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**COURSE TITTLE: CITIZENSHIP AND THE STATE**

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**QUESTION:**

**ASSIGNMENT (TERM PAPER)**

**N.B: DON’T EXCEED 15 PAGES.**

**1. HOW CAN A LEBANESE RETAIN OR LOSE HIS OR HER NEWLY ACQUIRED NIGERIAN CITIZENSHIP**

**2. SOCIAL CONTRACT THEORY EXPLAINS THE EVOLUTION OF STATES, WHAT OTHER THEORIES EXPLAIN THE SAME, AND THEIR STRENGTHS.**

**QUESTION 1**

The Oxford Learner’s dictionary defines a citizen as a person who has the legal right to belong to a particular country.

 A citizen is a native or naturalized member of a state or nation who owes allegiance to its government and is entitled to its protection (distinguished from alien) an inhabitant of a city or town, especially one entitled to its privileges or franchises. Due to the fact that citizenship is the status of a person as recognised under the constitution of a country or sovereign state as being a legal member of such county or state, a person with the citizenship status has access to all the benefits and rights stated in the constitution of such country.

A person can become a citizen of any county in the world in order to be entitled to the privileges of such countries by several means as every country has its own law governing citizenship and other aspects of their nationality, this is known as nationality law. Focusing on Nigeria, the constitution of the federal republic of Nigeria stipulates these laws known as the Nigerian nationality law. In Nigeria, three methods of acquiring citizenship are recognised,

1. Citizenship by birth: this is for those who were born in Nigeria and have at least one parent of Nigerian origin. Chapter 3 of the 1999 constitution of the federal republic of Nigeria states the provisions for obtaining Nigerian citizenship known as the Nigerian Citizenship Act.

Section 25 states;

1. The following persons are citizens of Nigeria by birth namely-
2. Every person born in Nigeria after the date of independence (October 1, 1960), either of whose parents or any of whose grandparents belonged or belong to a community indigenous to Nigeria; Provided that a person shall not become a citizen of Nigeria by virtue of this section if neither of his parents nor any of his grandparents was born in Nigeria.
3. Every person born outside Nigeria either of whose parents is a citizen of Nigeria.
4. Citizenship by registration: this type of citizenship can be obtained by any of the following persons:

A foreign woman married to a Nigerian man

Anyone who is of age (17) born outside of the country who has either one or both grandparents as a citizen or former citizen of Nigeria

A foreign child adopted by Nigerian parents.

Section 26 of the Nigerian Citizenship Act states

1. Subject to the provisions of section 28 of this constitution, a person to whom the provisions of this section apply may be registered as a citizen of Nigeria, if the president that-
2. He is a person of good character; two people to testify to that which one should a religious minister…
3. He has shown a clear intention of his desire to be domiciled in Nigeria; and
4. He has taken the oath of allegiance prescribed in the seventh schedule to this constitution.
5. The provisions of this section shall apply to-
6. Any woman who is or has been married to a citizen of Nigeria or every person of full age and capacity born outside Nigeria any of whose grandparents is a citizen of Nigeria.
7. Citizenship by naturalization: anyone who is of full age and has lived in Nigeria for at least fifteen years and has intentions to continue residing in Nigeria. Such person must be familiar with the customs and language of Nigeria and must be able to support himself/herself.

Section 27 of the Nigerian Citizenship Act states,

1. Subject to the provisions of section 28 of this constitution, any person who is qualified in accordance with the provisions of this section may apply to the president for the same of a certificate of naturalisation.
2. No person shall be qualified to apply for the grant of a certificate of naturalisation, unless he satisfies the president that-
3. He is a person of full age and capacity
4. He is a person of good character
5. He has shown a clear intention of his desire to be domiciled in Nigeria.
6. He is, in the opinion of the governor of the state where he is or he proposes to be resident, acceptable to the local community in which he is to live permanently, and has been assimilated into the way of life of Nigerians in the part of the federation;
7. He is a person who has made or is capable of making useful contributions to the advancement; progress and well-being of Nigeria.
8. He has taken the Oath of Allegiance prescribed in the Seventh Schedule to this constitution; and
9. He has, immediately preceding the date of his application, either-
10. Resided in Nigeria for a continuous period of fifteen years; or
11. Resided in Nigeria for a period of twelve months, and during the period of twenty years immediately preceding that period of twelve months has resided in Nigeria for periods amounting in the aggregate to not less than fifteen years.

