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ASSIGNMENT 1: HOW CAN A LEBANESE RETAIN OR LOSE HIS/ HER NEWLY ACQUIRED NIGERIAN CITIZENSHIP

Loss of nationality occurs where a person ceases to be a national of a country under its law. The principal modes of loss of nationality are:

1. **Deprivation of nationality on grounds of conduct:** The right to a nationality requires not only that a person can acquire nationality at birth, but also that arbitrary deprivation of nationality is prohibited. The 1961 Convention on the Reduction of Statelessness establishes restrictions on states’ rights to deprive a person of nationality, while the African Charter on Human and Peoples’ Rights creates requirements on due process that the African Commission has confirmed apply in the area of nationality rights. Since 2008, the UN Human Rights Council has adopted a series of [reports and resolution](http://ohchr.org/EN/Issues/Pages/Nationality.aspx)s on the arbitrary deprivation of nationality, and UNHCR has also published [guidance](http://www.refworld.org/docid/533a754b4.html) on loss and deprivation of nationality. The 1961 Convention distinguishes between loss of nationality (that is automatic, by operation of law; for example, commonly provided for if a person acquires another nationality) and deprivation (that involves a decision by the executive; for example, if a person has committed a serious crime against the state). The laws of many African states provide for extremely broad grounds for deprivation of nationality, and some even exclude deprivation of nationality from review by the courts. In practice, African states wishing to deny a person nationality have often asserted that a person was erroneously recognized as a national to start off with: however, it is clear that such an assertion is also subject to the rules forbidding arbitrary deprivation of nationality.
2. **Deprivation of nationality on grounds of fraud or misrepresentation**: Where nationality has been acquired on the basis of fraudulent or falsified information, or misrepresentation of fact, States may provide for its loss or deprivation as a punishment for misconduct in the acquisition process or an administrative response to the mistaken attribution of nationality following the discovery that the conditions had never, in fact, been met. International law accepts this as a legitimate ground for loss or deprivation of nationality, recognizing that States may even, exceptionally, exercise this power where the person concerned is left stateless. However, loss or deprivation of nationality can only be justified where the fraud or misrepresentation was perpetrated for the purpose of acquiring nationality and was material to its acquisition. As with any decision to deprive a person of a nationality, States have a duty to carefully consider the proportionality of this act, especially where statelessness results. The nature or gravity of the fraud or misrepresentation must be weighed against the consequences of denationalization. In this context, considerations such as the person’s links with the State, including the length of time that has elapsed between acquisition of nationality and discovery of fraud also need to be taken into account. Fraud appears to be the most common ground for loss or deprivation of nationality in the domestic legislation of States. Most nationality laws which provide for the deprivation of nationality on the ground of fraud allow for this even if it leads to statelessness. Legislative safeguards against statelessness which can often be found in respect of other grounds for loss or deprivation of nationality are notably absent in this context. However, in what should be considered as good practice, many States have explicitly limited the period following acquisition of nationality within which it may be withdrawn if fraud or misrepresentation is established.
3. **Renunciation (voluntary):**The right to renounce Nigerian citizenship is established in S 29 of the 1999 Constitution of Nigeria, which states that "any citizen of Nigeria of full age who wishes to renounce his/her Nigerian citizenship shall make a declaration in the prescribed manner for the renunciation", which the government is obliged to register except when Nigeria is physically involved in a war or when the President on Nigeria is of the opinion that the renunciation is contrary to public policy. Under S 29(4) (a), a person of either gender becomes "of full age" at eighteen years, while under S 29(4)(b) a girl younger than that is still deemed to be "of full age" if she is married. In 2013, the Senate of Nigeria proposed a constitutional amendment to delete S 29(4) (b), which would have the effect that girls could only renounce Nigerian citizenship at the age of eighteen or older regardless of their marital status; the amendment passed by a vote of 75–14, two votes greater than the two-thirds supermajority required for the passage of constitutional amendments. However, after the vote, a point of order was raised against the amendment by Senate Deputy Minority Leader Ahmad Sani Yerima (ANPP-Zamfara), who stated that Schedule 2 of the Constitution prohibited the National Assembly of Nigeria from legislating on any matters relating to customary or Islamic law. Some sources suggested that the amendment would have the effect of outlawing child marriage, a matter of personal concern to Yerima due to his 2009 marriage to an Egyptian girl then only 13 years old. Senate President David Mark was initially disinclined to permit a second vote on the matter, but relented after an argument. Yerima's arguments were sufficient to convince enough erstwhile supporters and non-voters to oppose the amendment; with a vote of 60–35, it was deprived of its supermajority and failed to pass.
