

State, Society and Constitution

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MEANING OF STATE

- To ordinary man it means as sort of policeman writ large.
- To philosopher Hobbes it appears as “a giant who’s body is composed of the countless bodies of human being.
- The Hindus understood it as “Danda” or power.
- To Muslim, in middle ages the state was kingly power.
- Modern writers called it as general joint –stock company or living organs.
- The idealists, consider it as moral personality an image of god on earth.
- The French king Louis (1638-1715) styled himself as Sun-king and claimed “I am state”.

State

- Hall an international writer defines state as “the marks of an independent are that the community consisting it is permanently established for a political end, that is possesses a defined territory, and that it is independent of external control.
- Woodrow Wilson defines in a simple way” a people organized for law within a definite territory.
- Malvern defines state as “ an association which , acting through law as promulgated by a government, endowed to this end with a forced power, maintains within community territory, demarcated the universal external conditions of social order.

Nation state system

- It has been argued that if men were not organized into nations and willing to obey their governments no international relations would have been possible
- Some scholars, on the other hand, argue that the nation state system is fast disappearing.
- John Herz says, that the traditional concept of nation state has become outdated because the state is no longer capable to protect its citizen as the war involves nuclear, psychological and economic weapons

- According to Palmer “the nation state system is the pattern of political life in which people are separately organized into sovereign states that interact with one another in varying degrees and in varying ways” For the protection of their national interests. These nation states resort to methods of peaceful influence, and when these fail they choice to forcible means.

ORIGIN OF NATION STATE

- The origin of nation state system can be traced back to the signing of the treaty of Westphalia in 1648.
- Even before it the state existed and they entered into relations with each others but they were not sovereign states as their authority was restrained by the Roman Church and the Roman Empire .
- It means that the treaty of Westphalia recognized the sovereign nature of the state and henceforth the supreme authority shall be recognized with the state.
- State shall be free from internal and external control.

Peace of Westphalia

- **European** settlements of 1648, which brought to an end the Eighty Years' War between Spain and the Dutch and the German phase of the Thirty Years' War. The peace was negotiated, from 1644, in the Westphalia towns of Munster and Osnabruck. The Spanish-Dutch treaty was signed on January 30, 1648.

ORIGIN OF NATION STATE SYSTEM

- Resultantly such countries, as England, France, Germany, and Spain shook off the authority of the pope and became Nation State .
- In the course of time Nation State underwent further development and changes on account of the rise of representative government, industrial revolution, change in population, growth of International law, development of diplomacy, growing interdependence of state in economic sphere, and the expansion of the nation state system to non western world.

ELEMENTS OF MODERN NATION STATE

- **The elements of Nation State are:**
- **population and Territorial Integrity (physical bases of state)**
- **Sovereignty, and government (political or spiritual bases of the state.**
- **Legal Equality,**

Population

- **Man is by nature is social being. He cannot survive without society. The state is an association of man living together. And we cannot , conceive the image of state without population.**
- **States has three types of inhabitants: full members called as citizens, who enjoys all rights and have to perform all duties assign by the state. Nationals of state who enjoy some rights. And the non-members called aliens, who are given only civil rights of life and property.**
- **How large should be the population?**
- **The population should not exceed the natural resources of the country, so they can perform all needs of humanlike, culture, art, learning , industry, agriculture and they would have civilized life.**

Territory

- **This the second feature of state.**
- **The population of state must live on a definite portion of territory of an appropriate size.**
- **Common geography develops a community of interests and patriotism, a necessary element statehood.**
- **Jews and Europe and American did not have a state till the occupied territory.**
- **Indian Muslims of united India were nation but had no state till they got Pakistan.**
- **There are large and small states.**
- **The political thinkers believe, the territory must be small enough to administrate, as small states proportionately stronger than large one. But in modern times, show tendency towards large states.**

- The means of communications and transport have become fast and cheap that the vast areas can manage easily.
- State does not mean lands, rivers, lakes or mountains but also the subsoil and its natural resources, its extended to three miles into sea and up to 20 miles in the sky.
- The air space of the state is not yet solved by international law due to the spacecraft and the highest flights of the latest ai

Government

- A group of people living permanently in a territory don't form a state without government to whom they render obedience habitually.
- Without government they will not consider politically organized community.
- Government is a machinery, and agency through which state will formulate and expressed its policies.
- State plans, act and implement its policy, laws, order, and constitution through the government.
- The government is head of the

Branches of Government

- **Three Distinct Branches of Government**
- **Executives. implement law; they execute the law.**
- **Legislature. make law; they enact legislation**
- **Judiciary interpret law; they adjudicate law on the meaning of law**

