

SUÁREZ IN EIGHTEENTH CENTURY BRITISH POLITICAL THOUGHT. BURKE'S POLITICAL THOUGHT AND SUÁREZ'S INHERITANCE

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RESUMEN

El propósito de este artículo es mostrar la influencia que tuvo Suárez sobre el pensamiento político Anglicano británico, es decir, sobre Edmund Burke, un importante político Whig del siglo XVIII. Esta influencia es vital para una comprensión profunda de la posición del político británico –nacido en Irlanda– en varias de sus batallas importantes, como la crítica de la Revolución Francesa o la denuncia de Burke de la tiránica administración de la India. El enfoque de Burke del Contrato Social es de vital importancia cuando se trata de comprender su pensamiento político y este documento pretende demostrar su conexión cercana con el pensamiento político de Suárez sobre este tema. Para lograr este objetivo, varios pasajes de Suárez en *De Legibus* y en el Libro III del *Defensio Fidei* se han comparado con algunos pasajes cruciales de los escritos políticos de Burke para rastrear la influencia de Suárez en el pensamiento político de Burke.

Palabras clave: Francisco Suárez, Edmund Burke, sociedad política, poder político, contrato social.

ABSTRACT

The purpose of this paper is to show the influence Suárez had on British Anglican political thought, namely on Edmund Burke, an important Whig politician of the

eighteenth century. This influence is vital for a thorough understanding of the position of the British – Irish born – politician in several of his important battles, such as the criticism of the French Revolution or Burke's denunciation of the tyrannical administration of India. Burke's approach to the Social Contract is of vital importance when attempting to understand his political thought and this paper aims to prove its close connection to the political thought of Suárez on this topic. In order to achieve this goal several passages of Suárez in *De Legibus* and in Book III of *Defensio Fidei* have been compared with some crucial passages of Burke's political writings in order to track Suárez's influence on Burke's political thought.

Keywords: Francisco Suárez, Edmund Burke, political society, political power, social contract.

I. SUÁREZ'S POLITICAL THOUGHT AS A SOURCE OF BURKE'S POLITICAL PRINCIPLES

This article will deal with the influence that Suárez exerted on Burke, in particular on his understanding of the Social Contract, which was of great importance to his political thought. Burke quotes Suárez on several occasions and, on other occasions, writes an interpretation of his doctrine without using direct quotations¹. Some of the features of Suárez's political thought that are significant in terms of his influence on Burke are common to other authors of the Late Scholastic period, and include the belief that political power is legitimate and rational power that comes from God, and that political communities accomplish God's will towards human fulfilment. Other aspects, however, take a peculiar twist on Suárez: for example, that the multitude does not have political power but neither does the individual alone. While it is true that Luis de Molina has previously said the same – that political communities were not the result of the accumulated power of all its members combined² – for Suarez a people had to be a moral body committed to achieving the common good before they obtained political power to choose the sovereign and political regime. The idea of a people as a moral corporate body is an important idea that Burke borrowed from Suárez: the multitude does not have political power, nor is power held by individuals, but rather by a moral organic community.

1 The influence of Francisco Suárez was felt in England in the seventeenth and eighteenth centuries, Filmer begins the *Patriarcha* rebutting Suárez. An interesting approach to Filmer's interpretation of Suárez can be found in Harro Höpfl, *Jesuit Political Thought* (Cambridge: Cambridge University Press, 2004), 195-202.

2 Cf. Lud. Molinae, *De iustitia et Jure*, tract. ii (Venetiis, Apud Sessas, 1611), 106.

As Harro Höpfl puts it, the Jesuits “explicitly denied that civil society is an association of previously (or conceptually) free and equal individuals. Indeed, it is not an association of *individuals* at all. Its component parts are not individuals but lesser associations. Furthermore, no one can transfer a right he or she does not have”³. To prove this assertion Höpfl quoted from Suárez. Burke also applies the principle of forming a larger society based on the first social links. To him loyalties in society begin with fidelity to the little platoon to which we belong and with whom we establish the first social connections⁴. These small groups are not necessarily familiar groups, nor those relations familiar relations but rather groups of individuals sharing a common goal.

To the question *who should legislate and who should we obey?* Suárez’s answer would be: since “man is by his nature free and subject to no one, save only to the Creator”⁵, only the entire community could receive political power. The *Corpus Politicum Mysticum* is the only moral entity that could receive power from God, and could be defined as the people organized in a sort of explicit or tacit pact with the purpose of achieving the common good⁶.

The possibility of delegating power to a sovereign, in whatever positive political regime the community may choose, in order to guarantee the best administration and security for the people, would be the most efficient solution. However, Suárez also considered, at least as a theoretical possibility, that *ius naturae* did not oblige the community to choose any of the possible regimes and,

3 Harro Höpfl, *Jesuit Political Thought, The Society of Jesus and the State, c. 1540–1630* (Cambridge: Cambridge University Press, 2004), 206.

4 “To be attached to the subdivision, to love the little platoon we belong to in society, is the first principle (the germ, as it were) of public affections. It is the first link in the series by which we proceed towards a love to our country and to mankind.”, Edmund Burke, “Reflections on the Revolution in France and on the Proceedings in Certain Societies in London Relative to that Event in a Letter Intended to Have Been Sent to a Gentleman in Paris”, in: *The Works of the Right Honorable Edmund Burke*, III (Boston: Little, Brown, and Company, 1865), 292.

5 “Tercio confirmari hoc potest nonnullis Scripturae testimoniis in quibus significatur solum Deum esse hominum regem, legislatorem et dominum,” R.P. Francisci Suarez e Societate Jesu, “De Legibus ac Deo Legislatore,” in: *Opera Omnia*, Tomus 5: *Commentaria ac disputationes in primam secundae D. Thomae, De Legibus seu Legislatore Deo. Tractatus de Legibus, Utriusque Fori Hominibus Utilis*, in *Decem Libros Dividitur, Quorum, Quinque Primos in Hoc Tomo Reperies* (Parisiis: apud Ludovicum Vivès, Bibliopolam Editorem, 1856), 176.

6 “At vero potestas politica licet ex natura rei resultet in tota communitate, eo ipso, quod in unum corpus politicum congregatur, non tamen convenit determinatae personae, sed ad communitatem per se pertinet modum regiminis statuere, et determinatae, personae potestatem illam applicare (...) Unde in rigore loquendo, idem quod hanc partem fuisset in statu innocentiae servandum: nam est eadem ratio, quae non in culpa, sed in ipsa aequitate naturali fundatur,” R.P. Francisci Suarez e Societate Jesu, “De Opere Sex Dierum,” in: *Opera Omnia*, Tomus 3: *Commentaria ac disputationes in primam partem D. Thomae de Deo effectore creaturarum omnium, in tres praecipuos tractatus distributa, quorum secundus de opere sex dierum, ac tertius de anima, cum indicibus necessariis* (Parisiis: apud Ludovicum Vivès, Bibliopolam Editorem, 1856), 416.

although it was the worst of the solutions, the *Corpus Politicum Mysticum* could administrate power in a direct democracy⁷. I am sure some considered that this interpretation could be refuted by other passages where Suárez admitted to being against natural reason conceiving a political community without a common power that this community should obey. However, we must keep in mind that when Suárez admitted that the self-administration of power by the community would not be incompatible with *ius naturae*, he does not advocate for anarchy but for direct democracy, even though he found it inadequate and unreasonable⁸. As such, the statement that it is against reason to have a community without established power that should be obeyed is not incompatible with the possibility of having a direct democracy. It is also true that in other passages Suárez conveyed that the direct administration of power by the community was a rare or even an inexistent event⁹, but the fact that it does not happen *de facto* does not interfere with this possibility *de jure*¹⁰.

