CIVIL ASSOCIATION AND INTERNATIONAL SOCIETY:

MICHAEL OAKESHOTT'S POLITICAL PHILOSOPHY OF INTERNATIONAL RELATIONS

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SUMMARY

This thesis contends that Oakeshott's political philosophy contributes to constructivism in International Relations by identifying the moral foundations of international society and law. The epistemological basis of this contribution is a methodological holism that is defended through arguments developed within British Absolute idealism. The opposition between concrete and abstract concepts grounds a theory in which knowledge is conditional because it is constructed on certain assumptions or postulates. Philosophy identifies and interrogates the postulates, exposes their limited value and maintains the logical autonomy of the various forms of knowledge, from a universal point of view. The concepts of tradition and moral practice are central in Oakeshott's political philosophy, and indicate a theory of normativity in which moral reasoning and political activity are a form of argumentative discourse constructed by starting from the assumptions shared within a certain community. In this light, Oakeshott is compared to the exponents of the English School and to constructivism because of his definition of an interpretative approach, in which world politics is a normative engagement and the role of theory is to consider its presuppositions as well as its universal meaning. Moreover, it is shown that he offers a comprehensive theory of the evolution of international society and of the role of war that is consistent with his broader political philosophy. The theory of 'civil association' is the ground for an understanding of international society as an association between states constituted by the recognition of moral constraints on the actions of states. These constraints are institutionalised in customary international law, which is understood as a moral practice. Therefore, international society is grounded on an evolving morality resulting from the historical conduct of states. As such, Oakeshott's political philosophy provides an understanding of international relations that is distinct from both Realism and Universalism.

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INTRODUCTION

The purpose of this thesis is to identify the implications of Michael Oakeshott's political philosophy for international political theory and for the theory of international relations.[1] It argues that it may provide the grounds for an understanding of international society as a rule-based form of moral association between states.

Already, Oakeshott's thought has been considered from a rich variety of perspectives and has been interpreted in many, often divergent, ways. For example, scholars have placed his works in the context of the history of philosophy and they have highlighted their relation with British and German idealism.[2] His critique of Rationalism and the contraposition between civil association and enterprise association has also been considered as a contribution to contemporary Liberalism,[3] Conservatism,[4] and Republicanism.[5] However, little attention has been devoted to the influence of Oakeshott's thought on the study of international relations, even though his work has occasionally been considered relevant to contemporary theory of international politics (especially through the works of Neo-English School thinkers such as Terry Nardin, Nicholas Rengger and Robert Jackson, as well as to

[1] In the text, I will follow the convention of indicating International Relations as the study of international relations.

[2] Boucher 2001; 2012a; 2012b; Nardin 2001; Podoksik 2003; 2012.

[3] Gray 1989, 1993; Franco 1990, 2004; Haddock 2005; Galston 2012; Gamble 2012.

[4] Abel 2010; Devigne 2012.

[5] Boucher 2005a; Coats 1992.

constitutive theorists such as Mervyn Frost).[6] In many cases, even these theorists, who are all indebted to his thought, have failed to consider the broader implications of those of Oakeshott's concepts they apply to their own field.

The intention of this thesis is to consider Oakeshott's thought from both these perspectives. It shows that in Oakeshott's works there are systematic considerations for world politics. At the same time, the thesis will take Oakeshott's theory as a background and will develop its implications for the theory of international relations, with particular reference to the nature of international society and to the relations between international law and morality.

The distinction between political philosophy and International Relations Theory, in both its behaviourist and anti-behaviourist forms, started to collapse at the end of the twentieth century, when the critique of the positivist paradigm that had dominated International Relations gained momentum.[7] Between the 1980s and the 1990s, the so-called normative turn, with its emphasis on the moral nature of international politics, and the constructivist turn (which similarly focused on its ideational and interpretative nature) have indeed re-introduced philosophical reflection into the field of International Relations. [8]

One recent collection of essays, for example, discusses the importance of continental philosophers such as Nietzsche, Heidegger, Ricoeur, Wittgenstein, Gramsci, and Habermas (among others), who might have said little of direct

[6] See: Nardin 1983; Jackson 2000; Frost 2002; Rengger 2013. See also Bain 2003; Astrov 2005; Cotton 1999.

[7] See, Brown 1992: 1-19.

[8] Brown 2013: 485.

relevance to the conduct of states, but have exerted a considerable influence on contemporary theories of international relations. Nietzsche's notion of genealogy, Gramsci's concept of hegemony or Habermas's theory of communicative action – just to mention some among them – have had, for example, a profound impact on critical theory and constructivism.[9]

In addition, classic and contemporary political philosophers' considerations about international politics have been at the centre of scholars' attention.[10] David Boucher's *Political Theories of International Relations* is of particular importance to the argument of the thesis, since it applies the Oakeshottian conception of the history of political philosophy to the identification of a tradition of texts in the political philosophical reflection on the conduct of states.[11] Even though conceived as a unity, this history is regarded as animated by the dialectical relationship between three traditions of thought: Empirical Realism, Universal Moral Order and Historical Reason. As part of this, contemporary reflection on International Relations was eventually reconnected to 'the intellectual heritage of the political theory of international relations'.[12]

Moreover, political theorists have extended their considerations to the international realm. An exemplar in this respect was of course John Rawls's *The Law of Peoples* (1993), as were the works of Onora O'Neill, Charles Beitz, Brian Barry, Michael

[9] Farrands and Moore 2010.

[10] See, among many others, Brown 1992; Williams 1992; Boucher 1998.

[11] Boucher 1998.

[12] Boucher 1998: 11, 375-405.

Walzer, and others, who acknowledged that issues in International Relations are indistinguishable from those of political theory.

However, according to some scholars, International Relations as a discipline is now less concerned with 'Grand Theory' problems and more with action-guiding issues.[13] It also seems that there is a vague consensus among scholars advocating a certain methodological eclecticism, which merges positivist and post-positivist approaches, without much concern for the great historical metatheoretical debates.[14] However, as Christian Reus-Smit has recently pointed out, the solution of epistemological, methodological, and ontological questions, addressed through a self-conscious theoretical approach, is still essential to the discipline, and also to its quest for significance. What occasionally makes International Relations less-than-relevant is, Reus Smit argues, not just the lack of authoritative and charismatic public intellectual figures, or the loss of practical intents, but also the unawareness of the nature of practical reasoning and political action.[15]

If regarded in the light of this debate, Oakeshott's philosophy may appear idiosyncratic. The style of his writings and the intellectual heritage to which he refers are certainly very different from those dominating the current debate in International Relations. However, as I will argue, his ideas about the nature of normative reasoning and of political life, as well as its legal theory, may contribute to our understanding of world politics and international law.

[13] Brown 2013; Dunne et al. 2013; Weber 2014.

[14] Lake 2013.

[15] Reus-Smit 2012.

Design of the Thesis

This study will reveal that Oakeshott's theory of civil association offers an original analysis of the historical, social, and moral dimension of international society. It will demonstrate the contribution of Oakeshott's political philosophy to constructivist theories of international relations. It argues that international society is constituted by an international rule of law, conceived as the codification of an existing international 'moral practices'.

In his 'Introduction to *Leviathan*', Oakeshott states that, to fully understand a philosophical text, one should consider it in the context of the whole history of political philosophy.[16] Following this methodology, I delineate Oakeshott's ideas through the identification of their relations with the history of the political theory of international relations, as it has been presented by David Boucher, elaborating on Oakeshott's triadic conception of the history of political philosophy.[17]

The argument of the thesis is as follows: the first two chapters aim at identifying the meaning of Oakeshott's philosophical doctrine. To this end, his ideas are related to the philosophical tradition from which he developed his thought: that of British idealism. Chapter 1 focuses on the epistemological and methodological foundations of Oakeshott's thought. It considers not just the widely debated issues of the consistency between Oakeshott and British idealism, but also lays the ground for the discussion of his political philosophy. In particular, it focuses on the relations that he identifies between different kinds of knowledge, and it discusses his

[16] Oakeshott 1991: 223-28.

[17] Boucher 1998.

methodological holism. Chapter 2 continues this endeavour by focusing on Oakeshott's metaphilosophy, again in relation to the British idealist conceptions. It considers the nature and role of philosophy, its relations with ordinary understanding and with various forms of knowledge.

While the first two chapters are mainly devoted to the meaning and value of Oakeshott's epistemology and methodology, chapter 3 addresses questions of political philosophy. In particular, it considers Oakeshott's theory of normativity and practical discourse in the context of the logical-positivist critique of normative thought and of the consequent separation between empirical facts and normative values. In so doing, it examines Oakeshott's well-known and controversial thesis about the relation between practical activity and political philosophy.

With this discussion as a background, chapter 4 contends that Oakeshott's thought is relevant to the Great Debates that have characterized International Relations since the end of World War II. It shows Oakeshott's contribution to post-positivist International Relations Theory. In particular, it compares his critique of Rationalism in politics to the foremost exponents of the 'classical' and 'scientific' approaches. Its originality with respect to the methodological assumptions of the English School (with particular reference to Herbert Butterfield, Martin Wight, and Hedley Bull) are considered in the light of Oakeshott's theory of historical knowledge. The chapter goes on to highlight the Oakeshottian contribution to the normative turn in International Relations, as well as raising a possible comparison with constructivist methodology.

Thus, chapters 1 to 4 set out the epistemological, methodological and theoretical context for the analysis of Oakeshott's contribution to a constructivist theory of international society and morality.

In the light of this discussion, chapter 5 starts by presenting the Oakeshottian dichotomy between civil association and enterprise association, between nomocracy and teleocracy. In particular, it focuses on how political authority is understood in these two modes of political association. On this ground, the chapter turns to Oakeshott's history of the modern European state as presented in *On Human Conduct.*[18] It claims that it comprises a consistent reading of the evolution of international society – a reading that anticipates many constructivist concerns.

It is on this ground that the chapter looks at how Oakeshott's theory has been applied by neo-English School writers to interpret the nature of international society. In particular, it considers Terry Nardin's *Law, Morality and the Relations of States* (1983),[19] and Christian Reus-Smit's criticism of it.[20] Moving beyond Nardin's theory and, in response to Reus-Smit, it emerges that Oakeshott's theory of civil association may form the foundation for an understanding of international society conceived as a moral association constituted by customary international law. Elaborating on David Boucher's Oakeshottian triadic conception, the chapter considers Oakeshott's position in the context of the history of the political theory of international relations. It stresses the consistency between Oakeshott and the Historical Reason tradition, which is paradigmatically exemplified by Edmund

[18] Oakeshott 1975.

[19] Nardin 1983.

[20] Reus-Smit 1999.

Burke. Finally, the chapter shows the heuristic validity of this reading of the nature of international society by considering the current relevance of customs and of their codification in international law.

While chapter 5 addresses the ontology of international society, chapter 6 examines the normative theme of the relations between morality and international law. Following Chris Brown, normative questions are not those concerned with the desirability of different practical options, but instead those that investigate the moral dimension of international politics.[21] To identify how an Oakeshottian theory of international society sees the relations between morality and international law, that is to say, between moral values and international society, the chapter considers once again Oakeshott's political philosophy in the context of the history of the political theory of international relations. It systematically compares Oakeshott to Realist, Universalist and Historical Reason thinkers. In spite of his many strong similarities with several of the classic realist theorists, the chapter suggests that Oakeshott identifies the central and fundamental constitutive value of moral practices, intended as the outcome of the actual discursive interaction between different international agents. As such, his position may be compared to that of neo-Habermasian constructivism as well as to neo-Hegelian constitutive theory.

[21] Brown 1992: 3.

CHAPTER 1

EPISTEMOLOGY, ONTOLOGY, AND MODALITY

Introduction

Oakeshott's works appear relevant for contemporary theories of international relations with respect to two main groups of ideas, principally developed in *On Human Conduct*.

Firstly, the dichotomy between civil association and enterprise association (between a formal legal order constituted by non-instrumental rules and one grounded on a substantive state of affairs considered as a goal) has had a very considerable impact.[1] Scholars such as Terry Nardin and Robert Jackson have indeed employed it to revitalize the English School's notion of international society,[2] while Nicholas Rengger has recently used it to interpret the evolution of the just war tradition.[3]

Secondly, Oakeshott's notion of moral practice has proved to be fruitful not just for an understanding of international institutions by neo-English School writers,[4] but also for the development of constitutive theories of international relations. For example, Mervyn Frost has used it to define the normative framework constituting

[1] Oakeshott 1975: 111-22.

[2] Nardin 1983; Jackson 2000.

[3] Rengger 2013.

[4] See: Keen-Sooper 1978; Bain 2003.

individual identities, human rights, and ethical reasoning in world politics.[5] Moreover, as argued by Cornelia Navari, Oakeshott's idea of moral practice may be linked to the recent 'practical turn' in International Relations developed by post-positivist, constructivist, theorists.[6]

Notwithstanding this relatively significant influence, what is still missing from the debate is a thorough and comprehensive analysis of the relevance of Oakeshott's political philosophy for an understanding of international relations. In other words, it still needs to be explored what are the implications of Oakeshott's critique of rationalism, theory of civil association and the rule of law, as well as of his historical theory of the modern European state, for the theory of international politics.

Even Nardin, Jackson and Rengger, who more than others apply Oakeshott's categories to the analysis of international politics, do not in fact engage with the broad philosophical arguments that grounds Oakeshott's theory. The categories of 'civil association', 'enterprise association'; those of 'rationalism' and 'individualism'; of 'practice' and 'authority' are taken *prima facie* without further investigation into their particular epistemological and ontological assumptions, and out of the context of Oakeshott's broad philosophical theory. Even Terry Nardin – who has not only applied Oakeshott's notions of civil association and the rule of law at the international level,[7] but has also offered a comprehensive account of his philosophical arguments[8] – does not show the relevance of the former for the latter.

[5] See, in particular Frost 2002: 40-47.

[6] Navari 2011. See: Adler and Pouliot 2011, in particular Kratochwil 2011: 36.

[7] Nardin 1983; 1998; 2008.

[8] Nardin 2001.

On the other hand, those scholars such as Cornelia Navari, who see the relevance of Oakeshott's notion of practice for the current 'practical turn' in International Relations,[9] tend to find the epistemological and ontological grounding in other philosophical points of reference.[10] For example, constructivist theorists – who, in the words of Christian Reus-Smit, share the notion that agents, identities and interests 'are socially constructed' and 'are the product of intersubjective social structures'[11] – see themselves as an outgrowth of critical theory and have focused on empirical analysis rather than on theoretical discussion.[12] Those such as Kratochwil who base their arguments philosophically have mainly referred to Habermas's theory of communicative action, and largely ignored Oakeshott's contribution.[13]

I argue in this thesis that Oakeshott's political philosophy may be the ground for an understanding of international society as a rule-based form of moral association of states constituted by customary international law. More particularly, I claim that his political philosophy may contribute to contemporary constructivism, as it offers an original analysis of the historical, social, and moral dimension of international society. In contrast to Rengger, Nardin and Jackson, as well as to other neo-English

[9] See: Navari 2011.

[10] Navari 2011: 615.

[11] Reus-Smit 2003a: 188. Constructivism in IR is different from the version that dominates large part of Political Theory and which was inspired by Rawls's philosophy. For an account of 'political constructivism' see Roberts 2007. I will return on this aspect in chapter 4.

[12] Reus-Smit 2003a: 193-201.

[13] Kratochwil 2000; Risse 2000. On this see: Reus-Smit 2003a.

School writers and to constitutive theorists, I claim that to appreciate in full the relevance and implications of Oakeshott's thought for the understanding of international relations it is first necessary to step back and define its broader epistemological and methodological framework. It is only on the basis of this analysis that the place of Oakeshott's political philosophy in the context of post-positivist theory of international relations may be understood. The objective of this chapter is to consider Oakeshott's theory of knowledge as developed throughout all his main works.

Educated in Cambridge in the 1920s by J.M.E. McTaggart and W.R. Sorley in the philosophical school of British idealism, Oakeshott wrote his first monograph (*Experience and Its Modes*, 1933) under the influence of F.H. Bradley's *Appearance and Reality* and Hegel's *Phenomenology of Spirit*.[14] The aim of that book was indeed to offer an overarching vision of the nature and role of philosophical experience and of the relations between different forms of knowledge.[15]

Philosophical and epistemological concerns are also central in the celebrated introduction to Hobbes's *Leviathan,*[16] in some of the pieces collected in

[14] Oakeshott 1933: 6.

[15] Oakeshott 1933: 4. Even at the risk of not being completely loyal to the many terminological nuances of Idealists' and Oakeshott's thought, I will use as synonymous 'forms of understanding', 'spiritual forms', 'modes of experience', 'modalities of thought', 'forms of knowledge', etc., to indicate the differentiation of the concrete whole.

[16] There are two different versions of this text. The first is Oakeshott 1946. The second was in a 1975 collection entitled *Hobbes on Civil Association* (Oakeshott 2000), and later collected in the expanded version of *Rationalism in Politics* (Oakeshott 1991: 221-294).

Rationalism in Politics and Other Essays,[17] as well as in *On History and Other Essays*.[18] In this regard, *On Human Conduct* (which is the source of those ideas that are more relevant for the understanding of international affairs) is of particular relevance. As we see in the preface, it is a work in 'philosophical reflection', which devotes a large section to metaphilosophical discussion.[19]

However, the relevance of these idealist credentials, which were so apparent in *Experience and Its Modes* and in other writings of the thirties,[20] is more opaque in later works and is very much contested by many commentators such as Steven Gerencser,[21] Terry Nardin,[22] Paul Franco,[23] Luke O'Sullivan,[24] Efraim Podoksik,[25] and James Alexander.[26]

Elaborating on David Boucher's interpretation – which, instead, stresses the continuities in Oakeshott's philosophy[27] – in the following I will contend that Oakeshott consistently defended an original version of Absolute idealism grounded on a methodological holism, according to which the various forms of knowledge

[17] For example: 'The Voice of Poetry in the Conversation of Mankind' (Oakeshott 1991: 488-541). The text was originally published in 1959.

[18] Oakeshott 1999.

[19] Oakeshott 1975: vii.

[20] See, for example, the essay 'The Concept of a Philosophical Jurisprudence', Oakeshott 2007: 154-83.

[21] Gerencser 2000.

[22] Nardin 2001.

[23] Franco 2004.

[24] L. O'Sullivan 2010.

[25] Podoksik 2003.

[26] Alexander 2012.

[27] See, in particular, Boucher 1984; 1991a; 2001; 2012a; 2012b.

(history, science, practice, and art) are partial views of reality, as they are based on incommensurable and autonomous logical presuppositions. The structure of the present chapter is as follows. First, I will contend that Oakeshott maintained an idealist theory of knowledge that was articulated through a critique of philosophical realism as presented by logical positivism. I will then focus on Oakeshott's theory of modality as firstly presented in *Experience and Its Modes* and I will argue that it is further interpreted in *On Human Conduct.* Thus, I show that it represents the ground for his political philosophy as it is developed in later stages of his career. If the various forms of knowledge are considered as abstractions, the question that needs to be addressed is that of the role of the Absolute, what is concrete. In contrast to some recent interpretations (such as those of Efraim Podoksik and Luke O'Sullivan),[28] I will contend that Oakeshott's idea of the Absolute or unconditionality is indebted to that of F.H. Bradley and plays an important role which is consistent with his wider theory.

It is on this basis that in chapter 2 I will explain Oakeshott's understanding of the nature and role of philosophy and, in the following chapters, the nature of normative thinking and political philosophy, and then continue with his contribution to post-positivist theories of international relations.

Idealism and Truth

The first points that I wish to investigate are the logical and epistemological foundations of Oakeshott's political thought. As already mentioned, if it is an incontrovertible fact that the purpose of *Experience and Its Modes* was a

[28] Podoksik 2005; 2010; L. O'Sullivan 2010.

restatement of the 'first principles' of idealism,[29] what needs to be discussed is whether this may also be true of later works, where his political philosophy is more fully developed.

Before beginning the comparison between Oakeshott and British idealism, it is necessary to pose three main caveats. Firstly, for the idealists, logic is not the science of the validity of inferences represented by symbols (as it is for a large part of contemporary philosophy), but it is rather the study of thought and knowledge. It is to this idea that Oakeshott still refers in one his latest works, *On History and Other Essays* (1983).[30]

Secondly, in British idealism there was not a set of principles to which all its exponents subscribed. What characterized that philosophical movement was rather a group of interrelated ideas, often inspired by classical German philosophy, interpreted with a certain degree of liberty by its main exponents. As argued by David Boucher and Andrew Vincent, the movement had a historical unity despite the diversity, which is recognizable in the discussion of some fundamental questions and themes.[31]

Finally, neither the British idealists nor Oakeshott elaborated a philosophical system to match that of Hegel. Though profoundly influenced by Hegelianism and notwithstanding the coherence of their thinking, they never presented anything like a philosophical encyclopaedia.

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[29] Oakeshott 1933: 7.

[30] Oakeshott 1999: 6.

[31] Boucher and Vincent 2012: 38-42.

The most important among the constellation of ideas that defines British idealism was the polemic against empiricism and philosophical realism, which developed through a critique of the assumed dualism between the knowing mind and its objects. As T.H. Green, E. Caird, and Henry Jones refuted the positions of British empiricists (from Locke to Spencer and Lewes),[32] so later exponents of that movement, such as R.G. Collingwood and Oakeshott, argued against the realism of Logical positivism.[33]

The defence of the unity of mind with reality and of the interrelatedness of subject and object, that is, the identity between reality and rationality, is indeed one of the main concerns of *Experience and Its Modes,* which starts by identifying reality with thought and with the synthesis between 'experiencing' and 'what is experienced'. Experience is a 'single whole' that admits no 'final or absolute division'.[34]

Far from being abandoned in the essays written after World War II – where analytic philosophy was already hegemonic in British universities – this fundamental principle was reiterated in 'The Voice of Poetry in the Conversation of Mankind' (1959), which is often considered as Oakeshott's departure point from Absolute idealism.[35] Even though, in this text, Oakeshott seems to place more emphasis on the role of the knowing subject, reality is still defined as a 'world of experience'. The distinction between the 'self' and the 'not-self' is considered as 'unstable',

[32] More problematic, in this respect, is F.H. Bradley, who, for his doctrine of the Absolute, has been considered as a hyper-realist; see, Mander 1994.

[33] See: Mander 2011; Boucher and Vincent 2012: 50-55. See also, Kasuga 2010.

[34] Oakeshott 1933: 9-10.

[35] For example, Franco 1990: 3; 2004: 142; Nardin 2001: 48.

insofar as they 'generate one another'.[36] They are not independent but, instead, aspects of a single reality.

Thus, in both *Experience and Its Modes* and in 'The Voice of Poetry in the Conversation of Mankind', Oakeshott defends the idealist logical principle according to which nothing is outside thinking and prior to reason. This is what is still defended at the outset of *On Human Conduct*, where we read that no reality can be considered 'independent from reflective consciousness'.[37] As already stated in *Experience and Its Modes*,[38] even though an 'it' may temporally precede its 'interpretation', and a 'fact' may be antecedent to a 'theorem', the difference between the former and the latter is merely contingent: it is the recognition of something as an 'invitation' to further thinking and not a 'verdict'.[39] In short, like other idealists Oakeshott argued that experience is a *factum* – the result of the active character of mind – rather than a *datum*, an external object apprehended or reflected by intelligence.[40]

The most important implication of this fundamental principle is that ideas do not refer to anything outside of themselves. Therefore, they are always known in relation to other ideas and significant only within a world of ideas.[41] In this regard, *Experience and Its Modes* may be considered in the context of the debate between

[36] Oakeshott 1991: 496.

[37] Oakeshott 1975: 1.

[38] Oakeshott 1933: 32-33.

[39] See again, Oakeshott 1975: 1-2.

[40] Haddock 1996: 104.

[41] Oakeshott 1933: 29. See Nardin 2001: 23-27.

Bernard Bosanquet and F.H. Bradley about 'concrete universal' and 'floating ideas'.[42] Oakeshott indeed denies the possibility of an 'idea without a world'.[43] He recalls also Bradley's rejection of the existence of 'mere ideas',[44] devoting several paragraphs of *Experience and Its Modes* to a refutation of the notion that an idea may stand in isolation.[45] This same position is presented, and indeed further clarified, in 'The Voice of Poetry in the Conversation of Mankind' where we read that 'an image is never isolated and alone', belonging to 'the world or field of images which on any occasion constitutes the not-self'.[46] Once again, this same logical principle is reiterated in *On Human Conduct.* There, ideas construct 'platforms of conditional understanding', which are themselves constructed around certain postulates and ideas.[47]

From the synthesis between subject and object, and from the relatedness of all ideas it follows that, as for T.H. Green, F.H. Bradley, Bernard Bosanquet, Henry Jones, and H.H. Joachim before him, for Oakeshott the correspondence theory of truth must be rejected. Instead, coherence and comprehensiveness are the criterion of truth. The main elements of the coherence theory of truth were already outlined in Bernard Bosanquet's contribution to the intellectual manifesto of British idealism, *Essays in Philosophical Criticism* (1883).[48] The most systematic presentation of

[42] Cf. Bosanquet 1911: I, 5; Bradley 1946: 350; Bradley 1914: 28-64.

[43] Oakeshott 1933: 334.

[44] Bradley 1946: 324.

[45] Oakeshott 1933: 56.

[46] Oakeshott 1991: 497.

[47] Oakeshott 1975: 8-9.

[48] Bosanquet 1883.

this theory is, however, in H.H. Joachim's *The Nature of Truth* (1906), which shaped the subsequent debate between idealist philosophers and the logical realist school, who, with Bertrand Russell and G.E. Moore, took truth and falsity to be immediate characteristics of objective universals.[49] Mainly in opposition to this, Joachim asserts that something is true insofar as it belongs to a 'significant whole', one in which 'all its constituent elements reciprocally involve one another, or reciprocally determine one another's being as contributory features in a single concrete meaning'.[50] The relationship between judgments is internal, and they compose a whole system of knowledge.

Experience and Its Modes and subsequent works are predicated on this theory of truth, which posits the coherence of a world of ideas as the criterion of truth, and not the conformity of ideas to any external object. [51] Truth is a property of the ideas that compose a system and depends on the relations between its different parts.[52] This position can be interpreted as a critique of all forms of realism and foundationalism, which base knowledge either on the perception of an external reality, or on objectivity.[53]

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[49] A second edition of the book was published in 1939 with a preface by R.G. Collingwood. Joachim, W.R. Sorley and J.S. Boy-Smith are thanked in the preface of *Experience and Its Modes.*

[50] Joachim 1906: 66.

[51] Oakeshott 1933: 37. Elaborating on W.H. Greenleaf's interpretation, David Boucher argues that Oakeshott followed Collingwood and radically expanded Joachim's theory of truth by claiming the non-propositional character of statements. See: Boucher and Vincent 2012: 271.

[52] Boucher 2012b: 258.

[53] On this see, Stern 2009: 177-208.

To sum up, Oakeshott grounds his works on a philosophical idealism that asserts that there is no knowledge of reality independent of our understanding it. Object and subject are mutually constituted by their reciprocal relations. For this reason, as argued by the British idealist Henry Jones, for Oakeshott also there is no distinction between ontology and epistemology, between the question about the nature of reality and those concerned with our manner of knowing it.[54] As opposed to the realist epistemology developed since Descartes, the question of the object of knowledge is not separated from that of the manner in which it is known. This does not mean, however, that knowledge is arbitrary, that it is the construction of a solipsistic mind. Instead, insofar as the test of the validity of truth is coherence and comprehensiveness, the criterion rests on the reciprocal relations between ideas.

Modes of Experience and Orders of Inquiry

From the assumption that knowledge is the synthesis between the knower and what is known, between subject and object, idealist philosophy attempted to explain the differentiation of our understanding.[55] The epistemological question – that for the idealists is at the same time ontological – is about the relationship between different forms of knowledge, different forms of reality. As Oakeshott claims in *On History and Other Essays,* to reflect on knowledge is to reflect on the modality in which it is constructed: 'the conditions of understanding specify what is to be understood'.[56]

[54] H. Jones 1893.

[55] Boucher and Vincent 2012: 57-75.

[56] Oakeshott 1999: 6.

It is in this regard that G.R.G. Mure notes that British idealism does not attempt to articulate the Hegelian dialectical structure of development in systematic detail. [57] It is indeed the influence of the Italian idealists, and in particular Croce, Gentile and De Ruggiero, that leads R.G. Collingwood to elaborate in *Speculum Mentis* (1924), in *Essay on Philosophical Method* (1933), as well as in his moral philosophy lectures, a system based on the hierarchy of overlapping forms.[58] In *Speculum Mentis* he sees art, religion, science, history and philosophy as different kinds of knowledge, arranged in ascending logical order. None of these forms is self-sufficient, and each tends to transform itself into the form above it, which has a higher degree of coherence and unity.

Oakeshott's understanding of the different ways in which we experience reality, as presented in *Experience and Its Modes*, shares some aspects of R.G. Collingwood's *Speculum Mentis.* Like Collingwood, Oakeshott also explores the reciprocal logical relationship between different spiritual forms and between these and the Absolute.

In spite of this broad similarity, he proposes a rather different interpretation of this relationship, inspired by F.H. Bradley.[59] In *Appearance and Reality* Bradley affirmed that the various forms of experience – which he named pleasure and pain, feeling and will – are autonomous and equally necessary. There is not a hierarchy

[57] Mure 1954: 329.

[58] Boucher 1989a: 27-37. Boucher and Vincent 2012: 66-67. On the Hegelian influence on Collingwood see: Browning 2013.

[59] See Boucher 1989b; Boucher and Vincent 2012: 68. Podoksik (2003: 14) notes that many of the contemporary reviewers of *Experience and Its Modes* emphasised the autonomy of the abstractions of experience. It is in this aspect that was detected both the originality of Oakeshott's perspective and its continuity with Bradley's thought.

between all these aspects according to their proximity with the Absolute, and they are all abstractions and appearances.[60]

Oakeshott's notion of modality develops this position and conceives the various modes as grounded in different categories or postulates, which are independent from one another. The modes are the whole of reality from a particular point of view, specified by their postulates.[61] They are autonomous in relation to each other, though abstract in respect of the whole. As such, *Experience and Its Modes* is opposed to the hierarchical version inaugurated by Hegel and reinterpreted by Collingwood. According to Oakeshott, reality is differentiated or abstracted in a potentially infinite number of modes.[62] However, the most important and highly developed are history (grounded on the category of the past), science (on quantity), practice (on will), and, from 'The Voice of Poetry', art (on delight).[63]

It is important to underline that Oakeshott does not offer a speculative philosophical interpretation of the historical emergence of the various modes of experience. Even though he may once again be considered alongside Croce and Collingwood to the extent in which the various forms of experience are activities that develop throughout history, Oakeshott does not see any logical necessity in their emergence. Their presuppositions or categories the result of human intelligence and not, as in

[60] Bradley 1946: 404.

[61] Oakeshott 1933: 71-74.

[62] Oakeshott 1933: 84.

[63] Incidentally, it is interesting to note that that, similarly to Bradley (1876: 320), but differently from the Hegelian model as reinterpreted by Collingwood (1924), Oakeshott (1933: 295; 1993a: 37; 1975: 81-86) does not attribute to religion a logical self-sufficiency, including it in the world of practice.

Kantian philosophy, something that is presupposed by the mind. Exemplary in this approach is, of course, Collingwood's *The Idea of History*, where the development of history as an autonomous form of knowledge is presented.[64] Similarly, for Oakeshott, past, quantity, will, and delight – the points of arrests of experience from which history, science, practice and poetry respectively arise – are not metaphysical forms independent from actual experience and outside of the relation between subject and object,[65] but emerge historically and are the result of the activity of the mind.

As for Bradley,[66] however, for Oakeshott there is not a connection between historical and logical development. The various modes of experience are not 'moments indispensable to the completeness of a dialectic (or logical development)',[67] and philosophy or the Absolute, as I shall discuss below, is not its 'historical end'.[68] Although Oakeshott is not 'disposed to deny that this is a possible view of the character of experience', he underlines how it does not logically explain modality and abstractions, dismissing it as fundamentally irrelevant. [69] Even though, for instance, practice may have a genealogical or existential priority, or history may have appeared earlier than science, there is not a logical connection in this historical evolution. [70]

[64] Collingwood 1993.

[65] Oakeshott 1933: 23.

[66] Bradley 1946: 441.

[67] Oakeshott 1933: 79.

[68] Oakeshott 1933: 82.

[69] Oakeshott 1933: 73.

[70] Oakeshott 1991: 488; 1999: 25-26

Once again, far from being a question that he addressed only in his early writings, in the later works he also underlines the contingent nature of the arrests and their not being the result of a logical necessity. In his peculiar style, in 'The Activity of Being an Historian' (1958) Oakeshott affirms that modes of experience 'emerge like games that children invent for themselves'.[71] In a similar stance, in *On History and Other Essays* the various modes emerge 'without premonition from the indiscriminate groping of human intelligence'.[72]

The lack of relations between historical and logical development of the various forms of knowledge and the notion of modality as a whole represent a constant feature of Oakeshott's reflection and the logical standpoint from which all his subsequent thought is developed. In the text considered by many as the moment of departure from idealist logic – 'The Voice of Poetry in the Conversation of Mankind' – the idea of modality is still present. There is indeed a correspondence between the notion of modes of experience and that of modes of imagining or universes of discourses, presented in 'The Voice of Poetry in the Conversation of Mankind'.[73] Among the significant elements that indicate its persistent centrality is that, in 'The Voice of Poetry', he wanted to improve his theory by adding poetry as an autonomous mode.[74] As in *Experience and Its Modes*, and again in 'The Voice of Poetry', he discusses the postulates on which the modes are grounded. Finally, as in *Experience and Its Modes*, in one of his last works (*On History and Other*

[71] Oakeshott 1991: 151.

[72] Oakeshott 1999: 6.

[73] Oakeshott 1991: 496.

[74] Oakeshott 1991: 502.

Essays), Oakeshott still talks about 'modes of understanding': each of them is 'an autonomous manner of understanding, specifiable in terms of exact conditions, which is logically incapable of denying or confirming the conclusions of any other mode of understanding, or indeed of making any relevant utterance in respect of it'.[75]

In *On Human Conduct,* however, Oakeshott once again expresses this notion through a very different approach. There, he theorizes the existence of two 'orders of inquiry' constructed upon unambiguous categories. The first understands going-on as 'expression of intelligence';[76] the second as 'process', in terms of causal conditions.[77] Each of these two orders generates autonomous and distinct 'idioms of inquiry', capable of their own 'conditional perfection'.[78] As it was for the modes, orders and idioms of inquiry are abstract and conditional.

A possible reason for this change may be the increasing influence of neo-Kantian philosophies and in particular of Dilthey. It is often remarked that Oakeshott is particularly scant in his references to other thinkers, and he indeed left much to the expertise of his readers. However, as I have already mentioned, in the preface to *Experience and Its Modes* he mentions Bradley and Hegel as his own sources of inspiration. It is significant, then, that in another later text – his reply to D.D.

[75] Oakeshott 1999: 3.

[76] Oakeshott 1975: 13.

[77] Oakeshott 1975: 13.

[78] Oakeshott 1975: 12-15.

Raphael's review of *Rationalism in Politics* – he indicates Dilthey (along with Aristotle and Hegel) as one of his points of reference.[79]

Moreover, the affinity between Oakeshott and neo-Kantianism, in regard to the above-mentioned distinction between the two orders of inquiry, is also indicated by some loose notes preserved at the Oakeshott Archive at the British Library of Political Science.[80] In some of these papers, we find handwritten study notes about the distinction between natural and cultural sciences that are relevant to an understanding of Oakeshott's interpretation. They show his reflection on the exponents of the so-called South-Western or Baden School (in particular, Windelband, Dilthey, and Rickert), who were concerned with the identification of the conditions for the possibility of historical knowledge and moral experience. From these notes we may deduce that, like R.G. Collingwood in *The Idea of History*,[81] Oakeshott considers their thoughts as an attempt to identify a mode of knowledge autonomous from the method of the natural sciences as depicted by positivism

To sum up so far, starting from the assumption that reality and knowledge are not objects independent from the knowing mind, Oakeshott addresses the question regarding the relations between various forms of knowledge. In particular, I have

[79] Oakeshott 2008: 183; on the influence of neo-Kantianism see: Podokisk 2012; Wells 1994.

[80] In particular the folder: LSE/OAKESHOTT/3/17 (Oakeshott [no date]). It contains loose notes on Hegel's concrete universal, on Aristotle's politics as well as some study notes on Machiavelli, Bodin, and Hobbes that may have been the basis for some sections of the third essay in *On Human Conduct.* The content of this folder is not published in Oakeshott 2014.

[81] Collingwood 1993: 165-176.

emphasised that Oakeshott argues for the autonomy of the various modes, as each is grounded on incommensurable presuppositions. Moreover, I have also stressed that, in *On Human Conduct*, he temporarily abandons the conceptions of modality and subscribes to the neo-Kantian distinction between cultural and natural sciences, which, however, are interpreted as two incommensurable ways of conceiving reality. Throughout this discussion, Oakeshott identifies the conditions of logical possibility of the various modes of experience, or, as they are later called, universes of discourse, orders of inquiry, or modes of understanding. In so doing, as I will further explore in chapter 2 with reference to the idea of 'conversation of mankind', he defends the legitimacy of various approaches to reality and denies the possibility of any reductionism to a single, dominant, knowledge. It is this element that, as I will argue in chapter 3 and 4, represents the basis for Oakeshott's understanding of normative thought and of the philosophical understanding of politics.

Individuality and the Absolute

In *Experience and Its Modes*, and in subsequent works, the various modes of experience are therefore autonomous from each other and abstractions of the concrete whole. What needs to be clarified is therefore the logical difference between abstract and concrete concepts, between single ideas within the various modes and the whole. For the concern of my argument, it is on this basis that, in subsequent parts of the thesis, it will be possible to understand the value of practical and political concepts and their relation to historical knowledge and philosophical activity.

In *Experience and Its Modes*, this issue is addressed through a theory of individuality articulated in the opposition between particularity and universality.

Indeed, as David Boucher suggests, the problem of individuality is crucial in *Experience and Its Modes,* where the question continuously asked was what for each of the modes, and for philosophy as a whole, constituted the individual, or individuality.[82]

In this regard, Podoksik has claimed that the notion of the Absolute, which was central in previous British idealists, is irrelevant to Oakeshott's philosophy and that his focus is rather on particularity and on the pluralism of the forms of knowledge.[83] Similarly, Luke O'Sullivan identifies in *Experience and Its Modes* an ambiguous and contradictory metaphysics of the Absolute, which is eventually overcome in his later works, and particularly in *On Human Conduct*, where the Absolute is no longer a concern.[84] On the contrary, in my view, the idea of the Absolute as the condition of the possibility of all forms of experience and understanding is central to both Oakeshott's early and later works.

