CHAPTER 3

INDIVIDUAL AND SOCIETY

Reference :

MacIver and Page—Society.

Relation of the Individual to Society. Individuals form a group and groups of individuals form a society. A society is therefore an aggregate of individuals who are component parts of a society. A society represents the whole and individuals represent only its parts.

Man is by nature and by necessity a social animal. He loves company and abhors loneliness and this dislike for loneliness coupled with his craving for company has made him a gregarious animal. The community-building nature of man is not only due to his love for company but also due to his hunger for affection of parents, love of his kinsmen and neighbours and for collective enjoyment of various recreations and social functions. Of the factors contributing to the sociability of man, the importance of the need for self-protection which group-life more effectively ensures can hardly be overestimated. Thus nature impels and necessity compels men to lead a social life.

But it must be borne in mind that society grew not all on a sudden nor by the conscious effort of one single individual but it evolved gradually out of the needs of man. As man is becoming more and more intelligent and civilised, he is becoming more and more conscious of the need for a social life and with the growth of this consciousness, the hold of society on the individuals is growing from more to more. From his birth to his death society regulates the life of a man in various ways. Now the question is : Why does man accept this priority of the claim of society ?

The answer to this question is that man cannot live without and outside society. Outside society his life is not only lonely and unbearable but he cannot also communicate with others. The latent qualities and tendencies in man cannot develop and find expression outside society in the absence of the opportunity to communicate with others. Every society has its code of conduct based on past experience and wisdom and every member of the society is subject to this code of conduct transgression of which entails punishment or is condemned. Why is the code of conduct generally obeyed by its members ? The reason is that unless a man's thoughts, ideas and ways of life are well-regulated, he cannot develop his personality to the fullest extent. It is within the social environment and by social influence alone that a man's thoughts and actions are properly chiselled and follow the right path. Outside society in the absence of communication with others, his sense of right and wrong, just and unjust cannot develop and as such the difference that separates man from the animal world ceases to operate. So Aristotle has said—the man who lives outside society is either a deity on earth or a beast.

Then are we to think that a man has no existence apart from society ? Is he completely subordinate and subservient to society ? The answer to this question is that society is formed of the individuals who are its integral parts. So it comes to this that just as man cannot live without society similarly society cannot exist without individuals. Society grew out of the needs of man and exists and functions for the welfare of man. The development of individual personality

leads to the development of society. A developed and enlightened society ensures the development of individual personality which in its turn improves social life. A society cannot exist and function without individuals who also cannot grow to their full stature without society.

It is not at all relevant or important today to ask which is greater or more important—individual or society? At the dawn of human life when social consciousness in man was very feeble, it was necessary for his own good and collective good to restrict individual freedom by placing society above the individuals. Thus the individual was made subordinate to society. But as man became more and more society-conscious and as he gradually appreciated that his welfare is indissolubly connected with the welfare of the whole, his submission to social laws and restrictions became more and more voluntary. This voluntary obedience and allegiance to the social code of conduct by the individual is, on the one hand, strengthening the hold of society on the individual and, on the other, these are weakening the rigour of the social laws and restrictions. Society on its part has come to realise that the attainment of collective good is not possible by unnesessarily curbing individual personality. A society which, unnecessarily and without rhyme or reason, seeks to obstruct the development of individual personality cannot last long for society exists for the all-round development of its individuals.

Growth of Society

Society, as has been said before, is not the outcome of conscious human efforts but is the result of a long process of evolution based on human needs and wisdom. The origin of human society is to be traced to the social nature of man. Men live together because gregarious life is definitely more advantageous than lonely life. Gregarious life is more advantageous for many reasons—for communication with one another, for the satisfaction of mutual needs and also for self-protection. So preservation of life and property and promotion of common interests are the two main purposes for which men grouped into a society. The basis of society is co-operation and it is co-operation alone which can remove the wants of individual man.

The interchange of ideas and ideals among men extends the bounds of knowledge. It is in this way that art and literature, science and technology, fine arts and music were born. These are products of society and are part and parcel of civilized life.

But the development of society has not been uniform or simultaneous in all ages and in all climes. At the present time highly organised and civilised societies like those of the Englishmen, Americans and Russians exist side by side with those of Esquimos, the Beduins and the Santals but advanced or backward each must have a society which has its own peculiar customs, traditions and code of life generally followed by its members. The factors that led to the formation of different societies among different people are racial characteristics, geographical environment and the mode of procuring livelihood.

Society is therefore a mode of living common to a group of individuals who are more or less bound by the code of conduct prescribed by the particular society. This code of conduct is not a fixed body of written laws but they grow up and change frequently with the changing needs of the group. Contact—peaceful or war-like, with other groups often may change the character and contents of a society. In spite of the differences and distance between dilfferent societies,

there is a growing tendency to economic and cultural contacts between different equal or semi-equal societies side by side with a desire on the part of advanced societies to pull up the less advanced societies. Man's interest is no longer confined to his immediate group but he is taking increasing interests in other groups. This tendency has led to the formation of many international societies—a fact which proves the essentially evolutionary character of society.

Family. The earliest and the first step towards the formation of society was perhaps the family which is a union of husband and wife on a stable basis for the procreation, maintenance and training of the offsprings. Each family has a separate existence and a unity of its own. The family is the starting point of society. It is evident from the fact that man in all ages and in all parts of the world lived in family the nucleous of which is the husband and wife. Man can hardly overcome the influence of the family wherever he may live and whatever he may do in future. The sense of duty and the spirit of co-operation which men pick up from the family life are the very foundations of social life. Family expanded into tribes and tribes into clans and with it men's allegiance and obedience instead of being confined to a limited sphere, extended beyond the family members became binding upon a larger group of men. It is in this way that society grew through different stages by different forces but the process of development is not at its end.

Society. A society is an aggregate of individuals bound together by some common end. According to Mackenzie, society is a general term which is applied to a great number of different modes of unity among individuals. The state exists within society which contains other associations and institutions.

Community. A community is an aggregate of individuals bound together by ties of common customs and traditions and conscious to some extent of social objects and interests. MacIver and Page define a community as follows : "A community is a permanent social group embracing a totality of ends or purposes. It is a term we apply to a pioneer settlement, a village, a city, a tribe, a nation." The definition of a community as given by G. D. H. Cole is more explicit and easy to understand. "A community", says Cole, is a complex of social life, a complex including a number of human beings living under conditions of social relationship, bound together by a common, however, constantly changing stock of conventions, customs and traditions, and conscious to some extent of common social objects and interests". In order to form a community, a group of individuals need not possess any definite territory, nor does it require any organisation of its own. The essential feature of a community is that the members of a community must have some common objects and interests. A community is characterised by a system of rules and a definite structure which help its members to live a common life. A community may contain within its fold a variety of other associations and institutions which help the members of the community to pursue their individual as well as collective interests. So associations and institutions are means whereby a community can realise its objectives.

Communities may be large or small. They may be self-contained, all inclusive and isolated. These were the characteristics of ancient communities but modern communities are much larger but less self-contained because of their mutual interdependence in economic and increasingly so, in political matters.

There may be communities within a community. A man may be a member of the Indian Community and at the same time he may belong to a village or

town community, a member of the Bengali-speaking community or a member of the Hindu community. The development of the means of communication coupled with the growth of a world-wide common economic, political and cultural interests has removed the iron curtains that separated one community from the other and the modern tendency is not to confine community with reference to the context of village, or town or region or even nation but extend it beyond the national frontier. The nation lives within the world and a world community is perhaps the final process of development.

Association. Besides community, another grouping of society is the different kinds of association as a means to ends achieved by a group of people. MacIver and Page define an association "as a group organised for pursuit of an interest or a group of interests in common." Associations grow within a community for the purpose of promoting the common interests of its members. A man today is not only a citizen but he has got numerous other interests in life. These interests are fulfilled through numerous associations of every kind,—political, economic, educational, religious, scientific, professional and philanthropic. An association pursues one or a few common interests while society acts through its numerous associations for a variety of objects. Some associations grow spontaneously out of the needs of the time, e.g., the family, some associations are voluntarily formed by its members, e.g., a football club while some others are created by the state or come into being with the sanction of the state. The army is created by the state but a co-operative society can come into existence only with the consent of the state. The state is also an association within society but it is the biggest and the most powerful of all associations vested with the power of life and death over all other associations.

A community should be sharply distinguished from an association which grows within a community. A community is full of associations of different kinds. A village or a town which is a community of individuals representing a totality of human relationship may contain many associations like a school, a football club, a co-operative society, etc., which are purposive associations each having specific interest to promote. Associations are, therefore, machineries through which the members of a community promote a specific interest of its members. A community acts through associations and institutions which are natural and inevitable by-products of social life.

Institution. The word 'institution' is used with reference to many contexts. An association imparting education and culture is called an educational institution. The family is also called an institution. But the word institution is used in specific sense meaning a number of time-honoured ways of social life regulating the relations between individuals and groups. Barnes defines social institutions as "the social structure and machinery through which human society organises, directs and executes the multifarious activities required to satisfy human needs". If we accept this definition then the educational institution, the family, the state, no less than marriage,—each may be regarded as an institution because each one of them represents a social structure by which social activities of man are either directed or executed. Institutions are really speaking ways of living recognised and approved by society. Institutions are generally natural growths of a society and are enduring in character, but some institutions are the direct outcome of deliberation and planning. Institutions are the wheels on which human society marches on, the machinery through which society carries on its activities, as Barnes calls them.

An institution should not be identified with an association which is formed of a group of individuals for specific ends. An institution, on the other hand, means a mode of doing things. An institution is the machinery through which an association seeks to realise its object or objects. The distinction between an association and institution may be clarified with reference to the two terms family and marriage. The family is a primary association of human society the main object of which is the procreation of children so that the human race may continue. This object is realised through the machinery of marriage. So the family is an association and marriage an institution. Marriage as an institution is universal among mankind though the forms or procedure governing the relations between man and woman vary from place to place. Marriage as an accepted and enduring form of human relationship originally grew out of the needs of society, at a later stage this accepted form of human relationship underwent modifications by conscious planning. So also is the case with another institution through which the family acts, namely, private property. Every group of individuals forming an association has its corresponding institutions. Political association namely, the state has its institutions like the party system, elections. A man may belong to an association but he cannot belong to an institution : Associations are things which are born and which live but institutions are ways or modes or systems which move and act.

SUMMARY

Individual and Society—Individual and society are closely interdependent. Men formed society because they cannot live outside society. Nature impels and necessity compels man to form and live in society which is a gradual growth and not the work all on a sudden. The family is the primary stage in the formation of society. Out of a grossly imperfect beginning and travelling through various stages of evolution, society has assumed its present form.

A man attains his full stature only as a member of society. The priority of the claim of society is to be accepted for the good of the individual but society also cannot be stable by completely curbing the personality of the individual. The perfection of the parts leads to the whole and the perfection of the whole contributes to the perfection of the parts. Therefore individual and society are inseparable.

A *community* is a group of individuals, big or small, united together by certain common bonds and conscious to some extent of social interest, e.g. village community.

An *association* is also a kind of grouping in society organised for pursuit of one or a few interests. There may be political, economic, cultural or religious association within a society. Associations are means to achieve a specific interest of a particular group of men.

An *institution* means a mode of doing things. It is the machinery through which an association seeks to realise its object or objects. Marriage as a social institution serves as a tool for fulfilling the purpose of the family, namely, propagation of the species.

QUESTIONS

1. Discuss the growth of society. What part did the family play in the growth of society ?

2. Define the term 'association' and distinguish it from (*a*) Community and (*b*) Social institution. (C. U. 1947)

3. "We are born and live in association, but we move and act through institutions". Explain and illustrate.