This prelude has explained the ways of acquiring citizenship in Nigeria. A person can newly acquire citizenship of a country by registration or by naturalisation. According to the law of the land, dual citizenship is allowed for, every person born in Nigeria before the date of independence (1960) either of whose parents or grandparents belong to an indigenous community or is a citizen of Nigeria, are classified as citizens of Nigeria by birth, as is every person born outside Nigeria either of whose parents is a citizen of Nigeria.

A foreign woman in this case a Lebanese who marries a citizen of Nigeria, and a person who is of adult age ( 18 years old), born outside Nigeria but with a Nigerian grandparent, are allowed to apply for and hold citizenship by registration.

A person in this case a Lebanese who has made or is capable of making a useful contribution to the advancement, progress and well-being of Nigeria; who is of full age and capacity; has been assimilated into the way of Nigerians; and has been largely resident in Nigeria, may be qualified to apply for a certificate of naturalization.

 A person in this case a Lebanese who wants to acquire the citizenship of Nigeria by registration or naturalisation will have to renounce his/her other citizenships within 12 months. In order to retain the citizenship status, the individual has to obey the laws of the land which is in this case, Nigeria. Several instances can also make such an individual to lose his acquired citizenship such as criminal records.

Dual citizenship is allowed for persons who have a Nigerian parent, that is, citizens by descent, according to section25 of the Nigerian constitution. Dual citizenship is also allowed for persons who were born in Nigeria after October 1, 1960, and have either a Nigerian parent or grandparent.

As applicable in section 28 of the constitution, a citizen who holds Nigerian citizenship, by means other than birth, but acquires or retains the citizenship of another country by means other than birth, must forfeit their Nigerian citizenship. A person may obtain Nigerian citizenship as a second citizenship if his or her first citizenship was obtained by birth. Acquisition of Nigerian citizenship by registration or naturalisation is therefore conditional upon renunciation of citizenships of other countries not obtained by birth.

Having dual citizenship allows one to hold more than one passport, which has many different personal and travel benefits. Think of it this way: a passport is essentially your freedom document. It allows you travel outside the borders of the country where you reside. With multiple passports, you have greater access to more countries. There are financial advantages too, as some banks and financial institutions tend to be more willing to work with certain nationalities.

In the case of this Lebanese citizen, the republic of Lebanon allows dual citizenship and has placed no restriction on multiple citizenship since 1st January 1926. Thus foreigners who acquire Lebanese citizenship and **Lebanese citizens who voluntarily acquire another citizenship keep their previous citizenship (subject to the law of that country),** as was the case before that date. Since many nationality laws now allow both parents to transmit their nationality to their common child (and not the father as used to often be the case), many children automatically acquire multiple citizenship at birth.

Section 30 of the 1999 constitution of the federal republic of Nigeria (as amended) (deprivation of citizenship)

1. The president may deprive a person, other than a person who is a citizen of Nigeria by birth or by registration, if he is satisfied that such a person has , within a period of seven years after being naturalised, been sentenced to improvement for a term of not less than three years.
2. The president shall deprive a person, other than a person who is a citizen of Nigeria by birth, of his citizenship, if he is satisfied from the records of the proceedings of a court of law or other tribunal or after due inquiry in accordance with regulations made by him, that
3. The person has shown himself by act or speech to be disloyal towards the federal republic of Nigeria; or
4. The person has, during any war in which Nigeria was engaged, unlawfully traded with the enemy or has been engaged in or associated with any business that was in the opinion of the president, carried on in such a manner as to assist the enemy of Nigeria in that war, or unlawfully communicated with such enemy to the detriment of or with intent to cause damage to the interest of Nigeria.

Citizenship is given to any foreign citizen that meets the requirements of acquiring citizenship by birth, descent, registration or naturalisation. And such a person retains his/ her citizenship rights and privileges in Nigeria but, if an individual is guilty of any act provided for the deprivation of citizenship, such a person will have his or her citizenship deprived.

**QUESTION 2:**

Apart from The Social Contract Theory of state, the following theories explain the evolution of states.

1. The Divine origin theory of state
2. The Evolutionary theory (Patriarchal theory and Matriarchal theory) of state
3. The Force theory of state
4. The Marxist theory of state
5. The Organic theory of state

Simply put, a theory may be defined as a belief, policy, or procedure proposed or followed as the basis of action.

