THE POLITICAL POWER, RULE OF LAW AND THE LEGITIMATION OF VIOLENCE

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***ABSTRACT**: THE PRESENT ARTICLE INTENDS TO MODEL A CONCEPTUAL LINK BETWEEN THE NOTIONS OF POLITICAL POWER, RULE OF LAW AND THE LEGITIMATION OF VIOLENCE. THE ESSENTIAL REASON IS THAT OF VERIFY AND REINFORCE THE THEORY ACCORDING THAT THE STATE OR THE STATE POWER IS THE HOLDER OF THE MONOPOLY OF LEGITIMATE VIOLENCE. THE RULE OF LAW OR SUBORDINATION OF THE STATE, AT THE SAME TIME, MEANS THE LIMITATION OF POWER BY LAW. THEREFORE, EVEN IN DEMOCRACY IT IS NECESSARY A GENERAL CONTROL IMPOSED ON THE STATE BY SOCIETY. THE VIOLENCE IS NOT CHARACTERISTIC TO THE DEMOCRATIC STATE BUT, THIS DOES NOT MEAN THAT THE DISCRETIONARY POWER AND ABUSE OF POWER DISAPPEAR. THE LEGITIMATION OF VIOLENCE DOES NOT EXCLUDE ITS USE IN LIMIT SITUATIONS, PROVIDED BY LAW, BUT ITS ARBITRARY IS AN ABUSE THAT CAN DEGENERATE INTO DANGEROUS SITUATIONS.*

***KEY WORDS**: POLITICAL POWER, RULE OF LAW, LEGITIMATION, VIOLENCE, DEMOCRACY, TOTALITARIANISM.*

INTRODUCTION

The state is a sovereign entity that imposes a certain sense of coexistence and development, certain standards and norms of regulations in the organization and management of society. In sociology as in the political sciences, the state is analyzed as an instrument of institutionalized political power and not individual. Those who govern in the democratic state do not do it in their own name and therefore they are obliged to respect the principles of the rule of law. As an instrument of power, in general, the state relies on two defining methods: *the coercion*, privileged in totalitarianism and dictatorship, and *the conviction* or the approval of society, method matter of priority used in democratic regimes, which gives legitimacy to the act of governing. In the democratic state, the rule of law can be defined as an institutional system in which the public power is subject to the law. Under this aspect, the state is a great power, itself being the main source of law. However, the state sovereignty as a way to express a representative government, however, is limited on the basis of some principles of the *rule of law* that must be respected. Even if the power representatives, elected on a limited period of time, are physical persons, the state, as a whole, is a legal person of public law, in the internal organization, and of

international law in the international relations, where it is the main subject of international law. The public authorities or institutions (local or regional) are, also, legal persons of public law. The state is, at the same time, a fiction constructed by people who are only in the presence of representatives appointed by the people and mandated to represent their interests. This artificial aspect allows the state to acquire supplementary rights and specific obligations. The presence of state in the management of a society is justified by the role this must play in ensuring order and stability within its borders in which it exercises its sovereignty. "The functioning of any democratic society presupposes, as an essential premises in achieving *the rule of law*, the need to create that institutionalized system of control, capable of censoring the activity of public authorities at any level. In other words, the existence and manifestation of the state implies a certain power status, limited to the extent possible to prevent it from becoming a prerogative to the discretion of those who exercise it ". [1]

1. THE POLITICAL POWER

The term of ***power***, which comes from Latin, has known two different semantic meanings: *"potentia"* with the synonymous *"potestas"* signifying the capacity to decide and act and *"potentas"* in the sense of possibility, permission. In the French language, the meaning of the noun "*le pouvoir*" is that of capacity and the meaning of the verb *"pouvoir"* is that of to be able to. The power, in the sense of dominion, assumes a manifestation of will through which is realized the action of dominating and exercising the authority over the others. In sociological sense, but also of the constitutional law, *the power* designates "the assembly or the system of power relations constituted in a historically determined society, expressing the authority that an individual or group of individuals has it over the others to achieve a common purpose, assumed by the members of the community or imposed to them by those which exercise the power." [2] Starting from those stated above, the generic term of power assumes that state or action that allows an individual / group of individuals to achieve a desired behavior from another individual or groups of individuals. The concept of power, in its general meaning, should cover several areas of application dominion starting from the power of nature domination and ending with the power as social and political action available to certain social actors. In such an interpretation, the power represents a capacity of a social actor to pursue with tenacity and strength for a superior particular purpose and implicitly sovereign and to realize in the framework of an effective action, using various forces and means appropriate in this respect. This definition is in some way close to the type of significance proposed by the British philosopher and social critic *Bertrand Russell* as distinguishing criterion of the power, namely: "the production of intended effects" (*intended effects*). [3] According to this conceptual concentration, concise but not universally valid, the mark of the power recognition is given by the correspondence between the agent's own desires and the obtained result which is materialized in the imposition of the agent´s will and the active and potential recognition of this by the one who is the subject of the action of power. This interpretation of power is exploited and by the American professor *Alvin Goldman*, who talks about some "functional dependencies and the results of an agent" which are obtained. It is, we believe, the starting point in defining the social and political power. Oxford Dictionary, inspired by the consecrate concept of power given by the German sociologist *Max Weber*, defines the