4. Discuss the relation between Individual and Society. (C, U, 1976,, 1981)

CHAPTER 4

THE STATE : DEFINITION, NATURE AND CHARACTERISTICS

References :

Garner—Political Science and Government, Chs. 4 and 5.
Wiloughby—The Nature of the State, Chs. 1, 2.
Barker—Principles of Social and Political Theory (1965) pp. 42-77.
Gettle—Political Science, Chs. 3, 4.
Rodee, Anderson, Christol and Greene—Introduction to Political Science Ch. 2.

Definition of the State. Political science deals mainly with the state. We should, therefore, have a clear understanding of the term 'state'. The term 'state' was first used by Machiavelli in the modern literature of Political science. The Greeks and the Romans lived in what is called city-states and they used term *'polis'* and *'Civitas'* respectively which were quite appropriate for the purpose of describing the nature of the ancient state. The Teutons used the term *'Status'* which conveyed some idea of the territorial nature of the state. In modern times the term 'state' is used in various senses. It is used as a synonym for nation, government, society or country. The term is also wrongly applied to certain political communities which are not regarded as states at all, viz., the component units forming the federation of the United States of America and also of the Indian Union.

The term 'state' has been variously defined by different writers and in order to understand the true nature of the state, it is necessary that we should examine some of the important definitions:

Aristotle defines a state as "A union of families and villages having for its end a perfect and self-sufficing life, by which we mean a happy and honourable life."

Bluntschli defines a state thus :—"The state is a politically organized people of a definite territory." The German writer Seydel says, "A state comes into existence whenever a number of men who have taken possession of a part of the earth's surface, unite themselves together under a higher will." Woodrow Wilson defines the state thus :—"A state is a people organized for law within a definite territory."

There are other definitions, given by Hegel, Holland, Sidgwick, Willoughby and a host of others but none of them is comprehensive inasmuch as each one of them emphasises only a particular or a few aspects of the state and neglects the others. A correct definition of the state should, therefore, include the essential elements of the state and explain its true nature. Dr. Garner's definition of the state is regarded by many as the best. The definition runs as follows—"The state, as a concept of political science and public law, is a community of persons more or less numerous, permanently occupying a definite portion of territory, indedendent, or nearly so, of external control and possessing an organized government to which the great body of inhabitants render habitual obedinece."

Essential elements of the State. The essential elements of the state,—political, physical and spiritual are (a) population, (b) territory, (c) organisation

and (d) sovereignty. Population and territory constitute the physical basis of the state while government and sovereignty make up its spiritual basis.

(a) *Population*—There cannot be a state without a number of people including citizens, subjects and aliens. But there is no hard and fast rule regarding the size of the population. Aristotle laid down the principle that the state should be large enough to be self-sufficing and small enough to be well-governed. Plato limited the size of the population of the state to 5,000 and Aristotle laid down that the number should not exceed 10,000. With the advent of big territorial states in modern times, the old idea of states with fixed number of population has been abandoned. But even in modern times, big populous states like the Peoples' Republic of China and India are to be found side by side with tiny states like Monaco, San Marino and Andora. The last-named state has a population of only five thousands while the population of China exceeds 422 millions. Rousseau also considered that the number should be limited. But every state must have a population sufficient to constitute a ruling body and a number of persons to be governed, and of course, sufficient to maintain a state organization.

The importance of population in the activities of a modern state can hardly be overestimated. Population is of first rate importance in building up a sound economic system in a country and it is all the more important in making the country invulnerable against foreign invasion. The Governments of Hitler and Mussolini granted state help to parents producing children above a given minimum. Russia also encourage the growth of population. But disproportionate increase in population without any reference to the productive efficiency of the country often causes economic stagnation and poverty. Disproportionate increase of population as in India and Italy causes abject poverty and great inequality of income. Under such circumstances, a country has no other alternative to solve the problem of over-population except by adoption of birth-control measures, measures for increasing production and the extreme measure of forcibly snatching away land from another country for its surplus population. On the other hand population growth in the U.S.A. is less in proportion to their natural resources and technical knowledge. So these countries may support a larger population. A country with a declining population as is the case with France becomes economically and politically weak. The significance of population as an essential element of the state may be discussed from another point of view. If the population of a country possesses racial, linguistic and religious unity, they are more strongly united as a nation. The absence of these unities often strikes a discordant note in life of a nation as a whole. But divergences of these unities have not stood in the way of formation of a strong national consciousness in the U.S.A., and Switzerland. It is, however, to be borne in mind that the size of population is no criterion of the state. It makes no difference in its statehood.

(b) *Territory*—A permanent relation of the people to the soil is essential to the formation of a state. Population and territory go hand in hand. Nomadic tribes like the Beduins cannot form a state. The territorial jurisdiction of a state extends not only over the land but also over rivers, lakes, mountains, marginal sea, sub-soil and aerial space above it. Territorial sovereignty of a state has certain exceptions. Ambassadors, embasies and men-of-war even when they are in a foreign state remain subject to the jurisdiction of their respective states. The extra-territorial rights enjoyed by all states rest on mutual consent of all states. But there is no definite rule regarding the extent of territory which a state must contain within it. The size of the modern state is determined largely by its

geographical conditions, natural resources and the outlook of the people. Ancient states were small in size but the modern tendency is towards an enlargement of the territory. The development of the means of communication and the introduction of the system of local government have contributed to the growth of big territorial states.

The concept of territory is inseparable from that of the state in view of the fact that territory is an element which distinguishes the state from other forms of social organisation. Territory has a special significance in the formation of a state in the sense that membership of the state is confined to the people living in its territory, while members of other associations may belong to different territories of different states. Again, a state may contain many voluntary associations within its territory, but not more than one state can exist in the same territory.

No limit, like population, can be put on the territory of the state. Small states exist along with the large. The little republic of San Marino comprises an area of 38 square miles as compared with the United States, and India which cover 3,735,223, and 12,61,597 square miles respectively.

The power and prosperity of a state also depend, to a large extent, on the size and extent of its territory. A big state with a variety of natural resources possesses greater advantages in ensuring a better and higher standard of living to its people than a small state. The U.S.A. a case in point. But it must also be admitted that a big state unless properly developed and properly protected becomes more vulnerable to foreign invasion than a small state. The dangers of a big state not well-organised are amply proved by the case of India. A small state has greater political advantage than a big one inasmuch as it has greater unity among its people and as such it is capable of building up a sound corporate life. It is also best suited for democratic government as is amply proved by Switzerland. But lack of economic self-sufficiency and of military security is the greatest weakness of small states. Small states invariably fall an easy prey to their big neighbours. But it should be borne in mind that the greatness of a state depends not only on its size. In the last analysis, it is the character and temperament of the people that count more than anything else. Ancient Greece was very small but the impact of its power and civilization was felt practically throughout the world. In modern times, the tiny island of Great Britain has exerted a tremendous influence in shaping the course of world events. Power of defence and general prosperity of a country depend on geographical location.

(c) *Unity of organization*—Population and territory, however, cannot form a state. There must be some sort of political machinery which exercises the supreme power of the state. The government is that machinery or organization through which the collective will of the state is formulated, expressed and enforced and the ends of the state realised. Unless people of a territory are subject to the control of an organized government, a territory cannot be called a state simply because it is inhabited.

(d) *Sovereignty*—Sovereignty is the most important characteristic of the state. It is the distinctive mark between a state and other forms of human organization. Sovereignty has two aspects, viz., all comprehensiveness and exclusiveness. The first one implies the idea of an unlimited authority of the state to impose its will upon all persons, associations and things with its jurisdiction. The supremacy of the state within is known as *internal sovereignty*. The

second aspect of state sovereignty means independence from foreign control. If a state is controlled by another state, the former will no longer be regarded as a sovereign state and it will become a part of the state which exercises control over it. This is the reason why India before August 15, 1947, could not be regarded as a state. This aspect is known as *external sovereignty*.

Among modern writers, Prof. Laski defines the state as "A territorial society divided into government and subjects claiming, within its allotted physical area, a supremacy over all other associations." Laski was a writer who at least upheld the pluralistic view of state sovereignty. But on a close examination of his definition of the state it appears that he did not like to deprive the state altogether of its sovereign character. MacIver is openly pluralistic in his view of state sovereignty and practically places the state on a par with other associations. He proposes to limit the absolute sovereignty of the state by making it commensurate with the functions of the state. According to MacIver, "The state is an association which, acting through law as promulgated by a government endowed to this end with coercive power, maintains within a community territorially demarcated the universal external conditions of social orders."

The above analysis of the elements of the state points to the fact that the state is both an 'abstract concept' and a 'concrete organisation'. From the abstract point of view, it is a juridical person, a corporation, distinct and separate from the people and territory constituting its physical aspect. In the concrete sense, it is identified with its physical elements, population and territory. Political Science is a study of both the aspects of the state.

Idea and Concept of the State. Some writers have distinguished the *idea* of the state from the *concept* of the state. The idea of the state refers to the ideally perfect state while the concept of the state means an actual state with all its limitations and imperfections. The concept of the state is a concrete state, having all the natural and essential characteristics of actual states. The idea of the state is an imaginary state, the state as it ought to be. Many writers hold that the idea of the ideal state will materialise in the establishment of the universal state, a beginning of which was made by the establishment of the *League of Nations,* and then by the *United Nations* and such other international institutions which may be said to be the precursors of the future world state.

The distinction has been further elaborated by Prof. Burgess who holds that the idea of the state is the state perfect and complete while the concept of the state is the actual state moving towards perfection. He hopes that with the gradual progress of mankind the state as a concept will be identical with the state as an idea.

Every age has its own ideal of the state. Both Plato and Aristotle drew the picture of an ideal state which, according to them, was the city-state in which man for the first time became fully independent and self-sufficient. The ideal of the city-state was replaced by that of the world-state organised on the basis of force. Beginning with Alexander the Great and ending with Adolf Hitler, several attempts were made to realise the ideal. But the nineteenth century saw the birth of nation states organised on the basis of the principle 'one nation one state'. The ideal of the world-state has been revived in the present century though in a new form. The new ideal is embodied in the organisation of a world-state not on the basis of force but on federal principles. The 'United Nations' stands for that lofty ideal.

city state ... = Plato Aristotle
world state = Alexander Hitler
... state = 19th century

Other aspects of the State.

(a) *Permanence and Continuity*—A state is a permanent association in the sense that a community of persons once politically organised must continue to live within a state. Continuity refers to the concrete and corporate existence of the state which is not affected by changes in the form of government. A revolution may bring about a change in the form of government but the concrete existence of the state continues with but a different form of government.

(b) *Equality of states*—Writers on international law advocate equality of all states in the eye of international law. Equality implies two things, legal equality and political equality. The former implies the right of every state, big or small, to protection before the law while the latter refers to the right to equal voice in international affairs. Legal equality of states is an accepted dogma in modern political science but the demand of small states for equal voice in international affairs has not yet been recognised.

The state according to International law. A community of persons possessing the characteristics of a state as enumerated above may not be recognised as a state by international law which requires something more to constitute a state. The state as a concept of international law must be fully independent and must have the legal capacity to enter into international relations. It must possess the power and will to fulfil its obligations to other states. The recognition of a state as such by other members of the family of nations confers upon it the right to legal and political equality. So long as a state is not recognised by other states, it cannot be regarded as a full-fledged state though it may possess all the essential elements that go to constitute a state. Recognition by other states is, therefore, a condition precedent to statehood according to international law. Since the coming into being of the United Nations, membership of this all-important organisation is deemed essential to a state for the attainment of international statehood.

Is the United Nations a State ? The United Nations is in a sense the successor to the League of Nations which came into existence and functioned in between the two World Wars. Like its predecessor, the U. N. is an international association of sovereign states which is more in the nature of *Stratenbund* than a *Bundesraat*. The Charter of the U. N. which is the basis of this great international organisation nowhere gives the slightest indication that states forming this association have in any way vested sovereign authority upon the U. N. by surrendering their own. The U. N. is therefore lacking in the most essential attribute of a state, namely, sovereignty and as such it cannot be given the status of a state, far less a super-state inasmuch as it cannot enforce its will upon a dissentient member. The member-states reserve the full right to secede from it at their will. Besides, the U. N. has no citizen of its own and no territory to govern excepting its headquarters in New York. The U. N. of course possesses a sort of governmental organisation of its own consisting of the General Assembly, the Security Council, the International Court of Justice and a Secretariat but the mere possession of a governmental machinery is not the sole criterion of a state which must be sovereign both within and without. So long as the U. N. is not vested with this sovereign authority to regulate the activities of its member-states, it cannot be called a state.

