

## Civil Society

### THE VARIOUS MEANINGS

In today's political vocabulary the term 'civil society' is generally used for one of the terms in the great dichotomy civil society/state, which means that it is impossible to fix its meaning and extension without doing the same for the term 'state'. By civil society is meant, negatively, the realm of social relations not regulated by the state: which is understood narrowly and nearly always polemically as the complex of apparatuses that exercise coercive power within an organized social system. The distinction between *societas civilis sine imperio* and *societas civilis cum imperio* goes back to August Ludwig von Schloetzer (1794) and continually comes up in the German literature on the subject. The second expression stands for what is designated by the state in a context, as we shall see, where the contrast between state and society has not yet arisen and one term is enough to indicate either, albeit with an internal species-distinction. Occurring along with the restrictive notion of the state as an organ of coercive power and allowing the formation of, and accounts for, the persistence of the great dichotomy is the group of ideas that accompanies the birth of the bourgeois world: the affirmation of natural rights belonging to the individual and to social groups independently of the state and which limit and restrain political power; the discovery of a sphere of inter-individual relations – such as economic relations – whose regulation does not need the existence of coercive power because they are self-regulating;

the general idea so well expressed by Thomas Paine who was the author of a celebrated piece extolling the rights of man. He said that society is created by our needs and the state by our wickedness (1776) because humankind is naturally good and every society, in order to preserve itself and prosper, needs to limit the scope of civil laws that are imposed by coercion so as to allow the widest application of natural laws which do not need coercion in their application; in other words, the widening of private law with which individuals regulate their reciprocal relations guided by their real interests – of which everyone is *iudex in causa sua* – to the detriment of public and political law where the *imperium* is exercised which is understood as command by a superior who, as *iudex super partes*, has the right of exercising coercive power. It cannot be overemphasized that for the use of ‘civil society’, in the sense of the sphere of social as distinct from political relations, we are indebted to German writers (especially Marx and Hegel, as will be seen later) working in a language where *bürgerliche Gesellschaft* means both civil and bourgeois society; and that, in legal language which was fully asserting itself at the end of the eighteenth century, civil law as distinct from penal law included matters traditionally belonging to private law (the *Code civil* is the code of private law, *bürgerliches Recht* in German).

It is precisely because the expression ‘civil society’ in its eighteenth-century and contemporary meaning derives from the contrast which was unknown to tradition, between a political and a non-political sphere, that it is easier to come up with a negative rather than a positive definition: the more so because in treatises of public law and general doctrine of the state (the *allgemeine Staatslehre* of the German academic tradition from Georg Jellinek to Felix Ermacora) a positive definition of the state is never lacking. Civil society is the complex of relations not regulated by the state and consequently is the residue once the realm in which state power is exercised has been well defined. But even with such a vague notion it is possible to distinguish

various emphases depending on whether the identification of the non-state with the pre-state, the anti-state or the post-state prevails. When one speaks of civil society in the first of these uses it means to say, whether in conscious or unconscious agreement with natural law doctrine, that before the state there were various forms of association formed by individuals among themselves for the satisfaction of their different interests and on which the state was imposed in order to regulate them but not to hamper their further development or prevent their continued renewal; one can talk in this case, although not in a strictly Marxist way, of civil society as an infrastructure and the state as a superstructure. In the second usage, civil society acquires a positive value connotation and indicates the place where all changes in the relations of domination manifest themselves, where groups form to fight for emancipation from political power and where so-called countervailing power gains strength. However, it is also possible to assign a negative value if the state's viewpoint is taken and the ferments of renewal of which civil society is the bearer are seen as the germs of disintegration. In the third usage, civil society has a meaning that is both chronological like the first and evaluative like the second: it represents the ideal of a society without a state which will spring from the dissolution of political power. This usage is present in the thought of Gramsci where the characteristic ideal of all Marxist thought on the extinction of the state is described as the 'reabsorption of political society into civil society' (1930-2a), as the civil society liberated from political society where hegemony, as opposed to domination, is practised. In the three different usages the non-state assumes three different guises: as the pre-condition of the state or, in other words, that which is not-yet-state in the first; as the antithesis of the state or else as that which poses as an alternative to the state in the second: and of the dissolution and end of the state in the third.

