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Don’t exceed 15 papers

1. How can a Lebanese retain her newly acquired Nigerian citizenship.

Before attempting the question, I want to start with shedding light on how citizenship can be acquired in Nigeria according to what is in the 1999 Constitution of the Federal Republic of Nigeria as amended. Citizenship is based upon the Constitution of the Federal Republic of Nigeria, dated 1989. (UKC-Commonwealth Nation) Those born before or on the date of independence, October 1, 1960, whose parents or grandparents were born in Nigeria and who were legally residing in Nigeria at the time, are considered citizens of Nigeria. There are four ways of acquiring Nigerian citizenship;

By Birth

By Descent

By Registration

By Naturalisation

* **BY BIRTH:** Birth within the territory of Nigeria does not automatically confer citizenship.

(a)Every person born in Nigeria after the date of independence (October 1, 1960), either of whose parents or any of whose grandparents belongs or belonged 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.

(b) Every person born outside Nigeria either of whose parents is a citizen of Nigeria.

In this section, "the date of independence means the 1st day of October 1960. "

* **BY DESCENT:** Child, at least one of whose parents is a citizen of Nigeria, regardless of the child's country of birth.

**REGISTRATION:** The following persons are eligible to become citizens through registration: A foreign woman who marries a citizen of Nigeria. Person who is of adult age (17), born outside Nigeria, any of whose grandparents is or was a citizen of Nigeria. A foreign child adopted by Nigerian parents.

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 is satisfied 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.

(2) The provisions of this section shall apply to

(a) 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.

**BY NATURALIZATION:** Nigerian citizenship may be acquired upon fulfilment of the following conditions: Person is of full age (17), has resided in Nigeria for at least 15 years, is of good character, plans to remain in Nigeria, is familiar with Nigerian language and customs, has a viable means of support, and has renounced previous citizenship.

(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 or naturalisation, unless he satisfies the President that -

(a) He is a person of full age and capacity;

(b) He is a person of good character;

(c) He has shown a clear intention of his desire to be domiciled in Nigeria;

(d) 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 that part of the Federation;

(e) He is a person who has made or is capable of making useful contribution to the advancement; progress and well-being of Nigeria;

(f) He has taken the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution; and

(g) He has, immediately preceding the date of his application, either-

* Resided in Nigeria for a continuous period of fifteen years; or
* Resided in Nigeria continuously 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.

Now in attempt of the question, the Lebanese woman may be deprived or stripped of her acquired citizenship if the President is satisfied that such a person has, within a period of seven years after becoming naturalized, been sentenced to imprisonment for a term of not less than three years.

The President shall deprive her of her newly acquired 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 she has shown herself by act or speech to be disloyal towards the Federal Republic of Nigeria; or she 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.

In order to not be denied her citizenship in any form, she has to ensure that she prevent the things listed above from being applicable to her.

1. Social contract theory explains the evolution of states, what other theories explain the same, and their strength

**What is Social Contract Theory?**

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

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 pre-moral. 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 labour 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.

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 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 state 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 labour 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 civilisation. Through Social Contract, a new form of social organisation- 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, unrepresentable and illimitable.

Thus, Rousseau favoured 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 support 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 undertaken steps to form a welfare state.

The Origin of the State

Political thinkers and philosophers have tried and attempted to trace out and explain the origin of the state in various methods, according to the nature and the social condition prevailed at the time of their thinking. However, there is no valid answer to “what is the origin of the state”? There were many contradictions in the thesis on what the origin of States. Nowhere in the history has it been recorded when the state came into existence. There were various beliefs regarding the origin of the state, some believe that the origin of the state lies in the hands of God whereas others believe that they are based on social contract and some trust on single force, the family or the process of evolution. The research anthropology ethnology and comparative philosophy had tried to focus on the origin of the state but it was not adequate. Prof. R.N.Gilchrist aptly mentioned that “of the circumstances surrounding the dawn of the political consciousness, we know little or nothing from history, where history fails, we m must restore to speculation”. Historical method and evolutionary course of action failed to prove when mankind originally came under the control of state. It is only the imagination of the political scientist and historical researchers that various elements which might have made contribution for the origin of the state. As such, there was no agreeable and acceptable conclusion among the political thinkers regarding the fundamental question of origin and establishment of state. As a result, there were various theories concerning the primary or pre-historical origin of the state propounded by the political scientists and historical researchers. These theories are:

1. The theory of Divine Origin

2. Matriarchal and Patriarchal Theory

3. Force Theory

4. Historical or Evolutionary Theory.

The examination and comparison of elements of truth in these thesis shall pave way for finding out the secret in the origin of the state and its generally accepted explanations.

