THE RULE OF LAW AND THE NATION-STATE – TWO FUNDAMENTAL PARADIGMS OF MODERN POLITICAL ORGANIZATION

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Abstract:
The concept of the rule of law and the nation-state are among the most important pillars of modern political and constitutional thought. Both represent historical and theoretical responses to the need to legitimize power, guarantee individual freedoms, and ensure collective cohesion. The rule of law emphasizes the supremacy of law and the limitation of political arbitrariness, while the nation-state bases political authority on the cultural identity and common will of a historical community. The analysis of the relationship between these two models highlights the tensions, but also the complementarity, between the legal order and national solidarity, between the universalism of law and the particularism of identity.
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INTRODUCTION

In the modern history of political thought, the state has been perceived as the most evolved form of organization of power and collective life. It constitutes not only an institutional ensemble, but also the expression of a normative and symbolic order. Starting with the 18th century, social contract theories (Hobbes, Locke, Rousseau) laid the foundations of the idea of a legitimate state, founded on the consent of free and equal individuals. At the same time, the Enlightenment and liberal revolutions generated the idea that the law, not the will of the sovereign, should govern society. [1] In the 19th century, with the affirmation of liberalism, fundamental rights and romantic nationalism, two major directions of modern statehood emerged: the rule of law – as a rational-legal form of organizing power, and the nation-state – as an expression of ethno-cultural solidarity and collective self-determination.

These two concepts are not mutually exclusive, but their historical evolution has often been marked by tensions: between the universalism of law and the particularism of

identity, between the autonomy of the individual and the unity of the community, between procedural legality and symbolic legitimacy. The present study aims to analyze these two paradigms from a conceptual, historical and functional perspective, emphasizing their complementarity and contradictions within the contemporary state.

The analysis is also particularly relevant in the current context, in which global transformations – migration, supranational integration, new forms of communication and identity mobility – challenge both the principles of the rule of law and the cohesion of the nation-state. In a world of pluralistic values, it is essential to understand how law and identity can coexist without canceling each other out, in order to build an authentic and stable democracy. [2]

RULE OF LAW – DEFINITION, ORIGINS AND CHARACTERISTICS

The rule of law, known in the European tradition under the German term Rechtsstaat, represents a model of political organization in which the exercise of power is carried out under the law, and the fundamental rights and freedoms of the individual are guaranteed by clear legal norms and by the institutional control of public authority. [3]

Its origins can be traced to Enlightenment thought and liberal constitutionalism of the 18th–19th centuries. Philosophers such as Montesquieu, Kant, and John Locke supported the idea of the separation of powers and the rule of law as the only guarantees against tyranny. Montesquieu, in On the Spirit of the Laws, stated that "liberty consists only in the power to do what the law permits." [4].

This vision was completed by Kant, who defined the state as "the union of several people under common legal laws". [5]

The central idea is that freedom is not achieved through the absence of law, but through just and rational law. In Germany, the doctrine of Rechtsstaat was systematized in the 19th century, becoming a defining principle for European constitutionalism.

The fundamental principles of the rule of law – the supremacy of law, the separation of powers, the protection of fundamental rights, and the legality of administration – have gradually been codified in modern constitutions. [6]

Hans Kelsen, in *The Pure Theory of Law*, shows that the hierarchy of legal norms (the normative pyramid) guarantees the unity of the legal system and prevents arbitrariness. [7]

After 1945, the idea of the rule of law expanded with the international recognition of human rights. Habermas emphasized that the democratic rule of law presupposes not only legality, but also communicative legitimacy, that is, the participation of citizens in the normative process. [8]

Thus, the contemporary rule of law is no longer just a legal construction, but also a deliberative one, in which justice and democracy become inseparable. As Prof. Cristian Ionescu believes, the concept of the rule of law transposed into the new conditions of political development of states currently represents the form of state organization based on the principle of the supremacy of law, of the separation of the three powers (legislative, executive and judicial), on the assumption by the state of responsibility for the fundamental rights and freedoms of citizens, materialized in the constitutional enshrinement of human rights and in the legal guarantee of their unrestricted exercise. [9]

In essence, the rule of law means governance by law, not by people. The law becomes the supreme framework for public action, and state institutions are obliged to respect not only the letter but also the spirit of the law.

Its fundamental principles are well known:

a) the supremacy of the law – all citizens and institutions are subordinate to legal norms, including the state itself;

b) the separation of powers in the state – the legislative, executive and judicial powers operate independently, preventing abuses and arbitrariness;

c) the guarantee of fundamental rights – the protection of citizens' civil and political freedoms is essential;

d) the legality of administrative acts – all acts of public authorities must be based on clear and predictable legal norms.