It is worth considering that Bernard Bosanquet and F.H. Bradley define individuality as a unity within itself.[85] Both defend an absolute monism in which the whole is the only substance and reality, whilst finite individualities are adjectival and apparent. The opposition between abstractness and concreteness is a matter of degree. 'Finite individuality' is an abstraction, a set of determinations of properties that cannot stand as the ultimate subject of a proposition. Only the whole, or concrete individuality, is real and true. What is true of a certain finite

[82] Boucher 2001: 82; Boucher 2012b: 259-65.

[83] Podoksik 2003: 43.

[84] L. O'Sullivan 2010.

[85] See, Mander 2005: 115.

individuality is ultimately true only to a certain degree, and can be affirmed – with the highest degree of coherence – of the 'infinite individual', reality as a whole.[86] For Absolute idealism, as interpreted by F.H. Bradley and Bernard Bosanquet, there is a logical hierarchy between different sorts of individuality: abstract and concrete.[87] Concrete individuality is a many in one, it is the universal that can be reached through a progressive process in which the shortcomings and the contradictions of abstract individuality are overcome.[88]

What characterizes F.H. Bradley's Absolute idealism and defines him as a sceptic is that the Absolute or Truth is not achievable through reason, but instead only through a form of direct, immediate, supra-personal perception.[89] However, this does not mean that it is completely unrelated to our thinking. Instead, it is present in all appearances, which point forwards beyond themselves. From this point of view, *Appearance and Reality* may be read as a critique of all knowledge on the ground of this logically necessary Absolute, the holistic undifferentiated whole in which all relations and differences are unified. A positive metaphysical knowledge is not considered possible and the system-construction pursued by F.H. Bradley self-limits itself to assign to all forms of existence a position according to their degree of truth and reality, which is to say, of realization of this 'idea of perfection or individuality'.[90]

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[86] Bosanquet 1918: 80.

[87] See, for example, Bosanquet 1918: 81.

[88] See Mander 2005: 123.

[89] Bradley 1946: 433.

[90] Bradley 1946: 440.

Similarly to these Absolute idealist positions, and in the attempt to explain to what extent 'individuality is the criterion of experience', Oakeshott refutes the conception that considers individuality as what is separated and self-sufficient. According to his argument, 'what is individual is what is specific and distinct, individuality is a matter of degree and circumstance'. [91] The difference is then not between an individual and its environment, but between what is 'permanently distinct and able to maintain its explicitness without qualification' and what is not.[92] In Oakeshott's theory, the individual points beyond itself, towards its environment, and is 'powerless to resist inclusion in what is more individual than itself', concrete individuality.[93] Finite individuality, or particularity, is designated: it is merely experience arrested at the point which appears to be satisfactory. As it was for F.H. Bradley, it 'only exists through an intellectual construction'.[94] Therefore, concepts within the various modes of experience are finite individualities as they are based on foundations that cannot be refuted without refuting, at the same time, all the modes. They take the part for the whole, elucidating an aspect of reality at the expense of comprehensiveness, and of other elements of concrete reality. On the other hand, the universal or the whole, because completely united with its context, is fully individual and completely substantive. [95]

To show that this notion of individuality nourished in the British idealist tradition is at the root of Oakeshott's political philosophy and is, as I shall discuss in the final

[91] Oakeshott 1933: 44.

[92] Oakeshott 1933: 44.

[93] Oakeshott 1933: 44.

[94] Bradley 1946: 464-65.

[95] See also, Oakeshott 2010: 154-60.

chapter of this work, central to his understanding of the moral criteria of the conduct of states, it is once again necessary to show that he remained consistent with this position in his later works where his political philosophy is developed.

In this regard, *On Human Conduct* is particularly relevant. In that text, the activity of understanding is still described as the 'recognition' of 'something in particular' distinct from 'all that may be going on'.[96] This engagement proceeds from the indistinctness of the whole towards a more and more recognized 'thing', which is a unity of 'characteristics', or, as it is called,[97] an 'ideal character'. Similarly to what is expressed in *Experience and Its Modes*, the identity of an ideal character is the unity of 'particularity and genericity', it is the coming together of a group of characteristics and postulates. Individual ideas are not distinct substances: their meaning and value are limited and derive from their relations with other ideas of the same kind.

As I will discuss further in chapter 6, this theory of individuality indicates that Oakeshott cannot be considered as a subscriber to methodological individualism. Individual concepts are not the logical starting point of knowledge, but their meaning is instead derived from the whole to which they are related. Indeed, for Oakeshott our thinking is always relational. Ideas belong indeed to a certain, more or less well defined, world of ideas or – as they are named in *On Human Conduct* – 'platforms of conditional understanding'. These are abstractions of the whole based on assumptions or postulates, to which they are related, and in which they

[96] Oakeshott 1975: 1.

[97] Oakeshott 1975: 4.

find their meaning.[98] Concepts are abstract individualities as they are grounded on certain presuppositions. At the same time, however, they point beyond themselves to a higher degree of unity.

The concrete individual – that is self-sufficient as it does not presuppose anything outside of itself – is what the idealist philosophical tradition calls the Absolute. Oakeshott follows F.H. Bradley by claiming that the Absolute is not the final end of knowledge, an ultimate final coherent body of knowledge. It is rather the totality from which all modes are abstracted: 'it is not something to come; it is the ground not the hope of experience'.[99] The key point here is to highlight that Oakeshott consistently and continuously maintains that the Absolute is the regulative ideal, the criterion of experience.[100]

Contra Podoksik and Luke O'Sullivan, this position is maintained not just in *Experience and Its Modes*, but also in *On Human Conduct.* As we have discussed, in *Experience and Its Modes* the Absolute is 'the concrete and complete whole implied and involved in every modification of experience'.[101] In *On Human Conduct*, Oakeshott explains how knowledge emerges from the undifferentiated whole, which is logically prior to it. Ideas and concepts are 'something in particular' which, emerge 'from the unconditional (and, therefore, unrecognizable) confusion of all that may be going on'.[102]

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[98] Oakeshott 1933: 47, 56.

[99] Oakeshott 1933: 349-50.

[100] This can be found in: Oakeshott 1933: 82; 2007: 181; 1991: 491–95; 1975: 3, fn. 1.

[101] Oakeshott 1933: 349-50.

[102] Oakeshott 1975: 1.

In other words, the unconditional or the whole in which all relations are overcome is still considered, in *On Human Conduct,* the presupposition of all possible understandings. A notion of 'unconditional or definitive understanding' has indeed 'no part in the adventure', but it may still 'hover in the background'.[103] In short, neither in *Experience and Its Modes* nor in *On Human Conduct* is unconditionality or Absolute experience irrelevant to the logic of the Oakeshottian notion of philosophy and experience. At the same time, in neither works does Oakeshott believe that it could be conceived as a final stage of knowledge.

To recapitulate, Oakeshott remained in the idealist tradition as he considered that the various forms of experience or orders of inquiry are partial and abstracted from the unconditional, and as he claimed that nothing is independent of reflective consciousness. In this, he may be considered a further interpreter of F.H. Bradley's notion of the Absolute and of its relations to its abstractions. Indeed, they both contended that, although complete coherence is the presupposition of any form of thinking, reasoning is always partial and conditional. However, even more than F.H. Bradley, he does not claim that even our best thinking can ever reach or conceive the Absolute, which is the regulative ideal of our knowledge and not a final and ultimate body of knowledge.

Conclusion

This chapter has highlighted Oakeshott's logic, that is to say his theory about the conditions of possibility of knowledge. More particularly, I have illustrated that, following the idealist principle of the unity between mind and objects, there is not

[103] Oakeshott 1975: 3.

a radical distinction between our understanding and reality; there is not an objective reality outside of the knowing mind. Ontological questions are the same as epistemological ones. This, however, does not equate with saying that truth is merely what one happens to believe. Instead, while denying that truth is the correct representation of an external objectivity (as it is for the realist paradigm), Oakeshott subscribes to the coherence theory of truth according to which the validity of an idea is given by its relation to ideas of the same sort.

As other idealists, Oakeshott offers an account for the variety of knowledge. As I have shown, it is the answer to this question that represents one of the main elements of originality in Oakeshott's idealism. Following F.H. Bradley, and in opposition to the hierarchical neo-Hegelian model of R.G. Collingwood, Oakeshott argues that our knowledge is based on autonomous and incommensurable presuppositions or postulates. As a consequence, there are different forms of knowledge that are autonomous from one another and in respect of the whole. The concepts of the various modes of experience, universes of discourse, orders of inquiry, and modes of understanding are true insofar as they are coherent with the presuppositions on which they are grounded and with the other concepts to which they are related. Individual concepts that are relevant within one of these modes (such as practical concepts) are irrelevant for others. Even though Oakeshott does not offer a speculative philosophy that gives reasons for their emergence, these presuppositions, I have illustrated, are the result of the activity of mind throughout history.

I will discuss in chapter 3 the relevance of these principles for Oakeshott's conception of political activity, and in chapter 4 I will look at how these

fundamental epistemological tenets may be placed in the context of the metatheoretical debate in International Relations. What is for the moment important to underline is that, through a reinterpretation of F.H. Bradley's notion of Absolute, Oakeshott subscribes to a methodological holism or monism according to which the whole is logically prior to the individual. The meaning of individual concepts is derived from the context in which they are situated and from the postulates or presupposition on which they are grounded.

However, by denying any hierarchy among forms of knowledge as well as any teleology in their historical development, he also denies the Hegelian notion that the Absolute is the historical and logical end of knowledge to be reached by philosophy. Instead, as I will further discuss in chapter 2, there is not a final state of knowledge or reality that might be reached and that represents the teleological end of current experience. At the same time, he contends that all of the various modalities of experience, all forms of knowledge, are equally legitimate.

In sum, Oakeshott's denial of the distinction between the subject and object, as well as his emphasis upon conditional knowledge (where the conditions are the postulates upon which a world of ideas rests and generates the reality of which it is conscious), show the epistemological grounds of my main contention, that is that Oakeshott's political philosophy of international relations may be considered a form of constructivism.

CHAPTER 2

PHILOSOPHY AND CRITICISM

Introduction

Chapter 1 has shown that Oakeshott's theory of modality and individuality contributes to constructivist approaches in International Relations by providing a theory in which epistemological and ontological questions are the same. As subject and object are interrelated, to ask what is reality is posing a question about our understanding of it. Oakeshott's philosophical idealism suggests that knowledge and reality are based on certain historically emerging postulates, which generate reciprocally autonomous modes of conceiving the world.

Moreover, I contended that Oakeshott's theory is based on a methodological holism that he defends through arguments he developed within the British idealist tradition. More precisely, by conceiving the opposition between particularity and universality in the same terms as Bernard Bosanquet and F.H. Bradley, Oakeshott argued that individual concepts derived their meaning and validity from their relationship with other concepts of the same kind, and with their presuppositions.

As such, Oakeshott's philosophy contributes to recent constructivist theories of international relations, which have shown that the ground of any possible answer to practical concerns is the awareness that social reality, as well as our possibility of changing it, are the result of our understanding.[1] Therefore, to answer

[1] Reus-Smit 2012.

metatheoretical and epistemological questions increases our awareness of the nature of world politics and of political action.

That this is one of the essential elements in International Relations is also shown by its history as an academic discipline in the twentieth century, which is shaped by metatheoretical debates. Similarly, the recent emphasis upon the relevance of philosophical reflection for the understanding of the relations of states, as well as the contestation of the divide between political theory and International Relations, have emphasised the relevance of philosophical reflection to world politics. In this last regard, despite the dominance of the analytic paradigm for a large part of post-World War II political philosophy, the theory of international relations has also been influenced by the Continental style of philosophizing. For example, critical theorists have developed the positions of Habermas, Foucault and Gramsci; whereas constitutive theorists have elaborated on those of Hegel (albeit without his metaphysics or philosophy of history). More important to the argument of this thesis Nardin's and Rengger's works (among others) have shown the relevance of Oakeshott's political philosophy for the understanding of international society and of its evolution. However, as I already have already suggested, they have not explicitly appealed to the philosophical background theory that sustains his arguments.

To show Oakeshott's contribution to constructivism in International Relations, it is necessary to discuss his conceptions of the nature of philosophy. It is indeed only by doing this that it is possible to understand the value of the ideas elaborated by Oakeshott in his political philosophy and, by implication, in his international theory.

In this chapter I will argue that Oakeshott conceives philosophy as a critical activity that identifies the postulates or presuppositions of various concepts and, at the same time, attempts to define their universal, concrete or unconditional, meaning. However, I will contend that for Oakeshott, philosophical criticism does not aim at, nor achieve, a definitive and ultimate body of knowledge and all its results are conditional.

This discussion constitutes the condition for the understanding of his philosophy of international relations, which I will examine in the rest of the thesis. It is indeed on this ground that in chapter 3 I will discuss the relations between philosophy and normativity, and in chapter 4 the Oakeshottian contribution to post-positivist and constructivist theories of international relations.

Criticism and the Method of Philosophy

In chapter 1, I contended that Oakeshott may be considered to contribute to constructivism in International Relations because he claims that no knowledge is independent of the knowing subject and that there are no criteria of objectivity external to the mind. Thinking does not start from a blank slate but instead from a given set of more or less coherent concepts or ideas constructed on certain postulates. It is the attempt to move from what is already known towards a more coherent knowledge. What characterises the various modes of experience or (as they are called in subsequent Oakeshott's works) universes of discourse, or orders of inquiry, is that even though they are activities that try to achieve a higher degree of coherence, they never criticise the assumptions on which they are based. It is for this reason that they are always conditional, they are abstractions of the concrete whole.

On the contrary, philosophical activity is defined as the 'unremitting pursuit of concrete individuality',[2] of a concept which is not related to anything external. This notion is summarised in *Experience and Its Modes* as follows:

> Philosophy, for me and for others, means experience without reservation or presupposition, experience which is self-conscious and self-critical throughout, in which the determination to remain unsatisfied with anything short of a completely coherent world of ideas is absolute and unqualified.[3]

It is indeed clear who shared this notion. For example, F.H. Bradley conceives philosophy as 'the attempt to know reality...not simply as piecemeal or by fragments, but somewhat as a whole'.[4] Similarly, Bernard Bosanquet defines philosophy as 'the studying of the whole, as it is, and for its own sake, without reservation or presupposition'.[5] He also suggests that it explains the significance of what is already known.[6] That this notion of philosophy as self-critical activity is relevant to Oakeshott's later writings is clear in *On Human Conduct*, where we read that it is

> A special engagement where postulates are identities waiting to be understood and not instruments of understanding, and in which questions are asked not in order to be answered but so that they may themselves be interrogated in respect of their

[2] Oakeshott 1933: 45.

[3] Oakeshott 1933: 82.

[4] Bradley 1946: 1.

[5] Bosanquet 1923: 2.

[6] Bosanquet 1903: 166.

> conditions ... Here, theorizing has revealed itself as an unconditional adventure in which every achievement of understanding is an invitation to investigate itself.[7]

In *Experience and Its Modes*, the method through which rethinking and re-understanding take place is that of 'refutation', which is the exhibition of

> The principle of the fallacy or error in virtue of which a form of experience falls short of complete coherence; it is to discover both the half-truth in the error, and the error in the half-truth'.[8]

In other words, consistent with earlier British idealists,[9] for Oakeshott philosophy is the criticism of categories, leading to the discovery of the conditions of their existence that are, at the same time, the principles of their fallacy.[10] Philosophy has the aim of identifying the postulates or presuppositions at the ground of each world of ideas and of each mode of experience or understanding.

At the same time, however, philosophy aims to identify the universal, or concrete, value of the concepts of the various modes, that is to say, in relation to a context as universal as possible. In this last regard, Luke O'Sullivan has recently contended that Oakeshott 'gradually gave up the notion that philosophy understood phenomena in relation to the logical whole of the universe and that philosophical judgment could give a final and real meaning to things by the discovery of their

[7] Oakeshott 1975: 10-11.

[8] Oakeshott 1933: 4.

[9] See for example: Pringle-Pattison Seth 1883; Caird 2004. I have discussed the relations between Oakeshott and the British idealist notion of philosophy in Orsi 2012.

[10] Oakeshott 1933: 86-87; 1991: 151-83, 491; 1975: 9; 1999: 3-6.

final and real content and value'.[11] In this light, in *On Human Conduct* philosophy may be considered as unconditional simply because it is a ceaseless process of questioning and not because of any unconditional understanding to be achieved.

However, this interpretation is not coherent with what we read in *Experience and Its Modes*, where philosophy does not reach final and ultimate knowledge, but is rather defined by the nature of its engagement. There we may read that:

> It is not in virtue of its actual achievement that an experience may be called philosophical; rather, philosophy should be regarded as the determination to be satisfied only with a completely coherent world of experience. For it is not merely its actual achievement which differentiates philosophical from abstract experience, it is its explicit purpose.[12]

In *Experience and Its Modes,* considered the text in which Oakeshott would have defended the idea that philosophy is the achievement of absolute knowledge,[13] what differentiates philosophy from abstract experiences is only its being 'critical throughout'.[14] It is the '*the attempt* to realize the character of experience absolutely'.[15] In short, there is no textual evidence in *Experience and Its Modes* that the Absolute (i.e. an absolutely coherent and satisfactory world of ideas) is, or will ever be, reached.

[11] L. O'Sullivan 2010: 30.

[12] Oakeshott 1933: 347.

[13] Franco 2004: 142.

[14] Oakeshott 1933: 347.

[15] Oakeshott 1933: 347. Italics mine.

That philosophy does not aim to an absolute objectivity is also demonstrated in a passage from a 1938 essay, entitled 'The Concept of a Philosophical Jurisprudence'. There, Oakeshott identifies his philosophical point of reference and writes:

> The Socratic method is an example, though an imperfect example, of the process I have been trying to describe; so also is the method of enquiry pursued by Kant and Hegel; so also, though more obscurely, is the method characteristic of Scholastic philosophy.[16]

These thinkers appear very often to indicate the salient moments of idealist histories of philosophy. Indeed, Plato is frequently considered as the first idealist; Medieval Aristotelians are regarded as the prosecutor of ancient dialectic; Kant and Hegel are usually seen as the fathers of modern idealism, as stated also by Henry Jones in 'Idealism and Epistemology'.[17] R.G. Collingwood in his *An Essay on Philosophical Method* (1933) sees Socrates as at the one who stated for 'the first time that knowledge is within the mind and brought to birth by a process of questioning'. He is considered the one that inaugurated that 'important group of methodological conceptions' that owes its origin to a 'technique in philosophical discussion', which is the 'dialectic'.[18]

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[16] Oakeshott 2007: 172. See also: Oakeshott 1933: 37. A comparison between Oakeshott's and Socrates's method is presented in Greenleaf 1966: 14-15.

[17] H. Jones 2004.

[18] Collingwood 2005: 10. It is interesting to observe that in his 1938 review of Collingwood's *Principles of Art* (the same year in which the 'The Concept of Philosophical Jurisprudence' was published) Oakeshott described the method there used as 'Socratic'. According to Oakeshott, Collingwood raises a large sort of 'philosophical questions to be investigated', showing the inconsistencies of current beliefs. However, their 'destruction is

In the above text, Oakeshott seems to adhere to those idealist interpretations, such as Caird's, [19] that found the limits of Plato and Aristotle in the assumption of an external and independent object as a criterion of truth. Though eternal and beyond becoming, the Absolute constitutes an object independent from spiritual activity. For them, Ancient dialectic was therefore a process of increasing correspondence between mind and Absolute reality, considered distinct and separate. In this understanding the role of Kant and Hegel was to overcome these hindrances, starting to recognize that thought presupposes nothing outside itself and that its criteria are within mind. This understanding of the dialectic asserts the ultimate character of philosophy but also the absence of a final body of knowledge as an external criterion. This view is shared by Collingwood in *The New Leviathan*, where he follows Plato's *Meno*[20] in considering dialectic to be conversational and not eristic, which is to say, to be not oriented towards the achievement of a final body of ultimate truths.

In a similar manner, also in *On Human Conduct*, in philosophy 'what is important is the critical inquiry into the conditions of conditions'.[21] The denial that philosophy can be associated with a final and fully coherent world of ideas is clearly stated in

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followed by construction' and Collingwood produces a new theory regarding the nature of Art (Oakeshott 2007: 185; See: Connelly 2003: 16). Oakeshott's high opinion of the *Principles of Art* is shown also in a letter that he addressed to Collingwood in May 1938 in which he praised the book as a 'miracle' (See: Oakeshott 1938). The letter is in Theresa Smith's private collection. I thank David Boucher for providing me with a copy.

[19] Caird 1865: 351-84; Mander 2011: 73-87.

[20]See, Collingwood 1992: XXIV. 57. Oakeshott refers to this passage in one of his notebooks see, Oakeshott 2014: 309.

[21] Oakeshott 1975: 29.

the rewriting of Plato's 'cave allegory'.[22] There, the possibility of an effective achievement of an unconditional knowledge is considered irrelevant to philosophical activity:

> I shall pass over the difficulties entailed in the notion of an unconditional understanding, which are, perhaps recognized in the visionary quality attributed to this final achievement; what is important is the critical inquiry into the conditions of conditions in which it is reached.[23]

Again, what does count is philosophical activity in itself, both as the creator of the criterion of thought and as the continuous overcoming of partiality through the unremitting research into an ultimate meaning of concepts. This critical role of philosophy is once more defended in *On History and Other Essays*. There, the philosopher's concern is the 'logical' examination of current concepts and forms of understanding, and not the construction of a final body of knowledge.[24]

To sum up, in contrast to what is defended by Luke O'Sullivan, what I argue is that Oakeshott consistently contends that philosophy is an unremitting process of criticism of current knowledge and, at the same time, the progressive and always uncompleted attempt to reach a fully satisfactory, because universal, definition of concepts. Neither in *Experience and Its Modes* nor in *On Human Conduct* did Oakeshott believe that a final body of absolute and ultimately defined concepts was achievable. Instead, philosophy is the continuous critical assessment of concepts in the light of absolute or unconditional experience, which is, as I have just shown, the

[22] Oakeshott 1975: 27-31.

[23] Oakeshott 1975: 29.

[24] Oakeshott 1999: 3-6.

ultimate presupposition of any form of experience or understanding, and not a final body of concepts.

However, to say that the Absolute cannot be reached is not affirming that philosophical concepts do not possess a higher degree of universality. On the contrary, philosophy is the activity that attempts to define concepts that are valid outside of the relations from which they originated. It enlarges the context in which concepts are valid. As already discussed, in *Experience and Its Modes* philosophy is the unremitting pursuit of concrete individuality; it is the never fulfilled attempt to achieve a fully satisfactory definition of concepts.[25]

In *On Human Conduct*, it is the notion of ideal character that, rather than refuting this interpretation, provides an example of this method. Ideal characters are indeed the result of the theoretical activity. They are defined as 'composition of characteristics', a coherent unity of particularities. Ideal characters offer a broader universality than the original starting point of thinking.

For instance, in the first essay of that work the expression 'human conduct' denotes an 'ideal character'. 'Human conduct' is not a particular or individual action, nor their mere generalization, nor an instrument for identifying 'a family of goings-on'.[26] When individual performances are considered on the ground of their postulates, in terms as universal as possible, what emerges is the identity, the ideal

[25] Oakeshott 1933: 58.

[26] Oakeshott 1975: 31. On the similarity between Oakeshott's 'ideal characters' and Max Weber's 'ideal types' see: Turner 2014.

character: ‘human conduct’. As such, it is a universal concept because it relates to a wider context than the particulars.

I will explore in chapters 5 and 6 the implications and the relevance of this notion for Oakeshott’s political philosophy of international relations, but a further example is provided by the two ideal characters that are examined in the second essay of *On Human Conduct*: civil association and enterprise association. They are not particular models of political community that it is possible to find in certain circumstances or that may be achieved in the world. Instead they represent the universalisation of two opposite modalities of human relationship, when ‘the existence of intelligent and free agency’ is taken as a presupposition.

In short, rather than being the text in which the notion of philosophy as the search for universality is abandoned, *On Human Conduct* is rather the one in which it finds a new interpretation. Even though limited to a particular subject matter (i.e. human action), in that work philosophy attempts (as I will further discuss in chapter 3) to identify concepts as universal and satisfactory as possible.

To sum up, for Oakeshott philosophy is animated by a method that has the aim of defining concepts by refuting the inconsistencies and dogmatism of current ideas. Having as its starting point abstract individuality, and by means of progressive refutations, philosophy defines a more and more complete individuality, endowed with a higher degree of unity with its related ideas and its context. However, philosophy cannot be identified with this final unity – an Absolute which is never reached – but rather with the radical critical activity of thinking without presuppositions.

The Conversation of Mankind

In the previous section, I have illustrated that Oakeshott follows other idealists in claiming that philosophy discovers the postulates of each world of ideas. In so doing, it shows their conditionality. However, for British idealists 'philosophical criticism' is not only the clarification of the categories or conditions on which different forms of experience are grounded, but also the process through which their 'dialectical connections' are identified and constructed. For Andrew Seth Pringle-Pattison, for example, the survey of the categories of thought and of their dialectical connections leads to a 'complete notion of experience'.[27]

Philosophy cannot be satisfied with the mere critique of partial truths, but has to overcome their partiality by considering them in the light of the substantial unity of human reason.[28] This constructive side of philosophical criticism is defended by E. Caird's Hegelianism.[29] Caird sees philosophy not only as the process through which presuppositions of thought are shown, but also as the development of an 'absolute and objective synthesis'. In other words, philosophy reflects the unity among all different spiritual forms. It organises them according to their own logical categories.

Similarly, one of the latest exponents of the British idealist movement, R.G. Collingwood, conceived his work as a reaction to what was perceived as a crisis of European culture; a crisis involving the system of knowledge and, at the same time,

[27] Pringle-Pattison Seth 1883: 21, 40.

[28] Pringle-Pattison Seth 1883: 42.

[29] Caird 2004: 26-44

the whole civilization.[30] In *Speculum Mentis* (1924), this malaise is identified with the dissolution of the unity of knowledge, and of its self-consciousness, caused by Naturalism and Positivism.[31] According to this account, the process started during the Renaissance, when each knowledge 'tended more and more to lead its followers into some desert where the world of human life was lost and the very motive for going on disappeared'.[32] Philosophy, for Collingwood, has to reconstruct a philosophical encyclopaedia in which all forms of knowledge are hierarchically classified according to their degree of adequacy in regard of absolute knowledge.

As already discussed in chapter 1, Oakeshott opposes the post-Hegelian theory, according to which the various spiritual forms are in a dialectical relationship in which they overcome one another, with one in which the modes are autonomous from one another because based on irreducible postulates.

Far from being the point at which Oakeshott abandoned his idealism, as argued by Gerencser,[33] the essay 'The Voice of Poetry in the Conversation of Mankind' represents instead the text in which the conception about the relations of the various modes is synthesized through the image of 'conversation'.[34]

With regard to previous British Idealist positions – such as those of Caird and Collingwood – conversation seems, in the first place, to indicate a more faded

[30] Collingwood 1998: 343. A comparison between Oakeshott and Collingwood on this point is in Podoksik 2003: 9-34.

[31] Collingwood 1924: 15-38.

[32] Collingwood 1924: 34.

[33] Gerencser 2000.

[34] Oakeshott 1991: 489.

judgment on modernity, expressing a different role for philosophy. The use of the word 'conversation' itself, as revealed by the cursory reference to Montaigne,[35] is taken from the humanist model. In so doing, Oakeshott underlines that the plurality of perspectives on human experience can be considered an enriching aspect of the self-understanding of mankind as a whole.[36]

Therefore, the prime objective of Oakeshott's critique is not the fragmentation of knowledge, but those hierarchical conceptions of the relation between disciplines such as those attributing the supremacy to philosophy, or, conversely, attempting to reduce culture to nature, history or philosophy to science.[37] Oakeshott delineates a model of the unity of culture in which all different voices contribute according to the limited boundaries guaranteed by their postulates, without overwhelming other partial perspectives of the whole. There is not a privileged mode of thinking or a single unified method that may lead to truth. Instead, the idea of conversation suggests that all the various forms of knowledge are equally legitimate and that they all contribute to the conversation of mankind.

What is important to underline, however, is that in contrast with previous idealist models, philosophy does not construct a positive synthesis between different modes of experience. Instead, by identifying their presuppositions or postulates, it delineates not just the conditions of logical possibility of the modes, but also the limit of their validity. What the interpretations that see in the image of conversation a turnaround in Oakeshott's thought seem to miss is that, as in *Experience and Its*

[35] Oakeshott 1991: 491

[36] Oakeshott 1991: 490.

[37] Oakeshott 1991: 493.

Modes, the aim of philosophy was to avoid the confusion between different and autonomous modes (*ignoratio elenchi*) – insofar as postulates and conclusions of one form are irrelevant to the other – so in 'The Voice of Poetry' philosophy limits the dogmatic pretensions (*superbia*) of the various universes of discourse.[38]

More relevant to the argument of this thesis, it is in the light of the idea of conversation that Oakeshott's critique to Rationalism in politics – which was developed in a series of articles published in the 'Cambridge Journal' in the late 1940s and then collected in *Rationalism in Politics and Other Essays* in 1962 in may be understood[39] – may be best understood. Indeed, the model of conversation criticises all theories of knowledge that assert the predominance of one form of knowledge over the other. For example, it is against the idea that practical reasoning should aim at certainty, by means of the method of scientific inquiry. According to Oakeshott's notion of modality, this is a fallacy: a case of *ignoratio elenchi.* Indeed, conclusions that are reached from certain assumptions (in this case those of scientific inquiry) are not relevant in a world of ideas constructed on different assumptions. As I will further discuss in the next chapter, practical reasoning and political activity at both the domestic and the international level have their own autonomous criteria, and concepts from other modes are therefore irrelevant.

A Sceptical Notion of Philosophy

This reinterpretation of the idealist conception of philosophy cannot be associated with a dogmatic attitude. Instead, with reference to his conception of philosophical

[38] Oakeshott 1991: 492.

[39] On this see: Haddock 1996.

method, and the notion of conversation, Oakeshott does not hesitate to call himself a 'sceptic'.[40] Unless we consider this self-description as a statement of intellectual humility and detachment, it must indicate a certain philosophical position coexisting with his broader epistemological and metaphysical commitments.[41]

The just examined model of conversation suggests that Oakeshott reinterpreted some of the arguments taken from the sceptical tradition. In particular, he takes from the humanistic and sceptical model of conversation as described by Montaigne the notion that knowledge is not eristic, it is not teleologically oriented toward a final absolute truth. In 'The Voice of Poetry' we read that in conversation there is 'no proposition to be proved and no conclusion sought'.[42] The different voices of the 'conversation of mankind' are the different 'modes' or 'forms' of experience or imaginings. They are neither hierarchically nor teleologically organized.[43] Secondly, as was the case in the sceptical ideal, each of these modes poses truths that have no absolute claim; their certainties are mere opinions and 'are shown to be combustible… by being brought in contact with the presence of ideas of another order'.[44] Thirdly, as already discussed, in Oakeshott's logic there are no voices with

[40] Oakeshott 2007: 172; 1991: 44, 493. For interpretation of Oakeshott as a sceptic see: Wood 1959; Botwinick 2011; Tseng 2003; 2013. I examine Oakeshott's relation with Ancient and Modern scepticism in Orsi [forthcoming].

[41] Laursen (2005) and Podoksik (2003: 35-36) argue instead that Oakeshott uses the vocabulary of scepticism in its ordinary meaning to indicate a vague attitude against metaphysical systems. I examine Oakeshott's relation with Ancient and Modern scepticism in Orsi [forthcoming].

[42] Oakeshott 1991: 489.

[43] Oakeshott 1991: 489. Cf. Boucher 1989b.

[44] Oakeshott 1991: 489.

superior value, and philosophy is merely a 'parasitic' second-order discourse and not the dialectical supersession or a final body of knowledge that asserts an ultimate Truth.[45] Philosophy itself is therefore a conversational voice. As is significantly claimed in *Experience and Its Modes*, philosophy does not consist in 'persuading others', but in making 'our mind clear'.[46]

That it is from the sceptical tradition that Oakeshott takes these arguments is shown not just by the cursory reference to Montaigne in 'The Voice of Poetry', or by the approving way in which he refers to the French essayist elsewhere in his works,[47] but also by the many references to the *Essays* in Oakeshott's notebooks and typescripts.[48]

In addition to the influence of Montaigne, it is of course that of Hobbes that characterizes Oakeshott's definition of philosophy. Indeed, in contrast to those who associate Hobbes with modern rationalism, Oakeshott reads his philosophy as an expression of the modern sceptic movement, also influenced by Scholastic nominalism.[49] In particular, Oakeshott considers Hobbes's notion of philosophy as a 'movement' and as a 'conversation with himself'.[50] Even though Hobbes's

[45] Oakeshott 1991: 491.

[46] Oakeshott 1933: 3. Boucher 2012a: 63.

[47] For instance in Oakeshott 1975: 73, 240-41.

[48] The relevance of Oakeshott's study of Montaigne is evidenced by the fact that the first reference is in a notebook dated 1936, which is mainly devoted to the theme of mortality. Oakeshott's final mention of Montaigne is instead in a notebook dated 1967-1980. Oakeshott 2014: 284, 309, 324, 482, 483–84, 517, 520-21. On Oakeshott's acquaintance with Montaigne's in his early years see: Grant 1990: 4.

[49] Oakeshott 1991: 230.

[50] Oakeshott 1991: 232.

philosophy is, for Oakeshott, animated by a ferocious scepticism in which 'the prime mover was doubt',[51] he nevertheless interprets it as systematic.[52] The core of this system is, however, a notion of philosophy as conditional knowledge.[53] It is difficult not to read in these descriptions of the *Leviathan* a summary of the Oakeshottian understanding of philosophical thinking, in which, as I have argued, criticism is accompanied by the ever-failing search for ultimate coherence.

Having established that Oakeshott knew and referred to the arguments of the sceptical tradition as represented by Montaigne and Hobbes, it is now time to consider, contra Gerencser's interpretation,[54] the broad consistency between this scepticism and Oakeshott's Absolute idealism. In so doing, it will appear that the methodological holism at the foundation of Oakeshott's epistemology does not imply the notion that philosophy reach a final and absolute truth that 'overcomes' those of the various modes. Therefore, as it will appear below in the thesis, political activity maintains its own autonomous criteria, which are independent from the universals defined through philosophical criticism.

As I have argued in chapter 1, Oakeshott reinterprets F.H. Bradley's positions with particular regard to the role of the Absolute as a regulative ideal and not as a final body of ultimate concepts. Indeed, Bradley confines thought to uncertainty and defectiveness by doubting all preconceptions, and by refuting our relational and

[51] Oakeshott 1991: 230.

[52] Oakeshott 1991: 231.

[53] Oakeshott 1991: 245.

[54] Gerencser 2000: 35.

immediate experience.[55] Positive metaphysical knowledge is not possible: thought is always relational, abstract, it cannot be experience of the unconditional.[56] While remaining within an idealist framework (which assumes the transcendental unity between subject and object and the spiritual nature of experience), F.H. Bradley may be considered as a sceptic, who claims that ultimate reality or the Absolute is beyond our reach. These two different positions, which are apparently irreconcilable, coexist in Bradley. On the one hand, as other idealists, he constructs a system in which all forms of thought are criticized as insufficient and partial from the standpoint of the Absolute. On the other hand, departing in this from the Hegelian tradition, he does not think that this Absolute could be reached through reason, which is an inadequate instrument for knowing the ultimate reality. The ultimate reality is beyond reach of discursive, relational, thinking. The Absolute is neither specified directly, nor described, and reasoning is a means for its 'negative' definition only.[57] If the ultimate coherence of this reconciliation between sceptical epistemology and constructive metaphysics may be contested, what does matter is the extent to which Oakeshott reinterpreted this synthesis.

For my argument, it suffices to point out that in Oakeshott's texts it is indeed possible to find a similar understanding. As for F.H. Bradley, for Oakeshott all forms of thinking are defective and the result of philosophical activity is always provisional. Like Bradley, Oakeshott considers philosophical reflections as the instrument to show the partial value of all forms of knowledge, by assessing the

[55] Bradley 1946: 429.

[56] Boucher and Vincent 2012: 40.

[57] On this point see: Mander 1994: 158-64.

ability of each mode to offer us an ultimately satisfactory view of reality. At the same time, he is even more radical than Bradley in denying that ultimate reality may ever be reached. While Bradley admitted the possibility of a direct, non-cognitive grasp of the ultimate reality, Oakeshott is clear in his denial of anything external to or different from judgment or thinking. Again, this is true not just in *Experience and Its Modes,* where a few pages are devoted to the criticism of this position,[58] but also in *On Human Conduct,* which begins significantly with the assertion that 'understanding is not such that we either enjoy it or lack it altogether.'[59] Thus, while remaining within an idealist framework, Oakeshott considers that thinking, and philosophy in particular, cannot reach a final stage in which understanding is definitive. In contrast to Gerencser's interpretation, (as I have illustrated above) neither in his early nor his later works does Oakeshott ever defend the possibility of having a full and definitive grasp of reality.

A second element that demonstrates the synthesis between idealism and scepticism in Oakeshott's thought is shown by his theory of modality. I have highlighted in chapter 1 that the modes are autonomous from each other and abstract in respect of the whole, as their criterion of truth is the coherence with mutually incommensurable postulates or presuppositions. In contrast to the hierarchical neo-Hegelian model, for Oakeshott there is not a logical succession between different types of mode. History, science, practice and poetry are partial views of reality; at the same time, what is true in one of these modes is irrelevant to the others. On the other hand, throughout this chapter I have presented Oakeshott's philosophical

[58] Oakeshott 1933: 21-25.

[59] Oakeshott 1975: 1.

critical method. Philosophy is a critical activity that attempts to show the presuppositions of concepts as well as their universal meaning.

What characterises Oakeshott's position is that philosophical concepts, because of their higher degree of universality, are irrelevant to the various modes, which maintain their autonomy in regard to philosophical activity. In other words, there is a necessary conflict between philosophical results and abstract concepts. Although the achieved world of ideas has a higher degree of coherence, it cannot be considered a substitute for previous concepts, which maintain the limited validity guaranteed by their postulates. In other words, philosophy does not construct a body of rectified concepts and, in respect of the various modes, its role is merely negative.

