LIBERALISM

CHAPTER I

Before Liberalism

The modern State is the distinctive product of a unique civilization. But it is a product which is still in the making, and a part of the process is a struggle between new and old principles of social order. To understand the new, which is our main purpose, we must first cast a glance at the old. We must understand what the social structure was, which – mainly, as I shall show, under the inspiration of Liberal ideas – is slowly but surely giving place to the new fabric of the civic State. The older structure itself was by no means primitive. What is truly primitive is very hard to say. But one thing is pretty clear. At all times men have lived in societies, and ties of kinship and of simple neighbourhood underlie every form of social organization. In the simplest societies it seems probable that these ties – reinforced and extended, perhaps, by religious or other beliefs – are the only ones that seriously count. It is certain that of the warp of descent and the woof of intermarriage there is woven a tissue out of which small and rude but close and compact communities are formed. But the ties of kinship and neighbourhood are effective only within narrow limits. While the local group, the clan, or the village community are often the centres of vigorous life, the larger aggregate of the Tribe seldom attains true social and political unity unless it rests upon a military organization. But military organization may serve not only to hold one tribe together but also to hold other tribes in subjection, and thereby, at the cost of much that is most valuable in primitive life, to establish a larger and at the same time a more orderly society. Such an order once established does not, indeed, rest on naked force. The rulers become invested with a sacrosanct authority. It may be that

they are gods or descendants of gods. It may be that they are blessed and upheld by an independent priesthood. In either case the powers that be extend their sway not merely over the bodies but over the minds of men. They are ordained of God because they arrange the ordination. Such a government is not necessarily abhorrent to the people nor indifferent to them. But it is essentially government from above. So far as it affects the life of the people at all, it does so by imposing on them duties, as of military service, tribute, ordinances, and even new laws, in such wise and on such principles as seem good to itself. It is not true, as a certain school of jurisprudence held, that law is, as such, a command imposed by a superior upon an inferior, and backed by the sanctions of punishment.[1] But though this is not true of law in general it is a roughly true description of law in that particular stage of society which we may conveniently describe as the Authoritarian.

Now, in the greater part of the world and throughout the greater part of history the two forms of social organization that have been distinguished are the only forms to be found. Of course, they themselves admit of every possible variation of detail, but looking below these variations we find the two recurrent types. On the one hand, there are the small kinship groups, often vigorous enough in themselves, but feeble for purposes of united action. On the other hand, there are larger societies varying in extent and in degree of civilization from a petty negro kingdom to the Chinese Empire, resting on a certain union of military force and religious or quasi-religious belief which, to select a neutral name, we have called the principle of Authority. In the lower stages of civilization there appears, as a rule, to be only one method of suppressing the strife of hostile clans, maintaining the frontier against a common enemy, or establishing the elements of outward order. The alternative to authoritarian rule is relapse into the comparative anarchy of savage life.

But another method made its appearance in classical antiquity. The city state of ancient Greece and Italy was a new type of social organization. It differed from the clan and the commune in several

[1] Following Jeremy Bentham, John Austin (1790–1859) – in his influential *Lectures on Jurisprudence* (London, 1863) – defined positive law as a command of a political superior backed by threat of coercive sanction. [Numbered footnotes are by the editor; lettered footnotes are by Hobhouse himself. Editorial additions to Hobhouse's footnotes are enclosed in square brackets.]

ways. In the first place it contained many clans and villages, and perhaps owed its origin to the coming together of separate clans on the basis not of conquest but of comparatively equal alliance. Though very small as compared with an ancient empire or a modern state it was much larger than a primitive kindred. Its life was more varied and complex. It allowed more free play to the individual, and, indeed, as it developed, it suppressed the old clan organization and substituted new divisions, geographical or other. It was based, in fact, not on kinship as such, but on civic right, and this it was which distinguished it not only from the commune, but from the Oriental monarchy. The law which it recognized and by which it lived was not a command imposed by a superior government on a subject mass. On the contrary, government was itself subject to law, and law was the life of the state, willingly supported by the entire body of free citizens. In this sense the city state was a community of free men. Considered collectively its citizens owned no master. They governed themselves, subject only to principles and rules of life descending from antiquity and owing their force to the spontaneous allegiance of successive generations. In such a community some of the problems that vex us most presented themselves in a very simple form. In particular the relation of the individual to the community was close, direct, and natural. Their interests were obviously bound up together. Unless each man did his duty the State might easily be destroyed and the population enslaved. Unless the State took thought for its citizens it might easily decay. What was still more important, there was no opposition of church and state, no fissure between political and religious life, between the claims of the secular and the spiritual, to distract the allegiance of the citizens, and to set the authority of conscience against the duties of patriotism. It was no feat of the philosophical imagination, but a quite simple and natural expression of the facts to describe such a community as an association of men for the purpose of living well. Ideals to which we win our way back with difficulty and doubt arose naturally out of the conditions of life in ancient Greece.

