

### Third axis: State Theory

#### 1. The Concept of the State: Defining the state and distinguishing it from related concepts: nation/society/government

State, political organization of society, or the body politic, or, more narrowly, the institutions of government. The state is a form of human association distinguished from other social groups by its purpose, the establishment of order and security; its methods, the laws and their enforcement; its territory, the area of jurisdiction or geographic boundaries; and finally by its sovereignty.

State is the highest form of human association. It is necessary because it comes into existence out of basic needs of life.

##### ✓ Difference between state and society :

- Society is a broader term compared to the state
- State has territorial reference, society does not.
- State is sovereign, society is not.
- State can not exist without a government, society may not be politically organized.
- State and society differ in purpose.

##### ✓ Difference between state and government :

- State consists of population, territory, government and sovereignty, so government is a part of the state,
- State possesses original powers, powers of the government are derived from the state.
- State is permanent and continues forever, government is temporary it may come and go.
- State is abstract and invisible, government is concrete and visible.

According to one definition, a state is a community formed by people and exercising permanent power within a specified territory. The state as a person of international law should possess the following qualifications:

**1. Permanent population :** People is the mass of the population living within the state.

**2. Defined territory :** Territory demarcated area that rightly belongs to the population, it should be permanent and large enough to be self-sufficient.

**3. Government :** Government is an institution whose existence precedes that of the state. A government is a person or group of persons who rule or administer (or govern) a political community or a state

**4. Sovereignty :** the best way to describe the state is as a sovereign power, because sovereignty is the supreme power of the state to command and enforce obedience to its will from the people within its jurisdiction and corollary to have freedom from foreign control.

## 2. Theories of the Origin of the State

Various attempts have been made to explain in a speculative manner the method by which the state came into existence. These theories were concerned, not primarily with the actual historical process of state origin, but rather with a rational explanation of the way in which the state may have been supposed to originate. These theories were put forward for the purpose of explaining and justifying the existence and authority of the state. They were attempts to give rational answers to the questions of why men lived in political organization, of why they should submit to political authority, and of what limits should be placed to such authority. Among the most important of such theories were the following :

- **The theory of force** : the state came into existence as a result of the forced subjection of the weak to the strong. One group of thinkers used this theory to justify the state on the ground that the state is power, that might makes right and that the essence of the state is a sovereign will. Another group of thinkers used this theory to attack the state because of its injustice and to urge individual freedom and limited state action.

- **The natural theory** : The natural theory viewed man as a political animal, and the state as a natural result of the instinct of sociability. It justified the state as a necessity determined by the very nature of man. It was not the creation of man but an inevitable and natural result of human nature. Accordingly, man could have no existence outside the state. His interests and those of the state were identical, and the state needed no further justification. A modification of this theory viewed the state as arising to meet the essential needs of man, and justified it on the grounds of its usefulness. The purpose of the state was to promote general welfare, and it was justified in taking any action that would be conducive to justice and the general good.

- **Divine right theory** : holds that state is of divine creation and the ruler is ordained by God to govern the people. The state was viewed as of direct divine creation, and its government was theocratic in nature. In the early Oriental empires rulers claimed a divine right to control the affairs of their subjects and this right was seldom questioned.

- **Social contract theory** : asserts that the early states must have been formed by deliberate and voluntary compact among people to form a government of their own. For all the theories, this is the important theory .

The social contract theory starts with the assumption that man lived originally in a “state of nature,” antecedent to the formation of political organization. In this condition he was subject only to such rules of natural law as are prescribed by nature itself, and was the possessor of natural rights. This primitive condition he was compelled to abandon, either, as some held, because it was too idyllic to last, or, as others held, because it was too inconvenient or terrible to be tolerated. In its place: men deliberately formed an agreement, or contract, by which they set up a body politic.

Submitting to the control of all, they received in return the protection of all, thus losing their natural liberty but receiving in return Security. Human law replaced natural law, and each individual became the possessor of political rights and obligations. The State was thus of deliberate human creation, and authority derived from the consent of the people.

### **3. Functions of the State**

- Defensive function
- Administrative function
- To provide social security
- Economic functions
- Social functions