The position of the British self-governing Dominions and India. It may now be asked : Are the British Self-Governing Dominions states ? The answer to this question, according to the strict definition of the state, is a simple negative. They are members of the Commonwealth of Nations and theoretically subordinate to the British Crown. In case of a war between Great Britain and any other country, the enemy country will not recognise the neutrality of any of these dominions unless they openly declare their neutrality as was done by the Irish Free State (EIRE) during the Second World War. But there is another and more important aspect of the question. Since the First World War, these dominions have attained a status which is regarded as good as independent and, to crown all, the *Statute of Westminster* 1931, recognises them not only as autonomous units, but also as equal in status and in no way subordinate to the mother country. The Statute also leaves them free to secede from the British Empire when they so desire. The British Parliament exercises only a nominal control over them. They may not be regarded as separate states but for all practical purposes they enjoy almost all the rights of states and hence Prof. Garner defines the state as 'a community of persons.....independent, or nearly so'..... The Dominions are nearly independent and their claim to statehood has almost been recognised inasmuch as they are free to conduct their government in their own way and to have foreign relations according to their free choice.

It is necessary now to discuss the status of the newly created state—India which came into existence by the Indian Independence Act, 1947. The Act terminated all British authority over the Dominion, conferred sovereign powers on the constituent assembly of the Dominion to frame its constitution in its own way and even to modify or reject the Independence Act itself. It was also provided that the title "Emperor of India" was to be dropped from the title of the British King. Lastly, the dominion was completely free to secede from the Commonwealth. Besides, the word 'British' has been dropped from the term 'British Commonwealth of Nations', which implied British superiority.

But there are critics who refuse to recognise the statehood of India simply on the ground of her membership of the Commonwealth which seriously detracts from her sovereign democratic character. True it is that she still continues to be a member of the Commonwealth and recognises the British King or Queen as the symbolic head of that Commonwealth without owing allegiance to Him or Her but these in no way weaken her sovereign character. The Queen has no doubt been recognised as the symbolic head of the Commonwealth of which India is a member but the Queen has no function in relation to India. The Head-ship of the Queen, so far as India is concerned, is only notional. "The Commonwealth of Nations," says an expert, "is founded partly on sentiment and partly on mutual self-interests ; in some of the Dominions the one predominates, in others, more importance is attached to the other." India continues to be a member of the Commonwealth because as a sovereign state, she herself has chosen to remain so in view of certain benefits to her in the sphere of economic and political matters. Besides this, a careful study of the New Constitution of India will reveal that India has adopted in her constitution many of the basic principles of the British Constitution, such as, parliamentary democracy, rule of law, judicial independence. It is. therefore, only natural that she should maintain a relation of friendship with Great Britain for her own interest without in any way impairing her sovereign status.

In the Commonwealth Conference of May, 1949, the Prime Minister of India made it abundantly clear to other members of the Commonwealth that in the near future, India would proclaim herself to be a Sovereign Democratic Republic and this status of India was accepted by all. So it is useless to deny statehood to India.

State and Government. It is now necessary to distinguish between state and government, because failure to distinguish between the two led to great confusion in the past. Government, as we have already seen, is only one of the four characteristics of the state. Government is the agency which is set up by the state and through which the collective will of the state is formulated, expressed and enforced. "The state", Dr. Garner says, "is a sovereign community", while the government is the collective name for the agency, magistracy or organisation through which the will of the state is formulated, expressed and realised. It includes the sum-total of all the legislative, executive and judicial bodies in the central and local organs. The state includes the whole body of people whereas the government only those who are engaged in expressing and enforcing the will of the state. The government is therefore narrower than the state.

The state is a permanent association whereas the government may be short-lived. The state may continue in spite of changes in the government.

The state possesses sovereignty whereas the power of the government is merely derivative, being delegated to it by the state.

The individual may have rights against the government but he has no rights against the state. In our daily life, it is not always possible to make a scientific distinction between the will of the state and that of the government. What we mean is that an individual may not have rights, in the legal sense of the term, apart from the state. The state is the fountain of all rights.

Again, we find that all states are alike. The characteristics, viz., population, territory, government and sovereignty,—are common to all states but governments differ in their forms and organisations.

Lastly, the state is largely an abstraction which can be conceived apart from the existence of any particular state but government is concrete. The state is subjective, the government is objective.

State and Society.

First, Society is wider than the state. A society is a group of individuals bound together by some common social objects ; whereas the state is born within society for the attainment of specific ends. A state refers only to the politically organised portion of society.

Secondly, in order to constitute a society a definite territory is not essential. But a state is unthinkable without a fixed habitation.

Thirdly, in point of time, society is prior to the state. Man is by nature a social animal. The social instinct in man manifested itself long before he could even conceive of creating the state, "Kinship creates society and society at length creates the state."

Fourthly, a state must possess an organised government to enforce its will but a society need not possess any recognisable political organisation. There are

many primitive social groups like the Beduins or the Eskimos who do not possess any organised government.

Fifthly, a society does not require sovereignty which is the essential characteristic of the state and without which the state loses its statehood.

Lastly, the two differ in so far as their aims and objects are concerned. The state, as we have seen, is only one of the many associations within society and is entrusted only with a limited function. The state regulates only the external conduct of men, but society has a wider ideal, viz., that of regulating the external acts, thoughts and motives of men. The influence of society on the individual is more far-reaching than that of the state. The individual is born in the society and is bred up by social forces like love, affection and fear and by social institutions like custom and competition,—all of which may be controlled but not created by the state.

State and Association.

First, the state is essentially a territorial organisation in the sense that the activities of a state are mainly confined to its territorial boundary. When we speak of any state, we refer to a particular territory. But the activities of an association need not be confined to a definite territory; an association may extend even over the whole world; e.g., the Roman Catholic Church.

Secondly, membership of the state is compulsory, while membership of an association is of a voluntary nature. An Englishman becomes a citizen of Great Britain as soon as he is born. He has no choice in the matter under ordinary circumstances. But he is free to change his school or club after giving due notice.

Thirdly, a man may become a member of as many associations as he likes but he cannot be a member of more than one state at the same time.

Fourthly, a state differs from other associations in so far as the aims and objects of voluntary associations are concerned. Voluntary associations are formed for the purpose of promoting a particular or at most, a few particular interests, whereas the state is concerned with the care of general rather than particular interests.

Fifthly, voluntary associations have generally a transient life. They may dissolve or break up due to various reasons. But the state endures for ever.

Sixthly, associations sometimes grow out of the needs of time; sometimes they are created by the state. But they exist only with the consent of the state. The state reserves to itself the right to dissolve them.

Lastly, voluntary associations lack the legal power of coercion. They cannot compel their members to obey orders. Associations can at most expel their members for disobedience or inflict some fines. The state, on the other hand, is vested with sovereign authority. It not only can fine, imprison or confiscate the property of a member who refuses to obey its orders, but in extreme cases, can deprive him of his right to life.

The state is, therefore, the most important association which supplements and supervises the activities of all other associations within society. It is an all-embracing, permanent and compulsory association, theoretically vested with almost unlimited power for the purpose of promoting the welfare of all the people.

State Sovereignty—Personal or Territorial ?

The Physical basis of the state is its population and territory both of which are essential to the formation of a state. "A state", says Woodrow Wilson, "is a people organised for law within a definite territory". Closely following the definition, it may be asked, "Is the state to be viewed primarily as a group of people or primarily as a definite area of territory ?" If we regard the state primarily as a group of people, the sovereignty of the state would be personal, while, on the other hand, viewed as an area of territory, the sovereignty of the state would be territorial. In the first case state sovereignty would be exercised over all its citizens wherever they might live. State sovereignty would then be extended even beyond national boundary. In the second case the sovereignty of the state would then be exercised over all persons within the national frontier—citizens and aliens alike.

The principle of territorial sovereignty of states has been recognised by modern states although certain exceptions are made in special cases. Ambassadors and Men-of-War enjoy freedom from the territorial jurisdiction of the state in which they may happen to stay temporarily. The principle has been recognised by all states and forms an important provision of international law which is generally observed by all nations. The principle of personal sovereignty of states has been abandoned altogether in recent times. Certain great European powers like Great Britain, France, Germany used to exercise their authority over their own citizens even when the latter lived in Asiatic countries. The extra-territorial-jurisdiction empowered them to apply their own laws over their own citizens in foreign territories. Thus an Englishman killing a Chinese on the soil of China would not be tried by a Chinese court but by an English court according to English law. Such extra-territorial rights enjoyed by foreigners raised a storm of protest from the local people and ultimately the European powers were forced to surrender this illegitimate right. But remnant of this right still persists in the case of the law called *jus sanguinis* governing the acquisition of citizenship. A child born of citizen parents of a state becomes a citizen irrespective of the place of birth. This rule is at variance with the principle of territorial sovereignty of a state.

Marxian Theory of State—Marx and his friend Frederick Engels have explained the origin and nature of the state from altogether a novel point of view by rejecting the earlier views about the state. According to Marx and his followers, the machinery of the state was a device for the perpetuation of the process of exploitation of one class by another class. Under primitive communism, there was no class division, no inequality between man and man and there was no need for the machinery of the state in the absence of exploitation. But with the diabolical device of private poperty in land, division of labour, extension of market, surplus produce, profiteering, came into existence a different social organisation which destroyed primitive equality and divided society sharply into two classes—in the form of master and slave, feudal lord and serf, capitalist-employer and the workers. At each stage the economic foundation, i.e., its method of production has largely determined the character of society. The more powerful surplus owing class—the slave-master, the feudal lord, the capitalist-employer and lastly, the class have exploited the working classes and the state machinery which was an invention of the exploiter class has been utilised in defence of the right of exploitation. So state-structure at every stage

of social transformation reflects the character of a class rule. The defence forces, the judiciary, law, police force, are so organised that all these apparatuses may protect the interest of the ruling class. The state will wither away when full communism will be established when there will be no class rule as there will be no exploitation.

Historical Structure of the State.

The structure of the state has varied from age to age. The form in which the state exists today is quite different from the forms in which it existed in the ancient and the medieval world. This structural difference of the state in different ages was the outcome of the impact of various forces of which perhaps the geographical factor played the most important part. Thus in the East the early states mainly took the form of Empires while in the West it emerged and continued in its existence for a long time mainly in the form of tiny city-states.

1. **Early Empires.** The Imperial state was perhaps the earliest form of state organisation which emerged from primitive and patriarchal conditions of early society. Empires came into existence at a comparatively early period in oriental countries where conditions favouring the growth of empires were plentiful. In spite of almost insuperable difficulties of communication, these empires held sway over vast territories covering two or three continents. The ancient Egyptian, Assyrian, Persian and Chinese empires were some of the biggest empires of the ancient world. Conquest by force was the sanction behind all these imperial states which were mainly concerned with collection of taxes and recruitment of fighting men from conquered territories. The empires were dynastic and succession to the throne was hereditary. When a dynastic ruler became weak in his fighting power, he was invariably ousted either by a more competent rival or by an uprising of the conquered people. The conquered races had no right, no privilege but more often they were reduced to the position of slaves. The will of the emperor was the supreme law throughout the empire enforced through provincial governors who were either princes of the blood royal or emperor's trusted lieutenants. The ancient empires rested solely on force without any reference to the will of the governed. Hence they fell to pieces with the same abruptness with which they came into existence.