As I will further discuss in the next chapter, the irrelevance of philosophy for the various modes, and the practical in particular, represents a radical innovation with particular regard to the British Idealist tradition. Many of its exponents – with the notable exceptions of McTaggart and F.H. Bradley[60] – were indeed deeply committed to social problems and reforms. From a theoretical point of view, Caird, for instance, considers philosophy as a response to the needs of the 'present time': the separation between secular and religious self-consciousness and the consequent alienation of mankind from its spiritual and rational nature.[61] Similarly, in R.G. Collingwood 'all thought is for the sake of actions':[62] philosophical activity arises from circumstantial needs and ends, producing changes in our self-understanding and conduct. Very differently, for Oakeshott philosophical criticism has no

[60] Boucher 2012a: 65-66.

[61] Caird 2004.

[62] Collingwood 1924: 9.

relevance to the various modes and, in particular, 'the practical'. Overall, in philosophy we do not have a passage from doubts – determined by the partiality of categories – to a certainty granted by a presuppositionless knowledge. In short, in addition to the impossibility to reach a definitive understanding, a second element that shows that Oakeshott defended a sceptical conception of philosophy, while remaining within an idealist framework, is suggested by his claim of the irrelevance of philosophy to other activities.

Conclusion

At the beginning of chapter 1, I illustrated that current neo-English School thinkers or constitutive theorists that have employed Oakeshott's categories for the understanding of international relations have substantially ignored the philosophical reflection that unites all his works. Even though the legal theory and the notion of practice presented in *On Human Conduct* and in other works, such as the essay 'The Rule of Law', have had a considerable relevance for the 'normative' and 'practical' turns in International Relations, little attention has been devoted to analysis of the relevance of the epistemological, ontological and philosophical theory that grounds these ideas.

The analysis that I have conducted over the last two chapters has revealed that, in contrast with the prevalent anti-metaphysical concerns of the large part of post-World War II reflection on politics and international relations, Oakeshott presents an articulated epistemological and metaphilosophical theory. While in chapter 1 I have shown that Oakeshott remained consistent with an Absolute idealist epistemology and ontology, this chapter has focused instead on the nature and role of philosophy.

What has emerged is that Oakeshott reinterprets the idealist notion of philosophy as critical activity. Firstly, he considered philosophy as the activity of refutation and criticism of current concepts. This is the discovery of the conditions of their existence and fallacy: their postulates or unavoidable assumptions. Secondly, philosophy aims to reach a higher unity or concrete individuality. Thirdly, Oakeshott interprets the idealist conception of the synthesis between different forms of knowledge through the image of conversation, which is grounded on the conception of modality defended since *Experience and Its Modes.*

In addition, in contrast to those interpreters who have either argued that Oakeshott was too sceptical to be an idealist or too much of an idealist to be regarded as a sceptic, the chapter has also shown that Oakeshott's reinterpretation of the idealist arguments coexisted with a sceptical notion of philosophy. In particular, I have argued that philosophy is not eristic: it does not aim to persuade, for its role is merely critical. As I will further discuss in the next chapter, even though it shows the abstractness of the various world of ideas, they maintain their validity. Moreover, philosophy is always conditional as a final and ultimate truth cannot be reached. All result of the activity of theorizing are therefore provisional and abstract.

In contrast with the claims of many other idealists, Oakeshott believes that philosophy cannot be considered as the final end of experience, but it has rather the negative and limited role of maintaining each mode within its own limit. In so doing, he proposes a model that defends each form of knowledge, and philosophy itself, from any reductionism. In this regard, the irrelevance for politics of any scientific or historical theory as well as any philosophical conceptions – which

constitutes the kernel of the critique to Rationalism that animates some of his most famous essays written during the 40s and the 50s – is indeed consistent with this idea of the relation between disciplines represented through the image of conversation. Moreover, as I will further discuss in the next chapter, he defends philosophy, history and poetry against the risk of reduction to scientific knowledge represented especially by neo-Positivism. Apart from their common logical ground (that is to say, their being abstractions of the totality) different disciplines do not have a shared epistemological foundation, be it methodological or ontological.

Overall, even though this sceptical idealist notion of philosophy may be in conflict with the prevailing practical concerns of a large part of current theory of international relations and may be associated with a too speculative approach towards the world, it has profound methodological implications for the theory of international relations.

As I have illustrated in chapter 1, Oakeshott's contribution to constructivism is a methodological holism defended through Absolute idealist arguments in which individual concepts are meaningful only in relation to a given context. In this chapter, I have shown that the purpose of philosophy is to relate these concepts to a context as universal as possible through a critical method. It also identifies the conditions of the possibility of different, autonomous, and equally legitimate perspectives on human experience. Moreover, philosophy defines the autonomy of political criteria from any other considerations (as suggested by the notion of modality and the image of conversation), it shows their limited value and partiality. In sum, over the last two chapters, I have discussed Oakeshott's epistemological and (meta)philosophical theory. This discussion represents the necessary

background for the analysis of Oakeshott's understanding of the nature of political activity and for his broad contribution to the post-positivist debate in International Relations.

CHAPTER 3

NORMATIVITY, PRACTICES, AND POLITICAL PHILOSOPHY

Introduction

Over the last two chapters I have discussed the epistemological and metaphilosophical foundations of his Oakeshott's work as a necessary prelude to identifying his international theory and to develop the implications of his philosophy for understanding the idea of an international society. I have identified a substantial continuity in his interpretation of idealist principles; of the notion of modality, as well as in a sceptical idealist idea of philosophy as a critical activity. With this discussion as a background, to identify Oakeshott's conception of political activity (and, by implication, of world politics) and his contribution to constructivism in International Relations, I want in this chapter to look at his theory of normative thought and practical reasoning.

As in previous chapters, I have considered Oakeshott's thought in the context of the history of British idealism, in this I will look at the philosophical debates in which he was developing his ideas. Firstly, this chapter outlines how analytic philosophy and positivism – with particular reference to A.J. Ayer's *Language, Truth and Logic* (1936) – undermined the conditions of the possibility of political philosophy as a normative enterprise. Secondly, it presents Oakeshott's discussion of practical experience and human conduct. It will emerge that he defends the legitimacy and the rationality of normative thinking. In so doing, it will highlight the Oakeshottian conception of normative reasoning and moral practice. It is on the ground of this discussion of the normative nature of human conduct and of the role of political

philosophy that, in the next chapters, I will consider the Oakeshottian contribution to the understanding of international relations.

The Analytic Critique of Normative Thought

Ayer's *Language, Truth and Logic* (1936) represents a landmark in the English language twentieth century debates on the nature and aim of philosophy, and it had incredibly broad implications for the development of ethics, political philosophy, and political science. In this book, Ayer extends the Analytic critique of metaphysics already advanced by the exponents of the Vienna Circle to ethical and normative statements. As metaphysical propositions are nonsensical because they are neither true by definition (as analytic statements), nor subject to verification (as synthetic statements), ethical statements and value judgments are utterances without meaning; nothing more that the expression of moral approval and disapproval.[1]

Moral exhortations, for instance, are not propositions but 'ejaculations or commands which are designed to provoke the reader to action of a certain sort'.[2] Ethical judgments are 'emotions', they are expression of feelings about certain objects.[3] There can be no logical argument about these sorts of statements, but rather mere agreement or disagreement.[4] Consequently, Ayer says that ethical conflicts are without rational and final solution.[5] Ethical philosophy should make

[1] Ayer 2001: 110.

[2] Ayer 2001: 105.

[3] Ayer 2001: 111.

[4] Ayer 2001: 110-11.

[5] Ayer 2001: 114-15.

neither ‘exhortation of moral virtue’, nor ‘description of moral phenomena’, nor ‘ethical judgments’. It should instead limit itself to the analysis of ethical terms, by showing the categories to which they belong.[6]

If Ayer and the other early analytics produced little in political philosophy,[7] the implications of their positions were further explored by T.D. Weldon in his *The Vocabulary of Politics*[8] and, even more sharply, in the contribution to the first volume of *Philosophy, Politics and Society*, which was entitled ‘Political Principles’. Subscribing to Ayer’s theory of truth (according to which truth and falsehood are categories relevant only to verifiable statements), Weldon claims the impossibility of normative political theory and affirmed that ‘questions put by traditional political philosophy are wrongly posed’.[9] Indeed, he contends that normative questions as well as political principles are nothing more than prejudice and emotions.[10] Political principles are grounded on ‘practical reason’ and are a matter of decision.[11]

Therefore, what Weldon considers as the traditional problems of political philosophy – which is to say, normative pronouncements regarding the State, political obligation, and so on – are, in fact, the results of political conflicts and of empirical decisions. For Weldon, philosophy has no first-order contribution and its

[6] Ayer 2001: 105.

[7] See: Wolff 2013: 796.

[8] Weldon 1953.

[9] Weldon 1956: 14.

[10] Weldon 1956: 27-29. See Neill 2013: 58-59.

[11] Weldon 1956: 31.

problems are concerned with the 'language in which facts are described and explained'.[12] Its aim is to 'expose and elucidate linguistic muddles' and to examine the meaning and logical force of concepts.[13]

The first series of *Philosophy, Politics and Society* contained another fundamental contribution that draws consequences from Ayer's distinction between analytic, synthetic and value statements: M. Macdonald's essay 'Natural Rights'.[14] Originally written in 1947, this piece summarizes the political implications of the analytic position.[15] Once again, judgments about good and evil, right and wrong have a 'fundamentally emotive character'.[16] The performative character of value judgments – already intimated by Ayer and later fully theorized by J. L. Austin[17] – is particularly underlined by Macdonald, who states that value assertions are 'records of decisions' and that, for instance, 'to state that "all men are of equal worth" is not to state a fact but to choose a side'.[18]

[12] Weldon 1956: 22.

[13] Weldon 1956: 23-24.

[14] Macdonald 1956: 37.

[15] Wolff disagrees with this interpretation and considers that neither Weldon nor Macdonald 'is prepared simply to apply a positivist formula, and both make contributions to political philosophy of a pragmatist, contextualist, form which are independent of considerations of linguistic analysis', Wolff 2013: 804. What I am suggesting is, instead, that early analytic philosophy, as presented by Ayer, implied this sort of political philosophy.

[16] Macdonald 1956: 49.

[17] Austin 1975. On the influence of analytic philosophy on the so-called 'Cambridge School' see: Koikkalainen 2009.

[18] Macdonald 1956: 49.

From the assertion that the only legitimate form of knowledge is the one composed of verifiable empirical statements, it follows that sciences informed by the empirical method are considered as the only fully legitimate approach towards politics. The possibility of a naturalistic study of human actions was already intimated in Ayer's theory, which attributed to psychology the role of describing ethical phenomena and to social sciences that of studying moral habits.[19] The success of behaviourism in the social sciences and of its attempt to consider agents' motives, social interactions and legal orders according to the causal categories taken from natural sciences, represented the other side of the logical positivist challenge to classical normative philosophy.[20]

To sum up, Logical Positivism reduced normativity to non-rationality and classical political philosophy, and its theories about the just political order, to normative utterances. As a consequence, the study of politics has to be transformed in a more rational enterprise. In particular, philosophy should avoid normative engagement and should either be limited to 'second-order' considerations about the logical status of ethical and political utterances or provide the theoretical framework in which the science of politics can apply its causal categories.

Whether these radical critiques caused the 'death of political philosophy' as famously declared by Laslett,[21] or may be considered the symptom of the

[19] Ayer 2001: 105. Ayer 1967: 21, 23.

[20] In this regard it is also of particular relevance David Easton's essay 'The Decline of Political Theory' (1951) in which he reacts to Leo Strauss's critique of modern political philosophy. On this see: Neill 2013: 57-58. Vincent 2004: 41-55.

[21] Laslett 1956: vii.

'putrefaction' as seen by Strauss,[22] is controversial.[23] What is certain is that in the second series of *Philosophy, Politics and Society* in 1962 things were already different, even within what may be broadly considered as analytic philosophy. In his 'Does Political Theory Still Exist?', Isaiah Berlin criticized the verification principle as the only criterion of meaningfulness for statements. Indeed, there are some concepts such as 'rights' and 'justice' that are meaningful, albeit not clearly defined and not empirically testable. Philosophy is particularly relevant for these sorts of (normative) concepts. The role of political theory is that of analysing these fundamental concepts, improving human self-understanding.[24] Be that as it may, Oakeshott addressed the issues advanced by the analytic and positivist critiques of normative thought and of classical political philosophy.

Although, as argued by Podoksik,[25] in his account of the scientific mode of experience, Oakeshott was influenced by continental scientific positivism, it is clear that in *Experience and Its Modes*, published in Cambridge in 1933, he does not consider directly the work of logical positivists. Instead, as I will show, he presented an account of the nature of normative thinking that is radically opposed to theirs. Consistent with his notion of modality – according to which each form of

[22] Strauss 1959: 17.

[23] This account is contested by Vincent (2004: 91-95) who see a persistence of classical political philosophy also after the Analytic attack. On the other hand, Wolff still sees only in Rawls's *A Theory of Justice* a resurrection of political philosophy (2013: 816).

[24] Berlin 1962. Neill 2013: 71-73. It is also worth noting that, in the same volume, Rawls (1962) presented one of the first accounts of his definition of justice as fairness. Oakeshott praises this contribution as 'the most brilliant essay in the book', Oakeshott 2008: 191.

[25] Podoksik 2004.

experience is grounded on more or less well defined logical presuppositions – practical experience is experience *sub specie voluntatis*, the whole of experience from the point of view of volition. The unavoidable normativity of our practical reasoning lies in its value-oriented nature. Practical experience is defined by Oakeshott as the transformation of 'what is' according to a normative ideal, which is 'not yet' and 'ought to be'.[26]

Oakeshott makes clear that this form of thinking is as rational as any other mode (e.g. history, science, and poetry) and, at the same time, radically different and abstract with regard to philosophy. At the outset of the chapter on practical experience in *Experience and Its Modes*, Oakeshott affirms the identity between rationality and will. Consistent with the idealist principle according to which nothing is irrational and everything is identifiable with the activity of mind, 'action' is 'a form of thought'.[27] Volition itself, the category that grounds practical experience, is thought and, as a consequence, 'practice is itself a form of experience, a world of ideas'.[28] As other forms, the practical is also a unity of related and coherent ideas. At the same time, however, full coherence and complete consistency is never achieved because 'the presupposition of practical experience is that "what is here and now" and "what ought to be" are discrepant'.[29] In this lies the ultimate abstract character of practical experience: a complete coherence between actual

[26] Oakeshott 1933: 274-88.

[27] Oakeshott 1933: 251.

[28] Oakeshott 1933: 252.

[29] Oakeshott 1933: 304.

experience and what has not yet come about is impossible. Achieving this unity would be to overcome practical experience.

It is important to point out that the normative nature of practical thinking is reiterated in *On Human Conduct.* As is also indicated by its title, this may be considered as one of the main purposes of that work, albeit often obscured by the more celebrated and influential theory of the history of the modern European state and the model of civil association. *On Human Conduct* may indeed be interpreted as an attempt to claim and defend a specific normative understanding of human actions and political life. 'Value-judgments' and the 'creation of norms', we read in that work, are not feelings or 'organic tensions', but rather 'expression of intelligence capable of being investigated'.[30]

More specifically, the first essay of *On Human Conduct* defends the autonomy of an understanding of human actions in terms of their normative character as opposed to those through causal categories of natural sciences.[31] The ground of this is the already recalled distinction between two incommensurable 'orders of inquiry': the first conceives 'goings-on' as causal processes. In this case, actions are observable processes and 'are not themselves exhibitions of understanding'.[32] The second sees 'goings-on' as the result of 'an intelligent agent responding to an understood

[30] Oakeshott 1975: 52.

[31] Oakeshott 1975: 13-14. This was already an element of Oakeshott's position in the early 1920s. While writing against the Cambridge syllabus he complained about 'the reduction of political science to natural science' (Oakeshott 2004: 57). In this regard, it is also relevant Oakeshott's review of Catlin's *A Study of the Principles of Politics* (Oakeshott 2007: 61-63).

[32] Oakeshott 1975: 20.

(misunderstood) situation'.[33] As I have already pointed out in chapter 1, as it was for the modes in *Experience and Its Modes*, these two orders are both abstractions and mutually exclusive, though equally legitimate.

In other words, the distinction does not deny the legitimacy of a purely causal study of human actions.[34] Instead, the aim is once again to criticize *ignoratio elenchi*, any 'categorial confusion'.[35] When science wants to understand the result of human freedom and intelligence (which is human conduct), confusion intervenes and beliefs are reduced to the component of a process and deprived of their proper character.[36] Addressing in his trenchant style some of the discussed positivist attempts to provide a science of society and of politics, Oakeshott claims that these should be considered as a 'masquerade of categories'.[37]

In the light of this survey, it is now possible to stress again some important differences with those that originated from analytic philosophy. Whereas for Logical positivists, normative utterances were the expression of 'emotions' and were not fully rational, for Oakeshott there is no difference of nature between 'normative concepts' and those that are empirically testable. A political concept is not something resulting from a not-fully rational sphere of human intelligence. Instead, both scientific and practical concepts are grounded on certain categorical assumptions, they have the same degree of truth, both falling short of full coherence.

[33] Oakeshott 1975: 21.

[34] Oakeshott 1933: 234-43.

[35] Oakeshott 1975: 22.

[36] Oakeshott 1975: 21-25.

[37] Oakeshott 1975: 25.

So far, I have discussed Oakeshott's notion of practical or political experience. It has emerged that, in contrast from the analytic conception, normative thinking cannot be reduced to a mere feeling or emotion. One of the purposes of Oakeshott's theory is to identify the rationality and the validity of practical thinking, as well as of a legitimate non-causal manner of understanding it.

The Nature of Normative Reasoning and Moral Practices

I have established that Oakeshott declares the autonomy and the legitimacy of practical thinking, I want now to consider more specifically how he theorises the nature of normativity. If practical experience is the transformation of 'what is' into 'what ought to be', how then do we identify these normative ideals and criteria? The most famous and controversial solution to this problem is offered in 'Political Education', the inaugural lecture at the LSE in 1951. As is well known, in that text Oakeshott considers that in politics and in practical experience, reasoning is not 'a consequential enterprise' or the attempt to apply a 'general principle'. Instead, it is the 'pursuit of the intimations of a tradition of behaviour'.[38] What I want to suggest is that this notion describes the forms of argument and criteria relevant in political and practical activity both at the domestic and international levels.

This aspect is fully intelligible only in the context of the doctrine of normative thinking that I have just presented, and which finds a further development in the texts on Rationalism and in an essay often considered on the margins of Oakeshott's political philosophy: 'The Voice of Poetry in the Conversation of Mankind'. It is in this 1959 piece that the practical world is conceived not just as volition but also as

[38] Oakeshott 1991: 57.

custom and tradition: it is not just reality *sub specie voluntatis*, but also *sub specie moris*.[39] Political actions are not merely the expression of a desire for change according to a normative ideal, but also of 'a traditional manner of behaviour'.[40] In other words, will is educated and social life 'is to be conscious that some desires are approved and other disapproved'.[41] Custom, laws, and institutions are the concrete expression of this.

This idea is then presented in *On Human Conduct* through the concept of 'moral practice'. The correspondence between the two concepts is suggested by Oakeshott in his reply to some critical readings of *On Human Conduct*, contained in a 1976 issue of the journal *Political Theory*. There, he claimed to have abandoned tradition as inadequate to express what he believed.[42]

Kenneth McIntyre and Steven Gerencser identify the reason for this change of terminology with the movement from the essentialism of tradition to the formalism of moral practice.[43] However, 'Political Education' seems to suggest that Oakeshott never had an essentialist view of tradition. There we read that a tradition is 'neither fixed nor finished' and is without 'changeless centre'.[44] It is an identity in difference and does not have a connecting core or essence.

[39] Oakeshott 1991: 501.

[40] Oakeshott 1991: 56.

[41] Oakeshott 1993a: 145.

[42] Oakeshott 2008: 276-77.

[43] McIntyre 2004: 67; Gerencser 2012: 313-14.

[44] Oakeshott 1991: 61.

Both tradition and moral practice indicate that human action presupposes the existence of a 'durable relationship between agents', which is understood as the conditional context of all actions.[45] In short, Oakeshott's traditionalism is a form of moral conventionalism in which actions and normative arguments derive their meaning from historically enacted practices. Tradition and moral practices provide the 'background assumptions' and the resources for the identification of normative ideals and of criteria for moral judgment.[46] To judge a conduct or a proposal is to determine 'the relative importance, in the given circumstances, of the numerous, competing normative and prudential considerations' that compose our moral vocabulary and experience.[47]

This conception of political activity and normative thought in which certainty plays no role has been at the centre of a considerable amount of criticism by Oakeshott's contemporaries. Among these, Raphael's review of *Rationalism in Politics*, published in 'Political Studies', identifies in Oakeshott's antifoundationalism a radical inconsistency.[48] For Raphael, Oakeshott's traditionalism would deprive us of a criterion of choice between different practical options. If politics is 'the pursuit of intimations', Raphael asks, how can we choose between conflicting ones?

To the question about the ground of our normative decisions, Oakeshott answers by recalling that the foundations of the solutions of normative dilemma can only be circumstantial considerations about which there can be no final solution but only

[45] Oakeshott 1975: 54-55.

[46] Turner 1994: 29.

[47] Oakeshott 2008: 184.

[48] Raphael 1964.

more or less persuasive argument. In short, normative arguments are possible only when their ground is a belief that is 'familiar to us and is appropriate enough to be capable of engaging our sympathy while we listen'.[49] This has the aim of identifying and justifying an ideal according to which promote changes in a society and it presupposes the moral vocabulary of a certain political association, a vocabulary composed of 'images' that are myths, representations, institutions.

This aspect is further clarified by an examination of some of Oakeshott's loose notes which are located in his archive at the British Library of Political Science, in which he summarized the Aristotelian distinction between dialectic, eristic and demonstrative discourse presented in the *Posterior Analytics*.[50] Oakeshott writes that, for Aristotle, demonstrative discourse is the search for the causes and of the nature of things. Therefore, it generates true knowledge. The eristic, instead, is the search for shared premises. In contrast with these, dialectic is based on agreed premises that are shared by 'all or most people'. Practical discourse would, therefore, be 'dialectical', as opposed to demonstrative in character, the appropriate idiom of scientific knowledge, and it starts from shared assumptions.

An essay collected in the second edition of *Rationalism in Politics,* 'Political Discourse' demonstrates even more the Aristotelian root of Oakeshott's notion of

[49] Oakeshott 2008: 186.

[50] See again the loose notes in the folder LSE/OAKESHOTT/3/17 at the British Library of Political and Economic Science (Oakeshott [no date]). This text does not appear in the recent edition of Oakeshott's notebooks. For discussion of the links between Oakeshott and Aristotle see: Giorgini 1999: 99-151.

practical discourse.[51] In this piece, practical discourse is defined following Aristotle's *Rhetoric.* It aims to diagnose the situation and to identify a solution. The argument in support and defence of this identified solution is based on 'probabilities, signs and examples' and is grounded on maxims, which are general statements considered to be shared. Insofar as their nature is dialectical, this sort of argument may be rebutted by similar circumstantial considerations. From the notion of the 'pursuit of intimations', and from the idea of the persuasive and dialectical character of practical argument, it follows that it is impossible to identify definitive and objective criteria that justify certain practical choices. In *On Human Conduct*, the nature of persuasive argument is further analysed, and it is identified with 'a pragmatic argument' as opposed to the demonstrative one.[52]

Therefore, the notion of pursuit of intimations indicates a doctrine about the nature of normative thinking. The references to Aristotle and Oakeshott's notes on his theory suggests that practical discourse is based on the subscription of shared assumptions that come from the conventional background provided by traditions and moral practices, and is structured through circumstantial considerations.[53]

To highlight the peculiarities of Oakeshott's conception of moral practice or tradition, it is now worth considering some comparative readings that have been recently proposed.

[51] Oakeshott 1991: 78-80; Nardin 2012.

[52] Oakeshott 1975: 40-50.

[53] On this point see: Turner 2010: 203.

In spite of Oakeshott's reticence in acknowledging any Wittgenstenian influence,[54] Luke Plotica has recently compared Oakeshott's notion of practice to the late Wittgenstein's concept of language-game.[55] According to this reading, practices, as well as language-games, represent the context that gives intelligibility to individual utterances. Both emphasise the social dimension and conventional nature of languages. Moreover, according to this interpretation, both thinkers believed that the human world is a world of language and, as a consequence, the 'regularities and systematic structures of the world we understand and act within are (intelligible as) the regularities and systematic structures of language'.[56] Finally, for Plotica, language-games as well as moral practice are learned in terms of rules and conventional techniques.[57]

It is indeed true that between Oakeshott's notion of practice and that of a language-game, there may be an important resemblance. In *On Human Conduct* we read that a practice may be recognized as a 'language of moral converse' and as

> Composed of conventions and rules of speech, a vocabulary and a syntax, and it is continuously invented by those who speak it and using it is adding to its resources.

[54] It is well known Oakeshott's remark about his years at Cambridge which is reported by Kenneth Minogue with reference to Wittgenstein: 'there were a lot of Austrian comedians around the place at the time' (Minogue 2002: 68).

[55]Plotica 2013. See also, Costelloe 1998. Even though written before *On Human Conduct*, see Greenleaf 1968.

[56]Plotica 2013: 49.

[57] Plotica 2013: 49-52.

> …Learning to speak it is learning to enjoy and to explore a certain relationship with others.[58]

However, this similarity should not obliterate the profound differences between the two thinkers. First of all, in contrast with what is argued by Plotica (and in agreement with an observation by Peter Winch),[59] Oakeshott does not attribute a primary importance to linguistic or moral rules. To focus on rules, he contends, is a distortion of moral reasoning, as they merely represent abridgments of a tradition. Just as someone may speak a language perfectly without knowing any of its rules, so it is possible to enter into a moral conversation without being aware of any of its systematic structures and regularities.[60] These are rather the results of the reflective engagement of theorists, specifically moralists.

The meaning of moral practice is then a much more elusive concept – one that indicates a concrete and historical 'manner of behaviour'.[61] This is fully intelligible only in the light of the idealist epistemological principles that are defended by Oakeshott (and that I have illustrated in chapters 1 and 2). As reality is the result of the activity of mind, and as there is no difference between knowing subject and known object, a moral practice or tradition is the result of the understanding of individual agents. I will return to this aspect in chapters 5 and 6, while examining the nature of customary international law. For the moment, suffice it to say that,

[58] Oakeshott 1975: 58.

[59] Winch 1990: 62.

[60] Oakeshott 1975: 70. On this see, Vincent 2004: 149.

[61] Oakeshott 1991: 50.

like Hegel's notion of ethical life (*Sittlichkeit*), Oakeshott's moral practice is inseparable from concrete historical communities.

It is in this last regard that G.A. Khan has recently compared Oakeshott's position to Habermas's theory of communicative actions.[62] First, both philosophers share a critique of the dominance of instrumental or technical reason. As I have already pointed out (in chapter 2), Oakeshott's essays on Rationalism are indeed a critique of the prevalence of the scientific or technical manner of reasoning over the practical. In Oakeshott, as in Habermas and earlier exponents of the Frankfurt School, there is presented a radical critique of modernity, which is seen as dominated by the positivist understanding of rationality.[63] In this regard, Oakeshott's conception of practical thinking is, as I have illustrated, a reaction against the consequences of these dispositions for the understanding of normative thinking.

In spite of such significant similarities between the two thinkers, as I have shown in regard to the notion of conversation, Oakeshott's judgment on modernity is contrastingly more faded, and he finds in modern philosophy (in Montaigne, Hobbes, and the idealists) the resources to counteract Rationalism.[64]

Oakeshott and Habermas seem to propose similar accounts of morality, understood as shared background from which practical discourse may arise. I have discussed how the 'pursuit of intimations' may be considered as a formula that summarises

[62] Khan 2012.

[63] See Khan 2012: 386.

[64] On Oakeshott and Modernity see, Podoksik 2003; Tseng 2003.

how practical thinking is a non-demonstrative, dialectic form of reasoning that starts from common premises. Khan contends that Habermas acknowledges the 'embedded element of practical knowledge' and the 'context-bound' character of communicative rationality.[65] According to this reading, in both *The Theory of Communicative Action* and in *Between Facts and Norms*, Habermas retains a Hegelian element, according to which rationality is not merely subjective, dialogical and context-dependent. [66]

However, it cannot be overlooked that, according to Habermas's theory of communicative actions, there is a commitment to consensus that is absent in Oakeshott's theory. For Habermas, agents have to reach a consensus not just on positive moral norms and normative obligations that are constructed through deliberation, but also on their understanding of their situations.

On the contrary, claiming that for Oakeshott the starting point of normative thinking is a moral practice intended as shared assumptions, means to emphasise the concrete historical tradition of a given community. It is from there that the resources of moral understanding may be taken and interpreted. This sheds light on what is perhaps the most significant difference between the two thinkers. Habermas is indeed an interpreter of critical theory as first identified by the early Frankfurt School, and retains an emancipatory dimension linked to the model of deliberative democracy

[65] Khan 2012: 385.

[66] Habermas 1990: 21-42; 1996: 9.

where, in 'an ideal speech situation', all impeding extraneous factors are absent and the guiding force of the better argument prevails.[67]

Without considering Oakeshott's controversial opinions about democracy,[68] for the moment it suffices to emphasise that, as already recalled in chapter 2, and consistent with his theory of modality, he affirms the irrelevance of philosophy for practical activity and claims that the objective of the philosopher is to understand the world, not to propose changes. Therefore, the philosopher is not a participant in the moral conversation of a given community but instead a spectator.[69] It is in this light that I now want to examine the role that Oakeshott attributed to political philosophy and it is to this matter that I must now turn. On the basis of this analysis, the next chapter will consider the Oakeshottian contribution to the theorizing of international relations.

Political Philosophy

The posthumous publication of Oakeshott's unpublished papers has shown that the question of the nature and the role of political philosophy was one of the main concerns of his career.[70] Indeed, even before the pages of the 'Introduction to *Leviathan*' in 1946, the lectures delivered in Cambridge in 1928-29 and in 1929-30 entitled 'The Philosophical Approach to Politics', as well as the essays 'The

[67] Anievas 2010: 148.

[68] Steven A. Gerencser reads Oakeshott as a critic of democratic projects (Gerencser 1999), while Michael Minch (2009) regards him as a theorist of deliberative democracy. See also Plotica 2012.

[69] Oakeshott 1975: 3.

[70] In particular: Oakeshott 1993a; 1993b; 2006; 2010. See Franco 2004: 56-62.

Concept of a Philosophy of Politics'[71] and 'Political Philosophy' (a text written sometime between the end of the 1940s and early 1950s), attempted to identify the specificity of a philosophical understanding of politics.[72]

Luke O'Sullivan suggests the influence of the Cambridge lectures on the development of the ideas published in *Experience and Its Modes.*[73] This is, I believe, particularly evident with regard to the nature of political philosophy. In these early writings, political philosophy was conceived as the attempt to reach what is true outside of the contingency of political life. For instance, philosophy does not consider 'what goes to make up this or that "state" at this or that particular time'. Instead, it defines what is true 'at all times'.[74] Political philosophy is a particular point of view over political life.[75]

This is further clarified in *Experience and Its Modes,* ethical and political philosophy are the 'consideration of valuation and practical judgment from the standpoint of the totality of experience'.[76] Similarly, in 'The Concept of a Philosophy of Politics' political philosophy is described as the attempt to 'distinguish political life and activity within the totality of experience; and ... to

[71] See Oakeshott 1993a: 119-37. This text is dated by Fuller to 1946. For its similarity with 'The Concept of a Philosophical Jurisprudence' published in 1938, I am inclined to agree with Franco (2004: 61) in considering that this text as written during the 1930s. As Franco indicates, the reference made by Oakeshott to having recently 'had occasion to consider the writings of Hobbes' (Oakeshott 1993a: 119) is not enough to date the text to 1946.

[72] Oakeshott 1993a: 138-55. Some further comments on this text in Orsi 2013.

[73] L. O'Sullivan 2010: 14.

[74] Oakeshott 2010: 81.

[75] Oakeshott 2010: 143.

[76] Oakeshott 1933: 337-38. On this see: Hall and Modood 1982: 163.

relate them to the totality so that they are seen in their place in the totality'.[77] Political philosophy aims to arrive at concepts that do not presuppose anything external.

As already clarified in chapter 2, for Oakeshott philosophy is coming to know more fully what is already known; therefore, the philosophical definition of concepts departs from 'ordinary, everyday knowledge' and attempts to overcome all divisions and all presuppositions. It is once again important to underline that the role of philosophy is not limited to the identification of presuppositions, understood as foundations. Instead, its aim is to 'achieve concrete concepts from which the division between presupposition and conclusion has vanished'.[78]

With these considerations as a background, it is possible to understand the definition of political philosophy given by Oakeshott in his 'Introduction to *Leviathan*' of 1946, and republished in 1975. There, it is conceived as the attempt to relate 'political life, and the values and purposes pertaining to it, to the entire conception of the world that belongs to a civilization'.[79] Or, in other, perhaps more elusive, words, political philosophy establishes 'the connections, in principle and in detail, directly or mediately, between politics and eternity'.[80] For Oakeshott, the values and the criteria that inspire political life and that construct political discourse are considered by philosophy from the point of view of the whole and placed on the map of human experience.

[77] Oakeshott 1993a: 126-27.

[78] Oakeshott 1993a: 128.

[79] Oakeshott 1991: 224.

[80] Oakeshott 1991: 225.

As it does with other modes or forms of experience, philosophy identifies the conditions of the possibility of political life and its limited value. At the same time, political criteria and concepts are seen *sub specie aeternitatis*, in the meaning that they have for themselves. As I have illustrated over chapters 1 and 2, philosophy is indeed the critical activity that attempts to reach concrete thinking and unconditionality, departing from the abstractions of the various modes. The purpose of philosophy is to unify individual concepts with their broader context. With reference to political philosophy, in the 'Introduction to Leviathan', Oakeshott clarifies:

> The whole impetus of the enterprise is the perception that what really exists is a single world of ideas, which comes to us divided by the abstracting force of circumstances; is the perception that our political ideas and what may be called the rest of our ideas are not in fact two independent worlds.[81]

It is in this light that the two 'ideal characters' of civil association and enterprise association – presented in *On Human Conduct* to convey Oakeshott's understanding of political life – should be considered.

As already underlined in chapter 2, they are not an ideal to be fulfilled but instead they represent the irreducible modes of relationship that derive from the assumption as a postulate of 'human conduct'. Similarly, the 'rule of law' – presented in the famous 1983 essay – does not indicate any specific historical experience, but the legal order that results from the critique of all unnecessary contingencies that are attached to the idea of law. In this sense, the use of the Latin vocabulary in both *On*

[81] Oakeshott 1991: 224.

Human Conduct and 'The Rule of Law' – where Oakeshott writes of *lex* and *cives*, and not of law and citizens – is meant to underline the distinction between the concepts of political philosophy and those of our ordinary experience.[82] As it was already indicated in the lectures delivered in Cambridge at the end of the 1920s, the task of the philosopher is, therefore, to distinguish what law, human association, political action, the activity of governing are outside of the various contingencies in which they present themselves.[83]

I will later discuss the details, as well as the broader implications, of the content of Oakeshott's political philosophy. For the moment, to understand his position, my aim is to consider how Oakeshott defines the nature of political philosophy. So far, I have clarified that, consistently with the notion of philosophy as criticism that I have presented in chapter 2, the purpose of philosophical reflection on political association is both to identify its postulates and to define what their meaning is outside of the contingencies in which they appear.[84] What needs to be explored now is its relation to practical experience and normative, practical, discourse.

For Oakeshott, it is possible to identify different levels of thinking about politics. This is expressed in a vast array of writings, from the 'Introduction to *Leviathan'*[85] to 'Political Education',[86] as well as in some posthumously published texts, [87] such

[82] Oakeshott 1975: 108-09.

[83] Oakeshott 1975:122; 1999: 131.

[84] Oakeshott 1975: 109. Franco 2004: 58.

[85] Oakeshott 1991: 223.

[86] Oakeshott 1991: 65.

[87] Oakeshott 1993b: 12-15; 2006: 33-44.

as, in particular, 'Political Philosophy'.[88] From one point of view, given the identity between reality and rationality postulated by idealist philosophy and defended by Oakeshott throughout all his career, political thought may be conceived as what 'different peoples, at different times, in different intellectual and physical circumstances, engaging in politics in different ways and finding different things to think about it'.[89] From another point of view, however, there is a distinction between three different levels of discourse, on the basis of their degree of criticism: the first level is 'at the service of politics' and is about the means and ends of political action. I have identified this with normative thinking based on traditional knowledge. It is unavoidably tentative and it is based on shared assumptions that come from those conditional contexts that are traditions and moral practices.

The second level is explicative and purports the generalization of an experience into doctrines. On this aspect, different texts offer different perspectives. In the posthumously published typescript 'Political Philosophy', Oakeshott emphasises their explanatory character as doctrines that aim at extrapolating the tendencies and at fixing the elements of a manner of existence of a society. Using the words of Oakeshott's inaugural lecture, they are an 'abridgment' of a 'concrete manner of behaviour'.[90]

It is in 'Political Education', however, that the focus is rather on the critique of the role of doctrines as guides to conduct. In this case, they become ideology and they claim to be 'gathered in advance of the activity of attending to the arrangements of

[88] Oakeshott 1993a: 146-51.

[89] Oakeshott 2006: 33.

[90] Oakeshott 1991: 52.

a society'.[91] In this case, political discourse is conceived as a demonstrative tool aiming at showing the coherence between the chosen ideology and the proposed action. However, according to the Oakeshottian perspective, this is simply not possible. Insofar as ideologies are 'abstracted' from the manner in which people traditionally behave, they are not independently premeditated. This, once again, reiterates the nature of normative thinking and arguments that I have already underlined. Indeed, the resources of a political community and of individuals are necessary limited to the traditions of moral behaviour or convention in which they are situated. In regard of this division, it is once again important to consider Oakeshott's reply to Raphael's review of *Rationalism in Politics and Other Essays*. There, Oakeshott makes particularly clear that the main distinction is between practical and explanatory aims.[92] Thus, while practical experience is animated by normative considerations and its concepts are unavoidably based on the presuppositions of practical experience, political doctrine may be helpful to the identification of some of the characteristics of a certain political experience.

Besides that of political thought oriented towards actions, and of political doctrines, there is a third level, which is that of political philosophy.[93] This represents a specific understanding of politics. It is the activity of criticizing the limited truth-value of political concepts and, in so doing, of defining their absolute meaning. Consequently, even though philosophy departs from the dialectic critique of practical ideas, its results are irrelevant to practice, which has its own autonomous

[91] Oakeshott 1991: 49.

