tested.²⁶¹ Hegel does not give a comprehensive analysis of colonization, and even he does not give an account of conquest. For Hegel, as parents intuit themselves in the child born, the government or the people produces another people through colonization. Then, they can recognize themselves through another, in the time of peace. All of these elements of the discipline enable the individuals to form a self-conscious whole that intuits itself both in themselves and in other people.

For Hegel, the free governments can be in the form of democracy, aristocracy and monarchy whereas the unfree ones are the distorted forms of those which are free:

²⁵⁸ *Ibid.*, p. 176.

²⁵⁹ H.S.Harris, “Hegel's System of Ethical Life: An Interpretation,” in *System of Ethical Life and First Philosophy of Spirit*, p. 78.

²⁶⁰ G.W.F.Hegel, “The System of Ethical Life,” in *System of Ethical Life and First Philosophy of Spirit*, p. 176.

²⁶¹ *Ibid.*, p. 176.

ochlocracy, oligarchy, and despotism. However, the absolute constitution must not be based on the hereditary right of the aristocracy, which is merely the right in the land. Because this restricts the political activity with the activity of one class. Hegel labels this constitution as the worst. Of course, the Elders and the Priests belong to the noble class and have grown within this class but since they have no particular relation to any right over property, they can provide the protection of class structure irrespective of any class interest in particular. As far as the absolute constitution is stable in and through the class structure, the position of this noble and absolute class is equally good to monarchy. On the other hand, in democracy, the absolute reality of ethical life is exhibited in every individual, but there is no place for a proper separation between the classes. Rather, democracy should be inherited and operated within the inner formation of a class, so any member of a class can participate in political activity as far as the structure allows. However, Hegel does not explain in *System of Ethical Life* how the proper democratic structure is rooted within a class.

What should be protected is the class structure in its proper limits. A class should not be subject to the other completely. But the rise of bourgeoisie and its relative independence caused change in this structure on behalf of the business class. Moreover, the articulation of the legal system into the system of need, accelerated the process of the rise of the bourgeoisie which tries to increase its wealth through its knowledge of the formality of right, property, contract, price, value etc. This also caused the emergence of the system of need as a science. This science is political economy which deals with the system of need as it is in itself, independently of the higher values of the living whole. It has become peculiarized and the legal system have become regulated in terms of the realm of this science over the protection of wealth, gain, and property. Hence, right has been conceived as a matter of the system of need, but irrespective of the ethical relations. Right is merely added to the absolutized subject as an accident. The internal dynamics of relations is

denied, and the social bonds are reduced to the relations of contract which neglect the significance of the virtue, feeling and custom in a people. As a result, the life in the whole starts to lose its ethical bonds.

In the Roman Empire, the principle of universality and equality became dominant, removed the distinction between the two main classes, made all the owners (which were in the second class) equals with regard to their possessions. Thus, this condition created a “universal private life” which is regulated in terms of legislation and which “fixes individual being and posits it absolutely.”²⁶² Thus, the ascendancy of the second class, the class of people who are not free and who merely follow their own interests, caused men to detach themselves from the awareness of the universal good of all. There is a similar threat for modern society according to Hegel because of the rise of the *bourgeois*. Hegel says: “for the political nullity which results from the fact that the members of this class are private individuals, these citizens find compensation in the *fruits of peace* and of gainful employment, and in the *perfect security*, both as individuals and as a whole, in which they enjoy them.”²⁶³ However, this condition of the second class might cause the loss of its security which is so important for it, and this may result for the bourgeoisie with facing the threat of violent death where the inorganic nature (system of need) prevails. Since its rise distorts the ethical life, there might not be a class of people who can sacrifice himself for the whole, where most of the people enjoy their rights and liberty as formally free citizens and follow only their self-interests in economic life.

Political economy is needed for dealing with the system of universal interdependence in regard to physical needs, labour and accumulation of resources.²⁶⁴ But, it is an independent approach to this system. For Hegel, the independent approaches of political economy try to fix this negativity (of system of needs) as a positive determinacy, and to establish this system as the absolute principle of the ethical whole. When the system

²⁶² G.W.F. Hegel, “Natural Law,” in *Hegel: Political Writings*, p. 149.

²⁶³ *Ibid.*, p. 151.