4. **Acquisition of another nationality (voluntary):** Article 15 of the Universal Declaration of Human Rights protects not only the right to a nationality, but also the right to change nationality. Circumstances such as long-term residence outside the country of nationality, or marriage to a foreign national, may lead to a desire to change nationality and create the opportunity to do so, often through voluntary naturalization. With a view to avoid dual nationality, nationality laws may provide for the automatic loss or the possibility of deprivation of nationality in response to the voluntary acquisition of another nationality. This does not, in principle, raise concerns under international law. Such a practice should not lead to statelessness, if adequate safeguards are in place in the nationality law and due diligence is exercised on the part of the State withdrawing nationality to ascertain that the individual concerned has indeed acquired a new nationality. Nor does it impose on the person concerned an unforeseeable change to their legal status, given that it is a response to that individual’s voluntary acquisition of a new nationality.
5. **Civil service or military service for a foreign state:** Dated back to the 18th century, people from certain countries renounce their citizenship to avoid compulsory military services also known as conscription. This form of compulsory enlistment into military services in recent times has raised several objections on different grounds ranging from religious or philosophical grounds; political objection, for example to service for a disliked government or unpopular war; and ideological objection, for example, to a perceived violation of individual rights. Those conscripted may evade service, sometimes by leaving the country. As of the early 21st century, many states no longer conscript soldiers, relying instead upon professional militaries. Many states that have abolished conscription therefore still reserve the power to resume it during wartime or times of crisis.
6. **Residence abroad:** Where a national has been absent from his or her country of nationality for an extended period of time, this may be viewed as causing the genuine link with the State to weaken and may be a ground for the loss or deprivation of nationality. Although the 1961 Convention accepts that the loss or deprivation of nationality in the context of absence can, exceptionally, lead to statelessness, it sets out strict criteria: in respect of nationality acquired by naturalization following more than seven years of residence abroad, if they have neglected to register with the authorities of the State during this period or, in respect of nationality acquired by descent, for people born abroad, if they neither return to reside in the State, nor make a declaration to the authorities to retain their nationality upon reaching majority. The European Convention on Nationality does not accept absence as a legitimate ground for loss or deprivation of nationality where statelessness would result. Human rights norms and standards regarding the right to freedom of movement and the protection of family life also preclude loss or deprivation of nationality in response to absence from the State. This ground for loss or deprivation of nationality is, in practice, in significant decline and is retained by only a minority of States. The application of this ground is usually restricted to nationals who acquired nationality by naturalization or by descent while born abroad. While the assumption may be that the person has, in the interim, acquired the nationality of the country of residence, many States that provide for the loss of deprivation of nationality in response to absence from the territory do not have a safeguard in place to ensure this is the case and thus to prevent statelessness.
7. **Failure to renounce another nationality on or after reaching the age of majority:**  Subject to the other provisions of this section, a person shall forfeit forthwith his Nigerian citizenship if he acquires or retains the citizenship or nationality of a country other than Nigeria. Any registration of a person as a citizen of Nigeria or the grant of a certificate of naturalization to a person who is a citizen of a country other than Nigeria at the time of such registration or grant shall be conditional upon effective renunciation of the citizenship or nationality of that other country within a period of not more than 12 months from the date of such registration or grant. A citizen of Nigeria by birth shall not forfeit his Nigerian citizenship if, within 12 months of the coming into force of the provisions of this Chapter or of his attaining the age of 21 years (whichever is the later) he renounces the citizenship or nationality of any other country which he may possess.