[92] For discussion see: Boucher 1991a.

[93] Boucher 2007: 72.

standards of reasoning. Philosophical reflection on practical experience is not normative.[94] However, this distinction does not mean that a text is philosophical when it does not contain practical injunctions, but rather that, albeit it often appears merged with other considerations, often of more practical sort, political philosophy is a well-defined engagement that is independent from practice.

In the light of this discussion of the Oakeshottian conception of political philosophy, it is now possible to consider its place it in the context of the debate that followed the analytic critique of normative thought. The theory that was implied by Ayer's version of Logical positivism – according to which normativity is reduced to irrationality and political philosophy is considered as part of practical conflicts – has appeared to be in contrast with Oakeshott's positions. For Oakeshott, practical experience or human conduct is essentially normative and, albeit not absolutely coherent. On the other hand, political philosophy is the activity of understanding practical or political experience from a point of view as universal as possible. In this, it is radically distinct from normativity.

However, if classical political philosophy is the research of the best form of government, then Oakeshott does not belong to that tradition. In a famous piece, Leo Strauss argues that classical political philosophy is concerned with two orders of considerations: the nature of political things and the best, or just, political order.[95] Even though political philosophy has its starting point from the 'questions that were raised in assemblies', it rejects ordinary citizens' opinions as the ultimate criterion.

[94] Oakeshott 1933: 337.

[95] Strauss 1959: 78.

Instead, it aims at the definition of what is good in all situations and in all contexts. Moreover, Strauss affirms the necessity for political philosophy to enter political life to be its 'right guidance'.[96]

Oakeshott's position presents many similarities to Strauss's in both identifying the source of political philosophy in the overcoming of ordinary people's opinion and in considering political arguments as 'dialectical', which is to say based on common and shared premises.[97] Nonetheless, Oakeshott claims the irrelevance of political philosophy and the danger of any sort of philosophical 'blueprint'. In a somehow Straussian tone, in *On Human Conduct* it is asserted the unavoidable conflict between the practical man and the philosopher, who in virtue of his knowledge of the 'nature of things' wants to lead society.

This, as I have tried to show, is consequent on his broader philosophical theory. The philosopher who claims to have a superior experience of the practical man commits a profound mistake, becoming a despised 'preacher' or 'theoretician'.[98] The wise man or woman who, in virtue of his experience is able to 'make friend of every hostile occasion',[99] does not follow philosophers in these 'holiday excursions'. Those philosophies that intend to be a voice in the conversation of a community – grounding conduct and moral deliberation – lose their peculiar

[96] Strauss 1959: 86.

[97] Strauss 1959: 93.

[98] A classical example of this sort of character is, for Oakeshott, Locke, who was engaged in 'the questionable enterprise of recommending a political position in the idiom of general ideas' (Oakeshott 2008: 163).

[99] Oakeshott 1991: 60.

character, becoming instead a persuasive discourse or an ideological justification of a certain arrangement within society. Oakeshott's notion of philosophy as an engagement or an activity, but not a body of knowledge, is incompatible with any practical engagement or political concern.

Deeply challenging for those views that argue that to theorize politics means to be prescriptive, it is of no surprise, then, that Oakeshott's position was under attack by all those intellectuals and thinkers who wanted philosophy to be relevant on the political agenda and in the resolution of normative conflicts.[100] In this regard, the famous Oakeshottian passage from 'Political Education', according to which in political activity 'men sail a boundless and bottomless sea' in which 'there is neither harbour for shelter nor floor for anchorage, neither starting-place nor appointed destination',[101] could appear to many to be an expression of that crisis of political philosophy that developed after the Second World War. For instance, Alfred Cobban in a 1953 article entitled 'The Decline of Political Theory', after referring to this sentence from Oakeshott's 1951 Inaugural Lecture as an analogy that camouflages 'loose thinking', affirms that what needs to be restored is the criteriological role of political theory. Without such help to justify a rational political theory, the ordinary man, Cobban tells us, will fall victim to an irrational one.[102]

[100] This same critique was advanced from all the political spectrum. See, Crick 1963; Crossman 1951; Himmelfarb 1975: 417-18. Cf. Franco 2004: 94-95.

[101] Oakeshott 1991: 60.

[102] Cobban 1953: 336.

This critique recalls the one already mentioned and advanced by Raphael and others that identify a contradiction in Oakeshott's positions. This objection may be summarized as follows: if political philosophy produces arguments against a certain political position, then these may be used in political conflicts and, consequently, political philosophy is normative. Another of Oakeshott's contemporaries, J. W. N. Watkins, although broadly sympathetic with his positions, argued that a central weakness of Oakeshott's argument is in the lack of acknowledgment of any role of philosophical argument and its demotion to ideology. If the cure for the consequences of a bad political theory is a good one, then the Oakeshottian argument suffers of a sort of circularity.[103]

To solve this dilemma, Edmund Neill contends that Oakeshott departed from this idea of the practical irrelevance of philosophy following his writings published in the 1950s. According to this interpretation, Oakeshott reconceptualised his notion of tradition. Instead of just considering traditions as composed of a plurality of equivalent intimations, he would represent it in more 'historical terms'.[104] In pieces such as 'The Masses in Representative Democracy'[105] and the third essay of *On Human Conduct* he provides an account of the Western European tradition as a conflict between opposing moralities, of the individual and of the individual *manqué,* or of *societas* and *universitas.* In this, the job of political philosophers would be to provide arguments and models that protect and encourage a particular moral option. To do so, in 'On Being Conservative' and *On Human Conduct*,

[103] Watkins 1952: 336.

[104] Neill 2013: 67-68.

[105] This is also underlined in Haddock 2005.

Oakeshott would have put forward a 'proposal for a system of government'.[106] In short, Neill contends that the distinction between philosophy and politics would have been abandoned for an engaged attitude that proposes a particular political solution.

As I have shown over the last few pages, this view may be consistent with Oakeshott's philosophy only insofar as it represents the historicity of decisions and actions. In other words, only as long as it conceives that being an advocate of a particular political option means to express a preference based on circumstantial arguments and is, therefore, radically distinct from the activity of being a political philosopher. From the contingent nature that Oakeshott attributes to practical reasoning and political arguments, it follows that the criterion of resolution of normative conflicts can be nothing else than moral judgments formed through a historical moral discourse and departing from certain specific moral resources, and not on philosophical arguments.[107] This is stated not just in the writings on Rationalism – which are designed, among other things, to counteract the idea of philosophy's relevance for politics – but also in *On Human Conduct,* where the choice between different models of legal order, between *societas* and *universitas,* is considered as a matter of 'desirability'.[108]

In the light of the radical separation between philosophy and practice, it might appear plausible to agree with W. H. Greenleaf's interpretation that sees Oakeshott's critique of the normative role of political philosophy along the line of

[106] Neill 2013: 69.

[107] Oakeshott 1999: 173-74.

[108] Oakeshott 1975: 321.

Weldon's radical critique of the classical tradition, and of the Logical positivist distinction between empirical fact and normative values. In his contribution to the volume offered to Oakeshott on the occasion of his retirement, Greenleaf noted the similarities between T. D. Weldon's denial of the possibility of philosophy to provide theoretical foundations to political choices and Oakeshott's controversial critique of Rationalism in politics and notion of 'pursuit of intimations', according to which practical dilemmas can be resolved only through contingent and circumstantial arguments.[109] In particular, both thinkers believe that reasonable opinions may be achieved and justified on the basis of experience and not on absolute grounds or metaphysical foundations. In addition, both try to avoid the category-mistake; that is, a confusion or assimilation of the concepts appropriate to one mode with those of another. [110] Finally, for both Weldon and Oakeshott, philosophy is a 'second-order subject' dealing with the clarification of the language in which first-order activities are carried on, but with no substantial contribution. As Paul Franco suggests, this is also very similar to other early analytic philosophers' positions, such as those of Moore, Richard, Carritt, and Ross, as well as to those of Russell and Wittgenstein.[111]

It is, however, worth underlining some differences between Oakeshott's notion of political philosophy and that argued by the followers of analytic and ordinary language philosophers. First of all, for Oakeshott, as it was more broadly for the idealists, philosophical definition of political concepts is not reached through the

[109] Greenleaf 1968. See also, Wolff 2013: 803.

[110] Greenleaf 1968: 100.

[111] Franco 2004: 60.

analysis of linguistic, moral, or political conventions. In contrast from the analytic philosophers, ordinary concepts are not the source of knowledge. On the contrary, concepts are defined when are connected with the widest universality and their ultimate meaning lies 'ahead in what the concept is to become'.[112] In the same way in which he denies the possibility of an absolute foundation for our political actions and deliberations, Oakeshott affirms that philosophy is the effort to reach a completely coherent world of ideas. Its method is the criticism and negation of the assumption of ordinary understanding, and of the presuppositions that designate 'individual ideas'.[113]

Secondly, the radical distinction that Oakeshott sees between different levels of political thought – and in particular between normative thinking and political philosophy – postulates a further difference between the Oakeshottian position and the analytic. Weldon's views entail that political philosophers are political actors, being the classical normative approach a form of practical activity. For him, Plato, Hobbes, and Hegel started to seem like politicians and actual defenders of a specific political order and articulators of a political decision.[114] Petri Koikkalainen has recently argued that this is the ground of the development of the so-called 'Cambridge School', as represented by Quentin Skinner. According to Koikkalainen, it is particularly through the work of Peter Laslett that the texts which composed the canon of political philosophy were demoted to the category of party-

[112] Oakeshott 2007: 173; Oakeshott 1993a: 129.

[113] See, Beaney 2001.

[114] Weldon 1953: 350-51.

political pamphlets.[115] Elaborating also on Laslett, Skinner states that political thought should be considered as 'a polemical intervention in the ideological conflicts' of its time.[116]

Nothing could be more foreign to Oakeshott's position. As I have discussed, political philosophy is radically distinct from the normative sphere, and its whole history can be understood as the attempt to emancipate thought from the contingencies of political conflicts. From a similar starting point to that of the philosopher in the Platonic cave, material conditions and practical dilemmas are merely the beginnings of philosophical adventures. It is only in this regard and for this reason that the history of political philosophy can be defined by its connection with the political experience from which it derives.

In the 'Introduction to *Leviathan',* Oakeshott makes it clear that the theoretical foundation of any political philosophy is an idea about the human condition that reflects 'the intellectual achievement of the epoch or society, and the great and slowly mediated changes in intellectual habit and horizon that have overtaken our civilization'.[117] This contingent situation is also composed by the practical dilemma and is influenced by the crises that characterize a certain civilization or society in a given peculiar moment. However, what unifies the efforts of all political philosophers is 'the revelation of the universal predicament in the local and transitory mischief'.[118] The understanding that a philosopher has of the nature of

[115] Koikkalainen 2009: 353.

[116] Skinner 2008: xvi.

[117] Oakeshott 1991: 226.

[118] Oakeshott 1991: 227.

human beings, of the normative dilemmas, and of the historical conditions of a society is, therefore, the point of departure of his or her intellectual adventure. However, it does not constitute its exclusive context.

With regard to Skinner's position, this difference is highlighted in Oakeshott's review of *The Foundations of Modern Political Thought.* According to Oakeshott, Skinner's understanding of the ideological debates in which normative vocabulary is used for justificatory or advisory enterprises does not give a full account of 'the whole of political thought'.[119] As we have discussed, for Oakeshott, political thought is a term with a multitude of referents and it may indicate a variety of levels of reflectivity. Consequently, the historical study of political philosophy is not concerned with its relations to the ideological debates and vocabulary of the period, but rather with its whole history.[120]

As I mentioned in the Introduction, Oakeshott claims in the 'Introduction to *Leviathan*' that the historical development of political philosophy is structured into three dialectically related traditions. The first is distinguished by the 'master-conceptions' of 'Reason and Nature'; the second by 'Will and Artifice'; the third by 'Rational Will'.[121] These constitute the foundations of the understanding of political order and politics. We will return to this triadic conception with regard to the various theories of International Relations; however, now I want to stress that the character of the historical continuity of political philosophy is suggested by the use of the term 'tradition'. With reference to the history of philosophy, this was

[119] Oakeshott 2008: 288. See Thompson 2012: 212.

[120] Oakeshott 1991: 223.

[121] Oakeshott 1991: 227-28; Oakeshott 1975b. 147-48.

already used by Oakeshott in 'The Concept of a Philosophical Jurisprudence', where it is indicated that:

> [A philosophical tradition] is not something to which we must adhere; it is something which provides the starting point and the initiative for fresh enquiry. It is no use looking to it for finished conclusions, for settled answers to fixed questions, because it is not a tradition of conclusions or even of questions, but of enquiry.[122]

It is in this manner that Oakeshott characterizes continuity: not as a mere link between past and present doctrines, but as constancy in the kind of questions posed. The search for unconditional understanding is the kernel of philosophical critical activity.

However, the notion of 'tradition' also suggests that current philosophical enquiry is the attempt to continue and maintain this critical attitude. This continuity that relates all philosophical efforts is also well represented through the concept of 'conversation', which emphasizes the relational character of philosophy. Present philosophers draw their resources, arguments, and styles from past ones, to whom they are related by being engaged in the same activity. Therefore, Oakeshott conceives of philosophy as 'conversation' also to indicate the fact that 'as civilized human beings, we are inheritors, neither of an inquiry about ourselves and the world, nor of an accumulating body of information, but of a conversation'.[123] From this point of view, the analytics demotion of the classical tradition (represented, for

[122] Oakeshott 2007: 182-83.

[123] Oakeshott 1991: 490.

instance, by thinkers such as Weldon or Macdonald) is, from an Oakeshottian position, another result of the rationalistic fashion that characterizes modernity and that claims to start a completely renewed philosophy in which 'what is not certain is mere nescience'.[124]

In short, Oakeshott's conception of the nature of political philosophy seems trapped in a profound ambivalence. On the one hand, it rejects the Logical positivist claims that reduced normativity to non-rationality and political philosophy to polemical utterances. For him (as this chapter has clarified) political thought may have different levels and political philosophy is different from both normative thought and explanatory doctrines. Instead of being either oriented to action, or an 'abridgment' of a certain political experience, political philosophy aims at universality through a method of philosophical definition that criticizes the presuppositions on which political discourse is constructed. Moreover, his notion of the philosophical definition of political concepts is opposed to that of the analytic and ordinary language philosophers, because of his conception of the traditional character of the history of philosophy.

On the other hand, in spite of this anti-positivist and idealist approach, Oakeshott seems to criticize the idea that political philosophy has any role in the definition of a just society. Because it is the criticism of the categories or presuppositions of practical experience and is therefore anti-normative, philosophy, as the previous chapters have highlighted, is a 'second order activity' that has no contribution to practical experience. In other words, philosophy does not provide any foundations

[124] Oakeshott 1991: 21.

for practical or normative choices. For this same reason, as I have illustrated with reference to Habermas, philosophy has no emancipatory role.

In this regard, it is essential to remember that the idea of the practical irrelevance of philosophy is a constant feature of both the sceptical and the idealist traditions to which I have related Oakeshott in the previous chapters. The notions of fallibilism and of the limited force of reason that Oakeshott learnt from Montaigne and Hobbes find, therefore, a further expression in the impossibility of deducing practical positions from theoretical truths. Moreover, both Bradley and Hegel – who, as I have already remarked, are the most explicit Oakeshottian sources – do not attribute any practical role to philosophy.[125]

Conclusion

This chapter has explored the implications of Oakeshott's epistemology for his ideas about the nature of political activity and moral reasoning. To this end, it has focused on the notions of moral practice and on the role of political philosophy.

It has emerged that the Oakeshottian position was developed in contrast to the analytic critique of normative thought. As opposed to the accounts developed from Ayer's critique of normativity by Weldon, Macdonald and others, Oakeshott claimed both the normative nature of practical experience and its rational character. Moreover, he contrasted those positions, such as the behaviourists, that proposed a purely deterministic understanding of human actions. This interpretation sheds a

[125] For this reason Hegel is included by Strauss among the forerunners of the crisis of classical political philosophy. Strauss 1959: 88. See: Boucher and Vincent 2012: 42; Franco 2004: 57

new light on the Oakeshottian critique of Rationalism presented in his various essays collected in *Rationalism in Politics* and in *On Human Conduct.* As in *Experience and Its Modes* – in which the autonomy of practical experience is defended – these other works also have the purpose of defending the normative character of practical thinking as well as its rational nature.

It is from this interpretative perspective that I have explored how Oakeshott theorized the nature of normativity. In particular, I have focused on the notion of 'pursuit of intimations' and of 'tradition of moral behaviour' or 'moral practice'. They indicate the persuasive, non-demonstrative, nature of normative reasoning. As also suggested by some notes on Aristotle at the Oakeshott Archive, an argument is dialectical when it departs from shared assumptions, subscribed to by all participants. I have, therefore, interpreted Oakeshott's traditionalism as a form of moral conventionalism in which the ground of normative argument is in the shared beliefs of the agents involved.

With this discussion as a background, I have turned to Oakeshott's conception of the nature of political philosophy. Departing from an assessment of the relevance of this theme in his works, I have explained the famous Oakeshottian definition of political philosophy given in the 'Introduction to *Leviathan*', in the light of the distinction between different levels of political thought. What characterizes the philosophical approach to political life is its radical critical nature. However, this does not imply that philosophy intends to modify the shared moral assumptions. Instead, the goal of its criticism is to reach as universal a point as possible. It is distinct and not reducible to normativity. Philosophy aims at defining political

concepts as they are outside of their different appearances and not at changing political circumstances.

The irrelevance of philosophy to practical activity represents one of the most controversial aspects of Oakeshott's thought. In this regard, I have highlighted that, far from being resolved or diminished in any of his works, it is the expression of the idealist and sceptical conception of philosophy as radical criticism that I have presented in the previous chapters, and which has in Montaigne, Hobbes, Hegel and Bradley its heterogeneous sources.

As already noticed, Oakeshott's idea of moral practice has been applied by neo-English school theorists, such as William Bain,[126] and by constitutive theorists, such as Mervyn Frost,[127] to the understanding of international practices. However, its relevance for constructivism and the recent 'practical turn' in International Relations has not been explored by commentators.[128] The analysis that I have developed in this chapter has demonstrated that Oakeshott offers a consistent and original theory on the nature of moral practices and of their relations to philosophy. On this basis, in the next chapter I will present the Oakeshottian contribution to post-positivist constructivist theory of international relations. Moreover, in chapter 5 and 6, I will show that the notions of moral practice and tradition, intended as shared moral background, are central in the Oakeshottian understanding international society as a rule-based form of association between states.

[126] Bain 2003.
[127] Frost 2002.
[128] See Adler and Pouliot 2011; Navari 2011.

CHAPTER 4

PHILOSOPHY AND INTERNATIONAL RELATIONS

Introduction

To explore Oakeshott's contribution to the understanding of international relations, in chapter 3 I have discussed Oakeshott's theory of normative thinking and its relation with political philosophy in the context of the intellectual debates of the time. I have argued that Oakeshott contrasted those trends in analytic philosophy that demote normativity, that is, value judgements, to emotive utterances. As intimated by the notion of modality that I have presented in chapter 1, there is no hierarchy between normative ideas, which belong to the practical mode, or human conduct, and scientific statements: both are equally abstract and valid within their own limits.

Furthermore, Oakeshott's position contrasted the positivist implications of social sciences – in particular, as proposed by behaviourism – that asserted the possibility of a purely causal and deterministic study of human actions. One of the main purposes of *On Human Conduct* – I have argued – is a defence of the 'normative' or 'practical' understanding of human actions.

Besides the considerations regarding the nature of practical thinking, Oakeshott also contrasted the analytic approach by conceiving political philosophy as an attempt to reach the universal meaning of political concepts. Influenced by Hegel and

Bradley, as well as by the scepticism of Montaigne and Hobbes, and consistent with his notion of philosophy as criticism, he however denied any practical or normative relevance of political philosophy.

In this chapter, I will highlight the implications of Oakeshott's epistemology and metaphilosophy for the study of international relations and I will show his contribution to an interpretative and constructivist theory of international relations.

Firstly, I will highlight how Oakeshott's philosophy may shed a new light on the so-called second Great Debate between the 'scientific' and 'classical' approach. I will argue that Oakeshott's critique of Rationalism in politics can be understood at the international level by showing its similarity with Morgenthau's critique of 'scientism' and Bull's aversion to the 'scientific approach'. Notwithstanding these similarities, I will also argue that Oakeshott's philosophy of history, with its distinction between the 'practical' and 'historical' past, also shows some of the possible limitations of the use of history made by both Morgenthau and some of the exponents of the English School of International Relations.

It is on this basis that, elaborating on Chris Brown's interpretation, which acknowledges the importance of the Oakeshottian source for the unfolding of the normative turn in International Relations,[1] I will outline how the reception of some of these instances has been one of the key elements on contemporary theory of international relations. In particular, I will show that Oakeshott's philosophy

[1] Brown 2006.

establish the condition of the possibility of the humanistic and constructivist understanding of international relations.

The 'Scientific' and the 'Classical Approach' to International Relations

The first step to understand Oakeshott's contribution to the metatheory of international relations is to consider the implication of his conception of normative thinking in the context of the so-called second Great Debate between the 'classical' and the 'scientific approach' that developed in the 1950s and 1960s. Its main protagonists were the American positivist and behaviourist practitioners of the discipline, and the exponents of the English School of International Relations, as well as a significant number of intellectuals working in the USA who were opposed to the behaviourist trend in political studies.

As opposed to what was conceived as the 'wisdom literature' of E. H. Carr and Hans Morgenthau,[2] the 'scientific approach' (influenced by the so-called behaviourist movement, by game theory and by the quantitative approach in the social sciences) attempted to bring International Relations back to 'facts'.[3] Morton Kaplan's *System and Process in International Politics*[4] and the essay 'The New Great Debate: Traditionalism vs Science in International Relations' represents one of the landmarks of this break in IR.[5] First, even though it is very difficult to reduce to one genus all the great variety of methodological and theoretical perspectives that characterize this approach, it is possible to identify a common theme in the idea

[2] Brown 2001: 35.

[3] Brown 2001: 34-36.

[4] Kaplan 1957.

[5] Kaplan 1966.

that political systems can be 'investigated by scientific methods'.[6] In this, they were following a neo-positivist trend of considering as the only legitimate knowledge what is consecrated through empirical tests.

The basic assumption is, therefore, that of the unity of sciences and on the existence of a unique scientific method. Against the Aristotelian distinction between science and art, between certain and probable knowledge, Kaplan underlines that 'modern science insists upon the hypothetical knowledge of all empirical knowledge'.[7] What the 'scientific or systems approach' wants to achieve is not absolute certainty – since all conclusions are provisional – but reliable conclusions. This is assured by 'formalized scientific procedures', constructed around models and systematic hypotheses that may contribute to overcome what is perceived as the current stage of poor development of social sciences.[8] In addition, it is important to note that little or no role is attributed to philosophy as conceived by the classical 'normative' tradition, already criticized by the Logical positivists. Kaplan perceived it as a synonym for 'undisciplined speculation' that addresses questions by means of an improper method.[9]

On the other hand, the English School of Manning, Wight, Bull and Butterfield developed as a reaction against this new 'scientific approach'.[10] In his polemical

[6] Kaplan 1966: 3.

[7] Kaplan 1966: 4.

[8] Kaplan 1966: 7.

[9] Kaplan 1966: 19. See also Kaplan 1961. For an analysis of Kaplan's philosophical approach, see: Hamati-Ataya 2012.

[10] See Bull 1966a. See, Dunne 1998; Buzan 2001.

'International Theory: The Case for the Classical Approach', Bull claimed that the 'scientific approach' 'has contributed and is likely to contribute very little to the theory of international relations'.[11] In particular, its distance from traditional International Relations literature keeps it at distance from 'the substance of international politics' which, as Bull puts it, are 'moral questions'.[12] As such, it is an intractable subject according to the model theory as well as to any attempt to reach scientific, objective, truths about it.

The exponents of the English School were not alone in their aversion to the 'scientific approach'. In the USA (where the tide of positivism and behaviourism was rising), Hans Morgenthau counteracted the positivist critique to the traditional approach in International Relations, and he may be considered as part of an 'intellectual irredentism, resisting its own integration into American social science' dominated by behaviourism.[13] As Michael C. Williams suggests, crucial to this was the attempt to move beyond classical liberalism, which was perceived as bankrupt after the success of totalitarianisms, and to criticise its empiricist or pragmatist epistemologies and models that, as we discussed, were becoming more and more dominant.[14] In this light, it appears clear that there is mutual implication between the epistemological critique against the American social sciences and the earlier against utopianism and liberalism. [15]

[11] Bull 1966a: 366. See also Hoffmann 1959.

[12] Bull 1966a: 366.

[13] Guilhot 2011: 129-30.

[14] Williams 2013: 651.

[15] Williams 2013: 655.

Morgenthau's *Scientific Man Versus Power Politics* is of particular relevance for the present argument. In this work, he criticises the application of the principles of scientific reason to the social world: while the first are 'simple and consistent'; the former is instead 'complicated, incongruous, and concrete'.[16] Morgenthau's targets were those 'liberal blueprints' that, on the basis of these abstract standards, projected international peace but failed to 'stand the trial of history'.[17] These positions are reiterated in a later 1955 article entitled 'Reflections on the State of Political Science', which was written in the middle of the behaviourist revolution. As it had done in *Scientific Man Versus Power Politics,* Morgenthau contests the unity of method postulated by Positivism. He rather states the necessity of assuming as a postulate the individuality and the freedom of choice, as opposed to the conception according to which human beings are 'a product of nature'.[18] Political events, in other words, are determined by 'historic individuality, rational or moral choice'.[19]

At the same time, he believed that philosophy should identify the eternal truths of politics, and of international politics in particular. The role of political theory is indeed to provide a 'timeless' map of politics that will tell us 'what are the rational possibilities for travel from one spot on the map to another, and which road is most likely to be taken by travellers'.[20] It should not be merely descriptive, but should

[16] Morgenthau 1946: 10.

[17] Morgenthau 1946: 39.

[18] Morgenthau 1955: 441.

[19] Morgenthau 1955: 442.

[20] Morgenthau 1955: 456.

also be normative, insofar as it also shows what is 'the shortest and safest road to a given objective'.[21]

To recapitulate, what is usually called the second Great Debate in International Relations, which developed mainly after the Second World War, is animated by different positions in regard of international relations theory. Especially in the American context, this was more and more conceived as the quantitative study of the relations between states aiming at objective and reliable laws. As opposed to this, the English School of International Relations defended a 'classical approach', which was mainly animated by history. Even though coming from a very different intellectual background, influenced by neo-Kantianism and, as I will further explore in chapter 6, by Schmitt's critique of liberalism, Morgenthau also criticised the 'scientist' and liberal approach to the study of politics. His project, however, was more focused on philosophy, to which he attributed the role of identifying the inner nature of political life, which is power, and, on this basis, able to provide evaluative judgments.

Rationalism in Politics and the Critique to the 'Scientific Approach'

A first element that shows Oakeshott's engagement with these themes is his discussion of Rationalism, which was developed in a series of writings published in the 'Cambridge Journal' after the Second World War and which were eventually collected in *Rationalism in Politics and Other Essays* in 1962.[22] Of course, their

[21] Morgenthau 1957: 457.

[22] The recent publication and discussion by Ian Tregenza and Jacob Struans of the correspondence between Oakeshott and Karl Popper on these issues sheds further light on

immediate context are the political debates that were crossing Britain after the Second World War. As already shown, the core of this argument is a theory of knowledge that is based on the idealist notion of modality firstly presented in *Experience and Its Modes* and further elaborated in 'The Activity of Being an Historian' (1958), 'The Voice of Poetry in the Conversation of Mankind' (1959), and, albeit with some innovations that I have presented, in *On Human Conduct*.[23]

The critique of *ignoratio elenchi* in *Experience and Its Modes*, as well as the defence of a sceptical conception of the relationship between the different voices of the 'conversation of mankind' (which are, as we have seen, different modes of experience or imagining) can be considered as the philosophical ground of Oakeshott's critique of Rationalism. Rationalism is a conception that sees science as the dominant voice over history, arts, and practice. With particular regard to politics, the rationalist sees it as a 'matter of solving problems' through technical knowledge.[24] This 'is susceptible of formulation in rules, principles, directions, maxims' and it 'can be taught and learned in the simplest meaning of these words'.[25] Moreover, it is applicable in any circumstance and situation, despite its contingent character.

In addition, in the description of Rationalism we may find another sort of argument that draws from an interpretation of the history of European modernity. Oakeshott

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these ideas and underlines its epistemological and moral relevance. See, Jacobs and Tregenza 2014.

[23] See Haddock 1996: 103-09.

[24] Oakeshott 1991: 9.

[25] Oakeshott 1991: 14-15.

proposes a dichotomised reading of European intellectual history in which Rationalism and anti-Rationalism are opposed to one another. Its roots are identified in Bacon's and Descartes's philosophies, which find their final stage in Positivism. Even though this interpretation may be highly contentious (and is in fact offered with many qualifications),[26] it is important because it shows the core of Oakeshott's critique. According to Oakeshott, Bacon's *Novum Organum* and Descartes's *Discourse de la Méthode* and *Regulae* attempted to set out fixed methodological rules that may be instrumental to the achievement of a scientific, objective, truth. They all conceived that the first step of this route to certainty was the fight against prejudice and the cancellation of received opinions.

In short, what characterises Rationalism is the application of the standards and criteria of scientific enquiry to practical and political life. For the rationalist, the customary and the traditional are reduced to nescience and prejudice, and they are criticized as such from the point of view of an alleged fully rational knowledge. Thus, the essential normative character of practical experience and of political life is obliterated. Instead (as discussed in chapter 3) Oakeshott conceived of practice as legitimate, and as rational as science and history. The practical world is essentially normative, insofar as it is the transformation of 'what is' according to an ideal that 'is not yet' and 'ought to be'.[27] Moreover, as shown by the notion of tradition and even more by that of moral practice, Oakeshott argues that normative

[26] For instance, Oakeshott distinguishes between Descartes's works and their reception, considering the latter as rationalist. See: Oakeshott 1991: 21-22. There we read: 'Descartes never became a Cartesian'.

[27] Oakeshott 1933: 274-88.

thinking is a non-demonstrative from of reasoning that starts from historically enacted shared assumption.

In this light, the 'scientific approach' that, on the one hand, claimed the necessity of studying politics from a quantitative and scientific point of view and, on the other, perceived itself as the aide to decision making, is a clear expression of what Oakeshott labelled as Rationalism in politics. A first element that suggests the relevance of Oakeshott's critique to Rationalism for this context is shown by some similarities with Bull's description of the shortcomings of the 'scientific approach'. In Bull's 1966 essay, we read:

> There is little doubt that the conception of a science of international politics, like that of a science in politics generally, has taken root and flourished…because of attitudes towards the practice of international affairs…, in particular about the moral simplicity of problems of foreign policy, the existence of 'solutions' to these problems, the receptivity of policy-makers to the fruits of research, and the degree of control and manipulation that can be exerted over the whole diplomatic field by any one country.[28]

An important Oakeshottian text in this regard is the review of Hans Morgenthau's *Scientific Man Versus Power Politics* (1946),[29] which highlights the affinities between Morgenthau's critique of scientism and liberalism, and Oakeshott's interpretation of Rationalism.

[28] Bull 1966a: 376.

[29] Appeared first in the *Cambridge Journal* (1947), the review is now in Oakeshott 1993a: 97-110.

Indeed, what in *Scientific Man Versus Power Politics* is called 'scientism' is the idea that politics, at both the domestic and the international level, can be studied after the model of the natural sciences. Instead, for Morgenthau, the scientific mind and instrumental reason are inapt to understand the contingencies of human life and its characteristic egoistic nature'.[30] On this conception of the study of politics, is based much of the rationalist understanding of the international arena. Indeed, Oakeshott adds that,

> Perhaps it is in the sphere of international relationships that the project of a science of politics has made itself most clear. 'After rationalist philosophy, in its liberal manifestation, had passed successfully its domestic trial, the general idea of extending those same principles to the international field was transformed into a concrete political programme to be put to the test of actual realization'. From Grotius to the United Nations a continuous attempt has been made to demonstrate Bentham's proposition that 'nations are associates not rivals in the Great social enterprise'.[31]

However, Oakeshott's account of Morgenthau was not uncritical. Firstly, he was loath to identify, as Morgenthau did, Liberalism with a rationalistic form of politics; which is to say, with the work of 'popularly elected parliaments which would be subject apparently conflicting views and interests to the test of reason through intelligent discussion'.[32] Instead, Oakeshott contests this identification and instead sees parliamentary democracy as the result of a peculiarly English medieval

[30] Oakeshott 1993a: 102.

[31] Oakeshott 1993a: 101.

[32] Morgenthau 1946: 25.

practice that wanted to limit 'the exercise of political power'.[33] Moreover, as I will further explore in chapter 6, he considered the category of 'tragedy' as inapplicable to political life, being an aesthetic, or poetic, category.[34] In addition to these differences, he pointed out what he regarded as a failure to distinguish between science and 'scientism', between reason and 'Rationalism'. In other words, as shown also by the correspondence with Popper,[35] what Oakeshott states is not the irrationality of practice, nor the legitimacy of a scientific understanding of the social world. Instead, what the critique of Rationalism points out is the legitimacy of a non-scientific understanding of political life, and the impossibility of applying scientific standards to political decisions.[36]

However, the main and more radical difference between the two thinkers lies in what they perceived as the purpose of political philosophy. Morgenthau claimed that a theory of politics also contains a normative element.[37] Moreover, as shown

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[33] Oakeshott 1993a: 109. Generally speaking, we can say that Oakeshott's attitude towards Liberalism was mixed, and he rather despised the confusion that was covered by that term. See, for instance, another piece of the period, a review of Henry C. Simons's *Economic Policy for a Free Society* (1946), entitled 'The Political Economy of Freedom', and collected in *Rationalism in Politics and Other Essays.* See Oakeshott 1991: 385.

[34] On this point, see Rengger 2005.

[35] See, Jacobs and Tregenza 2014: 21-24.

[36] That these observations against Morgenthau was not completely fair is illustrated, for instance, by Seán Molloy, who argues that, just as Oakeshott and Popper, Morgenthau was critical of the rationalist misuse of reason (2004: 3) and of reason *per se*. This is, for instance, shown in the following passage from *Scientific Man Versus Power Politics*: 'The philosophy of rationalism…perverts the natural sciences into an instrument of social salvation for which neither their own nature nor the nature of the social world fits them' (Morgenthau 1946: 5).

[37] Morgenthau 1955: 457.

by Seán Molloy, the task of political science is conceived more and more by Morgenthau as the identification of an eternal 'objective' truth, which is the transcendental value of political experience.[38] For Morgenthau, theory is not only descriptive, but also prescriptive.[39]

In contrast with both these aspects, as discussed in chapter three, Oakeshott defends the autonomy of practice from the intrusion of philosophy. Philosophical arguments and conclusions are of no relevance for actual political life. Philosophy is, in fact, the critique of political concepts and, as we find in a text probably written around 1946 and posthumously published: 'where there is genuine philosophy there can be no guidance; if we seek guidance, we must "hang up philosophy"'.[40] What is needed in political life is instead 'nothing higher that the ordinary faculties and ordinary knowledge that everyone (even the convinced rationalist) uses every day in the conduct of his life and in his relations with other men'.[41]

The Use of History and Historical Laws

So far, I have illustrated that Oakeshott shared the concerns and the perspective of some of the critics of the 'scientific approach'. His critique of Rationalism in

[38] Molloy 2004: 7.

[39] Brown 2001: 33. In this regard, Chris Brown (2012: 453) highlights the importance of an essay collected in Morgenthau's *Truth and Power* (1970) where the task of theory was that 'to prepare the ground for a new international order radically different from that which preceded it' (Morgenthau 1970: 260).

[40] Oakeshott 1993a: 155.

[41] Oakeshott 1993a: 107.

politics may indeed be associated with the critique of scientism and liberalism presented by Morgenthau and of the 'scientific approach' advanced by Bull.

In the following, I will consider to what extent he may be regarded as critical of some of those elements that characterized the 'classical approach' of the English School and Morgenthau, with particular regard to ideas about the nature and the role of historical understanding. I shall argue for the relevance in this context of the distinction posed by Oakeshott between the practical and historical past, as well as of his critique of the possibility of reaching objective and universal truths.

Considered by many commentators as one of his constant concerns,[42] Oakeshott's theory of historical knowledge is consistent with his idealism.[43] He followed F. H. Bradley's critical approach, and in opposition to speculative philosophy of history of the likes of O. Spengler and A. J. Toynbee (and of Martin Wight), he conceived the philosophy of history as the identification of the condition of the logical possibility of historical knowledge.[44] His effort is the definition of the conditions that make history a specific and identifiable activity. He is concerned to establish the differentiae of history in terms of its postulates. Elaborating on Croce and

[42] L. O'Sullivan 2003a: 151-53; see also: Grant 1990: 99.

[43] For a comparison between Oakeshott and the British idealists on the philosophy of history see: Boucher 1984.

[44] Oakeshott 1999: 6. There we read: 'I am concerned with what may, perhaps, be called the logic of historical enquiry, 'logic' being understood as a concern not with the truth of conclusions but with the conditions in terms of which they may be recognized to be conclusions'. See also, Oakeshott 1991: 165. On the distinction between 'speculative' and 'critical' philosophy of history of particular relevance are two texts by Oakeshott both entitled 'The Philosophy of History'. The first was written in 1928, the second in 1948. They are now, respectively, in Oakeshott 2004: 117-32; 201-07.

Collingwood – who were among his sources of inspiration in this regard[45] – Oakeshott claimed the irreducible autonomy of historical knowledge. Of particular relevance for our argument is the distinction between practice and history, which is based on the argument between the 'historical' and 'practical' past.

The starting point of his discussion of history is the identification of two different meanings of 'history'. In the first, it is *res gestae,* which is to say, the events and the actions that happened; in the second, it is 'a certain sort of enquiry'.[46] History is the result of the activity of the historian; it 'cannot be a "course of events" independent of our experience of it'.[47] Consequently, historical knowledge or experience is the historian's present experience (the body of evidence before him or her) understood under the category of the past. All experience is present experience, and we organise and understand it in terms of categories integral to the modes. Against any positivist epistemology, Oakeshott denies the existence of 'absolute data': the truth lies in the coherence of the 'facts', where 'facts' are not a given, but instead are an achievement. They compose a historical account whose truth is not determined by a correspondence between historical accounts and the 'course of events'.[48]

[45] On this see: Boucher 1993.