power as being "the ability of determining people to do what otherwise would not have done." [4]

The political power is institutionalized (formalized) and it is manifested by bodies called to exercise this power. In this context, the political power becomes state power. The power constitutes the essence of political life. *Bertrand Russell* wrote: "The power is the fundamental concept of social sciences, in the same sense in which the energy is the fundamental concept of physics." [5] The political power is a particular form of power and it takes concreteness and importance in complex societies formed by groups with a potentially conflicting interests. The political power, justificatory, thus it is for the role of conciliator of the antagonisms and interests between the conflicting groups. The political power, through its institutionalized form, which is the power of state, would be empowered to settle the conflicts between the antagonistic social classes and groups and thus limiting the anarchic division and dissolution of society. The main task of the state power should be to abolish inequalities, but this "acts to ensure that these become durable." (Hastings, 2000) The clear difference between a totalitarian state and rule of law is given by the fact that the former uses the right of force and the latter the force of law. The rule of law exercises its political based on the laws, using the force of the argument while the totalitarian state imposes in society the force argument. "Democracy assumes that people elect their governors. The elections cannot be veritable however if voters cannot decide between several options." [6]

2. THE RULE OF LAW

2.1. *The Significances Attributed to the Rule of Law*

The renowned French jurist *Léon Duguit*, specialist in public law, who used the method of the sociological positivism in his studies, said that "*the law without force is powerless, but the force without law is a barbarity*". This phrase reflects the interdependence between the two social phenomena, state and law, each having opposing tendencies: the state (power) of domination and obedience and the right of ordering and braking of the trends of domination and coercion. The rule of law assumes the harmonizing, balancing and weighting of relationships between the two components, in the sense of the rule of law, that its supremacy in order to preserve the individual and collective rights and freedoms. The principle and search of modalities of application appear for the first time in the XVII – XVIII centuries, together with the Western revolutions against the arbitrary feudal. The rule of law appears as a first step in the formation of a democratic state. The text from 1791, inspired by the French Revolution of 1789, says: "*There is not in France a higher authority to law.*" The rule of law thus appears as a first step in the formation of a democratic state. In general, the rule of law is not necessarily democratic, but a democratic state is a state of law. The edification of the rule of law was one of the fundamental aims of the French revolutionaries. They wanted to subject all persons, and even the kings, to the new law due to the change. Thus, the draft law of *Human and Citizen Rights* from August 26, 1789 exposes, solemnly recognized, the fundamental rights of every individual, rights that must be respected by all members of society.

The term of rule of law is released in the next century and represents the literal translation of the word *"Rechtsstaat"* introduced by the German lawyer *Otto Bähr* in 1884. It follows, then, the defining in the French doctrine as *"etait et droit"*. The specialists

consider that the source from which the legal theory left in the elaboration of the German concept is the Kantian philosophy relating to the civil society, in which "to the individual are guaranteed the natural rights." The meaning given by the idealist philosopher *Immanuel Kant* is different from the present one, since this supports the idea that "the constraint transforms the precarious state of the subjective freedom in the rule of law." We cannot recall the role of the Republic from Weimar, where the concept of the rule of law was used doctrinal in the context of claiming of the powers separation, of the legality in the administration and the judicial independence. The rule of law means that the freedom of decision of state organs is, at all levels, given by the existence of some legal standards, whose respecting is guaranteed by the intervention of a judge. The hierarchy of norms is effective only if their circumvention is legally sanctioned. The concept of *Rechtsstaat* was refined at the beginning of XX century by Austrian jurist *Hans Kelsen*, who believes the rule of law as being the state in which the legal standards are primarily and hierarchical, so that its power to be controlled and limited.