1. **THE DIVINE ORIGIN THEORY OF STATE**

The oldest theory about the origin of the state is the divine origin theory. It is also known as the theory of divine right of Kings. The exponents of this theory believe that the state did not come into being by any effort of man. It is created by God. The King who rules over the state is an agent of God on earth. The King derives his authority from God and for all his actions he is responsible to God alone. Obedience to the King is ordained to God and violation of it will be a sin. The King is above law and no subject has any right to question his authority or his action. The King is responsible of God alone. The conception of the divine creation of the state may be traced back to remote antiquity. It was universal belief with the ancient people that the King is the representative of God on earth and the state is bliss of God. Thus the King had both political and religious entity. In the religious books also the state is said to be created by God. In some religions this conception is explicit, but in others it is implicit.

The divine origin of the state is gleaned first the Old Testament of the Bible. There we find St. Paul saying- **“**Let every soul be subject unto the higher powers; for there is no power but of God; the powers that be, are ordained by God. Whosoever resists the power resisted the ordinance of God and they that resist shall receive to themselves damnation.”

In 1680 Sir Robert Filmer wrote a book entitled The Law of the Free Monarchies, where it is stated the Adam was the First King on earth and the Kings subsequent to him are the descendants of Adam. In the Manusmriti it is said that when the world was thick in anarchy, the people prayed to God to remedy the condition. God was pleased to appoint Manu to rule over the earth.

This theory prevailed in the old age when religion and politics were combined in the person of the King. In ancient India the Kings ruled over the people according to the injunction of the Dharma, which stood for both religion and politics. Laws fay deep in the profusion of the Sastras.

In the medieval period the Christians held the Pope in semi-God status. In the Muslim world the Caliph was the Priest-King. The Dalai Lama was the head of the Theocratic state of Tibet. He was considered there as the incarnation of the Buddhist god Avalokitesvara.

Both the church and the state in their mutual rivalry used the theory of the divine origin in the medieval age. The church asserted the supremacy of the church over the state. On the other hand, the state because of its divine nature emphasized on its supremacy over the church.

The idea of this theory experienced a resurge in Western Europe from the 16th to the 18th centuries, when he Stuart King James I of England alongside several French monarchs and other rulers claimed that he derived his authority directly from God and thus could not be challenged. According to him, the King is wise and intelligent, but his subjects are wicked.

Even if the King is bad, the people have no right to rebel against him, in the nineteenth century the Kings of Austria, Prussia and Russia formed the Holy Alliance under the notion that they were appointed by God to rule over their people. Anyway, the European Kings took shelter under the divine origin theory in order to justify their dictatorships. Be that as it may, during a large part of human history the state was viewed as direct divine creation and theocratic in nature. The theory was in currency so long as religion was considered to be the chief motive force of all human activities.

#### The greatest strength of the Divine Theory:

Although the divine theory is totally discredited as an origin of the state, there are some good things in it. The highest good of the theory or as in Latin *summum bonum* of the theory is that it stimulated discipline and law-abidingness among the subjects at a time when these were the needs of the hour in those anarchical conditions. This theory also created the moral responsibility of the rulers, because they were cast with a divine injunction to rule to the perfect satisfaction of the heaven.

1. **THE EVOLUTIONARY THEORY OF STATE**

This theory believed that government originates from a family or clan bound structure. For example, the monarchy of Saudi Arabia, the king has been descended from the Al Saud family since 1744. The patriarchal and matriarchal theories are viewed as forms of the evolutionary theory.

1. **THE PATRIARCHAL THEORY**

The principal exponent of this theory is Sir Henry Maine (1822-1888) an author of ancient literature. According to him, the city is a conglomeration of several families which developed under the control and authority of the eldest male member of the family. The head or father of the patriarchal family wielded great power and influence upon the other members of the family.

His writ was carried out in the household. This patriarchal family was the most ancient organized social institution in the primitive society. Through the process of marriage the families began to expand and they gave birth to gen which stands for a household. Several gens made one clan. A group of clans constituted a tribe. A confederation of various tribes based on blood relations for the purpose of defending themselves against the aggressors formed one commonwealth which is called the state. Sir Henry Maine’s elementary group is the family connected by the common subjection to the highest male ascendant. The aggregation of families forms the gens or the houses. The aggregation of houses makes the tribe. The aggregation of the tribes constitutes the commonwealth. “Edward Jenks who is the other advocate of the patriarchal theory is of the view that the foundation of the state was caused by three factors, namely male kinship, permanent marriages and paternal authority. Thus, the salient feature of the patriarchal theory is that the families grew through the descendants of the father, not the mother. The male child carried on the population though marriages with one or several women, because both monogamy and polygamy were the order of the day. The eldest male child had a prominent role in the house. Another important supporter of this theory was Aristotle. According to him- **“Just as men and women unite to form families, so many families unite to form villages and the union of many villages forms the state which is a self-supporting unit”.** As for documentary evidence in support of this theory, there were twelve tribes who formed the Jewish nation as we gather from the Bible. In Rome, we are told that the patriarch of three families that made one unit exercised unlimited authority over the other members.

