**Theories on the Origin of State**

**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 the 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 a bliss of God. Thus the King had both political and religious entity. In the religious books also the state is said to be created by God. In some religions this conception is explicit, but in others it is implicit.

The divine origin of the state is gleaned first the Old Testament of the Bible. There we find St. Paul saying- **“Let every soul be subject unto the higher powers; for there is no power but of God; the powers that be, are ordained by God. Whosoever resist the power, resisted the ordinance of God and they that resist shall receive to themselves damnation.”**

In 1680 Sir Robert Filmer wrote a book entitled The Law of the Free Monarchies, where it is stated the Adam was the First King on earth and the Kings subsequent to him are the descendants of Adam. In the Manusmriti it is said that when the world was thick in anarchy, the people prayed to God to remedy the condition. God was pleased to appoint Manu to rule over the earth.

This theory prevailed in the old age when religion and politics were combined in the person of the King. In ancient India the Kings ruled over the people according to the injunction of the Dharma, which stood for both religion and politics. Laws fay deep in the profusion of the Sastras.

In the medieval period the Christians held the Pope in semi-God status. In the Muslim world the Caliph was the Priest-King. The Dalai Lama was the head of the Theocratic state of Tibet. He was considered there as the incarnation of the Buddhist god Avalokitesvara.

Both the church and the state in their mutual rivalry used the theory of the divine origin in the medieval age. The church asserted the supremacy of the church over the state. On the other hand, the state because of its divine nature emphasised on its supremacy over the church.

The Stuart King James I claimed that he derived his authority directly from God. According to him, the King is wise and intelligent, but his subjects are wicked.

Even if the King is bad, the people have no right to rebel against him. Even in the nineteenth century the Kings of Austria, Prussia and Russia formed the Holy Alliance under the notion that they were appointed by God to rule over their people. Anyway, the European Kings took shelter under the divine origin theory in order to justify their dictatorships.

Be that as it may, during a large part of human history the state was viewed as direct divine creation and theocratic in nature. The theory was in currency so long as religion was considered to be the chief motive force of all human activities.

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

**Causes of the Decline of the Divine Theory:**

In the first place, when a more acceptable theory like the social contract theory came out, the divine theory was dashed to the ground. The new theory suggested that the state is a handiwork of men, not a grace of God.

In the second place, the Reformation that separated the church from the state debased the coin of the divine theory. The post-Reformation period is a period of non-religious politics. Thus the secular outlook made the divine theory totally unacceptable.

In the third place, the emergence of democracy was a big blow for the autocratic dogma of mixing religion with politics and thereby it blunted the edge of identifying God with the King. Democracy not only glorified the individual but shattered the divine halo around the origin of the slate.

Last but not the least was the growth of scientific enquiry and materialistic view of the political mechanism. The result was that the erstwhile blind faith and superstition was no longer acceptable. The people began to accept only those things that stood the test of logic and reasoning.

**Criticism of the Divine Theory:**

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

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

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

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

The fourth line of argument is that the New Testament of the Bible reversed the divine conception of the state as ingrained in the Old Testament. It is emphatically stated in the New Testament- **“Render unto Caesar the things that are Caesar’s and unto God the things that are God’s”**, which gives the state a human character as against the divine coating.

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

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

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

**Value of the Divine Theory:**

Although the divine theory is totally discredited as an origin of the state, there are some good things in it. The summum bonum of the theory is that it stimulated discipline and law-abidingness among the subjects at a time when these were the needs of the hour in those anarchical conditions. This theory also created the moral responsibility of the rulers, because they were cast with a divine injunction to rule to the perfect satisfaction of the heaven.

**Force Theory 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 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.”

**The Social Contract Theory:**

**Genesis of the Theory:**

The most famous theory with regard to the origin of the state is the social contract theory. The theory goes to tell that the stale came into existence out of a contract between the people and the sovereign at some point of time.

According to this theory, there were two divisions in human history – one period is prior to the establishment of the state called the **“state of nature”** and the other period is one subsequent to the foundation of the state called the **“civil society”**. The state of nature was bereft of society, government and political authority. There was no law to regulate the relations of the people in the state of nature.

There were three exponents of this theory. They were Thomas Hobbes, John Locke and Jean-Jacques Rousseau who differed about the life in the slate of nature, reason for converting the state of nature to civil society and the terms of the contract. They all, however, agreed that a stage came in the history of man when the state of nature was exchanged with civil society to lead a regulated life under a political authority.

The net result of this changeover was that the people gained security of life and property and social security, but lost the natural liberty which they had been enjoying in the state of nature.

The crux of the social contract theory is that men create government for the purpose of securing their pre-existing natural rights – that the right come first, that the government is created to protect these rights. These ideas were based on the concepts of a state of nature, natural law and natural rights.