The theory of Divine Origin

This is the oldest theory among the origin of the state. It stated about the right of kings. The formal statement of this theory is that the state has been established by and ordinates of God; its rulers divinely appointed; they are accountable to no authority but God, as described in Bible. The combination of earlier rulers where of priest and king or the magic. According to Maclver, the magic man was priest and king. All are combined as one. In the epic Mahabarath, it is recorded God appointed Manu to rule the people as per their request to protect them. James in his work “The Law of Free Monarchies”, kings are justly called God, for they exercise a manner of resemblance of divine power on earth. Kings are accountable for God only. The people cannot question him for the right or wrong done by him. James has stated the following rights of the king in Law of free Monarchies:

i. Monarchy is divinely oriented.

ii. Hereditary right is indispensable

iii. Kings are accountable for God alone.

iv. Resistance to lawful king is sin.

This theory has supporters only among the religious people. It has been nullified for being unhistorical, irrational and unscientific. Its merit was a powerful factor in preserving order and strengthening the respect of man, property and government and it reveals itself in the political organization.

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”. 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 state36. 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.

* Merit and Demerit

The force theory is scientific, its application could be seen through the historical incidents. Herbert Spencer’s doctrine of the “Survival of the Fittest” proves and upholds the theory. Through “blood and iron” some greatest states have been established. In practice, this theory is very dangerous. It is endangering the peace and security of the world. The very basis of this theory was direction to the states towards preparation of war, war is known for destruction and killing of mankind and suppressing the moral forces. The theory justifies despotism. It is against the freedom of small nations, international peace and amity. International law rejects this theory. Interstate relations cannot be based on force. Force ceases only to be the basis of the state which does not stand on solid foundation.

Patriarchal Theory:

Family is the foremost constituent of society as it is the oldest of all human institutions 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”. 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 system, 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”. Thus, the Patriarchal theory was established on the principle of three

Features

i. Male kinship

ii. Permanent Marriage and

iii. 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’). 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.

Matriarchal Theory:

The fundamental idea of Matriarchal theory is that “maternity is a fact; paternity is afiction”. According to this theory in the primitive society, there exist Matriarchal groups or hordes. The kinship could be traced only through mother and there was no common male head. Chief exponents of the theory are Mc Herman, Morgan and Jenks. In their publications, “Primitive Society” (1866), “Studies in ancient society” (1877), “A history of politics” (1900) have described the Matriarchal theory. According to them, Matriarchal system was prior to patriarchal system. There was no male head kinship was found out through mother (and mother to daughter). There was no permanent institution of marriage. The permanent form of marriage was association of polyandry, women had more than one husband. Therefore, in this kind of society the kinship was traced through women and not in men. In this system children belong to the clan of their mother. After the mother’s death, the elder daughter takes over the property. To support their idea, they had chosen the similar system existing in Australia, Malaya, Bangladesh and Malabar. According to them, ‘family leads to the formation of gens and gens to that of tribes, the expansion of tribes to village, expansion of village to state’.

Evaluation:

The Matriarchal theory traces the origin of the state from primitive society. It points out that the evaluation of the state started from the tribe and not from family and it has been verified by anthropologist. It is more sociological rather than political. It explained the origin of the family and not of the state. It disregards the important facts which paved way for the development of state. Kinship played an important role in the evolution of the social and political system.

Historical or Evolutionary theory:

All the five theories were analyzed before regarding ‘The Origin of the State’ is inadequate, incomplete, defective and speculative. It was not able to give the true and correct explanation of the origin of the state. It was lacking on the ground of logic, legal, philosophical and historical defect. It is an assumption and the emphasis on the one or two facts which is insufficient to come to a definite conclusion. In this regard, Dr. Garner has aptly stated, “the state is neither the hand work of God; nor the result of superior physical force; nor the creation of resolution of convention, nor a mere expansion of family. The state’s not a mere artificial creation but an institution or natural growth of historical evolution”. J W Burgers reported that “state has a continuous development of human society out of a grossly imperfect beginning through crude but improving forms of manifestation towards a perfect and universal organization of mankind”. According to Leacock “the state is a growth, an evolution, the result of a gradual process running through out all the known history of men and receiving into remote and unknown past”. A detailed examination of the rise of the state resulted in that there were many factors which have contributed for the evolution of the state.