Whatever regime the community may choose, with it remains the virtual possibility of recovering power in the case of tyranny. It is true however, that the community only has this possibility in a negative sense: what the community does, in fact, is to confirm that the pact has already been dissolved by the sovereign, having the latter fail in its obligation to protect the people which was a *sine qua non* condition in the delegation of power of the original contract¹¹. It

7 “Nihilominus tamen ius naturae non obligat ut vel per ipsam totam communitatem immediate exerceatur vel in ipsa semper maneat. Immo quia moraliter difficillimum esse ita fieri (esset enim infinita confusio et morositas, si suffragiis omnium leges essent conditae),” R.P. Francisci Suarez e Societate Jesu, “De Legibus ac Deo Legislatore,” in: *Opera Omnia*, Tomus 5, 184.

8 “Et ideo naturali ratini repugnat dari congregationem humanam quae per modum unius corporis politici uniatur et non habere aliquam potestatem communem cui singuli de communitate parere teneantur; ideoque si illa potestas non sit in aliqua persona determinate, necesse est ut in totae communitate existat,” R.P. Francisci Suarez e Societate Jesu, “De Legibus ac Deo Legislatore,” in: *Opera Omnia*, Tomus 5, 181.

9 “Raro enim aut nunquam in tota communitate retinetur, ita ut per illam immediate administretur,” R.P. Francisci Suarez e Societate Jesu, “De Legibus ac Deo Legislatore,” in: *Opera Omnia*, Tomus 5, 186.

10 “At vero democratia esse posset absque institutione positiva, ex sola naturali institutione seu dimanatione, cum sola negatione novae seu positivae institutionis, quia ipsa ratio naturalis dictat potestatem politicam supremam naturaliter sequi ex humana communitate perfecta et ex vi ejusdem rationis ad totam communitatem pertinere, nisi per novam institutionem in alium transferatur, quia ex vi rationis neque alia determinatio locum habere, neque immutabilior postulatur,” R.P. Francisci Suarez e Societate Jesu, “Defensionem Fidei Catholicae et Apostolicae Adversus Anglicanae Sectae Errores,” in: *Opera Omnia*, Tomus XXIV: *Defensionem Fidei Catholicae et Apostolicae Adversus Anglicanae Sectae Errores, cum responsione ad Apologiam pro Juramento Fidelitatis, et Prefationem Monitoriam Serenissimi Jacobi Magnae Britanniae Regis* (Parisiis: apud Ludovicum Vivès, Bibliopolam Editorem, 1859), 209.

11 Cf. R.P. Francisci Suarez e Societate Jesu, *Defensionem Fidei Catholicae et Apostolicae Adversus Anglicanae Sectae Errores*, in: *Opera Omnia*, Tomus XXIV, 204. quoted below in footnote 33.

is true that in *De Legibus* Suárez states that the transmission of power to the sovereign has been an unlimited alienation of all the power present in the community¹², however, in the case of tyranny the people could resume power because they never renounced this right¹³. This would open the door to freedom's vindication in the case of tyranny and is responsible for influencing Burke's political thought.

II. SUÁREZ'S LEGACY IN BURKE'S SOCIAL CONTRACT

1. ON THE ORIGIN AND PURPOSE OF THE SOCIAL CONTRACT

The anthropological assumptions in the social contract that Burke recognizes as existing are inspired by a tradition that is older than the perspective that characterized modernity, which gave shape to the contractualist views at the end of the eighteenth century in France, where they gained the most prominence.

In fact, whenever one speaks of contractualism in modernity, it is a question of a desacralized society and a contract concluded by previous holders of power and of rights, with the purpose of preserving the latter¹⁴, at least, this was the contract model to which Burke strenuously opposed, which was common among French revolutionary theorists. Some authors have seen the Burkean contract as having something in common with this type of contract, since there are several

12 "Quocirca translatio huius potestatis a republica in principem non est delegatio, sed quasi alienatio seu perfecta largitio totius potestatis quae erat in communitate," R.P. Francisci Suarez e Societate Jesu, "De Legibus ac Deo Legislatore," in: *Opera Omnia*, Tomus 5, 187.

13 "Et eadem ratione, si rex justam suam potestatem in tyrannidem verteret, illa in manifestam civitatis perniciem abutendo, posset populus naturali potestate ad se defendendum uti; hac enim nunquam se privavit," R.P. Francisci Suarez e Societate Jesu, "Defensionem Fidei Catholicae et Apostolicae Adversus Anglicanae Sectae Errores," in: *Opera Omnia*, Tomus XXIV, 213.

14 There are different forms of the modern contract, from the Hobbesian model, criticized by Burke to the model of Hutcheson, that Burke knew well and which, like M. A. Stewart, "The Scottish Enlightenment", pointed out, was important to American Colonists vindications, or the models of Diderot, D' Holbach, and finally Rousseau's model, which Burke criticized in several of his commentaries to the French Revolution, just to mention those that are criticized or at least well known by Burke. Nevertheless, we are interested in the fundamental change that operated in the Modern Age by which, like Javier Hervada pointed out, *Síntesis de Historia de La Ciencia del Derecho Natural*, modernity brings about the substitution of theology by natural law as the science of the supreme principles of society and it became the basic law of human relations and, in addition, Javier Hervada also calls our attention to the fact that the modern natural law, was profoundly influenced by an exaggerated trust in reason, so it is this justification and foundation of political systems in general that interested us here. Our choice here is also justified by the position Burke assumed against excessive rationalist forms of the social contract, especially those that inspired the French Revolution. Cf. M. A. Stewart, "The Scottish Enlightenment", in: Stuart Brown, *British Philosophy and the Age of the Enlightenment* (New York: Routledge, 1993), 279. Javier Hervada, *Síntesis de Historia de La Ciencia del Derecho Natural* (Pamplona: EUNSA, 2006), 78-79.

interventions by Burke about rights of man, for instance, in which the language used is similar¹⁵. We think that Burke's contract draws on a far older tradition, and the similarities that his contract presents with the contractualism that prevailed in France, corresponds to the defence of fundamental natural rights, which Burke recognizes, but not to the acknowledgment of the existence of power in individuals *per se*. Here we present the similarities that his theory of the contract presents with Suárez's political thought, an author Burke knows well and quotes explicitly on several occasions¹⁶.

The first fundamental consideration is that both Suárez and Burke see Political Society as a divine gift, an instrument for human progress towards perfection, an important feature of Suárez's political thinking that Burke follows, contrary to the conceptions of political society of his time. Political society exists because God wanted to grant man an instrument for his full realization: "(...) He who gave our nature to be perfected by our virtue willed also the necessary means of its perfection: He willed, therefore, the state: He willed its connection with the source and original archetype of all perfection"¹⁷. This passage from *De Legibus* may have inspired Burke: "(...) God confers power as property that results from nature; just as giving the essence also confers how much follows that essence. ... God has sufficiently provided mankind and has thus given him the power necessary for his own self-preservation and self-government"¹⁸.

