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**COLLEGE:LAW**

**COURSE CODE: P0L102**

**COURSE TITLE: CITIZENSHIP AND THE STATE**

**ASSIGNMENT**

1. How can a Lebanese retain or lose his/her newly acquired Nigerian citizenship?

According to chapter 2 section 24 of the 1999 constitution of Nigeria as amended, a Lebanese can retain his/her newly acquired citizenship if he/she;

 (A) Abide by this Constitution, respect its ideals and its institutions, the National Flag, the National Anthem, the National Pledge, and legitimate authorities;

 (b) Help to enhance the power, prestige and good name of Nigeria, defend Nigeria and render such national service as may be required;

 (c) Respect the dignity of other citizens and the rights and legitimate interests of others and live in unity and harmony and in the spirit of common brotherhood;

 (d) Make positive and useful contribution to the advancement, progress and well-being of the community where he resides;

 (e) Render assistance to appropriate and lawful agencies in the maintenance of law and order; and

 (f) Declare his income honestly to appropriate and lawful agencies and pay his tax promptly.

According to Chapter 3, section 30 of the 1999 constitution of the federal republic of Nigeria (as amended) a citizen can lose his/her newly acquired citizenship if ;

 1) The President may deprive a person, other than a person who is a citizen of Nigeria by birth or by registration, of his citizenship, if he is satisfied that such a person has, within a period of seven years after becoming naturalised, been sentenced to imprisonment for a term of not less than three years.

 (2) The President shall deprive a person, other than a person who is citizen of Nigeria by birth, of his citizenship, if he is satisfied from the records of proceedings of a court of law or other tribunal or after due inquiry in accordance with regulations made by him, that -

 (a) The person has shown himself by act or speech to be disloyal towards the Federal Republic of Nigeria; or

 (b) the person has, during any war in which Nigeria was engaged, unlawfully traded with the enemy or 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.

1. Social contact theory explains the evolution of states, what other theories explain the same, and their strengths
* **Divine Origin Theory:**

**The Genesis 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.

**History of Divine Theory:**

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 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, 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.

**Value of the Divine Theory:**

Although divine command theory has been rejected as a working ethical theory, there are a few ways in which it does provide an advantage as an ethical framework. First, God’s commands set forth universal moral rules. The rules can be applied to anyone, at all times and places. The belief that God is eternal and never changes means that his commands are as relevant today as when they were first recorded.

Second, God’s commands don’t depend on what others think are right or wrong. His commands are completely objective. For example, one of God’s commandments is not to commit murder (Exodus 21:13). Even if your friends believe that murder is acceptable (for instance, capital punishment), they are still wrong because their beliefs oppose God’s will. Under this theory, morality exists outside of human reasoning because God is the ultimate authority.

Third, if you disobey God, you will be punished. If you follow his commands, you’ll be rewarded. God is both omnipotent and omnipresent. If you choose to disobey, your punishment is inescapable. If you obey, God will bless you with eternal life and a place in heaven. Those who believe have a strong incentive to follow his commands.

Finally, traditional religions are centuries old and have recorded many of God’s commands. Religious texts allow us to know and understand the character of God, and they make it easier to know how to act morally. For Christian believers, the Word of God is in The Bible and they are secure in the concrete, moral teachings written in its pages.

* **The Patriarchal Theory as the Origin of the State:**

The principal exponent of this theory is Sir Henry Maine. 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 organised 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 analysis of the growth of the state is- “The 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.

In summary, the following important points may be noted in Maine's Patriarchal theory.

1. In the Patriarchal family the element of paternity was the chief fact.

2. Descent was traced not only through males and from the same ancestor. None of the descendants of a female was included in the primitive notion of family relationship. Kinship was accordingly, purely negative.

3. Permanent marriage was the rule whether monogamy or polygamy. The Head of the family was the basis of all authority, and his power was unqualified over his children and their houses and other relations of all descendants, Howsoever numerous.

5. He controlled not only the business affairs of the group which he headed but its religion and its conduct.

* **The Matriarchal Theory as the Origin of the State:**

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 organised 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. In the place of a family consisting of a man his wife and children there was a large and loosely connected group called a horde or pack organised for matrimonial purposes.

The matriarchal family developed as indicated below.

1. First there was a tribe and it was the oldest and primary social group.

2. In course of time a tribe breaks into clans.

3. Clans in their turn give place to households.

4. At last comes the modern family.

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.

* **Force Theory of Origin of the State:**

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. 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 arc historical examples of the creation of states by the use of force. In the same process, Spain emerged as a new state in the sixth century 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 Leacock 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 emphasising 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 arbitrement of war. War gives a biologically just decision since its decision rest on the very nature of things.”

