

The background features a dark blue color with several faint, light blue circular patterns. These patterns include concentric circles, dashed lines, and radial tick marks, resembling a technical or scientific diagram. Some of the numbers visible in the background include 140, 150, 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, and 260.

# THEORIES ON THE ORIGIN OF STATES

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# THEORIES ON THE ORIGIN OF STATES

- Divine Right Theory
- Social Contract / Compact Theory
- Necessity or Force Theory
- Paternalistic Theory
- Natural Theory
- Instinctive Theory
- Economic Theory

## DIVINE RIGHT THEORY

- Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore, he who resists the authorities resists what God has appointed, and those who resist will incur judgment.

- State was created by God.
- The authority to govern the people was ordained by God upon rulers who were regarded as of divine descent.
- A ruler's divine appointment legitimated the ruler's rule. The ruler's exercise of power cannot be questioned for to challenge the ruler was to challenge God's authority.
- The ruler was subject to judgment only by God, not by his subjects or by any agency.

# SOCIAL CONTRACT THEORY

- Early states must have been formed by deliberate & voluntary compact among the people to form a society & organize government for their common good.
- The ruling authority was established because of political compact where the people would render obedience to the government taken into account an upright ruler.
- The people had the right to desist from rendering obedience when the government refrains from governing the society justly.
- The people has the right to resist and the right to revolt when the government oppresses them.

## • Thomas Hobbes

- Viewed man in a “state of nature” as despicable, nasty and brutish, likened to jungle life where the stronger animal's prey on the weaker ones.
- Hence, man's desire for self-preservation, order & peace could be attained only if they surrendered all their natural rights & submitted their will to an absolute sovereign monarch.

- **John Locke**

- Men are rational beings & could make use of natural law for their own good.
- Men needed the state to maintain peace & order, provide them with essential services, & settle their quarrels and conflicts.
- As a result, men voluntarily consented, they created the state for the purpose of promoting & preserving their natural rights to life liberty & property.

# STATE VS. NATION

## State

- It is a political concept
- Not subject to external control.
- A single state may consist of one or more nations or peoples.

## Nation

- It is an ethnic concept.
- May or may not be independent of external control.
- A Single nation may be made up of several states.



# PEOPLE

- Inhabitants of the state, the number of which is capable for self-sufficiency and self-defense and of both sexes.

# TERRITORY

- It is the fixed portion of the surface of the earth inhabited by the people of the State.

# GOVERNMENT

- The agency or instrumentality through which the will of the State is formulated, expressed and realized.
  - Functions
    - Constituent – it constitutes the very bonds of society and are therefore compulsory.
    - Ministrant – those undertaken to advance the general interest of society.
- In this jurisdiction, the traditional classification of governmental functions is not relevant.
  - All functions which were traditionally regarded as merely ministrant & optional have been made compulsory by the constitution.

# DE JURE & DE FACTO GOVERNMENTS

- De jure – has a rightful title but no power or control, either because the same has been withdrawn from it or because it has not yet actually entered into the exercise there of
- De facto – exercises power or control but without the legal title.
  - 1. De facto proper- government that gets possession & Control of, or usurps, by force or by the voice of the majority, the rightful legal government and maintains itself against the will of the latter.
  - 2. Government of paramount force- established & maintained by military forces who invade & occupy a territory of the enemy in the course of war, and
  - 3. independent government – established by the inhabitants of the country who rise against the parent state.

- **The government as guardian of the rights of people may initiate legal actions for and in behalf of particular individual.**
- (Gov't. of Philippine islands vs. El monte de pieded, L – 9959, December 13, 1916)

# ACT OF STATE

- An act done by the sovereign power of a country, or by its delegate, within the limits of the power vested in him.
- An act of state done by the political departments of the government and not subject to judicial review.
- It cannot be questioned or made the subject of legal proceedings in a court of law.

# ROYAL PREROGATIVE OF DISHONESTY

- Article XVI,sec.3 – The state may not be sued without its consent.
- **Basis:**
- Indiscriminate suits against the state will result in the impairment of its dignity.
- “There can be no legal right against the authority which makes the law on which the right depends.” J.Holmes
- The demands & inconveniences of litigation will divert the time & resources of the state from the more pressing matters demanding its attention, to the prejudice of the public welfare.

- Foreign states are also immune from suits filed in local courts.
  - Reason : Principle of the sovereign equality of states – One state cannot assert jurisdiction over another for to do so would unduly vex the peace of nations.



# VARIATION OF THE SOCIAL CONTRACT THEORY

- **Thomas Hobbes**

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- Hence, man’s desire for self-preservation, order & peace could be attained only if they surrendered all their natural rights & submitted their will to an absolute sovereign monarch.

# FORCE THEORY

- **Might makes right.**
- **Only force rules. Force is the first law. – A. Hitler**
- The state came into existence out of conquest, force or coercion.
- Before the state existed, there were always men strong enough to assert their leadership and power through force, conquest or violence.
- They subjected the people & compelled them to obey their laws.