It is difficult to provide a positive definition of 'civil society' because it is a question of listing everything that

has been left over after limiting the sphere of the state. It is enough to note that in many contexts the contrast between civil society and political institutions is a reformulation of the old contrast between real nation and legal nation. What is the real nation? What is civil society? As a first approximation we can say that civil society is the place where economic, social, ideological and religious conflicts originate and occur and that state institutions have the task of solving them either by mediating or preventing or repressing them. The agents of these conflicts and therefore of civil society proper, in so far as it is contrasted with the state, are social classes (or, more broadly, the groups, movements, associations and organizations that represent them or declare themselves their representatives); as well as class organizations there are interest groups, associations of various types with social and indirectly political ends, ethnic emancipation movements, civil rights groups, women's liberation, youth movements and so on. Parties have one foot in civil society and the other in institutions; so much so that it has been proposed to enrich the dichotomous conceptual scheme by inserting the concept of political society between the two concepts of civil society and state in order to encompass the phenomenon of parties which in reality do not entirely belong either in civil society or the state. In fact, one of the most frequent ways of defining political parties is to show that they perform the functions of selecting, aggregating and transmitting demands originating in civil society and which will become objects of political decision. In the most recent system-theories of society as a whole, civil society occupies the space reserved for the formation of demands (input) aimed at the political system and to which the political system has the task of supplying answers (output): the contrast between civil society and state therefore is posed as the contrast between the quantity and quality of demands and the capacity of institutions to give rapid and adequate answers.

The much-discussed contemporary problem of the governability of complex societies can also be interpreted in terms

of the classic dichotomy between civil society and the state: a society becomes more ungovernable the greater the demands of civil society and the lack of a corresponding capacity of institutions to respond to them. In fact, the capacity of the state to respond may have reached absolute limits (hence the argument, for example, about 'fiscal crisis'). The question of legitimacy is closely linked to the theme of ungovernability: ungovernability generates the crisis of legitimacy. This question can also be translated into the dichotomy's terms. Institutions represent legitimate power in the Weberian sense of the word: that is, power whose decisions are accepted and realized in so far as they emanate from an authority recognized as having the right to make binding decisions for the whole collectivity. Civil society is the place where, especially in periods of institutional crisis, *de facto* powers are formed that aim at obtaining their own legitimacy even at the expense of legitimate power; where, in other words, the processes of delegitimation and re-legitimation take place. This forms the basis of the frequent assertion that the solution of a grave crisis threatening the survival of a political system must be sought first and foremost in civil society where it is possible to find new sources of legitimation and therefore new sources of consensus. Finally, the sphere of civil society is generally taken to include the phenomenon of public opinion (understood as the public expression of agreement or dissent concerning institutions) which circulates through the press, radio, television and so on. Moreover, public opinion and social movements develop together and influence each other. Without public opinion – meaning, more concretely, without the channels of transmission of public opinion which becomes 'public' in so far as it is transmitted to the public – the sphere of civil society loses its typical function and disappears. At the extreme, the totalitarian state, which is a state that has entirely absorbed civil society, is a state without public opinion (that is, with only official opinion).

## THE MARXIAN INTERPRETATION

The actual use of the expression 'civil society' as a term indissolubly linked to the state or political system, is of Marxian and, before Marx, Hegelian origin even if, as shall be seen, the Marxian use is more reductive than Hegel's. The frequency with which the expression 'civil society' is used even in everyday language is a result of the influence of Marxist literature on contemporary Italian political debate. Proof of this lies in the fact that in other linguistic contexts the expression 'civil society' is replaced in the same dichotomy by the term 'society': in Germany, for example, a full and learned debate has recently taken place on *Staat und Gesellschaft* (cf. Böckenförde 1976), where the term *Gesellschaft*, society, includes everything we mean by 'civil society'. The traditional *locus classicus* for the origin of the meaning of 'civil society' is Marx's preface to *A Critique of Political Economy* (1859), where he writes that through studying Hegel he arrived at the conclusion that legal and political institutions have their roots in the material relations of existence, 'the complex of which were embraced by Hegel under the term "civil society"', and he derived the consequence that 'the anatomy of civil society was to be found in political economy.' It does not matter that in this passage Marx gives a reductive and ultimately distorted view of Hegel's concept of 'civil society' as we shall see shortly; it is important to highlight that to the extent Marx makes civil society the site of economic relations, or rather the relations that constitute 'the real base on which a legal and political superstructure is elevated', 'civil society' comes to mean the complex of inter-individual relations that are outside or antecedent to the state: the same pre-state sphere which natural law writers and, to some extent in their wake, the first economists starting with the physiocrats, called the state of nature or natural society. The eventual substitution in Marxian language of the expression 'civil society' for 'natural society' is evidenced in a passage from an early