²⁶⁴ *Ibid.*, p. 141.

of need becomes the dominant principle of the whole, it starts to threaten the union of a people, and to distort spiritual unity. Hegel says that it is not possible to prevent such a system which develops and establishes itself as absolute through its propositions like each has a right to live, each needs security and each has a right to gain more in safety. Its propositions over legality let the system of need and of possession become established firmly. According to Hegel, this independent system produces greater differences between and inequalities among men. Modern political philosophies of reflection feed this system to set itself in a legal system also. In the most general sense, in modern practical philosophy right is determined as it is based on the atomistic conception of the individual. But there can be an atomistic conception of nature only, not in ethical life. Therefore, besides political economy, the modern political philosophy must be criticized.

When community is considered as consisting of atomistic individuals, there is left no space for social bonds like customs, shared beliefs, or sentiments that are enjoyed together in a totality. These bind the individuals together in the whole. They must (because being a people necessitates this) be conscious of their union as a whole, through which they can define themselves. In this context, the state, laws, or duties are not external to the individual, but are conceived by the individual as what make its essence as a citizen. Otherwise, obedience to the law will remain as an external demand to which the citizen is alienated. Without the consideration of living relations in society, like in family and class, the source of obedience is searched in an internal motivation which is formal or in the fear of visible punishment. That is, this lack is tried to be compensated by ineffectual inner or external determinations. For Hobbes, what keeps a citizen loyal to the state are the fear of punishment and the power of the sovereign. For Locke, obedience is connected with duty, and duty is articulated as a consequence of natural law which is found by reason, but stems from recognizing the highness of God. Hence, the moral law is the guiding principle of obedience, whereas it is not an obligation. For Rousseau, obedience is derived from one's

concern about his liberty in civil society. If government is based on the general will and performing its actions in terms of general good, then obedience to the government is actually obedience to oneself. However, it requires a rational cultivation of each citizen in order to make the general will work. Since Rousseau acknowledges the inadequacy of such demand on the part of the citizen, he requires civil religion as well as a wise legislator for the promotion of obedience. Kant and Fichte, although they derived the moral law from a priori principles, they articulated a purpose of man which is not given a priori. For Kant, moral law is the basis of right, but obedience of all is left to this rational purpose which is given direction by a presupposed teleology in nature. On the other hand, for Fichte, the artistic education has a key role in narrowing the gap between intellect and heart in order to promote the rational purpose. It will prepare man for morality, and himself from “the fetters of sensibility.”²⁶⁵ However, the emergence of a free society is delayed in Fichte's account, and until it comes true, the coercion is unavoidable whereas heart or nature will always be under the domination of intellect or concept.

Hegel makes a distinction between pure empiricism and scientific empiricism. According to the former, the whole world, society or legal order are pictured in a totality without any theoretization or its mixture with thought or with concept. Hence, it is purely attached to the objects of perception. However, it is not able to provide a basis for the explanation of relations of objects or of men in general because it is merely descriptive in its endeavour that presents things given as they are in their mere variety. It is confined to the confusion of the decisive principles. Scientific empiricism, on the other hand, absolutizes its determinations by selecting the qualities and relations that it conceptualized, for the explanation of the whole. It mixes the given with concept or thought and it is attached to the abstractions it made arbitrarily in order to explain a certain subject matter. Because “some determinacy must be singled out and regarded as [constituting] the essence

²⁶⁵ G.W.F.Hegel, *The Difference Between Fichte's and Schelling's System of Philosophy*, p. 152.

of the relation.”²⁶⁶ For instance, when the relation of marriage is to be explained, it appeals to the concepts like reproduction or sharing of common goods, determines them as absolute by selection and elevates its determinations to the status of law.

Scientific empiricism needs to determine many other laws, duties and rights. Like in a natural science, it tends to make the explanation simpler and tries to find an original necessity for the explanation of the formation of ethical unity. Accordingly, it tries to attain the knowledge of the rest from the certain determined characteristics of the part. When the construction of a unity from the chaotic image of both physical and ethical realm is in question, it is supposed to be explained on the basis of things perceived. However, Hegel says, in ethical world:

“...chaos is sometimes represented by the imagination rather than the image of being — as the *state of nature*; and at other times, it is represented by empirical psychology rather in the form of possibility and abstraction, as an enumeration of the capacities encountered in man— i.e. as the *nature and destiny of man*. In this way, what is declared on the one hand to be utterly necessary, in itself, and absolute, is simultaneously acknowledged on the other to be something unreal, purely imaginary, and a product of thought; in the first case, it is treated as a fiction, in the second, as a mere possibility — which is a blatant contradiction.”²⁶⁷

All the determinations concerning the characteristics of the state of nature need abstractions of selected characteristics from the nature of man living in a unity and under the law. Because it can not contain the complete characteristics found in man of unity. Nevertheless, empiricism even lacks a criterion to make a distinction between what is necessary and what is contingent, what is among the essential characteristics of the man in the state of nature and what is not. The methodological principles of Hobbes, Locke and Rousseau in their description of the state of nature are based on such distinctions which are supposed to explain the transition to the civil society. However, their determinations

²⁶⁶ G.W.F. Hegel, “Natural Law,” in *Hegel: Political Writings*, p. 107.

²⁶⁷ *Ibid.*, p. 110.

proceed from the man in actuality. Thus the image of state of nature is formed in terms of a mere prejudice since they can not ground it. Hegel says, when the theoreticians search in actuality for the rules that are in semblance with the *a priori* character of physical laws, they are in fact being guided by the *a posteriori*.²⁶⁸ When they try to derive from those determinations all the consequences like the emergence of social unities, contract, property, culture or positive law, they do it properly in a consistency. Moreover, the selected characteristics seem to make the transition necessary and they are well-designed so that they seem to ground the formation of society and government. But, the lack of criterion for such determinations is generally neglected.

In a similar way, this lack of criterion causes disagreement on the determined qualities which will lead men to form a society. A quality can be nulled by another. For instance, when one claims that man forms society in order to preserve himself, another may claim that this in fact proceeds from sociability, pity or compassion. Empiricism does not see that these claims are one-sided, and that they are only some selected qualities from a multiplicity. Then it can not overcome the oppositions since it does not consider them in a unity of multiplicity. On the other hand, a unity, like society or the state, is made possible by an external harmony that is added to the associations of men, whereas the complexity of relations in a whole is ignored. Therefore, the unity which is asserted to be the whole lacks an inner necessity and hints of a true ethical organization. In other words, the inner bound between the one and the many, the part and the whole is absent. This lack is tried to be compensated by the articulation of an eternal majesty so that its divine power creates such inner necessity as we see in Hobbes, Locke and Rousseau. Although these thinkers considered such power as it is in fact not so much effective in relations between men or between citizen and the state, they regarded it as needed for the preservation of the whole that is created.

The fault of empiricist approach lies in mixing the empirical intuition with the

²⁶⁸ *Ibid.*, p. 111.

productions of free-thinking. The representational thought of an object is already superseded by reflection, but it fixes the abstractions or arbitrary determinations as if they were purely derived from experience. It is true that in the investigation of truth, it is important to question whether concept corresponds to its object, especially in the analysis of right. In this sense, empirical intuition is necessary for a proper study of right. However, scientific empiricism attempts to universalize the particular but arbitrary determinations as the foundation of right, law, duty and the state. Hegel does not deny that *pure* empirical approach has significance in terms of its contribution to education [*Bildung*] process in which the concept of right becomes visible in the study of right like the historians of law do. But philosophy does not picture things as they are. Rather it tries to find out the inner necessity of a science of these things. Pure empiricism, since incapable of finding out its fixed relations in a certainty, it is not a genuine philosophy nor is scientific empiricism. The latter has an incomplete relation to the concept and is subject to the confusions of the “understanding”. It produces always conflicting theories rather than solving the fundamental problem which stems from its incapability of uniting the thought with the object in a totality. It can not overcome the dichotomies which it is a part of and becomes dogmatic in the end. Moreover, since it is attached to mere positivity and immersed in laws, rules and other particular determinations, it can not grasp the life of spirit and the freedom of the subject in this life.²⁶⁹ But empiricism as absolutely opposed to formalism is needed for the restoration of unity both in philosophy of nature and philosophy of right.

According to Hegel, Kant and Fichte's formalist or critical philosophy or transcendental idealism tried to constitute that unity of the theoretical and the practical in “reason.” The idealism of Kant and Fichte as the principle of *a priorism* “sets itself against the empirical.”²⁷⁰ It unites the willing and thinking subject but considers unity as opposed to empirical realm. Through negating the empirical it produces itself as an ideal. However,

²⁶⁹ Jean Hyppolite, *Introduction to Hegel's Philosophy of History*, p. 44.

