

1.MEANING AND ELEMENTS OF STATE

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The Meaning and Origin of Concept of State

The meaning of the state in the sense of body-politics became common in England and France in the later part of the sixteenth century. The word staatkunst became the German equivalent of *raison d'état* during the seventeenth century and a little later the word staatsrecht got the meaning of *jus publicum*. Thus came the use of the word State. The word 'State' has its origin in the Latin word 'Status' which means 'standing' or 'position' of a person or a body of persons. The Latin 'status', Ernest Barker tells us, gave three English words: (i) 'estate', in the sense of a 'standing' or 'position' in regard to some form of property (ii) 'Estate', using the word in the primary sense of a grade or rank in the system of the social standing or position belonging to such grade or rank and 'State', stateliness vested in one person or some body of persons ... primarily a peculiar standing, of a kind which was political and of a degree in that kind which was superior or supreme. The word 'State' came to be understood, during the 16 -17 centuries and even down to the last days of the 18 century, some what identical with the terms 'sovereign', 'king'. No wonder if Louis XIV said, 'I am the State'. And to this context, Barker adds, "Was he (Louis XIV) not in his own view, as in that of his subjects, the person who enjoyed the 'State' and position of being the supreme political authority, and was he not therefore 'the state'?" The use of the word in ancient Greece or the word in ancient Rome or the word 'commonwealth', 'Commonweal' during the medieval age in the West do not clearly and definitely contain in themselves the idea of stateliness, sovereign political position of a person or a body of persons. This is why these words 'polis' 'res' 'republica' 'commonweal' meant much more than the pressure of the rulers. These meant, in fact, the whole body of people living on a

territory, the rulers forming only one part, though prominent indeed. It was in the writings of Machiavelli and the theorists after him that the word 'state' came in vogue, defining not only the position of the ruler in regard to his subjects, but also the degree of the position the ruler eventually came to obtain. During the later part of the 18 century and the larger part of the 19 century, emphasis came to be laid, owing largely due to the efforts of the jurists in England and France internal supremacy and external independence of the sovereign authority. As democracy, in the form of franchise, came to be associated with liberal-capitalist system, the concept of the State was itself liberalised to include the great body of people residing in it. Barker pointed out, "The state is now whole community; the whole legal association; the whole of the organisation. This is democracy, or a of democracy; we must henceforth think of the state as ourselves; and we must henceforth give the name of 'government' to the authority before called 'state'

The Elements of state:

- 1.Population
2. Territory
- 3.Government
- 4.Sovereignty

1.Population

The primary physical elements, or raw materials, necessary to the existence of states are population and territory. As we have said, it is obvious that there must be population – no uninhabited land can be called a state. It is impossible to lay down any rule a priori about the magnitude of such a population: one can only say be reduction absurdum that a single family is not sufficient – the people should be numerous enough to maintain political organisation, thus distinguishing between public and private affairs. A great disparity in numbers is evident in modern states: consider the difference between Luxemburg and India. For example – both are states, nevertheless. Thus some states have populations which can be numbered in thousands, others in hundreds of millions. (We may also note that the

population of a state is not necessarily homogeneous. The population of the USA is, for example, drawn from a great variety of human stocks; France, on the other hand, can be regarded as showing a nearly complete racial homogeneity). Many writers have evinced what de Jouvenel [1963] calls the nostalgia for the small community – a cast of mind which goes back to the Greeks. Aristotle, for instance, held that while ten men were too few to constitute a satisfactory polis, a hundred thousand were too many. The Greeks were well aware that huge empires existed; they disliked such large groupings not because they thought them impossible of realization, but for the sake of good government. Good government was not taken to mean merely efficient government, although the practical difficulty involved in governing an extensive population was real enough before modern developments in transport and communication. The more fundamental problems were seen to be these: government of inevitable diversity of interest, which is linked to the loss of an intimate and immediate sense of community. The Greeks thought that both these qualities were inimical to good government, and many have subsequently agreed with them. Man longs for a small closely – knit society in which he has personal participation and personal recognition. To some extent a local sense of community and personal interest can be maintained in a large society by such devices as strong local government and federation, and diversity can be accommodated within the greater whole, but a radical depersonalization of political life can scarcely be avoided. A sense of community grows most naturally and flourished best in small groups. Men dislike the impersonal nature of mass society. They may also dislikes its tendency to anarchic individualism in the absence of communal interests and a sense of the common good. Men may furthermore believe that a multiplicity of groups engendering their own loyalties detract from the good of society as a whole. Any or all of these reasons can understandably lead men living in a mass society to wish for the establishment in it of just such a sense of community as can be found in smaller groups. Now, it is generally agreed that a sense of community is desirable. It is indeed precisely the sense of community, the sense of belonging together, which creates a readiness to subordinate differences to the common good. A political society is in

an unsatisfactory condition when its members have no consciousness of unity except obedience to a common government. But the nostalgia for the small community can become dangerous if it is translated into a principle of political action and transferred to large group – in order to foster the larger, inclusive sense of community it may mean that all diversity and every other loyalty has to be denied the right to exist. The attempt to graft the features of simplicity onto a large, diverse society must involve the rejection and suppression of other interest as a matter of course; and it easily leads to tyranny.

