

'Statism' And 'Anti-Juristic Moralism' In Bosanquet's Political Philosophy

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In this article, I will present the case for Bernard Bosanquet as a political philosopher who recognises the necessity and value of justice and of legalistic notions generally. I thus wish to challenge the prevalent 'inherited' view of Bosanquet as an unrepentant moralist who in his *The Philosophical Theory of the State*¹ engages enthusiastically in a form of 'state worship'. So strong and widely held is this view that David Runciman² can state in an almost matter-of-fact fashion that he (Bosanquet) 'regards technical jurisprudence as something a philosophical theory of the state must get beyond, as it "move[s] toward a point of view which deals more completely with life and culture"... He does not provide a secure juristic foundation for the part he wishes groups to play in the life of the state. He does not in fact provide what is an overtly moral conception of order with any juristic basis at all.³ He contrasts Bosanquet with theorists such as Hobbes and Rousseau "who sought to formulate the unity of the state in juristic terms"⁴ and states that "Bosanquet did not address any of those problems which are commonly understood in legal terms - the problems of representation, or of obedience, or of ownership."⁵ Runciman holds, indeed, that "it was precisely the purpose of Bosanquet's political philosophy to transcend such legalistic notions altogether".⁶ This line of criticism is a serious one because, unlike other criticisms of Bosanquet's work which may be quickly dismissed as superficial and simply lacking any textual basis (for example, the Austinian charge of 'abstract idealism'), this particular criticism (ie. of 'anti-juristic moralism') is so well grounded in Bosanquet's text that it is not even, or not so much, advanced by Runciman as a criticism at all but more, rather, as a fairly unexceptionable observation. Another reason for the seriousness of this criticism (with Runciman's indulgence, I will henceforth treat his remarks on Bosanquet as if they were intentionally critical, even though it is by no means certain, or even likely, that they were intended to be so) is that it resurrects the ghost of 'statism', for if the juristic concern for justice and the rights of

¹ Bernard Bosanquet, *The Philosophical Theory of the State* (London: Macmillan, 1965). Please note: I normally insert an asterisk after a term to indicate that it is being used in a gender inclusive sense. However, in this article, as requested by Animus, I have used "he" in both a gender inclusive and gender exclusive sense, without employing the asterisk technique.

² David Runciman, *Pluralism and the Personality of the State*, (Cambridge: Cambridge University Press, 1997)

³ Ibid., p 77.

⁴ Ibid.

⁵ Ibid., p 77-8.

⁶ Ibid., p78

individuals as Kantian ends-in-themselves suffers annihilation or subordination and justice is forced to vacate its legitimate place in the moral sphere, justice can no longer operate in that sphere as a complement or counterpoint to the 'common good' and the vacuum, so to speak, is liable to be filled by a triumphalist state. However, I wish to suggest that the concern for justice and individual rights suffered no such annihilation in the mind and work of Bosanquet and that since he was not an anti-juristic moralist, he was not, for that very reason, a 'statist' either.

After presenting, in section one, a preliminary 'case for' Bosanquet as a political philosopher who did indeed recognise the necessity and value of justice and of legalistic notions generally, I then consider in section two the 'case against' him. In section three, I speak more directly in my own voice and arrive at my own final judgement, which is that Bosanquet is indeed a genuinely juristic thinker. However, while supporting the 'case for', I also try in this section to acknowledge the undoubted strength of the 'case against'; in particular, I concede that Bosanquet does make himself vulnerable to the charges of statism and anti-juristic moralism by his outright and, in my view, ill-considered rejection of the tradition of civil association which we now generally associate with the work of Michael Oakeshott. It is certainly a weakness in the 'case for' that he condemns, instead of taking advantage of, this tradition, for it lends powerful practical and theoretical support to the juristic concern for justice and for solidly grounded individual rights. However, I argue that Bosanquet's undoubted antipathy to this tradition is certainly not enough to substantiate the charge against him of anti-juristic moralism, for he establishes and justifies the value of justice, rights and legalistic notions generally on other grounds. In particular, he provides an insightful analysis of the meaning of the 'social' which helps us to see that the decisive issue is not whether 'juristic' ethical concepts (rights, justice and, more broadly, the 'right') should take precedence over what we might call 'statist' ethical concepts (common welfare, public interest and, more broadly, the 'good'), or whether the 'individual' or 'society' is primary, but rather, as Bosanquet points out, the really decisive issue is whether we are prepared to patiently investigate their nature, their complementarity and mutuality, or whether we simply assume that they (the 'individual' and 'society') are mutually repellent notions or entities. Finally, in a brief concluding section, I note that through his conception of the 'social', Bosanquet provides theoretical support both for the juristic rights of individuals to live and breathe in freedom in liberal democratic societies and also for the more positive ('statist') freedom or right to participate politically in the formation of a common will or social purpose, and that, in doing so, he succeeds where modern communitarianism and postmodernism have failed.

(i) Bosanquet As A Genuinely Juristic Thinker : A Preliminary Case For

The first point to note in this discussion is that Bosanquet does indeed state that a philosophical theory of the state must get beyond technical jurisprudence as it moves towards "a point of view which deals more completely with life and culture"⁷, though what precisely he means by this expression needs to be carefully considered. For

⁷ Bosanquet, *The Philosophical Theory of the State*, p 37

Runciman, it appears to mean that justice and the law (or, in broad terms, 'juristic considerations') are 'transcended' or gone beyond in the sense of being left behind or as having value merely as a dispensable medium or point of transition to this higher point of view. However, just prior to making this remark, Bosanquet states that while jurisprudential generalisations convey important meanings, still they are, he says, "obviously very far short of the whole truth and as we pass beyond these everyday working conceptions, we are beginning to leave the central ground of jurisprudence, and to move towards a point of view which deals more completely with life and culture."⁸ Thus even a cursory glance at the immediate context of this remark is, it could be argued, enough to indicate that jurisprudential considerations have important meanings which may not, after all, be transcended in any annihilating or undermining sense by moving towards this higher point of view; this impression is confirmed when we embed this remark in the chapter in which it appears.