work, *The Holy Family* (Marx and Engels 1845), where one reads: 'The modern State has civil society as a *natural base* (repeat, "natural"), the man of civil society, that is independent man, is united to other men through private interest and *unconscious* natural necessity.' Even more surprising is the fact that the specific character of civil society so defined coincides at every point with Hobbes's state of nature which, as is well known, is the war of all against all: 'All of *civil society* is really this war [of man against man], one against the other of every individual each isolated from the other by their *individuality* and it is the general, unrestrained movement of the elemental powers of life freed from the chains of privilege' (ibid.). This is surprising because in the natural law tradition (cf. 4) 'civil society' is what today would be called the state, the antithesis of the state of nature.

This transposition of the traditional meaning of the expression 'the state of nature' to meaning the expression to which it is traditionally contrasted, civil society, could not be explained without taking account once again that Marx's civil society is the *bürgerliche Gesellschaft* which, especially after Hegel and the interpretation of Hegel's texts by the Left Hegelians, acquired the meaning of 'bourgeois society' in the sense of class society, and that bourgeois society in Marx has the bourgeoisie as a historical subject, a class that achieved its political emancipation by liberating itself from the shackles of the absolute state and by opposing to the traditional state the rights of humankind and citizens which are in reality the rights that must, from then on, protect their particular class interests. A passage from the early *The Jewish Problem* (1843) makes clearer than any argument the transformation of the picture of the hypothetical state of nature into the historic reality of bourgeois society: 'Political emancipation at one time meant the emancipation of bourgeois society [which in this context could not translate meaningfully as 'civil'], from politics, from even the appearance of a universal content. Feudal society was dissolved into its fundamental element, man.

But the man that constituted that foundation was egoistic man.' The state of nature of natural law and Marx's bourgeois society share 'egoistic man' as a subject. And from egoistic man only an anarchic – or despotic – society can be born.

Notwithstanding the dominant influence of the Marxist notion of 'civil society' on the use of the expression, it cannot be said that the use has been consistent even within the Marxist tradition. The importance of the dichotomy between civil society and the state in Gramsci's thought has often been recognized. It would be wrong to believe, as many do, that Gramsci's dichotomy faithfully reproduces Marx's. While in Marx the moment of civil society coincides with the material base (as opposed to the superstructure of ideologies and institutions), for Gramsci the moment of civil society is itself superstructural. In his notes on the intellectuals one reads: 'It is possible now to determine two important superstructural "levels": one which can be called "civil society", that is the group of organisms popularly called "private", and the other "political society or State"; they correspond to the functions of "hegemony" which the dominant group exercises throughout society and "direct domination" which manifests itself in the State and "legal" government' (1932).

To clarify this definition it is useful to bear in mind the historical example used by Gramsci when contrasting hegemony with direct domination: the example of the Catholic Church, understood as 'the apparatus of hegemony of the ruling group, which did not have its own apparatus, that is, did not have its own cultural and intellectual organization but felt the universal ecclesiastical organisation to be as such' (1930–2b). Gramsci, like Marx, considers ideologies part of the superstructure; but whereas Marx saw civil society as the complex of economic relations constituting the material base, Gramsci saw civil society as the sphere where ideological apparatuses operate and whose task it is to exercise hegemony and through hegemony to obtain consensus. It is not the case that Gramsci abandons