2.Territory or Geographical land

We have said that the State is one expression of associational behaviour in man. We may anticipate later discussion and call the State an association, which term (as used by MacIver in *Community and The Modern State*) designates any group of people regarded as being organized for the achievement of a particular purpose. There is obviously an enormously number of possible associations arising out of religious, economic, educational, scientific, artistic, professional and other interests. Now, one of the chief factors which distinguishes the State from other associations is that membership is based on territorial qualifications. (Membership of State is usually acquired by birth within its territory or by an immigrant signifying his intentions to live there permanently). Broadly speaking, we may say that a State is composed of all the people living permanently on a particular tract of land. There are minor exceptions, such as citizens living abroad or resident aliens not yet naturalized – but even their status is connected with some territorial qualifications. The possession of territory, then, is the necessary basis for all modern states. The possession of territory, then, is the necessary basis for all modern states. (A nomadic people can consequently not be regarded as forming a State, even if they do have some form of political organisation). Glance at any atlas, and you will see that just as populations vary in number, so too do the territories of states vary in extent. (Monaco covers four square miles; the USSR covers well over ten million). The formation of states, and consequently the extent of the territories on which they

are based, can be influenced by a variety of factors including religion, common descent, economic interests, war, geographic barriers, and the accidents of history. Consider the following random examples: religious conflict during the period of the Reformation profoundly affected the formation of European states; the separation of India and Pakistan too has its basis in religious difference; after the revolution of 1917 many of the Russian provinces declared themselves independent Republics – but largely as a result of economic necessity they were forced to reunify, so forming the USSR; many countries again form natural geographic units bounded by mountains, rivers, and seas; while during the scramble for Africa arbitrary map – drawing which ignored ethnic groups and topographical features created colonial administrative units which have since become states in their own right.

3. Government

We noted that the third essential element in the State is government. Any group of people other than a casual crowd requires some form of organisation. Once common purposes are admitted, there must be a method of organisation through which these can be achieved. All associations – whether they be churches, universities, trade unions, or clubs – develop a system through which the relevant activities of the members are regulated; and in such a system some person or body of persons are regarded as speaking or acting for the whole in some sense, and under appropriate circumstances this person or body of persons may make decisions which are recognized as binding on the whole. Men living or acting in association with one another must have uniform rules by which they live and act. Deliberate legislation – there custom regulates behaviour. Customary law can however, operate successfully only in a relatively simple and static society. It is obviously inapplicable to rationally planned cooperative activity, whether the scope and purpose of such activity be limited or complex. In any consciously constructed and ordered association, or in any complex society, there must be more or less explicit agencies which make the rules; and the more complex and important these rules are, the greater is the need also for agencies which interact and enforce them. These agencies constitute the government of the particular

association and in the modern state, government includes the sum total of the legislative, executive, and judicial organs which make, administer and interpret the law. The phrase the Government is often used in a narrower sense to designate the body of men who are responsible for Executive policy and administration. We should take note of this usage – which is especially common in countries which have the British parliamentary system – but we should remember that these men are only a part, though an important part of the whole governmental structure. A Government may thus resign without affecting the system of government as such: a change of Government does not of itself change the governmental structure. And even the form of government can be altered without destroying the State. Thus in the first seven years after the establishment of the Fourth Republic in 1946, France experienced fourteen changes of government – and this pattern continued until the establishment of the Fifth Republic in 1958. And from the eighteenth century onwards the French forms of government have been successively monarchical, republican, imperial, monarchical, republican, and then republican, once again: since the Revolution of 1789 France has been governed under no less than thirteen distinct written constitutions. Yet through all these changes, France has continued to exist as a state. The State clearly has an existence which is independent of its particular Governments and of the forms which the internal governmental structure may assume. In no association does government exist as an end in itself: all systems of government are designed to serve a purpose. The basic purpose served by government in the State is the maintenance of law and order which is needed for personal security, cooperative activity, and common advantage. Objections have sometimes have been voiced against government, law, and the force which is necessary to maintain law in the State, but such objections cannot hold: Take the building of a road, for example The road cannot be built by the roadside dwellers, for then a hundred yards of good tarred road might be followed by a hundred yards of pot – holes or by a quagmire. The organisation of the state is required to build the road, and with that admission we must let in taxation, budget, a civil service, a legislature and all the apparatus of government. Government is not only necessary for this road to be built and maintained; laws are also

needed to determine on which side of the road people may travel, or else chaos would ensue; offenders will furthermore have to be punished. Law, then, is necessary to ensure order, and in ensuring order in the state law may affect most of the interests and activities of the citizens.