Legislature

- A legislature is a governing body that makes laws and can also amend or repeal them. The word legislature comes from the Latin word for "law" — legis. In the US, each state has a legislature — made up of the elected state senators and assemblymen or women, or representatives

- **Elected and responsible to the people.**
- **State expresses its will through legislature.**
- **Its laws serve as vehicle to the sovereignty of state.**
- **Before the advent of legislature laws were directed by monarchs**

Powers

- **1.Legislation, Passing laws, Establishing government budget,**
- **2.Representation: members may be appointed or directly or in directly elected.**
- **3. Scrutiny: (Investigating the executive branch, Impeaching and removing from office members of executive and judiciary. Addressing constituent grievances.**
- **4.Political recruitment: Confirming executives appointments. Approving treaties.**

Executives

- **Political system can run without constitution, assemblies, judiciary and even political parties but cannot survive without the of an executive branch to formulate government policy and its implementation.**
- **Executives are the oldest branch of all governments.**
- **It is “ the apex of power in a political system at which policy is formed and through which it is executed.**

Political Executive

- **One that is elected by the people for a specific period is called the political executive. Political leaders who take the big decisions fall in this category.**
- **They makes law and policies. They are elected by the people and can be changed in the next election.**
- **Head of the state. Ceremonial or nominal (Britain and India) elected directly(president of America enjoys all powers) or indirectly (India) or nominated (Australia)**
- **The highest authority of the executives.**
- **Head of the government.**
- **Head of the government (Prime Minister)**
- **In America president has both designations.**

Executive Government/Council of Ministers/Cabinet

- **“Executive Government” broadly refers to the arm of government responsible for carrying out or administering laws enacted by the legislature. The term is also used in relation to Ministers from the governing party who make policy decisions and are responsible for the administration of government.**
- **The real powers exercised by the council of ministers/cabinet**

Functions of political executives

- **Ceremonial Duties** (heads Of State, Foreign Visits, International Conferences, Ratification Of Treaties, Legislation)
- **Control Of Policy-making Leadership**(Govern, Persuasion/Direction, Legislative Initiative process work
- **Popular Political Leadership**(stability and legitimacy of regime, mobilize support, cooperation of general public, repression and ideological manipulation
- **Bureaucratic Management** (top management charged running the machinery of government, bureaucrats engaged to administer policy areas.
- **Crises Response** (to declare state of emergency, dictatorial powers in times of war, natural disasters, terrorist threats, industrial unrest and civil disorder

Permanent/ Official Executive/Civil Servants/ Bureaucrat

- **In this second category, people are appointed on a long-term basis. This is called the permanent executive or civil servants.**
- **They are appointed help the president or parliamentary government to run the system.**
- **they function in impartial manners and retire after the expiry of the tenure**

Functions of Bureaucracies

- **Carrying out administrations (how to implement policy, the degree of political control, their capacity as policy advice.**
- **Offering policy advice (as chief source of the policy information and advice available to the government, outlining the policy options available to the ministers, reviewing policy proposals. They should be politically neutral**
- **Articulating and aggregating interests. To combine organized interests and government agencies.**
- **Maintaining political system and stability.**

Judiciary

- **Judicial branch is “The court systems of local, state, and federal governments, responsible for interpreting the laws passed by the legislative branch and enforced by the executive branch. Courts and judges make up the judicial branch of our government.**
- **There are three separate court levels in this branch, District Courts, Court of Appeals, and the Supreme Court. The Constitution created the Supreme Court and gave the power of establishing other courts**

Functions of Judiciary

- **Adjudication (Decide Question on Dispute, Make Official Decisions Upon Legal Disputes, Enforcement Of Justice.**
- **Arbitration (Consider Fact And Decide Who Is Right And Who Is Wrong,**
- **The Courts Review And Explain Laws..**
- **Decide If A Law Goes Against The Constitution.**
- **Interpret the Law, While The Ability to enact and Enforce those Laws Is Left to The Legislative And Executive Branches.**
- **Stabilize And Support Existing Political System (Law Or Necessity Or Doctrine Of Necessity.**
- **Political Face Of Judiciary. Many Popular Or Unpopular, Unjust Or Just Decisions have been made On the Political Reasons**

Sovereignty

- **The fourth element state is the “state sovereignty”. It means original and ultimate power exercised over all persons and associations within the boundaries of state.**
- **The internally means state is supreme over all persons and associations,**
- **and external independence of state means it is independent of all foreign control or power**