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**100L LAW**

**Citizenship and the state (POL 102)**

1. How can a Lebanese retain or lose his or her newly acquired Nigerian citizenship
2. Social contract theory explains the evolution of states, what other theories explains the same, and their strengths

Citizenship refers to the relationship which exist between an individual and the country where he or she resides. The citizen is expected to obey the laws of the land and the country is expected to protect lives and properties of the citizens

A citizen can be described as a legal member of a country he or she lives in with constitutional right. He or she as a bonafide and indigenous member of the country owes the country total obedience and enjoys some rights and privileges and performs duties and obligation to the country.

**TYPES OF CITIZENSHIP**

1. **CITIZENSHIP BY BIRTH**
2. PLACE OF BIRTH:

A person can acquire citizenship of a given place/state where he or she is born within the territory of that state even though the parents are citizens of another country.

1. DESCENT: A person’s citizenship is hereby determined by his/her father’s citizenship. That is person who are born to parents or grandparents who are citizens of a particular state are submatic legal members or citizens of that state
2. NATURALIZATION

A citizen of a country who has lived in another country for a long period; for instance, fifteen years as the case in Nigeria, can apply for citizenship of a country he resides and before he/she applies for such, he or she must fulfill some conditions which varies from country to country.

1. REGISTRATION/MARRIAGE

This is a method through which women acquire citizenship through marriage. For instance if a Ghanaian woman marries a Nigerian man, she must register as a citizen of Nigeria, live in Nigeria and take an oath of allegiance to the country.

1. HONORARY CITIZENSHIP

This is when citizenship of a country is granted to a distinguished or eminent foreigner without the usual requirement as a mark of honor

1. CITIZENSHIP BY CONQUEST

Through conquest after secessionist struggles, citizenship of certain individuals may be changed by acquiring new status.

HOW A NATURALIZED CITIZEN COULD FORFEIT HIS ACQUIRED CITIZENSHIP

1. If a citizen renounces his or her citizenship
2. If the government of the individuals country denies him the right he/she will forfeit the citizenship of the other country
3. If he/she is jailed for more than three years within the seven yers he or she got the citizenship
4. If the citizen is a dual citizen
5. If the citizen join any subversive organization within five years the citizenship is acquired
6. If there is a fundamental breach of the citizenship agreement binding him, for instance, false declaration
7. If the citizens activities is prejudicial to the corporate existence and interest of the country
8. If the citizen is found guilty of a treasonable felony

N.B: if a Lebanese citizen who acquired a Nigerian citizen is found one thing of the above can lose he/her citizenship and if he or she has lived the required year and fusil the conditions will acquire a Nigerian citizenship

**ORIGIN OR EVOLUTION OF STATES**

Political thinkers have attempted to explain the origin of the state in various ways. When, where and how the state came into existence have not been recorded anywhere in history. Therefore, the political thinkers were compelled to adopt various hypotheses, many of which are now discredited in the light of modern knowledge. Among the many theories which are concerned with the origin of the state the following are explained in this chapter.

1.      The Theory of Divine origin

2.      Social Contract Theory.

3.      Matriarchal and Patriarchal Theory.

4.      Force Theory.

5.      Evolutionary Theory.

**THEORY OF DIVINE ORIGIN**

This theory is the oldest theory of all, it can also be regarded as the “divine right of kings”. Bousset advocated this theory to support the despotism of Louis XIV, James I in his book “The law of free monarchie” asserted this theory, claiming that kings derived their authority directly from God 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 THE THEORY OF DIVINE ORIGIN**

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 emphasized 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.

**STRENGTH OF THE DIVINE THEORY OF ORIGIN**

* It stimulated discipline and law abidingness among the subjects
* This theory also created the moral responsibility of the rulers because they were cast with a divine injunction to rule the perfect satisfaction of the heaven.

**MATRIACHIAL AND PATRIACHIAL THEORY**

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

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

Edward Jenks who made a thorough study of the tribes of Australia came to the conclusion that the Australian tribes were organized in some sort of tribes known as totem groups. Their affinity was not on the basis of blood relationship but through some symbols like tree or animal. One totem group men were to marry all the women of another totem group. This would lead to polyandry and polygamy also.

This matriarchal system continued until the advent of the pastoral age when the permanent marriage was introduce. 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.

**STRENGTH OF MATRIARCHY**

 The whole history of the human race has been a story of conflict, warfare, genocide, slavery, injustice and poverty, and we do not find much difference today in out TV news. We have had many great thinkers trying to solve these problems, through either religion or politics, but what is noticeable with all these solutions, is that they have all failed Religion like Christianity, Islam and Buddhism all have not succeed in stopping conflict and war, In many cases seem to make the situation worse, as religious conflict and sects has created many wars.

PATRIARCHY: 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.

STRENGTH OF PATRIARCHY

* It is a socially- constructed system where males have primary power

**FORCE THEORY**

 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 Leachock sums up the founding of states by the use of force in these words:

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

**HISTORY OF THE FORCE THEORY**

This theory is based on the well-accepted maxim of survival of the fittest. There is always a natural struggle for existence by fighting all adversaries among the animal world. This analogy may be stretched to cover the human beings.

Secondly, by emphasizing the spiritual aspect of the church the clergymen condemned the authority of the state as one of brute force. This indirectly lends credence to the theory of force as the original factor in the creation of the state.

Thirdly, the socialists also, by condemning the coercive power of the state as one bent upon curbing and exploiting the workers, admit of force as the basis of the state.

Lastly, the theory of force is supported by the German philosophers like Friedrich Hegel, Immanuel Kant, John Bernhardi and Triestchki. They maintain that war and force are the deciding factors in the creation of the state. Today in the words of Triestchki – “State is power; it is a sin for a state to be weak. That state is the public power of offence and defence. The grandeur of history lies in the perpetual conflict of nations and the appeal to arms will be valid until the end of history.”

According to Bernhardi-“Might is the supreme right, and the dispute as to what is right is decided by the arbitrement of war. War gives a biologically just decision since its decision rest on the very nature of things.”

**STRENGTH OF THE FORCE 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.

 **EVOLUTIONARY THEORY**

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

**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 sonship 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 transcend it. Kinship creates society and society at length creates the state'.

**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.

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.

Property and Defence

Property and depence played a vital role in the evolution of state in ancient times particularly among the people who were nomads and wagabonds and tribals. Prof. Laski has referred to the necessity of acquiring property by the members of society and protecting the property aequired 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.

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.

STRENGTH OF THE EVOLUTIONARY THEORY

* It encourages peaceful co-existence
* It brought harmony to the individuals that practices it

 CONCLUTION

It follows that many factors helped the growth of the state. No single factor alone was responsible for its origin. Sometimes all and sometimes many of them help the process by which uncivilized society was transformed into a state of all the theories which seek to explain the origin of the states.