[46] Oakeshott 1999: 1-2. The distinction between *res gestae* and *historia rerum gestarum* is firstly presented by Oakeshott in the 1928 essay 'The Philosophy of History'. See, Oakeshott 2004: 117-32.

[47]Oakeshott 1933: 92.

[48] Oakeshott 1933: 113.

In short, Oakeshott's philosophy of history might be summarised as follows: history is the historian's experience; it is the result of the activity of the historian. From what is present, the historian infers (constructs) something that happened in the past, consistent with the evidence. The historian's present 'is exclusively composed of object recognized, identified and understood as survivals from past'.[49] This past 'is composed of passages of related events, inferred from present objects recognized as survival from the past, and themselves assembled as answers to historical questions about the past'.[50]

'Past events' as such are 'dead'; they are not experienced, and they can therefore be known because they are inferred by historians: 'the past in history varies with the present, rests upon the present, is the present'.[51] Furthermore, historical events are considered as the result of human conduct, of 'past performances' and not of natural processes.[52] The relation that the historian argues between the survival, or vestiges, of past performance is one of circumstantial contiguity between subsequent events. The image that Oakeshott chooses to represent of this sort of relation between events is that of a 'dry wall':

> When an historian assembles a passage of antecedent events to compose a subsequent he builds what in the countryside is called a 'dry wall': the stones (that is, the antecedent events) which compose the wall (that is, the subsequent event) are joined and held together, not by mortar, but in terms of their shapes. And the

[49] Oakeshott 1999: 30.

[50] Oakeshott 1999: 50.

[51] Oakeshott 1933: 107-08.

[52] Oakeshott 1999: 51-52.

> wall, here, has no premeditated design; it is what its components, in touching, constitute.[53]

Before moving on and exploring how these ideas show the distance between Oakeshott, and both Morgenthau and Bull, it is worth considering some of the most common misconceptions about them. The notion that history is a construction of the historians does not mean that it can be considered as a mere 'invention'. In other words, asserting the absence of an 'objective' – i.e. prior to the activity of the historian – series of events does not equate to affirming that history is arbitrary, or merely 'subjective'.

In the first place, this distinction between 'objectivity' and 'subjectivity' is out of sympathy with the idealist principles entailed in Oakeshott's position. It recalls instead realist and positivist appeals to 'facts' and to an 'objective' course of events that may be rediscovered. As counterintuitive as it may be, the idea that there is not an objective criterion does not equate to the claim that historical knowledge is impossible or that it falls short of any possibility of achieving truth.

Another similar, common misunderstanding argues that, for Oakeshott, historical accounts are narrations. As Terry Nardin clarifies, however, the fact that they are often presented in this form does not imply that history can be associated with story telling; for Oakeshott, history is not a fable.[54] The distinction between different modes, and in particular between poetry and history, suggests instead that the

[53] Oakeshott 1999: 102. See also, Oakeshott 1975: 105.

[54] Nardin 2001: 148. This is true in spite of an Oakeshottian juvenilia entitled 'History as Fable' written in 1923 (now in Oakeshott 2004: 31-44). As Luke O'Sullivan demonstrates, he abandoned this position in his mature works, L. O'Sullivan 2003b: 7.

criteria of coherence in a piece of artwork are different from those in a historical reconstruction.

A first element of comparison between Oakeshott and the historians of the English School is that of the relations between history and practical activity. The study of history was at the top of the research agenda of the British Committee on the Theory of International Politics, from which the English School of International Relations arose.[55] William Bain, as well as Andrew Linklater and Hidemi Suganami, identify in the writings of Hedley Bull one of the most important exemplars of the conception of the historical enquiry in the English School of International Relations.[56]

Bull's case is indeed of particular relevance for the argument in this chapter. He distinguishes between historical study for its own sake (which is identified with International History) and study that is functional to current international politics. However, in his famous piece on the condition of the theory of international relations – delivered for the 50th year of the Aberystwyth chair in International Relations – he admitted that the study of the past has the objective 'to throw light on contemporary interstate politics'.[57]As Bain argues, Bull believed that history 'provides useful knowledge about present events', and is therefore of practical use. More particularly, history provides us with the knowledge of what may or may not happen.[58]

[55] See, Linklater and Suganami 2006: 84-97; Buzan and Little 2000: 29.

[56] See, Bain 2007: 515-17. This opinion is shared by Linklater and Suganami (2006: 86).

[57] Bull 2000: 249.

[58] Bain 2007: 516-17.

A thinker that articulates even more the variety of opinions within the English School is Herbert Butterfield.[59] He distinguishes between two types of history: the technical and the practical. In *The Whig Interpretation of History* (1931), in *Christianity and History* (1950), and in *History and Human Relations* (1952), Butterfield developed the ideas of German historicists such as Leopold von Ranke and F.W. Maitland, claiming that history has the purpose of explaining change in human society from the point of view of individuals caught up in unique events. Against what he defines as the Whig interpretation of history, historians should 'understand the past for the sake of the past'.[60] Opposed to the technical, practical history aims instead at drawing lessons from the past. The danger that Butterfield saw in this was that of giving retrospective moral judgments on past events and decisions.

Even though these two kinds of history are on different levels, Kenneth McIntyre argues that Butterfield did not establish a hierarchy between them and, especially in later works, he seems to identify a positive value of practical history.[61] For instance in *The Englishman and His History* (1944),[62] he admits its political importance, even though it is composed of what he calls (with a term that will also

[59] Butterfield and Oakeshott were friends and colleagues in Cambridge and the relevance of Butterfield's ideas on Oakeshott are well known. See: Bentley 2011.

[60] Butterfield 1959: 16-17. See McIntyre 2011.

[61] McIntyre 2011: 37-39.

[62] Butterfield 1944. In this regard it is also important his *The Origin of Modern Science* (1949) which interprets the historical development of modern science as progressive; on this see: Jardine 2003.

be used by Oakeshott) 'abridgments'.[63] It is in his *The Origin of Modern Science* (1949) that Butterfield seems most to undermine the distinction between practical concerns and the activity of the historian. Indeed, assuming the present point of view, Butterfield conceives past scientific theories as wrong and also recognizes that the awareness of the past may benefit present scientists.[64] In this regard, it is also worth mentioning that Butterfield believed that technical history could eventually attain a final truth and discover the 'fundamental human predicament' at the heart of human conflicts.[65]

Within the English School Martin Wight represents a peculiar position. His denial of the existence of any international political theory is grounded on a speculative philosophy of history.[66] The reason for the paucity of international theory is twofold, and derives from Wight's definition of political theory as the speculation about the State, a political entity that is absent at the international level. Most importantly, however, whereas political theory is concerned with the condition of the good life and with the changing circumstances of different societies, the spectacle that is in front of the eyes of the international theorist is that of recurrence and repetition. Those thinkers, such as Hegel and Kant, who instead tried to see in history a superior rationality, make, in Wight's views, the 'conviction precedes the

[63] Butterfield 1959, passim.

[64] Jardine 2003; Chang 2009. See also A.R. Hall 1983.

[65] Bain 2007: 44.

[66] I. Hall 2006: 43-44.

evidence'.[67] In short, the denial of the possibility of international theory is based on the idea that international history is dominated by necessity and regularity and is out of human control.[68]

Clearly influenced by Butterfield, Oakeshott theorises the opposition between 'historical' and 'practical' past. They are two categorically distinct past, constructed on the basis of different postulates. Practical past is a 'living past', related to what is happening to ourselves. Its aim is to 'enable us to anticipate events that have not yet taken place'. It is from this point of view that it makes sense to ask ourselves about the moral value of past actions, or about the origins of 'what we perceive around us'.[69] For this reason, it is a remembered, recollected, and consulted past, 'which may be said to "teach by example", or more generally to afford us a current vocabulary of self-understanding and expression'.[70]

This (didactic) living past is '*legenda*, what is "read" and what may be read with advantage to ourselves in our current engagement'.[71] Similar to Butterfield's

[67] Wight 1966: 27. It is interesting to note – as a sign of the sort of misunderstandings that characterized the time – the genealogy identified by Wight between Kant's *Perpetual Peace* and Goebbels's conception of the meaning of history, see, Wight 1966: 28-29

[68] In the posthumously published *International Theory: the Three Traditions*, Wight changes his opinion and instead considers international theory as of 'political philosophy of international relations'. Wight 1991: 1.

[69] Oakeshott 1991: 159.

[70] Oakeshott 1999: 21. Oakeshott finds an example of this sort of attitude towards the past in Machiavelli's use of Livy; see, Oakeshott 1999: 43.

[71]Oakeshott 1999: 19.

considerations in *The Englishman and His History*, in Oakeshott's 1983 essays on history, he writes that the practical past is:

> An indispensable ingredient of an articulated civilized life. But it is categorically distinct both from the survivals which compose the present of an historical enquiry and from an historically understood past which may be inferred from them. It is an accumulation of symbolic persons, actions, utterances, situations and artefacts, the products of practical imagination.[72]

Even though, as Oakeshott says, quoting Croce, 'all history is contemporary history',[73] this is true because the historian's experience can only be present and not because history is the expression of historian's present practical concerns. However, it is 'understood exclusively in terms of its relation to the past'.[74]

In a tone similar to Butterfield's, Oakeshott writes that 'history is the past for the sake of the past'.[75] The historian's attitude is not practical. As affirmed in 'The Activity of Being an Historian', the historian is rather a translator from the practical idiom. Events and happenings that at the time were practical (i.e. that were performances) are understood as historical, which is to say, as part of a continuity of events of the same sort. In short, what the historian reconstructs in this manner is a contextual picture in which individual events are intelligible in terms of their relationships with other events of the same kind.

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[72] Oakeshott 1999: 48.

[73]Oakeshott 1933: 109.

[74] Oakeshott 1999: 30.

[75] Oakeshott 1933: 106.

Whereas in chapter 3 I argued that human conduct is possible only on the grounds of shared assumptions or presuppositions, enacted in a moral practice, it is worth mentioning that the purpose of history is to consider individual actions or performances in the context of 'an identifiable practice' to which agents subscribe.[76] To understand an event historically is to identify it as an 'exhibition of intelligence' and to relate it to 'beliefs, sentiments, understandings' and to the 'practices subscribed to'.[77]

In sum, Oakeshott opposed the notion that the results of historical knowledge may be considered as the source of practical lessons. At first glance, this may be considered similar to Butterfield's claims against the Whig interpretation of history and the identification of its differences from technical history. He even seems to share with Butterfield a certain incoherence regarding this distinction. Luke O'Sullivan has gone as far as to argue that many of Oakeshott's works exhibit a practical outlook of the past, showing – in place of any progressivism – a 'pessimistic and condemnatory' perspective.[78] Indeed, in Oakeshott's writings, there is often a vein of despair and condemnation of the evolution of modern European society and political vocabulary. That Oakeshott did not disdain the practical use of history is also shown by his conception of political education as presented in his inaugural lecture at the LSE. An important part of that education should be, as we have seen, historical. However, its aim is mainly practical, being that political education,

[76] Oakeshott 1975: 101.

[77] Oakeshott 1975: 106.

[78] L. O'Sullivan 2012: 54.

> Is not merely a matter of coming to understand a tradition, it is learning how to participate in a conversation: it is at once initiation into an inheritance in which we have a life interest, and the exploration of its intimations.[79]

In short, what is important to underline, however, is that the Oakeshottian distinction between a practical and a historical past does not imply a hierarchy between the two. Oakeshott is indeed concerned with what is unique to historical explanation; he aims to identify the specific character of pure historical activity. Even though historians engage in many other things than history (such as moral condemnation, or speculation about what may have happened), this is not what defines historical activity. The fact that the works of historians have been often touched by didactical purposes does not mean that it is impossible to identify history as an autonomous form of experience or understanding.

Besides the categorial distinction between practical and historical past, there is a distinction between historical and scientific understanding. In essence, while science sees every happening as an element in a necessary process, history appreciates the contingent (i.e. not necessary) nature of any event.[80]

In this regard, albeit outside of the English School *milieu*, Hans Morgenthau represents an interesting case similar to Bull. For Morgenthau, historical knowledge and theory are deeply intertwined. He uses a large number of historical examples

[79] Oakeshott 1991: 62.

[80] This aspect is particularly underlined in an important section of *On Human Conduct*, see Oakeshott 1975: 101-07. It is also illustrated by the above mentioned analogy of the 'dry wall'. On Oakeshott's notion of 'contingency' and on its link with Aristotle's conception, see Boucher 1984: 212.

to corroborate his own position, and he also adopts a nomothetic outlook. Indeed, the repetitiveness and constancy in history can be formulated in 'objective laws'. Thus, Morgenthau seems still to be influenced by positivism and, more particularly, by Hempel's 'covering laws' theory of explanation.[81]

As Thomas W. Smith clarifies, Morgenthau's method was twofold. First, theory – as we have discussed above – should formulate objective truths that transcend time and space. The truths and laws should, in the second place, be tested historically. In so doing, it would be possible to give 'theoretical meaning to the facts of international politics'.[82] It is worth remarking that there is no contradiction between the critique of the 'scientific approach' and the claim that objective laws of political action could be identified by history and philosophy. Even though they are not shaped by the method of natural science, history and philosophy were seen as the 'sciences' that were able to accomplish this task.

It is in this regard that the differences between Oakeshott and the 'classical approach' of Wight and Morgenthau are more striking. Indeed, Oakeshott did not believe that historical knowledge could find any historical laws, neither in the form of 'universal laws or regularities, which it is the task of the enquiry to ascertain and formulate',[83] nor in that deductive-nomological of Hempelian kind.[84]

To the task of refuting the nomothetic perspective, as proposed by Hempel and Popper, Oakeshott devoted numerous pages in *On History and Other Essays,*

[81] See, Hempel 1942.

[82] Morgenthau 1985: 5. See, Smith 1999: 67-68.

[83] Oakeshott 1999: 79.

[84] Oakeshott 1999: 83.

published in 1983.[85] He contests the existence of a 'model of scientific enquiry and explanation to which all enquiries must conform on pain of being pronounced inadequate or even invalid'.[86]

Oakeshott argues against the idea that history should reach the formulation of laws on the grounds of the inductive procedure of examining a number of historical occurrences (a conception that, even in different forms, was shared by the exponents of the 'classical approach'). For Oakeshott, this position misconceives the character of historical understanding, underpinning a realist appeal to already understood and explained facts. In particular, it attributes to events 'that are said…to be awaiting explanation in terms of laws' a fixed and certain character which is not their own. Instead of being such 'reliably reported bygone occurrences', they are the 'conclusions of inferences from…survival used as circumstantial evidence for what has not survived'.[87] Moreover, the effort to identify regularities cannot derive from the historian's explanation of the relations between events, but is instead the attempt to apply 'systematically related abstract concepts' to those situations that the historian should instead aim to explain.

Oakeshott does not see the role of history as one identifying causal relations between different events. The relationship between events inferred by the historian is not causal and by assuming the existence of this sort of universal laws, historians 'have resigned any pretence of being concerned with the conditions of historical

[85] Oakeshott 1999: 84-90.

[86] Oakeshott 1999: 86.

[87] Oakeshott 1999: 81.

understanding'.[88] The connections between events cannot be argued from the observation of constant conjunctions of events, or from empirical general laws inducted from it. This procedure attributes to the not-yet-understood event a role as either an effect or a cause. In other words, Oakeshott contests the realist epistemology underlining this position.

Overall, as with the critique against the 'scientific approach' dominated by positivist reductionism, the differences between Oakeshott's position and the 'classical approach' are grounded on his theory of modality (according to which, as I have illustrated in chapter 1, all modes are equally legitimate and autonomous from one another). As historical knowledge is an abstraction, it cannot provide ultimate truths; as it is autonomous from science, it cannot provide general laws; and, as it is autonomous from practice, it cannot offer moral lessons. Instead, historical concepts are relevant only within their own limits. They are the result of the historian's activity that argues a circumstantial and contingent relationship of contiguity between events and that identifies them as intelligent subscriptions to moral practices.

The Normative Turn

So far, I have presented a complex account that shows the relevance of Oakeshott's thought for the debates that were animating International Relations theory after the Second World War. It is however also clear that his thought cannot be easily associated with any of the various schools or trends that were engaged in those polemical exchanges. As shown by the review of Morgenthau and by the essays on

[88] Oakeshott 1999: 90.

Rationalism, Oakeshott's thought may be compared with those who were engaged in the polemic against the 'scientific approach'. In this respect, his position sheds light on the overlap between the critique of positivist political science and of liberal utopianism. At the same time, as discussed in chapter three, he shares with the positivists the denial of any normative role for philosophy.

The distinction between the practical and historical past, as well as the critique of the deductive-nomological model of historical explanation show that Oakeshott's philosophy of history was distinct from those that underpinned the various trends of the 'classical approach'. If the Oakeshottian influx on the development of this debate in International Relations Theory is, therefore, rather indirect and very nuanced, it appears much clearer in what has been defined as the 'normative turn' in International Relations.

Among the different sources of this turn identified by Brown, there is the interpretation of Oakeshott's philosophy, which, in International Relations, was given prominence by Terry Nardin's *Law, Morality and the Relations of States* (1983).[89] I will leave to the next chapters the discussion of Nardin's contribution to the understanding of the English School's notion of international society. For the moment, I wish to remain at the metatheoretical level and to highlight how Oakeshott's notions of philosophy and normativity have influenced contemporary international relations theory.

First, it is of particular relevance Oakeshott's critique of the analytic attack on the rationality of normative thought – which, as I have illustrated in chapter 3, and

[89] Brown 2001: 55; 2006: 225.

consistently with the notion of modality, claims the legitimacy and the full rationality of practice – as well as his defence (in *On Human Conduct*) of a specifically 'practical' or 'normative' understanding of human actions and political life. This is particularly underlined by another neo-English School writer, Robert Jackson, in his *The Global Covenant: Human Conduct in a World of States* (2000).[90] In an explicit attempt to revitalize the English School, he considers 'international studies to be a non-technical, humanist inquiry into a distinctive set of questions'.[91] It focuses on certain social roles, relations, groups of associations, and notions of authority and power. As such, it is different from positivist social sciences. The Oakeshottian – and post-Kantian – distinction between natural sciences and cultural sciences is particularly relevant because of the identification of politics (at any level) as an intelligent, not deterministic, endeavour.[92]

Second, it has had a considerable impact the already discussed Oakeshottian distinction between three different irreducible, albeit dialectically related, levels of political reflections: the one strictly practical; the explanatory; and the philosophical.[93] In a recent article, Nardin clarifies his debts to Oakeshott with regard to the nature of theorizing international law and morality. As Oakeshott posed a radical distinction between political philosophy and political activity, so Nardin argues for the radical distinction between 'theorising an idea' and using it.[94]

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[90] Jackson 2000.

[91] Jackson 2000: 61.

[92] A similar application of Oakeshott's understanding of normativity is proposed in Astrov 2005.

[93] Oakeshott 1991: 65, 223; 1993a: 146-151; 1993b: 12-15; 2006: 33-44.

[94] Nardin 2008: 385.

Consistent with Oakeshott, Nardin also conceives the aim of international legal theorists as that of defining 'the idea of law in general', when conceived as abstracted from contingencies with the aim of uncovering 'the presuppositions of international law as an idea'.[95]

In short, there is a specific, Oakeshottian theory of international relations where theory has the aim of questioning the presuppositions of ordinary understanding about the relations between states, international law, morality, etc. The attempt is, therefore, that of considering practical, normative, elements involved in world politics from a point of view as universal as possible, outside of the various contingent circumstances that characterize international politics. This, I have argued in chapters 1 and 2, is to think about it concretely and not abstractly.

The notion of different levels of political reflection has been invoked by David Boucher to advance an alternative view of the nature, the history, and the theory of international relations to that proposed by Martin Wight. In his later writings, Wight changed his views about the absence of a tradition of speculation and enquiry about the relations between states, and he conceives of international theory as a 'political philosophy of international relations'.[96] However, according to Boucher, he does not provide a clear definition of what international political theory is, subsuming under it everything that has been said on international relations throughout history, that is, ideas from all three levels of discourse that Oakeshott identified. Oakeshott's distinction between different levels of political reflection, therefore, may be useful

[95] Nardin 2008: 386. A similar Oakeshottian idea was also expressed in Nardin 1983: ix.

[96] Wight 1991: 1.

to clarify that there is a distinction between the texts written for polemical or mundane purposes and those of higher value.[97]

The identification of a perspicuously philosophical level of reflection in International Relations has indeed been the ground of Boucher's identification of three dialectically related traditions of reflections on International Relations. In his 'Introduction to *Leviathan*', Oakeshott conceives of the history of political philosophy as animated by three dialectically related traditions each having its own master conceptions: they are 'Nature and Reason', 'Will and Artifice', and 'Rational Will'. Elaborating on this, Boucher considers the theories of international relations as articulated according to three distinct, but related, traditions, which correspond to Oakeshott's: Universal Moral Order, Empirical Realism, and Historical Reason.[98] In so doing, he revitalizes the Oakeshottian notion that philosophy is a 'tradition of enquiry', a particular attitude towards experience and not a set of questions or answers and even less of immutable concepts.[99] Of importance here is the tradition of Historical Reason, to which Oakeshott himself

[97] On this see: Boucher 1998: 9. A similar concern is in the collection edited by Chris Brown, Terry Nardin and Nicholas Rengger, who argues that 'some thinkers clearly have produced more significant work than other' (Brown et al. 2002: 3). However, in his construction of the canon of the 'political theory of international relations', Boucher deliberately chooses the term 'political theory' in order to include thinkers that, from an Oakeshottian standard, are not strictly philosophical (Boucher 2009: 5).

[98] Boucher 1998; Boucher 2007.

[99]Oakeshott 2007: 182-83. Jeffrey's (2005: 71) and Smith's (1996: 611) critiques of the use of tradition in the study of the history of thought seem to conflate two different meanings of tradition within Oakeshott's works. One is a 'tradition of enquiry', another is a 'tradition of moral behaviour' or a 'practice' – which is used by Oakeshott to indicate the moral conventions on which our practical reasoning is based (Oakeshott 1991: 61; 1975: 55).

(as I will argue in chapter 5 and 6) may be said to contribute, and which has particular relevance to understanding international relations.

Constructivism: Ontological Questions and the Interpretative Method

The discussion that I have conducted so far has led to the identification of the relevance of Oakeshott's thought for the metatheoretical debates that have animated International Relations since the end of the Second World War. It has emerged that Oakeshott's theory of modality – according to which no mode of experience or order of inquiry has a higher value than any other – is the ground for his critique against the 'scientific approach' and of the differences from the 'classical approach' as defended by the exponents of the English School and Morgenthau.

Following Chris Brown's interpretation, I have illustrated how Oakeshott's defence of the legitimacy of a normative understanding of human conduct, as well of his philosophical understanding (discussed in chapter 3) has been central to the so-called 'normative turn' in International Relations, mainly through the works of modern English School thinkers such as Terry Nardin and Robert Jackson, as well as those of international theory historians such as David Boucher. In short, Oakeshott's epistemological and philosophical theory has offered and may offer an original perspective within post-positivist International Relations. What now needs to be examined is whether it may be considered as a contribution to the constructivist trend in the theory of international relations as it has developed over the last three decades.

According to Christian Reus-Smit, what characterises constructivism is the emphasis on the importance of 'normative as well as material structures, on the role of identity in shaping political action and on the mutually constitutive relationship

between agents and structure'.[100] Within this definition it is possible to include a great variety of positions, characterised by a series of very diverse assumptions as well as practical commitments. A word of warning to be considered is that constructivist theorists, over the last ten years or so, have not developed a great deal of metatheoretical work and have preferred to focus on empirical analysis.[101] Indeed, besides Alexander Wendt's *Social Theory of International Politics* (1999), constructivism is neither grounded on a general theory nor based on a shared methodology. However, it is possible to identify some tenets that characterize the broad church of International Relations constructivism at both the ontological and epistemological level.

First of all, constructivism may be regarded as a challenge to the ontology of positivist theories of international relations. Against the essentialism of both neorealism and neoliberalism (which consider that social interactions are based on pre-established purposes and interests determined by the fixed nature of the actors involved), for constructivists identities and interests are 'socially constructed'.[102] In this regard, the constructivist paradigm has been set by Nicholas Onuf's 1987 work, which asserts the need to emancipate International Relations theory from positivist materialism and to investigate the ways in which the social world has been constructed by the activity of human beings. At the same time, this would allow us

[100] Reus-Smit 2003a: 188. As already mentioned, this constructivism in the context of International Relations is therefore very different from 'political constructivism' as defended in Rawlsian political theory. The latter being a way of justifying political principle through a 'thin' foundationalism and universalism (Roberts 2007: 137-58).

[101] Reus-Smit 2003a: 194.

[102] Reus-Smit 2003a: 188.

to identify ways of changing the current state of affairs.[103] Alexander Wendt aptly summarises this 'turn' in International Relations by saying that, for constructivism 'material resources acquire meaning for human action through the structure of shared knowledge in which they are embedded'.[104]

In spite of this general understanding, there are three main variants, which address differently the nature of their object of study. The first, defended by John Meyer and 'the Stanford School' of sociology, asserts the ontological priority of social structures. The second, influenced by Habermas's theory of communicative action, stresses the importance of moral arguments in the conflict between the norms that constitute the social structures.[105] Finally, a third trend in constructivism is inspired by Foucault's structuralism. According to the Foucauldian notion of genealogy, social norms are the result of a form of power that defines criteria of normality.[106] Here, constructivism may be considered along the lines of critical theory as it identifies its purpose in unmasking the relations of power and of the clashes that generate current normative structures.

Even from these brief remarks, it is possible to point out that the relevance of the link between constructivism and International Relations critical theory is indeed evident.[107] Constructivism contributes to the objectives that Andrew Linklater set

[103] Onuf 1987.

[104] Wendt 1992: 73. See also Wendt 1992; 1999.

[105] Risse 2000. See also Kratochwil 1989; Reus-Smit 1999.

[106] An example of this approach is, among many, Bartelson 1995.

[107] On critical theory, and also on its relation with constructivism see the essays collected in Wyn Jones 2001. For discussion of the kink between critical theory and the constructivist

international critical theory: first to advance an inquiry into moral foundations; second, to study and identify the genealogy of international institutions; finally, to propose emancipatory transformations, in which subdued individuals and communities may eventually redeem themselves.[108]

It is also the methodological debate characterizing constructivism that shows the variety of the positions encompassed. While Wendt, for his emphasis upon quantitative analysis, may still be considered as writing in continuity with the mainstream positivist paradigm,[109] the works of Kratochwil, Ruggie and Neufeld show the affirmation of an interpretative paradigm focused on human practices, values, and intersubjective meanings.[110] The recent 'practical turn' in International Relations may also be considered as a development of some aspects of constructivism. Indeed, it sees the social world as composed of 'bundles of ideas and matter that are linguistically, materially, and intersubjectively mediated in the form of practices'.[111]

Particularly relevant for the concerns of the present chapter are the recent attempts to compare the English School of International Relations to constructivism. A significant example here is represented by Tim Dunne, who stresses that both perspectives focus their attention on those intersubjective practices through which

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turn see: Rengger and Thirkell-White 2007. The paradigm of critical theory in IR was set by: Linklater 1990; Cox 1981.

[108] Linklater 1992: 92-96.

[109] Wendt 1999.

[110] Kratochwil 1988/1989; Neufeld 1993; Price 1994; Ruggie 1993.

[111] Adler and Pouliot 2011: 28.

the relations of states are constituted.[112] In this regard, a point to be remarked upon is that constitutive theorists such as Chris Brown and Mervyn Frost share some of the constructivist concerns. As constructivists themselves, they indeed argue for the interdependence between individuals and their social contexts.[113]

If these comparisons have the merit of identifying a connection between sectors of the study of international relations that have developed autonomously they also underlines differences. The most important among these is the relevance for constitutive theorists and neo-English School writers of normative concerns that are relatively absent in the works of constructivist writers. In other words, one of the key concerns of thinkers such as Bull, Vincent, Jackson, Mayall, Wheeler and Nardin, but also Brown and Frost, is the relation between international order and justice.[114] An issue that is not often considered by constructivists.[115]

Oakeshott shares with constructivism the idea that world politics is the result of the rational activity of individual agents, sharing common presuppositions that evolve throughout history in virtue of agents' actions and understanding. Human conduct is the intelligent response to an understood situation, and it is shaped by the interpretation on those shared belief, which are composed by the moral practices in

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[112] Dunne 1995: 384; 1998: 187-90. See also Buzan 2004. From the constructivist side it is of particular relevance Reus-Smit's *The Moral Purpose of the State* (1999) which argues a relation between the self-understanding of the nature of the states and the construction of international institutions.

[113] Brown 1994: 167.

[114] In this respect, Reus-Smit (1999) attempts to offer a synthesis between the sociological attitude of constructivism and the normative reflection of the English School.

[115] Reus-Smit 2002.

which the agent is situated. However, differing from the assumptions of constructivist theorists, for Oakeshott, this position is grounded on philosophical idealism.

As I have contented in chapter 1, Oakeshott subscribes to the principle according to which reality and mind are interrelated. There is no object independent from a knowing subject. There is no reality outside of our knowledge of it. Therefore, practical experience or human conduct is a form of thinking, a particular mode of experience. It is, as I have shown in chapter 3, normative reasoning, a non-demonstrative form of discourse that starts from shared assumptions as historically embedded in a tradition or moral practice. The notion that the meaning and value of individual practical ideas is therefore related to their context (which is to a tradition or moral practice) is consistent with the methodological holism that I have illustrated in chapter 1.

In addition to this, Oakeshott also agrees with the interpretative or humanistic methodology that animates much of the body of constructivist works. In this regard it is of particular significance, as it anticipates many of the constructivist concerns, the history of the modern European state that Oakeshott offers in *On Human Conduct.* This is indeed a reconstruction of the beliefs about the nature of the activity of government and of the authority of the law that have characterized modern Europe. For Oakeshott, the political history of Europe is a history of political thought, an investigation into intersubjective beliefs, into the 'European political consciousness'.[116]

[116] Oakeshott 1975: 320.

He also defends, as I have also shown in chapter 3, the possibility of a philosophical reflection on the practical world and human conduct (which includes political life) intended as the search of the presuppositions of political concepts and of their universal meaning. As I have discussed, and as I will illustrate in the next chapter, the philosophical theory of political life is articulated by Oakeshott through the identification of the postulates and of the characteristics of two opposed ideal characters (civil association and enterprise association). They are universal concepts as they represent the two irreducible modes of human association considered independently of the various historical and contingent circumstances of political life.

Even though Oakeshott is indubitably concerned with the study of moral foundations, his position is distant from one that attributes an emancipatory role to theory as that of those constructivist theorists more influenced by critical theory. As I have argued over the last three chapters, Oakeshott radically distinguishes philosophy from practical activity. In other words, to identify the practices that are assumed as the starting point of normative reasoning, and to consider them in terms as universal as possible, is a different engagement from that of proposing particular practical arrangements. This dissimilar perspective is not, however, simply a diverse preference regarding the nature of philosophy's role. Instead, it is the consequence of a theory of modality, according to which, practical experience or human conduct is based on autonomous presuppositions, and according to which, any change of the current political arrangements is only made possible by departing from those shared assumptions and actual circumstances from which normative reasoning develop. As it considers concepts outside of their immanent context and

criticises their assumptions, philosophical criticism is irrelevant to practical activity.[117]

Conclusion

With the discussion developed over the first three chapters as a necessary prelude, in this chapter I have claimed that Oakeshott's philosophy (with particular reference to his theory of modality and of criticism) may be placed in the context of the debates that have animated International Relations Theory in the post-1945 era.

In the first place, I have shown that the critique of Rationalism in politics has clear analogies with the opposition to the 'scientific approach' that characterized the second Great Debate in International Relations. Grounded on his idealist theory of modality, and on the sceptical model of the conversation of mankind, Oakeshott's essays on Rationalism may be considered alongside Morgenthau's *Scientific Man vs. Power Politics* and Bull's defence of the 'classical approach'. However, differently from Morgenthau, he does not consider philosophy a normative activity with the aim of prescribing certain arrangements in world politics. As already discussed in chapter 3, Oakeshott considered philosophical activity irrelevant to the practical. Indeed, it criticises the assumptions that ground normative reasoning and attempts to identify the universal value of political concepts, which is to say, what

[117] This attitude is not however completely out of touch with contemporary international relations theory. For instance, Chris Brown contends that the claim that theorists 'possess some special knowledge which enables them to solve the difficult moral dilemmas of the day' is unsustainable. Their contribution to the debates can only be 'in virtue of their role as citizens who happen to have thought about a particularly difficult issue for longer than most of their fellows' (1992: 3).

they mean when considered outside of the contingent circumstances and of the shared assumptions from which they were constructed and justified.

In spite of the defence of the legitimacy of a non-scientific understanding of human conduct, Oakeshott's philosophy of history is in contrast with the historiographical positions of many exponents of the English School and, in the American context, of Morgenthau. In particular, the attempt to find universal or covering laws through historical knowledge is considered by Oakeshott a residue of the realist and positivist epistemology that he wanted to undermine. Even though he shared with Herbert Butterfield a certain inconsistency between his activity as historian and his methodological and epistemological doctrines, Oakeshott's philosophical defence of the autonomy of history – once again based on his conception of modality – is a powerful argument against 'wisdom literature' and the didactic use of history, which is so characteristic of traditional international relations theory.

To sum up, by means of the comparison with some of the most relevant ideas of the debates about the nature of the theory of international relations that occurred after the Second World War, I have argued that Oakeshott defends a peculiar and original position, which is against a purely quantitative study of world politics, but also 'sceptical' about the possibility of finding eternal truths or objective laws through historical enquiry.

In addition to this reconstruction, this chapter has elaborated on Chris Brown's claim that Oakeshott's thought can be considered one of the sources of the normative turn in International Relations. I have stressed that Oakeshott's ideas are important as they have influenced a genuine philosophical study of international

relations, as recently advanced by some neo-English School writers such as Terry Nardin and Robert Jackson. At the same time, Oakeshott's definition of philosophy has also contributed to the historical study of the reflection on the conduct of states with the notion of the three traditions advanced by David Boucher elaborating upon the model of Oakeshott's 'Introduction to *Leviathan*'.

With this long discussion as a background, and in the light of the argument that I have developed in the previous chapters, I have eventually contended that Oakeshott's philosophy may also be regarded as a contribution to contemporary constructivism in International Relations. Even though his theory developed from different philosophical foundations, Oakeshott shared with the constructivists not just the notion that political life and social reality are a construction, that is to say, the result of the activity of mind, but also the interpretative methodology. Indeed, consistent with Oakeshott's notion of modality, the social world may be regarded not just from the point of view of science, but also from that of history, which places individual identities and performance in the context of moral practices intended as shared assumptions. It may also be considered from the point of view of philosophy, which seeks to look at human life from a universal point of view. On the ground of these considerations, over the next chapter I will argue that Oakeshott's political philosophy may be the ground for an understanding of international society where customary international law is its constitutive practice. It is on this ground that in chapter 6 I will address the normative questions about the relation between morality and justice in international society.

CHAPTER 5

CIVIL ASSOCIATION AND INTERNATIONAL ORDER

Introduction

At the outset of chapter 1 I suggested that those international relations theorists such as Nardin, Jackson, Rengger and Frost – who have applied some of Oakeshott's notions at the international level – have not explored a comprehensive understanding of the implications of Oakeshott's political philosophy at the international level, nor have they discussed the broad philosophical meaning of those ideas. At the same time, constructivist theorists, while presenting, as I have shown over the last chapters, many similarities with Oakeshott's broad epistemological assumptions, have instead referred to other philosophical sources.

Over the last four chapters, I have discussed Oakeshott's philosophical idealism; its implications for the understanding of normative thinking and political philosophy; as well as its relevance for the metatheoretical debates in the history of the theory of international relations. In particular, in chapter 3, I have shown that Oakeshott conceives practical experience as a world of value judgments. In *Experience and Its Modes* and in *On Human Conduct*, practical experience, or (as it is called in the later work) human conduct, is seen as the result of human intelligence and rationality. Philosophy is a critical activity insofar as it identifies the postulates and the meaning that concepts have when considered outside the contingent circumstances in which they are situated. Philosophical criticism moves from the

current and ordinary understanding of political and legal concepts to a definition that may be as universal as possible.

As I have claimed in chapter 4, when applied at the international level this position has profound implications. On the one hand, it is a radical critique of an exclusively quantitative or systemic understanding of international relations, as proposed since the 1950s by the followers of the scientific approach. In this regard, the critique against Rationalism in politics is of particular relevance because it associates Oakeshott with the anti-positivist strand in international relations.

On the other hand, however, Oakeshott's position cannot be identified with those of the defenders of the classical approach. In particular, his philosophy of history distinguishes the concerns of the historian from those of the practical man. For Oakeshott, historical knowledge provides neither lessons, nor objective laws. If, as such, Oakeshott's thought may be used as a critical tool against the main tendencies of the so-called second Great Debate, his ideas have animated a distinctive approach in the so-called normative turn. Oakeshott's analysis of human conduct and political life has been the starting point for an understanding of the moral and normative nature of international law and morality. Moreover, Oakeshott's positions have influenced those theorists that conceive of theory of international relations as an explanatory activity, as a tradition of enquiry lying not in a certain set of questions and answers, but rather in a manner of questioning the presuppositions of relations between states.

In short, the previous chapter has demonstrated that Oakeshott's philosophy may be considered an original voice in the context of contemporary International

Relations Theory. As it argues for the normative nature of the social world – which is therefore conceived as a creation of human activity based on shared assumptions which are part of a moral practice – and it defends the legitimacy of its historical and philosophical understanding, Oakeshott may be considered as a proponent of a form of constructivism.

As already recalled, neo-English School theorists have already applied Oakeshott's notions to the understanding of international society. In particular, Terry Nardin has proposed a 'practical' conception of international society constituted by customary international law.[1] More recently, Nicholas Rengger has interpreted the evolution of international order in the light of Oakeshott's dichotomy between civil association, or nomocracy, and enterprise association, or teleocracy.[2]

Elaborating on these contributions, as well as on David Boucher's triadic conception of the philosophy of international relations,[3] I will argue in the following that from Oakeshott's civil association it is possible to construct a theory of international society. To this end, I will first discuss how Oakeshott presented what he conceives as two opposite ideal characters of intelligent human relationships that he discussed in relation to understanding of the modern European state, namely, civil association and enterprise association. The analysis will be centred upon the

[1] Nardin 1983.