The relevant chapter in Bosanquet's book is entitled 'Sociological compared with philosophical theory' and its broad intention is to offer a critical analysis of the idea of a science of society which includes "human society among the objects of natural science"⁹ and which has no hesitation in availing itself of the methods employed in natural science. Following Comte, the watchwords of this science (sociology or social physics) are "law and cause - in the sense in which alone positivism allowed causes to be thought of - and scientific prediction."¹⁰ Bosanquet is clearly unsympathetic to this enterprise, to what he regards as the inappropriate use of the language of physical science in a sphere (human society) where its employment is bound to be generally distorting in its effects. He concedes that it is not always distorting, or at least not equally distorting, in all social spheres. He points out that economics, for example "is not really a sphere of natural causation, but it is a sphere of certain simple and general conditions in physical life, corresponding to external facts which admit of more or less precise statement and, we may hope, of reduction to fairly trustworthy uniformities."¹¹ However, if it is not altogether implausible to attempt to model economics on natural science, Bosanquet is entirely clear that in the case of jurisprudence, we encounter "a branch of experience which seriously strains the working conceptions of the sociologist."¹² Clearly, the law of physical science is entirely inappropriate in dealing with "the wealth of experience and of ideas which is furnished ... by jurisprudence and the science of right."¹³

Bosanquet then proceeds to present what we might call the 'jurisprudential aspect' of society. He holds that 'facts of law' are what he terms 'ideal facts' that constitute the frame or 'formal mind' of society. If we are to have a science of society worthy of the name, then it is important "to comprehend that the social phenomena which are among the most solid and unyielding of our experiences, are nevertheless ideal in their nature, and consist

⁸ Ibid.

⁹ Ibid., p 17.

¹⁰ Ibid.

¹¹ Ibid., p 31-2.

¹² Ibid., p 32.

¹³ Ibid.

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of conscious recognitions, by intelligent beings, of the relations in which they stand."¹⁴ The system of law, understood in this way (ie. 'ideally') as formal acts "of mind and will"¹⁵, is often seen as being "in opposition to the idea of a social growth"¹⁶ or to the idea of society as a living, moving, breathing and growing totality, but there is, he holds, no need to choose between 'society as artefact' and 'society as growth' ; for Bosanquet, the former is but one aspect of the latter. A society may be more than, but is not less than, a formal or artificial system of law. He summarises this point of view in the following way.

From the beginning of social theory the facts of law have been set in opposition to the idea of a natural growth. It has been observed that, as a definite institution maintained by formal acts of will, society is artificial, conventional, and contractual. We all know to day that there is much more than this to be said about the nature and principles of social growth. Nevertheless, it remains true that the social whole has an artificial aspect, an aspect of will and of design, of the agreement and mutual recognition of free conscious beings.¹⁷

Thus the system of law, or the formal artificial juristic aspect of society, is entirely necessary and also natural, since "nature", he insists, 'includes and does not exclude that action of intelligence in virtue of which society may be termed artificial.'¹⁸ There is thus no question of Bosanquet transcending justice and the law in the manner in which Runciman suggests. The latter is, in a sense, quite correct to say that Bosanquet fails to provide his "overtly moral conception of order with any juristic basis at all"¹⁹, but this is only because, for Bosanquet, the juristic dimension is so thoroughly integrated into the social whole that while it can be separated and treated separately for analytical purposes, it cannot be treated as a basis, as that on which society rests or stands. (There is surely an element of internality or integrality associated with the terms 'dimension' or 'aspect' which contrasts with the externality or non-integrality associated with the terms 'basis' or 'foundation'.)

If we turn our attention from the relationship obtaining between 'society as artifice' and 'society as living whole' to that obtaining between procedures for making law (the process whereby the general will is sought) and the law itself (an attempted embodiment of the general will), we find that there is a great deal in common between the two and that a misunderstanding of Bosanquet's position with regard to one of these relationships is liable to duplicate itself in the other. We can see this clearly in Runciman's account of the use Bosanquet makes of Rousseau's general will.

Bosanquet makes much of Rousseau's conception of the 'general will', but he also suggests that Rousseau himself could not make full use of it because he remained preoccupied with the problem of relating it to the 'will of all'. In the end, Bosanquet

¹⁴ Ibid., p.33.

¹⁵ Ibid., p.32

¹⁶ Ibid., p 33.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Runciman, *Pluralism and the Personality of the State*, p 77.

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argues, Rousseau succeeded only in 'enthroning' the will of all, because he was fixed on the notion that the general will could be expressed in the vote taken by an assembly. We can express this argument in terms of personality: for Bosanquet, the general will was an expression of the 'moral' personality of the state; the will of all, in contrast, was an expression only of its 'legal' personality, since it was arrived at by legalistic conventions (i.e. contracts and shows of hands); and the solution, for Bosanquet, was to discount the possibility of deriving a general will from mere legal procedures, and instead look for it in the moral life of the state as a whole.²⁰

A problem or task that confronts us in weighing the merits of this interpretation is to first of all attach a clear - or at least a viable and intelligible - sense to the expression 'deriving a general will from mere legal procedures'. No one, I think, would seriously suggest that a general will can be 'derived' from mere legal procedures, for clearly a true or real general will cannot be derived from any procedure whatsoever. However if, as I believe, Runciman actually means 'achieving or arriving at a general will by means of legal procedures' then he is quite right to point out that Bosanquet would regard such procedures as an inadequate means of realising the general will. While necessary and important, they are nevertheless insufficient, for such procedures, Bosanquet would insist, are unable to guarantee that the wisdom and experience stored in the rich institutional life of a modern complex nation will be brought to bear on a particular issue or proposed law. What Bosanquet objects to in Rousseau's account is not the procedures he employs to arrive at the great will but the fact that Rousseau so strenuously insists that individuals who hope to realise this will are to be completely unassisted in their task; they are forbidden access to an invaluable resource, ie. the treasure stored in society's institutional life and traditions.