Thus, the important factors contributed to the growth of the state are

1. Natural Instinct

2. Kinship

3. Religion

4. Property and defense

5. Force

6. Political Consciousness

* Natural Instinct

Reasoning faculty of men ‘by way of thinking himself’ makes way to instinct. Fundamentally, the state is based on the gregarious instinct and reason. The statement of Aristotle that man is by nature a social and political animal and he who by nature and not by mere accident is without a state is either above humanity or below it further he stated that the state came into existence for the sake of more life but it continues for the sake of good life. Nature implies man to live in society in order to regulate society based on customary rules and regulations. In course of time, rules and regulations took the form of laws, society gradually became a political organization which paved way for the evolution of the state to which nature and social environment assisted in the development. Thus, the natural and social instinct of man had conclusive role in the growth and development of state.

* Kinship

The important features of state namely organization and authority, command and obedience, can be traced in the bond of kinship. Gettle rightly pointed out that kinship strengthens the bond of unity and contributes to form the political organization. Many features of early state are prescribed to modern state. Mac Iver stated that in kinship creates society and society at length creates the states. Sir Henry Maine pointed out, “the most recent researches into the primitive history of society point to the conclusion that the earliest tie which knitted men together in communities was consanguinity or kinship”. The early period family was a social institution and tribe a political institution. The disputes were resolved by the head of the tribe. The unification of the tribe from the state. Thus, kinship played an important role in the growth and development of state.

* Religion

Another important factor that brought people together in ancient society was religion. The primitive men were in fear of various natural phenomena and objects. The magicians made use of the fear, ignorance and superstition of their fellow men and established a dominant control over them. Later magic gave way to religion, fear to worship and prayer consequently, with the passage of time, the magician was replaced by the priest. Religion and politics were mixed up in early society. The priest assumed the power of king. The priest cum king appealed to God by means of prayer to safeguard the interest of community. According to Gettle, “kinship and religion were, therefore, two aspects of the same thing and the unity and obligation of the groups were given religious sanctions. Its important part in this regard is that in the primitive era religion made man civilized, cultured and culture to discipline”. Gettle has aptly stated, “thousands of years were needed to create that discipline and submission to authority on which all successful governments must rest and their chief means in early part of the process where theories and despotism are based mainly on the super natural sanction of religion”. The tribes of Arabia were united by Prophet Mohammed on the basis of religion. Likewise, small and big kingdoms were established in the name of religion. There has been a close relationship between the religion and politics which united the people. Thus, religion made its predominant presence in the growth and development of state.

* Property and Defense

The primitive people passed three stages to acquire prosperity: (i) hunt man stage (ii) herd man stage (iii) agricultural stage. In course of time, people came to know the practical use of agriculture which made them settle at one place and in this way village came into existence. Further, the art of agriculture trade developed and successfully and commerce expanded, as a result, idea of property and the interest in keeping it with them lead to conflicts. To protect the property, people of one tribe united together to defend themselves and their property. Thus, in order to avoid dispute, the need for law and regulation and to administer the necessity of state were thought of. Gettle has rightly stated that as wealth increased, so the idea of property also developed and laws were needed for protection and regulation of property rights and for the settlement of property disputes. Thus, property, defence, economics and commerce played an important role in the development and establishment of the state.

* Force

Averment of arts of agriculture made the people settle at a place. In course of time, to save their property and belongings, they themselves united together. The tribe which was well organized under strong leader defeated the weak neighboring tribes and attach their territory. They created boundaries and established rights. According to German thinker Nietzcshea “the strong people are the rare great minds who alone are fit to direct, the destiny of the people”. Bluntselhi stated that force is an essential organization of state. In this regard, the view of Prof. Mac Iver is that the emergence of the state, “is not due to force, although in process of expansion of force undoubtedly played a part.

* Political consciousness

The final important factor that helps to bring out the growth and development of the state was the dawn of political conscious among the people. Political consciousness indicates the recognition of certain conclusion to be achieved through political organization. At the beginning, there was no awareness of unity of interest. In course of time, the importance of defending people against the enemy took both internal and external; maintaining law & order regulation rose upon the mind of the people. They felt the awareness of the authority to regulate social issues and protect their life and property. This consciousness and unity paved way for particular organization., that is the state. In this connection Prof. Gilchirst has stated “underlying all other elements in state formation including kinship and religion is political consciousness, the supreme element”. According to Bluntschli, “desire for social life leads to the organization of state”.

