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MATRIC NO:19/LAW01/075

QUESTION 1: How can a Lebanese retain or lose his or her newly acquired Nigerian citizenship.

You can retain your citizenship by:

The Lebanese can keep or retain his citizenship by:

* By being loyal to his country
* By observing all the duties and obligations of the Nation as a citizen
* Fighting for his country and supporting his country in the time of War
* By being of good behaviour and reputation both international and locally

You can loose your citizenship by:

1. RENOUNCEMENT: When you loose your citizenship by renouncement it’s more of voluntarily relinquishing your citizenship for another. The right to renounce citizenship was denied in the common law doctrine until the late 19th Century when the United states passed the law of expatriation act of 1868 and later the Bancroft treaties were recognised the right to renounce citizenship. The reason it was denied in the past was because some countries claimed that anyone born in their country owned allegiance perpetually.

The reason why people renounce their citizenship.

* Multiple citizenship: section 28 of the 1999 constitution as amended allows dual citizenship but there are conditions that goes with the law. The person is made to forfeit the citizenship if the person is not a Nigerian citizen by birth and he later acquired citizenship of another country. In Nigeria politics anyone buying for any political position can be disqualified on the ground of their voluntary acquisition of Citizenship for the country's.
* Conscription: people renounce their citizenship to avoid compulsory military service or conscription especially in the time of War or crisis.
* Oath of allegiance: when an individual pledge is the Oath of Allegiance to another country other than theirs their indirectly relinquish their citizenship eg. Joining the military of another country or accepting a job that observes the oath of allegiance.

1. TREASON: any citizen that committed the act of treason such as attempting to overthrow the government by Force (coup d’etat) or being convicted by a court of law or tribunal may be deprived citizenship by the president. See section 30(2) of 1999 constitution as amended.
2. SUPPORTING ANOTHER COUNTRY: any citizen that has traded or assisted the Enemy of Nigeria during the time of war with the intent to cause damage to the interest or Nigeria during the time of war with the intention to cause damage to the interest of Nigeria, his citizenship may be deprived of him.
3. IMPRISONMENT: this way of losing citizenship mostly applies to people who acquired their citizenship through naturalization the person can lose his citizenship if within a period of five to seven years after becoming naturalized he get in a criminal offence that will make him incarcerated.
4. DISLOYALTY: a naturalized citizen can loose their citizenship if his activities are prejudicial to the country’s corporate existence.

2. Social Contract Theory explains the evolution of states, what other theories explain the same, and their strengths

### DIVINE ORIGIN THEORY:

THE HISTORY OF DIVINE ORIGIN THEORY 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 a 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 resist 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 emphasised on its supremacy over the church.

The Stuart King James I claimed that he derived his authority directly from God. 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. Even 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.

In the twentieth century this, theory came under criticism being an incorrect explanation of the origin of the state. With the growth of scientific outlook this theory faded into oblivion. Today’s trend is that the state is a historical growth. We shall now discuss the causes of the decline of the theory.

Criticism of the Divine Theory:

There are seven lines of argument in the hands of R. N. Gilchrist levelled against the divine theory:

The first line of argument of Gilchrist is that the state is a human institution organised in an association through human agency. Modern political thinkers cannot accept the view that God has anything to do with the creation of the state. It does not stand the commonsense of the moderns that God selects anybody to rule over the state.

The second line of argument is that the divine theory is fraught with dangerous consequences, because a semi-divine King is bound to rule arbitrarily as he is responsible only to God and not bound to heed public opinion. Such a theory will make the ruler despotic and autocratic.

The third line of argument is that the divine theory is unrealistic because a bad ruler will continue to rule under the divine shield. There were some bad rulers like James II of England and Louis XVI of France, who were replaced by the people. This could not happen if the divine theory was to be accepted.

The fourth line of argument is that the New Testament of the Bible reversed the divine conception of the state as ingrained in the Old Testament. It is emphatically stated in the New Testamen**t- “Render unto Caesar the things that are Caesar’s and unto God the things that are God’s”,** which gives the state a human character as against the divine coating.

The fifth line of argument is that the divine theory is unscientific. The anthropologists and sociologists after careful scientific analysis have discarded the theory as totally untenable as an explanation of the origin of the slate.

The sixth line of argument is that the divine theory runs counter to the universally accepted conception that the state is the result of a historical evolution. The generally accepted theory of the origin of the state is that various factors like religion, family, force and political consciousness were behind the growth of the state.

The seventh line of argument is that the divine theory is undemocratic. The inevitable implication of the theory in content and tone will make the King absolute and his government never democratic. So the theme of the theory is against the spirit of democracy.

#### Value 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 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.

* FORCE THEORY:

The exponents of the force theory were of the view that the origin of state and its development was based on force, that is, force used by the strong over the weak and their consequent control over them. In such a way, wherever the strong group out did the weak the strong became the master and ruled the weak. The strong group became vested with ruling power and the fedeated were made their subjects. According to the Jenks “Historically, there is not even the slightest difficulty in proving that all political communities of the modern type owe their existence to the successful warfare”[[1]](#footnote-1). The warring clans and tribes established their authority in a definite territory. Their chief became the ruler on the basis of his physical force. The state is born out of force. Exist in force and die in the absence of force. According to Bluntschli, force is an indispensable element of the organization of the state[[2]](#footnote-2). In the two world wars, Great Britain defended its territory against the Nazi forces only with the military power. Further, the Russian military power stopped the aggression of the German forces.