The concept of ″***rule of law***″ can be expressed from different perspectives. Here are some of the significances attributed to the rule of law:

- "The rule of law signifies the subordination of the state towards the law; the state subordinates its action on citizens, the rules that determine their rights;
- The rule of law is a system of organizing in which the assembly of social and political reports is subordinated to the law;
- This type of state is bound by law, the state respects the law;
- It is the state in which the power is subordinated to the law, all the state actions are legitimized and limited by law;
- The rule of law means the power limitation by law;
- The state of law corresponds to an order of legal-rational type, of personalization of power;
- The rule of law means fundamental guarantees of public freedoms, the protection of the laws order, which are imposed to everybody;
- The rule of law is the state able to reconcile the freedom and authority, is a state of "*anti - Leviathan*" type;
- This state represents the hierarchical and systematized legal order;
- The rule of law is more a movement of rationalization and ordering, a concept well defined and unmistakable regarding the power. "[7]

"The rule of law cannot constitute a reality as long as by the Constitution is consecrated the absolutism of one of the state bodies, either legislative or executive. The rule of law presupposes the existence of a political settlement based on the separation of powers in state and a system of constitutional limitations and delimitations able to prevent the power bodies to abuse the attributions with which they were invested. The rule of law will have to be understood as a state which, organized on the principle of separation of state powers and pursuing through its legislation *to promote the rights and freedoms inherent to human nature*, ensures the strict observance of its regulations by the assembly of its organs in their entire activity." [8]

The concept regarding the rule of law is defined in opposition to ″the police state″ or ″the gendarme state″, characterized by the discretionary power of administration and abuse of power. The rule of law is subject in its actions to the will of the majority of citizens, who can impose the rules, that guarantees them the rights and peg the means that the state

is authorized to use them. These rules limit the power of the state through its subordination to the general legal order given by the applicable law and equal for all. The rule of law can be defined as an institutional system in which the public power is subject to the law. The existence of a hierarchy of norms is one of the most important guarantees of the rule of law. In order to have a practical effect, the application of the principle of rule of law presupposes the existence of independent courts competent for resolving of conflicts between the different legal entities. These apply both the principle of legality, which derives from the hierarchical existence of norms, and the principle of equality, which opposes to any differential treatment of physical and legal persons. Such a model assumes the existence of separation of state powers, implicitly, an independent judicial system. The rule of law presupposes the existence of a constitutional control. Having regard the complex character of such disputes, *Hans Kelsen* proposed that such processes should be entrusted to a single court, being specialized as a constitutional court. Through its traits, *the rule of law* is identified with *the liberal-democratic state*. *Maurice Duverger* insists that the rule of law, like democracy, is subject to some essential principles without which either the state and or the democratic regime cannot exist: "the democracy is liberal and signifies firstly the fact that the political institutions are constituted according to the following principles: the sovereignty of the people, elections, parliaments, the independence of judges, political freedoms, multiparty system." [9] To the law it is indispensable the state, in order to create its norms, to edify the elements of the legal system, to ensure the finality and efficacy of legal norms under the sign of constraint if disregarded them. To the state is indispensable the law to express the power, to achieve effectiveness by establishing a general behavior and obligatory for all. The concept of rule of law presupposes a power founded on respect for the law but, also limited by law, by a set of fundamental rights that are recognized in the national, European and international law.

2.2. The State Governed by Law and Limitation of The State Power by Law

The question arises, given that the state is sovereign, to what extent its actions may be limited. The German theorists put the emphasis on the concept of *self-limitation*. The state is sovereign, but it agreed to submit to a legal order which facilitates control of its actions. The French tradition inherited from the French Revolution a different doctrine based on a deductive and hierarchical approach. At the top of the hierarchy are the Constitution and Declaration of Human Rights which recognize as "sacred, natural and inalienable" the rights, laws and regulations. From this perspective, it is obvious that this content of laws, that consecrate the founding principles of human rights, also, define and the rule of law. The rule of law is a dynamic reality, linked to political activity. In these circumstances, the basic principles of the enunciated concept are permanently subject to interpretation and debate. The rule of law evidently assumes the application of the principle of separation of powers. "In order to constitute a rule of law there is a need to be elected a parliament, to be elected the constitutional bodies, to be invested with legitimate authority functioning." (Aron, 1965)