The conception of Edmund Burke's contract is in accordance with his idea of human nature and society. Political society is an instrument of human perfectibility¹⁹, loved and guaranteed by God and developed organically in time.

15 "(...) à propos de l'Inde, Burke peut utiliser «rights of man» dans le sens que d'aucuns voudrait lui voir rejeter, cette communauté reconnue par le droit naturel, laquelle dépasse le cadre d'une société particulière qui seule serait concrète," Norbert Col, *Burke, le Contrat Social et les Révolutions* (Rennes: Presses Universitaires de Rennes, 2001), 193.

16 "Burke sided with Cicero and with Suárez against Hobbes and against Rousseau. 'We continue, as in the last two ages, to read, more generally than I believe is now done on the Continent, the authors of sound antiquity. These occupy our minds'. Burke sided with 'the authors of sound antiquity' against 'the Parisian philosophers' and especially against Rousseau (...)", Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1965), 295.

17 Edmund Burke, "Reflections on the Revolution in France and on the Proceedings in Certain Societies in London Relative to that Event in a Letter Intended to Have Been Sent to a Gentleman in Paris", in: *The Works of the Right Honorable Edmund Burke*, III (Boston: Little, Brown, and Company, 1865), 361.

18 "Deo per modum proprietatis consequentis naturam, eo modo quo dando formam dat consequentia ad formam. (...) Deum sufficienter providisse humano generi et consequenter illi dedisse potestatem ad suam conservationem et convenientem gubernationem necessariam," R.P. Francisci Suarez e Societate Jesu, "De Legibus ac Deo Legislatore," in: *Opera Omnia*, Tomus 5, 182-183.

19 *Perfectibility* is a concept presented by Rousseau in order to explain human's nature necessity, which forced the transition from a solitary state to a social one, where man acquires a «second nature»,

It is not an artefact of human reason, although it is a consequence of rationality and thrives from the necessity of realizing it. The political order of particular states has a place in the larger order of the “eternal society”, and man should be conscious of the importance of his role in contributing to this larger order²⁰.

In 1756, Burke published *A Vindication of a Natural Society*, a text whose ironic purpose the author himself testifies in the preface to the 1757 edition. Burke's scholars have long considered this text as a criticism of Bolingbroke as well as a criticism of Rousseau, especially to the *Discours sur l'Origine et les fondements de l'inégalité parmi les hommes*, which had been published shortly before. In this text, Burke attempts to demonstrate that a strictly rational and egalitarian critique of the foundations of political society was profoundly subversive to the existence of political society itself²¹.

Several decades later, in a work of 1791, *An Appeal from the New to the Old Whigs*, Burke makes a statement about human nature, which, in some ways, could serve as a motto for his whole political philosophy: “Art is man's Nature”²².

through which he is able to develop his rationality and overcome, in part, his primitive animal condition. However, the notion of *perfectibility* considered here is different from that of Rousseau. When Burke admits human *perfectibility* and sees man's nature as a cultural result as presented in the expression «art is man's nature», he has something different in mind: whereas for Rousseau man's acquired nature appears to be at odds with his primitive one - man was not rational and becomes rational, was not sociable and becomes sociable - for Burke man has always been rational and social, and his *perfectibility* does not make him change his nature but merely develops and perfects what has always distinguished him. It is in this sense that the concept is used here, and that we can see in the path towards perfection, to which man aspires, the recognition Suárez had for the role of Political Community in the moral and cultural emancipation of man.

20 “Each contract of each particular state is but a clause in the great primeval contract of eternal society, linking the lower with the higher natures, connecting the visible and invisible world, according to a fixed compact sanctioned by the inviolable oath which holds all physical and all moral natures each in their appointed place. This law is not subject to the will of those who, by an obligation above them, and infinitely superior, are bound to submit their will to that law”. 20 Edmund Burke, “Reflections on the Revolution in France and on the Proceedings in Certain Societies in London Relative to that Event in a Letter Intended to Have Been Sent to a Gentleman in Paris”, in: *The Works of the Right Honorable Edmund Burke*, III (Boston: Little, Brown, and Company, 1865), 359.

21 F. Hearnshaw makes the same allusion: «His ironical *Vindication of Natural Society*, issued anonymously in 1756, displays so complete and so contemptuous an acquaintance with both the reactionary principles of Bolingbroke, and the revolutionary speculations of Rousseau as to indicate that even at that early date Burke stood fully equipped as a champion to defend civilised society against either those who would stop its steady advance, or those who would stampede it into a reckless abandonment of its base». *The Social & Political Ideas of Some Representative Thinkers of the Revolutionary Era* (New York, Barnes and Noble, 1931) 73.

22 We can trace the origin of this idea in Burke's thought to the year of 1768. The following text cannot safely be attributed to Burke being from the *Annual Register*, an anonymous publication coordinated by the Irish thinker, but it does convey the same position that is presented when Burke states: “Art is man's nature”. In a review of Adam Ferguson's *Essay on the History of Civil Society*, it is asserted, paraphrasing Ferguson: “We speak of art as distinguished from nature; but art itself is natural to man. He is in some measure the artificer of His own frame, as well as his fortune, and he is destined,

Political society is essential and natural to man, and if we can see it as artificially constituted, we must also understand that art is the nature of man, and therefore, what is produced through culture is necessary for the realization of human nature itself. The idea that art is the nature of man is also implicit in Suárez's thought when he recognizes that, although perfect in its proper stance, the family is still an imperfect social order, because it does not give man all that is required to entirely realize its nature. Suárez considered political society as the perfect community, because, as Suarez mentioned in *De Opere sex dierum*, only political community is self-sufficient. Political Society congregates within it all the arts, which allow man to develop himself through the practice and the labour available to him in the most different forms. At the same time, it is this community that gives a man the possibility of being independent from his father and becoming an autonomous moral agent²³. Therefore, the different arts presented and developed in the perfect community, have an important role in human freedom and in human moral realization.

In order for art to be natural to man, he can only be seen as an essentially social being, because it is only in society that man can have the leisure time, and the challenge of other minds, to develop art. Burke maintains this on several occasions and this position is corroborated by his own political thought: human society is seen as an organism to which social and political life is inherent in the larger sense of politics. Even human rights cannot be considered in isolation from the fact that man is recognized as man only from within a political community. Therefore, to think about rights without considering man's social nature and the havoc that those rights could bring to entire societies would be disastrous²⁴.

The richness of the development of political society – a human society with a political purpose to achieve the common good – that Suárez supports, and Burke will present as a moral and cultural partnership – is a reality far more

from the first age of his being, to invent and contrive." Cf. Edmund Burke, "An Appeal from the New to the Old Whigs," in: Works... (Boston: Little, Brown, and Company, 1866) IV, 176, and Edmund Burke (?), *Annual Register or a View of History, Politicks and Literature, for the Year 1767* (London: J. Dodsley, 1768), 311.

23 "De Opere Sex Dierum" V, 7, 14.