At a later stage empires also rose in the West. Macedon, the Greek city-state, was the nucleus of a big empire in the West. The work of building up an empire begun by the Macedonian King Philip was completed by his 'war-like' son Alexander the Great who in the course of a few years established a vast empire by conquering the whole of Greece, Egypt, Persia and a part of India. Alexander's empire like early empires of the Orient was also not stable. It fell to pieces soon after his untimely death. After Greece came Rome almost as a world empire. The Roman empire had certain distinguishing features which gave it comparatively greater-stability. The Romans evolved a system of law and administration, which is still regarded as the basis of modern law and administration.

Beginning from the eighteenth century right up to the first quarter of twentieth century, the British, the French, the Dutch, the Spaniards, and the Portuguese established vast empires in Asia, Africa and America. But like the ancient empires, these also crumbled before the surging tides of nationalism of the subjugated races. Imperialism is today a dying force. It cannot be lasting as it has no moral sanction behind it.

2. **The City-State.** The city-state is a form of political organisation which developed mainly in Greece. The physical environment of Greece broke up the country into small parts each separated from the other either by the sea or the mountains. The different communities inhabiting these small areas developed features peculiar to their own. In spite of a common racial origin, the different communities developed a sort of local patriotism which impeded the growth of national consciousness. The city-state was thus the outcome of local patriotism which developed a variety of political institutions in the different areas. The size of the Greek-states was confined to the city which was the centre of all activities. The Greeks identified the state with society and all their activities were focussed at one point, namely, the state apart from which, the Greeks believed, man could not reach his best self. Athens and Sparta, two of the Greek city-states, attained a higher level of political development and individual liberty. But the city-states suffered from many serious limitations of which the institution of slavery, suicidal rivalries between the city-states themselves, especially between Athens and Sparta and above all, a sense of superiority to all other races born of their parochial patriotism were responsible for the downfall of the city-states.

3. **The Feudal State.** The feudal state arose out of the ruins of the Roman Empire. After the fall of the Roman Empire, the whole of Europe was split up into a number of feudal states, each of which though under a monarch, was based upon the relation of the lord to vassal, with the holding of the land in feud. The principal classes of people were the nobles or lords, the clergy and the peasantry, both free and unfree. Under this system land was divided into fiefs, each held by the tenant or vassal as long as he rendered military and court services to his superior lord, who might himself be a vassal either directly of the King or of a higher nobleman. Thus under feudalism, a hierarchy was established upon the basis of land-holding, each class owing allegiance to the immediate overlord. As a result of such limited loyalty, the idea of a sovereign authority superior to all local or class authority could not develop. The system of feudalism prevailed in Japan also before 1868.

In the absence of a central sovereign power reigning supreme in a particular territory, the feudal state was a state built upon a weak foundation. The constant rivalry between the feudal lords destroyed peace and progress and reduced society into an anarchic state.

4. **The National State.** The feudal system was not favourable to the growth of national unity inasmuch as the imperfectly developed spirit of nationalism was quite insignificant in comparison with the prepondering interests of the feudal Kings. The Renaissance and the Reformation which followed the decline of feudalism strengthened to some extent the solidarity of the European states but this solidarity was used more for consolidating the authority of the established dynasties than for substituting the sovereignty of the people for the sovereignty of the ruler. Of the factors contributing to the growth of national consciousness among the people, Garner opines, 'The influence of education and general enlightenment together with development of political consciousness and love of liberty, were not the least of these."

The Partition of Poland, delimitation of boundaries of states by Napoleon without any reference to the will of the people and callous indifference of the

peace-makers of the Vienna Congress to reorganise the states on a national basis were some of the material factors which helped unite like groups of people to stand up for their individual as well as collective rights. The right of nationality to self-expression and self-development through its own state-organisation so long suppressed burst out in the form of armed revolutions and acquired such a great impetus that President Woodrow Wilson realised the imperative necessity of reorganising states on a national basis. Thus the right was recognised for the first time at the Versailles Peace Conference as a result of which new law-states, such as, Czecho-slovakia, Yugo-slavia, Poland, etc., came into existence. The underlying principle of national state is 'One nation one state'. In the words of J. S. Mill, in such a state, the boundaries of government coincide in the main with those of nationalities.

The reshuffling of states on a national basis may be desirable from many points of view but it should be remembered that where the creation of such national states aggravates group-jealousy and breeds provincialism on the one hand and tends to endanger international peace by its bellicose attitude on the other, the creation of such national states can hardly be justified.

5. **The World-State.** The world-state is conceived to be the ideal form of state organisation having no objective existence as yet. The national state was the product of the active national consciousness which grew among the different races of Europe as a result of a political evolution spread over several centuries. The national states that came into existence were productive in the sense that each of them enriched the common stock by its individual contribution to the progress of civilization. But they were destructive in the sense that jealousy, mutual distrust and scramble for power among the national states created a situation in which war became inevitable. Patriotism became a synonym for hatred towards other nations and nationalism degenerated into imperialism. The two World Wars bear testimony to the evil effects of this perverted form of nationalism.

But fortunately for mankind, nations have now realised that the national state is not and cannot be the ultimate unit of human organisation, that boundaries of states are artificial creations and that differences of race, language and religion are not insuperable difficulties in the process of creation of a common human interest among mankind. Without this sense of common human interest no nation can exist and the basis of the common interest is mutual trust and goodwill—its guiding principle being 'live and let live'.

The colossal devastation of the Second World War forced nations to meet for the second time on a common platform by giving up their mutual exclusiveness. Nations met once before to create a common world organisation and the outcome of the first effort was the birth of the League of Nations. But the League died a premature death owing to its imperfections. The world-state now exists in the form of the United Nations and it has at least some achievements to its credit for promoting international co-operation and goodwill. The United Nations may die but even then it will not die an inglorious death like its predecessor. The world-state does not mean that there will be one state throughout the world with a single sovereignty but what it really means is a federation of all states regulating common affairs of the states but at the same time recognising the inherent rights of every nation to self-expression and self-development so that all causes of all conflicts among nations may be minimised.

The greatest obstacle to the development of a world-state is the idea of national sovereignty—an idea which by its very nature is exclusive. The state is vested with sovereign authority in order to preserve and promote all that is good in society and not to destroy by devastating wars. The idea of a world-state may be fruitful only when the notion of state-sovereignty is surrendered in its external aspect.

Future of the State—From a study of the state in all its aspects it appears that the state is a dynamic organisation of mankind changing its form and character from age to age. It is probably true that the state had its origin in the family which in course of time developed into clan and tribe and the expansion of the family into bigger organisations shifted the obedience and allegiance of its members from the father to the tribal chieftain. The rise of agricultural economy brought into existence the territorial state which by the method of war and conquest developed into early empires. While in the orient the state arose mostly in the form of empires based on force, in the West, the state took the form of city-states more or less on a democratic basis. Empires and city-states were in course of time replaced by feudal states which were supplanted by nation-states fed and strengthened by the patriotism of a group of people having racial, linguistic, cultural and economic ties. Thus the nation-state became the common form of political organisation of a people of a particular geographical area and the claim of these national groups became so strong at one time that it appeared that the nation-state was the final form of state organisations. But soon after the conclusion of the Second World War it seemed that nationalism had exhausted its claim on the national groups—that nationalism was gradually receding giving place to internationalisn. A world-state in the form of a World organisation like the United Nations based on the common consent and sovereign equality of states irrespective of their size and power is the final form of the state. But this cannot be accepted *in toto* in view of the fact that alongside these developments, new forces are at work to create regional organisations of nation-states like the NATO, SEATO, CENTO and the Warshaw Pact states, Islamic states, Non-aligned states, etc. Will the state then be transformed into a number of regional organisations? Or will a group of satellite states revolve round its sun—a great power like the U.S.A. and the U.S.S.R. ? These are questions to which no final answer can be given. But the fact remains that nations in spite of a definitely increasing international spirit will never condescend to barter away their sovereignty for a psychological ideal, namely, internationalism.

SUMMARY

I. The state comes into when a number of people are organised politically in a particular territory.

II. The essential elements of the state are population, territory, government and sovereignty. Recognition by other states and more especially membership of the United Nations are nowadays considered essential to the attainment of international statehood.

In its aim and scope, society is wider than the state. The state is only an important association within society. In point of time also the state is posterior to society.

III. *State and Government.*

(1) Government is one of the essential elements of the state but not the state itself.

(2) Government exercises the authority of the state.

(3) State is abstract; Government is concrete.

(4) State is permanent while governments may change.

IV. *State and Society.*

(1) Society is wider than the state which is only one of the many associations functioning within society.

(2) Society does not require any fixed territory or government or sovereignty but these are indispensable to a state.

(3) Society is clearly anterior to the state.

(4) Society is all-embracing in character and indefinite in its aim. It regulates the whole course of a man's life. The state, on the other hand, has a limited scope and function in relation to the individual.

V. *State and other associations.*

(1) The state has territorial limits ; other associations have no such limits.

(2) Membership of the state is obligatory ; in other associations, voluntary.

(3) An individual may become a member of several associations at the same time, but only of one state.

(4) Other associations may come and go but the state goes on for ever.

(5) The state stands for general interest ; other associations for particular interests.

(6) The state possesses almost unlimited authority over its citizens ; other associations have no such power. They can persuade but cannot coerce.

VI. *State Sovereignty—Personal or Territorial ?*

The state, according to its definition, may be viewed either as a group of people or as an area of territory. In the first case, the sovereignty of the state would be exercised over all its citizens both at home and abroad. In the second case, the sovereignty of state would be exercised over all living within its territorial jurisdiction. With few exceptons, the principle of territorial sovereignty of states has been recognised in modern times.

Historical Structure of the State

The states of the ancient and medieval ages differ from modern states. The earliest form of the state was *Empire* which arose in oriental countries. As these empires rested solely on force without any reference to the will of the people, they disappeared with the decline of their force.

Another form in which the state appeared in ancient Greece was the *city-state* which was a unique organisation in which all the activities of the citizens were focussed at one point, namely the city. The state was identified with society and the individual had no right apart from the state.

The *feudal state* arose out of the ruins of the Roman Empire. It was based upon the relation of the Lord to vassal, with the holding of the land in feud. The system was based upon an hierarchy established on the basis of land-holding, each class owing allegiance to the immediate overlord. In the absence of a central sovereign authority reigning supreme in a particular territory, the feudal state became weak and fell to pieces.

The *national* state came into existence as a result of the growing political consciousness of the people born of the Renaissance and the Reformation Movements. The intense desire of a group of people united together by ties of a common tradition to have their own indepen-

dent state organisation for their self-expression and self-development gave birth to national states, based on the principle of 'one nation one state'.

But nationalism when carried too far breeds selfishness and hatred towards other nations. A nation-state intoxicated with a sense of superiority seeks to impose its superiority upon other states resulting in devastating wars.

The *world-state* which implies the idea of a federation of all states to counteract the evil effects of this perverted form of nationalism was organised in a loose form as the League of Nations. After the failure of the League to promote peace and co-operation among different nations, the United Nations has taken its place. World-state still remains an ideal which can be fully realised only on the basis of mutual trust and goodwill among nations.

QUESTIONS

1. Distinguish between (*a*) State and Government and (*b*) State and other associations.
2. Define a state and discuss whether the following should be regarded as state : (*a*) U. N. (*b*) West Bengal.
3. Distinguish between State and Society. (Punjab, 1940 ; Agra, 1942)
4. How do you distinguish the state other kinds of associations ? (C. U. 1955)
5. Discuss the *significance* and *meaning* of 'territory' as a constituent element of the State. What are the exceptions to the principle of exclusive jurisdiction of a state over its own territory ? (C. U. 1960, 1964)

3. Force
4. Patriarchal & Matriarchal
5. Evolutionary or Historical

CHAPTER 5

THEORIES OF THE ORIGIN AND NATURE OF THE STATE

References:

Lowie, R. H.—Origin of the State.
A. R. Lord—Principles of Politics, Ch. II.
W. W. Willoughby—The Nature of the State, Chs, 3, 4.
I. Brown—English Political Theory.
Joad—Modern Political Theory, Ch. I.
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Sabine—A History of Political Theory, Chs. 23, 26.
Oppenheimer, F.—The State.