[2] Rengger 2013. In *On Human Conduct,* Oakeshott uses the dichotomy between civil association and enterprise association and the one between *societas* and *universitas*. The opposition between nomocracy and teleocracy is only mentioned once in *On Human Conduct* (1975: 203-05), but it is largely used in his *Lectures in the History of Political Thought* (2006: 469-97).

[3] Boucher 1998.

concept of authority and its relation with morality, also in the light of Oakeshott's indebtedness to Hobbes. On this ground, I will analyse Oakeshott's texts to offer a comprehensive account of his ideas about international relations. I will show that, particularly in *On Human Conduct*, we may find considerations about European expansionism, and war, as well as on the nature of international society as a whole. I will then discuss Terry Nardin's *Law, Morality and the Relations of States*,[4] and Christian Reus-Smit's criticism of the attempt to theorise a 'practical international society'.[5] I will argue that international society may be conceived as a moral association in terms of recognized and authoritative non-instrumental laws. What will emerge is that Oakeshott's theory of the rule of law illuminates the possibility of an international legal order without a central legislative office. This is of particular importance, not just because of the Hobbesian influence on Oakeshott's theory of civil association, but also because it sheds light on the historical nature of the criteria of conduct and on the obligations that states acquire in their relations with other states and their population. The heuristic validity of this perspective will be finally discussed with reference to the role of the codification of customs in international law.

Civil association and Enterprise association

As I have argued in previous chapters, Oakeshott contends that philosophy conceives political concepts not in relation to the normative conflicts in which they are situated, but instead 'outside of the contingencies and ambiguities of actual

[4] Nardin 1983; 1998; 2008.

[5] Reus-Smit 1999.

goings-on in the world'.[6] With particular reference to political life, once we assume that it is an intelligent normative engagement, that is to say, it is a human construction and not a given material,

> The task of the theorist is to discern the mode of intelligent relationship it postulates. And by a mode of relationship I mean a categorically distinct manner of being related which, while it may subsist in conjunction with other modes of relationship, cannot be reduced to any other.[7]

It is in this respect that the negative or critical method that I have discussed in previous chapters is applied. Oakeshott identifies the distinguishing features of autonomous and irreducible modes of human relationship from the contingent character to which they are circumstantially related.

This is evident in both *On Human Conduct* and in 'The Rule of Law', where civil association and the rule of law are distinguished from other forms of relationship. For instance, he aims to define what law is besides the various occurrences to which it is attached. It is for this reason that, for example, he uses Latin terms for the concepts he is defining. These words, such as *respublica, cives, and lex,* 'being somewhat archaic, are more easily detached from contingent circumstances'.[8] To achieve this result, his theory constructs ideal characters, which are a composition

[6] Oakeshott 1975: 109.

[7] Oakeshott 1975: 112.

[8] Oakeshott 1975: 108-09. As pointed out by David Boucher they also indicate that the Roman republican tradition represented one of the most significant points of reference for Oakeshott's theory, see Boucher 2005a.

of elements abstracted from 'actual goings-on in the world'.[9] Consistent with the theory of truth that I have examined in chapter 1, their coherence depends on certain postulates or unavoidable assumptions, which are investigated by philosophy.

As already clarified in chapter 3, Oakeshott's theory does not attempt to propose a solution to political conflicts. Rather than being normative models to be put into practice, or solutions to practical dilemmas, ideal characters are instruments of identification. As such, they are theoretical devices useful to understand the different, irreducible, forms of human association on the grounds of the understanding of their participants. Of course, this is not to deny that philosophical concepts may have a normative relevance, but to state that those who engage in such an effort temporarily abandon their philosophical commitment to become participants in the practical debate.

The first of the two ideal characters identified by Oakeshott in his understanding of political life is enterprise association, or teleocracy. It is a 'relationship in terms of the pursuit of some common purpose',[10] intended as a substantive condition of things to be procured. Its defining element is the goal common to the members of the association, which can be identified as a 'community of wills', or of 'choices'. Agents are related to one another in making decisions oriented towards the pursuit of a purpose.

Consequently, it is also a relationship in terms of 'the management' of the activities oriented towards the common purpose. The activity of governing is based on

[9] Oakeshott 1975: 109.

[10] Oakeshott 1975:114.

'power' (*dominium*) imposing actions in order to obtain the expected consequences.[11] Laws are therefore 'commands', calling for obedience, and for a particular response to particular situations from assigned agents. They are instrumental to the purpose concerned, which constitutes the normative criterion for judging the propriety of the rules, and individual actions and choices.

The second mode of human association is civil association, or nomocracy.[12] As distinct from 'enterprise association', which is teleologically constituted by the common goal of the associates and by the management of its pursuit, civil association is a relationship identified by the rules commonly subscribed to by agents. These rules do not ask for specific action or outcomes, but only for recognition. Thus, they are 'moral' and not instrumental.[13] If instrumental rules are the efficient means of achieving a purpose, moral or civil laws are the conditions for individual enactment and are 'indifferent to the success or to the failure of the substantive enterprises being pursued'.[14] They are purely adverbial and indeterminate, setting the procedural conditions that individuals have to take into account when they act.

Civil law establishes the autonomy and completeness of the political order with regard to any external features, being without superior terms of reference, such as the substantive, absolute goal set by 'enterprise association'. What civil association

[11] Oakeshott 1975: 115.

[12] Oakeshott 1975: 121.

[13] Oakeshott 1975: 119.

[14] Oakeshott 1991: 454.

conceptualises is not just the ideal of law as a limit to politics,[15] but also the autonomy of politics from any comprehensive ethical conceptions that impose an end from outside the moral and legal system of a political community. There is no external criterion that legitimates and authorises the rules in terms of which the civil relationship is constituted.

The distinction between civil association and enterprise association is between a relationship which is constituted by non-instrumental rules and one that is based instead on the pursuit of a common purpose. While the source of political obligation in enterprise association is this common end, in civil association it is the recognition and acknowledgment of the authority of law by all agents who fall under its jurisdiction.

Before offering a comparison between enterprise association and civil association on the nature of authority, it is worth underlining that both civil association and enterprise association are socially constructed human relationships, they are not a given, independent of the actors involved and from their understanding of the situation. Beliefs about authority and order, goals and purposes are the result of a normative, practical understanding of the agents.

Given this broad assumption, the difference between the two is that civil association breaks the connection between authority and purposiveness. Civil law is not authoritative because of its instrumental value, its expected outcomes or its desirability. However, this does not imply that purposiveness is eliminated from political life. Indeed, first of all, when the legal order is understood as a civil

[15] N. O'Sullivan 2012: 290.

association – which is to say, when there is not any overarching final end to be reached or providing the final criterion for all possible actions – it is possible to have 'an unregulated variety of self-chosen purposive associations'.[16] Civil association is a way to regulate and order different associations and individuals acting according to competing and often conflicting purposes and values.[17] Moreover, civil association has its own purpose: to establish that small amount of 'compulsory civilization', without which the pursuit of individual endeavour would be impossible.[18]

This, however, does not equate with saying, as suggested by David Mapel, that all laws are purposive and that the distinction between instrumental and civil law is blurred.[19] Instead, while the purpose of instrumental law is to ask individual agents to fulfil certain actions functional to the pre-established goal, civil association does not prescribe actions to agents, but aims at providing those conditions based on which particular ends may be achieved.

This is evident also from Oakeshott's account of the history of the modern European state, where he explores how the ideal characters of enterprise associations and civil associations may be used to understand European political history. There, the contraposition between civil association and enterprise association is that between

[16] Oakeshott 1975: 316.

[17] On this it is also relevant Rawls's note on Oakeshott's civil association; see, Rawls 1996: 44.

[18] Oakeshott 1975: 152.

[19] Mapel 1992.

societas, or nomocracy, and *universitas,* or teleocracy.[20] The two ideal characters never appear in their pure form, but they are found together, contingently related.

It is relevant to our investigation that, in Oakeshott's account, European states emerged from medieval realms as different *societas.* The many communities and corporations, which pre-existed the state, were united in their acknowledgment of a superior, royal, authority. Its purpose was to establish peace and legality, while being indifferent to the goals of the various groups that were unified.[21] In the third essay of *On Human Conduct* this is once more explained in relation to Marsilius of Padua. He identified as the purpose of a realm 'human well-being, peace, tranquillity, and… a concern for the "health" of the human condition'. [22] However, this does not equate the realm with an enterprise association insofar as rules 'do not prescribe wants to be chosen or actions to be performed', but only 'conditions to be subscribed to in self-chosen transactions of individual agents'.[23]As this example shows, civil association can be considered as having a specific moral purpose: the

[20] Oakeshott 1975: 202-03.

[21] Oakeshott 1975: 212. An interesting example of this is provided by Oakeshott in a notebook that he was writing around 1966, where we read: 'Elsewhere in the Mediterranean the Normans were mainly destroyer. They were men of war who happened upon a Byzantine & a Saracen culture which was weak, perhaps decadent, & they destroyed it. But in Sicily they made the first modern European state – a multiracial, polyglot state in which Greek, Saracen & Norman, Christian, Jew & Moslem each followed their own cultural traditions under a central Norman rule. "Rule" was keeping the peace in a manifold, not imposing a single solidarity', Oakeshott 2014: 499.

[22] Oakeshott 1975: 217.

[23] Oakeshott 1975: 217.

achievement of the minimum conditions required for the possibility of civil order and human interaction.

A second point to be remarked is that the elimination from the definition of authority of any conceptions of the good intended as the final *summum bonum* of the legal order indicates Oakeshott's indebtedness to Hobbes. As for Hobbes, also in civil association there is no external criterion that may provide the ground for the authority of the legal order. Law is authoritative neither because of its expected outcomes, nor because of the approval by the members of the association. In Hobbes, it is through the covenant that individuals recognize the authority of a sovereign legislative office as the sole author of valid laws, renouncing the possibility of other sources of moral obligation.[24] In Oakeshott's civil association, laws are self-authenticating, their authority 'is recognized in terms of the rules which permit them to be made'.[25] Authoritative law are those enacted by a previously recognized legislative office, which act according to a pre-established procedure.

However, it is important to underline that differently from Hobbes, Oakeshott does not see the origin of authority in the act of will of the subscribers to the covenant, and law as the expression of the will of the sovereign authority. On the contrary, for Oakeshott, expressions as 'covenant' or 'contract' represent that 'civil

[24] Oakeshott 1991: 284. Oakeshott's interpretation of Hobbes's conception of political obligation is one of the most significant changes between the two editions of his *Introduction to Leviathan* (the first published in 1946, the second in 1975), see: Tregenza 2003: 96-102.

[25] Oakeshott 1975: 186.

association' is an engagement and a relationship between individual intelligent agents.[26] They may indicate the day-to-day bargaining between different parties of society, and it may depict the intentionality that animates these acts. The notion of covenant may indeed represent the evolving nature of political criteria and the fact that it is the result of historical human inventions. In short, even though we can say that law is independent of any other source that makes it authentic, for Oakeshott it represents and reflects the evolution of the relationship between the agents involved.

This difference is clarified in relation to the triadic conception of the history of political philosophy which is presented in the 'Introduction to *Leviathan*', and that may be considered to understand different theories about the source of political authority.[27] The dialectical opposition between the three traditions of 'Reason and Nature'; 'Will and Artifice'; and 'Rational Will' provides a framework for the understanding of the theories about the origin of political order and authority. While the first conceives of the principles of political order as natural and discovered by reason (as in Plato's *Republic*); the second (with Hobbes) thinks of them as the result of human creation and will. Finally, the followers of the third tradition believe 'that in it the truths of the first two traditions are fulfilled and their errors find a happy release'.[28] Most importantly, just as in Hegel's *Philosophy of Right*, they see

[26] Oakeshott 1975: 150.

[27] See Boucher 2007.

[28] Oakeshott 1991: 227. See also Oakeshott's review of Leo Strauss's interpretation of Hobbes, Oakeshott 2000: 157.

the world ‘on the analogy of human history’ and the authority of the law as the result of historically evolving relationships.[29]

Therefore, the difference between Hobbes’s and Oakeshott’s ideas about the authority of law is one about its origin. Whilst for Hobbes, the creation of the civil order is the result of an act of will, for Oakeshott, it is the outcome of historical moral relationship, of an evolving practice of civility. The creation of a system of civil law is not only the outcome of an act of will on the part of its participants. The recognition of the authority of the law is diffused throughout time, and is situated in an evolving relationship between the various agents involved.[30]

To recapitulate, Oakeshott’s political philosophy identifies the postulates or presuppositions of two opposite ideal characters that designate two incommensurable and irreducible modes of relationship between individual agents. While enterprise association is a transactional relationship composed of rules instrumental to the achievement of a pre-established goal, civil association is non-purposive: it is a legal order constituted by a system of non-instrumental rules. Insofar as it excludes any considerations about a higher ethical or normative ground, Oakeshott’s conception may be considered in continuity with Hobbes and with the legal positivist tradition. Indeed, it identifies authority with authenticity, excluding any further considerations from law. However, as opposed to Hobbes, he does not identify the origin of authority in an act of will, but it is instead the recognition of an existing and evolving moral relationship.

[29] Oakeshott 1991: 227.

[30] Oakeshott 1991: 227. For discussion, see: Boucher 2007.

The History of the Modern European State and International Order

In the third essay of *On Human Conduct,* Oakeshott applies the dichotomy between civil and enterprise association to the understanding of the history of the modern European state. Anticipating many of the constructivist considerations, Oakeshott offers a history of the beliefs about the authority and the engagement of government, of the nature of law.[31] It is a history that, consistently with the idealist tenets that ground his position, focuses on human's self-understanding, on the history of thought. Thus this history is developed through opposition between those that have understood the State as a *societas* (civil association), or as a *universitas* (enterprise association).[32]

It often goes unnoticed by readers and commentators that in this text Oakeshott presents some ideas that are relevant to International Relations and are part of his broader argument. In particular, he identifies in the international sphere some of the circumstances that favoured the increasing success of the teleocratic understanding of the state.

The first of these is colonialism. The initial colonial settlements were indeed 'corporate undertakings, communities of persons modelled upon the constitutions of churches or religious sects'.[33] As such, they understood their activity of government as that of a teleocratic enterprise. One consequence of this was the success of the disposition 'to regard the office of government as the exercise of seigneurial management'. In particular, even in those cases in which the states

[31] Oakeshott 1975: 189.

[32] Oakeshott 1975: 185-326. On this se: L. O'Sullivan 2000.

[33] Oakeshott 1975: 270.

regulated their internal affairs through the rule of law, in their colonial adventures their style was teleocratic. The purpose of those early settlements was indeed the exploitation of resources, the increase of trade and the diffusion of a faith. [34] Quoting Burke's famous description, in the colonies the state was 'disguised as a merchant'.[35]

As well as colonialism, another element that enhanced the teleocratic understanding of the activity of government was, as Nicholas Rengger has recently highlighted, war. It is interesting to note that Oakeshott – who served in Continental Europe during World War II – also devoted some of his notebooks to this theme.[36] Even though they are scattered over many years, the bulk of these reflections is in one notebook, entitled 'A Conversation', begun in 1944. There, we may identify the three main themes of Oakeshott's discussion of war: its centrality in modern history; its deleterious impact on liberty and on the organization of society; and the evolution of its role.

In *On Human Conduct*, Oakeshott characterizes European modernity as dominated by continuous threats of war and by the consequent necessity of providing protection from external invaders.[37] The success of the teleocratic understanding of the role of the office of government was supplemented by the 'great threat of extra-

[34] Oakeshott 1975: 270-72; see also Oakeshott's *Lectures* (2006: 474-75)

[35] Burke in Oakeshott 1975: 271.

[36] In the notebooks there are indeed some notes on a more personal tone on the theme of war, see, for instance, Oakeshott 2014: 510.

[37] Oakeshott 2006: 385-86.

European invasion' and by the continuous state of war within Europe.[38] It is indeed in the protection of the interests of the state, and in the care of its relations with other states, that the teleocratic character of governing emerges more clearly.[39] The Latin motto *Inter arma silent leges* is so re-interpreted: when a state is menaced 'with dissolution or destruction' it becomes predominantly an enterprise association, and civil law tends to disappear.[40] As W.H. Greenleaf notes (following this Oakeshottian idea) the total mobilization, the degree of destruction, the level of homogeneity achieved by propaganda, and the exploitation and management of resources reached after two world wars have been decisive in the affirmation of the belief that the State is a form of enterprise association, oriented towards a common purpose, and directed by the government.[41] In short, war shapes the nature of the state and changes our understanding of what political association is.

Finally, especially in his notebooks, Oakeshott reflects on the nature of war. In some of his notes, he seems to distinguish between a classical and a 'gnostic' conception of war, with the prevalence of the latter starting, according to Oakeshott, after 1918. This change is emphatically described by Oakeshott as the most important 'in European civilization', as the change 'which marks the twentieth century'.[42] War changed from being a regulatory mechanism within the European

[38] Oakeshott 1975: 272, 322.

[39] Oakeshott 1999: 177.

[40] Oakeshott 1975: 147.

[41] Greenleaf 1983: 47-77.

[42] Oakeshott 2014: 518. The notes from a notebook written in 1967.

state system, to an instrument for the establishment of a radically reformed world order.

To argue that there is a relation between enterprise association and the state of continuous belligerence that characterised the modern European state system does not equate to a version of the democratic peace thesis. He gives short and rather cursory considerations to the idea that the constitutional form of government has implications for the persistence of war in history. In *On Human Conduct* we read,

> Kant and others conjectured that a Europe composed of states with republican constitutions would be a Europe at peace. This absurdity is often excused on the ground that it is a plausible (although naïve) identification of war with so-called dynastic war, but it is in fact the muddle from which Montesquieu did his best to rescue us, the confusion of a constitution of government (republican) with a mode of association (civil relationship).[43]

In other words, what matters is not the constitution (monarchic or republican; liberal or non-liberal) of the office of government, but instead the beliefs about the nature of the association, that is to say the moral self-understanding, of the members of the association. The self-understanding that the members have of their reciprocal relationship is the 'moral essence' of the association

When, at state level, individuals understand themselves to be members of a collective enterprise for the achievement of a goal, or for the enactment of substantial conceptions of the good or moral values, war is more likely.[44] What this

[43] Oakeshott 1975: 273, n. 1.

[44] This is the thesis defended in Rengger 2013.

argument highlights is not just that the teleological style of politics and the teleological understanding of the state produce a mind-set and a kind of government that are part of the conditions of war; it also states that the condition of war forces the establishment of a teleocratic form of government in which all material resources, as well as all individuals, cooperate in the achievement of the final goal. As Oakeshott writes,

> And although, even in these circumstances, the rule of law may (as Hobbes thought) be formally rescued by invoking such legal doctrines as that of the 'eminent domain' of a government to be exercised *ex justa causa*, this is only another way of saying that necessity knows no law.[45]

When the state is perceived under mortal threats, when an attack is feared, when the necessity of moving to war is felt, the office of government assumes its teleocratic appearance and the authority of its acts derives from the final end to be achieved: victory (which in the twentieth century has been the annihilation of the enemy).

However, it is not only the case that enterprise association has become dominant in the understanding of the state: it has also been victorious in the self-understanding of the society of the state as a whole. Although only in a footnote, Oakeshott extends his diagnosis of the history of the modern European state to the international level:

> It is perhaps worth notice that notions of 'world peace' and 'world government' which in the eighteenth century were explored in the terms of civil association have in this century become projects of 'world management' concerned with the

[45] Oakeshott 1999: 178.

> distribution of substantive goods. The decisive change took place in the interval between the League of Nations and the United Nations.[46]

Even though Oakeshott may be wrong and, as Rengger suggests, this change occurred much earlier, and in fact represents the modern understanding of world politics,[47] what is important for our concerns is that, as with the domestic level, Oakeshott identifies two possible opposite understandings of world politics, one inspired by civil association, the other by enterprise association and concerned with the distribution of goods.[48]

To sum up so far: in contrast with how it may first appear, Oakeshott's distinction between two modes of human relationship, between civil association and enterprise association, has important implications at the international level. First, he identifies war – along with colonialism – with one of the elements that contributed to the success of the teleocratic understanding of the state. War, and the state of continuous belligerence that characterized European modernity, has been one of the defining elements of the sovereign state as an enterprise association. Secondly, international society as a whole has been increasingly understood as a *universitas*, that is to say according to a solidarist paradigm conception of relations between states. This is shown by the transformation of war from a regulatory device to an instrument of creation of a new world order and by the establishment of purposive

[46] Oakeshott 1975: 313, n.1.

[47] Rengger 2013: 35.

[48] It is interesting to note that, as I will further discuss in the next chapter, concerns about the distribution of goods seem dominant in contemporary international political theory, as advanced by Thomas Pogge, Charles Beitz, Brian Barry and Peter Singer.

international organisations such as the UN and the EU, which are mainly concerned with the re-distribution of resources and the achievement of substantive goals through a prevalently instrumental international law.

Be that as it may, in the rest of the chapter I will contend that, even though Oakeshott is rather assertive in his denial of an international civil association, his theory may open the way to an original interpretation of international society conceived as moral association based on the common acknowledgment of the authority of international law.

Practical and Purposive International Society

In his contributions to *Diplomatic Investigations*, Bull presented one of the first versions of his notion of international society, which was later advanced in *The Anarchical Society* (1977). In that paper, entitled 'Society and Anarchy in International Relations', Bull follows Martin Wight's triadic conception of the way in which international relations have been theorized. According to Wight, the realist view of the international system, in which world politics is a relationship based on power, is opposed to the rationalist notion of international society, in which the world is governed by human institutions which arise from human co-operation and interaction. Finally, there is the revolutionist tradition, which, while despising the current state of affairs, believes in the unity of humankind which can be achieved through a world society. [49]

Along these lines, Bull distinguishes between three different traditions: a realist one, whose understanding of international relations is shaped by Hobbes's notion

[49] Wight 1991.

of the state of nature;[50] a Kantian, universalist one which demands 'that the international anarchy be brought to an end' by achieving a transnational community;[51] and a Grotian or internationalist tradition, according to which the absence of a supranational government (i.e. anarchy) does not exclude cooperation framed by international law.[52]

The Grotian is the idea of international society defended by Bull, and one that became the distinctive idea of the English School. The cooperation of states under a recognized international law represents a *via media*, a middle-ground, between the realist and the revolutionist traditions.[53] International society is a critique against both the realist view that the world comprises anarchic states in an anarchic power relationship with each other, and the universalist view that argues that the world is a single society.[54]

This notion finds its final systematisation in *The Anarchical Society,* where international society is grounded on the consciousness of 'certain common interests and common values', [55] which, historically, can be found in 'common culture or civilisation'.[56] As such, international society has some goals: the preservation of

[50] Bull 1995: 24-25. On the limitations of this understanding of Hobbes, see, Boucher 1998: 145-70; Malcom 2002: 432-56; as well as the contributions in Prokhovnik-Slomp 2011.

[51] Bull 1966b: 38.

[52] Bull 1966b: 38. The three traditions are presented also in Bull 1995: 23-25. On the differences between Bull's and Wight's conceptions of the three traditions see: Boucher 1998: 15-16; Dunne 1998: 138-40.

[53] Dunne 1998: 138-39.

[54] Bull 1995: 13.

[55] Bull 1995: 13.

[56] Bull 1995: 15.

order; the maintenance of the independence or external sovereignty of individual states; peace; the limitation of violence, the keeping of promises and the stabilisation of possession.[57] As summarised by Alan James, international society is a society of notional persons (the states) with a body of rules that define proper behaviour for its members. These rules are protocols, morals, and law.[58]

In another of his contributions to *Diplomatic Investigations*, entitled 'The Grotian Conception of International Society', Bull distinguishes between two ways of interpreting the concept of international society. Even though there are many possible doubts about the methodology that underpinned Bull's discussion – which resembles, as David Boucher suggests, Arthur Lovejoy's unit ideas[59] – his consideration of the Grotian and internationalist traditions is very relevant to our argument.

First, there is the pluralist conception (such as that of Oppenheim), where various states with different goals and conceptions of the good recognise that they are bound by a minimal code of coexistence. States agree on certain minimal rules, which are recognition of sovereignty and non-intervention. By contrast we have the solidarist conception (such as that of Grotius) which argues instead for a collective will of the society of states.[60] In this regard, Bull points out two possible manifestations of collective will, related to the enforcement of international law: the first concerns

[57] Bull 1995: 16-18.

[58] James 1978.

[59] Boucher 1998: 17.

[60] Bull 1966c: 52

'police action', where states respond to law-breaking; the second concerns the monitoring of the way in which states treat their own citizens.[61]

As such, Bull claims, the solidarist strand of the internationalist tradition damages international order. It indeed prescribes much more than the society of states is able to deliver. Bull finds examples of the detrimental influence of the Grotian perspective on international order on several occasions in the twentieth century: the actions of the League of Nations against Italy in 1935; the trials of the International Military Tribunal of Nuremberg and of the Far East on charges of having begun an unjust war; and the Korean War, conducted in the name of the UN.[62] Bull argues that these acts burdened international law and institutions for the limitation of conflict with a weight that was for them impossible to bear, and this has led to them becoming ineffective.

Over the past decades, this distinction between solidarist and pluralist conceptions of international society has shaped a great variety of positions, with particular regard to humanitarian intervention, collective security, and issues of distributive justice.[63] As such, the two perspectives differ from both the realist view, which negates any sort of possible meaningful cooperation, and from the revolutionist or cosmopolitan views, which instead aim at the construction of a world unity. However, they differ from each other in arguing that cooperation may achieve at

[61] Bull 1966c: 63. See, Dunne 1998: 100-01.

[62] Bull 1966c: 71.

[63] Buzan 2004: 46-47; Wheeler 2000.

best a minimal order – as the pluralists suggest – or a cohesive collective will, as the solidarists argue.

Elaborating on the English School notion of international society and on the dichotomy between solidarism and pluralism, Terry Nardin has considered Oakeshott's theory in the attempt to find a middle ground between the idea that international order is absent, and that it can only be achieved through a world society. In particular, Nardin argues that there exists a practical or moral understanding of international society, a universal community where members are not persons but states, which understand themselves to be bound by non-instrumental rules, and not by common purposes.[64]

At the outset, it is indeed worth underlining once again that, as in much of the modern literature in international relations and in sympathy with Bull, Nardin conceives states as individual agents. Thus, he develops his notion of international society by analogy with the relations between persons in civil society.[65] The members, the individuals (or using the Oakeshottian terminology, the *personae*) related by the recognition of a system of non-instrumental rules are, at the international level, the sovereign states. They are formally equal because the rules are specified in the same terms for all, even though they do not have the same opportunity to use the resources of the law, and to pursue their chosen purposes.

Following Oakeshott, Nardin conceives international society as an ideal character, that is to say as a composition of characteristics detached from the circumstances

[64] Nardin 1998: 20.

[65] Nardin 1983: 16.

of the world.[66] In so doing, he distinguishes between different conceptions of international society: practical and purposive. As enterprise and civil association are the exclusive manner by which the relationship between individual intelligent agents may be understood, practical and purposive society are two modes of international society. According to the purposive conception, different states are united by shared values and purposes, while for the practical they are united by the subscriptions of a set of custom and practices. In the former case, international law is the instrument for the achievement of the common purpose, while in the latter 'rules constrain the conduct of states pursuing different and sometimes incompatible purposes'.[67]

This distinction seems to reiterate that between solidarism and pluralism. Oakeshott's political philosophy provides an argument that asserts the self-contradictoriness of purposive or solidarist international society. Indeed, Nardin's point is not just about the distinction between these two modes of international society, but much more about the logical priority of the practical form over the purposive. Elaborating on an aspect that was merely hinted at in Oakeshott – according to which enterprise association entails a moral practice[68] – the pursuit of shared purposes presupposes procedures to which agreement may be achieved. The legal order understood as a system of non-instrumental rules makes possible a vast array of purposive associations organised through treaties, contracts, and stable

[66] Nardin 1983: 34.

[67] Nardin 1983: 187.

[68] 'This mode of association [enterprise association], of course entails moral relationship, but with that and with any other adverbial or rule-like conditions it may involve we are not now concerned', Oakeshott 1975: 114.

organisations.[69] In short, the purposive conception is not autonomous, and is self-contradictory insofar as it presupposes the existence of a practical society, constituted by a set of laws, customs and practices, recognized by different states.

In other words, it is possible to conceive international law as a moral practice constraining the conduct of states which are pursuing different goals. In particular, it is customary international law which is relevant. Indeed, it is neither the result of a central legislative authority nor of the command of the sovereign, nor of an agreement between states.[70] Instead, it is 'based ultimately on the practice of its users' and contains the authoritative rules according to which the conduct of states is directed and judged. Therefore, the first level of international society would be represented by customary international law and would correspond to the 'practical conception'. States are associated by their participation in a common set of rules. Besides this, there is the political level, in which a multitude of purposes are shared, and in which interests either converge or clash.

In opposition to Nardin's conception of practical association, Christian Reus-Smit has claimed that 'all historical societies of states have begun … [as] communities of states, linked by common sentiment, experience and identity'.[71] It is this intersubjective common belief – Reus-Smit argues – that represents the moral purpose of the state and of international society. In this regard, it is worth recalling, as already stated above, that to say that a political association is based on the subscription to rules indifferent to any particular moral goals does not equate with

[69] Nardin 1983: 15-16.

[70] Nardin 1983: 166-73.

[71] Reus-Smit 1999: 37.

saying that purposiveness is absent or eliminated. On the contrary, Oakeshott's distinction between enterprise and civil association is all about the nature of authority and governing. In enterprise association, authority of the law is based on its relations with the pre-established goal, which is intended as a substantive state of affairs to be attained. Governing is the activity of managing individuals towards this goal through the coercive apparatus of power. Civil association instead simply denies that the legal order should be at the service of any super imposed goals.

The shared values that Reus-Smit identifies as constituting various historically international societies are not substantive purposes, but procedural constraints.[72] In this regard it is enlightening that as an example of his understanding of moral purpose, Reus-Smit quotes Aristotle's famous sentence from the *Politics* (1.I, 57): 'Observation tells us that every state is an association and that every association is formed with a view to some good purpose. I say good because in all their actions all men do in fact aim at what they think good'.[73] It is significant to note that Oakeshott is inspired precisely by Aristotle's Book I of the *Politics* in conceiving his model of civil association.[74] What is important, however, is that for Aristotle the 'good life' is not a substantial state of things to be achieved but instead a formal condition. To behave according to this ideal is not to do certain specific actions but to act 'while subscribing adequately to considerations of moral propriety or worth'.[75]

[72] See, for example Reus-Smit 1999: 62.

[73] Aristotle in Reus-Smit 1999: 170.

[74] Oakeshott 1975: 110.

[75] Oakeshott 1975: 118-19.

Thus, the notion of civil association offers a new perspective on Bull's key idea that international society is grounded on common values and interests. A perspective that moves beyond Nardin's interpretation, and that sheds light on the constructivist attempt to identify the moral ground of international society. Different from Reus-Smit's constructivism, Oakeshott's perspective clarifies that these common values and interests are not conceived as the result of a common will or as the coercive imposition of particular actions to individual agents, but they are a common concern. This is manifested in the subscription to the adverbial constraints to conduct prescribed by the law and not in the pursuit of some common enterprise.[76] As such, and insofar as it reflects the evolution of the relationship between individual agents, it is a 'relationship of civility'.[77] As the notion of civil association wanted to offer the solution to the possibility of a legal order 'in conditions of cultural and social diversity without imposing coercive constraints on individual freedom',[78] so, when considered, at the international level it shows the possibility of coexistence based on a legal system even without an overarching conceptions of the good to be pursued.

The Rule of Law, Customary International Law, and Historical Reason

So far, I have argued that the opposition between civil and enterprise association may be applied at the international level to understand the difference between pluralist and solidarist conceptions of international society. While practical international society is based on the acknowledgement by the various individual

[76] Oakeshott 1975: 147.

[77] Oakeshott 1975: 108.

[78] N. O'Sullivan 2012: 293.

equal agents (the states) of a system of non-instrumental rules, purposive international society is concerned with the pursuit of a shared goal. Against Reus-Smit's criticism, I have shown that the model of civil association allows us to conceive of international society as one based on shared values, and not as a common enterprise for the achievement of a substantive state of affairs. In the following, I want to claim that this relationship of civility is based on the recognition of customary international law, which is understood as the codification of the existing practices between states. As such, it challenges the Hobbesian and legal positivist idea that international law is impossible because of the absence of a supra-national sovereign power.

Previously, in the light of Oakeshott's triadic conception of the history of political philosophy, I have already underlined some similarities as well as some differences between Hobbes and Oakeshott on the nature of the authority. In particular, I have claimed that even though in civil association authority, as for Hobbes, equates with authenticity; it does not arise from an act of will (a covenant) but rather from the evolving practice subscribed to by various agents. A similar difference between Oakeshott and Hobbes may be seen at the international level.

On the one hand, it is true that Oakeshott considered law as resulting from a legislative office. As legal positivism (exemplified by Hobbes and Austin) and well summarised in the *dictum* 'whatever the sovereign permits, he commands', Oakeshott sees customary law as an indirect mode of legislation. When custom is considered as law, we read in 'The Rule of Law', 'its authenticity derives from a presumption that it cannot resist appropriation, rejection or emendation in a

legislative enactment'.[79] It may therefore be argued that even though customary international law has some analogies with Oakeshott's rule of law, it cannot be considered as the same thing because of the absence of a supra-national absolute legislator, who is able to enact, amend and reject laws.[80] From a Hobbesian conception of authority would follow a Hobbesian position, in which international relations are similar to the 'state of nature'.

On the other hand, however, Oakeshott distinguishes considerations about the authority of the law – which, as we have seen, are identified with those about its authenticity – from others concerning its interpretation and enforcement.[81] The theory of civil association identifies, as the sole terms of the relationship between individual agents, 'the recognition of the authority or authenticity of the laws', and this is independent of considerations about the nature of the legislative office.[82] In short, Oakeshott's position suggests a way in which the theme of obligation and authority is distinct from that of the enforcement of law and from the constitution of the legislative office. Asking what is the relationship between different individual agents, and whether this relationship is based on the pursuit of a shared goal or, on the contrary, on the recognition of non-instrumental moral rules, is a very different question from that about the instruments of power. As already pointed out, Oakeshott's theory about the authority of law and the origin of the legal order attempts to overcome the voluntarist paradigm as inaugurated, in modern

[79] Oakeshott 1999: 151.

[80] For discussion see: Nardin 1983: 115-86.

[81] Oakeshott 1999: 157.

[82] Oakeshott 1999: 149.

philosophy, by Hobbes. Instead, consistent with his idealism according to which, as I have illustrated in chapter 3, will is reason and is grounded on shared presuppositions, for Oakeshott authority is an evolving moral relationship between intelligent agents.

Oakeshott's triadic conception of political philosophy – that I have considered to identify the difference between Oakeshott and Hobbes on the nature of authority – has been applied to the theory of international relations by David Boucher in his *Political Theories of International Relations*. There, Empirical Realism is analogous to Oakeshott's Will and Artifice and encompasses those thinkers such as Thucydides, Machiavelli, and Hobbes that separate international relations from morality or equate political conduct with expediency.

In opposition to Realism and equivalent to Oakeshott's Reason and Nature, there is the Universal Moral Order tradition. Even though sharing with Realism the idea that humanity is deprived and corrupted, it is more optimistic about the possibility of human self-improvement. The various exponents of this tradition – such as the Stoics, Aquinas, Vitoria, Gentili, Grotius, Pufendorf, Locke and Vattel – postulate the existence of a higher moral law, 'discovered by right reason, or inferred *a priori* from indubitable data, or even *a posteriori* from observing the common practices of nations'.[83]

As in Oakeshott's model, these two opposite traditions are superseded by a third, 'Historical Reason' in which criteria of conduct emerge from historically evolving moral practices, resulting from intelligent responses to changing circumstances.

[83] Boucher 2007: 75.

What characterises the thinkers of this tradition (such as Burke or Hegel) is that the conduct of states is not capricious but regulated by principles. However, these are not objective truths – either intuitively known or constructed by right reason – but criteria justified as responses to changing historical circumstances.[84]

My contention is that Oakeshott's political philosophy identifies in customary international law the constitutive practice of international society. It may be associated to the tradition of Historical Reason, one of whose exemplars is Edmund Burke.

Burke indeed, considered Europe as a society of states, a Commonwealth, expression of civilized manners and common sympathy organised by regulatory principles. Formal treaties and national interests are not the defining element of European society. Its nations are instead united by bonds such as common law, religion, customs, habits and the manners of a gentleman. They are regulative devices that maintain the integrity of the European Commonwealth. As is well known, for Burke, the most important among them is the customary law of the balance of power (with the related 'principle of interference' and 'right of vicinage'), which represents the common law of Europe.[85]

As for Burke, the Oakeshottian theory of international law focuses on customary international law. Indeed, from the perspective that I have presented, whenever two or more states enter into relations with one another, the emergence of a custom, which makes this interaction intelligible, is unavoidable: it is in virtue of their

[84] Boucher 1991b; Boucher 1998: 311.

[85] See Boucher 1991b: 140-48.

reciprocal understanding as participants in those practices that they have the possibility of engaging in mutual relations. The continuity of purposive transactions between agents creates new practices in which these specific actions may be understood, and which are not themselves purposive. States with very different and divergent goals, contrasting values, conflicting interests are nonetheless united by law. In spite of all the apparent problems of enforcement and adjudications, this law exists because it is nothing more than the institutionalisation of already existing rules created by actual interactions.

Customary International Law in World Politics

I have suggested that, as with other exponents of what Boucher has called the 'Historical Reason' tradition, Oakeshott identifies as the foundation of international legal order, neither certain absolute principles, nor the will of a legislator, but instead the evolving practices resulting from the relations of states. I have then suggested that customary international law is the institutionalisation of those practices. I want now to consider in more detail how Oakeshott's theory of law and of civil association sheds light on the relations between customs or moral practices and law. I will then highlight its relations for the understanding of customary international law in world politics.