By reducing the machinery for the expression of the common good to the isolated and unassisted judgement of the members of the whole body of citizens, Rousseau is ensuring the exact reverse of what he professes to aim at. He is appealing from the organised life, institutions, and selected capacity of a nation to that nation regarded as an aggregate of isolated individuals.²¹

What Rousseau would disallow, for example, is access to "the wealth of experience and ideas which is furnished. . . . by Jurisprudence and the Science of Right."²² There can be little doubt that for Bosanquet mere legal or formal procedures, in so far as they enable, through free flowing discussion, the wisdom of the past to be brought to bear on the problems of the present, cease, in a sense, to be 'mere' legal procedures and become the living instruments of the 'birth' of a more truly general will. It is important to note that, for Bosanquet, the quest for the general will by means of these procedures is the moral life of the state, so that he would, I'm sure, take issue with Runciman's suggestion that he (Bosanquet) chose "to discount the possibility of deriving a general will from

²⁰ Ibid., p 77 footnote.

²¹ Bosanquet, *The Philosophical Theory of the State*, p 109.

²² Ibid., p 32.

mere legal procedures, and instead look for it in the moral life of the state."²³

(ii) Bosanquet As A Genuinely Juristic Thinker : The Case Against

Let it be granted, for the sake of argument, that the last section has succeeded in demonstrating that there is indeed an important juristic dimension in Bosanquet's *The Philosophical Theory of the State*; still, a major objection remains which has yet to be overcome, namely that while there may well be a juristic dimension - even an important one - to Bosanquet's account of the state and its moral life, nevertheless he 'pressgangs' that dimension into the service of the state and thereby de-natures it and deprives it of its true and essential character. Posed in his way, the full seriousness of the objection is apparent, for it raises the charge of 'statism' in a manner which is not so easily disposed of by reference to the text of *The Philosophical Theory of the State*. It is by no means certain, for example, that reference to the latter can provide us with reassuring responses to the following concerns. Would it be the case for Bosanquet, as it is for Gierke, that, in the words of Maitland "it is as impossible to make the State logically prior to the Law (Recht) as it is to make law logically prior to the State, since each exists in, for, and by the other"?²⁴ Bosanquet holds that the point and purpose of what he calls 'negative or juristic' liberty is to facilitate 'positive or political' liberty but, if so, is it its only point? When considering the contrast between the two conceptions of liberty, Bosanquet notes that "the apparently negative has its roots and its meaning in the positive"²⁵ but is the positive to be construed only in terms of the common good or general will? Would he agree - and this is, I think, the crux of the matter - (i) that the 'positive' in which the 'negative' has its roots is not only the positive realisation of the common good but also the positive affirmation in the law of the value, integrity and inherent dignity of each person? Would he also agree (ii) that this positive affirmation is an important aspect of every law, so that if the law's point and purpose (its essence) is to promote the common good, this aspect (i.e., its 'jurisprudential' aspect of positively affirming the value of persons as ends-in-themselves) is nevertheless 'co-integral' to that essence or purpose?

Laws generally have as their aim the common good or public interest but it is important to recognise that laws also implicitly (and at times, when necessary, explicitly) acknowledge the value of each person as an absolute end. If we isolate and consider separately the role of law in positively affirming and reinforcing the supreme dignity and value of each person, we can readily see that this 'positive' element of law has a 'negative' dimension that corresponds to it, that is, the positive 'Thou shalt respect others as absolute ends or as Kantian ends-in-themselves' complements and corresponds to the negative 'Thou shalt not interfere with the life and freedom of another person, as absolute end, without due warrant.' Now, it is of course true that in the case of Bosanquet's 'zone of negative freedom / positive common good' relationship, the negative aspect of law has its roots in the positive dimension of law but there lurks the suspicion in many minds that

²³ Runciman, *Pluralism and the Personality of the State*, p 77.

²⁴ Gierke, O., *Political Theories of the Middle Ages*, trans. F.W. Maitland (Cambridge: Cambridge University Press) p XIII.

²⁵ Bosanquet, *The Philosophical Theory of the State*, p 127

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for Bosanquet the positive dimension of law is exhausted by its intent to realise the common good, and that he ignores the kind of positivity which pertains to law independently of the common good and which recognises and reinforces the absolute value of each individual as such ; what he is suspected of ignoring, in brief, is the positivity of justice, not only in the ordinary sense of being fair to all but in the fundamental sense of 'positive acknowledgment of individuals as centres of absolute value' that the ordinary sense implies. It is Bosanquet's commitment to justice in this sense, and to the autonomy of justice in this sense vis-à-vis the common good, that appears tenuous at times in *The Philosophical Theory of the State*, whereas his commitment to justice in the equally legitimate (Platonic) sense of 'each person being obliged to make his* distinctive contribution to the common good' is beyond question.