4.Sovereignty

The essence of this key concept in political science is its final and incontestable legal power. According to our original definitions of the state there must be an authority with the power to enforce – with violence if necessary – its decisions on its subjects, there being no other power that can question its authority. Absolute sovereignty is therefore complete independence of internal or external intervention. From this it should be clear that in practice complete sovereignty is not possible in internal affairs and still less so in external relations. Even the most powerful and remorseless dictator cannot act completely as he likes towards his own subjects; and the external affairs of state are restricted by realities within the international society. Absolute sovereignty is a myth, and at most we can speak of sovereignty within restrictive circumstances. Our statements in the previous paragraph show that the concept sovereignty as we apply it in the modern state comprises two components: internal and external sovereignty. Internal sovereignty In considering the historical development of the term sovereignty, we are struck by its close connection with the rise of the modern national state. For a time after the end of the middle ages, the state acted under the pretence of sovereignty because as a supreme upholder of the law, it still had to compete with other internal and external authoritarian structures. In the course time the national state succeeded in winning this struggle, with the result that today it is unquestionably accepted as the supreme upholder of the law, that is, the incontestable sovereign. The internal sovereignty of the State is reinforced by the fact that its members may be compelled to obey the laws and decrees made by the public authorities. Those who are not law – abiding of their own free will can be compelled to obey the law by punishment or the threat of punishment; those who break the law are duly punished – in the final resort by physical punishment such as imprisonment and execution.

As an instrument of policy force is used in an attempt to subjugate dissident wills, so that what is deemed to be necessary public order may be maintained. Within its territory the State monopolizes the legitimate exercise of force against adults, and this is another primary distinction between the State and other associations. The qualification, that only the State may employ physical coercion against adults, is necessary. Custom sanctions the use of corporal punishment by parents when they discipline their minor children, and power may for instance also be delegated to school authorities when they act in loco parentis. Some associations may punish members who have broken the rules by imposing fines or other penalties; a church may excommunicate an offending member; in other groups recalcitrant members may be ostracized. These pressures and punishments may be strong enough to deter people from breaking the rules, or to make members thus punished comply with them. Excommunication and ostracism can be terrible punishments indeed, if the religious or social tie means anything to the affected person. But no association except that State may use drastic physical force to compel obedience to its decisions. Only the State can interfere with the physical liberty and the very lives of its members. The recognition that power expressed in the use of force is essential to the State does not mean of course that such power should be unlimited and uncontrolled. The use of force is always open to abuse; and the question of how force may be tamed, controlled and made responsible is of profound practical importance in any political society.

External sovereignty We have seen that in a State there must be population, territory and a government exercising comprehensive jurisdiction; but a people inhabiting a definite territory and organized under government do not necessarily form a State, since the final quality of independence may be lacking. A specific political society may have certain institutions of self – government and nevertheless be subject in some matters to the decisions of a superior authority: such is the case for instance in colonial territories while they are still being prepared for independence. The component states of the USA too are all organized under their own governments (though these have only partial autonomy with regard to internal affairs) but what prevents them from being regarded as State in international law is the decisive

fact that they do not control their external relations, being subject in this matter to the Federal Government. It is thus finally necessary that the affairs of any political society which claims full statehood should be independent to formal control by any other state, and that the possibility of independent action must apply to the conduct of both internal and external affairs. (You will find a useful discussion of independence as an attribute of States in chapter IV of J. L. Brierly's *The Law of Nations*). It may or may not be morally right or socially desirable that an actually independent state should remain independent, or that some community should break away from an existing state and form an independent state of its own. To insist on a right, and particularly on a natural right of independence, suggests that for a state to pass from the condition of independence to that of dependence, as the American States did when they formed the Union, necessarily involves a moral loss, instead of a mere change of legal status to be judged according to the circumstances of the case.

External sovereignty has sometimes been interpreted to mean that a state may determine its own conduct without any restraint at all, and that any arbitrary or aggressive conduct may thus be justified. Apart from the grave moral objections to such a view (which in effect claims that might is right in international affairs, and that power may not be judged), there is also the practical consideration that no the whole modern states recognize obligations under international law, and that the actions of most states are prescribed as well by treaties, conventions, and other agreements. You will notice that we have spoken only of independence from formal control: the independence of states is indeed largely a matter of formal legal recognition, for the affairs and actions of most states are profoundly influenced and limited by economic, political and strategic necessity, and by the fact of interdependence among the nations of the world. Powerful states may furthermore exercise a great deal of number of Central American countries were for example at one time or another under military government imposed by the USA, which also had almost complete direction of their foreign policies for a considerable period. States with communist governments (such as those of Eastern Europe) have on the other hand been virtually controlled by the USSR as a result of the highly centralized discipline of the Communist Parties, which

received policy directives from Moscow. This influence though still great has of course decrease markedly since 1960, because of dissension among the communists themselves.

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