²⁷⁰ G.W.F. Hegel, “Natural Law,” in *Hegel: Political Writings*, p. 118.

Kant does not take phenomenon as a thing in-itself as an absolute opposite to the willing subject. Hence, the negation of the object constitutes an abstract identity of the thinking self with itself, which can assert claims about the practical matters without any concrete determination to realize itself. On the other hand, Fichte “made the thinking and willing subject in itself the noumenal, placed it in opposition to the empirical subject, this opposition is posited by the practical self.”²⁷¹ Both Kant and Fichte considered the subject as an absolutely free subject, but at the same time regarded freedom as negative, as if all men were able to detach himself from desires, inclinations and needs. Reason is supposed to dominate our natural side. But the demands of reason may go beyond the reality of the ethical life. This opposition to reality is necessary for and inherent to a living spirit.

In Kant, empirical consciousness produces determinacies which are conditioned by the objects perceived. As long as an object of thinking is determinate, it is at the same time finite. Understanding conceives the multiplicity of objects that are to be determined in the world, as infinity. But this kind of infinity is created by the act of negating. In this sense, the object is negated and elevated to thought, which creates movement and change. However, this concept of infinity is always conditioned by what is finite, then it is actually limited. Therefore, if infinity is to be a true infinity, it must remove its opposition to finite. Understanding which produces infinity through negating the object, can not overcome this opposition. This is what can be expected from philosophies of reflection. On the other hand, the infinity can contain the finite by removing the opposition.²⁷² In Hegel's logic, since it will contain the finite, and also the differentiation of the infinity into its moments becomes possible. Kant's philosophy sets this infinity as opposed to what is. Such infinity is a negation of the world as it is. Now the question of right is in the realm of free thinking which also produces claims about what ought to be but without actuality.

According to Kant, because of its nature, reason aims at the unconditional both in

²⁷¹ Jean Hyppolite, *Introduction to Hegel's Philosophy of History*, p. 44.

²⁷² Glenn Alexander Magee, *The Hegel Dictionary* (India: Continuum, 2010), p. 119.

theoretical and practical reason. Practical reason produces the unconditional in the form of categorical imperative. It is the source of moral judgment and its maxim concerning action must be universalizable. In this sense, each rational, free and autonomous agency is the sole judge of moral law, and is both the giver and the tester of that law. A self-conscious subject should act in accordance with the universal law that he prescribed. His freedom proceeds from his will, which is not subject to the physical laws. But at the same time, the moral law binds all people and obliges them to obey since it is found out by reason through the universalizability criterion. It does not proceed from any conditional or particular good but from the good will. Moral law since it is devoid of content otherwise it would mean that it is conditioned. Practical reason deals with its postulates which regulate the human action, give meaning to his life. Empirical knowledge of man proceeds from sense objects and the syntheses of relations of objects are produced by theoretical reason which forms a unity. In this sense, its empirical side is conditioned by the sensibility and subject to causality. However, practical reason is independent from such causality and it is the origin that starts a causal chain. There man finds his own freedom to act which is transcendent to his empirical self. The source of consciousness of duty lies in the commands of moral law and this freedom to act. Kant's theory of justice and right is also shaped by his account of freedom: "any action is *right* if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law."²⁷³ Hence, Kant's account for morality and legality is based on *a priori* and merely formal principles.

The universal character of Kant's morality proceeds from its detachment from the content. Thus what remains is only an empty formalism of moral judgment, a formal identity of subject and predicate, which can be replaced by any particular subject and object pair. This possibility of interchange can be used in determination of any possible

²⁷³ Rauscher, Frederick, "Kant's Social and Political Philosophy", *The Stanford Encyclopedia of Philosophy* (Fall 2016 Edition), Edward N. Zalta (ed.), forthcoming URL = <<http://plato.stanford.edu/archives/fall2016/entries/kant-social-political/>>.