Theories of Origin. We do not know exactly when and how the state came into existence. Different writers have advocated different theories regarding the origin of the state. The methods of enquiry adopted by them are mainly two, viz., the philosophical and the historical methods. In the absence of definite historical records, our knowledge regarding the origin of the state depends much more on speculation than on historical records. There are three philosophical theories of the origin of state, namely, The Divine Right Theory, The Theory of Social Contract and the Theory of Force. The Historical Theories are two in number, viz., The Patriarchal and Matriarchal Theories and the Historical or Evolutionary Theory.

The Theory of Divine Right. This is the oldest theory regarding the origin of the state. It attributes the origin of the state to the will of God. The early Jewish theocracy was founded upon this notion. Another view is that the state is founded by God but governed indirectly by Him through Kings who act as the viceregents of God on earth. There are four implications of the theory: (a) Monarchy is a divinely ordained institution. (b) Succession to the throne is regulated by the law of primogeniture. (c) Kings and rulers are accountable to God alone and not to any earthly authority. (d) Non-resistance and passive obedience are duties enjoined by God upon the people.

Development—The belief in the divine origin of the state was extant in ancient India, Egypt, China and in Japan. The Greeks and the Romans, however, never accepted the theory. Christianity may be said to have supported the theory. In the Middle Ages, when the Church and the State fell out, the theory was advocated by the pro-papal and pro-monarchist writers to prove the superiority of the respective claims of the Church and the State. In England, the theory found ardent advocates in Sir Robert Filmer and King James I. The latter wrote a book in support of this theory. Even as late as 1815, the Kings of Prussia, Austria and Russia, when forming the Holy Alliance, declared that they had been appointed by God to rule their subjects. Thus the theory of Divine Right was used in the Middle Ages as a defence for the supremacy of the papal authority. Subsequently, the same theory was used by king and rulers as a bulwark against the growing political consciousness of the people who wanted

to overthrow dynastic rule. With the rise of the Social Contract theory, the theory of Divine Origin of the state was discarded.

Criticism—The theory has been severly criticised on the ground that the state is a human institution and as such it is wrong to attribute divinity and super-natural character to the state. The state, according to Aristotle, originated in the bare needs of the life of man and continues in existence for the satisfaction of those needs. The state is essentially a man-made institution for achieving common ends and as such the acceptance of the divine origin of the state makes the state autocratic and irresponsible. Secondly, the theory can explain only one form of government, viz., monarchy but fails to explain the position of an elected president. The theory is dangerous as well because it makes the ruler all-powerful and un-accountable to anybody and thereby justifies the arbitrary exercise of royal powers.

Evaluation—Although nobody now seriously believes in the divine origin of the state, the theory points out certain important truths. It taught men the virtue of obedience and discipline in the days of anarchy when obedience and discipline were badly needed. The theory also helped make political authority independent of the control of religious authority. Thirdly, the theory emphasizes the moral end of the state and points to the fact that the state started its career under religious influences and up to certain stages in its evolution, it had a distinct theocratic cast. Lastly, it emphasizes the fact that kings and rulers, in addition to their legal responsibility, have a moral responsibility as well.

Decline of the Divine Right Theory

The Divine Right Theory is now an exploded dogma. Several factors contributed to its decline of which the advent of the Social Contract theory is the most important one. The Social Contract theory forcefully inculcated the doctrine that the state was a human contrivance and that the authority of the ruler was derived from the people and not from God. This idea gradually gained ground and completely shattered the idea of the divine origin of the state. Secondly, the Reformation Movement which curbed the power of the Papacy and helped establish the authority of the rulers in worldly affairs contributed, in no small measure, to the decline of the Divine Right Theory. The Reformation enabled men to take a rational view of religion by emancipating men's minds from crude ideas and superstitous beliefs born of the religious teachings and injunctions of the Middle Ages. Lastly, the growth to democratic ideas which taught that will, not force, was the basis of the state dealt a crippling blow to the Divine Right of Kings.

The Social Contract Theory.

The Theory is one of the most important theories regarding the origin of the state. The theory implies two things : first, it seeks to explain the origin of the state, and secondly, it attempts indirectly to define the relation between the ruler and the ruled. Thus it is a theory both about the *origin* and *nature* of the state.

The theory ascribes the origin of the state to a contract entered into by men living in a *state of nature* where there was no law and order. The essence of the

theory is that before the emergence of the state, men lived under conditions described as a state of nature, uncontrolled by any laws of human prescription. In such a society, men were guided by regulations supposed to be prescribed by nature itself and as such the laws were unwritten. Writers have taken either a gloomy or a bright view of the supposed state of nature. The state of nature being inconvenient for many reasons, people abandoned the state of nature by a voluntary agreement which transferred them to the protection of all against possible rapacity of each. Natural laws were now replaced by man-made laws. Political authority was thus established as a result of the deliberate and voluntary agreement of the community by which the originally independent individuals subjected themselves to the will of either the whole community or of a particular person or group of persons.

History—The theory is a very old one, mention of which may be found in the writings of the Greek philosopher Plato and of Kautilya, the Indian author of the famous *Arthashastra*. The theory found favour with many of the anti-monarchical writers. Richard Hooker was an ardent advocate of the theory. Other writers like Grotius, Milton, Blackstone, Kant, Fichte and Burke also developed the theory. But the theory received a special prominence at the hands of three writers, namely, Hobbes and Locke in England and Rousseau in France.

But as the trio of the Social Contract used the same theory to serve different purposes, they interpreted the theory in their own way. But they were at one so far as they believed in the existence of a *state of nature* and a *contract* which marked the beginnings of political life by the termination of the state of nature.

Hobbes—In his exposition of the state of nature in his famous book "Leviathan". Thomas Hobbes is very precise and ruthless. The state of nature, according to Hobbes, was a state of constant war among mankind. There was neither any law nor any kind of justice in that state. Force and fraud were the basic principles of human life. Man depicted by Hobbes as "solitary, poor, nasty, brutish, short." Might was the only basis of right. The state of nature thus being intolerable, men escaped of that intolerable situation by means of a voluntary agreement. According to him, men met together and entered into an agreement by which they established an authority to which they irrevovably and unconditionally surrendered all their rights. The authority thus established might be a single person or an assembly vested with unlimited powers. The implication of Hobbes' theory is that the ruler is the outcome of the contract and not a party to it and as such he cannot be bound by the terms of the contract. The people do not reserve to themselves any right,—not even the right of revolution against the sovereign. To go against the monarch implies violation of the terms of contract and thereby the people will only revert back to the state of nature. In this way, Hobbes justified the Stuart despotism in England.

According to him, therefore, one single contract established both state and government and consequently, the dissolution of the government led to the dissolution of the state. He laid stress on the legal sovereignty of the state but failed to recognise the political sovereignty. The truth is that Hobbes, utterly disgusted with the conflict for sovereignty between King and Parliament and obsessed by the dangers of frequent revolutions, found in the social contract a basis for a theory of absolute sovereignty. According to him there were but two alternatives open to mankind—subjection to the common authority or chaos of the state of nature. In his eagerness to end the riot of the passions of men, in

his solicitude for restoring law and order, he had no compunction in concentrating all powers in the hands of the sovereign. A question which naturally arises at this point is that what did men gain by transferring under the covenant all their rights to their sovereign? Did their lot improve in any way? In the state of nature, men were in a state of war, when every man's hand was against every man and here in the civil state, they were no better than a pack of dumb-driven cattle, reduced to a common obedience. So the thtory of Hobbes "is a theory of unadulterated despotism or it is nothing."

Locke—Locke wrote his 'Treatise on Civil Government', to justify the cause of limited monarchy. He also started with a state of nature—which, quite unlike that of Hobbes, was a state of peace, reason, and goodwill. But as there was no man-made law and no impartial authority to adjudicate upon the disputes, people were led to enter into a contract to form a civil society. When a civil society was thus formed, they made another contract, a governmental compact with the king to the effect that he would be entitled to obedience so long as he protected life and property. Thus according to Locke, there were two contracts, the one formed a civil society; the other instituted a particular form of government, viz., monarchy. The monarch was a party to the contact and in case he violated the terms of the contract, the people retained to themselves the ultimate power of deposing him. The surrender of rights, according to him, was only partial. Thus Locke supported the English Revolution of 1688. He fully recognised political sovereignty but gave a subordinate place to the legal sovereign. He, however, clearly distinguished the state from the government which Hobbes failed to do. Thus if the theory of Hobbes is carried too far, it will annihilate individual liberty; if the theory of Locke is pushed to its logical extreme, it will destroy authority of the state.

Locke simply restated the theory of social contract in order to bring it into harmony with contemporary political thought when absolutism was beginning to break. Men had already begun to view the irrevocable character of the covenant with suspicion. They thought and insisted more and more upon the mutual observance of the contract. Hence he made the community the sole depository of the supreme power for "saving themselves from the attempts and designs of any body, even of their legislators, whenever they shall be so foolish or so wicked as to lay and carry designs against the liberties and properties of the subject."

Rousseau—The theory of Rousseau was propounded in his 'Social Contract' published in 1762. Rousseau tried to reconcile the ideas of Hobbes with those of Locke,—to strike a mean between the authority of the state and liberty of the individual. Rousseau also started with the state of nature. He depicted the state of nature as an era of idyllic felicity. Men lived free, healthy, honest and happy lives in the state of nature. Gradually with the progress of civilisation, the lives of men became more and more artificial and degradation set in. Lastly, the diabolical device of private property in land destroyed natural equality among men. The increase of population made it necessary for them to have an organization. Men entered into a contract to the following effect. "Each of us puts his own person and all his powers in common under the supreme direction of the General Will, and in our corporate capacity, we receive each member as an indivisible part of the whole." The authority that was created was placed not in the hands of the ruler as was done by Hobbes and Locke but it remained with

the Community,—the whole people assembled in a mass meeting to express the General Will. The Government was created by a subsequent legislative enactment with delegated power from the people. The General Will is vested with unlimited power to Rousseau. Thus his General Will is as monstrous as Hobbes' 'Leviathan'.

General Will—Rousseau wanted to make the theory of Social Contract serve for the new age and simply developed by the method of Hobbes the conclusion of Locke. Hence he only shifted the seat of power from the monarch to the people. The secret of Rousseau's doctrine is the conception of *General Will*, whose exercise transforms mere government into self-government. Rousseau is at great pains to distinguish between the general will and the will of all. The general will is the transmuted and sublimated essence of all that is best in the wills of all but it is different from a mere arithmetical sum of individual wills. Society, according to Rousseau, is an integral unity, and the consciousness of unity arises out of the sense of common interest or welfare. There is present in every society this identity of interest, which, it is the duty of every government to secure and to promote. Nothing short of the enhancement of the common interest can therefore be the true criterion of the true sovereign.

Although Rousseau defined his 'general will' in the sense of the 'will for the general good' in practice, however, it tends to be identified with the 'will of the people' which implies majority rule. Again a whole people cannot legislate except in a tiny city-state. So Rousseau's 'general will' is an impossibility in modern states. In modern times, it roughly corresponds to enlightened public opinion on any question of public interest.

Thus the same Social Contract theory was used for different purposes by the three wrtiers. In the hands of Hobbes, the compact was an act of surrender on the part of the many to one or a number and consequently became a weapon of royal absolutism; in the hands of Locke, it became an instrument of individual liberty; with Rousseau, the contract was an act of association among equals after the formation of the state. Thus Rousseau stands for sovereignty of the people.

Criticism—The Social Contract theory has been subjected to a number of searching criticism. The doctrine is unhistorical. We do not come across a single example in history of a state formed by a contract. Men never led an isolated life as is supposed by the theory. The Mayflower compact of Nov. 11, 1620, by the first settlers in America is cited to prove the truth of the theory. But it may be pointed out that this body of emigrants did neither live in a state of nature nor did they create a new state. They were already members of a civilized state. They simply left one state and settled down in another.