It would be helpful at this point to present a summary of a position that I have presented at greater length elsewhere.²⁶ In the moral consciousness the 'good', including the 'common good', consists of our endeavours (individual or collective) to realise values, whereas the 'just' primarily consists in the requirement to recognise the absolute value of persons or persons as Kantian ends-in-themselves. The former is concerned with (absolute) value as the ultimate goal or end of human endeavour, whereas the latter is concerned with absolute value in the form of a person and as present in, and inherent in, a person or spiritual being. Now it could be argued that Bosanquet certainly treats with complete seriousness absolute value in the former sense (ie as the goal of human endeavour) but not in the latter sense (ie as inherent in persons) and that a consequence of his doing so is that he tends to see the person or human subject merely as a locus in which the drama of absolute value is enacted (which, in a certain, though non-exclusive sense, it certainly is) and to see true individuality as consisting only of an inner response to the call of absolute value (which, again, in a non-exclusive sense, I would agree that it is). The danger is that the inherence of absolute value in persons may be lost sight of and that the insight or truth that 'persons are for values' may override or suppress the insight or truth that 'values are for persons'. Thus it could be argued that the case against Bosanquet as a genuinely juristic thinker is strengthened by the consideration that we simply cannot find in his political philosophy the kind of individuals that we would expect to find in a truly juristic world, ie. rights/bearing autonomous individuals. Law, justice and right focus deontologically on persons or individuals as centres rather than seekers of absolute value, as Kantian ends-in-themselves or as 'sacred sites' in which absolute value inheres, rather than as agents in quest of the (personal or collective) good. Certainly, some such juristic conception of the individual, or one not too far removed from it in spirit, is presupposed by justice and jurisprudence but in Bosanquet's political world, it could be argued, it is conspicuous by its absence.

A further consideration that tells against Bosanquet as a genuinely juristic thinker, it could be argued, is that the 'juristic' conception of the individual finds its 'natural' juristic/political expression in the state conceived of in a manner which Bosanquet decisively rejects, ie., the state as a (civil) association.²⁷ No doubt, the state is much more

²⁶ See B. Trainor, *Justice and the State: On Liberal Organicism and the Foundations of Emancipatory Politics* (Quebec: World Heritage Press, 1998) pp 19 - 32.

²⁷ See M. Oakeshott, *On Human Conduct* (Oxford: Clarendon Press, 1975).

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than a 'mere' association ; it is, after all, concerned to realise the association's point and purpose, but if it is more than an association, yet it is not less than one, and the fact of its being an association should not be seen as only a springboard to higher or nobler purposes ; the state, as a civil association, is a system of mutual recognition which is important in itself in so far as it is a constant affirmation of the absolute value of each person. Now Bosanquet of course is positively hostile in his attitude to this conception of the state and to the conception of the individual of which it is both a kind of expression and justification at the same time, as the following quote makes clear.

If you call the state an association, you speak the language of individualism, and still more so, if you speak of individual rights which can be asserted against it, and of the individual judgement as ultimate. To call it an "association" is contrary, I think, both to usage and truth.²⁸

Hegel once remarked that "though marriage begins in contract, it is precisely a contract to transcend the standpoint of contract, the standpoint from which persons are regarded in their individuality as self - subsistent units."²⁹ His key point is that a marriage may well be more than, but is not less than, its contractual / legal frame and a broadly similar kind of relationship surely obtains between the legal contractual obligations of the individual to the state (the state's juristic frame) and the purposes pursued by the state. In brief, the state, too, is more than but yet is not less than, its juristic frame (or its aspect as a civil association). However, Bosanquet, as we have just seen, strongly insists that it is not a civil association at all, and here he provides a direct contrast to Michael Oakeshott who just as strenuously insists that, properly understood (or in its ideal essence, so to speak), it is only an association.³⁰ Thus, Bosanquet, in rightly denying that the state as a whole can properly be characterised as a civil association, forgets altogether the state's juristic aspect or frame. He also challenges the existence of the individual as an independent complement and counterpoint to the state, the kind of 'individual' presupposed, as we have seen, by the juristic world. He insists that individuals have rights, not by the virtue of being individuals or in acknowledgment of their status as absolute ends, but because they have been conferred on them by society. He says that the state's role is to protect rights but he defines rights as "the claims recognised by the will of the community as the sine qua non of the highest obtainable fulfilment of the capacities for the best life possessed by its members".³¹

If, as it seems reasonable to suggest, the political world of liberal society is marked by an ongoing tension between the (private) rights of individuals and the (public) pursuit of the common good, and if this tension is more like the tension of 'sexual opposition', promising the emergence of a deeper harmony (of a recognition and embrace of the other as its other) than it is like the tension of combatants facing each other in mortal combat,

²⁸ B. Bosanquet, *Social and International Ideals: Being Studies in Patriotism* (London, Macmillan, 1917) pp.282-3.

²⁹ G.W.F. Hegel, *The Philosophy of Right* in *Great Books of the Western World* (Chicago: William Benton, 1989) pp.58-9.

³⁰ M. Oakeshott, *On Human Conduct*.

³¹ Bosanquet, *Social and International Ideals* p.271

then both the tension and the deeper harmony have to be acknowledged. However, this is precisely what Bosanquet fails to do. The key task of a liberal government is to try to ensure (i) that liberal societies, as societies or organised states, are fully aware of the risk that, in their endeavours to be more than a mere association of individuals and to pursue the common good, they may become less than such an association, that is, they may fail to respect the rights and liberties of subjects; and (ii) that liberal societies, concerned in their liberal character with the maintenance of individual rights, are constantly alert to the risk of lapsing into a mere association of individuals, like a loveless marriage. However, a political philosopher may be tempted to try to overcome the tension by destroying the pole considered to be offensive, that is, by conceiving the state, for example, as only a civil association, thereby confirming the status of individuals as absolute ends but making it very difficult for the government to pursue any common purposes, or by absolutising the state and its common or general will in such a way as to make individuals solely its media or instruments, thereby effectively eliminating individuals as rival centres of real (independent) value. Clearly, or so it could be argued, the latter temptation is the one to which Bosanquet succumbs.