**ASSIGNMENT 2:** Social Contract Theory; Explain the evolution of states, what other theories explains the same and their strengths

**What is Social Contract Theory?**

As philosophers began to examine the nature of societies, and the formation of state governing entities, the question of how rulers take their power over any group of people surfaced. Seventeenth century political philosopher, Thomas Hobbes of Malmesbury, suggested that man, in his natural state, would tend to take on unlimited freedoms – holding he has a “right to all things.” Having no obligation to others, many would be free to take what they want, plundering, murdering, and even raping. Hobbes said that, in such a state, life for humans would be “[solitary](https://www.academia.edu/3138759/Social_Contract_Theory_by_Hobbes_Locke_and_Rousseau), poor, nasty, brutish and short.”

To avoid such a life, people banned together, establishing political communities in which they contracted one with another to act in a mutually beneficial way, establishing security and order. Modern views on social contract theory equate it to our moral and political lives.

The concept of social contract theory is that in the beginning man lived in the state of nature. They had no government and there was no law to regulate them. There were hardships and oppression on the sections of the society. To overcome from these hardships they entered into two agreements which are:-

1. “Pactum Unionis”; and

2. “Pactum Subjectionis”.

By the first pact of unionis, people sought protection of their lives and property. As, a result of it a society was formed where people undertook to respect each other and live in peace and harmony. By the second pact of subjectionis, people united together and pledged to obey an authority and surrendered the whole or part of their freedom and rights to an authority. The authority guaranteed everyone protection of life, property and to a certain extent liberty. Thus, they must agree to establish society by collectively and reciprocally renouncing the rights they had against one another in the State of Nature and they must imbue some one person or assembly of persons with the authority and power to enforce the initial contract. In other words, to ensure their escape from the State of Nature, they must both agree to live together under common laws, and create an enforcement mechanism for the social contract and the laws that constitute it. Thus, the authority or the government or the sovereign or the state came into being because of the two agreements.

**Analysis of the theory of Social Contract by Thomas Hobbes**

* Thomas Hobbes theory of Social Contract appeared for the first time in Leviathan published in the year 1651 during the Civil War in Britain. Thomas Hobbes’ legal theory is based on “Social contract”. According to him, prior to Social Contract, man lived in the State of Nature. Man’s life in the State of NATURE was one of fear and selfishness. Man lived in chaotic condition of constant fear. Life in the State of Nature was ‘solitary’, ‘poor’, ‘nasty’, ‘brutish’, and ‘short’.
* Man has a natural desire for security and order. In order to secure self-protection and self-preservation, and to avoid misery and pain, man entered into a contract. This idea of self-preservation and self-protection are inherent in man’s nature and in order to achieve this, they voluntarily surrendered all their rights and freedoms to some authority by this contract who must command obedience. As a result of this contract, the mightiest authority is to protect and preserve their lives and property. This led to the emergence of the institution of the “ruler” or “monarch”, who shall be the absolute head. Subjects had no rights against the absolute authority or the sovereign and he is to be obeyed in all situations however bad or unworthy he might be. However, Hobbes placed moral obligations on the sovereign who shall be bound by natural law.
* Hence, it can be deduced that, Hobbes was the supporter of absolutism. In the opinion of Hobbes, “law is dependent upon the sanction of the sovereign and the Government without sword are but words and of no strength to secure a man at all”. He therefore, reiterated that civil law is the real law because it is commanded and enforced by the sovereign. Thus, he upheld the principle of “Might is always Right”.
* Hobbes thus infers from his mechanistic theory of human nature that humans are necessarily and exclusively self-interested. All men pursue only what they perceive to be in their own individually considered best interests. They respond mechanistically by being drawn to that which they desire and repelled by that to which they are averse. In addition to being exclusively self-interested, Hobbes also argues that human beings are reasonable. They have in them the rational capacity to pursue their desires as efficiently and maximally as possible. From these premises of human nature, Hobbes goes on to construct a provocative and compelling argument for which they ought to be willing to submit themselves to political authority. He did this by imagining persons in a situation prior to the establishment of society, the State of Nature.
* Hobbes impels subjects to surrender all their rights and vest all liberties in the sovereign for preservation of peace, life and prosperity of the subjects. It is in this way the natural law became a moral guide or directive to the sovereign for preservation of the natural rights of the subjects. For Hobbes all law is dependent upon the sanction of the sovereign. All real law is civil law, the law commanded and enforced by the sovereign and are brought into the world for nothing else but to limit the natural liberty of particular men, in such a manner, as they might not hurt but to assist one another and join together against a common enemy. He advocated for an established order. Hence, Individualism, materialism, utilitarianism and absolutions are inter-woven in the theory of Hobbes.