State power is more or less restricted by law. In a totalitarian state, this aspect does not manifested, the state imposing itself over the will of society and leading despotically. The rule of law is a product of the democratic societies, in a rule of law the power is controlled and limited by constitutional law. According to the positivist theories, the state

is the one who creates the law because there is no an earlier right to the existence of the state. *Raymond Carré de Malberg* considers that to the state should not be permitted it an absolute power. For this reason it is necessary that the society to impose it certain limits because the state is not oriented to do this voluntarily, the tendency of any type of state being towards a fully sovereign power. The way in which the state exercises its power should be limited constitutional and to serve to the public interest. Also, there will be always the temptation towards an unlimited power and abusing the attributed power. *Georg Jellinek* considers that the state is truly sovereign, only when it has "*the competence of its competences*." *Max Weber* considers that the state power is given by its right to resort to violence, the state being the only possessor of the monopoly the legitimate physical violence. The force used by the state is the only legitimate, as it is manifested having as support a legal framework. The state is the sole possessor of the law enforcement or repression organs. Practically, the existence of a state of law is given by the fact that public authorities and institutions are obliged to exercise their responsibilities respecting a predetermined and obligatory set of juridical norms through which directs its entire activity. In this modality, the legality of administrative becomes and is equivalent to that of rule of law. The rule of law can be summarized by the syntagm: "*No one is above the law*". This social state presupposes the existence of an assembly of juridical norms that protecting the citizens against the arbitrary forms of executive power. For a rule of law it is necessary that the requirements imposed to the state to be both formal and impersonal, obligatory and to know a sanction to match with the act committed. In other words, the laws are equally valid for all, regardless of class or social position, status or the role occupied in society. The law, among others, must fulfill certain *characteristics*:

1) to be publicly known;
2) no one can evade the spirit and letter of the law;
3) the law must be applied effectively and on equal terms;
4) the breaking of the law must result in sanctions and penalties.

In most cases, in order to insist on the differences between democratic and authoritarian/totalitarian regimes, calling on the notion of rule of law. In the political theory, through rule of law is meant a state based on a hierarchy of the norms generating of the juridical order. In the rule of law, the democratic state is the guarantor of liberties and of citizenship rights, secured through its democratic institutions. The rule of law opposes, thus, not only the dictatorial or authoritarian state but it is, firstly, the extreme opposite of the police state. We must distinguish between the juridical and political concept of the rule of law. The politology identifies the rule of law with the liberal state, in the sense of state that protects the fundamental freedoms of the individual and society, in general. However, the meanings of the notion of rule of law, juridical and political, can be related. A state that is desired in the juridical sense a rule of law, cannot be the same thing in the political sense. From a juridical point, the concept of rule of law is null and void if this has no juridical effects. Failure to comply the legal norms of the rule of law necessarily implies, even the state representatives, the application of some sanctions or punishments. Therefore, the application of the norms on how to fulfill the principles of rule of law is controlled. The controls are linked to both political aspect, as well as by that jurisdictional one. The concept and manifestation mode of the rule of law have at least two weaknesses: first, the state remains the owner of the power state and it is very easy to evade the law, to interpret it or to bypass it, using precisely the interpretable concepts and principles; secondly, even

if they are recognized as applicable the principles of the rule of law, the essential problem, which is pertaining to finality, it is unsatisfactory and cannot be verified, nor sanctioned. It comes, obviously, how in which the judge uses or not his function of interpretation and the political interference in the jurisdictional decision making process. The state may infringe both the principle of legality and that of equality. To these, it is added, even if we talk about the separation of powers in state, the inconvenience that the state, as a whole, adopts and enforces the law. The state, as a juridical person of public law, should be obliged, like any person, to submit to the principle of legality, which involves, first, the respect for the constitutional legality. In the rule of law, the state cannot evade the law, cannot qualify for exemption from jurisdiction, nor can be subject to a derogation of the common law. In this context, the role of the courts is essential and their independence, especially towards the political factor, is an absolute necessity, without which we cannot speak of the existence of the rule of law. "The premise of the rule of law, according to which the law must be the expression of the general will, is not achieved unconditionally simply because a system of laws adopting, based on the existence of a large representative democracy, either it is reunited even with some institutions of direct democracy, it was instituted. Since, eventually, the existence of the rule of law appears conditioned by the rooting in the civic conscience of conviction, certainly reflected in the legislation, there are a number of inherent rights of the human nature, which, irrespective of the system of election of representative organs and in the conditions of participation of voters at their activity, should be recognized and respected of state in all circumstances and toward all citizens, without distinction of sex, profession, nationality or race. "[10]

