

Where we are.

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When David Cameron asked the British people to vote on whether to leave the European Union, he did his utmost to persuade the electorate that the question was a purely economic one: would we be better off in the Union or out of it? And he assembled teams of experts to warn against the economic cost should we in fact decide to leave.

For many ordinary citizens, however, the question was not about economics at all. It was about identity and sovereignty. For such people matters were at stake that the politicians had systematically marginalised, and which were more important to them than all the economic and geopolitical arguments. Their question was not: what will make us better off, but rather: who are we, where are we, what holds us together in a shared political order and on whom have we conferred the right to govern us? It is not only the British who are faced with these questions: they are the political questions of our time, and all across Europe people are beginning to ask them. Moreover, they are not questions that can be settled by economic arguments, since they must be answered before any such arguments make sense.

Undeniably, however, these questions have become difficult to answer. Globalisation has disrupted old forms of membership and old ways of allocating sovereign power. The nation state, which seemed to open so tempting a path to democratic government in the nineteenth century, is no longer a clear conception in the minds of the young. But the question of what to put in its place has received no consensual answer. On one interpretation the European Union was such an answer; but in all issues in which national sovereignty has been at risk the EU has slipped away into the realm of wishful thinking, and the nation has stepped forward in its stead. This we have seen in France's response to the regulations that threaten her state monopolies, in the distress inflicted on Italy and Greece by their adoption of the common currency, and at every juncture in the migration crisis. And while the EU has tried by all available means to persuade Europeans to replace their national attachments with a new and cosmopolitan identity, the only effect has been to stir up other, narrower and more emotional nationalisms, as with the Scots, the Flemings and the Catalans.

Our situation in Britain is particularly complex. Although we are, legally speaking, a nation state under a single sovereign, we also belong to a

political union, comprising three and a half nations – the English, the Scots, the Welsh and a large section of the Irish – under a single Crown. The British have migrated freely between the several parts of their islands over centuries, and language, names, customs and institutions have been pooled in the process. So how should we define ourselves and to what is our loyalty owed? In my view the crucial thing is not that we can avail ourselves of some eternal community with fixed borders, unalterable beliefs and a ring-fenced genetic inheritance. What is crucial is that, in the flow of human fortunes, we have acquired a place of belonging, which we can identify as our home, where the inhabitants can be trusted, and which is protected by a single sovereign power.

Such is the residual idea of national identity that I defend in *Where We Are*. For us, I maintain, national identity is rooted in a sense of place; it arises from the experience of a shared home under a rule of law applied over a sovereign territory. This conception of nationhood is neither belligerent nor mystical, and does not depend on extinguishing the many other loyalties that its participants may have. You can be a loyal subject of the British Crown and also English, Scottish, Irish or Welsh when it comes to other aspects of belonging. You can be a British Nigerian or a British Pakistani, and the future of our country depends upon the process of integration that will persuade new arrivals that this is not only possible but also necessary if they are to make a home in the place to which they have come. You can be a British Muslim, Jew, Christian or atheist, since nationality, defined by land and sovereignty, does not extinguish religious attachment or the residue of older and more rooted ties. Nationality is not opposed to trans-national cooperation, or to quasi-patriotic feelings towards countries that are not one's own. Everything here is a matter of degree, tempered by the on-going negotiation between neighbours that is the stuff of a free democracy.

It is in such terms, I believe, that we should define the British sense of identity. We understand our rights and duties in terms of the place where we are, and the 'law of the land' that prevails there. In continental systems authority flows downwards, from the legislature to the courts and thence to the individual officers of law and order. In the British conception of political order authority flows upwards, from the subject, through the courts, to Parliament. Hence British people have the unshakeable belief that anyone who, in the hierarchy of decision-making, has power over others, is also accountable to those others for its exercise. Accountability is the constraint within which all legitimate government occurs. This is reflected in our long-standing freedoms, such as that granted by the writ of

Habeas Corpus, which has protected the subject from false imprisonment since the early Middle Ages, or that granted by the Statute of Forcible Entry of 1381, which has allowed us to close a door against every nose official who has no warrant from the sovereign.

The philosopher Leszek Kolakowski once half humorously summarized the difference among legal cultures as follows: in Britain everything is permitted unless it is forbidden; in Germany everything is forbidden unless it is permitted; in France everything is permitted, even if it is forbidden; and in Russia everything is forbidden, even if it is permitted. Kolakowski exaggerates, of course; but the differences here are real, and part of what has made our membership of the European Union so challenging to successive British governments. Law, for us, is common law, the property of the individual and our protection against anybody who tries to boss us about, including representatives of our government.

Robert Tombs, whose recent book *The English and their History* ought to be on the desk of every civil servant, has illuminatingly commented on the differences between our conception of legitimate government and that which prevails, by and large, on the continent. Our sense of legitimacy, he suggests, is captured in the 'Magna Carta myth' – the view, part fiction and part reality, that those who govern us are answerable to those whom they govern, and can be called to account should they overstep the mark, as Richard II was called to account by his subjects at Runnymede, and compelled to sign a charter of their rights. The sense of legitimacy that prevails on the continent, and in France especially, is expressed in the 'vanguard myth'. This speaks of the legitimate use of power by those – the experts, the intellectuals, the liberators – who have the knowledge required to lead the people to a salvation that they could never achieve on their own.