the base/superstructure dichotomy and replaces it with the civil society/state dichotomy. He adds the second to the first, thereby making his conceptual scheme more complex. In order to represent the contrast between the structural moment and the superstructural moment he regularly makes use of these pairs: economic moment/political-ethical moment, necessity/liberty, objectivity/subjectivity. To represent the contrast between civil society and the state he uses other pairs: consensus/force, persuasion/coercion, morality/politics, hegemony/dictatorship, leadership/domination. It should be noted that in the first dichotomy the economic moment is contrasted with the political-ethical moment. Yet the second dichotomy can be considered as the resolution of the duality implicit in the second moment of the first: civil society represents the moment of 'morality' through which the dominant class obtains consensus and acquires legitimacy, to employ a modern expression not used by Gramsci; the state represents the political moment, strictly speaking, and exercises the force that is no less necessary than consensus for the maintenance of power: at least as long as power is exercised by a restricted and not a universal class (which exercises it through its party, the true protagonist of hegemony). It can be observed, at this stage, that Gramsci has unwittingly recovered the natural law meaning of civil society as a society founded on consensus. However, there is this difference: according to natural law, where the legitimacy of power depends on its being grounded on the social contract, the society of consensus *par excellence* is the state, while according to Gramsci the society of consensus is what will rise out of the extinction of the state.

#### THE HEGELIAN SYSTEM

When Marx writes that he had arrived at the discovery of civil society underlying political institutions through studying Hegel and identifies civil society with the sphere of economic

relations, he is giving a partial interpretation of the Hegelian category of civil society and passing it on to the entire Hegelian–Marxist tradition. The Hegelian category of civil society, whose clear formulation and denomination Hegel only arrived at in the last stages of his thought (*Outlines of the Philosophy of Law*, 1821) is very much more complex and, on account of this, much more difficult to interpret. As an intermediate moment of ethicity, situated between the family and the state, it allows the construction of a triadic scheme which can be contrasted with two preceding dyadic models: the Aristotelian, based on the dichotomy between family and state (*societas domestica/societas civilis*, where *civilis*, from *civitas*, corresponds exactly to *politikós*, from *polis*) and the natural law model based on the dichotomy of state of nature/civil society. Compared to the family it is already an incomplete form of state, the ‘state of the *intellect*’; compared to the state, it is not yet the state in its essence and in its full historical realization. In the Berlin lectures, civil society is divided into three moments: the system of needs, the administration of justice and the police (together with the corporation): the area of economic relations is covered only by the first while the second and the third moments include parts of the traditional doctrine of the state.

Looking for the anatomy of Hegel’s civil society in political economy is partial and wayward in relation to a true understanding of Hegel’s thought. What exactly Hegel’s true thoughts might have been about the division of civil society is controversial: some believe that it was conceived as a kind of residual category and after many attempts, lasting 20 years, to systematize the traditional material of practical philosophy, Hegel ended up by placing there everything that he could not fit into the well-defined categories of the family and the state. The greatest difficulty with this interpretation lies in the fact that the larger part of the section is not dedicated to an analysis of political economy but to two important items in the doctrine of the state regarding respectively – to use contemporary

vocabulary – the judicial and the administrative functions (under the name then current of police state). How could Hegel, who was concluding his dissection of ethicity in the state, precede it with a section in which he deals with two areas of such importance for the delineation of the state as a whole as the administration of justice and the administrative state? Hegel's division, although continuing to be difficult to render intelligible in the light of preceding and succeeding traditions, can be understood, or at least made less singular, if we bear in mind that in German *societas civilis* becomes *bürgerliche Gesellschaft* which for centuries (and certainly until Hegel) meant the state in contrast to the family in the Aristotelian tradition and to the state of nature in the natural law tradition. What differentiates Hegel's civil society from its predecessors is not its retreat towards pre-state society – a retreat that only comes with Marx – so much as its identification as an imperfect state-form. Instead of being, as some have interpreted, the moment *preceding* the formation of the state, Hegel's civil society represents the first stage of the formation of the state – the legal-administrative state with the task of regulating external relations while the state, strictly speaking, represents the ethical/political moment whose job is to realize the inward adhesion of citizens to the whole of which they are a part – to the extent that the state can be called internal or interior (Gentile's state *in interiore homine*). The Hegelian distinction between civil society and the state, rather than being a sequence in the pre-state and state forms of ethicity, represents the distinction between an inferior and a superior state. While the superior state is characterized by a constitution and constitutional powers (monarchical power, legislative power and governmental power), the lesser state works through two subordinate legal powers: judicial power and administrative power. The mainly negative job of the first is to settle conflicts of interest and repress offences against established law; of the second, to provide for the common interest, intervening in the supervision of morals, the distribution of work, education, the care of the poor:

that is, in all the activities that distinguish the *Wohlfahrt-Staat*, the state that looks after the external well-being of its subjects.

It can be further shown that going back to the traditional *societas civilis* for a clearer understanding of Hegel's civil society is not arbitrary from the meaning that this moment has in the development of Objective Spirit in the Hegelian system. Hegelian categories always have a historical dimension as well as a systematic role: they are at the same time interconnected parts of a global conception of reality and historical figures. Think of the state of law (*Rechtszustand*) of the *Phenomenology of Spirit* (*Phaenomenologie des Geistes*, 1807) which represents conceptually the condition where relations of private law are exalted and which is, historically, the Roman empire. Moreover, that civil society is a historical figure in Hegel's system was more than once confirmed by him when he said that ancient states – whether the despotic ones of the static Orient or the Greek cities – did not possess civil societies and that the 'discovery of civil society belongs to the modern world' (1821). For Hegel the error of those who had discovered civil society – and in this rebuke lies the argumentative significance of the location of this figure, not at the end of the process of Objective Spirit but in a position subordinate to the state in its entirety – lies in having believed that it exhausted the essence of the state. Therefore, civil society is not just a lesser form of the state in the complex of the system, but it also represents the concept of the state at which preceding political writers and jurists of public law had stopped, which can be called privatistic in the sense that its principal task is to settle conflicts of interest which have their origins in private relations by means of the administration of justice and subsequently to take care of the well-being of citizens by protecting them from the damage that comes from giving free rein to the egoistic particularism of individuals.

Behind this vision of civil society, which is narrow compared to a fully-developed state, it is possible to see an allusion to either Locke's theory of the state whose sole

*raison d'être* is to prevent the private justice of the state of nature where there is no uninvolved and impartial judge and to protect property, understood as a natural right; or the eudemonistic state of the supporters of enlightened absolutism which also takes on the job of providing for the well-being of its subjects but which never rises above an individualist conception of social relations. Hegel was not ignorant of the fact that the eudemonistic state had already been criticized by Kant who, however, rejected it in the name of the state of law whose scope of action was limited to the guarantee of individual liberty in a manner that followed Locke's and did not anticipate the organic conception that alone could raise the state to the sphere of ethicity. Finally, the reason why Hegel placed his concept of the state above the concept at which his predecessors stopped must be sought in the necessity of explaining why the right of the state is recognized to request of citizens the sacrifice of their goods (through taxation) and of their lives (when it declares war); an explanation it is useless to seek in the contractualistic doctrine, where the state is born of an agreement which the contractors can dissolve when they like, or in the eudemonistic doctrine, where the supreme aim of the state is the well-being of its subjects. In the last instance what characterizes the state compared to civil society are the relations that the state alone and not civil society undertakes with other states so that it is true that the state and not civil society is the subject of universal history which concludes the development of Objective Spirit.