**Analysis of the theory of Social Contract by John Locke**

* John Locke theory of Social Contract is different than that of Hobbes. According to him, man lived in the State of Nature, but his concept of the State of Nature is different as contemplated by Hobbesian theory. Locke’s view about the state of nature is not as miserable as that of Hobbes. It was reasonably good and enjoyable, but the property was not secure. He considered State of Nature as a “Golden Age”. It was a state of “peace, goodwill, mutual assistance, and preservation”. In that state of nature, men had all the rights which nature could give them. Locke justifies this by saying that in the State of Nature, the natural condition of mankind was a state of perfect and complete liberty to conduct one’s life as one best sees fit. It was free from the interference of others. In that state of nature, all were equal and independent. This does not mean, however, that it was a state of license. It was one not free to do anything at all one pleases, or even anything that one judges to be in one’s interest. The State of Nature, although a state wherein there was no civil authority or government to punish people for transgressions against laws, was not a state without morality. The State of Nature was pre-political, but it was not premoral. Persons are assumed to be equal to one another in such a state, and therefore equally capable of discovering and being bound by the Law of Nature. So, the State of Nature was a ‘state of liberty’, where persons are free to pursue their own interests and plans, free from interference and, because of the Law of Nature and the restrictions that it imposes upon persons, it is relatively peaceful.
* Property plays an essential role in Locke’s argument for civil government and the contract that establishes it. According to Locke, private property is created when a person mixes his labor with the raw materials of nature. Given the implications of the Law of Nature, there are limits as to how much property one can own: one is not allowed to take so more from nature than oneself can use, thereby leaving others without enough for themselves, because nature is given to all of mankind for its common subsistence. One cannot take more than his own fair share. Property is the linchpin of Locke’s argument for the social contract and civil government because it is the protection of their property, including their property in their own bodies that men seek when they decide to abandon the State of Nature. ϖ John Locke considered property in the State of Nature as insecure because of three conditions; they are:-

1. Absence of established law;

2. Absence of impartial Judge; and

3. Absence of natural power to execute natural laws.

* Thus, man in the State of Nature felt need to protect their property and for the purpose of protection of their property, men entered into the “Social Contract”. Under the contract, man did not surrender all their rights to one single individual, but they surrendered only the right to preserve / maintain order and enforce the law of nature. The individual retained with them the other rights, i.e., right to life, liberty and estate because these rights were considered natural and inalienable rights of men.
* Having created a political society and government through their consent, men then gained three things which they lacked in the State of Nature: laws, judges to adjudicate laws, and the executive power necessary to enforce these laws. Each man therefore gives over the power to protect himself and punish transgressors of the Law of Nature to the government that he has created through the compact.
* According to Locke, the purpose of the Government and law is to uphold and protect the natural rights of men. So long as the Government fulfils this purpose, the laws given by it are valid and binding but, when it ceases to fulfil it, then the laws would have no validity and the Government can be thrown out of power. In Locke’s view, unlimited sovereignty is contrary to natural law.
* Hence, John Locke advocated the principle of -“a statue of liberty; not of license”. Locke advocated a state for the general good of people. He pleaded for a constitutionally limited government.
* Locke, in fact made life, liberty and property, his three cardinal rights, which greatly dominated and influenced the Declaration of American Independence, 1776.