The theory is illogical too. The idea of contract pre-supposes a political consciousness which can hardly be expected of men living in a state of nature. If the people did not know anything about state or society, how could they have formed a complex social organization like the state? Besides, the idea of contract is too refined to be grasped by the primitive people.

Again, the idea of 'natural rights' or 'natural liberty' is in itself fallacious. T. H. Green points out that the theory proceeds on the false assumption that persons, before the existence of a government, could have rights to surrender. There cannot be any right unless there is some authority to protect the rights. Right therefore implies society; society implies, if not political government, at least the germ of it.

4 Sir Henry Maine, the leader of the Historical School of Jurists, also criticises the theory. Primitive society, according to him, rested not upon contract, but upon status and the progress of human society has been from status to contract and not from contract to status. Contract is the goal and not the starting-point in the development of society.

5 The theory looks upon the state from a wrong point of view. If represents the state as a mere partnership as in a joint-stock company. But the bonds that bind the members of the state together are certainly stronger than mere contractual obligation.

6 The theory is also dangerous. Either it inculcates a duty of passive obedience to the ruler, a doctrine favourable to despots or it leaves the state and its institutions at the mercy of individual caprice,—a doctrine favourable to anarchy.

7. Lastly, the objection raised by David Hume against the theory of social Contract points to its logical inconsistency. According to him, a sense of advantage to the individual of peace and order in social life is, in the last analysis, the reason for the general submission to established authority. It is not contract but a sense of utility which is the determining motive behind the process of state-building. Again, other writers point out that even if a contract was made by our primitive forefathers, that contract could not possibly bind the posterity. The assent of the father cannot necessarily be the assent of the son.

Evaluation—As an explanation of the origin of the state, the theory of Social Contract is now entirely discarded. Nevertheless, it is not entirely valueless to us today. The theory contains some important elements of truth which exerted a tremendous influence at the time when it was invented and holds good even nowadays. The Social Contract theory like the theory of human equality is not true in its literal sense. It does not mean that our society originated in an actual contract signed and sealed by accepting parties. It is not actual contract but it is the idea of contract that is the all-important fact in the theory. It is this idea that can keep society secure and government stable. The theory came by way of protest against the divine right of kings and it emphasizes the fact that the state is a human institution and that the relation between the ruler and the ruled is one of reciprocal rights and obligations, of protection and obedience. The state, according to this theory, is the result of voluntary co-operation and not the creation of force. Both Locke and Rousseau asserted most emphatically and unequivocally that the king derived his authority not from God but from the people and he could remain as a king on condition of good government. Thus the Social Contract theory gave virtually a death-blow to the divine right of kings to rule. The Social Contract theory by laying emphasis on the democratic basis of the state demolished the basis of the Divine Right Theory. Thus the contract theory is regarded as a chief antidote to the Divine Origin theory. The theory also emphasizes the importance of the individual in society and recognises the fact that political institutions exist for man and these may be modified by human efforts according to needs. The practical utility of the theory found expression in the famous saying of T. H. Green, "Will, not force, is the basis of the state." In its fundamental aspect, therefore, the theory is essentially a theory of liberty which marks the final triumph of the democratic ideal that all governments rest on the consent of the governed.

The influence of the Social Contract theory in the development of the idea of modern sovereignty cannot be overlooked. The legal aspect of sovereignty which was at a later stage fully developed by John Austin was anticipated by Hobbes. The concept of political sovereignty is a distinct contribution made by John Locke. Rousseau may be said to be not only the discoverer but also an ardent advocate of the theory of popular sovereignty. The theory of separation of powers, as a bulwark of political liberty, was anticipated by Locke and subsequently received fuller treatment in the hands of Montesquieu.

Influence of the Social Contract Theory.

Every political theory is the outcome of a practical need,—a need felt at the time when it is invented. Just as in the Middle Ages, the theory of Divine Right was invented to act as a check upon papal aggression, similarly, the Social Contract theory was invented for establishing the rigt of resistance on the part of the people to despotic rulers. The theory emphatically asserted that irresponsible rulers who failed to promote the interests of their subjects could have no claim, moral or legal, to the allegiance and obedience of the subjects. The theory not only contains an important element of truth but also exerted a tremendous influence in moulding the form of the constitution of the state. The theory was used as a violent weapon by the English people when by a resolution of the special convention in 1689, they dethroned James II on the ground of the wanton breach of the original contract by the King.

The greatest influence ever exerted on rpactical politics by any single political theory was perhaps that of Rousseau's 'Social Contract' which might be rightly regarded as the forerunner of the American War of Independence and the French Revolution. The cry of 'Liberty, Equality and Fraternity'—the watchword of the French Revolution, travelled from shore to shore and inspired the people with a new political ideal. The conception of the state as a pawer-system based wholly on might gave place to that of the state as a welfare-system based on the consent of the governed. The ideal preached by this theory has been acting as a never-failing source of inspiration to down-trodden peoples to win their lost freedom.

The idea of contract is also implied in the organisation of a federal government where autonomous units gain great advantages by creating a new state by amalgamation. The component states agree to surrender their rights in all matters of common inferest but retain some amount of local autonomy. But the analogy should not be carried too far as no new state can be created by the contract.

Social Contract Theory and Democracy.

Liberty and equality are the cardinal principles of democracy and a government which seeks to promote these twin principles by its activities may be called a democratic government. Democracy is stronger and more stable than any other form of government because this form of government secures liberty to the individual and enforces equality among men and as such the government is based on the willing co-operation of the entire body of its citizens. Looked at from this point of view, liberty and equality which are the basic principles of democracy are the direct outcome of the Social Contract Theory which for the first time emphasized the importance of the individuals in society and recognised their equal rights.

The Social Contract Theory also acted as a bulwark of the just rights of the people against royal absolutism of the Middle Ages. The Glorious Revolution of England in 1688, the American War of Independence of 1789, the French Revolution of 1792, and the Russian Revolution of 1917 gathered their inspiration from the teaching of this particular theory, namely, will, not force, is the basis of the state. From then the theory has been serving as a never-falling source of inspiration to downtrodden peoples in winning and preserving their lost freedom.

Locke's Social Contract exerted a tremendous influence upon the American revolution. Accepting Locke's theory of natural rights, the American revolutionaries asserted that a government which was based on reciprocal rights and obligations, of protection and obedience, could not deprive the people of their rights especially the right to property without their consent. Locke also clearly explained the relation between the government and the people which was in the nature of a trust. The authority of the government is a delegated authority and as such it should be regulated and controlled by the people. If the government fail to discharge its functions lawfully, the people have an inherent right to change the incompetent government. Democracy is defined now as a government of the people, for the people and by the people. This conception is the direct outcome of the Social Contract Theory as advocated by Locke. Another important characteristic of modern democracy is the separation of the executive from the legislative function which also received its due share of attention from Locke.

Rousseau, the great protagonist of the French Revolution, attributed sovereignty to the general will of the people. Self-government according to Rousseau is a government which is regulated and controlled by the people for common good. To him, government is merely the agent of society and it can function only so long as it commands the confidence of the general will. So Rousseau's Social Contract stands not only for democracy but also for direct democracy in which the general will is supreme over and above all other wills.

Hobbes' theory of Social Contract did not directly help the growth of democratic ideals rather it helped strengthen royal absolutism. Hobbes transferred by a single contract all powers to the monarch leaving the people entirely at the mercy of the monarch. But even a reactionary writer like Hobbes who supported royal absolutism had to admit that the monarch had received all his power from the people, who had transferred all their original powers irrevocably, unconditionally and completely. Thus the Social Contract of Hobbes also indirectly proclaimed the supremacy of the people.

Points of Agreement and Difference between Hobbes, Locke and Rousseau.

Points of agreement.

1. Hobbes, Locke and Rousseau sought to explain the origin of the state in terms of a contract which also served as the basis for determining the relation between the government and the governed.

2. They were at one in so far as they believed in the existence of a state of nature in which men lived before the emergence of the state.

3. All the three writers were of the opinion that the inconveniences and the uncertainties of the state of nature were removed by means of the contract.

4. The trio attributed the origin of the state to a voluntary agreement and as such the state is a human institution as opposed to a divine institution.

Points of difference.

1. Although the three writers begin with the life of man in the state of nature yet they differ fundamentally in respect to the condition prevailing in the state of nature.

According to Hobbes, man's life in the state of nature was rendered intolerable by mutual strife and in the absence of any man-made law, might was the only basis of individual right. The inherent selfish and egoistic nature of man always impelled him to seek his own interest at the cost of others. Hence the state of nature was a state of constant warfare among mankind.

Locke described the state of nature as an era of peace, happiness and equality. Men's lives were not torn by internal strife.

To Rousseau, the state of nature was an era of earthly paradise characterised by liberty and fraternity for all. But with the increase of population and the progress of civilization, the original state of nature degenerated into one of inequality and mutual strife akin to that of Hobbes.

2. According to Hobbes, the state of nature was pre-social rather than pre-political; according to Locke, it was pre-political rather than pre-social; according to Rousseau, the first stage of the state of nature was pre-political though it degenerated into a pre-social stage as a result of the progress of civilization.

3. Hobbes established the contact in order to escape out of the intolerable condition of the state of nature; Locke used the contract as a means to get rid of the few inconveniences of the state of nature but Rousseau utilised the idea of contract with a view ot removing the inequality and injustice that came in the wake of civiilzed life.

4. Hobbes established both state and government by one single contract; Locke introduced two contracts—the social contract followed by governmental or political contract; the former creating the state, the latter a particular government. Closely following Locke, Rousseau also established the state by means of a single contract. Government, according to Rousseau, was created subsequently by a legislative enactment of the general will.

5. From the above, it is apparent that Hobbes failed to distinguish between state and government while Locke and Rousseau made a clear-cut distinction between the two, the government being only an agent of the state.

6. According to Hobbes, the contract was uni-lateral, the king not being a party to the contract. The king was rather a product of the contract. To Locke, the contract, at least the second contract, was a bi-lateral one—the parties being the king on the one hand and the people on the other. According to Rousseau, the contract was made by men among themselves, the king having no place in it.

7. According to Hobbes, the surrender of rights by men was complete, unconditional and irrevocable. People surrendered all rights including the right to revolt. According to Locke, people surrendered some of their rights only to protect other rights. So the surrender was partial, conditional and revocable. The right to revolt was retained by the people. According to Rousseau, people surrendered their rights not to any king but to the general will.

8. According to Hobbes, the king not being a party to the contract can do no wrong to his people who can have no grievance against the king. As the people unconditionally surrendered all rights to the king, they had therefore no legal right to revolt against the king. A revolution directed against monarchy established by the original contract means breach of contract which implies dissolution of the state and government. So monarchy once established cannot be dissolved.

According to Locke, the contract being a bi-lateral and conditional one, the king is a party to it and as such bound by its terms. Any breach of the terms of the contract on the part of the king leaves the people free to change the government according to their will. To Locke, therefore, the right to revolt is a legal right.

To Rousseau, government is neither a party to the contract nor the possessor of any original power. He attributes sovereignty to the general will which can change the government at will.

9. In the hands of Hobbes, the contract was a surrender of rights to one or to an assembly on the part of the many and thus it became an instrument of slavery. In the hands of Locke, the contract was a partial surrender only to protect other important rights. In the hands of Rousseau, the surrender of rights was to the whole community and as such each individual got back what he had surrendered to the community as its integral part.

10. The Social Contract theory was used by Hobbes in support of Stuart despotism in England.

Locke utilised the theory in justification of the English Revolution of 1688.

Rousseau's theory became the source of inspiration to the revolution in France.

11. Hobbes recognised the legal sovereign but ignored the political sovereign.

Locke recognised the political sovereign but reduced the legal sovereign to a subordinate position.