24 "What were the rights of man previous to his entering into a state of society? Whether they were paramount to, or inferior to social rights, he neither knew nor cared. Man he had found in society, and that man he looked at – he knew nothing of any other man – nor could he argue on any of his rights. As to abstract rights of all kinds, he thought they were incorporeal, and unfit for the body. They might be discussed in some other state; but they were totally unfit for this life and consequently could not be fit for argument," Edmund Burke, *The Speeches of the Right Honourable Edmund Burke, in the House of Commons and Westminster Hall, in four volumes, IV* (London: Longman, Hurst, Rees, Orme, and Brown, 1816), 51.

complex than our reason alone could imagine or judge. For this reason, man learns collectively, his experience passes from generation to generation, and without political society, man could not progress. For both thinkers political society is a concession of God, and without it man could not attain his perfection.

2. ON THE ORGANIC DIMENSION OF THE CONTRACT

Suárez considers that the entity or agent qualified to receive political power is not the multitude but the *Corpus Politicum Mysticum*. Recognizing the need for a moral entity to be the basis for political power, Suárez sets up a notion of contract that gives the people, as an organic moral entity, the responsibility for choosing the political regime. At the same time, Suárez guarantees, through the subsequent notion of a pact of subjection, by a *quasi alienatio* of power, the gravity and seriousness of the choice made and of the delegation²⁵. In fact, this transfer of power can only be reversed in the case of tyranny, because the reason the power is delegated is for a greater guarantee of protection of the subjects, and in the case of tyranny, the ruler denies this protection:

In order to understand it better, it is necessary to take into account that the human community can be understood in two ways: First, inasmuch as it constitutes a mere multitude of men without any order or physical or moral union. In this sense they do not form a whole either physically or morally, and therefore do not properly form a political body nor do they need a leader or ruler. (...) A collectivity of men must also be considered in this other sense: by a special act of their will or common consent men are integrated into a body politic with a social bond to help one another in order to achieve a political end. In this way, they form a single collective organism that can be called one in the moral sense and, consequently, it also needs a single ruler. Well, in that community, as such, is by its nature the power of sovereignty; so that it no longer depends on human choice to integrate itself socially in this way and not accept this power. Consequently, on the assumption that men wanted the two alternatives – that is to say, social integration in that way, but on the condition of not being subject to any power – would give a total contradiction and, therefore, they would do nothing actually²⁶.

25 When Suárez considers the transfer of power from the people to the sovereign as a *quasi alienatio* he is giving a much more profound significance to it than to delegation (Cf. *De Legibus* III, iv, 11). In fact, later, on *Defensio Fidei*, he is arguing with James 1st advocating for the stability of social pact. However, at the same time that a *quasi alienatio* gives more stability than a mere delegatio, naming it as a *quasi alienatio*, and not simply as an *alienatio*, he also gives room for resisting tyranny.

26 “Ut autem hoc melius intelligatur, advertendum est multitudinem hominum duobus modis considerari; primo solum ut est aggregatum quoddam sine ullo ordine vel unione physica vel morali, quomodo non efficiunt unum quid nec physice nec moraliter: et ideo non sunt proprie unum corpus

This rich idea of a contract established between a *Corpus Politicum Mysticum* and the sovereign, with the gravity of a *quasi alienatio*, which we could find in Suárez, has a strong influence on Burke's political thought²⁷. The idea of a people, or a political society as a moral entity, with an important difference in the type of power exerted, which is no longer the domestic power but a political power that implies a commitment of particular wills²⁸, as well as the idea of a delegation of power as an instrument to guarantee the protection of the people, would also be present in Burke's political thought. This kind of society was recognized as a necessity for those who want to live in a corporate manner, in a way that this commitment inevitably binds all those that decide to live within a political society. For Burke, if tyranny should not be endured, as we will see later on, the case of a revolution to overthrow a government was indeed a serious matter that could not be chosen lightly either; a tyranny must be without any other remedy, before the people can legitimately resort to revolution, because revolution dissolves the political community.

Burke's definition of a social contract is similar to Suárez's political community, because, like Suárez, Burke also thought that the multitude lacked political power, and only the people exist as a moral and cultural community. Like Suárez, Burke also thought that life in a community brings obligations that man cannot ignore if he wants to live in a political society, and that the benefits people draw from living in political society make it immoral to attempt to undo the social contract. Suárez's influence goes even further when we analyze the

politicum, ac proinde non indigent uno capite aut principe. (...) Alio ergo modo consideranda est hominum multitudo, quatenus speciali voluntate seu communi consensu in unum corpus politicum congregantur uno societatis vinculo, et ut mutuo se juvent in ordine ad unum finem politicum, quomodo efficiunt unum corpus mysticum, quod moraliter dici potest per se unum; illudque consequenter indiget uno capite. In tali ergo communitate, ut sic, est haec potestas ex natura rei, it ut non sit in hominum potestate ita congregari et impedire hanc potestatem. Unde si fingamus homines utrumque velle, scilicet, ita congregari veluti sub conditione ut non manerent subjecti huic potestati, esset repugnantia; et ideo nihil efficerent," R.P. Francisci Suarez e Societate Jesu, "De Legibus ac Deo Legislatore," in: *Opera Omnia*, Tomus 5, 181.

27 This idea is common to Pufendorf who spoke of the need for an association or a society gathered prior to God's bestowal of power (Samuel Pufendorf, *The Whole Duty of Man According to the Law of Nature*, Book II, Chapter VI). Burke knew Pufendorf very well, but as Jean-Paul Coujou puts it Pufendorf himself had also been influenced by Suárez, as referenced by Jean-Paul Coujou, "Political Thought and Legal Theory of Suarez", in ed. Victor Sales et al., *A Companion to Francisco Suárez* (Leiden: Brill, 2015), 29.

28 "His explanation of the coming into being of commonwealths was the familiar Aristotelian one, only now interpreted not as a natural process of growth, but as an artefact of will and consent. He attached great significance to the distinction between the natural and inevitable simultaneous emergence of generic political potestas and a *communitas perfecta*, and the institution of a monarchical or other political regime as the product of will, that is, human decision and choice". Harro Höpfl, *Jesuit Political Thought, The Society of Jesus and the State, c. 1540–1630* (Cambridge: Cambridge University Press, 2004), 251.

stability Burke recognizes and demands from the contract: The Burkean contract is, as for Suárez, a cultural and moral commitment taken on by the people, which requires, on the one hand, an association pact and, on the other hand, it compromises all participants, who cannot wish to belong to a social order and at the same time preserve the prerogatives of a pre-social state. Let us look at the following quotations from Burke that illustrate the same ideas we found in the later quotation of Suárez:

(...) before society, in a multitude of men, it is obvious that sovereignty and subjection are ideas which cannot exist. It is the compact on which society is formed that makes both. But to suppose the people, contrary to their compacts, both to give away and retain the same thing is altogether absurd. It is worse, for it supposes in any strong combination of men a power and right of always dissolving the social union; which power, however, if it exists, renders them again as little sovereigns as subjects but a mere unconnected multitude²⁹

Or, in another place: “In a state of *rude* Nature there is no such thing as a people. A number of men in themselves have no collective capacity. The idea of a people is the idea of a corporation. It is wholly artificial, and made, like all other legal fictions, by common agreement. (...)”³⁰. We can find here, as with Suárez’s thought, a necessary congregation of wills in order to form a people, a concept that in Burke is different from a mere aggregation of individuals and has the connotation of a political group, in the larger sense of politics.