The modern rule of law focuses on procedures, rules and institutional control of power, aiming to prevent arbitrariness and strengthen citizens' trust in the state. [10]

The evolution of the rule of law in the 20th century was marked by the expansion of the scope of rights: from civil and political to economic, social and cultural. After the Second World War, the concept was integrated into the architecture of international law through fundamental treaties such as the European Convention on Human Rights (1950) or the Charter of Fundamental Rights of the European Union (2000).

Today, the rule of law is considered an essential criterion of democracy and the legitimacy of government. It is not reduced to a set of rules, but implies a legal and political culture based on respect for the individual, institutional transparency and the responsibility of public authorities. [11]

Technological development and new forms of governance (digital, administrative or algorithmic) require a contemporary reinterpretation of the rule of law. Its classic principles – transparency, predictability and accountability of authorities – are challenged by the complexity of globalization and the need to regulate cyberspace. However, the essence of the concept remains the same: the supremacy of the law as an expression of political rationality and as a guarantor of human dignity. [12]

NATION STATE – DEFINITION, GENESIS AND CHARACTERISTICS

The nation-state is one of the most significant political inventions of modernity. It is based on the idea that a human community defined by a common cultural, linguistic and historical identity has the sovereign right to organize itself politically in a state of its own.

The concept of the nation-state emerged in the 18th and 19th centuries, with the affirmation of the ideas of self-determination and popular sovereignty. Historical examples include the formation of modern Italy and Germany, where linguistic and cultural unity was considered essential for the consolidation of the state. As a practical example, we can name modern France, which represents a classic example of a nation-state, where republican values and the French language are the pillars of state unity, and the state plays an active role in the consolidation of national identity.

France, Italy and Germany were classic models of the formation of the nation-state. In France, the state was the instrument of national unification through institutions, education and a common language. In Italy and Germany, the reverse process – of

territorial and political unification around a common culture – led to the consolidation of state identity.

The nation-state did not develop uniformly. In Central and Eastern Europe, it often emerged as a result of the struggle for independence against multi-ethnic empires, which gave it a special emotional and symbolic charge. In these spaces, the nation-state was not just an administrative form, but an expression of national revival, dignity and collective memory.

In today's globalized world, the nation-state is subject to double pressure: on the one hand, from above, through supranational integration (as is the case of the European Union), and on the other hand, from below, through cultural diversity and minority claims. However, it continues to remain the main framework of political loyalty and social solidarity – a space in which belonging, identity and a sense of community are negotiated. [13]

The nation-state is a form of political organization in which national identity (common language, culture, traditions, and history) constitutes the foundation of the legitimacy of the state. The main characteristics include:

a) cultural and linguistic unity – the state promotes a common national identity, and social cohesion is based on shared cultural values;

b) popular sovereignty – the legitimacy of power stems from the collective will of a nation;

c) territorial and ethnic exclusivity – sometimes the concept of nation can lead to policies of integration or marginalization of minorities;

d) strong connection between the state and the nation – the state acts as a guarantor of national identity and historical continuity, public institutions become the means of affirming, protecting, and perpetuating national identity. [14]

In the literature, the nation-state is presented as an instrument for building political and social unity and as a means of asserting national sovereignty internationally. However, the nation-state model also carries risks. In the name of unity, tendencies to exclude minorities or policies of forced assimilation may emerge. Today, the nation-state faces structural challenges: European integration limits national sovereignty, and global migration weakens cultural cohesion. However, it remains the main framework of political solidarity. As Habermas emphasizes, “democracy still needs a demos,” and this cannot exist without a minimum sense of common belonging. [15]

THE RELATIONSHIP BETWEEN THE RULE OF LAW AND THE NATION-STATE

The rule of law is based on legality, the law is supreme and binding, and has clear rules for all. The nation-state is based on national and cultural identity and is an instrument for affirming the nation.

The power of the rule of law is limited and controlled by the separation of powers, and the nation-state has power focused on promoting national unity.

In a rule of law, the rights of citizens are fundamental and legally protected, and in the nation-state, the rights of citizens are conditioned by belonging to the nation.

The rule of law aims to prevent arbitrariness and protect the citizen, and the nation-state aims to consolidate identity and social cohesion. [16]

Although they represent distinct theoretical models, the rule of law and the nation-state intersect in many ways. Both start from the idea of legitimizing power – one through law, the other through collective will. The rule of law seeks to limit power through rules, the nation-state seeks to justify it through membership. [17]

In a state of law, the emphasis falls on the individual: his rights are universal, and the law protects his autonomy. In the nation-state, the emphasis shifts to the collective: the common identity becomes the foundation of solidarity and political authority. Thus, while the state of law universalizes citizenship, the nation-state particularizes belonging.