* Evaluation

The state is a historical and natural growth. Natural instinct, kinship, religion, property defence and commerce, force and political consciousness have been the dominant factors. It is a gradual evolutionary process. State is not divine organization it is natural formation; it is not based on force only yet it is the influence of factors; it is not based on contract or consent; nevertheless, political consciousness is the life and blood of state. State is not a mere expansion of family however blood relationship is an important factor in evolution of state. On thorough study and analysis of all the theories, it is revealed that historical or evolutionary theory is more realistic and scientific in approach. Therefore, modern political researchers have considered this theory as realistic and scientific in explaining the evolution of state. No single factor is responsible for the growth of the state

Different factors contributed for the development of state.

* Marxist Theory of Origin of State

The French Revolution of 1789 provided a view of ideas of Socialism similar to Liberty, Equality and Fraternity. For which detailed ideological basis was given by Marx, Angel and Lenin. According to them, the early state evolved gradually and steadily as a result of disappearance of primitive communes which were stateless communities formed as a tribal gentile constitution. They lived on hunting, fishing, fruit gathering and Cattle grassing. Marx said, “Man become an individual only through the process of History”. These groups of people in course of time rised to the formation of Socio-Economic states which paved way for foundation of rised of state.

* Evolution of State in India

There was no mention by ancient writers regarding the evolution of states through various stages but they regarded state as necessary for advantage for social security for the people. Kautilya in Arthasastra refers to the origin of state only incidentally during a discussion of Species among themselves. It also argues that Government came into existence to counter the Law of the Jungle. The Mahavastu Biography of Buddha also mentioned about the King, not the Origin of the State Sir Henry Maine and Prof. T.H. Green viewed that Ancient Indian state was nothing but an irresponsible tax collecting machinery. Taxes were collected by coercion exercised on the citizen without judicial administration by imposing convention law. Prof. Rangaswamy Iyengar rejected and pointed out that it was partly the result of an incomplete superficial biased study of the ancient taxes and partly of confused political condition in the later part of 18th century in India. However, it has recognized that modern continuance of the state namely Sovereignty, territory and population are seen in the Saptanga Theory of state. According to A.S. Altekar, the Vedic Literature did not mention about the purpose of the state. Though incidental observations were found, they were not able to find out that peace, order, security and justice were regarded as a fundamental purposes of the state. Hindu Constitutional authors wrote about not rights of the citizen but the duties of state63. In contradiction, most of the Tamil Classical Literatures especially epic poems such as Silapadhigaram and fantastic work such as Thirukural emphasized the statehood, the kinghood and the adjudication of justice and the qualities a king should possess and the purpose of the state. The Justice system quoted in Silapadhikaram is that, when the King Pandian committed a grave mistake in erroneous delivery of adjudication of justice and which later on came to be known through the complainant in the loyal court hall, he felt ashamed and said “Am I a King, I am a misdemeanor. Let my Life go”. He collapsed and died. This emphasized the present days of justice system that all are equal before law. Classical Thirukural also defines that the rulers with six (Healthy) Limbs of country, friends, Ministers, Army, Fortress and Wealth will be the most glorious among sovereigns. The King is one who is capable of acquiring, reserving and distributing wealth. The King shall possess the four qualities of generosity, compassion, right governance, and offering of relief to the distress. The Hindu King Manu, specified eighteen offences to which king should consider, out of them ten pertaining to property and two with family. However, he has mentioned that kingdom prospers only so long as purity of the caste is maintained. Caste system was considered as an indispensible element of Dharma. Thus, some gross injustice existed in Hindu social order. According to modern political scientists, equality before law is one of the basis of a good state. It has to be admitted that it did not exist in ancient Indian state. Even though, the epic of Mahabharata and Ramayana taught about good governance and brotherhood.

* Evolution of modern nation state

In the view of Gettle, the process of the evolution of the state has not been uniform, regular and continuous. It encompasses various stages. There were different factors developed different kinds of states in different societies64. According to the environment and nature where people lived and settled, it is difficult to point out the stages. However, based on historical evidence, it has been mainly regarded the states evolved through the following stages.