According to John Locke, prior to the establishment of society, men lived in a “state of nature”. Thomas Hobbes, an anti-democratic philosopher, emphasised, that in the state of nature there was no government to make and enforce laws, men made war on each other and life was “solitary, poor, nasty, brutish and short”.

But Locke argued that even in a state of nature there was a law governing conduct-there was the “natural law”, comprising universal unvarying principle of right and wrong and known to men through the use of reason. Thus Locke would have us believe that if an Englishman was to meet a Frenchman on an uninhabited and ungoverned island, he would not be free to deprive the Frenchman of his life, liberty or property. Otherwise, he would violate the natural law and hence was liable to punishment.

Thus according to Locke, the state of nature was not a lawless condition, but was an inconvenient condition. Each man had to protect his own right and there was no agreed-upon judge to settle disputes about the application of the natural law to particular controversies. Realising this, men decided to make a “compact” with one another in which each would give to the community the right to create a government equipped to enforce the natural law.

In this way, every man agreed to abide by the decisions made by the majority and to comply with the laws enacted by the people’s representative, provided they did not encroach upon his fundamental rights. In this way, the power of the ruler was curtailed.

**Nature of Social Contract Theory:**

According to the social contract theory the state was the creation of the people living in a state of nature which was a lawless and order-less system. The slate of nature was controlled by unwritten laws prescribed not by men but by nature. The exponents of the theory gave conflicting views about the nature of the state of nature. Some considered it gloomy, while others painted it as bright like paradise.

For some reasons the people did not like the system and terminated it by an agreement to save one man from the rapacity of the other. The nature-made laws were replaced by man-made laws. The originally independent people subordinated themselves to the will of either the whole community or a particular person or a group of persons. The three proponents of the theory interpreted the theory in their own way.

**Thomas Hobbes Theory of the Social Contract:**

Thomas Hobbes in his book Leviathan delineates very precisely and straightforwardly the creation of the state by an agreement. To begin with, before the state was created, there was a state of nature in which a war was raging. There was no law or justice. Human life was marked by force and deceit. Might was right in that situation. Hobbes gave a gloomy picture of the state of nature in his oft-quoted words “Solitary, poor-nasty, brutish, short”.

The people became fed up with the state of nature. In order to get rid of the unbearable condition they entered into an agreement by which they established a government or authority to which they surrendered all their rights. The surrender was unconditional and irrevocable. The authority was a single person or a group of persons endowed with unlimited power. The authority to rule was the result of the contract.

Since he was not a party to the contract, he was not bound by the terms of the agreement. The people had no right to depose the ruler or to agitate against the ruler. If the people revolted against the authority they would be guilty of violation of the contract and would face the consequence of going back to die state of nature. This theory of Hobbes supported the despotism of the Stuarts in England.

In Hobbes’ view there was one single contract in the creation of the state and the establishment of the government. From that it would follow that if the state was gone, with it would go the government. It is apparent that Hobbes was supporting legal sovereignty and had no quarter for political sovereignty. Disgusted with the useless dispute between the monarchy and parliament in England, he supported despotism, keeping chaos as its only alternative. So he gave all powers to the sovereign.

Thomas Hobbes called his state Leviathan which came into existence when its individual members renounced their power to exercise the laws of nature which was one of “each for himself” and at the same time promised to turn these powers over to the sovereign who was created as a result of his promise and also to obey thenceforth the laws made by this sovereign.

These laws stood on a better footing since they enjoyed authority because the individual members of the society were, as a matter of fact, the co-authors of these laws.

**Locke’s Theory of Social Contract:**

In his book Treatise on Civil Government John Locke, justifying the limited monarchy of English type, drew his own state of nature. He did not agree that the state of nature was a gloomy and dismal one as painted by Thomas Hobbes. In contrast, Locke’s state of nature was one of peace, reason and goodwill. Yet this semi-paradise could not satisfy the people because they were pining for law and impartial authority.

So they abandoned the state of nature though for a different reason. So in replacing the state of nature the people created the civil society by a contract. That done, they made another contract by which the government in the person of the King was set up. Here the ruler was a party to the contract. The people would obey him so long he would protect their life and property. So in Locke’s theory there were two contracts, one for the creation of the civil society and the other for establishment of the government.

The people’s surrender of rights was partial and conditional. If the people would violate the contract, the people would be entitled to depose the worthless King. Thus Locke supported the Glorious Revolution of 1688. His sovereign was political rather than legal as propounded by Hobbes. He was clear in distinguishing the government from the state, which Hobbes failed to do. While Hobbes destroyed individual liberty, Locke destroyed the authority of the state.

When Hobbes took brief for royal absolutism, England was getting disgusted with the meaningless fights between the King and the parliament during the Stuart period. Lock’s timing was related to the period when the King was maintaining a low profile and the parliament was in the ascendance. This would culminate in the Glorious Revolution of 1688.