#### THE NATURAL LAW TRADITION

Hegel's use of civil society for the state, even if only an inferior form of state, corresponds to the traditional meaning of *societas civilis* where *civilis* from *civitas* is synonymous with *politikós* from *polis* and is an exact translation of the expression *koinonía politiké*. Aristotle uses it at the

beginning of the *Politics* to indicate the *polis* or city whose character as an independent and self-sufficient community based on a constitution (*politeia*) was considered for centuries as the origin or historical precedent of the state in the modern sense of the word, even with two different meanings, depending on whether it is contrasted on the basis of the Aristotelian model, according to which the state is the natural successor to family society, to domestic or family society, or on the basis of the Hobbesian model (or natural law), for which the state is the antithesis of the state of nature, to the *societas naturalis* constituted by hypothetically free and equal individuals. The difference lies in the fact that while the *societas civilis* of the Aristotelian model is still a natural society – in the sense that it corresponds perfectly to humankind's social nature (*politikòn zôon*) – the same *societas civilis*, in Hobbes's model (in so far as it is the antithesis of the state of nature and is constituted through the agreement of individuals who decide to get out of the state of nature), is an instituted or artificial society (*homo artificialis* or *machina machinarum*).

Nothing proves better the vitality and longevity of this expression than its consistent use in other contexts in which the opposite term is the family and contexts where the opposite term is the state of nature. The first usage one finds in Bodin, a typical representative of the Aristotelian tradition for whom the state is a natural fact: 'The State [*république* or *res publica*] is the civil society that can exist on its own without associations and other bodies, but it cannot do so without the family' (1576, III, 7). For the second take Kant, another authoritative and representative example of the natural law model: 'Man must leave the state of nature, in which everyone follows the caprices of his own imagination and unite with all others . . . submitting himself to an external and publicly legal constraint . . . : which is to say that everyone must, above all else, enter into a civil state' (1797). However through the persistence of the natural law model in the modern age, from Hobbes

to Kant, the contrasting of civil society to natural society ended up making the expression 'civil society' mean prevalently 'artificial society', so much so that a traditional author like Haller, who sees the state along the lines of the Aristotelian model as a natural society on a level with the family – 'the highest rank of natural or private society' (1816) – claims that 'the distinction, always reproduced in currently accepted texts of doctrine, between civil society and other natural societies, is without foundation', so that 'it is desirable that the expression *civil society* (*societas civilis*) that has crept into our language from the Romans should be entirely banned as soon as possible' (Haller 1816). An assertion of this kind cannot be explained unless, through the natural law use of 'civil society', the expression has assumed the exclusive meaning of state as an entity instituted by people on top of natural relations, even as the voluntary regulation of natural relations, in short as an artificial society, while in its original Aristotelian meaning, civil society, *koinonía politiké*, is a natural society on a level with the family. In reality, what Haller wanted to abandon was not so much the word but the meaning the word took on for those, like natural lawyers, who saw states (to use Haller's own polemical expression) as 'arbitrarily formed associations, distinct from all others by virtue of their origins and their aims' (Haller 1816).

The expression 'civil society', still with the meaning of political state as distinct from every form of non-political state, was commonly adopted to distinguish the area of competence of the state or civil power from the area of competence of church or religious power, in the dichotomy civil society/religious society which is added to the traditional domestic society/civil society. Unknown to classical antiquity, the distinction is a recurring one in Christian thought. Take a Catholic writer like Antonio Rosmini-Serbati. In the *Philosophy of Law*, the part dedicated to social law examines three types of association necessary to the 'perfect organisation of human kind' (1841–3). These three associations are: religious or theocratic society,

domestic society and civil society. This tripartite division obviously derives from combining the dichotomy family/state, which is the point of departure of the Aristotelian model, with the dichotomy church/state which is fundamental in the tradition of Christian thought.

The two meanings of 'civil society' as political society or state – and as such a society distinct from religious society – are enshrined in two articles of the *Encyclopédie* dedicated respectively to *Société civile* (Anon. 1765b) and to *Société* (1765a). In the first one comes across this definition: 'civil society means the political body that men of the same nation, the same state, of the same town or other place, form together, and the political links that attaches one to the others' (1765b). The second is dedicated almost exclusively to the problem of the relations between civil society and religious society with the aim of rigorously determining their respective spheres of influence.