James B. Murphy has recently identified a philosophical tradition of reflection upon customary law, and has argued that custom is 'intelligible only in relation to basic norms of objective morality or natural law'.[86] While suggesting that the role of custom in legal order shows the inadequacy of the dichotomy between nature and

[86] Murphy 2014: 117.

convention in the analysis of human social institutions,[87] Murphy claims, following Aristotle, that customs 'turn our natural propensities into complex conventions'.[88] There are certain natural goods to which we are led by different customs.[89] In this reading, also voluntarism appeals to natural law. Francisco Suarez is the paradigmatic example of that theory. He has indeed defended a view in which law is the result of the activity and intentions of a lawgiver (be it human or divine),[90] and in which the law of nations is not different from it. This is because it rests upon consent, considered as the expression of the will of both the people and the legislator.[91] However, even in Suarez's case (which will shape subsequent theorising about customary international law), the grounds on which to identify whether or not a custom creates obligation are the 'traditional criteria of objective morality and prudential judgment'.[92] For example, he presupposes that the will of the divine legislator is rational and just, or that valid law cannot violate natural law.[93] Finally, we might consider the so-called Historical School as exemplified by the American jurist James C. Carter. Law, Carter argues, is the custom of the courts.[94] However, objective standards and criteria are needed to identify which

[87] Murphy 2014: 2-3

[88] Murphy 2014: 5.

[89] Murphy 2014: 112.

[90] Murphy 2014: 30.

[91] Murphy 2014: 42.

[92] Murphy 2014: 56.

[93] Murphy 2014: 56-57.

[94] Murphy 2014: 113.

customs are law, and Carter specifically stresses the importance of human freedom as foundational value.

Although mainly focused on the relation between custom and law in the domestic case, Murphy's interpretative framework is also of relevance to international order. In Murphy's neo-Aristotelian interpretation, customs are the expression of the fact that man is 'a conventional animal and social conventions are how we actualize our natural potential'.[95] As they are something tacit, unexpressed and evolving without clear design and reflecting our innate propensities, they are our 'second nature'.

In contrast to Murphy's interpretation, my contention is that Oakeshott's theory of practice and normative reasoning – which I explored in chapter 3 – points the way towards a theory of customary law which does not refer to any objective, natural, criterion. Instead, legal obligation arises from existing social practices, or custom. These are created by relations between actual states, which have obtained formal recognition through existing and previously recognised procedures.

A first point that needs to be clarified is whether Oakeshott considers customary law as proper law. As already pointed out, Oakeshott follows the legal positivist idea that sees customary law as indirect legislation. Customary law is valid law because it cannot resist modification through a previously recognized procedure. Notwithstanding this, he does not see a substantial difference between customary and statuary law. Both are moral practices. As I expounded in chapter 3, Oakeshott's conception of a moral practice is a relationship between individual agents composed of a set of considerations that are the 'by-product of

[95] Murphy 2014: 3,

performances'.[96] It provides shared assumptions to be taken into account while acting. As such, they shape the deliberations and the broader conduct of their subscribers. They are not causes but normative engagements. Customs should not be identified with mere habitual conduct but rather with a moral convention, interpreted as a coherent set of moral constraints. Just like habits, moral practices are often based on tacit, shared moral assumptions or presuppositions, which are only unveiled by critical reflection. However, unlike habits, moral practices are learned conventions; they are 'understood relationships'.[97] Therefore, even without entering into the debate about whether custom should be considered as one among the various sources of law or as law itself, it suffices to emphasise that, for Oakeshott, custom and law are both moral practices. A system of law is a moral practice (or custom) which has obtained formal recognition and is authoritative. It is composed of a set of evolving criteria, which form a system of beliefs about the moral constraints that qualify an action as good.

As both civil law and customs are moral practices, and since a system of law is a moral practice that prescribes obligatory conditions to be subscribed to by agents, there is no substantial difference between customary (international) law and statuary law. Both are frameworks that regulate existing activities and that provide social coordination.

The similar nature of customary law and statuary law is further shown by the contrast between Oakeshott's and Hart's reading. For Hart, custom is composed

[96] Oakeshott 1975: 55.

[97] Oakeshott 1975: 55. I take the distinction between habit and convention from Murphy 2014: 2. See also, Adler and Pouliot 2011: 23

exclusively of primary rules, with no secondary rules to govern the creation of norms.[98] In Oakeshott's view, 'a procedure of legislation' – itself part of the system of rules – is among the conditions of civil association. This is 'a procedure in which response may be made to notable changes of belief or sentiment about the desirable condition of civil conduct'.[99] However, there are no rules solely concerned with recognition of the authority of other rules.[100] They all qualify conduct. Therefore, also in this regard, there is no substantial difference between customary and statuary law.

Throughout the various chapters of this thesis I have contended that Oakeshott's philosophy is a form of constructivism, given that it considers world politics as a normative activity and international society as a moral relationship between states based on shared values, which are interpreted as commonly recognised constraints (and not as purposes). I have gone on to argue that his theory of non-instrumental law as a moral practice, or tradition, sheds light on the fact that obligations stem from social interactions. It is from the recognition of certain moral practices as authoritative that law arises. In this, statuary law is no different from customary law. I now want to argue that Oakeshott's theory sheds light on the role of customary international law in the constitution of international society.

The traditional doctrine that sees custom among the sources of international law is exemplified in Article 38(1) (b) of the Statute of the International Court of Justice (ICJ), which also identifies well-established criteria according to which

[98] Hart 2012: 44-49.

[99] Oakeshott 1975: 138.

[100] Oakeshott 1975: 151.

international custom may be recognised as law. These are consistent practice (*usus*) and the acceptance of the practice as obligatory (*opinio juris*). *Usus* distinguishes custom from 'merely ideal standards'; while *opinio juris* identifies legal custom from mere regularities or routines. A further relevant element in this regard is that also the jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY); the International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Court (ICC) has been elevated into a norm of customary law.[101]

Moreover, on the ground of two important decisions made by the ICJ (*Barcelona Traction* and *North Sea Continental Shelf*), treaties, also, have been considered as a source of customary norms, when signed by a considerable number of states. In the *North Sea Continental Shelf* case, for example, the 'widespread and representative' adoption of the rule over 'a short period of time' by states which did not sign the conventional relevant treaty was considered as valid grounds for the establishment of customary norms. For example, treaties on the prohibition of torture, genocide or slavery, albeit not signed by all states, may be considered as customary norms, binding all international actors.[102]

Once a custom is recognised as law, it also applies to states that have previously protested against it, or that did not exist when the law arose.[103] This is also the case when there exists a 'persistent objector', that is, a state which consistently objects

[101] On this see Baker 2010.

[102] See, Meron 1989: 3. Baker 2010: 176-84.

[103] Cassese 2005: 162-63; Dixon 2005: 30; Thirlway 2006: 121

to the formation of a new customary law and, therefore, claims to be exempt from its authority. As underlined by Martin Dixon, the changes in the international context have led to the acknowledgment of a newly recognised law by countries that previously objected to it, be they minor (such as decolonised states that aimed to be exempted from some disadvantageous norms in matters of compensation) or great powers (as shown by the acceptance by the UK of the extension of the territorial sea).[104]

That customary international law applies to all states and international actors is of particular relevance in the case of humanitarian law. This importance is exemplified by the 'Martens Clause', which appeared in the preamble to the 1899 Hague convention with respect to laws and custom of war on land. It states that:

> Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience.[105]

As shown by Peter Sutch, the clause has consistently been used in international treaties and in the work of jurists in various international tribunals, such as the Nuremberg Tribunals, the ICJ, and the ICTY, and has been accepted as a norm of

[104] Dixon 2005: 31.

[105] Laws and Customs of War on Land: Preamble.

customary international law.[106] Its purpose is to remind all belligerents that there are established customs that have an obligatory character.[107]

In this context, an element that Oakeshott's perspective illuminates is the 'intelligent' nature of law. Consistent with the broader contribution to constructivism that I have illustrated throughout this thesis, customary international law has to be considered as the result of human interaction, social practices and deliberative thinking.

As argued by Gerald J. Postema, once we consider that law arises from actual moral practices, and that its recognition is the result of a discursive and interpretative argument, the traditional doctrine that sees the establishment of customary international law as a combination of objective (*usus*) and subjective (*opinio juris*) elements is undermined.[108] The identification of a customary law is a matter of judgment shared among the participants. Both *usus* and *opinio juris* are normative elements. From this point of view, regularity of behaviour is not a simple material fact; it is more than merely an example of empirical evidence. As I have underlined, it is the result of the persistent subscriptions to the conditions prescribed by the practice. It is the result of a normative engagement. This is further exemplified by the fact that, as argued by Postema, customary norms are transmitted not by repetition or imitation, but 'in virtue of their integration into the discursive

[106] Sutch 2011: 109. See also Chetail 2005: 257.

[107] See: Sutch 2011: 107-115.

[108] Postema 2012. The difficult to identify a distinction between *usus* and *opinio juris* is acknowledged by Henckaerts (2005: 182) in regard of the codification of customary international humanitarian law by the International Committee of the Red Cross.

network',[109] for their being part of the system of conditions that are taken into account while acting. As such, as pointed out by Boucher, customary international law has progressively emancipated itself from any fixed criteria, such as those provided by principles of natural law.[110] As in the case of Oakeshott's interpretation of the domestic rule of law, customary international law forms the grounds of the moral relationship between agents that constitutes international society.

I have illustrated that a key element of the philosophy of customary law is the theme of consensus. In Suarez's paradigmatic account, the law of nations is authoritative because it is expression of the consent of the sovereign and of the people. As I have discussed above, in both *On Human Conduct* and in 'The Rule of Law', the subscription to moral practice is based not on consent, nor on expectations about the outcomes of laws.[111] When the authority of law derives from considerations about its effects or from the consent of its subscribers, it unavoidably acquires an instrumental character. Instead, authority is the attribute that a system of law acquires when it is recognised by its subscriber, regardless of any other considerations. This circularity reveals that Oakeshott argues for the autonomy of the legal order and denies the existence of any foundation external to the authority of the law. This is further exemplified by the following passage from *On Human Conduct*:

> And should it be asked how a manifold of rules, many of unknown origin, subject to deliberate innovation, continuously amplified in judicial conclusions about their

[109] Postema 2012: 730.

[110] Boucher 2011: 764.

[111] Oakeshott 1975: 152-54.

> meanings in contingent situations, not infrequently neglected without penalty, often inconvenient, neither demanding nor capable of evoking the approval of all whom they concern, and never more than a very imperfect reflection of what are currently believed to be 'just' conditions of conduct may be acknowledged to be authoritative, the answer is that authority is the only conceivable attribute it could be indisputably acknowledged to have.[112]

By denying any external foundation to the authority of the law, and to the origin of obligation, the Oakeshottian perspective identifies from inside the actual practice subscribed to by the states the ground of their reciprocal obligations. International law makes obligatory moral claims that are immanent in international society.[113]

Against any rationalist project of reforming international laws or world institutions departing from objective principles (considered either as a moral reality to be discovered, or as principles constructed or deduced by right reason), the Oakeshottian model once again considers political activity and legislative innovation as the 'pursuit of intimations', as the slow change of current arrangements according to a normative ideal and an existing morality. The classical question about the origin of law and its relation to custom is solved in the Oakeshottian perspective without appealing either to the will of a 'legislator', nor to the 'so-called dictates of Reason'.[114] There is no 'ready and indisputable criterion' for determining the desirability of a certain change. Customs and customary law are not the product of explicit design, but rather the by-products of

[112] Oakeshott 1975: 154.

[113] Boucher 2011: 764.

[114] Oakeshott 1975: 139.

intentional performances. Following Postema's 'normative practice account',[115] I have suggested that the test that identifies the relevance of a customary norm is that of integration, or, to use the idealist idiom: coherence. The evidential and circumstantial argumentative discourse that attempts to define the emergence of new authoritative rules aims at considering the coherence of the emerging norms with those assumptions and considerations already in place.

This is shown by requirements identified by the Statute of the ICJ. They entail a certain degree of flexibility, as well as the possibility of a case-by-case decision by the Court – for instance with regard to how many states need to participate before a general practice can become law, or to the length of time required. This shows that the recognition of already existing practices is not a matter of sharp criteria or deterministic processes, but the result of an evidential, discursive and interpretative argument.[116]

To sum up, customary international law reflects actual practices of states, and declares those moral constraints to conduct that are already acknowledged by states. According to this perspective, new norms are recognized as part of the system of law not in virtue of their expected outcomes, nor of their conformity with some absolute principle, but instead because of their coherence with the already existing rules.

As contended by David Boucher, that customary international law reflects and declares slow changes in international society is illustrated by its role in the

[115] Postema 2012.

[116] For discussion: Boucher 2011: 764.

advancement of humanitarian justice. For instance, the actual advancement in the recognition of human rights is not made in virtue of declaration or treaties. Instead, what has been essential – as in the case of the establishment of the International Tribunal for the Former Yugoslavia and the International Criminal Court – is customary international law.[117] A further significant example in this regard is the progressive codification of customary International Humanitarian Law (IHL) by the International Committee of the Red Cross (ICRC) that aims to identify norms that bind all states in the conduct of war and protect its victims.[118] Moreover, rules of *jus cogens*, such as the prohibition of genocide, have emerged as fundamental rules of customary law. These examples show that the cogency of international obligations derive from the recognition and codification of already existing norms of conduct in the relations between states. Advancement in the recognition of human rights and humanitarian principles derives from the fulfilment of these intimations and not from the success of some rationalistic project.

Moreover, this is also illustrated by the progressive codification of customary practices – a process that occurred after the establishment (in 1947) of the International Law Commission. Since then, customs and practice have increasingly taken written and codified forms. This shows one of the ways in which customary practices have obtained formal recognition in international society. However, it does not deny the priority of customary law over treaties. Indeed, where a treaty

[117] See Boucher 2011: 763-68.

[118] Henckaerts 2005.

covering the same content as a customary international law ceases to exist, for whatever reason, the customary law remains binding.[119]

Notwithstanding these analogies, it is possible to raise objections to this identification of customary international law with an Oakeshottian rule of law. In particular, the justification of customary international law is often based on the protection of convergent interests. Indeed, it appears that new customary law is established as a response by emerging economic interests (for instance in the law of the sea, or in the norms of the continental shelf), where divergent interests and distribution of resources may not be efficiently regulated by treaties.[120] Moreover, they require specific actions by all international actors, and cannot be considered independent from the substantive conditions of things to be attained.

In addition, when certain fundamental humanitarian rights are considered as part of customary law, this social recognition is justified 'on the ground that they contribute to the common good of global society'.[121] Once again, the whole point is to consider this common good not as a substantive state of affairs to be reached, but as a conditional constraint on the conduct of states. I will return to this aspect in the next chapter; for the moment, what is important to underline is that Oakeshott's model highlights the declaratory and evolutionary nature of international law, its independence from a supra-national authority, as well as its moral value.

[119] See, Boucher 2011: 753.

[120] Cassese 2005: 166.

[121] Boucher 2009: 325, 328; Boucher 2011: 761.

More problematic for this way of understanding international society is the increasing importance in international relations of non-state actors.[122] The emergence of outlaw agents – in addition to outlaw states – such as the Islamic State, Boko Haram, and Al Qaeda in disregard of international norm, and dismissive of the rule of law poses new challenges for the international community. Without denying the increasing relevance of these agents – and therefore the highly problematic nature of their exclusion from discourses about international order – what this approach wishes to stress is the legal primacy and the logical priority of the relations between states.[123] It argues that NGOs, non-state actors and International Organisations pursue their divergent goals in a world that is framed and shaped by the relations between states; relations that have their logical roots in the recognition of an international rule of law.

Conclusion

This chapter has shown that Oakeshott's theory of civil association offers a constructivist understanding of the moral nature of international society.

Oakeshott's conception of philosophy as criticism, which I discussed in chapter 1, finds in his political and legal philosophy one of its finest results. The aim of his theory is indeed to distinguish and define the postulates of political life, and to identify the essential elements of political and legal relationships. He identifies two fundamental and mutually exclusive modes of relationship – enterprise association and civil association (or the rule of law) – that are distinguished by the nature of

[122] For an interpretation of non-state actors through the dichotomy enterprise association and civil association see: Katsikas 2010.

[123] Jackson 2000: 109.

their rules and their authority, and the relationship between individuals that they entail. While in enterprise association individuals commonly pursue a pre-established end, and rules are instruments to those goals, in civil association individuals are united by common recognition of a system of non-instrumental rules.

The possibility of applying Oakeshott's theory to our understanding of international relations is based on the assumption, or the postulate, that there is a logical priority and an actual primacy of the sovereign state as the principal actor of world politics. In this regard, as I have discussed, Oakeshott's theory can be seen – and it has been conceived by Nardin in this manner – as a further contribution to the English School notion of international society.

At the international level, civil association theorises a rule-based form of relationship between formally equal agents, united by common recognition of procedural constraints to their actions. Against Reus-Smit's criticism, I have shown that this common recognition may be conceived as shared values or belief. This, however, should not be identified with a common purpose aiming at the construction of a substantive state of affairs.

In this regard, an initial element of interest has been Oakeshott's explicit consideration of the historical evolution of the modern European state and of international society as a whole. Elaborating on Rengger's account – as well as on W.H. Greenleaf's discussion of the collectivist tradition – I have pointed out that Oakeshott identifies in some specific aspects of the relations between European states (colonialism and the state of belligerence) one of the key elements in the

affirmation of a teleocratic understanding of the role of state government. Moreover, Oakeshott argues that international society as a whole has become more and more teleocratic, seeing war, international institutions and laws as instruments to achieve particular goals.

The fact that Oakeshott is very critical of the current state of affairs in world politics, as well as of international organisations, does not imply that from the theory of civil association it is impossible to conceptually identify the conditions of the possibility of an international rule of a system of non-instrumental laws. From Oakeshott's theory of the rule of law or civil association, it is indeed possible to construct a notion of international society conceived as a relationship based on customary international law, understood as a system of non-instrumental rules. Therefore, Oakeshott may be associated to those thinkers (such as Burke) who conceive the conduct of states as regulated by historically emerging criteria.

Conceived of in this manner, international society represents the framework in which different actors of international politics may pursue their different goals and cooperate with each other. As such, international society is based on the recognition of shared rules and moral constraints. As for the constructivists, this perspective focuses on the relationships between different actors. They are understood relationships, they are not a natural given, but the result of the normative reasoning of different actors. It is on the ground of these continuous relationships that forms of co-operation can be pursued and that criteria of justice can be enacted.

In particular, Oakeshott's position contributes to the constructivist paradigm because it identifies in customary international law the constituting moral practice

of international society. I have illustrated that, insofar as customs emerge without design and are a by-product of actual states relations, customary international law may be considered as a system of moral (non-instrumental) rules. In other words, international society is a community constituted by a particular moral practice: customary international law. According to Oakeshott's perspective, its authority is not grounded on expected outcomes or on the 'dictates' of right Reason, but instead on its recognition by international actors. In sum, the Oakeshottian perspective underlines the declaratory and evolving nature of international society and shows how principles have acquired legal force as they arise from actual moral practices, binding the conduct of states and providing criteria for judging their actions.

CHAPTER 6

LAW AND MORALITY IN INTERNATIONAL SOCIETY

Introduction

In the previous chapter, I have argued that Oakeshott's political and legal theory may be seen as the basis for an understanding of international society as a rule-based form of moral association between states. In spite of the mixed character of the real world legal order, and of the varying circumstances in which the ideal characters of civil association and enterprise association may appear, Oakeshott's theory offers an account in which the existence of international law is not undermined by the lack of a supranational power. Instead, as I have argued, it is based on the codification of state practices. As such, international law reflects the evolving nature of international society. When customary international law is conceived as a system of non-instrumental rules (whose authority depends neither on the outcomes of rules, nor on the consent of its subjects), it represents the ground of the relations between states.

On the basis of David Boucher's triadic conception of the philosophy of international relations, I have included Oakeshott among those theorists, such as Burke, who understand the society of states as a relationship of civility based on common morality and shared values, resulting from historical human actions. These shared values – I have argued against Reus-Smit's criticism of the Oakeshottian position as expressed by Nardin – should be understood as a common subscription to moral constraints and not as a common purpose.

I want in this chapter to further consider the relationship between law and morality, and explore how Oakeshott's theory of civil association and international society addresses issues of justice. Even though over recent decades (especially after Charles Beitz's *Political Theory and International Relations*) the debate on international justice has been dominated by concerns of global redistribution, it is possible to frame the discussion of justice around the question of international legality.[1] This was, for instance, the question that animated the discussion of international jurists and of philosophers, who attempted to identify the legal limits to the conduct and causes of war.[2]

In other words, whereas in the previous chapter I have examined the ontology of international society, and I have argued that it is based on the authority of customary international law, in this I want to explore normative questions of justice. In particular, I will explore how the Oakeshottian perspective on international society justifies constraints on the conduct of states.

To this end, I will consider Oakeshott's position in the context of the triadic conception of the philosophy of international relations as presented by David Boucher in his elaboration of Oakeshott's understanding of the history of political philosophy.[3]

Firstly, I will show both the similarities and differences between Oakeshott and a realist conception of the question of international justice. As Chris Brown and more

[1] Nardin 2006: 455.

[2] See Boucher 2012c; Rengger 2013.

[3] Boucher 1998.

recently Sean Molloy have pointed out, it is no longer permissible to consider realism as a theory in which 'moral judgments have no place'.[4] Instead, it should be regarded as a critique of a particular kind of moral thinking, arguing for the existence of overarching moral codes. In this regard, I will recall some of my earlier considerations about Oakeshott's critique of Rationalism in politics and show some of its similarities to Morgenthau's aversion to international liberalism. However, I will contend that Oakeshott offers a different and less essentialist conception of human nature, as well as a theory of law that is distinct from and critical of the instrumentalism implied in Realist legal theory.

Secondly, I will consider Oakeshott's critique of the Natural Law tradition and of those theories that posit absolute principles of justice. In particular, I will contend that Oakeshott defends an embedded notion of practical rationality, in which criteria of justice are constituted by the moral tradition in which the agent is situated. An example of this is Oakeshott's aversion to the rationalist interpretation of human rights that conceive them as a-historical criteria of justice.

Thirdly, I will show the similarities between Oakeshott and the tradition of Historical Reason. Whereas in the last chapter I claimed that, from an Oakeshottian point of view, international society is constituted by customary international law, here I will argue that considerations about justice are developed through a practical, normative discourse, which is constructed from evolving shared moral assumptions.

[4] Beitz 1999: 15. For a discussion of this sort of critique of realism, see, Molloy 2008: 83-84.

Law and Morality in the Philosophy of International Relations

I have illustrated in chapter 3 that philosophy is conceived by Oakeshott as the unconditional understanding of the 'standards and valuations of our civilisation', and the restoration of the unity between those criteria and 'the rest of our ideas'. The triadic conception of the history of political philosophy presented in the 'Introduction to *Leviathan'* provides a framework in which the various philosophical definitions of the criteria of conduct are related to each other, and are seen outside of the historical circumstances in which they were presented.

As already discussed, it has been further elaborated by David Boucher to explain how political philosophers have reflected on international relations. Boucher identifies the three traditions of Empirical Realism, Universal Moral Order, and Historical Reason, which correspond to the Oakeshottian Will and Artifice, Nature and Reason, and Rational Will. Of course, this representation of the history of philosophy is not to say that there are fixed doctrines which are consistently reinterpreted throughout history. What the notion of tradition suggests is that it is possible to identify some characteristics that, when composed, create a more or less stable identity.

To place Hobbes in the tradition of Will and Artifice, as Oakeshott does, means to identify in these two master conceptions the key elements of his system. In so doing, it is related to the history of philosophy and emancipated from the historical vicissitudes of its times.[5] From this perspective, in Hobbes's *Leviathan,* criteria of

[5] Of course, there would be a lot to say about Oakeshott's contextualism, and I have already discussed it in chapter 3. Further discussion is in Boucher 2007; Thompson 2012.

justice are the creation of human beings, and political order is based on an agreement that offers a remedy to the predicament of humankind.[6]

At an international level, the Empirical Realist tradition conceives of human nature as self-interested and unconstrained by any higher moral laws. As no superior power can govern states, actions are guided by national interests, and morality is identified with expediency and prudence.[7] For this reason, Realism often advances a critique of Utopianism, and of those theories that defend a supremacy of ethics over politics. In short, the history of international relations shows the weakness of international law, as well as the counterproductive effect of any project attempting to govern world anarchy.

Empirical Realism was also strongly present in the work of some of the theorists writing in the same period as Oakeshott. Of the English School, besides E.H. Carr's critique of utopianism in *The Twenty-Years Crisis*, Martin Wight famously sees international politics as the site of constant war and conflict.[8] In international politics, no progress is possible and, as Wight famously put it, if some people from the distant past returned to present and looked at international affairs, they 'would be struck by resemblances to what they remembered'.[9] Hedley Bull maintains a much more nuanced attitude and, in some respects, may be considered a defender of a neo-Grotian position claiming the existence of a universal moral order, and

[6] Oakeshott 1991: 225; 276-78.

[7] Boucher 1998 29-31.

[8] Wight 1966.

[9] Wight 1966: 26.

therefore opposed to realism.[10] However, as Chris Brown has pointed out, he maintained a radical scepticism towards solidarist projects as well as a deep awareness of the limits of political action, and, in *The Anarchical Society*, Bull indeed postulates the priority of concerns about order over those of justice.[11]

Realism in international relations has been very successful in America, and not just the structural realism inaugurated by Waltz's *Theory of International Politics* (1979), which was highly influenced by positivist methodology and in which international politics was seen as determined by the anarchical structure of the international system.[12] Earlier in the twentieth century, the works of Niebuhr and Morgenthau introduced Realism into the academic study of international relations through a more classic and humanist style.

In this context, an important role was played by the reception of Carl Schmitt's philosophy. As is well known, in his *The Concept of the Political* (1927), Schmitt develops a theory clearly influenced by Hobbes, and argued that politics is the realm of power. To deny the role of power and decision is to deny the essence of 'the political' itself. Given the predicament of human nature, Schmitt sees in the role that fear plays in Hobbes's state of nature a key to the understanding the nature of politics. As the Leviathan offers an escape from the constant threat of death, so the authority of the State, for Schmitt, derives from his ability to protect the citizens,

[10] On the ambiguity of Bull's interpretation of international society, see: Wheeler and Dunne 1996. Cf. Bull 1979.

[11] Bull 1979: 90-94; Brown 1998: 104.

[12] See: Waltz 1979.

who, in return, give their obedience.[13] International relations are politics at its highest, it is indeed in the relations between states that the centrality of power is seen more clearly. As Hobbes, the German sees the international realm as one characterized, not by actual war, but by a constant state of belligerence, in which the world is divided along the lines of friend/enemy.[14] In short, there is no distinction between politics and war, as both are constructed around the 'amity line'; in both a key role is played by power and decisions. Ultimately, it is at times of war, in moments of exception, that the real nature of politics reveals itself.

Hans Morgenthau interpreted Schmitt's political philosophy in the context of the post-war American International Relations and, as his teacher, argued against liberalism, whose fault was not to acknowledge the centrality of power in politics and the ubiquity of evil in the world. Elaborating on Schmitt's notions of 'the political', Morgenthau asserts that current international law merely codifies states' mutual self-interests and, for this reason, it may be called 'non-political law'. As such it is different from 'political law', which instead derives from the power and the decision of a sovereign (which of course is simply missing at the international level).[15]

Terry Nardin, following Martti Koskenniemi,[16] shows that Morgenthau's Schmittian notion that laws are authoritative only when they are the expression of

[13] Schmitt 2008a: 52. Schmitt late came to change his mind about Hobbes in response to Leo Strauss's criticism of his interpretation. See: Schmitt 2008b.

[14] Schmitt 2008: 37.

[15] Morgenthau 1940. For discussion Reus-Smit 2003b: 596-97.

[16] Koskenniemi 2002.

power has inspired more recent legal theorists (such as Myres S. McDougal and Richard Falck), who see international law as the legalisation of the actual relations of power and supremacy in world politics. It is this aspect that is picked up by postmodernists and critical theorists who, inspired by Foucault's Nietzschean concept of genealogy, see law as the codification of a system of power in which liberal democratic countries have the monopoly of normative discourse and of the definition of what is just conduct.[17] For them, as famously stated by Foucault in *Society Must Be Defended*, politics itself is the continuation of war by other means, and normative frameworks and legal orders are structures of dominations which perpetuate the struggles between different groups within society.[18]

To recapitulate, the thinkers encompassed in what Boucher has called the tradition of Empirical Realism ground their argument on a pessimistic conception of human nature, and on the idea that international politics is essentially characterized by anarchy and war. Their positions often present a critique of utopianism and of the idea that international politics may be constrained by law or ethical principles.

The existence of immutable and knowable moral absolutes that define what is justice is what characterises the tradition of the Universal Moral Order. According to Oakeshott, the root of this tradition is in the Platonic notion that the just city should reflect a metaphysical idea of justice to be discovered by reason through dialectic.[19] For Oakeshott, it is Stoicism – and later Christian philosophy – that further develops 'the doctrine that the *cosmos* was governed by a natural law' and

[17] Nardin 2008: 387-89.

[18] Foucault 2003.

[19] Oakeshott 1991: 227; 1999: 169.

that human beings can know it and are ‘able to construct human societies whose law and organization are a reflection of this natural law’[20].

At an international level, the notion that there are universal and immutable moral principles that can be known by reason to shape political institutions and international order is further explored by Grotius, Pufendorf, Locke, Vattel and Kant.[21] Again, there are of course a good many internal differences, and some of these thinkers (for instance Kant) present elements from other traditions, but it is possible to identify some common tenets. There is a much more optimistic conception of human nature that, even though regarded as a ‘crooked timber’, is considered capable of redemption in social life. Moreover, the action of states and individuals are justified by the appeal to objective principles that are either inferred from Natural Law, or constructed by Right Reason.

Even though declining in contemporary philosophy, the idea that universal principles or human nature should ground international order is still present in the debate. For instance, some human right theorists (such as Michael J. Perry) identify a religious foundation of human rights. Similarly, the Catholic Church continues to appeal to natural law or a higher law to develop moral considerations about world affairs. Universalism may also take on a more formal or procedural character. For example, Martha Nussbaum grounds her universalism on some conception of

[20] Oakeshott 2006: 163.

[21] Boucher 1998: 32-37.

humanity or on some fundamental universal moral characteristics that are realised in different ways according to the various cultural context.[22]

Including and overcoming elements of both Realism and Universalism, the Historical Reason tradition conceives criteria of justice as embedded in historical moral practices. While the classical exponents of this group of theories are Rousseau, Herder and Hegel, in more recent times this sort of approach has been developed by a variety of thinkers of different persuasions.

Michael Walzer summarises the historical reason tradition in his *Spheres of Justice*, where he conceives of justice as the product of 'particular political communities at identifiable times'.[23] Similarly, Rawls's position as expressed in *The Law of Peoples*, as well as David Miller's civic nationalism, may be considered as stating the moral priority of autonomous states over the broader international community.[24] There is therefore not a single conception of justice that transcends the circumstances of human existence, but rather different ones according to various social systems and historical situations.[25]

Constitutive theorists offer another interpretation of Historical Reason. Against what they perceive as the reduction of society to its economic element, constitutive theorists such as Mervyn Frost and Chris Brown have contended that the state and social contexts are the constitutive ground for individual morality, identity and

[22] For discussion Boucher 2009: 255-61.

[23] Walzer 1983. See Boucher 2006a.

[24] On Rawls as a constitutive theorist see: Boucher 2006b; Boucher 2009: 302-10.

[25] Valentini 2011: 25-32.

rights.[26] In Brown's theory, political structures, and in particular the state, play a vital role in the moral development of the individual and in the development of their ethical perspectives.[27]

According to Frost, this kind of state is an autonomous one in which the law is constituted by the people and constitutive of the people.[28] The criteria defining the conduct of states and individuals may only grow out of a specific community.[29] At an international level, society is composed of autonomous sovereign states. It is this sort of community that, for Frost, represents the ground for settled norms of international conduct.[30]

Just like the state, global civil society is a fundamental authoritative practice: they both constitute individuals by setting commonly accepted ideas that are the context of what individual agents do.[31] Without appealing to the teleological and speculative philosophy of history underpinned in that theory, Frost finds in Hegel's *Philosophy of Right* an account of how 'free and rational' human beings 'are constituted as such within a set of social practices' organized in a complex hierarchy.[32] Elaborating on Hegel, then, Frost identifies this hierarchy of

[26] Brown 1994: 167. Frost 1996: 142. With reference to Oakeshott is also relevant Boucher and Vincent 2000: 210-235.

[27] Brown 1994: 173.

[28] Frost 1996: 151-52.

[29] Brown 1992: 110.

[30] Frost 2002.

[31] As noted at the outset of chapter 1, Frost takes from Oakeshott the notion of authoritative practice to indicate: 'sets of people relating to one another in terms of commonly accepted ideas about what they are doing' (2002: 2).

[32] Frost 2002: 49.

foundational practices: from the family through civil society and the state, to the system of states. As particular citizenship is important in establishing individual freedom and rights, so the recognition of the state by other autonomous states is essential to this.

What is crucial is that, for Frost, both the state and the system of state represent constitutive practice, that is to say, a set of evolving norms 'adherence to which is required of anyone wishing to be considered as an actor in good standing within that practice'.[33] Therefore, for Frost, the ground of any considerations about justice at an international level must have as a starting point the historically determined relevance of the autonomous sovereign states, and the actual conditions of their relations.

Recent constructivist theories may also be regarded as further interpretations of the Historical Reason tradition. The work of Christian Reus-Smit is of particular relevance here, not just because it considers, as have other constructivists such as Wendt, the centrality of intersubjective beliefs in international relations, but also because it offers an account of the diachronic development of international society. In his *The Moral Purpose of the State*, Reus-Smit elaborates on Bull's notion of international society to offer an account of the various 'constitutional structures' that have grounded certain historical international societies.[34] These structures are 'coherent ensembles of intersubjective beliefs, principles, and norms'.[35] They represent the context in which human intentions and actions are embedded.

[33] Frost 2002: 14.

[34] See also Reus-Smit 2013; Ruggie 1993.

[35] Reus-Smit 1999.

Historical changes in the various constitutional practices constituting actors and criteria of action are explained through a theory inspired by Habermas's theory of communicative action. On this basis, Reus-Smit's constructivist theory shows different reasons given by the actors involved in order to reach an agreement regarding these diachronical changes.

As noted by Boucher, the Historical Reason tradition does not necessarily equate with a form of statism.[36] As with the Universal Moral Order and the Empirical Realist tradition, this also cannot be identified with a settled doctrine but rather with a distinct conception of the nature of human agency, of moral reasoning and of value. The key tenet of this tradition is not the a-historical priority of the state but that criteria of justice are not identified on the ground of some essentialist arguments, such as a negative conception of human nature and the pervasiveness of conflict (as for the realist), or the existence of a higher immutable moral law (as for the universalist). In contrast, criteria of justice are related to an evolving moral discourse, which is itself related to varying historical circumstances.

War, Law, and Human Nature

I have already argued in chapter 4 that Oakeshott's arguments shared many similarities with the critique of international liberalism presented by Morgenthau's *Scientific Man vs. Power Politics*. The notion that it is possible to know objective principles on the basis of which a just international order could be constructed is

[36] Boucher 1998: 395-405. This is exemplified by neo-Rawlsian cosmopolitans such as Thomas Pogge and Charles Beitz who see cosmopolitanism as founded on the increasing cooperation between states, that is, in a historically, contingent, and human-created condition (see, Beitz 1999; Pogge 1989; 2007).

associated by both Morgenthau and Oakeshott with the follies of European modernity.[37] Furthermore, in the last chapter I showed that he considered war to be a central and characterizing element of the history of the modern European state, as well as of the development of the state itself. More specifically, one of the reasons for the success of the teleocratic understanding of the state is the state of continuous belligerence that has characterised European modernity.[38]

The similarities of Oakeshott's work to the Realist tradition also lie in his reflections on the human condition. As indicated by Rengger, Ned Lebow's discussion of tragedy in the realist theory of international politics is particularly relevant.[39] Morgenthau's (as well as Schmitt's) ideas may be considered as tragic, insofar as the nature of human beings is always and necessarily imperfect, and no political arrangement can overcome this predicament.[40] In his review of *Scientific Man vs. Power Politics* Oakeshott comments on this, stating that the argument owes something to the anti-Pelagianism of Augustine and Hobbes and that

> The human race lacks what would be required to abolish 'power politics'; and all that distinguishes 'scientific man' is his illusion of possessing what is wanting to the human race.[41]

Even though Oakeshott 'does not offer any criticism of this argument', it is possible to highlight some differences between the two thinkers. In his account, Rengger

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[37] Morgenthau 1946; Oakeshott 1993a: 101.

[38] Oakeshott 1975: 272-74.

[39] Rengger 2005; Lebow 2003: 216-56 and 257-309.

[40] Rengger 2005: 323.

[41] Oakeshott 1993a: 105.

focuses on Oakeshott's aversion to the definition of this condition as 'tragic', not just because it is a category which is pertinent to the world of poetry and not to that of practice – which are autonomous from each other – but also because human fallibility and imperfection is not a negative condition.[42] In the same review the imperfectability of human beings

> Is not tragic, nor even a predicament, unless and until it is contrasted with a human nature susceptible of a perfection which is in fact foreign to its character....And only a rationalistic reformer will confuse the imperfections which can be remedied with the so-called imperfections which cannot, and will think of the irremovability of the latter as a tragedy. The rest of us know that no rationalistic justice (with its project of approximating people to things), and no possible degree of human prosperity, can ever remove mercy and charity from their place of first importance in the relations of human beings, and know also that this situation cannot properly be considered either imperfect or a tragedy.[43]

My point is that the ground of this conception is in a theory of agency which is fully developed in *On Human Conduct*. There, human interactions are described as hazardous and immersed in contingency, as 'a movement about a world where achieved satisfaction breeds wants, a world habitable only when the energy of pursuit is prudentially mixed with *nonchaloir* in respect of the outcome'. It is important to point out that Oakeshott links to this understanding of the human condition a sceptical ethics that he derives from Montaigne. The acceptance of the

[42] Oakeshott 1993a: 107-08.

[43] Oakeshott 1993a: 108. Oakeshott, here, seems to represent with reference to Morgenthau his famous comment about Hayek's *Road to Serfdom*, which was cursorily criticized for being 'a plan to resist all planning' (Oakeshott 1991: 26).

role of contingency and fortune in human life is associated with the idea that the sage acts with the awareness that the accomplishment of the teleological design of conduct is beyond his/her full control, as it depends mainly on the responses of the other agents involved, and on ultimately uncontrollable circumstances. [44]

Oakeshott seems also to follow Montaigne's sceptical model in its characterization of moral autonomy and in the idea that the value of action and agents is not determined by the full realization of their goals. Besides the recognition of the importance and relevance of an individual's autonomy in the face of both external authorities and human vicissitudes Oakeshott also argues actions do not benefit from any 'model of self-perfection' as they are as provisional and temporary as anything else.[45]

Merely hinted at in the above quoted passage from the review of *Scientific Man vs Power Politics,* the idea that human action is by definition fallible and that there is not a model of justice to be achieved through political action is developed by Oakeshott in various works. I suggested in chapter 3 that normative political thinking is considered by Oakeshott to be the 'pursuit of intimations', developed through a non-demonstrative moral reasoning starting from the shared assumptions of a certain political community. It is not a demonstrative reasoning that can reach a moral absolute through a necessary argument modelled on the criteria of truth proposed by natural science. In other words, to assert – as Oakeshott famously does in 'Political Education' – that in political activity 'men sail a boundless and

[44] Oakeshott 1975: 73.