On the other hand, this simple harmony had very serious limitations, which in the end involved the downfall of the city system. The responsibilities and privileges of the associated life were based not on the rights of human personality but on the rights of citizenship, and citizenship was never co-extensive with the community. The

population included slaves or serfs, and in many cities there were large classes descended from the original conquered population, personally free but excluded from the governing circle. Notwithstanding the relative simplicity of social conditions the city was constantly torn by the disputes of faction – in part probably a legacy from the old clan organization, in part a consequence of the growth of wealth and the newer distinction of classes. The evil of faction was aggravated by the ill-success of the city organization in dealing with the problem of inter-state relations. The Greek city clung to its autonomy, and though the principle of federalism which might have solved the problem was ultimately brought into play, it came too late in Greek history to save the nation.

The constructive genius of Rome devised a different method of dealing with the political problems involved in expanding relations. Roman citizenship was extended till it included all Italy and, later on, till it comprised the whole free population of the Mediterranean basin. But this extension was even more fatal to the free self-government of a city state. The population of Italy could not meet in the Forum of Rome or the Plain of Mars to elect consuls and pass laws, and the more widely it was extended the less valuable for any political purpose did citizenship become. The history of Rome, in fact, might be taken as a vast illustration of the difficulty of building up an extended empire on any basis but that of personal despotism resting on military force and maintaining peace and order through the efficiency of the bureaucratic machine. In this vast mechanism it was the army that was the seat of power, or rather it was each army at its post on some distant frontier that was a potential seat of power. The 'secret of the empire' that was early divulged was that an emperor could be made elsewhere than at Rome, and though a certain sanctity remained to the person of the emperor, and legists cherished a dim remembrance of the theory that he embodied the popular will, the fact was that he was the choice of a powerful army, ratified by the God of Battles, and maintaining his power as long as he could suppress any rival pretender. The break-up of the Empire through the continual repetition of military strife was accelerated, not caused, by the presence of barbarism both within and without the frontiers. To restore the elements of order a compromise between central and local jurisdictions was necessary, and the vassal became a local prince owning an allegiance, more or less real as the case might be, to a

distant sovereign. Meanwhile, with the prevailing disorder the mass of the population in Western Europe lost its freedom, partly through conquest, partly through the necessity of finding a protector in troublous times. The social structure of the Middle Ages accordingly assumed the hierarchical form which we speak of as the Feudal system. In this thoroughgoing application of the principle of authority every man, in theory, had his master. The serf held of his lord, who held of a great seigneur, who held of the king. The king in the completer theory held of the emperor, who was crowned by the Pope, who held of St Peter. The chain of descent was complete from the Ruler of the universe to the humblest of the serfs.[a] But within this order the growth of industry and commerce raised up new centres of freedom. The towns in which men were learning anew the lessons of association for united defence and the regulation of common interests, obtained charters of rights from seigneur or king, and on the Continent even succeeded in establishing complete independence. Even in England, where from the Conquest the central power was at its strongest, the corporate towns became for many purposes self-governing communities. The city state was born again, and with it came an outburst of activity, the revival of literature and the arts, the rediscovery of ancient learning, the rebirth of philosophy and science.

The mediaeval city state was superior to the ancient in that slavery was no essential element in its existence. On the contrary, by welcoming the fugitive serf and vindicating his freedom it contributed powerfully to the decline of the milder form of servitude. But like the ancient state it was seriously and permanently weakened by internal faction, and like the ancient state it rested the privileges of its members not on the rights of human personality, but on the responsibilities of citizenship. It knew not so much liberty as 'liberties', rights of corporations secured by charter, its own rights as a whole secured against king or feudatory and the rest of the world, rights of gilds and crafts within it, and to men or women only as they were members of such bodies. But the real weakness of the city state was once more