#### CIVIL SOCIETY AS CIVILIZED SOCIETY

A much-repeated contemporary opinion on Hegel's intellectual sources claims that the notion of *bürgerliche Gesellschaft* was inspired by Adam Ferguson's *Essay on the History of Civil Society* (1767) which was translated into German in 1768 by Christian Garve and which Hegel certainly knew. However, it is one thing to claim that Ferguson (together with Adam Smith) might have been one of Hegel's sources as regards the section on civil society that deals with the system of needs and, more generally, political economy and another, on the basis of comparisons between Hegel's and Ferguson's texts, to say that the *bürgerliche Gesellschaft* of the latter has anything to do with the civil society of the former. Just because Hegel may have taken some pointers from Ferguson for dealing with some elements of political economy that form part of the analysis of civil society does not mean to say that the civil society in Ferguson has the same meaning as in Hegel. In fact civil society has a



different meaning for Ferguson and the other Scots: *civilis* is no longer the adjective of *civitas* but of *civilitas*. Civil society also means civilized society (Smith, in fact, will use the term civilized) and has a near synonym in 'polished'. Ferguson's work, which describes the passage from primitive to evolved society, is a history of progress: humanity has passed and continues to pass from the savage condition of hunter peoples without property and without a state to the barbaric condition of people that take to agriculture and introduce the first germs of property, to a civilized condition characterized by the institution of property, by exchange and by the state. It cannot at all be excluded that in both the *societas civilis* of the natural lawyers and *bürgerliche Gesellschaft* is hidden civil society in Ferguson's and the Scots' meaning: it is sufficient to think of Hobbes's famous contrast between the state of nature and civil society, where *barbaries* appear among the characteristics of the first and *elegantia* of the second (1642, X, I), or of Hegel's repeated assertion that ancient states, whether despotic or Greek republic, did not have a civil society (a formation characteristic of the modern age). But it is still the case that Ferguson's civil society is civil not because it is different from domestic or natural society, but because it is in contrast to primitive society.

It is only by taking account of this meaning that one can fully understand Rousseau's *société civile*. In the *Discourse on the Origin and Grounds of Inequality among Men* (1754) Rousseau describes first of all the state of nature, the condition of natural man who does not yet live in society because it is not necessary to him since bountiful nature provides him with the satisfaction of his essential needs, and because he is happy in this condition; next he describes the state of corruption into which natural man falls following on the institution of private property that stimulates, exacerbates and perverts egoistic instincts, and on the invention of agriculture and metallurgy (that which today one would call techniques for increasing his power over nature which become transformed into instruments of the

domination of man over man by the more able and the stronger). Rousseau called the state of corruption *société civile* where the adjective *civile* clearly means 'civilized', even though with a negative connotation that distinguishes his position on 'civility' from the majority of the writers of his time and in general from the Enlightenment ideology of progress. However, just as it is the majority of writers for whom civil society has principally the meaning of political society and the meaning of civilized society is not excluded, so in Rousseau the prevalent meaning of civil society as civilized society does not exclude that this society might be a political society in embryo unlike the state of nature – although in the corrupt form of the domination of the weak by the strong, the poor by the rich, the cunning over the simple-minded – a form of political society which man must leave in order to establish a republic based on the social contract: that is, on the unanimous agreement of each with all: just as in the natural law hypothesis, which starts from a reversed judgement of the two terms, man must leave the state of nature.

#### THE CURRENT DEBATE

This historical excursus has shown the variety of the often contrasting meanings for which the expression 'civil society' has been used. Summing up, the prevalent meaning was that of a political society or state used, however, in different contexts depending on whether civil or political society was distinguished from domestic society, natural society or religious society. Along with this the other traditional meaning that appears in the sequence savage society–barbarism–civilization which, starting with the writers of the eighteenth century, constitutes a classical scheme for outlining human progress (with the exception of Rousseau for whom civil society, although having the meaning of civilized society, represents a negative moment in historic development). A completely different story starts

with Hegel for whom for the first time civil society no longer includes the state in its entirety but represents a moment in the process of the formation of the state. He is followed by Marx who, concentrating his attention on the system of needs which constitutes only the first moment of Hegel's civil society, includes in the sphere of civil society exclusively material and economic relations, thereby accomplishing an almost complete inversion of the traditional meaning, and not only separates civil society from the state but makes it both its antithetical and foundational moment. Finally Gramsci, although maintaining the distinction between civil society and the state, moved the former from the sphere of the material base to the superstructure and made it the locus of formation of ideological power, as distinct from political power strictly understood, and of the process of the legitimation of the ruling class.