3. THE LEGITIMATION OF VIOLENCE

The state is characterized as being "*the monopoly of legitimate violence*". The German sociologist *Max Weber* (1864-1920) considers that *the legitimate violence* is the necessary condition, but not a sufficient condition, for an institution to be called ″of state". For this, the state is "a political affair, when the administrative bureaucracy institutions support successfully the implementation of the monopoly of legitimate physical coercion." (Weber, 1919). All states, Max Weber argues, are characterized by the violence monopoly. The monopoly of violence is the guarantor of the state power on its territory. This monopoly characterizes all the main subjects of public international law, which are the states. The state alone can exercise the violence within the territory which belongs to it. Those who are tempted to use the physical violence, outside the state, are considered to be felons, criminals or terrorists. The violent actions carried out outside the state are considered illegitimate and are punished according to law. The state violence can be legitimate, but its arbitrary can have consequences equally dangerous or even more than that, for society. In order to prevent such situations, which can push the society towards anarchy and dissolution, are taken into account, as a defense, the rule of law principles. The legitimacy, however, remains an open point, of interpreting according to the political regime, and even controversial one. The violence of state characteristic of totalitarian and authoritarian regimes, respectively the undemocratic ones, it is not obviously legitimate. The legitimacy in this case would imply a recognition of the repressive state and its organs through which it is realized the act of violence, which it is impossible to realize. One can speak, however, of the induction of the idea of a false legitimacy necessary for the authority of totalitarian state. In the democratic state the question arises of the existence or

inexistence, of using or not using of the coercive means and violence. Also, only in this regime, it calls into question the legitimate character of violence, namely, *the legitimation of violence*. The violence supposes the use of physical force of an extreme intensity. The legitimation of violence would imply, thus, an act of recognition and assumption as necessity of such an action. The postmodernist, democratic and contemporary state is the holder of the monopoly of legitimate violence. The motivation remains only one that is supported justifying, as a *sine quo non* condition for the very existence of democratic and liberal state: the need to maintain public order and safety in the purpose of ensuring and protection of fundamental rights of all citizens. In democracy the need for legitimation of violence does not disappear, and will not be able to disappear, only with the disappearance of the state. The legitimation of violence and the legitimate violence remain, in real mode and not fictitious, important characteristics of the rule of law. The legality is authentic, because this comes from the fact that power is subject to the same law, valid to all members of society. Aside from the aspect of subjection in equal measure to the law, the rule of law is characterized by the correctness and extent to which the law applies. Therefore, the violence is permitted to the democratic state but, only under certain conditions limiting, explicitly and expressly provided by law. The violence is not characteristic of the democratic state but this does not mean that it cannot make use of it in terms of a strict constitutional control. What is permitted to the state it is severely punished when the violence is used against the state, as well as the attempts of overturning by force of the governments, legitimate elected. The state violence remains a defining characteristic only of non-democratic regimes. However, the legitimate violence is a ″slippery″ syntagm, which can easily lead to limiting and even loss of individual and collective rights and freedoms. The totalitarian state can ″legitimate″ through force a repressive action that does not take in any respect the recognition from the part of society or community targeted. The undemocratic state actions, when they exceed the borders of a current violence, can degenerate into state terrorism and even, in some cases, can take the extreme form of genocide. If in the democratic and liberal state the legitimacy of which enjoys this supreme and sovereign forum is authentic, then we can talk, here and only here, of rule of law. Both society as a whole and the state are subject to the same law. This is not sufficient, but we should consider the correctness with which it applies the law, a juridical action having to be impartially and devoid of political interference or other nature. The legitimation of violence implies a recognition of the necessity of its application. The legitimate violence becomes also a tacit assumption addition to aspect of subjection to the law, in equal measure. The report generated by the social contract, however, remains, however, an impartial, inequitable and asymmetric one, the violence may not be directed against the state, only the state holding the monopoly of legitimate violence. Any type of state consumes its existence between two limits: the maximum of violence (it is the case of the totalitarian state) and the minimum (the democratic and liberal state) or the absence of violence that is similar to the dissolution of state and anarchy. Any type and every state is based on force and coercion. The difference between a democratic and non-democratic state is given by the intensity of the violence and the legitimacy or the illegitimacy of this. ″The political oppression claims, allows and determines the exploitation. The state, they say, is the instrument that allows the dominant class to exercise the violent domination over the dominated classes. The state becomes the holder of legitimate physical violence. The private property, which is speaking when it motivates the emergence of the state, as