1. Tribal State

2. The Oriental Empire

3. The Greek City State

4. Roman Empire

5. Feudal State

6. The Modern Nation State.

* Tribal State

The Tribal organization was the earlier stage of organization and the first political unit was the family. A careful analysis shows that the present element of state is in the tribe. The heads of the tribe are a selected few persons who control the authority. Those who disobeyed the command and direction were punished by the head. Punishment was based on the custom and tradition of the tribe. The capital punishment was reserved by the head of the tribe. There was no written law. Customs and tradition were regarded as law. Wars were waged among the tribes. Powerful won the weak tribes and he became the leader of the defeated tribe, and the later became the subject of the former. Most of the tribes acquired the status of the state in similar way. Towns and cities developed. Customs and tradition became written laws. Taxes substituted gifts. The authority was despotism in some tribes. In some others, it was limited by democratic public opinion. In this way, the tribes attained the stature of the state.

* The Oriental Empire

The tribe settled in the place where they could get food, water for them and grass land for their cattle and climate which better suited them. Gradually, they reached the stature of the state. Tribe centre became small kingdom, small kingdom into big empires, which were ruled on the basis of wealth and monarchy power. Thus, big empires were established in the valleys of rivers. Hindus Ganga, Cauvery and Vaigai in India, in the valley of Huang Hwan ho and Yang Tse-King in China, the Euphrates and Tigress in Mesopotamia and Nile in Egypt. People multiplied rapidly and passed from the earlier family to religious system, social differences and caste discrimination came into vogue65. This oriental empires were despotic either strongly, centrally or combined together. They were not properly organized, depends on the personality and character of the empire towards his favorite countries. As a result, in course of time, there were frequent wars to annex the other territories. In this regard, Soltau rightly stated “Expansion by the annexation then disruption and reconstitution, either from within or by conquest from the outside were the normal process that marked those early empires”.

* The Greek City State

Greek City States were organized on the basis of Clans and tribes, Loved freedom believed in Doctrine of isolation, consisting of valley and islands. This small state known as city states, came into existence in the 4th and 5th century B.C. Each city was small in size and population, as the same could be governed well. They believed in direct democracy. Every citizen was a soldier, a judge, and the member of the governing assembly. According to Burke,” The Greek city state was a partnership in all science, a partnership in all art, a partnership in every virtue in all perfection. The Greek city accepted status, a church and a school as/or whole life of man. There was no difference between state and society. Society was divided into master and slave. The adult of upper strata were called Citizens, who had rights to vote. Slaves, Women, Children and foreigners have no rights to vote. Too much independence of each of the city states resulted in ruin. For each city state, there was a God. No national sentiment, dispute with each city state, and could not form a nation state for all. As a result, they had to surrender to Macedonia. Anyhow, the philosophies of Socrates, Plato and Aristotle are gifts to the world by the city state.

* The Roman Empire:

It is revealed through History that the Greek attained quality idealism and genius through their small city state, whereas Roman succeeded through their mighty empire. The state of Rome passed through three states, Monarchy, Republic and Empire. Like a Greek, Roman also started with city states and lasted during the period 753-510 BC. During this period, Monarchy was the form of government. The king was elected; he was a judge, Monarch and Chief priest of the community. Even though, his power was unlimited he was required to consult the senate or council of elders consisting of 300 members. During this period, nobles known as the Patricians, had a share in the political authority. The landless and the property less common people are known as the Plebeians. They had no share at the beginning but acquired the privilege later on. In 510 BC, the monarchy was dethroned and republic was established in Rome. Civil as well as Military powers were in the hands of councils who were elected annually. The Patricians controlled the administration. There was fight against each other to control the political power. Finally, the two class groups united together into one Citizen Body and both of them share equal political and civil rights. Roman Empire gradually extended its authority all over in the surrounding countries. By the end of the first BC, almost all of the entire western world united together under one political system. During this period, the republic paved way for the Roman Empire. The empire was divided into provinces and the officials were known as pro council which was in charge of civil and political office. Roman Empire became despotic and powerful, popular assemblies ceased functioning. Christianity was accepted as the state religion and the theory of divine origin gave place to worship the empire as God. The Greek ideals of liberty, democracy, and local independence was shifted to Roman ideals of unity order, Universal Law and Cosmopolitism. In these connections, Gettell rightly states, “Greece developed democracy without unity: Roman secured unity without Democracy”