In *Reflections on the Revolution in France*, this practical politician defines what he means by a social contract that supposes a moral and cultural partnership that allows full human development. What Burke proposes is an intergenerational contract, “a partnership in all art, in all virtue and in all perfection”, “between those who are dead, those who are alive and those who are to be born”, which is different from the model presented by contractualists, being more organic than legal³¹. The *Corpus Politicum Mysticum*, as Suárez calls it, is the political society that Burke conceives:

Society is, indeed, a contract. Subordinate contracts for objects of mere occasional interest may be dissolved at pleasure; but the state ought not to be considered as nothing better than a partnership agreement in a trade of pepper

29 Edmund Burke, “Observations on the Conduct of Minority,” in: *Works...* V (Boston: Little, Brown, and Company, 1866), 45-46.

30 Edmund Burke, “An Appeal from the New to the Old Whigs,” in: *Works...* IV (Boston: Little, Brown, and Company, 1866), 169-170.

31 Cf. Ivone Moreira, *A Filosofia Política de Edmund Burke* (Lisboa: Aster, 2012), 199.

and coffee, calico or tobacco, or some other such low concern, to be taken up for a little temporary interest, and to be dissolved by the fancy of the parties. It is to be looked on with other reverence; because it is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science, a partnership in all art, a partnership in every virtue and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born³².

The political contract arises from a common agreement, which results in a cultural and moral reality, different from the sum of the parts, and thus receives the power as a body from God. The parties undergo a transformation resulting from the moral commitment made in the constitution of the people, that is the formation of a political society, and this corporate entity is, at the same time a strong and a fragile body, which will disaggregate itself with the dissolution of the political contract. This cultural and artificial unity evolves through time³³, but even although it is an artificial creation, it is natural to man and necessary for the fulfilment of its nature to form such a political association. The full realization of man as a human being depends on this agreement.

This organic perspective of contract harmonizes with both the consideration that this contract is essential to human development and with the notion that – just as it does in Suárez – it sanctions a stable pact the breakdown of which would require a very strong motive. The alternative to political society is social chaos, in which all civilization loses, and if man fails to keep this agreement on a stable basis, man will be no better than the flies of a summer: “By this unprincipled facility of changing the state as often and as much and in as many ways as there are floating fancies or fashions, the whole chain and continuity of the commonwealth would be broken; no one generation could link with the other; men would become little better than the flies of a summer”³⁴.

32 Edmund Burke, “Reflections on the Revolution in France,” in: *Works...* III (Boston: Little, Brown, and Company, 1865), 359.

33 “(...) a nation is not an idea only of local extent and individual momentary aggregation, but it is an idea of continuity which extends in time as well as in numbers and in space (...) is a deliberate election of ages and of generations (...) made by what is ten thousand times better than choice; it is made by the peculiar circumstances, occasions, tempers, dispositions, and moral, civil, and social habitudes of the people, which disclose themselves only in a long space of time. It is a vestment which accommodates itself to the body,” Edmund Burke, “Speech on Reform of Representation of the Commons in Parliament,” in: *Works ...* VII (Boston: Little, Brown, and Company, 1866), 95.

34 Edmund Burke, “Reflections on the Revolution in France,” in: *Works...* III (Boston: Little, Brown, and Company, 1865), 357.

The fact that Burke, following Suárez, fails to recognize multitudes as sources of legitimate political power –which he defines as rational *par excellence* – just as he does not recognize political power as belonging to isolated individuals, has another consequence: if a people utterly reject their government, excluding in the case of tyranny, this would be like cutting off their own heads and dissolving the social union such that it cannot be recognized as “a people” anymore, whether inside or outside its borders. In *An Appeal from the Old to the New Whigs*, when analyzing the situation of the French people, Burke declared:

When men, therefore, break up the original compact or agreement which gives its corporate form and capacity to a state, they are no longer a people, - they have no longer a corporate existence, - they have no longer a legal coactive force to bind within, nor a claim to be recognized abroad. They are a number of vague, loose individuals, and nothing more. With them all is to begin again³⁵.

In fact, the people owe their form or unity to the existence of the pact of association, and they owe their head to the king they accepted as ruler. Dissolve this pact and what remains is a mere amalgam of individuals, not the people, without moral authority and thus with no legal authority either, with them, everything has to start afresh, Burke says of the French people. In these circumstances, the pact of association was broken, the multitude, which by itself does not have true political power, must remake the pact in order to be able to choose a new political regime and establish another pact of subjection³⁶. In this situation, the people lose their uniting strength and respect, both inside and outside their territory: the mob may have brute force, but reason must not obey it: “I no longer know that venerable object called the people in such a disbanded race of deserters and vagabonds. For a while they may be terrible, indeed, - but in such a manner as wild beasts are terrible. The mind owes to them no sort of submission”³⁷. The dissolution of the association pact, as we shall see later, does not arise in the case of tyranny. Burke, like Suárez, understands that in the case of tyranny the sovereign has denounced the pact.

This rejection of recognizing political power in multitudes is essential for understanding both Burke's idea of the social contract, as we have seen above, and his concept of human rights. In fact, on the subject of human rights, Burke

35 Edmund Burke, “An Appeal from the New to the Old Whigs,” in: *Works...* IV (Boston: Little, Brown, and Company, 1866), 169-170.

36 Cf. Ivone Moreira, *A Filosofia Política de Edmund Burke* (Lisboa: Aster, 2012), 191-192.

37 Edmund Burke, “An Appeal from the New to the Old Whigs,” in: *Works...* IV (Boston: Little, Brown, and Company, 1866), 176.

recognized a couple of rights which belong to man by nature³⁸, and for their protection political society was instituted, but a large majority of rights were civil rights acquired within a particular social contract, and required the existence of the contract to be protected³⁹.

The idea conveyed by Locke that it was necessary for each generation to give at least tacit assent to the contract, is an idea that is not clearly present in Burke. Man does not have to realize that he is giving consent to the contract, because it is from within this contract that man develops himself as man. To be part of a society is not a matter of choice, is an inherent property of our nature, like being rational, because it is essential to the complete fulfilment of human nature. Although he can abstractly conceive that there was a moment prior to the establishment of the covenant, man recognizes himself as a man within a community and does not exist in all his complexity without it:

(...) though civil society might be at first a voluntary act, (which in many cases it undoubtedly was,) its continuance is under a permanent standing covenant, coexisting with the society; and it attaches upon every individual of that society, without any formal act of his own (...). Men without their choice derive benefits from that association; without their choice they are subjected to duties in consequence of these benefits; and without their choice they enter into a virtual obligation as binding as any that is actual.⁴⁰

Regarding the stability of the social pact, Suárez considers that to obtain benefits of the political society implies a commitment that is not compatible with the choice to obey, or not, the rules of society, as we have seen before. Now, we will see how this voluntary pact commits all those who participate in being bound by the agreement into which they enter, by a force that does not arise from their will as an efficient cause, Suárez would say that the contract is

38 "To take away from men their lives, their liberty, or their property, those things for the protection of which society was introduced, is great hardship and intolerable tyranny," Edmund Burke, "Speech on the Acts of Uniformity," in: *Works ... VII* (Boston: Little, Brown, and Company, 1865), 15.