**Analysis of the theory of Social Contract by Jean Jacques Rousseau**

* Jean Jacques Rousseau was a French philosopher who gave a new interpretation to the theory of Social Contract in his work “The Social Contract” and “Emile”. According to him, social contract is not a historical fact but a hypothetical construction of reason. Prior to the Social Contract, the life in the State of Nature was happy and there was equality among men. As time passed, however, humanity faced certain changes. As the overall population increased, the means by which people could satisfy their needs had to change. People slowly began to live together in small families, and then in small communities. Divisions of labor were introduced, both within and between families, and discoveries and inventions made life easier, giving rise to leisure time. Such leisure time inevitably led people to make comparisons between themselves and others, resulting in public values, leading to shame and envy, pride and contempt. Most importantly however, according to Rousseau, was the invention of private property, which constituted the pivotal moment in humanity’s evolution out of a simple, pure state into one, characterized by greed, competition, vanity, inequality, and vice. For Rousseau the invention of property constitutes humanity’s ‘fall from grace’ out of the State of Nature. For this purpose, they surrendered their rights not to a single individual but to the community as a whole which Rousseau termed as ‘general will’.

* According to Rousseau, the original ‘freedom, happiness, equality and liberty’ which existed in primitive societies prior to the social contract was lost in the modern civilization. Through Social Contract, a new form of social organization- the state was formed to assure and guarantee rights, liberties freedom and equality. The essence of the Rousseau’s theory of General Will is that State and Law were the product of General Will of the people. State and the Laws are made by it and if the government and laws do not conform to ‘general will’, they would be discarded. While the individual parts with his natural rights, in return he gets civil liberties such as freedom of speech, equality, assembly, etc.

* The “General Will”, therefore, for all purposes, was the will of majority citizens to which blind obedience was to be given. The majority was accepted on the belief that majority view is right than minority view. Each individual is not subject to any other individual but to the ‘general will’ and to obey this is to obey himself. His sovereignty is infallible, indivisible, unpresentable and illimitable.
* Thus, Rousseau favored people’s sovereignty. His natural law theory is confined to the freedom and liberty of the individual. For him, State, law, sovereignty, general will, etc. are interchangeable terms. Rousseau’s theory inspired French and American revolutions and given impetus to nationalism. He based his theory of social contract on the principle of “Man is born free, but everywhere he is in chains”.

**COMPARISION OF THE THEORY OF SOCIAL CONTRACT OF THOMAS HOBBES, JOHN LOCKE AND JEAN JACQUES ROUSSEAU**

1. Hobbes asserts that without subjection to a common power of their rights and freedoms, men are necessarily at war. Locke and Rousseau, on the contrary, set forth the view that the state exists to preserve and protect the natural rights of its citizens. When governments fail in that task, citizens have the right and sometimes the duty to withdraw their support and even to rebel.

2. Hobbes view was that whatever the state does is just. All of society is a direct creation of the state, and a reflection of the will of the ruler. According to Locke, the only important role of the state is to ensure that justice is seen to be done. While Rousseau view is that the State must in all circumstance ensure freedom and liberty of individuals.

3. Hobbes theory of Social Contract supports absolute sovereign without giving any value to individuals, while Locke and Rousseau supports individual than the state or the government.

4. To Hobbes, the sovereign and the government are identical but Rousseau makes a distinction between the two. He rules out a representative form of government. But, Locke does not make any such distinction.

5. Rousseau’s view of sovereignty was a compromise between the constitutionalism of Locke and absolutism of Hobbes.

**CRITICAL APPREHENTION**

1. Rousseau propounded that state, law and the government are interchangeable, but this in present scenario is different. Even though government can be overthrown but not the state. A state exists even there is no government.

2. Hobbes concept of absolutism is totally a vague concept in present scenario. Democracy is the need and examples may be taken from Burma and other nations.

3. According to Hobbes, the sovereign should have absolute authority. This is against the rule of law because absolute power in one authority brings arbitrariness.

4. Locke concept of State of nature is vague as any conflict with regard to property always leads to havoc in any society. Hence, there cannot be a society in peace if they have been conflict with regard to property.