[45] Oakeshott 1975: 84.

bottomless sea' in which 'there is neither harbour for shelter nor floor for anchorage', and in which 'the enterprise is to keep afloat on an even keel', is not just (as I have argued in chapter 3) a way of denying a normative role to political philosophy; it is a restating of that supremacy of expediency and prudence in politics that characterises the Realist tradition.[46]

However, as I shall discuss again below, this statement of the imperfection of the human condition in which no action and no political project can redeem humanity from injustice is not, as for many realists, based on an essentialist notion of the human being.[47]

Moreover, the exclusion of any ethical notion from normative principles of rules and governing seems to eliminate any moral considerations from the legal order. At an international level, when the society of states is conceived as constituted by customary international law it excludes any substantive goal from being a teleologically normative principle in the legal system. As at a domestic level, civil association is indifferent to the variety of purposes pursued by individuals and groups, so an Oakeshottian understanding of international society is deeply pluralist, and indifferent (within the framework of constraints whose authority states acknowledge) to any substantive conception of the good.

Furthermore, it is worth restating that, as I discussed throughout chapter 5, the Oakeshottian legal theory – while criticizing the current state of international law

[46] Oakeshott 1991: 60. See: Brown 2012: 448-54.

[47] Oakeshott 1975: 41. A similar critique to Realism's essentialism is in Kratochwil 2000: 94.

by considering it as an expression of power – admits the possibility of a non-instrumental legal order which is logically prior to the conflict of power and the representation of interests. Contra Schmitt's understanding and that of legal positivists, Oakeshott sees law as radically distinct from the command of a sovereign. Firstly, as already discussed in the last chapter, law – for Oakeshott - cannot be considered an act of will, nor do individuals accept the authority of the law for its expected outcomes (such as protection). Instead, Oakeshott conceives law as a moral practice that has become instituted through a previously recognized procedure.

Moreover, a command is addressed to 'an assignable agent', while the set of non-instrumental rules that for Oakeshott comprise the law is addressed to an unknown audience. In addition, a command is an 'action in response to a particular situation' that demands the performance of a substantive action. Instead, law – when it is understood as practice – provides the conditions to be subscribed to by agents pursuing their self-chosen actions.[48] In sum, Oakeshott objects to the identification of the authority of law with the expression of power; as I have argued, this is particularly relevant at the international level, since customary international law may represent a legal order which is independent of any sovereign authority.

Natural Law, the Unity of Humankind and Universalism

So far, I have claimed that Oakeshott's political philosophy has many important similarities – as well as very significant differences – with some of the themes of

[48] Oakeshott 1999: 140-41.

Empirical Realism. I want now to further explore the Oakeshottian critique of any universal or transcendental criteria of justice in the conduct of states.

I have argued in chapter 3 that Oakeshott defends an embedded conception of practical rationality in which normative criteria are the result of the moral traditions or practices in which individuals are situated. Oakeshott's discussion of the doctrine of Natural Law may be understood in the context of his broader distinction between technical and practical knowledge, between knowledge based on principles to be applied to political activity and evaluation of just conduct and knowledge based on a practical and embedded notion of practical reason.

In essays such as 'Rationalism in Politics' and 'Political Education', which were written when the Universal Declaration of Human Rights was elaborated and adopted by the newly constituted UN, Oakeshott criticizes the notion that the idea of Natural Law and of Natural Rights may ground political activity.[49] With reference to the 1789 Declaration of the Rights of Man (part of which he reproduces in the appendix of his *Social and Political Doctrines of Contemporary Europe*),[50] Oakeshott contested the idea that the system of rights and duties and the scheme of ends encompassed in that document were the codification of the principles of natural law needed to inform the new political order. Instead, it should have been considered as an abridgment of the 'the common law rights of Englishmen, the gift

[49] Oakeshott 1991: 53-54. The essay 'Rationalism in Politics' was firstly published in 1947 in the 'Cambridge Journal', while 'Political Education' was Oakeshott's 1951 Inaugural Lecture at the LSE.

[50] The appendix is in the 1942 American edition of the book, see: Oakeshott 1950: 232-34.

not of independent premeditation or divine munificence, but of centuries of day-to-day attending to the arrangements of an historic society'.[51]

What Oakeshott is criticizing is not the actual idea of rights, but rather the tendency to conceive them as premeditated and immutable ends to be pursued in politics.[52] In one of his most engaged texts of the time –'The Political Economy of Freedom' (1948) – Oakeshott identifies the liberal (which he calls libertarian) tradition with three particular kinds of freedom (of association, the right of private property, and of speech).[53] These freedoms, however, were not declared or set as final ends, but were rather enjoyed, and constituted a historically enacted 'method of government'.[54]

What Oakeshott's theory contends is that rights are social and not natural; that they derive from the place of individuals in a society; of their recognition of the system of law in which they are situated. There cannot be rights without historically situated society. In short, like Burke, Oakeshott criticized the abstractness of the idea of identifying true principles upon which to base laws and institutions without regard to historical and shared experience.[55] This same position was also shared by British idealists such as Henry Jones and D.G. Ritchie,[56] who understood rights as

[51] Oakeshott 1991: 53.

[52] Boucher 2009: 228.

[53] Oakeshott 1991: 391.

[54] Oakeshott 1991: 390.

[55] Boucher 2009: 184.

[56] Boucher 2009: 228.

eminently social and not natural and Oakeshott draws upon that philosophical school to develop his arguments.

With reference to the debate around the UDHR this same idealist and historicist argument was advanced by Benedetto Croce in his reply to Julian Huxley's invitation to participate at the 1948 UNESCO symposium on Human Rights. In that text, the Italian idealist and liberal thinker affirms that, instead of a universal declaration of timeless principles, what is possible is a declaration 'of certain historical and contemporary rights'; the Rights of Man are rather the rights 'of the historical man'.[57]

Oakeshott indeed grounds his theory on the idealist theory of individuality that I presented in chapter 1. At the political and social level, it argues for the priority of the whole over the individual. As I shall discuss further below, this argument may be indeed compared to constitutivist and constructivist claims that the state and the broader social and moral context have a moral priority in the constitution of individual identity, and should be taken into account when defining justice.

For the moment, it suffices to show the arguments deployed by Oakeshott to defend the idea that individuality is not an absolute, a-historical, criterion. The essay 'Some Remarks on the Nature and the Meaning of Sociality' (1925) is particularly relevant. There, as well as in some other pieces from Oakeshott's Archive and others recently published,[58] he addresses the issue of moral individuality in terms

[57] Croce 1948: 83.

[58] Oakeshott 2010.

similar to those of Absolute idealists such as F.H Bradley and Bernard Bosanquet.[59] In that early text, he underlines the moral and relational character of social and political life. In particular, he stresses that the self and society are not distinct, but rather that they compose a single whole. This social whole is a unity of mind in which the self participates.[60]

In another piece that Oakeshott wrote in his twenties, entitled 'The Authority of the State' (1929), he again follows Bosanquet and Bradley, defining the state as 'the social whole', and as a 'totality'.[61] The authority of the law does not derive from a natural or external obligation (such as power), nor from consent or utility; rather, it is 'moral'. It derives from the 'internal' recognition of the will of the state. In other words, the moral nature of the social life lies in the unity between the self and the State, between the individual and the community.[62]

It is true to say that in the texts published after the Second World War Oakeshott develops a political philosophy that is committed, as noted by Noel O'Sullivan, to identifying the conditions of the coexistence between authority and individual freedom and seems to defend the priority of the individual.[63] As is well known, the theory of civil association is also a powerful critique of those political arrangements

[59] On this see Boucher and Vincent 2012: 42-48; Mander 2005.

[60] Oakeshott 1993: 54.

[61] Oakeshott 1993: 83.

[62] Oakeshott 1993: 79, 84.

[63] Oakeshott 1991: 363-83; 1993b; 1975. See: N. O'Sullivan 2012.

that limit the pluralism of values, individual liberty and human eccentricity by the imposition of a goal to be reached through the coercive apparatus of the state.[64]

However, in these texts the individual is not a metaphysical absolute or an entity which derives its value from itself. First of all, the free individual is fully realised throughout history. It finally emerged in the Renaissance and, from then on, it has constituted the starting point of the ethical theories of Hobbes, Spinoza and Kant. It is therefore a historical realisation, a historical identity and not a metaphysical absolute.[65]

Moreover, the theory of civil association that offers a reinterpretation of the idea that individual rights are unavoidably related to the recognition of the authority of the rules. To say that a person has rights equates to saying that the whole of society has the obligation to respect these rights.[66] This obligation, for Oakeshott, is grounded on and derives from the recognition of the authority of the system of non-instrumental rules, which is civil association. As I have discussed in chapter 5, civil association affirms the absolute autonomy of the legal order from external considerations and values; therefore, to have an obligation to recognise and respect rights is to acknowledge the authority of the rules that prescribe it.[67] There is therefore a logical priority of the whole over the individual.

[64] Oakeshott 1975: 317.

[65] Oakeshott 1991: 366-67.

[66] Oakeshott 1991: 392-93.

[67] Oakeshott 1975: 151.

It is therefore not correct to say (with Jens Meierhenrich)[68] that Oakeshott grounds his theory on methodological individualism. Rather, he maintains an idealist holism which states the interrelatedness and dependence of individual will and actions on the social whole. The self's identity and actions can be understood exclusively in the light of 'morality'. A practice in which it is situated and that provides the resources and the procedure that the individual takes into account while acting. This morality is an identity which has a continuity between past, present and future that overcomes the finitude of individual identities, providing the moral resources for their enactment.[69]

To recapitulate the analysis so far. Differently from the Empirical Realist tradition, Oakeshott's theory admits the possibility of rule-based international legal order. However, he shares with that tradition the critique of universal and immutable criteria of justice that need to be taken into account in the conduct of states as well as in the design of international institutions. Indeed, he argues against the logical possibility of conducting political activity on *a priori* principles and on the use of Right Reason. Instead, as discussed in chapter 3, he defends an embedded conception of practical reason. The human condition is characterized by the supremacy of contingency and uncertainty. Politics is not the overcoming of this predicament but it is rather an activity governed by expediency and prudence.

Differently from both Realism and Universalism, he criticizes the idea of a-historical criteria of conduct grounded on a universal moral nature. Even though he

[68] Meierhenrich 2014: 13-14; Schatzki 1996: 97.

[69] Oakeshott 1975: 70-73.

can indeed be considered as one of the most intransigent theorists of individual freedom, Oakeshott considers the individual to be a historical realisation and achievement. As already discussed in chapter 1, far from being a subscriber to methodological individualism, he theorises the logical priority of the whole over individuality. In other words, individual morality and will are grounded on a shared and common historical morality.

Historical Reason

The analysis of how Oakeshott's political philosophy may refute the main conception of the Empirical Realist and Universalist tradition points the way to the existence of historically situated criteria of conduct. Differently from the Realist, as illustrated in the previous chapter, Oakeshott shows that law may be authoritative even without a sovereign legislator. At the same time, excluding from consideration about the law any concern regarding a final end or a *summum bonum* does not mean that law and morality are two incommensurable spheres.[70] Instead, for Oakeshott, the so-called 'moral neutrality' of the rule of law is nothing more than a 'half-truth',[71] and law is itself a 'kind of morality'.

There are indeed some moral conceptions that are endorsed by law. Indeed, for Oakeshott it should be non-instrumental, neutral between persons and interests and should exclude outlawry and privilege.[72] As I have highlighted in the previous section, in contrast with universalism, Oakeshott contests the idea that abstract *a priori* principles may be the ground for the construction of political institutions and

[70] See: Letwin 1989; Friedman 1989.

[71] Oakeshott 1975: 175.

[72] Boucher 2005b: 100-01.

international order. Therefore, the moral ideas that are enacted by the system of law are not moral absolutes but are instead realised through history in particular, contingent situations. In this regard, the history of the modern European state as a *societas* that is presented in the third essay of *On Human Conduct* may also be read as the history of how an understanding of the nature of law and government activity animated by these moral ideals emerged and developed. It shows how it has been interpreted by different thinkers at various times, and how it has been opposed and contrasted by its contrary, *universitas*.

Most importantly for our argument, both law and morality are what Oakeshott calls a 'practice'. As already mentioned in chapter 3, the concept is developed by Oakeshott in the first essay of *On Human Conduct* as a re-interpretation of that of tradition presented, in particular, in 'Political Education'. As I argued, neither practice nor tradition prescribe which course of action should be followed in a particular case or what ideals should be enacted, but rather how the individual should behave. They are not prudential, they intimate the considerations that we should take into account when acting. As noted by Mervyn Frost with reference to Oakeshott's notion of practice, participation in moral practices 'gives to the participants access to a whole range of values which are internal to the practice in question'.[73]

In short, by saying that both law and morality are a practice, Oakeshott wants to stipulate that they are not concerned with the specific outcome of individual performances (i.e. they are not instrumental or prudential) nor with the particular

[73] Frost 2002: 41.

transactions between agents, but instead specify the conditional context in which these intercourses may take place.[74] Moreover, both law and morality are the result of human intelligence: the relationships that they define can be enjoyed only by virtue of having being understood, acknowledged and recognized.[75]

Therefore, even though we can say that law is independent of any other source that makes it authentic, for Oakeshott it represents and reflects the evolution of a 'moral tradition'. Whereas morality is a practice concerned with the conditions of 'good and bad' conduct,[76] law is the imposition of some of these conditions, seen as 'just'. What is prescribed by the law reflects the conditions of moral-legal acceptability expressed in the evolutionary criteria of the 'moral-legal self-understanding of the associates'.[77] Law is 'declaratory' of what is immanent in the moral practice of a community. A system of non-instrumental laws is a morality that has become an institution though a previously recognized procedure.

In the previous chapter, I argued that customary international law may be considered a codification of existing moral practices between states. As such, it aptly represents the declaratory nature of the legal order, according to which the value of legal constraints is grounded on their coherence with the actual moral beliefs of a given community or, as in the international case, of the society of states. Thus, the conduct of states may be considered just when it is pursued in respect of the conditional constraints imposed on these codified practices.

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[74] Oakeshott 1975: 59.

[75] Oakeshott 1975: 60-65.

[76] Oakeshott 1975: 62.

[77] Oakeshott 1999: 174.

The relationship between legal order and moral values is further clarified by Oakeshott in his 1983 essay 'The Rule of Law'. There, the judgment about the justice of a law is composed of 'beliefs and opinions invoked in considering the propriety of the conditions' that law prescribes. Considerations about justice are not only related to the authenticity of the laws – their being the result of a previously recognized procedure, as it is for legal positivism – but also to

> a particular kind of moral considerations: neither an absurd belief in moral absolute (the 'right' to speak, to be informed, to procreate and so on) which should be recognized in law, nor the distinction between the rightness and wrongness of action in terms of the motives in which they are performed, but the negative and limited considerations that the prescriptions of the law should not conflict with a prevailing moral educated sensibility. [78]

The prevailing moral sensibility of a given community and, at the international level, of the society of states represents the boundaries of the political and moral imagination of the various actors involved.

In chapter 3, I argued that practical discourse is an argumentative, non-demonstrative form of reasoning radically distinct from the demonstrative or 'scientific' form. Of course, this does not mean that for Oakeshott there is no criterion in practical reasoning, and that practical activity is the 'pursuit of what recommends itself from moment to moment'.[79] Instead, moral reasoning should also be coherent with the shared moral assumptions provided by the prevailing

[78] Oakeshott 1999: 173-74.

[79] Oakeshott 1991: 47.

moral practice, which, even though contingent (non-necessary), is not arbitrary. Therefore, to judge the justice of the conduct of states is a prudent, *phronetic* discourse concerned with the compatibility between the conduct of states, international law and evolving international morality. Philosophical understanding cannot provide an account of the reasons for the changes in the criteria of justice, nor can it offer a solution to current practical dilemmas. Instead, it aims at explaining current arrangements as coherent as possible.

At the outset, I suggested that the discussion about justice concerns the identification of moral constraints to the actions of states. As pointed out by Boucher, the case of customary humanitarian international law is of particular significance, because it prescribes legal constraints in the conduct of conflict, for instance by forbidding the use of poisoned weapons, or by protecting non-combatants without appealing to Natural Law.[80] That considerations about international justice do refer to a broad international morality is shown, for instance, by the 'Martens clause' in the 1899 Hague conventions with respect to the laws and customs of war on land. The clause admits that the laws of war are, and will be, incomplete and insufficient to the regulation of conduct and, therefore, the constraints to the actions of the belligerents should also include 'the requirement of the public conscience'.[81] According to Theodor Meron, this role of the public conscience in moving government to acknowledge certain practices as law was, for

[80] Boucher 2012c: 104.

[81] *Laws and Customs of War on Land*: preamble. For discussion of the different interpretations of this clause, see: Boucher 2011: 767; Sutch 2011: 107-15; Sutch 2012: 10-11. On its relevance for International Humanitarian law, see also Cassese 2000; Meron 2000; Chetail 2003.

instance, recognized in the Rome Conference on the Establishment of the International Criminal Court.[82]

Therefore, the first important contribution of the Oakeshottian approach that differentiates it from more recent post-structuralist approaches is that it retains the normative and interpretative character proper to human conduct, as opposed to any causal and determinist interpretation.[83] As I have underlined in chapters 3 and 4, Oakeshott's theoretical understanding of human conduct and political life is not concerned with the identification of causes, but with an understanding of the postulates of concepts and of their broader meaning.

For this acknowledgment of the moral foundation of international society, the Oakeshottian perspective may be similar to the one defended by Reus-Smit, who argues that institutions reflect the values and practices of a society. Indeed, as it is for Reus-Smit's constructivist interpretation of Bull's notion of international society, the international order embodies some specific moral values that change through time.

For example, the practice of Renaissance diplomacy was embedded within the practices of fifteen-century Italian society, and in the moral purpose of the state: 'civic glory'.[84] As clarified in the last chapter, however, this moral purpose should be considered not as a teleological end, but rather as a set of moral, non-prudential,

[82] Meron 2000: 83. For discussion of the different interpretations of this clause, see: Boucher 2011: 767; Sutch 2011: 107-15; Sutch 2012: 10-12. On its relevance for International Humanitarian law, see also Cassese 2000; Meron 2000; Chetail 2003.

[83] Navari 2011: 626.

[84] Reus-Smit 1999: 63-86.

values. Thus, in the example considered, 'civic glory' does not prescribe specific actions in certain circumstances; it does not suggest what to do, but it provides the standards and the criteria that determine the manner in which actions are performed.

At the outset, I suggested that recent constitutive theorists such as Frost and Brown, as well as the communitarism of Walzer and Miller, may be regarded as part of the tradition of Historical Reason because they identify in the historically evolving conditions of the moral context the ground for the identifications of international norms. In the manner of constitutive theorists, Oakeshott does attribute priority to the social whole and to moral practices in the constitution of identity and of the moral world of individuals.

Being critical of any construction of shared and homogeneous values and principles, and describing the history of the modern European State as that of a 'mixed and miscellaneous collections of human beings precariously held together',[85] Oakeshott's theory of civil association is however opposed to any form of nationalism. This critique is not just valid for its most extreme expressions that crossed Europe over the nineteenth and twentieth centuries, but also for David Miller's 'civic' version, in which the bounded community is not just grounded on shared values, but is also conceived as a purposive 'cooperative venture for the mutual advantage' in which to apply rules of redistribution.[86]

[85] Oakeshott 1975: 279. Oakeshott casted doubt on the actual historical existence of Nation-state, see Oakeshott 1975: 188. For an Oakeshottian interpretation of Nationalism see: Kedourie 1993. For discussion, Miller 1997: 31.

[86] Miller 1997.

On the contrary, as David Boucher has pointed out,[87] and is also evident in some loose notes in Oakeshott's Archive that demonstrate his study of Cicero's *De res publica*,[88] Oakeshott's conception of the state understood as a civil association is a form of Republicanism inspired by Cicero and by the Roman political experience. For instance, he uses the Latin word *respublica* to describe the sort of political association that he had in mind, differentiating it not just from the nation-state, but also from any close identification with liberal democracy. For Oakeshott, *respublica* is 'the public concern or consideration' prescribed by the legal order to all individuals.

In *On Duties*, Cicero considers that natural human sociability implies the existence of 'several degree' of fellowships: from the 'vast fellowship of the human race' to the confined and limited one of marriage, brotherhood, etc. [89] Of these, reason tells us that none is more serious or dearer to us than that with the republic.[90] Similarly, Mervyn Frost notes there is sometimes a conflict between equally authoritative practices, as what is preeminent in the considerations of justice are both obligations prescribed by the domestic institutions and by international society. Both are 'foundational practices' as what they prescribe 'trumps' any other allegiance.[91] In Oakeshott there is neither a doctrine of the natural sociability of men, as we find in Cicero, nor a neo-Hegelian teleological doctrine, as we find in Frost. Individuals

[87] Boucher 2005a. See also Callahan 2012.

[88] These notes are collected in Oakeshott [no date] (LSE/OAKESHOTT/3/17). These notes are not published in Oakeshott 2014.

[89] Cicero 1991: 22 (Book I, 53-54).

[90] Cicero 1991: 23 (Book I, 57).

[91] Frost 2002: 46.

are situated within a complex web of moral relationships, each implying some sort of moral obligation.[92]

Once again, there is no easy solution, and the priority of one over the other is dictated not by necessary considerations, but by the historical circumstances in which the individual is situated and by the evolving moral practices that constitute the assumption of this practical reasoning. Even though we may reasonably argue, as Boucher has done, that Oakeshott was a 'committed patriot', a lover of his own country,[93] his theory, as those of earlier idealists such as Bosanquet,[94] does not close the door to the progressive extension of obligations beyond the state to a more inclusive moral community.

Conclusion

The aim of this chapter has been to consider Oakeshott's political thought in the context of philosophical reflections on international relations and international justice. Whereas in chapter 5 I contended that his theory of civil association may represent the ground for an understanding of international society as a rule-based association between states constituted by customary international law, in this chapter I have considered how this theory explains the existence of moral constraints on the actions of states.

In other words, the question that I have tried to answer through analysis of Oakeshott's political and legal philosophy is that of the existence of criteria of just

[92] Oakeshott 1975: 57.

[93] Boucher 2005a: 94.

[94] Boucher 1998: 346.

conduct at the international level. To this end, I have placed his political philosophy in the context of the history of reflection on the conduct of states. Invoking Boucher's triadic conception, I have compared Oakeshott with the traditions of Empirical Realism, Universal Moral Order and Historical Reason. What has emerged is that Oakeshott retains and criticizes elements from all these traditions, but that, in common with Historical Reason, he identifies criteria of just conduct in a historical discourse related to changing sets of assumptions and criteria.

In particular, like the Realists, he criticises Universalism and the existence of immutable principles of justice, on the grounds of a negative conception of human nature and political activity. However, for Oakeshott, human nature is not a fixed entity; the human condition is not essentially a predicament. Instead, it is what it becomes throughout history; it is the result of human creation. This creation and invention is not arbitrary, but is consistent with an evolving morality resulting from the conduct of individuals and transcending them, as it is a continuity between past, present, and future. In Oakeshott's hands, the tradition of Historical Reason is thus a form of Humanism, which (I have incidentally shown) is also associated with a sceptical ethical doctrine of self-acceptance and self-construction.

Similarly, for Oakeshott politics and practical reason are *phronetic*, prudential activities. Once again, politics is not merely to follow one's will; it is not just power, but it is the 'pursuit of intimations' coming from a tradition.[95] It is based on a historically evolving moral practice that offers contingent criteria of choice.

[95] Oakeshott 1991: 57.

As also shown by the differences between Oakeshott and Schmitt and Morgenthau, to say that Oakeshott is critical of universal and immutable principles is not to say that he denies the existence of moral considerations in international politics. Rather, Oakeshott's theory of civil association leads to a form of internationalism in which states are the main actors and where their relations are regulated by law. Since law is understood as a system of non-instrumental rules reflecting the evolving moral practices of states, it does not offer substantive and absolute criteria of justice, but rather constraints upon the conduct of states and individuals. These are the results of practical and prudential discourses developed from a common set of assumptions expressed in international morality and codified in international law.

In this regard, Oakeshott's political philosophy of international relations may be associated with a form of constitutive theory, according to which, moral practices provide the normative horizon for individual choices and identities. Against any methodological individualism or any anti-historical conception of individuality, Oakeshott recognizes the constitutive and normative role of moral practices. However, he does not identify a hierarchy between global civil society and the state. His scepticism and the radical separation between philosophical and practical truths implied by his theory of modality lead him to consider the solution of this dilemma as based on circumstantial arguments, whose only criterion of truth is the coherence with the given assumptions and current understandings.

Even though, for these same reasons, Oakeshott does not share the emancipatory and genealogical efforts of Habermas-inspired theories, his perspective may be considered similar to constructivism, as it shows the moral and intersubjective foundations of political order and institutions. However, in contrast to Reus-Smit,

he interprets this moral foundation not as a purpose but rather as a condition – as a conditional constraint on agents' choices and their courses of actions.

CONCLUSION

Over recent decades, the scholarship on Oakeshott has grown exponentially and his thought has been considered from many, often divergent, perspectives. However, in spite of his work exerting a certain influence on neo-English School writers, international historians and constitutive theorists, as well as displaying some important similarities with constructivism, no study has ever attempted to discuss the implications of Oakeshott's political philosophy for the understanding of international relations. Even in the growing literature on the impact of contemporary philosophical thought on International Relations theory (to which thinkers such as Heidegger, Habermas, Gramsci, Foucault and others are often considered to contribute), references to Oakeshott are very rare.

In this thesis, I have offered a comprehensive interpretation of Oakeshott's thought. I have shown its contribution to constructivist theories of international relations, and to the understanding of the nature of international society and morality. What emerges is the conclusion that his philosophical idealism is the basis for an understanding of international society conceived as a rule-based association between states constituted by customary international law. This international rule of law is the institutionalisation of an existing evolving moral practice constructed by the states throughout history.

Following an Oakeshottian approach, which invites the reader to consider philosophical texts in the context of the whole history of philosophy, I have identified the epistemological grounds of Oakeshott's position by exploring its relations with the British idealist tradition. In chapter 1, this study highlighted not

just the consistent relevance of Bernard Bosanquet's and F.H. Bradley's Absolute idealism to Oakeshott's works, but also the broad epistemological and ontological assumptions at the root of his theory. Most important among these is the identity between epistemological and ontological issues; in other words, for Oakeshott, questions about the nature of things are unavoidably related to those about our manner of understanding. World politics, for example, is not an object that waits to be apprehended by a knowing mind equipped with the correct, scientific, methodology. Instead, its nature is defined by the diversity of approaches that look at it.

The difference between these various forms of knowledge, with their divergent claims about truth, is interpreted by Oakeshott through his theory of modality, which represents one of the constants in his thought, notwithstanding numerous and significant terminological evolutions that I have discussed in the chapter. Oakeshott's theory of modality is developed in continuity with F.H. Bradley's position, Oakeshott conceives of various modes of experience (history, science, practice and art) as autonomous from each other and abstract in respect of the whole, of truth.

As I have illustrated, this theory has profound methodological implications. To understand the meaning and value of individual concepts, it is necessary to consider their relations to other concepts of the same sort, which share the same foundations. These foundations, it is important to stress, are not a metaphysical given, but are instead the result of the activity of mind throughout history. Against any methodological individualism, for Oakeshott, individual concepts are not the criterion of truth, as this lies instead in the whole, in the unity between a concept

and its context. Oakeshott therefore subscribes to a methodological holism in which the truth of the particulars depends on their relations with the whole, with the universal.

In this context, philosophy is criticism. It shows the presuppositions of various forms of understanding and their limited value. At the same time, it attempts to reach concepts that are as universal as possible, that is to say, that are true outside of the circumstances and of the context from which they are generated. Philosophical activity is the unremitting criticism of all concepts in the attempt to reach a definition of things as universal as possible. In contrast to other commentators, however, I have argued that at no stage of his works does Oakeshott see philosophy as the actual achievement of a positive body of absolute knowledge – one that overcomes concepts from the various modes.

These modes, instead, maintain their relative validity, granted by their coherence to their postulates. The image of conversation, I have argued, far from representing a departure from idealist logic, illustrates the autonomy and the reciprocal irreducibility of the various forms of knowledge. At the same time, it shows that philosophy is not the teleological end of knowledge.

While the first two chapters of the thesis mainly considered the epistemological and metaphilosophical assumptions of Oakeshott's works, chapter 3 focused on their implications for the understanding of political life. The most important among these consequences is that, contra the Analytic critique of normative thinking, practical experience or human conduct is as rational and as legitimate as any other form of thinking. On this fundamental assumption, I have therefore examined the

Oakeshottian theory of normativity, which is well summarised by the famous and very controversial notion that practical activity is the 'pursuit of intimations' coming from a tradition of behaviour or, as it is called in *On Human Conduct*, a moral practice.

Against D.D. Raphael's critique, I have argued that, for Oakeshott, normative reasoning is not merely the justification of what one happens to believe. As intimated by Oakeshott's notion of modality, practical reasoning is grounded on current understanding and on coherence with a moral practice, which is a conventional background composed of 'shared assumptions'.

Consistently with the notion of modality and of philosophy as criticism, the role of political philosophy is not to offer guidance or the solution to practical dilemma. Instead, it considers normative reasoning, political values and institutions in a context as universal as possible. This is, I have argued, the meaning of 'ideal characters' such as 'civil association', 'enterprise association', and 'the rule of law'. Oakeshott's conception of the relation between political philosophy and normative thinking is therefore highly controversial and shows a deep ambivalence. Indeed, Oakeshott is not just critical of the analytic methodology and of the demotion of normative thinking to irrationality; he is also distant from the classical conception of political philosophy as the search for the best form of government.

Neither Oakeshott's conception of normativity nor his broad metaphilosophical reflection have been considered in the various debates that have characterized the history of International Relations. Chapter 4 demonstrated that instead they may be placed in the context of the second Great Debate between the classical and scientific

approach, and may be regarded as contributions to post-positivist theories of international relations. In particular, Oakeshott's critique of Rationalism in politics may be considered alongside the classical approach, which was defended by the exponents of the English School and, in the American context, where positivism was very successful in shaping the discipline, by Hans Morgenthau.

However, this does not mean that Oakeshott may be simply considered among the defenders of the classical approach. Indeed, albeit not without ambiguities and inconsistencies, he does not agree with many exponents of the English School in regard to the practical use of history; nor does he agree with Morgenthau about the normative role of philosophy. In particular – again, consistently with his theory of modality and his metaphilosophy – Oakeshott is sceptical about the possibility of identifying objective laws through historical or philosophical inquiry.

If the Oakeshottian influence on the so-called second Great Debate in International Relations is controversial and can only be inferred, that on the 'normative turn' is much clearer. Neo-English School thinkers such as Nardin, Rengger, and Jackson as well as constitutive theorists such as Brown and Frost have indeed applied many of the concepts of Oakeshott's political philosophy to the understanding of international relations. Moreover, Oakeshott's triadic conception of the history of political philosophy has been essential in tracing the history of the philosophical reflection on the conduct of states by Boucher.

It is on these grounds that I have argued, in spite of the differences in regard of the critical and emancipatory role of theory, that the Oakeshottian position may be regarded as a contribution to constructivism and to the recent practical turn in

International Relations. Oakeshott's idealism contends that world politics is the result of normative reasoning developed within moral practices, and that it evolves throughout history in virtue of agents' actions and understanding.

This articulated discussion of Oakeshott's epistemology and metaphilosophy has represented the ground for my argument regarding the relevance of Oakeshott's political philosophy to understanding the nature of international society and of issues of international morality and justice.

In chapter 5, I claimed that the difference between the two ideal characters that Oakeshott identifies for understanding political associations and the state (enterprise association, or teleocracy, and civil association, or nomocracy) is difference in terms of the nature of law and of its authority. While, in enterprise association, rules derive their authority from a pre-established goal, which is conceived as a substantive state of affairs to be attained; in civil association, the authority of rules stems from their recognition as conditions to be observed while acting. Therefore, in enterprise association, rules are instrumental, while civil association is constituted by non-instrumental, moral, rules, which are indifferent to the self-chosen goals of its members.

As is well known, and anticipating many of the constructivist positions, Oakeshott employs this dichotomy to interpret the history of the modern European state as an opposition between two self-understandings of the nature of the activity of governing. What has less often been noted, and what I have examined here, is that this history contains important implications for the understanding of the relations between states. First, Oakeshott identifies at the international level some of the

circumstances that favour the success of a teleocratic conception of the activity of governing. These are European colonialism and, most importantly, the state of belligerence that has characterized European modernity. The constant threat of war has indeed contributed to lead the European consciousness to understand the State as an enterprise association, which manages all the resources and guides the association toward a final substantive end: victory. However, the relationship between the self-understanding of the association and international relations is mutual. In a world composed of enterprise associations, war is more likely. In addition, it is the nature of war itself that has conferred the success of a teleocratic understanding of international order. In particular, war has moved from being understood as a regulative device in the service of the European balance of power (as it was for Burke), to being an instrument for the establishment of a new world order, of a new state of affairs in international relations. Overall, in Oakeshott's international thought, the society of states has become more and more understood as an enterprise association.

Even though Oakeshott's political philosophy of international relations asserts the teleocratic character of the society of states, I have contended that from his theory of civil association it is possible to construct a different interpretation of international society. It is to this end that I have considered Hedley Bull's notion of international society and in Terry Nardin's Oakeshottian opposition between practical and purposive international society. Like civil association, Nardin's practical international society is composed of non-instrumental rules.[1] Against this

[1] Nardin 1983.

position, Christian Reus-Smit has instead contended that no historical international society has ever existed without shared moral values.[2] To solve this dilemma, my argument has shown that civil association, and by implication international society, is indeed based on a shared morality, which has to be understood as a coherent set of conditional constraints on actions, and not as a substantive state of affairs to be achieved and enforced. Therefore, the Oakeshottian understanding that I have advanced offers a new interpretation of the idea of international society, which is understood as a civility based on shared moral assumptions.

On this ground, I contended that the model of civil association offers an understanding of the nature of international law which authority derives not from the command of a sovereign (which is absent at the international level), but from the recognition of existing moral practices between the states. Thus, international society is constituted by customary international law. This is of particular interest because Oakeshott develops his theory on the Hobbesian notion according to which a law is authoritative when it is the result of a previously recognized procedure. However, in Oakeshott, the considerations about the authority of law are distinct from those regarding its enforcement and the constitution of the legislative office. In sum, the only necessary condition for the authority of law is its being recognized as such by the agents involved.

Elaborating on Boucher's triadic conceptions of the political theory of international relations (which is itself a further elaboration of Oakeshott's triadic view of the

[2] Reus-Smit 1999.

history of political philosophy),[3] I have contended that this view of international society may be regarded as similar to that of Burke, as it attributes a constitutive role to customary international law. Even though not all customary international law may be regarded as non-instrumental, the model that I have presented offers an understanding of the role played by customary international law in world politics, with particular reference to humanitarian law. As illustrated by the meaning of the 'Martens Clause', by the Statute of the International Court of Justice, and by the establishment of the International Tribunal for the Former Yugoslavia and of the International Criminal Court, customary international law has indeed been central in the codification of existing practices within international society. The emergence of international obligations derives from the recognition and codification of already existing criteria in the relations between states.

Therefore, my argument points the way to analysis of the relation between international law – conceived as a system of authoritative non-instrumental laws – and morality. In chapter 6, I have addressed this theme by placing Oakeshott's political philosophy in the context of the triadic conception of the political theory of international relations elaborated by Boucher. The comparison of Oakeshott with the Empirical Realist, the Universal Moral Order and the Historical Reason traditions has illustrated some key elements, and has placed his thought in the context of the history of philosophical reflection on international relations.

In particular, I argued that his understanding of the relations between law and morality may be regarded as a further interpretation of the Historical Reason

[3] Boucher 1998.

tradition, according to which, criteria of conduct are the result of historically situated practice.

Indeed, while sharing with classical realists such as Schmitt and Morgenthau a critique of liberal internationalism, in sympathy with contemporary constructivists, Oakeshott is against the essentialism that is underpinned in many of the realist positions. In particular, I argued that Oakeshott defends a version of humanism, for he conceives of human nature as the result of human creation and not as a *datum*. A creation that is the result of an understanding of the moral practices in which individuals are embedded. At the same time, since he does not consider law as the command of a sovereign, but the result of its recognition by the various agents involved, Oakeshott also opposes the classical legal positivist 'command' argument. At the same time, because of his theory of normativity, and of individuality, he rules out the relevance of any transcendental principle of justice, as defended by the Universalist tradition.

This, I reiterate, does not imply the absence of any moral criteria in the conduct of states. To conceive, as I did, international society as constituted by a non-instrumental system of law, as represented by customary international law, is itself to acknowledge a moral character to international order. Not only is there some inner moral conception embedded in the notion of non-instrumental law; but this is also an institutionalised moral practice. Indeed, as law is not the result of the command of a sovereign, nor is it the manifestation of absolute and transcendental moral principles, it is an understood ever-changing relationship. Moreover, it is not concerned with the specific outcome of individual performances; instead it specifies the conditional context in which actions may take place. As a consequence, law, at

both the domestic and international level, is the institutionalisation of a moral practice of a tradition of morality, and it prescribes some of the conditions of good conduct as 'just'.

Even though the Oakeshottian perspective does not offer an account as to the reasons why a certain sort of moral belief has prevailed, merely acknowledging that this is the result of normative thinking; the idea that customary international law is the institutionalisation of the morality of states further contributes to constitutive and constructivist theories of international relations. Indeed, he identifies in the practices established by the historical relations between states the moral foundations of international society. However, departing from recent constructivist accounts, he underlines the conditional, non-instrumental, and non-prudential character of this international morality.

Overall, this thesis argues that Oakeshott's theory of civil association offers an understanding of international society as constituted by an international rule of law – a system of non-instrumental rules that is the institutionalisation of a common international morality. These shared moral values are not, however, a-historical, transcendental principles, nor substantive state of affairs to be achieved and enforced, but rather components of an evolving practice which prescribes, to those states and other actors, conditions to be observed while acting.

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