John Locke’s view was that the individuals promised to accept the judgements of a common judge (i.e., the legislature) when they agreed to the accord, which established civil society. According to Locke, another set of promises was made between the members of the civil society on the one hand and the government on the other.

The government, in its turn, promised to execute its trust faithfully. It was agreed that in case the government broke the terms of the pact or in other words if it violated the constitution, the people would have the right to rebel.

The subsequent generations by acceding to the terms of the compact accepted the inheritance of private property which was created and guaranteed by the compact. If any individual would disobey the constitution, he must leave the territory of political unit and go in vacuis locis, i.e., empty places.

The indication was that the disloyal people might take shelter in America which was an empty place at that time. In his book Letters on Toleration, Locke excluded the atheists from religious toleration since they were not likely to be bound by the original contractual oath or to abide by the divine sanctions invoked for its violation.

**Rousseau’s Theory of Social Contract:**

Jean-Jacques Rousseau, the third player of the game of social contract theory, struck a middle course between the two English counterparts. His book Social Contract published in 1762 reconciles the authority of the state and liberty of the individual. His state of nature had an overflow of idyllic felicity.

There human lives were free, healthy, honest and happy. But there was debasement and degradation with the increase of population and with the progress of civilization particularly with the emergence of private property in land which destroyed the natural equality among men.

To get out of this menacing position, men entered into an agreement with the pledges- **“Each of us puts his own person and all his powers in common under the supreme direction of the General Will, and in our corporate capacity, we receive each member as an indivisible part of the whole.”** Unlike Hobbes and Locke, the authority created was not given to the ruler, but was retained by the whole community.

As a matter of fact, the whole community expressed the General Will in a public meeting. Subsequently, the government was created by a legislative measure. The people delegated power to the government. Rousseau’s theory’s hallmark is the General Will.

**Criticism of Theory:**

The social contract theory is strongly denounced on the following grounds. In the first place, the theory is not borne out by any historical record. It is not known to history that any such contract was made. The only historical instance of contractual obligation is said to be the foundation of a state by the early settlers in America by the May Flower Contract of 11 November 1620 and the deposition of King Philip II in 1581 by the Netherlander where the people said- **“The King has broken his contract and the King therefore is dismissed like any other unfaithful servant.”**

But in both the cases the state existed there before it was said to be created or at least the people had some knowledge of the state and the government before these were created, or the contract was made. These examples do not establish that the primitive people who had no knowledge of the state could establish a state by a contract. Similarly, a state of nature antedating a real state is a fiction and has no historical basis.

In the second place, Sir Henry Maine attacked the theory as one of putting the cart before the horse, because contract is not the beginning of the society, but the end of it. The universally accepted view is that the society has moved from status to contract and not vice versa. With the growth of age, status lost its rigour of fixity and its place was taken by contractual obligations.

The other serious fault with the theory is that it presupposes political consciousness in the state of nature even prior to the establishment of the state. How can one have the idea of the good of a state when he has no experience of the state?

In the third place, there cannot be any right even if it is a natural right without the state. Right follows from the womb of the state. Without an established civil society there cannot be any right. It does not follow from logic that the people had a bundle of rights even before the creation of the state.

In the fourth place, it is a fact in history that the state came into existence as a result of a long process of growth and development. The sociologists have established that the state is created by a long term process of social development. Kinship, force, divine sanction, family and various other known and unknown factors are there behind the growth of the state.

Modern social scientists and historians are of the view that men are by nature social animals and they never lived in a pre-social and pre-governmental state of nature. The state is never a consciously created institution but is a development like the family.

So Edmund Burke rightly observed- “The state should not be reduced to the position of a partnership agreement in a trade of pepper and coffee, calico or tobacco or some such low concern, to be taken up for a little temporary interest, and to be dissolved by the fancy of the parties. It is to be looked upon with reverence. It is a partnership in all science; a partnership in all art; a partnership between those who are living and those who are yet to be born.”

In the fifth place, the theory is dangerously wrong by certifying the state to be a handiwork of human beings. The error is that the state is never a creation of man but it is an independent social institution. The theory carries with it the portent of revolution by giving too much importance to men as even the creators of the state. The truth is that the government, not the state, is the creation of man.

Modern political scientists have rejected the contract theory as unacceptable. J. K. Bluntschli condemned it as highly dangerous, Jeremy Bentham called it a rattle. Fredrick Pollock discarded it as “fatal of political impostures”. According to Sir Henry Maine, there was nothing more worthless than the social contract theory as an explanation of the origin of the state.

**Value of the Theory:**

Although as an explanation of the origin of the state the social contract theory is unacceptable, it has some merits or values. First, the theory dashed to the ground the more worthless theory that the state was the creation of God. There might not be any social contract anywhere in history but it carried the message of the supremacy of the people in the statecraft and gave encouragement to the growth of democracy and gave a deterrent to the arbitrariness of any government.