Rousseau recognised only the popular sovereign.

12. Hobbes stands for the absolute authority of the state which destroys liberty ; Locke stands for the absolute freedom of the individual which annihilates government but Rousseau makes an attempt to reconcile the authority of the state with the liberty of the individual.

Decline of the Social Contract Theory.

The Social Contract theory has lost much of its sacrosanct character now-a-days and as an explanation of the origin of the state, it has been entirely discarded. The main causes which contributed to the decline of the theory are three in number.

The Social Contract theory was essentially the outcome of men's speculation about the origin of the state and not based on any historical fact or datum. But when the hsitorical method of study which is based on conclusions drawn from the facts of history and observation came to be applied to the study of Political theories, the conclusions of Social Contract theory arrived at by speculative method were found to be inadequate and unsatisfactory. Secondly, the Darwinian theory of biological evolution also weakened to a great extent the very basis of the Social Contract theory. The theory of evolution was applied as in all other sciences to Political science as a result of which the state came to be regarded more as a product of historical evolution spread over long years rather

than as an artificial creation of man by means of a mutual contract. Lastly, the Social Contract theory was superseded by the theory of popular sovereignty. The latter directly and emphatically proclaimed the ultimate sovereignty of the people which the social contract only indirectly and feebly sought to express.

The Theory of Force.

According to this theory, the foundation of the state was laid by the overpowering of the weak by the strong. Before the emergence of the state, there was perpetual warfare. The will of the victor was imposed on the vanquished and thus the subjugation of the weak by the strong led to the creation of the state. The state is, therefore, the outcome of aggression. The advocates of the force theory also hold that the state is maintained by force. It is pointed out that law and order cannot be maintained without the application of force.

The Force theory was used by the Church Fathers in the Middle Ages to discredit the authority of the state on the ground that the state is based upon might and not upon right. The individualists also made use of the theory in their plea for unrestricted competition in trade and commerce. Herbert Spencer justified his doctrine of the 'Survival of the Fittest' on the basis of this theory. The Socialist writers also hold that the state is the product of aggression—it is, in the last analysis, based on the ruthless exploitation of the working classes by the capitalists. The Capitalist class maintains their supremacy by the application of political power. The state therefore originated in force and continues by force. The leaders of the socialistic thought predicted that the state was bound to 'wither away' when the working classes would rise in a body and revolt against the state. The theory of militarism was developed by a school of German writers who made use of this theory to train the people in the ideas of world conquest.

Force, no doubt, played an important part in the origin and evolution of the state, but it will be going too far to suggest that force was the sole factor in state-building. Might may be the basis of right, but right, as Rousseau points out, that is based on might, lasts only so long as might lasts. England in 1688, France during the Revolution and Russia in 1917, give a lie direct to the theory of force. The doctrine either nakedly exposed or decently clothed by different schools of writers, was the more misleading because of the partial truth it contains. True it is that no state can exist without an overruling force which differentiates the state from all other associations. But it is not brute force but the force of public opinion which is universally accepted and recognised as a foundation for all social activities. Force is a necessity to the state in order to secure obedience to its laws but the obedience is based on the common will and not on the coercive power of state as such. It is the community which assigns power to the state in order that it may discharge its great function, namely establishing order in society in accordance with the common will. Prof. Laski remarks, "Successfully to coerce, it must be able successfully to persuade..... It wins his (individual's) allegiance not by being the state, but because of what, as the state, it is seeking to do."

"Government", says Woodrow Wilson, "in its last analysis, is organized force." The theory of Force points out that coercive power of the state is necessary to maintain peace, unity and tranquillity within the state and also to protect the state from foreign aggression. Force has always played its part in the evolution of the state. "Some of the greatest empires of today have been established through 'blood and iron' and it is not altogether impossible that we shall

see more of blood and iron methods in future." But force, it should be remembered, is a criterion and not the essence of the state. The importance of force is always to be adjudged by its value to society rather than by its value to the ruler.

The Patriarchal Theory. The theory ascribes the origin of the state to the family which is marked by the common subordination of other members to the eldest male member of the family. It is the bond of kinship that unites together a group of men under the same organization. The family is regarded as the first step towards the formation of the state in which the eldest male member was like a king. The families expanded into clans. Several clans united together to form a tribe. The state is the outcome of the union of a number of such tribes.

Sir Henry Maine was the leading exponent of this theory. But subsequent historical researches have proved that patriarchal family system prevailed in some places in early times but it was certainly not universal. Among certain primitive races, descent is still traced through the mother and not through the father. Besides, it has also been established that certain races move in large number in pack or in horde and not in family.

The Matriarchal Theory. Other writers like McLenan have found proof of the existence of matriarchal family where the eldest female member was the head of the family. At first promiscuity prevailed and kinship was traced through the mother. Jenk, another upholder of the theory, holds the view that the process of development of society has been just the opposite of what Maine suggested it to be. According to him, the oldest social unit was the tribe. In course of time, it broke up into clains, clans in their turn separated into households and finally, the households were dissolved "leaving the individual members to constitute the units of society".

None of these theories can be accepted as true because each of them lacks historical evidence of its being universally prevalent. Kinship was no doubt an important factor in giving rise to the state but no complete social organization can be attributed to one single factor.

The Historical or the Evolutionary Theory. Having discussed the various theories about the origin of the state, we have come to the conclusion that the origin of the state cannot be traced to a single factor or to a definite period when mankind for the first time organized themselves into a state. The historical theory regards the state as the product of historical evolution and not the creation all on a sudden in accordance with a definite and pre-conceived plan. In the words of Leacock, the state is "a growth, an evolution, the result of a gradual process running throughout all the known history of man and receding into remote and unknown past."

The forces that are responsible for bringing the state into existence are too subtle and complex to be definitely analysed. Nevertheless, we can mark out certain stages in the evolution of the state and certain forces that were at work in creating the state. Man is by nature a social animal. The instinct for obedience is implanted by nature in the human heart. The pattern of the state was first set up by the family. While *kinship* helped strengthen the solidarity of the ancient groups of men, the importance of *religion* in building up the state

can hardly be minimised. Primitive religion was based primarily on man's awe and reverence for the forces of nature. Some clever persons declared themselves to be not only in the know of these secret forces of nature but also to be in possession of the power to propitiate her. These persons, supposed to be vested with supernatural powers, came to be regarded as high priests of the community as they claimed descent from God. Thus when religion came to be organized as a regular institution, the heads of religious institutions came to be known as the Pope, the Pharou or the Khalifa. The early kings were invariably priest kings.

Force was also a factor in the evolution of the state. The primitive tribes lived in constant fear of one another because war was chronic with them. The actual conquest of one tribe by another or even the fear of conquest often led to the fusion of several tribes into one. But the most important factor in the development of the state was the gradual awakening of *political consciousness* in the minds of the more intelligent persons who convinced others of the utility of such organizations. At the outset, the organization was simple in character but with the progress of civilization, it has become more and more complex. We do not know the beginning of the state nor do we know its end. The process of formation, however, has not yet reached its final stage. To the above mentioned factors, *viz., kinship, religion, force and political consciousness,* may be added new forces that are at work in giving a new shape and a new meaning to the state. The *principle of nationality* is a new force in the organization of modern states. The old concept of empire is being gradually replaced by the rise of the nation-states organized on the principle of 'One nation, one state'. The sovereign character of the state has also been largely modified by the *ideal of internationalism,*—that what touches all should be the concern of all. Alongside these developments, *economic causes* have also contributed to the evolution of the state. The doctrine of economic equality and equalisation of opportunities for all has given a distinct socialistic turn to almost all the modern states.

The historical or the evolutionary theory, therefore, contains the true elements in all other theories. The state gradually grew up and was never manufactured. We may conclude with Burgess that the state "is the gradual and continuous development of human society, out of a grossly imperfect beginning through crude but improving forms of manifestation towards a perfect and universal organization of mankind."

But the historical theory gives us an idea only about the process of development of the state but it is silent on the beginning and end of the state.

Nature of the State :

Different views on the Nature of the State.

No two writers of political science agree with regard to their definitions of the state which has been envisaged from various points of view. This variety of views expressed by different writers, far from clarifying the concept of the state, has only given to rise to confused thinking about the most important term of political science, namely, the state. For a clear understanding of the nature and purpose of the state, it is necessary to examine some of the more important views as given by different writers.

1. Machiavelli who first used the term 'state' sought to interpret it in terms of power. The German writers, especially, Bernhardi and Treitschke, interpreted

state exclusively in terms of might—the state being a great power system with unlimited authority to make war and peace. But this view of the state is untenable inasmuch as might is justifiable only when it is used in defence of just rights.

2. The jurists interpret the state as an institution for the creation of law and the protection of legal rights. This is also a partial view of the state inasmuch as the creation and enforcement of law are not the sole functions of the state which has other higher and nobler functions to perform, namely, the promotion of the moral and spiritual life of the people.

3. The anarchists and the individualists regard the state as an evil. The anarchists consider the state as an unmitigated evil and as such the sooner it is abolished the better it will be for the spontaneous development of a man's personality. The individualists also subscribe to the view of the anarchists in so far as they regard the state as an evil but they argue that the existence of the state is necessary so long as crime exists. But with the gradual perfection of human nature, when society will be free from all crimes arising out of the selfishness of man, the state as an agency for regulating human conduct will become less and less necessary.

The view that the state is an unmittigated evil or a necessary evil is not borne out by historical facts. The state has done much and is expected to do more in the matter of promoting the economic, moral and spiritual development of mankind.

4. The Pluralists assign to the state a position no more than a mere association within society having a status equal to that of the family or the church or the trade union. As the state is limited in its functions, so the state is limited in its power and as such the state has no overriding power over other associations. We do not see eye to eye with the Pluralists because the state is absolutely necessary for securing unity of control and preserving order in society without which the fullest and freest development of individual personality is impossible.

5. Some writers have characterised the state as a class-structure upholding the interests of one class to the deteriment of those of the other classes. According to Karl Marx, the state is an organisation for the exploitation of the poor by the rich. In such a state economic power determines as to who should rule and the class controlling economic power dominates over other classes.

The above view is wholly unacceptable inasmuch as some states at some period may pass through the stage of class-structure but on that account a generalisation about the nature of all states cannot be made. A state based on a class-structure is only a perversion or a deviation and not a normal one. A normal state exists for common good.

6. The totalitarian view of the state reminds us of the ancient Greek view which regarded the state as an end in itself and the individual merely a means. According to the totalitarian view, the individual has no existence, no right apart from the state which exercises exclusive control over the whole life of the individual. The totalitarian view of the state was very clearly stated by Mussolini, the most ardent advocate of totalitarianism in the following words : "All within the state, none outside the state, none against the state."

A view of the state which completely ignores the individual personality and subordinates him to the state is a dangerous dogma which should not find place in the literature of political science. If individuals do not exist as sentient and independent entities, the existence of the state becomes unnecessary.

The above discussion leads us to the conclusion that the state cannot be interpreted in terms of any of these views. Each conceives and defines the

state in terms of its own way of thinking and assigns to it functions calculated to correspond to its own conception. Then the question is what is the nature of the state ?

The answer is : The state is the highest form of human organisation and man becomes perfect and independent only as a member of the state. In the words of Aristotle, man perfected by law and justice is the best of all living beings. Without law and justice he is the worst. The uniqueness of the state lies in the fact that it transcends class and represents the community as a whole. Other associations look after particular interests of their members but the state is concerned with universal rather than any particular interest. The state as the guardian of the universal interests of its citizens has a duty to adjust the relationship between the different groups in society. It has to reconcile differences and to bring about unity and harmony in social life. With the growing complexities of human relationship, the control and supervision of the state as the supreme adjustor of relationships have become an imperative necessity for steady and orderly progress of human society. The state is not an end in itself as was held by the ancient Greeks but it is the highest and the best means by which the collective good of society can be secured. The state exists for the good of the individuals and a state which fails to ensure to the individuals the conditions necessary for good life has no justification for its existence far less a claim to the allegiance and obedience of its citizens. The conception of the state as a power-system has given place to that of the state as a welfare-system—welfare not of one or a class but of the whole people.