39 Burke criticized human rights theory, especially formalized in Declarations of Rights particularly the one established at the French Revolution, which intellectually impregnated Burke's time. Those rights constituted a mixture of formal first-generation rights to which Burke adhered, and substantive rights that were social rights, only possible in society and which Burke criticized, because he understood that they could not be claimed a priori. It is this fundamental critique to the most important formalization and discussion about the rights of his time, that makes sense to tune his understanding of rights with that of the Salamanca School, since the authors had an essential understanding of human rights as first generation rights, some of them reclaimed for the first time in a universal framework.

40 Edmund Burke, "An Appeal from the New to the Old Whigs," in: *Works... IV* (Boston: Little, Brown, and Company, 1866), 165.

human but the obligation to obey is by Natural Law. Also in this aspect, Burke and Suárez are in tune. Let us see what the texts say:

If we assume that men voluntarily meet in a political community, they no longer have the power to prevent this jurisdiction. It is therefore a sign that this jurisdiction does not arise immediately from his will as a true efficient cause. So in the case of marriage, we correctly deduce that the husband is head of the woman by express donation of the author of nature and not by the will of the woman. It is true that they marry of their own free will, but once married, they can no longer prevent that primacy.⁴¹

In the following text, Burke shows an unequivocal parallel with Suárez's assertion, even in the examples presented. Man can choose his situation, and in the particular case of political society, this choice is unavoidable, because it is essential to the attainment of its nature. However, in choosing it he also chooses the duties and obligations which it entails, and, in all circumstances in which he finds himself, though not by his choice, he is obliged to satisfy the moral requirements which they involve, arising from the moral nature of man and the moral nature of human society, which equally do not depend of their will as an efficient cause:

(...) the force of all the pacts which we enter into with any particular person or number of persons amongst mankind, depends upon those prior obligations. In some cases the subordinate relations are voluntary, in others they are necessary—but the duties are all compulsive. When we marry, the choice is voluntary, but the duties are not matter of choice. They are dictated by the nature of the situation. (...) out of physical causes, unknown to us, perhaps unknowable, arise moral duties, which, as we are able perfectly to comprehend, we are bound indispensably to perform.⁴²

The organic conception of political society and its development, being both natural and cultural, also has a consequence in the idea that government is just

41 “(...) supposita voluntate hominum conveniendi in una politica communitate, non est in potestate eorum impedire hanc iurisdictionem. Ergo signum est proxime non provenire ex eorum voluntatibus quasi ex propria causa efficienti. Sicut in matrimonio recte colligimus virum esse caput mulieris ex dono ipsius auctoris naturae et non ex voluntate uxoris; quia licet ipsi voluntate sua matrimonium contrahant, tamen si matrimonium contrahant hanc superioritatem impedire non possunt,” R.P. Francisci Suarez e Societate Jesu, “De Legibus ac Deo Legislatore,” in: *Opera Omnia*, Tomus 5, 182.

42 Edmund Burke, “An Appeal from the New to the Old Whigs,” in: *Works...* IV (Boston: Little, Brown, and Company, 1866), 166.

and necessary to the harmony and healthy development of this social organic structure. This idea was quite important in Suárez's time, where there were contemporary thinkers that spoke of government as a necessary consequence of our sins, although Suárez's thought on this matter was much more Modern, in a certain sense, even if the idea was borrowed from Dionysius Areopagite and Gregorio Magnum: if men were angels, government would still be necessary, because government cannot be seen merely as a means for correction of our sins but as a principle of order and moral and cultural growth⁴³. Let us now see some passages of both authors that prove Suárez's influence on Burke. In the *De Legibus* Suárez stated:

Our earlier argument can be applied even to the state of innocence, because it is not based on sin or any other disorder but on the natural condition of man. This consists in being man a social animal and by nature requires a form of community life that must be governed necessarily by a public power⁴⁴

Suárez states, as regards the nature of government, that it is natural to the political community because it has the same function as the head has in a body, as can be seen in this passage of the *Principatus Politicus*:

And this can be explained by the natural example of the human body, which cannot be preserved without a head. For the human community is like an organism that cannot subsist without different ministers and categories of people, who are in the manner of several members. Consequently, much less could be preserved without a ruler and prince having by his trade to procure the common good of the whole body.⁴⁵

In considering the government of political society as necessary and natural to it, refuting the idea that it had been instituted because of men's iniquity,

43 "Nam quod directivam, probabilius videtur futuram fuisse in hominibus, etiam in statu innocentiae. Nam etiam inter Angelos est ordo et principatus, ut constat ex modo loquendi Scripturae et ex Dionysio, cap. 9 de Eccles. Hierarch., et Gregor., homil. 34 in Evang." R.P. Francisci Suarez e Societate Jesu, "De Legibus ac Deo Legislatore," in: *Opera Omnia*, Tomus 5, 179.

44 "Discursus etiam factus potest ad statum innocentiae applicari, quia non fundatur in peccato vel aliqua deordinatione sed in naturali hominis conditione, quae est esse animal sociale et naturaliter postulare modum vivendi in communitate, quae necessario debet regi per potestatem publicam," R.P. Francisci Suarez e Societate Jesu, "De Legibus ac Deo Legislatore," in: *Opera Omnia*, Tomus 5, 179.

45 "Potestque idem declarari naturali exemplo corporis humani, quod sine capite conservari non posset. Est enim humana respublica ad modum unius corporis, quod sine variis ministris et ordinibus personarum, quae sint instar plurium membrorum, subsistere non potest. Unde multo minus conservari poterit sine gubernatore et principe, ad quem totius corporis commune bonum procurare pertineat," R.P. Francisci Suarez e Societate Jesu, "Defensionem Fidei Catholicae et Apostolicae Adversus Anglicanae Sectae Errores," in: *Opera Omnia*, Tomus XXIV, 204.

Suárez is an inspiration to Burke. Burke also considers that the governing power is an intrinsic part of the political society and the submission pact towards the sovereign is established, exactly as in Suárez, for the protection of this moral and cultural entity:

A king is said to be the head of his people, not because he proudly overlooks his subjects from that eminence to which Providence has exalted him, but because he is the head of the body of his people, from whom they derive, by many communications of canals, and joints, and hands, that life and nourishment which actuate the whole frame.⁴⁶

3. ON *QUASI ALIENATION* OF POWER AND THE RIGHT TO RESIST TYRANNY

The ruler assumes the power to defend and protect the political body and subjects, this is his inalienable duty and in Burke's thought, as with Suarez's thought, it is a *sine qua non* condition for the ruler to remain in power: "The king was only a trustee for the public. Property and subjects existed before kings were elected, and endowed with a portion of the former for the protection of the later"⁴⁷.

Burke's aversion to revolutions corresponds to his conviction that an established power under which a prosperous society flourishes has in itself more perfections than the best theoretical conception of power elaborated by a few revolutionaries, however gifted and clever they may be. Nevertheless, its fidelity to an established government supposes that this government is not tyrannical, because, in the case of tyranny, it is legitimate and necessary to challenge the government. Using arguments similar to those of Suárez, Burke argues that the people never made any pact against their own rights and, just like Suárez, Burke will consider that in the presence of tyranny the sovereign himself has betrayed the pact. Concerning the tyrannical administration of Hastings in India, Burke states:

He cannot have absolute power⁴⁸ by succession; he cannot have it by compact; for the people cannot covenant themselves out of their duty to their rights. If any, by conquest, by compact, or by succession, exercise power which, for the good of mankind, ought never to exist, those who gave that power and those

46 Edmund Burke, "Mr Burke's Bill for the Regulation of the Civil List establishment," in: *Speeches ... II* (London: Longman, Hurst, Rees, Orme, and Brown, 1816), 207- 208.