When we call ourselves 'individual members' of a community, we wish to be acknowledged both as 'individuals' and as 'members', with perhaps a special emphasis on one term or the other as the occasion requires but normally with an equal emphasis on each term. However, it could be argued that Bosanquet seems to merge the 'individual' into the 'member' and that he provides us with no stopping rule which could prevent his* disappearance. His 'individuals' are assuredly at the service of the state as its loyal members but we lack any assurance that the state is equally at the service of individuals. One might think that in conceding that under certain circumstances there might be a duty to rebel, Bosanquet would be acknowledging that the individual is an independent counterpoint to the state but in fact he holds, to the contrary, that "it does not rest on a non-social right, but on a recognition that the state is divided against itself."³² This is because "the individual's private will, we must bear in mind, is certainly and literally a part of the communal will. There is no other material of which his will can be made. If he rejects the communal will in part, he rejects it on the basis of what it is in him, not from any will of his own, which has a different source. This is the ground of the duty of rebellion."³³

Finally, some may suggest that there is really nothing surprising in all this. Bosanquet was, after all, like Bradley, an Absolute Idealist and in the end their common philosophical enterprise foundered because it led to a view of the human person as unreal, as of no value as such (that is, as a distinctive unique centre of value) and as the mere instrument of the will of the community or state. In his contribution to a symposium entitled "Do finite individuals possess a substantive or an adjectival mode of being?", Bosanquet, for example, boldly and frankly challenges the thesis that 'spiritual finite individuals possess substantive or substantial being'³⁴, holding instead that their mode of

³² Ibid., p.284.

³³ Ibid., p.272.

³⁴ B. Bosanquet, "Do finite individuals possess a substantive or an adjectival mode of being?", in *Proceedings of the Aristotelian Society*, Vol., 18, 1917-1918, p.479.

being is, on the whole, more accurately characterised as 'adjectival' or 'predicative' of wider, more inclusive wholes (the social whole, the state, the Absolute). Thus the brand of idealism espoused by Bradley and Bosanquet was in clear opposition to that espoused by Andrew Seth Pringle-Pattison, James Ward, J.M.E. Mc Taggart and Hastings Rashdall, who, as 'personalists', offered precisely the kind of philosophical account of the 'person' needed to underwrite the juristic world which the Absolute Idealism of Bradley and Bosanquet undermined.

(iii) Bosanquet As A Genuinely Juristic Thinker : The Final Case For

My own final judgement in the matter is that Bosanquet's jurisprudential credentials remain intact. This is because there is considerable evidence that he actually, and strongly, endorsed the kind of Kantian conception of the individual which, as was pointed out in the last section, the science and practice of jurisprudence presuppose. He states for example that "individual human beings have to be taken account of ; each is one among others, having a bodily and spiritual life of his own".³⁵ This last quote surely provides as strong an endorsement as one could wish for of Bosanquet's commitment to, and recognition of, individuals as Kantian-ends-in-themselves. Taken together with his insistence that "the individual's right to be recognised and considered should be given effect in a human commonwealth"³⁶, it could indeed be said to leave the 'case against' in ruins, for the reader will recall that the crux of the case against the juristic dimension of the moral life of the state in Bosanquet's work rested on the question mark that hung over his commitment to the inherent dignity and value of each person and to the role of law in recognising and reinforcing it. Thus he did not concentrate absoluteness (or absolute value) in the state at the expense of the absoluteness (or absolute value) inhering in each individual; rather, he made it plain that while each law and public act (the imposition of a tax, for example) pursues the 'good' in some way, it must be just in doing so, recognising at all times "the inherent claim or right of human individuals to reasonable treatment - i.e. similar for similar, dissimilar for dissimilar."³⁷ Justice, for Bosanquet, is the ongoing, constant, 'non-transcendable' condition, rather than the purpose, of all public policy measures. As further evidence for the 'case for', we should also note Bosanquet's adamant insistence that "of course the state is not the ultimate end of life"³⁸ and in the care he takes to explain the limited sense in which the state is, and must be, absolute, that is, it is absolute only in the sense that "it has the distinctive function of dictating the final adjustment in matters of external action."³⁹ Thus understood, the state is clearly not "the whole end of life"⁴⁰, but rather provides - here Bosanquet refers sympathetically to Hegel - the "basis of the further more specialised achievements (art, philosophy and the like)."⁴¹ Bosanquet also implicitly acknowledges the inherent value of persons as absolute ends

³⁵ Bosanquet, *Social and International Ideals*, p.198.

³⁶ *Ibid.*, p.199.

³⁷ *Ibid.*, p.204.

³⁸ *Ibid.*, p.271.

³⁹ *Ibid.*, p.273.

⁴⁰ *Ibid.*, p.272.

⁴¹ *Ibid.*, p.273, footnote.

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when he speaks, as we saw earlier, of the "mutual recognition of free conscious beings."⁴² It may be objected that when we consider the tone and tenor of *The Philosophical Theory of the State* as a whole, this expression could be construed as meaning (i) 'the mutual recognition of each other as beings who live in and for absolute value, and whose true individuality is expressed and achieved in this collective pursuit', rather than as (ii) 'the mutual acknowledgment of each other as centres of absolute value' but I would suggest that this is an implausible and forced interpretation or even an unwarranted and alien imposition. Likewise, as Sweet reminds us, Bosanquet states that "the aim of politics is to find and realise the individual"⁴³, which again would appear to be as clear-cut an endorsement as one would like of Bosanquet as a respecter of persons as absolute ends but as if in anticipation of the objection that, in the light of his alleged 'statism', his real view must be otherwise, Sweet adds that the context of his remark makes it clear that, by 'the individual', Bosanquet "is referring to the individual human person."⁴⁴ It is highly likely, then, that Bosanquet saw his writings as a theoretical expression of the moral universe into which he was born, to which he belonged, and of which a strong 'juristic tradition' was an integral part.