In the current debate, as was said at the beginning, the contrast remains. The idea that civil society is the antecedent (or antithesis) of the state has so entered into everyday practice that it now takes an effort to convince oneself that for centuries the same expression was used to designate that collection of institutions which, as a rule, today constitute the state and which nobody would call civil society without running the risk of a complete misunderstanding. Naturally this has not occurred by chance or on account of the whims of political writers. One should not forget that *societas civilis* translates Aristotle's *koinonía politiké*, an expression that designates the city as a form of community different from and superior to the family, an organization of living together having the characteristics of self-sufficiency and independence which will later be characteristics of the state in all its historical forms but which was not distinguished or was never knowingly distinct from underlying economic society, economic activity being an attribute of the family (whence the name of economic for the management of the house). That the state might be defined as a form of society could be considered correct during the centuries of controversy between state and church about the determi-

nation of their respective borders, a controversy that was seen from both sides as a conflict between the two societies, the *societas civium* and the *societas fidelium*; and not at all inappropriately when in the natural law doctrine and contractualism the state was seen above all as a voluntary association in defence of some pre-eminent interests such as the defence of life, property or liberty. It is not to be excluded that the traditional identification of the state as a form of society might have contributed to delaying the perception of the distinction between the social system as a whole and the political institutions through which domination is exercised (*Herrschaft* in the Weberian sense); a distinction that has been accentuated in the modern age with the development of economic relations beyond household management, on the one hand, and the development of the apparatus of public power on the other.

However, starting with Machiavelli – and this is one reason for considering him one of the founders of modern political science – the state can no longer in any way be assimilated to a form of society, and only for scholastic reasons can it still be defined as *societas civilis*. When Machiavelli spoke of the state he meant to speak of the greatest power that can be exercised over the inhabitants of a given territory and of the apparatus which certain individuals and groups use in order to acquire and maintain this power. The state thus understood is not the society state but the machine state. After Machiavelli, the state can still be defined as *societas civilis*, but the definition appears more and more incongruous and wayward. The contrast between society and the state which starts with the birth of bourgeois society is the natural consequence of a differentiation that occurred in things and, together with a conscious and increasingly necessary division of tasks, between those who occupy themselves with the ‘wealth of nations’ and those who deal with the political institutions, between political economy originally and then sociology on the one hand, and the science of the state and all its related disciplines, the *Polizeiwissenschaft*, statistics (in the original

sense of the term), the science of administration and so on, on the other.

In the last few years the question has been asked whether the distinction between civil society and state that has lasted for two centuries still possesses a *raison d'être*. It has been said that the process of the emancipation of society from the state has been followed by the reverse process of the reappropriation of society by the state, that the state in transforming itself from the *Rechtsstaat* (constitutional state) into the social state (to use the term popularized above all by German lawyers and political scientists) is badly distinguished precisely because it is social from the underlying society that it pervades particularly through the regulation of economic relations. However, it has been noted that, along with the process of the state's colonization of society, there has been a reverse but no less significant process of society's colonization of the state through the development of the various forms of participation in political choice, the growth of mass organizations that directly or indirectly exercise political power: so that the expression 'social state' can be understood not only in the sense of a state that has permeated society but also in the sense of a state that has been permeated by society.

These remarks are correct and yet the contrast between civil society and state is still used: a sign that it reflects a real situation. Starting from the consideration that the two processes of the state-making-society and society-making-state are contradictory, because the completion of the first would lead to a state without society – the totalitarian state – and the accomplishment of the second to society without the state – the extinction of the state – the two processes are anything but accomplished, and are unaccomplishable simply because of their cohabitation and contradictoriness. These two processes are well represented by the two images of the participating citizen and the protected citizen, who are in conflict among themselves, sometimes in the same person: the citizen who through active participation always asks for greater protection from the state and through the

request for protection strengthens the state which the citizen wants to control but which ends up becoming his or her master. Under this aspect society and state act as two necessary moments, separate but contiguous, distinct but interdependent, internal articulations of the social system as a whole.