law that can be found out. Any claim to be moral can easily turn into a claim of immorality. Because “every determinacy is particular in itself, and is not a universal; it is confronted by an opposite determinacy, and it is determinate only in so far as it has such an opposite.”²⁷⁴ For instance, in the condition that I consider whether I should return a deposit nor not, if I choose to not, then it would violate the idea of property but the property is something that has meaning in the objective ethical world. If I consider property as something that is free from its content, I can only put a formal determinacy: “property is property and nothing else besides.”²⁷⁵ It can well be said that non-property is non property. Because the legislation of practical reason is based on negation of positivity. Thus, any claim can be justifiable in terms of moral legislation. This shows that rationality is not a matter of consistency, rather it is found in relations and laws in a society. Another example that Hegel gives, is the maxim that “help the poor”, but if it is universalizable and realizable, then it would contradict and annul itself since there would be no poor to be helped. Moreover, the idea that every one should defend his own country presupposes particular relations and determinations which bind man to his own country, such as the identification of oneself with that country. Infinity, in general, remains merely as abstract. Accordingly, a system of right which is derived from the principles of abstract morality does not correspond to the right in a social and historical context.

In Fichte's system, the legal as external and the moral as internal are distinct disciplines each of which has its own peculiar subject-matters and rules. Morality is concerned with the deduction of the laws of internal freedom that is in accordance with conscience, whereas legality with rules of the freedom in social world, which demands restraint or coercion on the negative freedom of the subject. The freedom in society is based on reciprocal recognition of freedom of each. As in the natural world, the I is not totally free from causal law, it is also constrained by the moral law he prescribed to itself.

²⁷⁴ G.W.F. Hegel, “Natural Law,” in *Hegel: Political Writings*, p. 124.

²⁷⁵ *Ibid.*, p. 125.

It is not always possible to legalize a rational moral law. In order to embody the rational law, one must consider first its applicability in the external world. But it is the task of the “I” to search for the way to the embodiment of rational moral laws as positive laws, through which men will develop the amount of their freedom reciprocally. The categorical imperative functions as a guiding principle in the establishment of a free society, but by the need for the consideration of its applicability it turns into a hypothetical imperative.

The I, if it is practical by its activity of positing, must realize its self in the world in which it can enjoy mutual freedom. The rules concerning this interaction between “I”s are derived from the “I” itself. However, it is not guaranteed that each rational man will obey the moral law. Only in a conventional state the rights of subjects are recognized and preserved. Therefore, the external coercion comes from the positive laws established which will make people to obey by coercion.²⁷⁶ According to Hegel, Fichte is right in making a distinction between morality and legality, but “it is possible for the two to be linked.”²⁷⁷ However, Fichte neglects the social ties necessary to be found in human interactions, he reduces all relations to legality. The role of culture, sentiments, shared beliefs are neglected so that “loyalty and faith are lost” and Fichte's system has “no need of an ethics [*Sittlichkeit*] and religion that are alien to it.”²⁷⁸ Fichte's state exists for the regulation of the protection of rights, property, contracts (in trade), etc. Hence it is based on the regulation of system of needs, like a civil society. In this sense, the state in Fichte's account seems like a machine as Hegel calls it in his *Difference* essay:

“For reason is bound to find itself most explicitly in its self-shaping as a people (Volk), which is the most perfect organization that it can give itself. But that state as conceived by the intellect is not an organization at all, but a machine; and the people is not the body of a communal and rich

²⁷⁶ Breazeale, Dan, "Johann Gottlieb Fichte", *The Stanford Encyclopedia of Philosophy* (Spring 2014 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/spr2014/entries/johann-fichte/>>.

²⁷⁷ G.W.F. Hegel, “Natural Law,” in *Hegel: Political Writings*, p. 131.

²⁷⁸ *Ibid.*, p. 132.

life, but an atomistic, life-impooverished multitude.”²⁷⁹

The modern conceptions of community emphasizes the needs more. What is rational in fact here determined by the instrumental reason, that is the understanding or the intellect. Accordingly, the seemingly rational constitutes itself in society through the calculation of interest of individuals, and freedom as conditioned by those interests. In Fichte's system, freedom of people in the state is constituted through a general will that prevails, to which each particular will is supposed to be submitted. But it remains a mystery that how these two can be joined together as in Rousseau. Apart from the problem of the loss of beautiful ethical totality, the conjunction of interests in the state is a difficulty that is supposed to be solved by the contract theoreticians. How can one reunite the interest of individual with that of the whole? Hyppolite explains the incompatibility in these words:

“Those who govern do not necessarily expresses the general will, but those governed do not express it either. Therefore it will be necessary that each limit the other. This is a problem of balance, but we see that working this out means there can only be a sort of perpetual movement, a mutual action of the foundation upon the top of the pyramid of State and the top upon the foundation. But this perpetuum mobile would be in the final analysis only a perpetuum quietum. Action becomes impossible in the State, for it would break the equilibrium, and even the ephorate praised by Fichte may not be able to resolve this problem.”²⁸⁰

The execution of the laws, according to Hegel, does not necessarily coerce one in his actions. A punishment can negate one's freedom. But it can not coerce him. Because men are free to follow in their actions whatever they want. Even though he is well informed about the law, he can welcome the punishment since he deliberately performed his action which is forbidden by the law. Therefore, in the case that man accepts the capital

²⁷⁹ G.W.F.Hegel, *The Difference Between Fichte's and Schelling's System of Philosophy*, pp. 148-149.

²⁸⁰ Jean Hyppolite, *Introduction to Hegel's Philosophy of History*, p. 49.

punishment, man is totally free in his choice. Hegel says that this pure freedom of man is the absolute one and his death is the absolute constraint; from this it can be inferred that only by death the individual can have its conception as absolutely free and it is the universal freedom which can not be submitted to government for the protection of any determined freedom in accordance with it.²⁸¹ Only through death one becomes independent from any particular determination. However, after death, there is left nothing to be recognized. In relation to others, freedom becomes real as far as it is recognized. This idea of freedom is not something external to the community, nor it is a universal principle that is found by the intellect of the absolute subject. Freedom according to a universal, ahistorical and transcendental principle would be a negative one. It determines the attitude of the subject as against what is given empirically, socially, and culturally. The subject is shaped in and through its relations which make him what he is. Through these relations, he can grasp that his freedom is not outside the society. But rather, it is formed within society. Freedom of an individual in society is not an absolute one, but shaped through many formative relations in family, class, and society as a whole. As far as the individual is not alienated from the whole ethical life, he is at home within the spiritual existence of his people. Hence, the fact that he feels at home is his freedom also. If custom and legality correspond to each other in adequacy, if legal right is a reflection of custom, then freedom of the individual is also protected by the law. As we mentioned above, Hegel follows Rousseau in the sense that both think laws are superfluous when they conform to the custom which have been shaped in the totality of the life of a people.

On the other hand, the morality of an absolute subject remains inner, and the law is in the form of an externally given for him. However, the ethical life of a people consists of both inner and outer reality of individuals. Every stage of ethical life is educative for the individual. Since the individual is furnished gradually with the principles of ethical life in all of its stages, the custom is not external to him. As long as the individual sees in the law

²⁸¹ G.W.F. Hegel, "Natural Law," in *Hegel: Political Writings*, pp. 138-139.

what belongs to the custom, the law is does not have a negative aspect for him, that is, it is not a mere positively “given” to him. Accordingly, his freedom, right, private good in general are not detached from the life of the whole which is supposed to have the totality of rights and the general good. The individual is “conscious” of its own good which is mediated with the general good. From the perspective of philosophy of identity, such identification of the individual himself with the whole (including the people, the law, institutions of the state) would be a conscious identification. Freedom of the ethical life is also the freedom of the individual. Hegel says:

“Ethical life, like all living things, is simply an identity of universal and particular, and it is therefore an individuality and a shape. It embodies particularity, necessity, and relation (i.e. relative identity), but since these are undifferentiated and assimilated to it, it is free in this identity.”²⁸²

However, such identity turns into an ideal since it is held in accordance with “the need of the time.” Because “in modern world, social life become 'positive'; the individual confronts institutions which simply face him like a dead husk”²⁸³, so “the inner life of the laws of the community that could only live in the spirit of its citizens have become functionless appendages which coerce individuals for ends alien to them.”²⁸⁴ The system of need, which is the universal dependence of individuals in modern life, causes the collectivity of individuals to be regulated in terms of the economic relations. Also, it reduces the collective life to the formal relations of legality. By the rise of bourgeoisie, the totality of ethical life becomes dependent on the economic and legal system. Hence, the individuals become subjected to the necessities of the system of need. What shapes the ethical totality now is the individualism that prevails. Individuals are to follow their own private good in this totality. Accordingly, the good of the whole is seen by the individual as external to him. His duties are regarded by the individual as a matter of individual morality

²⁸² *Ibid.*, pp. 172-173.