5. Locke concept of laissez-faire is not of welfare oriented. Now in present scenario, every state undertake steps to form a welfare state.

## Social Contract Theory and Government

Political philosophers throughout history have had differing views on how governments rule over people. Sixteenth century philosopher, John Locke, believed that, when men transfer their rights to a government, a social contract is entered into. In subjecting themselves to a sovereign ruler, or other form of government, the people gain security.

Locke expressed a belief that people had certain basic rights that must be supplied by the government, as a result of its contract with the people. These include the right to life, liberty, and property. He also put forth the concepts of a separation of powers, and majority rule. John Locke’s political philosophies had great influence in the American Revolution, as the Founding Fathers penned these beliefs into the nation’s Constitution.

Holding to his belief that all humans have the same feelings and experiences – than none are inherently better or worth more than others – Locke put his ideas of human equality into the organization of politics, saying that governments gain their power or authority from the people. In opposition to Hobbes’ belief that people need a government to keep them from falling into chaos and violence, Locke believed that government exists to help and serve the people.

While both Hobbes and Locke believed that a social contract is entered into when people give over some of their rights to a government, they disagreed in how that would work. Hobbes supported the rule of kings, which held absolute power over the people, as they would be able to keep men from reverting to their natural states. Locke, on the other hand, favored government by representation.

# **Theories on Origin of State**

* Theory of Divine Origin
* Force Theory
* Social Contract Theory
* Evolutionary Theory/Historical Theory
* **Theory of Divine Origin**

This is the oldest theory concerned in the origin of state. According to this theory, state is established and governed by God himself by agent or vicegerent or vicar of God. The chief exponent of this theory in early times were the Jews and supporters were the early church father.

This theory was used especially in medieval period to establish the supremacy of the church over the state.  The divine origin theory took the form of the theory of the divine right of the king. James I, the first Stuart King who said that “Kings are he breathing images of God upon the earth,” and Sir Robert Filmer good examples. Bousset in France elaborated this theory supporting the despotism of Luis XIV, who proudly declared, “I am the state having full authority directly given by God.”

People have no right to rebel against the King, if so it is against the God himself.

* Some of the basic tenets of this theory are:

1. Monarchy is divinely ordained.

2. Hereditary right is indefeasible that means cannot be taken away.

3. Kings are accountable to God alone

4. Resistance to a lawful king is sin.

According to this doctrine, king began to become despot and tyrant. With the growing political consciousness and rise of democratic ideas, this theory was rejected as unsound in theory and dangerous in practice. It got death blow at the hands of Grotius, Hobbes and Locke. Some moral values can be extracted from this theory.

* **FORCE THEORY**

According to this theory, state is the result of the superior physical force and subjugation of the weaker section by the stronger. Physical strength was able to overcome fellow men and to exercise authority over them. Some superior tribes and clans also did so. Then state came into being through physical coercion and compulsion, according to this theory.

As per this theory, war begets the state and Oppenheim, Jenks and many other supports this view. This theory only emphasizes force and accepts that state is the product of coercion and force only. But force must have been an important factor in the evolution of state but to think it as an only one factor is a mistake. Several other factors, such as, voluntary amalgamation as by force and conquest, as a result of conciliation and agreement, by one another’s cooperation and other peaceful agencies and efforts, etc.

Force is an important element for both internal and external security of the state but it is not only the cause for the origination of the state. Might only cannot go ahead permanently. It should follow its path with a positive weapon of right. Force is a physical power while right is a mental power, both should go together in the origination of the state, of course there was strong arms but only with the support of other elements according to MacIver. In the words of MacIver, “Force along never holds a group together.” So force is one of the component for the state origination but not whole sole cause.

* **Social Contract Theory**

According to this theory, state is the result of a deliberate and voluntary contract of primitive man emerging from a state of nature. Hobbes, Locke and Rousseau are the main supporters of this theory. State of nature was even pre-social. According to Hobbes, it was solitary, nasty and brutish. State came into being by the social contract with the surrender of power to absolute monarchy.

According to Locke, “State of nature was pre-political and everything was regulated by natural law, but to execute that law state was originated from the social contract and people chose the constitutional government and limited monarchy.

