

BALÁZS ARATÓ

## **The concept of tradition in the thinking of Ernst-Wolfgang Böckenförde**

What is the foundation of the state, in what does the state find the homogenizing force it needs after the binding force of religion is no longer essential to it? - Ernst-Wolfgang Böckenförde raises the question at the outset.

In the beginning, religion was the most profound binding force of political order and state life. Can virtue be founded and maintained from within, secularly, can the state be built on a kind of natural morality, and if so, what is the source of this morality?

The law and the legal order need a minimum ethical and moral content, otherwise the predominantly voluntary observance of legal commandments can no longer be expected or taken as a starting point. In any case, this minimum content is not governed by some objective normative moral law, but by the ethical-moral consciousness of people and society, which may even be rooted in the tradition of Christian morality.

The relationship of law to social reality is well illustrated by the fact that, although law confronts social reality as a normative requirement of conduct in order to regulate it, it also emerges from this reality itself. In the process of law formation, vital social forces - ethical and moral concepts, traditions, political aspirations, economic and other interests - are articulated and organised to influence the shaping and laying down of law.

A fundamental question is the role of Christian faith in the secular state. The degree of religious freedom is a measure of the secularity of the state. As a personal creed of the individual, as a social (and therefore political) force mediated by the religious conviction of the citizen, Christian faith can also and precisely there exert its influence in the secular state, and it can be said that religion is freed to exert just such an influence in this state.

Ultimately, are not the internal drives and bonds - based on tradition - also the basis of a secularised state, mediated by the religious faith of its citizens? The lecture seeks answers to these and similar questions in Böckenförde's thought, with a special focus on the concept and role of tradition.