However, modern history shows that these two dimensions can coexist harmoniously. Consolidated democratic states, such as Germany, France or Spain, combine the constitutional values of the state of law with national symbols and traditions. The constitution becomes, in this context, an act of synthesis between reason and identity, between law and culture. Norberto Bobbio noted that “without a moral community, the state of law cannot exist, because law presupposes trust and internalization”. [18] This observation suggests that the cultural dimension of the nation-state complements the normative dimension of the rule of law.

The tension between the two models becomes evident when universalist principles of law conflict with policies to protect majority identity. For example, measures to promote the official language or national traditions may be perceived as subtle forms of minority

exclusion. Conversely, the strict application of legal equality norms can erode the sense of national unity if it is not supported by a common identity.

However, in modern political practice, the two paradigms have merged into a dynamic equilibrium: the democratic nation-state functions, ideally, as a rule of law, and the rule of law exercises its authority within a national framework. Modern constitutions reflect this synthesis: they enshrine both individual rights and the fundamental values of the national community.

From a theoretical perspective, it can be said that the nation-state provides the rule of law with an affective and symbolic basis, while the rule of law provides the nation-state with a normative and predictable framework. The lack of either of these two elements generates imbalance: a nation-state without the rule of law can degenerate into authoritarianism, and a rule of law without national cohesion risks social fragmentation and lack of legitimacy. Max Weber [19] described the state as "the entity that claims the legitimate monopoly of violence", but its legitimacy depends on collective recognition. Therefore, the rule of law gives it legality, and the nation gives it meaning. The two dimensions are not opposed, but mutually supportive in maintaining political order and cohesion.

INTERDEPENDENCES AND CONTEMPORARY TENSES

In practice, the modern state tends to combine elements of both models. Tensions arise when the defense of national identity conflicts with strict respect for individual rights (for example, policies to protect the majority language and culture may marginalize ethnic minorities). Universal rules of law and the principles of the rule of law can be perceived as limitations on the sovereignty of the nation. This interdependence is illustrated by the situation in many European states, where fundamental laws protect the rights of all citizens, but national identity remains a central element of the legitimacy of the state. [20]

Globalization, European integration, and mass migration have brought back to the forefront the dilemma between the universalism of rights and the particularism of identity. [21] In Europe, the principles of the rule of law are imposed by common treaties and legal mechanisms, but they coexist with the diversity of national traditions. The European

Union, for example, frequently faces tensions between common standards of the rule of law and the claims of sovereignty of nation-states.

Thus, Poland and Hungary provide recent examples in which the protection of "national values" has been invoked to justify limiting the independence of the judiciary – a situation that illustrates the fragility of the balance between the two concepts. At the same time, in pluralist Western societies, the emphasis on individual rights has paradoxically generated crises of collective identity, and the reactivation of nationalist discourses demonstrates that the need for belonging remains a constant of political life. Habermas [22] proposes the concept of "constitutional patriotism" as a solution to this dilemma: attachment to constitutional values should replace exclusively ethnic loyalty. In a multicultural Europe, fidelity to the law becomes the new form of civic belonging.

Outside Europe, the relationship between the rule of law and the nation-state takes on other forms. In Asia or Africa, where state borders have often been arbitrarily drawn, the consolidation of the nation-state is a precondition for the establishment of a functional rule of law. In the absence of a stable collective identity, legal institutions remain fragile, and the law fails to become an internalized value. Thus, the relationship between the two models must be viewed contextually, as part of a historical process of balancing between normativity and legitimacy.

The contemporary state must therefore find a point of equilibrium between legality and identity, between justice and solidarity. Without respect for the law, the state risks becoming arbitrary; without a common identity, it risks dissolving into cultural fragmentation. [23]

CONCLUSIONS

The rule of law and the nation-state are not opposite forms, but complementary expressions of political modernity. The first guarantees the freedom of the individual in the face of power, the second provides cohesion and meaning to the community. The modern state manages to be legitimate only when it combines the legal rationality of the rule of law with the symbolic solidarity of the nation-state.

The challenge of the 21st century lies in maintaining this balance: between the universalism of democratic values and national specificity, between individual freedom and collective responsibility. In an increasingly interdependent world, the future of the modern state depends on its capacity to integrate diversity without losing its unity, to defend rights without weakening identity, and to transform the tension between law and nation into a source of democratic stability.

Ultimately, the maturity of a modern society is measured by how it manages to articulate these two dimensions: through a rule of law that does not become technocratic and distant, and through a nation-state that does not close itself off in exclusivism. Only in this way can the state remain, in the full sense of the word, an expression of freedom and human dignity.

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