47 Edmund Burke, "Mr Burke's Establishment Bill, "in: *Speeches... II* (London: Longman, Hurst, Rees, Orme, and Brown, 1816), 121.

48 What Burke means here by "absolute power" is arbitrary power.

who receive it, are alike criminal. And there is no man that is not bound to resist it, and who ought not so to do: Nothing but the fear of greater mischief, and the apprehension of absolute destruction, can justify men in the usurpation or endurance of it (...)⁴⁹

Burke accepts, in the same way as Suárez, that the people maintain the capacity to assert natural rights and to shake off tyranny. This seems to confirm the idea of having in Burke's contract a *quasi alienatio* of power: "When tyranny is extreme, and abuses of government intolerable, men resort to the rights of nature to shake it off"⁵⁰; and, in another text: "A positively vicious and abusive Government ought to be chang'd, and if necessary, by Violence, if it cannot be, (as sometimes it is the case) Reformed"⁵¹.

Burke rejects revolution, especially because there is a risk of the dissolution of political society. The reason he accepts this exceptional form of change when we are in the presence of tyranny is that, like Suárez, he thinks that in this situation the sovereign himself has already denounced the pact. The pact is already broken by violation of its convention, therefore, when he argues that in the circumstance the people have a moral obligation to shake off the yoke, even using violent methods if necessary, he is not defending the dissolution of the political pact by the people, but rather the recognition that it no longer exists. The following quotation puts Burke in the same path of Suarez, on one hand, because Burke recognizes the subordination of human law and human political practice to Natural Law, and on other hand, because for Burke, as for Suárez, the sovereign denounces the pact if he fails to protect his subjects:

Despotism (...) means a mode of government bound by no written rules, and coerced by no controlling magistracies or well-settled orders in the state. But if it has no written law, it neither does nor can cancel the primeval, indefeasible, unalterable Law of Nature and of nations and if no magistracies control its exertions, those exertions must derive their limitation and direction either from the equity and moderation of the ruler, or from downright revolt on the part of

49 Edmund Burke, "Impeachment, February 16, 1788," in: *Speeches...* IV (London: Longman, Hurst, Rees, Orme, and Brown, 1816), 358. The account of the speech delivered, published on this edition, is different from the speech plan published in the edition of the *The Works of the Right Honorable Edmund Burke*. More information on the subject can be found on: Ivone Moreira, *A Filosofia Política de Edmund Burke*, p. 175.

50 Edmund Burke, "Speech on the Clerical Petition for Relief from Subscription to the Thirty-nine Articles," in: *Speeches...* I (London: Longman, Hurst, Rees, Orme, and Brown, 1816), 110.

51 Thomas H. Copeland (Gen. Ed.), Alfred Cobban & Robert Smith, Edits., "Letter to Charles Jean François Depont," in: *The Correspondence of Edmund Burke*, VI (Cambridge/Chicago: The University Press, 1967), 48.

the subject by rebellion, divested of all its criminal qualities. The moment a sovereign removes the idea of security and protection from his subjects and declares that he is everything and they nothing, when he declares that no contract he makes with them can or ought to bind him he then declares war upon them: he is no longer sovereign; they are no longer subjects.⁵²

The right of contestation previously set forth limits to the resistance to tyranny. One may wonder why Burke does not admit the possibility of dissolution of the covenant when the subjects themselves are discontent and want to change the political regime. Burke considers that in this case the people themselves are dissociate, and no longer have political power, becoming a mob incapable of government and unfit to delegate a power they no longer possess. Just like Suárez, who admits that the transfer of power from the community to the sovereign was more than a mere delegation and was a *quasi alienatio*, which was a much more serious commitment than leaving room just for fighting tyranny, for Burke the problem is similar: government acts like the head of a people, and is there as a guarantee of people's survival, to reject this, outside the case of tyranny, would dissociate the people themselves. In order to avoid the dissolution of the political community, the mentors of the Glorious Revolution, though they were experiencing the case of an extreme necessity of changing the government, according to Burke's interpretation, they tried hard to find a solution compatible with the Constitution and thus the Glorious Revolution was not a revolution implemented but a revolution prevented⁵³.

In his critique of the French Revolution, Burke endeavors to demonstrate that the French had no reason to consider the pact dissolved by the sovereign; because Louis XVI was willing to correct the abuses of the old regime and he was indeed too good a sovereign. Ill-advised and perhaps weak, this latter attribute is only very subtly suggested in the comparison Burke establishes

52 Edmund Burke, "Impeachment, February 16, 1788," in: *Works...* IX (Boston: Little, Brown, and Company, 1866), 458-459.

53 "(...) when England found itself without a king (...) the nation had lost the bond of union in their ancient edifice: they did not, however, dissolve the whole fabric. On the contrary, in both cases they regenerated the deficient part of the old Constitution through the parts which were not impaired. They kept these old parts exactly as they were, that the part recovered might be suited to them. They acted by the ancient organized states in the shape of their old organization, and not by the organic molecular of a disbanded people". Edmund Burke, "Reflections on the Revolution in France," in: *Works...* III (Boston: Little, Brown, and Company, 1865), 259. Burke's interpretation of the Glorious Revolution is considered biased, nevertheless is a good example of his political thought on revolutions and on the stability of social contract.

between Louis XVI and Henry IV, but a sovereign concerned about the fate of his subjects⁵⁴.

If the State, understood in the broad sense of political society, is a gift from God, so the human administration of this gift is a power that must be accountable to the Author of political society⁵⁵. From this perspective, the Burkean contract has affinities with a theocentric conception of society. If Modernity can be represented by an effort of rendering men/society autonomous from the transcendent, Burke is close to Suárez, and moves away from other contemporary authors who have broken the relation with God with regard to the origin of the social contract. From the link which Burke maintains between political society and God it follows that political power has an obligation to render accounts of its administration to the Creator:

If, then, all dominion of man over man is the effect of the Divine disposition, it is bound by the eternal laws of Him that gave it, with which no human authority can dispense, - neither he that exercises it, nor even those who are subjected to it; and if they were mad enough to make an express compact that should release their magistrate from his duty, and should declare their *lives*, *liberties*, and *properties* dependent upon, not rules and laws, but his mere capricious will, that covenant would be void⁵⁶

The parallel between Burke and Suárez on this account is evident:

On the other hand, God seeks fundamentally the common good of men themselves. Then also his ministers have a duty to serve this end. That is why in Sacred Scripture they receive the most severe reprimands that abuse this power for their own benefit. Although power is given by men directly, there is no doubt that it is not for the benefit of the prince, but for the common good of those who gave it; hence the kings are called ministers of the community.⁵⁷

54 Cf. Ivone Moreira, *A Filosofia Política de Edmund Burke* (Lisboa: Aster, 2012), 209, note n. 573.

55 Cf. Edmund Burke, "Impeachment, February 16, 1788," in: *Works...* IX (Boston: Little, Brown, and Company, 1866), 456. Stanis states about Burke: "Burke believed that all power to govern was from God, and that to be just, power had to be exercised in conformity with the Natural Law," Peter Stanis, *Edmund Burke and the Natural Law* (Louisiana: Huntington House, 1986), 205.