Strength of the theory

The theory has no specific strength but however argues that although the eldest male has absolute supremacy, the power of the eldest male parent’s power is not extended to life and death. In effect the eldest male was unqualified over his children and their houses as over their slaves. Also, in the case of breakup of the single family which is obviously coordinated by the head of the first family into more families, the total of these tribes of families makes a state. This theory conceives the state as an extension of the family in such a way that the head of the state could be seen as the father and the people his children. The theory sees the male as the most important figure in the state.

1. **THE MATRIARCHAL THEORY**

The chief exponents of the matriarchal theory are Morgan, Meclennan and Edward Jenks. According to them, there was never any patriarchal family in the primitive society and that the patriarchal family came into existence only when the institution of permanent marriage was in vogue.

But among the primitive society, instead of permanent marriage there was a sort of sex anarchy. Under that condition, the mother rather than the father was the head of the family. The kinship was established through the mother.

Edward Jenks who made a thorough study of the tribes of Australia came to the conclusion that the Australian tribes were organized in some sort of tribes known as totem groups. Their affinity was not on the basis of blood relationship but through some symbols like tree or animal. One totem group men were to marry all the women of another totem group. This would lead to polyandry and polygamy also. This matriarchal system continued until the advent of the pastoral age when the permanent marriage was introduced. We find the existence of the Queen ruling over in Malabar and the princesses ruling over the Maratha countries. These are examples of the matriarchal systems of life.

1. **THE MARXISTS THEORY OF STATE**

The Marxists are of the view that the state is a creation by the class-struggle with the help of force.

So it is altogether a different theory of origin of state with the recognition of force which we have studied as a theory of origin of state.

The Marxists began with the primitive society where there was no surplus wealth to quarrel with and so there was no state.

With the passing of time, society was getting split over hostile classes with conflicting interests. This class antagonism was the root cause of the state. When agriculture was learnt as an art of culture there was ample food which resulted in private property. The insoluble contra-dictions as a result of division of labor became so acute that it was not possible for any class to keep reconciled in the state or to keep the quarrelling classes under control.

The most dominant class that controlled the mode of production came to establish the state to ensure its dominance over the other classes who did not own the modes of production. The state thus became an instrument of domination and oppression of one class over the other classes.

Thus the state came in to ensure the right of the dominant class to exploit the other classes. As the dominant classes kept on changing hands so also changed the character of the state. So V. G. Afanasyev in his book Marxist Philosophy maintained that the state was not imposed from outside, but it was a product of society’s internal development at a certain stage of development with the break-up of the social order ensued class-conflict which the society became powerless to dispel

Emphasizing the economic factor as the key element in the class struggle, Fredrich Engels observed- “But in order that these antagonisms, classes with conflicting economic interests, might not consume themselves and society in sterile struggle, a power seemingly standing above society became necessary for the purpose of moderating the conflict, of keeping it within the bounds of ‘order’ and this power, arisen out of society, but placing itself above it and increasingly alienating itself from it is the state.”

The state was the medium of the economically dominant classes. V.I. Lenin developed on the above thesis by bringing the communist party as the dominant class, namely the proletariat and his state, namely the USSR where the proletariat was the dominant class which was to exploit the other classes. Lenin also emphasized on the element of force to be resorted to by the proletariat against the bourgeois. Thus Lenin incorporated the element of force too in the creation of the state.

The Italian Marxist, Antonio Gramsci made a little departure from the Marxist tenet by stating that a state is the creation of the political party that holds on power. According to him, the political party is the **“modern prince”,** evidently using the expression of N. Machiavelli. He went to the extent of asserting that the party represents the national popular collective will and aims at the realization of a higher and total form of modern civilization. Here we find that the author is more in agreement with the German idealist Hegel than the Marxists.

This is in broad analysis of the Marxist views as culled from the writings and opinions of Engels, Lenin and Gramsci. Now we shall draw up the criticism of it.