With regard to the familiar charge that Bosanquet absolutises the state and its communal or general will, thereby transforming individuals into its mere instruments or media, his reply is clear, definite and strong. He holds that the 'self' and 'society as the state' are inseparable, that they are intimate aspects and expressions of each other and that they 'contain' each other, so that we need to remember that the distinction between the two may well be analytically useful but becomes disastrous if we come to think of the two as distinct or separate in any absolute sense. As he says, 'the fact is that the decisive issue is not whether we call the "individual" or "society" the "end" but what we take to be the nature at once of individuals and of society.'⁴⁵ The root of error in this matter, he insists, "lies, on both sides, in an insufficient appreciation of what is involved in man's social being"⁴⁶, for this leads to the adoption of the following two extreme and erroneous positions.

The one party credits the individual -the supposed self-existent isolable being- with all that does not emanate from the formal procedure of the political group as such ; and thus, setting down, for example, art and religion as "individual" activities and concerns, has a certain justification for alleging that the individual is the end to which society...is the means. The other, rightly aware that the deepest and loftiest achievements of man do not belong to the particular human being in his repellent isolation, and, like his antagonist, recognising only two opposites, society as the State and man at his minimum as the

⁴² Bosanquet, *The Philosophical Theory of the State*, p.33.

⁴³ *Ibid.*, p. liv.

⁴⁴ William Sweet, "Absolute Idealism and Finite Individuality", *Indian Philosophical Quarterly*, Vol.xxiv. No4., October 1997, p.448.

⁴⁵ Bosanquet, *The Philosophical Theory of the State*, p 76.

⁴⁶ *Ibid.*, p xxxiii.

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individual, naturally claims for the State the glamour which belongs to the highest self-expression by which man transcends his isolation.⁴⁷

Being mesmerised and misled by these two parties, we miss the profounder meaning of the term 'social', for our minds are captivated by this confrontation between society as the state and the atomic individual, "the private person who hugs his privateness"⁴⁸, and we thereby 'forfeit all possibility of understanding the nature of an activity which is neither semi-political on the one hand, nor "individualistic" on the other.'⁴⁹ We fail to properly understand the vast areas of social life, including for example art, religion and philosophy, that are "at once ultra-social as being above all compulsory social arrangements, and ultra-individual as being beyond the aspect of exclusiveness, which, however falsely, clings to the current conception of individuality."⁵⁰ (Presumably, Bosanquet would say that the kind of reflective criticism of society that occurs in the mind of the rebel discussed in the last section is 'ultra-social' and 'ultra-individual' in this sense.)

In light of the above, I would suggest that whatever strength the 'case against' Bosanquet gains from the consideration that it is quite possible to interpret his work as endorsing a form of 'statism', that is, of inflating society as the state at the expense of individuals, should be immediately forfeited or at least counterbalanced by the consideration that it is just as possible to interpret his work as espousing a form of 'hyper-individualism', that is, of inflating individuals at the expense of society as the state, for in Bosanquet's case, any enlargement or diminution of the one is, at the same time, by virtue of their intimacy or 'inner-connectedness', an enlargement or diminution of the other. I would also suggest that what I earlier referred to as the inherent tension of liberal society is for Bosanquet not so much a tension between a private self and its government but rather a single or the same tension experienced in different domains or at different points, just as, for example, the individual members of a family may all be upset by a family problem but may experience the tension of the family differently by virtue of their different locations in the family world. The consciousness of the individual-as-such cannot be separated from the consciousness of the individual-as-family member and for Bosanquet, the political world is like an enlarged version of the family world.

Concerning the criticism that the brand of idealism espoused by Bosanquet (and especially his depiction of the mode of being of persons as 'adjectival') is in clear opposition to that espoused by the 'personalists', and that the latter offer precisely the kind of philosophical account of the 'person' needed to underwrite the juristic world which Bosanquet's Absolute Idealism undermines, it is important to note, firstly, that when Bosanquet describes the mode of being of finite individuals as 'adjectival', his primary aim is to challenge the view that persons are self-existent, self-subsistent, complete in themselves, solid self-standing subjects, conceivable as unchangeable soul-substances or metaphysical atoms, and to thus decisively undermine "the pre-eminence claimed for

⁴⁷ Ibid., p xxxiii.

⁴⁸ Ibid..

⁴⁹ Ibid.

⁵⁰ Ibid.

singular beings in the pluralistic sense."⁵¹ He is against "the substantiation of provisional subjects"⁵² and holds that the 'mere individual' as a definite substance or solid, unvarying subject nowhere exists⁵³ and is a misleading abstraction. However, Bosanquet is in no doubt that spiritual finite individuals do possess substantive reality as moral beings in quest of unity and coherence within themselves and the universe as a whole. We carry within us, he asserts, "a pretension to be ourself, which includes less and more than we find in our existence"⁵⁴ and which seeks a 'truer' self beyond our actual or empirical self. We can either attempt to escape this quest for unity determined from within by descending to the status of an inert thing that coincides with itself (Browning's 'finite clod untroubled by a spark' or Sartre's 'bad faith') or pursue the 'ascending' quest for unity in the full (and terrifying) recognition that we will become utterly transformed and "no longer be what we experience our existence as being."⁵⁵ This 'ascending unity' (my expression) or the unifying 'pretension to be ourself' (Bosanquet's expression) is what he calls our 'substantive reality', our true mode of being as "substantival solidly founded entites, possessed of an indefeasible unity."⁵⁶ Bosanquet's reflections on this 'substantive reality' of the finite individual are instructive; in effect, he insists, as the following crucial passage makes clear, that we are not the source and centre of our own being and, in so doing, he expresses in clear philosophical terms what Augustine expressed religiously in saying "Our hearts are restless until they rest in Thee".