²⁸³ Seyla Benhabib, *Critique, Norm and Utopia*, p. 27.

²⁸⁴ *Ibid.*, p. 28.

and conscience or as mere obligations. This existing condition that emerges from the separation between the realm of morality and the realm of legality, is merely described in formalist and empiricist theories of right. Benhabib says, “natural right theories, through their individualism and through the reduction of collective life to mere legality, simply express the real transformations that have occurred in ethical life”²⁸⁵ and they “merely reflect or mirror the condition of an ethical totality divided against itself and in which 'the negative absolute,' the sphere of economic individualism, has grown and developed.”²⁸⁶

Since one class, the bourgeoisie, has developed itself independently and it has become the dominant one, the class structure has been threatened. In return, the totality of ethical life has been tried to be protected through the adjustment of the law to the condition that emerged. But this totality is in fact a negative one because it is based on individualism. On the one hand, the individual is made obliged to perform his duties to the whole, on the other hand, he is bounded with the necessity of satisfaction of his own needs, the advantages of increasing his wealth, and the enjoyment of his gain and property. The modern individual is defined in terms of his divided totality: he is a free moral agent but at the same time a citizen who has certain obligations; he is freely active in economic life but subjected to the blind fate of the economic system that is unforeseeable. Accordingly, “whereas modern civil society pitted the individual against the universal, economics against politics, morality against ethical life, the philosophy of the modern age expressed this social-historical content through the conceptual dichotomies of the senses versus the understanding, inclination versus the will, necessity versus freedom.”²⁸⁷ This condition of both modern social life and modern philosophy reflects the need for reconciliation of individual with the universal, morality with legality, economics with politics and so on.

Individual, according to Hegel, reflects the universality of the actual ethical life in himself. His ethical life is “one pulse-beat of the whole system, and is itself the whole

²⁸⁵ *Ibid.*, p. 28.

²⁸⁶ *Ibid.*, p. 28.

²⁸⁷ *Ibid.*, p. 29.

system.”²⁸⁸ Although Hegel's words about the ethical life of the individual seem quite exaggerated, Hegel sees the deterioration of the ethical life as a whole, principally in the individual himself. Because it is the part that reflects the whole. The bifurcation in the life of the whole is also the bifurcation in the ethical life of the individual. Hence, the reconciliation is important for both aspects of the ethical life, for the individual and for the whole. However, Hegel does not offer any solution to the problem, but only exhibits it. He says that a war keeps the people tight in its union. But it is not certain that individuals will consciously identify themselves with the whole through a possible war. The modern life has made all its parts highly individualized. In this sense, they must be able to conceive themselves through the whole but not as in an Ancient Greek city. Because in Ancient Greece, the ethical life was not so divided that the idea of beautiful ethical life will need to be reconciled consciously. Nor the individual in Greece was so detached from the ethical totality. Since these differences between the ancient and the modern life are fixed, the return to the Greek Ideal is not possible. Rather than offering any solution for modern life, Hegel appeals to the images of tragedy and comedy in order to describe the problem of modern ethical life. Tragedy does not imply only the dissolution of the beautiful ethical life only in the Ancient Greek life, it is the history of man which is tragic. Starting from the conflict between “the divine law” and “the human law” in Antigone's case, tragedy is spread throughout the history. According to Hegel, the disenchantment of individual from the totality constitutes the tragedy of the modern life. The comedy of ethical life is the modern economy since it made man believe the illusion that he is the master of reality and of his destiny. Because man tries to control the system of need through the help of the science of political economy whereas he is blindly subject to it.