56 Edmund Burke, "Impeachment, February 16, 1788," in: *Works...* IX (Boston: Little, Brown, and Company, 1866), 456.

57 "Deus autem commune bonum ipsorum hominum principaliter intendit; ergo etiam ministri ad hoc tenentur. Et ideo gravissime in Scriptura reprehenduntur quihac potestate in suum privatum commodum abundunt. Quando vero potestas data est immediate ab ipsis hominibus, evidentissimum est non esse propter principis utilitatem, sed propter commune bonum eorum qui illam contulerunt, et

As in Suárez, the legitimacy of a government depends on delegation, and on good laws, which, also in agreement with Suárez, are good only when just. This is why, on the subject of India, Burke states: “(...) the first step to empire is revolution, by which power is conferred; the next is good laws, good order, good institutions, to give that power stability”⁵⁸. The legitimacy conferred by laws, which are legitimate only if they serve the common good, is a characteristic Burke imports from Suárez, by quoting him directly in Burke’s critique to the laws against popery in Ireland⁵⁹.

For Suárez, also, although some governments may have arisen as a result of usurpation and may, in the circumstances, begin to reign illegitimately, it may happen, in the course of time, that the people give their consent and the successors reign in good faith⁶⁰:

In addition to this voluntary way, nations or peoples may sometimes be involuntarily subjected to kings by means of war. And this is usually done justly or unfairly. (...) It happens, however, more frequently that a kingdom is occupied by an unjust war. In this way, the most famous empires of the earth were generally enlarged. It is true that in this case the kingdom and the true power are not acquired at first, for lacking a just title, but in the course of time it happens that the people freely give their consent or that the successors reign

ideo Reges ministri reipublicae appellantur.” R.P. Francisci Suarez e Societate Jesu, “De Legibus ac Deo Legislatore,” in: *Opera Omnia*, Tomus 5,31.

58 Edmund Burke, “Impeachment, February 16, 1788,” in: *Works...* IX (Boston: Little, Brown, and Company, 1866), 401-402.

59 Discussing the character of the laws as instruments to assure the common good, which was not the profile of the laws against popery in Ireland, Burke said: “For Suárez, handling this very question, *Utrum de ratione et substantia legis esse ut propter commune bonum feratur*, does not hesitate a moment, finding no ground in reason or authority to render the affirmative in the least degree disputable: “*In quæstione ergo proposita*” (says he) “*nulla est inter authores controversia; sed omnium commune est axioma de substantia et ratione legis esse, ut pro communi bono feratur; ita ut propter illud præcipue tradatur*”; having observed in another place, “*Contra omnem rectitudinem est bonum commune ad privatum ordinare, seu totum ad partem propter ipsum referre*.” Partiality and law are contradictory terms. Neither the merits nor the ill deserts, neither the wealth and importance nor the indigence and obscurity, of the one part or of the other, can make any alteration in this fundamental truth. On any other scheme, I defy any man living to settle a correct standard which may discriminate between equitable rule and the most direct tyranny. For if we can once prevail upon ourselves to depart from the strictness and integrity of this principle in favor even of a considerable party, the argument will hold for one that is less so; and thus we shall go on, narrowing the bottom of public right, until step by step we arrive, though after no very long or very forced deduction, at what one of our poets calls the enormous faith,—the faith of the many, created for the advantage of a single person” Edmund Burke, “Tract on the Popery Laws,” in: *Works...* VI (Boston: Little, Brown, and Company, 1866), 325.

60 Suárez understood tyrannical power as not valid, even if the sovereign had a legitimate title, when he mentions the possibility of a power stabilized by consent after conquest is referring to a just power.

in good faith. The tyranny will then cease and the real dominion and the royal power will begin.⁶¹

CONCLUSION

In conclusion, Burke's debt to the thinking of Suárez is evident and admitted by important Burke scholars like Peter Stanlis and Leo Strauss. For both authors political power is a rational and non-arbitrary power. For Suárez, individuals, singularly considered, do not hold power. Power appears only as the form given to matter when individuals meet in a sort of moral *corpus*, as a commitment of wills with the purpose of attaining the common good. One can say that only in that case were the people constituted as a moral entity, the *Corpus Politicum Mysticum*, and therefore a political body that requires political power, which enables its survival, as an inherent moral property. For Burke, also, the mob does not have political power, nor do the individuals themselves. Political power arises from compact, which also implies the will of each member to cooperate and to obey to the same laws. Political society is a corporate agreement and political power a consequence of it. The establishment of the social pact has the main goal of protecting the natural rights of its members⁶² and, as referred to in Suárez doctrine on the duties of the sovereign, when the ruler fails the duty of protection and degenerates his power by tyranny the pact is dissolved by the king.

If the will of the people is essential in order to form the political compact, the new corporate body has an entity that is different from the sum of the parts. The importance of this new body is such that to consider the possibility of a political contract being dissolved only by the will of the people, without a contract's prior betrayal by the ruler, would open the door to the total precariousness of the political pact, leaving it to the criterion, or the absence of

61 "Preter hunc autem voluntarium modum solent interdum provinciae seu populi liberi involuntarie subici regibus per bellum; hoc autem contingit et iuste et iniuste fieri. (...) Saepius vero contingit occupari aliquod regnum per bellum injustum, quo fere modo clariora orbis imperia amplificata fuere, et tunc quidem in principio non acquiritur regnum, nec vera potestas, cum titulus iustitiae desit, successu vero temporis contingit ut populus libere consentiat, vel a successoribus regnum bona fide praescribatur, et tunc cessabit tyrannis et incipiet verum dominium et regia potestas". R.P. Francisci Suarez e Societate Jesu, "Defensionem Fidei Catholicae et Apostolicae Adversus Anglicanae Sectae Errores," in: *Opera Omnia*, Tomus XXIV, 212.

62 "(...) a conservation and secure enjoyment of our natural rights is the great and ultimate purpose of civil society; and (...) all forms whatsoever of government are only good as they are subservient to that purpose to which they are entirely subordinate". Edmund Burke, "Tract on the Popery Laws," in: *Works...* VI (Boston: Little, Brown, and Company, 1866) 333.

it, of the passions that can move a crowd. If its status is completely precarious, the pact, so essential to human development, would eventually be extinguished, because no one could bear the burden of such a power. For both thinkers political power ought to be accountable before God and before the Community.

Although a man of vast culture who was praised by his contemporaries for erudition, Burke is known to be a practical politician who very rarely quotes philosophers. Suárez is an exception in his work, being an author whom he cites and knows well. Burke's theory of the social contract is structured by rejecting the most common presuppositions of his time, such as the desacralization of the origin of political power and the consideration that the power present in the political community derives from the concession of power by each individual belonging to the community. Burke adheres, as we have seen from the examples presented, to a model contract that has much in common with Suárez that he sometimes literally follows. We can affirm that the presence of Suárez in the English Anglican society of the eighteenth century is a reality and that its influence was felt in one of the most prominent political thinkers of that period.

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