According to Rousseau, “State of nature was peaceful, carefree life, happiness, but after the advent of economic need, social strife began and society became pre-social.

The state was originated through social contract with the agreement to govern the state under “general will” on the basis of popular sovereignty.

Thus contract was both social contract and governmental or political contract. The objectives of the contract were to secure the life and property of the people. Contract was with one another and with all.

All contractualists justify the conceptions that governmental authority if it is to be legitimate must rest ultimately on the consent of the government.

This theory emphasizes upon the fact that state is man-made by the contract especially to provide protection to the people, it is an artificial creation not natural. And government authority is restrained upon by man’s natural freedom.

**This theory has been criticized on three bases:**

A. Historical: It seems only historical fiction not historical truth. There is no trace in any history about such contract.

B. Legal: Contract has no legal binding force. State of nature cannot create legal bindingness of contract.

C. Philosophical: Voluntary relations of individual and state seems unreasonable.

Membership in the state could not be voluntary, if so state becomes like a company. Man is a part of nature and the state is the highest expression of nature.

State is a natural growth and not a manufacture. According to T.H. Green, “the real flaw in this theory of social contract is that it implies the possibilities of rights and obligation independently of society, the basis of rights is social recognition not agreement.”

Some truths could be drawn from this theory is that contract is based on consent of the governed, sovereignty has no right to act arbitrarily which is the basis for modern democracy, the importance of the individual and political authority lies in people.

* **Evolutionary Theory/Historical Theory**

According to this theory, the state is a historical growth and result of a gradual evolution. It is a continuous development, cannot be referred to any single moment of time, circumstance and any event, etc.

According to Burgess, “It is a gradual realization of the universal principles of human nature. There is no single case, place and any trace of deliberate creation of men in the origination of the state, but political consciousness has played its role from early period to modernity in the origination of state.”

* State was originated on the basis of various causes and varying condition. They are:

a. Kinship

b. Religion

c. Political Consciousness

* Kinship:

Kinship is fact knit together different clans and tribes and gives them unity and cohesion since the early period.

Kin-relationship is one of the factor to develop common consciousness, common interest, and common purpose which ultimately helped to establish intensive social relationship. According to MacIver, “Kinship creates society and society at length creates the states.” In the process of development of kinship patriarchal and matriarchal both societies were experienced and such societies contributed in the origin of the state theory through their authority, military and political and religious privileges and powers, legality and sense of morality, tendency to leadership and subordination and custom which translated into law later.

MacIver says that “custom is at work turning example into precedents and precedents into institutions.

Patriarchal society was followed by feudalism in later period, the idea of this society remained for long period and even after the development of complete society.

* Religion

Religion played an important role in creation of social consciousness and social solidarity in the emergence of state.

Sense of common worship and cult of deceased ancestral worship and other kinds of religious ceremony of different tribes developed as sense of social unity and cohesion in the process of origin of the state.

Kinship and religion were so closely intertwined that the patriarch who later became the tribal chief was also the high priest, the guardian of religion, interpreter of customs and often the magic man and even medical man.

* He was naturally looked upon with reverence in the society.
* He ruled over vast mass with the powerful weapon that is religion.

Political Consciousness

Men in a vast mass of society felt need of the state for the protection of themselves. After their wandering habits and hunting nature, men entered into the pastoral and agricultural life and faced several changes as increase in population, vast religious groups, tribal development, contacts with neighboring people, a sense of harmony, accumulation of wealth in individual and group capacity and advance of economic life, etc.

With those development some sort of organization were formed and they ensured internal order and protection of life and property of the people … it is thus beginning of the origin of the state.

Gradually organizations received mass support and came into intensive form and became an authoritative body to maintain social relationship and defense of private property and private life.

Different forms of authoritative body appeared in different times under the leadership of tribal chief, nobles, religious chief, leaders and kings etc. Thus, such authority helped ultimately to form the state institutions.

State emerged with the emergence of law and government, in the process of kinship, religion and political consciousness and state developed as nation state in the process of political evolution.