Yet, what is the nature and structure of this reality? Is it the self as we experience it in detail? Surely not; or it is that self, but in an illumination more intense than the customary, and revealing a further structure. It is a substance and an ultimate subject, but not in its own right. Its existence, as an existence, bears the unmistakable stamp of the fragmentary and the provisional. Can there be anyone who does not feel it so in every act and in every thought? But through all this, and operative in it, there shines the intentional unity. It is not my monad or my star. It is the life which lives in me, but it is more of that life than I succeed in living. I am substantive and subject, then, but only so far as I recognise myself to be adjective and predicate. If...I set up to be in myself a self-centred real, I become ipso facto in the main a false appearance and all but worthless. This is when I come nearest to being a substantive in my own right, in error and in sin.⁵⁷

It is true that, because of their transience and imperfection, Bosanquet denies that persons are eternal substances⁵⁸ and that he is, moreover, hesitant to regard them as 'members' of the Absolute⁵⁹ but at the same time he does speak of "their transmutation and absorption in the Absolute"⁶⁰ and in this way he again comes close to the religious view that persons are -to express the point more philosophically- 'derived substances'

⁵¹ Bosanquet, "Do finite individuals possess a substantive or an adjectival mode of being?", p.484.

⁵² Ibid., p.485.

⁵³ Ibid., p.489.

⁵⁴ Ibid., p. 496.

⁵⁵ Ibid., p.497.

⁵⁶ Ibid.,

⁵⁷ Ibid.

⁵⁸ Ibid., p.490.

⁵⁹ Ibid.

⁶⁰ Ibid., p.493.

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destined in and beyond time to become re-integrated with the source of their being (the Divine Substance or substance itself). Moreover, far from distancing himself from the more religious view that persons enjoy a kind of eternal substantivity in that they undergo various modes of being in the 'course' of their 'eternity' (from an 'existence' in the mind of God, through the 'soul-making' of earthly existence, to final unity with God), in the final comments of his article on the mode of being of finite individuals, Bosanquet sympathetically refers to the religious view, or at least a specific religious view which he derives from Dante, as really signifying for religious thought "a communicated and derived substantiality, founded on a sense of unity, whose ultimate meaning was unity with the creator - a unity not conditioned by time."⁶¹ Thus while explicitly rejecting any notion of unchanging, ever self-identical 'eternal substances', Bosanquet is more open and sympathetic to Dante's more subtly expressed and nuanced account of "substances eternal indeed but created" .⁶²

It is also important to note, as a final defence of Bosanquet on this point, that in a recent article William Sweet has marshalled a considerable body of textual evidence which indicates that Absolute Idealism does not take a uniform view of the human person and that Bosanquet's style of Absolute Idealism, as contrasted with Bradley's, was more in tune with, or at least more compatible with, 'personalism'. He holds⁶³ that Bosanquet departs from Bradley in regarding the finite individual self as "the climax and sum and substance of evolution"⁶⁴, as having a central role in the realisation of the whole⁶⁵, as the conscious medium through which nature acquires its significance and value⁶⁶ (the individual is conceived of as a 'copula' between nature and the Absolute) and, finally as a unique and distinctive 'world' enveloped by a 'world of worlds' (the Absolute).⁶⁷

Finally, I would suggest that the 'case against' Bosanquet assembled in the last section fails to take into account the fact that Bosanquet saw himself as living and working within a living tradition, within what communitarians might nowadays refer to as a 'thick', (already) socially constituted, moral world. He has the deepest respect for "the tissue of obligation within which the individual lives" and saw the necessity of a moral tradition or a "recognised moral order such as to guide the conscience itself".⁶⁸ He thought it inappropriate, at the time in which he wrote, to speak of international organisations as 'societies of states', for the latter in his view conspicuously lacked what states possess, that is, they have "no moral tradition, imposing adapted and appropriate obligations on all units, comparable with the social consciousness which constitutes the

⁶¹ Ibid., p.506.

⁶² Ibid.

⁶³ Sweet, "Absolute Idealism and Finite Individuality", p.437. My own view is that Sweet is entirely persuasive in his account of Bosanquet but not of Bradley, who was, I think, more of a 'personalist' than Sweet is prepared to concede. Though he holds that the relation of the self to the Absolute is inexplicable, Bradley is confident that the self is in some sense 'in' the Absolute, which certainly suggests that he assigned the greatest possible dignity and importance to the human person.

⁶⁴ B. Bosanquet, *The Principle of Individuality and Value*, (London, Macmillan, 1912) p. 158.

⁶⁵ Ibid., p.287.

⁶⁶ Bosanquet, *The Value and Destiny of the Individual*, (London, Macmillan, 1913) p.280.

⁶⁷ Bosanquet, *The Principle of Individuality and Value*, p.158.

⁶⁸ Bosanquet, *Social and International Ideals*, p.287.

whole basis and material of the normal individual will."⁶⁹ This moral world or social consciousness could, I believe, be broadly described as the political culture of which the Westminster model of government is the institutional expression. The juristic traditions and wealth of jurisprudential experience that they contained were an important part of that world and, as such, Bosanquet judged them - in an almost semi-conscious manner, given their 'already there-ness' in his world - worthy of the highest respect. He saw the state as a kind of guardian of that moral world, as the instrument or guarantor of its internal coherence and as the organ whose task it was to preserve the internal 'balance' of its essential components (including its juristic component). However, he also saw himself as a guardian of that world, the juristic traditions of which assuredly fell under that guardianship.