necessity of its protecting, does not known *a priori* existence of state occurrence but it is a result generated by its founding". [11] A leading social structure in which the violence is absent, it is anarchic and cannot have the quality of sovereign state. Permanently the state is in a relationship of domination in which differs only the manner of obedience to the dominant element which is the holder of power. The dominated is called to choose, depending on the illegitimacy or legitimacy of violence, between the imposed servitude and voluntary servitude. The voluntary servitude is an offer that makes it the individual or society to the dominant state to prevent the supplementary evil effects caused by the forced imposing of servitude. The type of state and type of servitude that characterizes a population or community are given by the dynamics and the average of violence considered legitimate or illegitimate. Max Weber's theory about the monopoly of violence (German: *Gewaltmonopol*) opened a research perspective large and inexhaustible not only for the sociology, but also, in the philosophy of law and especially in the political philosophy. The legitimate physical violence (*Physischer Gewaltsamkeit)* is according to German sociologist a defining characteristic of the state, regardless of the way this responds, more or less, to the dominated society's expectations. One of the significant differences between the totalitarian and democratic state is that the democratic regime facilitates knowingly the choice of violence considered legitimate, as well as the voluntary servitude. We find ourselves, of course, in front of a conceptual paradox of proportions. The democracy implies freedom, justice and equality but those subjected to democracy ask ″voluntarily and willingly ″ to be engaged in an imposed system and a perpetual treatment which entails the application of the coercive measures of the state, the holder of monopoly of the legitimate violence.

Hobbes talks about a war of everybody against everybody, involving the manifestation of natural condition of humanity. (*Belum omia contra omnes*). The sovereign (The Leviathan), this "artificial man" or "mortal god" will ensure the civil peace. "The foundation of the absolute sovereignty of Leviathan is the right of the individual and the source of individual right is the necessity to preserve the being, to avoid the death. People should not be guided by the various updates of the good or according to good itself but according to the right that is born from the necessity to avoid evil". [12] To Leviathan, "a powerful and superior being" has the burden of pacifying the society not anyway, but also by peaceful means, but by attributing the monopoly of legitimate violence long acclaimed by the masses. The cultivation of feelings of apprehension, fear, terror are hidden forms of state terrorism aimed at ensuring the dominance and *status quo* of power. A quite controversial aspect, noticed by *Max Weber*, is the one regarding the legitimacy vs the legality of state violence. This topic has generated strong debate concerning the mentioned report. Thus it is raised the question whether legitimate violence is, at the same time, and legal, or whether any violence is considered legal is and legitimate. Even more, it is considered affirmative or negative, that legitimate violence would have or not, in one way or another, to do with the law. The law, by itself and equal for all, should govern the social relations and the reports between state and society in a perfect harmony, given by the equal opportunities. "Since the direct democracy engages in the first line of fighting of public life the vast majority of citizens, it can lead, if does not work in the shelter of a climate of citizen harmony, at the potentiation of political battles up to anarchy." [13]

Raymond Aron, in his work ″Democracy and Totalitarianism″, claims that it is possible the corruption of the regimes of pluralist democracy under the following *conditions*:

- "failure to comply of constitutional norms;
- the lack of a competent administration;
- the manipulation of constitutional practices by an oligarchy;
- the much too violent character of competitions between different groups of political force
  that holds the power;
- difficulties encountered in moderation of popular claims ". (Aron, 1965).

CONCLUSION

The existence of state violence is a fact that cannot be denied. The reasons why people accept to be servile and even invoke the legitimate violence as a saving measure, remains to be elucidated in full and when they are clarified, most often, they are not justified. The modern man remained the prisoner of the fanciful theory of *Thomas Hobbes* who demanded to assign the state, correlatively, the monopoly of violence seen as a moral and political necessity to avoid harmful consequences resulting from the attitude of people to be hostile to each other; (*Homo hominis lupus* – The humans are among themselves like the wolves). This justification, of the past, cannot support the violent action of the state, much more, cannot support the modern configuration of the state that can manifest itself, anytime abusive and violent on account of the gained authority pursuant
the legitimate violence.

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