Hegel's early critique does not contain any specific part or reference that is devoted to the individual will. In contrary to his later conception of the will that is held in detail in *Philosophy of Right*, the will is not being involved in the formation of political institutions

²⁸⁸ G.W.F. Hegel, “Natural Law,” in *Hegel: Political Writings*, p. 159.

or ethical structures according to the early writings. The will is considered as the source of arbitrary and accidental deeds of individuals so that it has already produced something in a people, like the culture and the custom, which we do not know how they have been shaped. In these early writings that are referred here, feeling, desire, thought and willing are taken as a whole in the totality of the individual. Hegel does not make space for a free will in these writings. Because what is conceived about the free will by the formalist theories of right is formed through the conception of an absolute freedom of the subject. Since it is not actually bound by any external determinacy nor has any content specifically to bind it, the free will can only be held in terms of the concept of death as we tried to show. Accordingly, Hegel does not refer to the free will as it is a matter of rational consent that entails the existence of absolutely free and fully conscious individual in a society. It must be kept in mind that Hegel does not tolerate the independent existence of an individual subject. Even though the individual reflects the whole, Hegel always says that the whole is prior to its parts, it is a more general necessity which determines the existence of the individual. Hence, there is no individual who is not affected by the life of a people so that he can determine himself as free from any relation or set himself absolutely free in his relations in ethical life. He can only have a negative freedom, which is destructive, and be punished in turn of a possible negative action.

V. CONCLUSION

Hegel, by his conception of organic society, develops a concept of organic right. His critical approach prevents him from appealing to the arbitrary determinations which were used by the modern social contract theoreticians in their conceptions of human nature, state of nature, state of war, and of the formation of civil society by individual consent. By employing the principle of identity in historical context, Hegel paves the way for a critical approach to the condition of man in modern life, to the modern political philosophy and to the system of need which shapes the character of the modern civil society. Hegel reveals the relations through which right, freedom, possession, labour, property, contract and law are conceived in a totality by consciousness. He does not appeal to an artificial history in order to give an account of these concepts. Rather, he considers them within “what actually is.” Hence, his critique contains the philosophical comprehension of the historical as he does also in his *Philosophy of Right*. The reconstructive method of speculation, in order to meet the need of the time, focuses on bringing together the elements of the fragmented whole in accordance with the inner necessity of the laws of the community. In this attempt, Hegel thinks that reconstruction is both critical and continuous, not normative or dogmatic, because it does not reach a certain end which is a dead positivity. However, even though the reconstruction of identity is a type of immanent critique as far as Hegel puts, it expresses in fact an ideal that is transcendent. But, in contrast with Hobbes, Locke, Rousseau, Kant and Fichte, we see that Hegel's ideal is not merely future oriented, but also retrospective.²⁸⁹ His ideal is based on both the life form of the *polis* of Ancient Greece and the community and self-aware subjects of modernity, but it does not say that these two elements in the history can be brought together. Accordingly, the reconstruction is the reminder of the requirement for an organic society and an organic state. The difference

²⁸⁹ Seyla Benhabib, *Critique, Norm and Utopia*, p. 33.

between Hegel and his predecessors is that Hegel is not strictly attached a utopia, nor thinks that philosophy has a right to offer it. But his ideal is there, although it implicitly shapes the form of the critique. In the light of the critical approach to the modern state, the individual rights and freedom are not to be held only in terms of formal relations of legality, but also their connection with the laws of the living community is to be taken into consideration. However, Hegel's philosophy of identity can not avoid becoming dogmatic. Because, the proper recognition of right and freedom is realized in an organic state, where each class is let to develop itself independently in itself and where none has power over another nor meddles with the business of another, according to Hegel.

Lastly, Hegel does not hesitate to postulate the need for a body, which consists of the Elders and the Priests of the absolute nobility, in order to keep the class structure in its proper limits. In this context, he follows the tradition in philosophy that gives the authority (whatever its limit is) to the ones, who have wisdom, in order to establish or protect the ethical order: it is the enlightened sovereign in Hobbes, the body politic of morally cultivated and industrious citizens in Locke, and the wise legislator in Rousseau. Hence, the ideal of a good life for all is still being determined with regard to the wisdom of the philosopher even for Hegel. Such commitment to the proper way for the realization of the idea of a good life, even though Hegel is less dogmatic in comparison to others, makes his critique not completely an immanent one nor truly emancipatory. However, what remains is a hope for a beautiful ethical totality in the thought of the Young Hegel, even in the modern life that is being shaped according to the divisions and fragmentations of the ethical life. Because with regard to the speculative thinking, the Idea of ethical life restores itself as life does: "life eternally forms itself by setting up oppositions, and totality at the highest pitch of living energy is only possible through its own re-establishment out of the deepest fission."²⁹⁰

²⁹⁰ G.W.F.Hegel, *The Difference Between Fichte's and Schelling's System of Philosophy*, p. 91.

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