The European Union was conceived according to the Vanguard idea: a small group of privileged people, who had a plan for our continent and were prepared to tell any number of half-truths in order to achieve it, succeeded in imposing that plan on the people. They neither obtained popular consent nor asked for it, but engaged only with the political elite, proceeding by Treaty rather than by popular vote. Maybe there was no other way to go about it. But the British instinct for democratic choice, and the entrenched reliance on common law procedures, has led to a deep suspicion of the European institutions in our country.

Of course there are many subtle similarities as well as differences between British and Continental conceptions of government. But the contrast between our bottom-up system of legal argument and the top-

down jurisprudence of the European courts explains much of the alienation that the British electorate have felt towards Brussels. It is also one reason why freedom of movement, as guaranteed by the Maastricht Treaty, has become such an issue for us. In France, Belgium and Germany freedom of movement is nominally permitted under the treaties; but everything is done to avoid the law, by imposing conditions on employment and residence that will protect the local labour market from incoming competition. Our common-law jurisdiction looks askance at residence permits, identity cards, house searches, and all the other obstacles that continental states have placed in the way of the incoming migrant. But this means that, when we sign up to freedom of movement, we have no course but to allow it, as we allow it to any subject of the Crown.

This freedom granted by our legal order explains both our long history of independence, and our culture of accountability. And even if British children are no longer taught about this freedom and have little sense that it could be at risk, other people from other places have no need to be reminded. So long as we belong to the EU the flow of migrants from Eastern Europe will continue, and there will be queues of young men camping across the channel, unsatisfied with a journey that has brought them no further than France.

Other writers have noticed the fact that ideas of place, neighbourhood and home have been fundamental to our law and institutions, and define the identity that has stood us in good stead in all our national emergencies. But this identity is under threat from an ethos of repudiation. This ethos is nothing new. When Britain faced the prospect of annihilation from Hitler's armies, George Orwell wrote a famous essay – *The Lion and the Unicorn* – urging his readers to unite in defence of their country. The ability of the British to defend themselves, he argued, had been undermined from within, by both right and left. The bewildered remnant of the old ruling class, and the intellectuals who recoiled from patriotic feeling and could not utter the word 'England' without a sneer, were combining to betray their country to the Nazis.

The instinct of the British people in the face of the threat was to resist it, since that is what duty and love both require. As Orwell saw, however, the muddled selfishness of the upper class and the snobbish sarcasm of their intellectual betters worked against the common people; the first making capitulation more probable, the second making capitulation look like political virtue in any case. Orwell's essay was a passionate attempt to show that the ordinary people were right. They could be trusted precisely because they were motivated by neither the self-interest of the upper class

nor the self-righteousness of the intellectuals on the left, but by the only thing that mattered, namely an undemonstrative love of their country.

Orwell's essay was as far as could be imagined from the nationalist rants of the Nazis or the Communists' kitsch invocations of the international proletariat. It was a defence of patriotism, not as hatred of the other, but as love of what is ours. In a way nationalism and patriotism are at the opposite poles of our attachments. Nationalism (at least in the inflamed version then prominent) displays fear and contempt towards other forms of life. Patriotism is based on respect and love for the form of life that we have. It seeks to include, not to exclude, and to combine in the face of external threat. A patriot respects the patriotism of others, including that of the enemy.

Orwell's essay speaks to us still. It tells us that patriotism is the *sine qua non* of survival, and that it arises spontaneously in the ordinary human heart. It does not depend upon any grand narrative of triumph of the kind put about by the fascists and the communists, but grows from the habits of association that we British have been fortunate enough to inherit. The patriotism that is engrained in our psyche is not based in ideology or doctrine; it is neither bigoted nor chauvinistic. When we wish to summon it we refer to our country. We do not use grand and tainted honorifics like '*la patrie*' or '*das Vaterland*'. We refer simply to this spot of earth, which belongs to us because we belong to it, have lived in it, loved it, defended it and established peace and prosperity within its borders.

Patriotism of that kind is not, as was so often claimed in the wake of the Brexit vote, merely 'racism and xenophobia'. Indeed, that charge, in the wake of its abusive reiteration by the European elite, has lost all meaning. Patriots are simply those who identify with their country, and recognize the need to make sacrifices for the common good. In identifying themselves in this way they also open themselves to accountable citizenship. They acknowledge the value of living within established borders amid institutions, laws and landscapes that foster a shared sense of belonging. In my view that form of identity represents the true European ideal.

We in Britain are not without our problems; we suffer from tensions of class and ethnicity that often threaten to divide our loyalties; we have suffered from spiritual and cultural decline as a result of losing our religion. But those problems are problems for all communities in the contemporary world, and do not erase the greatest asset that we have, which is our shared home and the tradition of mutual accountability that survives here. The British people remain bound to each other by ties of mutual responsibility and social trust, and it is my hope that these bonds will be

strengthened as we come to terms with Brexit. For our ties are not the creation of shallow agreements, ideological fanaticism or consumerist whims. They belong to our way of being, in the place where we are.