The Juristic or Juridical Theory.

Many political scientists hold that the existence of the state cannot be conceived apart from law which is the sole basis of the state. So the state is a juristic institution and its activities are regulated by constitutional laws.

The juridical theory has again been interpreted in different ways by different schools of jurists. The analytical school of jurists hold that the state is the sole source of law. Its main function is to enact, interpret and enforce law. The judicial organ of the government cannot apply and enforce anything as law which has not been enacted or recognised or permitted to be enforced as law by the state. The historical jurists agree in general with the analytical jurists in so far as they regard the state as a source of law but they differ from the former in so far as they reject the notion of law being exclusively a command of the sovereign. They hold that it is not a fact and also not necessary that all laws should be issued by the law-making organ having a coercive sanction behind it. The historical school duly emphasizes the importance of customary laws which have found place in the legal system of almost all countries but which have developed independently of the state.

Jurists like Duguit and Crabbe place law above the state. They assert that law is not necessarily the child of the state. It may exist prior to the emergence of the state and as such the state has no right to override the prescriptions of law.

The Organic or Organismic Theory. The organic theory seeks to explain the nature of the state. It is an attempt to define the relationship that exists between the state and the individual. The theory regards the state as a living organized unity and not a lifeless instrument. The advocates of the theory draw a parallelism between the body politic and the body natural. According to this

theory, the state is like an organism or a living person whose different parts are mutually interdependent.

History—The Organic theory is one of the oldest theories of the state. Both Plato and Aristotle suggested the similarity between the state and human organism. During the Middle Ages, the theory was developed by St. Thomas Acquinas, Marsiglio of Padua and William of Ockam. The theory received a special prominence in the hands of those writers who wanted to discredit the theory of the contractual origin of the state. The biological theory assumed a new form in the hands of the nineteenth century writers. Writers of the old school simply compared the state with an animal body or plant body but the new school sought to establish the identity of the two on the basis of a minute and elaborate analysis of the affinities which exist between the two. One of the leading exponents of this school was the German writer Bluntschli who went so far as to impute masculine personality to the state, as opposed to the Church which was its female counterpart. Eminent writers like Hobbes, Rousseau, Paul Lilienfield, August Comte and others also contributed to the development of the theory. The English philosopher Herbert Spencer in his famous book "Man versus the State" developed the theory in its present form by making an elaborate comparison between the state and an organism.

Points of Similarity—As an animal organism is made up of cells, so the state is composed of individuals. Like an organism, the state is composed of parts which contribute to the life of the whole. Just as the different parts of an organism (*a*) are mutually interdependent and (*b*) dependent on the whole, so the individuals in a state are mutually interdependent and like the cells of an organism, dependent on the whole. Secondly there is a close resemblance between the state and a biological organism in respect to their origin, structure and function. Both begin in germs and gradually become more and more complex. Herbert Spencer drew a number of structural analogies between the state and the living organism. A living organism possesses a 'sustaining system', 'distributing system', and a 'regulative system' corresponding respectively to the methods of production, the means of transportation and a seat of government in society. An individual cell of an organism may die with little effect on its life; similarly, the death of an individual in society cannot break the continuity of the state. *Lastly,* both the state and a biological organism are subject to decay. As in an organism decaying parts are replaced by new growths, so in a state, the old, the infirm and the diseased are replaced by new-born babies.

Criticism—The Organic theory errs by going to the length of identifying the state with an organism. It is true that in some respects, the state is similar to an organism but it should be borne in mind that analogy is not proof. The likeness that exists between the two is superficial, more apparent than real. *First,* the parts of an organism have no independent life or will of their own. These depend entirely for their existence upon the organism. But individuals in a society are independent and it is even possible for them to live apart from the state. *Secondly,* Spencer himself pointed out an important difference between the two. The body natural is concrete; its parts are united together in close contact, while the body politic is discrete; its parts are widely dispersed. *Thirdly,* consciousness is concentrated in a particular part in the human body, but it is diffused throughout the state. *Fourthly,* an organism is born of a pre-existing

one but the state is not born of any pre-existing state. *Fifthly,* the development of an organism is effected through the process of internal adaptation while the state expands through an external process of addition of new territories. *Sixthly,* an organism dies a natural death, while the state is a permanent association, it never dies. *Lastly,* the theory is dangerous in two ways. Either it sacrifices the individual to the state by emphasising his subordination to the state or it weakens the foundation of the government by laying undue stress on the independence of the individual in the state.

Evaluation—In spite of the fanciful, absurd and to some extent mischievous character of the analogies, the theory is not without its merits. The theory served a very useful purpose by pointing out that the state is not a mechanical unity but an intimate relation exists between the state and the individual and between individuals themselves. It also helped refute the mechanical theory of the state which regards the state as a mere artificial mechanism, the parts of which may be collected and put together according to the whims of the mechanic. It teaches that civilized life is impossible in isolation with and apart from society. In its practical side, the theory was used both by the Individualists and the Socialists in justification of their respective doctrines of state functions.

The Idealist Theory. The theory is otherwise known as the absolute theory, philosophical theory or metaphysical theory. MacIver characterises the theory as the 'mystical theory'. The earliest exponents of this theory were the two celebrated Greek writers Plato and Aristotle who regarded the state as a natural and necessary institution in which man became for the first time independent and self-sufficient. To both Plato and Aristotle, the state was a moral entity apart from which man could not attain the highest possible perfection for him.

The later idealist thinkers were profoundly influenced by Plato and Aristotle. Following Plato and Aristotle, the later idealists also looked upon the state from the ethical point of view and approached political theory through ethics. They, like Plato and Aristotle, also identified the state with society. The state being an organic unity has complete control over individuals who have no meaning or significance apart from the state.

Rousseau was profoundly influenced by Platonic idealism. In this *Social Contract,* he views the state not as a legal association but primarily as a moral association, the membership of which is essential for the moral perfection of man. Although Rousseau differs in some respects from Plato in his conception of the state, yet he emphasises the importance of the state as the embodiment of the general will and as a moral entity.

The general will of Rousseau exerted a tremendous influence upon the thoughts of the German idealists in general and Kant in particular and through them upon the English idealists like Green, Bradley and Bosanquet.

Statement of the Theory. The state, according to this theory, is a super-person. It is mystical in form and its personality is something quite distinct from the people who compose it. It is omnipotent, omnicompetent and at the same time infallible because the authority of the state is divine in essence. The theory advocates that it is the sacred duty of the citizens to render obedience to the state even if the commands of the state are unjust and repressive in character. The state has a transcendent personality and a real will. The rights of individuals cannot exist in opposition to those of the state. The state is the only source of

individual rights and as such his rights can, under no circumstances, come in conflict with those of the state.

The state represents social morality but itself is not limited by any moral law in its actions. The general will is infallibly rights because it represents what is best in individual wills. Thus the theory glorifies the state as an all-embracing organisation and regards it as an end in itself.

The German Idealists.

1. *Immanuel Kant*—Kant is regarded by many as the father of the idealist theory though some regard Hegel as the foremost among the idealist philosophers. Kant borrowed his ideas about the state and government from Rousseau and Mortesquieu respectively. In his book 'Metaphysical First Principles of the Theory of Law', Kant states that the state is essentially a divine institution and all its authority is derived from God. It is all powerful and infallible. Obedience to the authority of the state is obligatory as the state is the embodiment of sacred and divine spirit.

Although Kant is placed in the same line along with other idealist thinkers his conception of the relation between the state and the individual is of a different nature. More than any other idealist philosopher, he had a passion for ethical values and individualism. Unlike other idealists, he regarded the individual as an end and not as a mere means. He expressed the view that the primary function of the state was to hinder the hindrance to individual freedom.

2. *Humboldt*—Closely following Kant, Humboldt also believed in the contractual origin of the state. The state, according to him, is not an end in itself but exists for the good of man. The function of the state should also be limited to preventive measures and it should never strive to promote their welfare. Humboldt thus veered more towards individualism although he had little love for democracy. He regarded war as a necessity for the development of national character.

3. *Hegel*—Hegel outstripped the earlier writers in upholding the omnicompetence of the state. He garbed his theory in difficult and abstract language making it unintelligible to the ordinary readers. Hegel's ideas may be summed up as follows :—All men like to be free and they enjoy freedom only when they act according to reason. But individual reason is not infallible as it is influenced by individual caprice and passing events and as such, freedom based as it is on selfish motive is not trustworthy. This makes it necessary to have some organisation whose will is universal and acceptable to the individual. Such an organisation is the state with a personality and a real will of its own. It has not only a separate existence and ends of its own apart from those of the individuals, but its personality and will are superior to those of the individuals subjected to its authority. Hegel regarded the state "as an entity over and apart from the people who compose it, with a real will and personality of its own, which will is "general will and not the sum of individual will". It follows from the above statement that any action of the state emanating from the general will is infallibly right inasmuch as the general will is the embodiment of what is best in individual wills. The individual derives his rights only as a member of the state and as such his rights must always be in conformity with state rights and never in opposition to those of the state. Thus Hegel advocated a political philosophy which elevated the state to a mystical form. He believed that the German state was the ideal

state and that the Germans were the people who were ordained by God to fulfil the divine mission of world conquest. Thus Hegel's political philosophy is regarded by many as partly responsible for the aggressive nationalism of Germany which may be said to be the cause of the two last Great Wars.

4. *Hegel's Followers*—Hegel's conception of the state in some of its essential aspects was elaborated by later German philosophers and militarists, notable among them being Nietzsche, Treitschke and Bernhardi, all of whom advocated the imperative necessity of war. They defied state and ascribed to it absolute power. The state, according to them, is itself the judge of its own international obligations, not bound by any other law save that which the state itself chooses to recognise as law. The state is solely an embodiment of power and the state should always strive to increase its power. A state must not only overcome its weakness but should be aggressive and self-assertive in its attitude towards other states. They advocated a theory of militarism which made not only war inevitable but also the existence of small states precarious. Thus in the hands of Hegel's disciples, idealist philosophy came to be identified with German nationalism. The German people had to suffer much in later years on account of their blind and almost irrational devotion to the God-state.

English Idealists—The English and the American philosophers never accepted the philosophy of the German idealists *in toto*. But the influence of the German idealists may be found in the writings of some of the English philosophers notably T. H. Green, F. H. Bradley and especially Bernard Bosanquet. The English idealists were influenced more by Hegel than by any other German philosopher but they did not follow Hegel to the extent of defication of the state making the individual a pawn in the hands of the state. The English idealists were Hegelian in the sense that all of them emphasized the moral value and majesty of the state but at the same time they recognised the limits to state power within and without. They did not place the state above the individual rather they advocated that the nation had no real existence apart from the individuals composing the state. Bosanquet though a close follower of Hegel emphasized the importance of the development of individual personality to its full stature and in this respect he enjoined upon the state the duty of removing hindrances to the development of individual personality. Thus German idealist philosophy was accepted by English philosophers with modifications, qualifications and reservations.

Criticism—The idealist theory more especially the Hegelian type has been subjected to seathing criticism in view of its unreal, wicked and dangerous character. The theory is Un-real because the state has no distinct personality of its own apart from the personality of the individuals composing it. It is wicked because it advocates omnipotence, absolutism and divinity of the state. It is dangerous inasmuch as it sacrifices the individual before the altar of the state denying to the individual his fundamental rights. It has been pointed out by the writers of the 'Realistic School' that the super-personality attributed to the state is only a device to suppress the individual on the one hand and to avoid international obligations on the other. Professor Hobhouse has rightly remarked in his criticism of the idealist theory: "The state is a great organisation..... yet when the state is set up as an entity superior and indifferent to component individuals, it becomes a false god, and its worship the abomination of desolation, as seen in Ypres or on the Somme."