**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.

* **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.

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.

**The following are strengths of the marxician theory of states.**

1. **It tends to create a system of true equality**.

Although Marxism’s system of government is considered as communism, it places an emphasis on human rights, with its foundation encompassing equal gender roles, health care and access to education. As Marx believed, there should be equality before the law and societal services, where everyone has an equal stance and opportunity with no dominant gender. This means that every person would be able to get access to the most important things he needs regardless of whatever he does, wherever he lives or how much he makes to provide a better living for those depending on him.

**2. It offers benefits to the society.**

If you look at the Marxist theory, it considers society as a whole, which means that it acknowledges all the social forces involved, including the power interests of different groups. Stressing the role of class struggle or conflict within society between the bourgeoisie and the proletariat, it is effective in explaining change in society. In essence, it organizes society under capitalism, where the bourgeoisie tends to maximize profit with the proletariat.

**3. It helps with capitalism.**

Ironically, when huge multi-nationals dominate the entire world economy, capital advocates would tell us that the future lies with small businesses or always state that “Small is beautiful”. However, we can consider that the youthful phase of capitalism is gone beyond recall. But as far as Marxism is concerned, free competition inevitably begets monopoly, where the struggle between big and small capitals always yields to the same result. In modern times, the vast power of multi-nationals and monopolies seems to exercise a total stranglehold on the world, holding access to economies of scale, staggering sums of money, ability to manipulate commodity prices and even the influence of government policies. Now, Marxism was able to predict the inevitable tendency towards monopolization, where free competition was a standard.

**4. It reduces the tendency of debt.**

Under the Marxist philosophy, communities will be working together to achieve success, where all people would come together to provide for each other, with the help of the government distributing resources as required.

**5. It protects the rights of unions.**

Rather than exploiting managers, Marxism encourages unions to stand up for personal rights, creating a system of checks and balances for a maximum production level to be achieved. As it is believed that this philosophy never exploits workers by management, followers believe that unions are definitely a great idea.

* **HISTORICAL OR EVOLUTIONARY THEORY OF STATES**

Five theories in explanation of the origin of the state, but no single theory offers an adequate explanation. The theory which explains and is now accepted as a convincing origin of the state is the Historical or Evolutionary theory. It explains the state is the product of growth, a slow and steady evolution extending over a long period of time and ultimately shaping itself into the complex structure of a modern state. This theory is more scientific.

The state is neither the handiwork of God, nor the result of superior physical force, nor the creation of evolution or convention, nor a mere expansion of the family. The state is not a mere artificial mechanical creation but an institution of natural growth or historical evolution says Professor Garner.

There were a number of factors which helped the evolution of the state. They were kinship, religion, war, migration economic activities and political consciousness. The important factors which contributed to the growth of the state are;

1. Kinship

2. Religion

3. Property and defence

4. Force

5. Political consciousness

1. **Kinship**

Kinship is the most important and was based upon blood relationship and kinship was the first strongest bond of unity. Family constituted the first link in the process of the evolution of the state with the expansion of the family arose new families and the multiplication of families led to the formation of clans and tribes. Kinship was the only factor which bound the people together. According to Professor Mac Iver, the magic of names

'Reinforced the sense of kinship, as the course of generations enlarged the group. The blood bond of son ship changed imperceptibly into the social bond of the wider brotherhood. The authority of the father passes into the power of the chief once more under the aegis of kinship new forms arise which transcends it. Kinship creates society and society at length creates the state'.

1. **Religion**

Religion provided the bond of unity in early society. It also affected all walks of life. The worship of a common ancestor and common goods created a sense of social solidarity. There was fear in the hearts of men as far as religion was concerned. Even today we see religious practices, affairs and faith in uniting people. In the early days a number of races are united by religion and unity was essential for the creation of state.

1. **Force**

Force also played an important part in the evolution of the state. It was the use of physical force that was responsible for the growth of kingdoms and empires.

1. **Property and defence**

Property and defence played a vital role in the evolution of state in ancient times particularly among the people who were nomads and vagabonds and tribal. Prof. Laski has referred to the necessity of acquiring property by the members of society and protecting the property acquired with reference to the population mentioned above.

This led to making adjustments in the social system and relationship between the members of different groups. The need to protect property ultimately compelled the ancient people to establish the state.

1. **Political consciousness**

The last is political consciousness arising from the fundamental needs of life for protection and order.

When the people settle down on a definite territory in pursuit of their, subsistence and a desire to secure it from encroachment by others. The need for regulating things and persons is felt imminently and this is the essence of political consciousness.