Now it was of course his broad intention in his writings to provide a kind of theoretical articulation of the political world of his experience, but this endeavour, while successful on the whole, was yet inadequate with regard to the juristic dimension of that 'common' moral world. In the end, the strength of the 'case against' him has also to be acknowledged ; his theorising in this respect is surely inadequate, I would suggest, because he forthrightly rejected, instead of taking full advantage of, the theoretical tools which lay ready to hand, that is, the juristic/ political language of civil association and social contract. If it is reasonable, as I think it is, to characterise the socio-political universe of Bosanquet and his contemporaries as the moral world of which the Westminster model is the institutional expression, and if within that world there is acknowledged to be an ongoing tension - generally productive and creative but also capable of causing destruction - between the rights of individuals (or groups) and the communal pursuit of the common good by the state, then I would say that the language of civil association and social contract represents in a paradigmatic and unsurpassable manner the 'individual rights' pole of this ongoing tension.

(iv) Conclusion

If a weakness of Bosanquet's political philosophy is that he condemns, rather than taking full advantage of, the rich language of civil association, and that he thus appears at times to make it difficult for the members of a liberal society to breathe as free, autonomous individuals, it should also be pointed out that a real strength of his conception of the 'social' (of that realm which, as Bosanquet points out, 'statists' and 'individualists' fail in their different ways to appreciate) is that it is 'non-claustrophobic' and 'free flowing'. What I mean by the latter expression is that in Bosanquet's work as a whole, there is a very fine grasp, firstly, of the in-forming 'flow' (the 'first' flow) of the universal into each socio-political whole, regarded as a 'particular' and, secondly, of the vivifying flow of each socio-political whole, regarded in its role as a universal, into its differences/particulars. Bosanquet would insist that each socio-political whole or form of life is a distinctive particularisation of our (universal) humanity and that it is justifiable and legitimate in so far as it 'blessed' by the in-dwelling presence of 'universal humanity'

⁶⁹ Ibid., p.288.

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in its midst and can thus stand unashamed, so to speak, before the universal court of humanity. This is the gist of his insistence that, in the case of a particular socio-political whole, "its special form of good life, being a moral consciousness, is not merely a self-contained habit of conduct in the members of a group, but is an attitude and moral outlook which, though existing in them, has for its object the whole world, and is determined by the view and spirit which the group has evolved for itself, implying its conception of the best thing for the world."⁷⁰ Individuals thus live in an atmosphere and culture of freedom ; they are at all times free to appeal to this font of political legitimacy against the laws of the Commonwealth. Thus Bosanquet's political philosophy acknowledges the importance of the 'first' flow, ie., of the 'political' or political life as it is itself in-formed, as distinct from the manner in which it informs its own differences/particulars (the second flow) and in this way it contrasts with the stifling immanentism of modern political communitarianism as it has developed under the shadow of Wittgenstein,. For the latter, each form of life is ultimate and for social and political scientists under his sway, each socio-political form of life is likewise ultimate in the sense that, as a hermetically sealed universe of discourse, its 'internal' processes are either self-justifying or not justifiable at all. However, for Bosanquet, a socio-political form of life is anything but ultimate. Thus he insists that the spirit of humanity, or what he calls 'devotion to humanity as a best', is the ever present criterion, final court of appeal , and final font of political legitimacy (the wellspring of its flow, so to speak) of each human society.

If Bosanquet's political philosophy provides free individuals with a justified freedom to appeal to the 'court' of humanity against current laws and authorities deemed to be oppressive, it also acknowledges and theoretically supports the more positive freedom to engage in the collective formation of socio-political universals (or laws) which truly represent the well being of society. In this way, his work offers us a stark contrast with the profound and distorting antipathy directed by postmodernists and poststructuralists against the socio-political universal, for it fully acknowledges the importance of the second 'flow', ie., of the 'political' or political life as it in-forms its own differences/particulars, as distinct from the manner in which it is informed by the enveloping spirit of humanity (the first 'flow'). I have in mind here the thoroughly benign, 'non-totalising', life giving, constitutive flow of the socio-political universal (the socio-political whole as universal) into its differences/particulars. Bosanquet alerts us to the important fact that the all too easy and casual manner in which post-modern exponents of a 'politics of difference' identify 'universality' with 'repression' is really quite reckless and serves to excuse us from the demanding but necessary task of distinguishing between a (true) social universal that informs its diversity and a (false or 'totalising) social universal that overrides differences.⁷¹

⁷⁰ Ibid., p 199.

⁷¹ The theme of 'unity in and of differences' is further explored in B. Trainor, *Justice and the State: On Liberal Organicism and the Foundations of Emancipatory Politics* (Quebec: World Heritage Press, 1998) pp 87-89 and chapter five. For further discussion of the notion of the 'flow' of the universal into its particulars, see B. Trainor, *The Origin and End of Modernity ; Reflections on the meaning of postmodernism* (Quebec: World Heritage Press, 1998), chapters three and four.

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In conclusion, I wish to suggest that the sense of 'openness' (of freshness and 'freedom') that we find in the theorising of *The Philosophical Theory of the State* is strongly linked to the fact that Bosanquet both (i) acknowledged the value of justice and of legalistic notions generally and the legitimacy of their deployment, under appropriate circumstances, against the state and (ii) insisted upon the freedom and responsibility of each citizen to (in a more positive sense) participate in the 'mind' of the state, that is, in the formation of laws in the public interest. Fully alert to the two 'flows' which constitute the 'real' political world and which serve as criteria of legitimacy of the 'actual' or everyday political world, his work (and especially, I think, the freedom and sense of openness in his theorising) exposes by contrast the cramping claustrophobia of communitarian and post-modern theorising on politics. It was as if the fullness of the world of reality, because acknowledged as extending far beyond him, was allowed, by the very humility of that acknowledgment, the maximum 'freedom of expression' in his mind and work. One has the sense, in reading that work, of being challenged and invigorated by a mind that has plumbed, by opening itself to, the deeper realities of our common human experience and of being refreshed by the eternal well-spring of reality that flows through his work into our world.