* The Feudal State:

In the 15th century, the barbarians invaded Roman Empire and destroyed it completely. Small Feudal States, headed by the lander aristocracy were established. The aristocracy became the ruler of the land. These feudal states arose in Europe. In this society, King was the owner of the land. He distributed most portions of the land among the lords. In turn, they had to serve the king with military force. No support for Nationalism more importance was given to law and administration. The lord is the tenant in chief who settled the dispute of the farmer. Christianity was the popular religion. Later on, the church occupied the most popular position and had its own organization on the Roman Empire model. During this period, the Church was able to control the state and become powerful authority. However, in the 14th century lost all its respect and reputation. It was feudalism which gave the people of Europe comparative peace and protection and preserves the missionary of the state. Feudalism indicated the transmission from the Roman Empire world to the modern world. The arrival of the protestant reformation movement made an end to the supremacy of the church.

* Modern National State:

Generally, the Renaissance, the Reformation and the Industrial revolution were the turning points for the modern era. These movements made the people unite together on the ground of ethnic, linguistic, religion and territorial bonds. As a result, the Feudal states began to fall and gave rise to the modern nation states. Further, there were disputes among the feudal states. General disorder and confusion everywhere, the use of gun powder, national taxation, standing army was made independent upon the feudal nobility and did diminish the political importance of the feudal states. The general tendency of the reformation teaching was to strengthen the whole of the monarchy principle in monarchy lands, and that of the aristocracy lands was to strengthen the absolution of the political sovereign. Once the objective of the unity of absolution was achieved, the people demanded their rights and privileges and succeeded. The democratic movement started early in England. Its progress was gradual and peaceful. In France, it was a violent revolution. In other countries, the kings accepted the popular will, and remained as normal head under the democratic government. The democratic movement worked so satisfactorily that the democratic national state came to be regarded as the final stage in the evolution of the state. Bentham hoped to better “this wicked world by covering it over republic”

Origin of Representation:

The Greek city states started to develop during the 4th and 5th century. The city state didn’t have similar form of government. Most of them had direct democracy. It was not a representative democracy. Rome became a republic in 510 BC and expanded its territory. The Empire was divided into provinces. By that time, there were senate and assemblies in Rome. Senate was represented by the nominated members of the king whereas in the Assembly, elected members were present. The divided provinces were represented by the Pro council. In due course of time, the empire began to vanish. The reasons for it were the sacrifice of individual liberty for the sake of securing unity in official administration. As a result, the popular assembly stopped functioning. The popular participation couldn’t be achieved. In 337 AD, Empire Constantine was converted to Christianity. In 800 AD, Charles, the Great, The King of Franks, was crowned by the Pope as emperor of Rome. The Roman empire was known as Holy Roman Empire like the Unity of the Church. Later, Holy Roman Church settled the disputes between warring states and represented the common interest of Christendom in such matters of movement as Crusades. Thus, the origin of representation can be seen in the Holy Roman Empire. Medieval parliament was Parliament of states representation of special classes rather than representation of the people as a whole. Further, representation was not on the basis of privilege, but on liability. Thus, the representation was not represented as constituency, only as a community.

In this regard, Edmond Burke has rightly stated, “The Parliament is the deliberative assembly of one nation with one interest, one that whole, where no local purpose, no local prejudices out to guide, but the general good reasoning from the general reason of a whole, in the course of time, the Shire or Borough type representative gave place to the constituency”.

Representation in India

Municipal administration and representation had long roots in India. Indica of Meghasthenes mentioned about the affairs of the cities administration by a Municipal Board. In South India, the celebrated “Kuda Volai” system of imperial Chola was given to understand the existence of well organized representative institutions. They were the basic Democratic bodies.

The Village Councils, the pre-cursors to present day village panchayats were institution of very ancient origin in Tamil Nadu and they functioned very much like little republics enjoying a great deal of local autonomy and powers including taxation. The epigraphical inscription on the walls of the “Vaikunda Perumal Temple” at Uthiramerur in Chenglepet District (now Kancheepuram District) bears out ample testimony of this. It speaks how Village administration was governed by Assemblies known as “Sabai” and how the villages are divided into several wards, ie. Like the present day delimitation of constituencies. The significant was that it also speaks of how representatives from every such wards were elected by the Pot-ticket system of election, which is said to be the root cause of the present electoral system