#### Criticisms of the Theory:

Following criticisms are levelled against the theory of force. In the first place, the element of force is not the only factor in the origin of the state; religion, politics, family and process of evolution are behind the foundation of the state. Thus to say that force is the origin of the state is to commit the same fallacy that one of the causes is responsible for a thing while all the causes were at work for it.

This has been rightly pointed out by Stephen Butler Leacock- “The theory errs in magnifying what has been only one factor in the evolution of society into the sole controlling force.” A state may be created by force temporarily. But to perpetuate it something more is essential.

In the second place, the theory of force runs counter to the universally accepted maxim of Thomas Hill Green- “Will, not force, is the basis of the state.” No state can be permanent by bayonets and daggers. It must have the general voluntary acceptance by the people.

In the third place, the theory of force is inconsistent with individual liberty. The moment one accepts that the basis of a state is force, how can one expect liberty there? The theory of force may be temporarily the order of the day in despotism as against democracy.

In the fourth place, the doctrine of survival of the fittest which is relied upon by the champions of the force theory has erroneously applied a system that is applicable to the animal world to human world. If force was the determining factor, how could Mahatma Gandhi’s non-violence triumph over the brute force of the British Imperialists?

#### Merits of the Theory:

**The theory of force, though untenable as an explanation of the origin of the state, has some redeeming features:**

First, the theory contains the truth that some states at certain points of time were definitely created by force or brought to existence by the show of force. When the Aryans came to India they carried with them weapons of all kinds and horses to use in the war against the non-Aryans and by defeating the non-Aryans they carved out a kingdom in India.

Later on, the Aryans sprawled their kingdoms and broad-based their government and ruled with the backing of the people.

Secondly, the other silver lining of the theory is that it made the slates conscious of building adequate defence and army to protect the territorial integrity of the state. That is why we find commanders of war or Senapati as an important post in the ancient kingdoms.

In the modern state, we find a substantial amount of money used on defence budget. Every state in the modern world has got a defence minister which unmistakably recognises the use of force in modern statecraft too.

* PATRIARCHAL THEORY **:**

Family is the foremost constituent of society as it is the oldest of all human institutions and playing important role in the evolution of state. Aristotle says, “the state is the natural expansion of the family”. According to Leacock “First, the house hold, then patriarchal family, then, the tribe or persons of kindred decent and family nation – so emerged the social series created on this basis”.

Sir Henry Maine (1822 – 88) the chief supporter of the Patriarchal theory has stated, “the elementary group in the family, connected by common subjection to the highest male ascendant: the aggression of families form gents or house: the aggression of house make the tribe – the aggression of tribes consist the common wealth”[[3]](#footnote-3). In brief, state is the extension of family, the head of the state is the father; people consist of his children. To strengthen his view, he cited the examples from ‘Old Testament’, the Brotherhoods of Athens, the Patria Potestas of Rome, and the Indian joint family system38, further he added, “the eldest male parent – the oldest ascendant was absolutely supreme in his house hold and his domination extended to life and death and was as unqualified master for his children and their houses, so for his wives”[[4]](#footnote-4). Thus, the Patriarchal theory was established on the principle of three features

1. Male kinship
2. Permanent Marriage and
3. Paternal authority

Criticism and value:

Mc Herman, Morgan and Jenks condoned the patriarchal theory on the ground that Matriarchal families are prior to patriarchal families, that is, the process by which the families develop from clans into tribes. (According to Maine’s concept, ‘however the tribe in their earliest and the primary groups and then comes the clan and finally comes the family, Finally, family and state are separate’[[5]](#footnote-5)). It is wrong to indicate that one develops with the help of other. The theory emphasized that the primitive society and family are not the origins of the state. However, it has the merit on the ground as the theory emphasised the element kinship in making the origin of the state[[6]](#footnote-6).

* **MARXICIAN THEORY OF ORIGIN OF THE 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 labour 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.

#### Criticism of Marxist Theory of Origin of State:

**The Marxist theory of origin of state as based on class struggle is subjected to the following fierce criticism:**

In the first place, it is nowhere stated in history that state in its origin is linked with the class struggle.

In the second place, there might be different class interests, but it is difficult to say that these classes were at arms as the Marxists have us to believe. The classes, on the other hand, cooperated with each other and contributed in their way in the composite development of the state.

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Emphasising 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 emphasised 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 realisation of a higher and total form of modern civilisation. 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.

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1. E.Jenks, “A History of Politics : Page No.71 [↑](#footnote-ref-1)
2. R.C. Agarwal, “Political Theory” Page No. 116. [↑](#footnote-ref-2)
3. H.S.Maine, “Ancient Law World Classical Edition: Page No.106 38 Ibid - A. Appadurai - Page No. 22. [↑](#footnote-ref-3)
4. Ibid -Eddy Asivatham .K.K .Misra - page No. 78. [↑](#footnote-ref-4)
5. Ibid - Eddy Asivatham .K.K .Misra - page No. 79. [↑](#footnote-ref-5)
6. Ibid -A. Appadurai - Page No. 35. [↑](#footnote-ref-6)