1. **THE ORGANIC THEORY OF STATE**

The nature of the state is to be gleaned from the organic theory which compares the state to a biological organism. The state is likened with a living being. The relation between the state and the individuals is one of the biological organism and its different cells. The state is not a composition of its people but an organism having parts and organs which are related to one another as the different organs of an animal arc related to one another. The earliest political thinker who propounded the theory compared the state to “A” and the individuals to “a” and he called the state as an individual magnified. According to Plato, the rulers stood for wisdom, warriors represented courage, and the working class symbolized appetite.

The other Greek philosopher who believed in this organic theory was Aristotle who drew an analogy between the state and the human body. Among the Roman thinkers was Cicero who shared the view of organism as a nature of the state. He found a parallelism between the head of the state and the spirit that rules the body. The English thinker Thomas Hobbes compared the state to a huge monster called the Leviathan. This artificial being was of great strength and stature. Hobbes went to the extent of asserting that like human beings suffering from plague, fever and injury, the Leviathans also subject to similar ailments. The French philosopher Rousseau drew a comparison between the body-politic and human body. As the state has got legislative power, the human body has “will”. The German thinker J. K. Bluntschli considered the state as a live mechanism. The state has both life and spirit. The state is not a mere building to have only bricks and mortars. It is something more. Similarly, the state has its own identity which is independent of the individuals comprising it.

**Strength of the organic theory**

Even the darkest cloud has its silver lining. So we find some utility of the organic theory. It underlines the importance of the unity of the state and at the same time insists on the interdependence of its individuals. Again, it emphasizes the evolutionary nature of the state by stressing upon the growth and changes in the state. According to R. G. Gettell, the *summum bonum* of this theory is that it is the antidote to the eighteenth century social contract theory which considers the state as an artificial creation of man.

1. **THE THEORY OF FORCE**

Another early theory of the origin of the state is the theory of force. The exponents of this theory hold that wars and aggressions by some powerful tribe were the principal factors in the creation of the state probably because humans are bellicose in nature .They rely on the oft-quoted saying **“war begot the King**” as the historical explanation of the origin of the state .The force or might prevailed over the right in the primitive society. A man physically stronger established his authority over the less strong persons. The strongest person in a tribe is, therefore, made the chief or leader of that tribe .After establishing the state by subjugating the other people in that place the chief used his authority in maintaining law and order and defending the state from the aggression from outside. Thus force was responsible not only for the origin of the state but for development of the state also.

History supports the force theory as the origin of the state.

**According to Edward Jenks:**

“Historically speaking, there is not the slightest difficulty in proving that all political communities of the modern type owe their existence to successful warfare. “As the state increased in population and size there was a concomitant improvement in the art of warfare. The small states fought among themselves and the successful ones made big states. The kingdoms of Norway, Sweden and Denmark are historical examples of the states created by the use of force. It was through the same process, Spain emerged as a new state in the sixth cen**tury** A.D. In the ninth century A.D. the Normans conquered and established the state of Russia, the same people established the kingdom of England by defeating the local people there in the eleventh century A.D. Stephen Butler Leachock sums up the founding of states by the use of force in these words**:**

“The beginnings of the state are to be sought in the capture and enslavement of man-by-man, in the conquest and subjugation acquired by superior physical force. The progressive growth from tribe to kingdom and from kingdom to empire is but a continuation from the same process.”

*History of the Theory*:

This theory is based on the well-accepted maxim of survival of the fittest. There is always a natural struggle for existence by fighting all adversaries among the animal world. This analogy may be stretched to cover the human beings. Secondly, by emphasizing the spiritual aspect of the church the clergymen condemned the authority of the state as one of brute force. This indirectly lends credence to the theory of force as the original factor in the creation of the state. Thirdly, the socialists also, by condemning the coercive power of the state as one bent upon curbing and exploiting the workers, admit of force as the basis of the state. Lastly, the theory of force is supported by the German philosophers like Friedrich Hegel, Immanuel Kant, John Bernhardi and Triestchki. They maintain that war and force are the deciding factors in the creation of the state. Today in the words of Triestchki – “State is power; it is a sin for a state to be weak that state is the public power of offence and defence. The grandeur of history lies in the perpetual conflict of nations and the appeal to arms will be valid until the end of history.” According to Bernhardi-“Might is the supreme right, and the dispute as to what is right is decided by the abridgement of war. War gives a biologically just decision since its decision rests on the very nature of things.”

As a strength, the subdued states stay loyal to their conquerors and increase the size of an already existing state which increases the strength of that state.

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