[a] This is, of course, only one side of mediaeval theory, but it is the side which lay nearest to the facts. The reverse view, which derives the authority of government from the governed, made its appearance in the Middle Ages partly under the influence of classical tradition. But its main interest and importance is that it served as a starting-point for the thought of a later time. On the whole subject the reader may consult Gierke, *Political Theories of the Middle Age*, translated by Maitland (Cambridge University Press [, 1900]).

its isolation. It was but an islet of relative freedom on, or actually within, the borders of a feudal society which grew more powerful with the generations. With the improvement of communications and of the arts of life, the central power, particularly in France and England, began to gain upon its vassals. Feudal disobedience and disorder were suppressed, and by the end of the fifteenth century great unified states, the foundation of modern nations, were already in being. Their emergence involved the widening and in some respects the improvement of the social order; and in its earlier stages it favoured civic autonomy by suppressing local anarchy and feudal privilege. But the growth of centralization was in the end incompatible with the genius of civic independence, and perilous to such elements of political right as had been gained for the population in general as the result of earlier conflicts between the crown and its vassals.

We enter on the modern period, accordingly, with society constituted on a thoroughly authoritarian basis, the kingly power supreme and tending towards arbitrary despotism, and below the king the social hierarchy extending from the great territorial lord to the day-labourer. There is one point gained as compared to earlier forms of society. The base of the pyramid is a class which at least enjoys personal freedom. Serfdom has virtually disappeared in England, and in the greater part of France has either vanished or become attenuated to certain obnoxious incidents of the tenure of land. On the other hand, the divorce of the English peasant from the soil has begun, and has laid the foundation of the future social problem as it is to appear in this country.

The modern State accordingly starts from the basis of an authoritarian order, and the protest against that order, a protest religious, political, economic, social, and ethical, is the historic beginning of Liberalism. Thus Liberalism appears at first as a criticism, sometimes even as a destructive and revolutionary criticism. Its negative aspect is for centuries foremost. Its business seems to be not so much to build up as to pull down, to remove obstacles which block human progress, rather than to point the positive goal of endeavour or fashion the fabric of civilization. It finds humanity oppressed, and would set it free. It finds a people groaning under arbitrary rule, a nation in bondage to a conquering race, industrial enterprise obstructed by social privileges or crippled by taxation, and it offers relief. Every-

where it is removing superincumbent weights, knocking off fetters, clearing away obstructions. Is it doing as much for the reconstruction that will be necessary when the demolition is complete? Is Liberalism at bottom a constructive or only a destructive principle? Is it of permanent significance? Does it express some vital truth of social life as such, or is it a temporary phenomenon called forth by the special circumstances of Western Europe, and is its work already so far complete that it can be content to hand on the torch to a newer and more constructive principle, retiring for its own part from the race, or perchance seeking more backward lands for missionary work? These are among the questions that we shall have to answer. We note, for the moment, that the circumstances of its origin suffice to explain the predominance of critical and destructive work without therefrom inferring the lack of ultimate reconstructive power. In point of fact, whether by the aid of Liberalism or through the conservative instincts of the race, the work of reconstruction has gone on side by side with that of demolition, and becomes more important generation by generation. The modern State, as I shall show, goes far towards incorporating the elements of Liberal principle, and when we have seen what these are, and to what extent they are actually realized, we shall be in a better position to understand the essentials of Liberalism, and to determine the question of its permanent value.

CHAPTER II

The Elements of Liberalism

I cannot here attempt so much as a sketch of the historical progress of the Liberalizing movement. I would call attention only to the main points at which it assailed the old order, and to the fundamental ideas directing its advance.

1 Civil Liberty

Both logically and historically the first point of attack is arbitrary government, and the first liberty to be secured is the right to be dealt with in accordance with law. A man who has no legal rights against another, but stands entirely at his disposal, to be treated according to his caprice, is a slave to that other. He is 'rightless', devoid of rights. Now, in some barbaric monarchies the system of rightlessness has at times been consistently carried through in the relations of subjects to the king. Here men and women, though enjoying customary rights of person and property as against one another, have no rights at all as against the king's pleasure. No European monarch or seignior has ever admittedly enjoyed power of this kind, but European governments have at various times and in various directions exercised or claimed powers no less arbitrary in principle. Thus, by the side of the regular courts of law which prescribe specific penalties for defined offences proved against a man by a regular form of trial, arbitrary governments resort to various extrajudicial forms of arrest, detention, and punishment, depending on their own will and pleasure. Of such a character is punishment by 'administrative' process in Russia at the present day; imprisonment by *lettre de cachet* in France