

Transformation of the State of Nature

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Abstract

Man is an autonomous individual in the state of nature. He legislates his own conducts and actions and is not accountable to anybody or authority. He has no responsibility and obligations to the society or aspires to the continuity of the society. This was because; there was no organized form of society where rules and regulations or conventions were guiding the actions of members of the society¹. As Hobbes rightly observed that man's condition in the state of nature was "solitary, poor, nasty, brutish and short"². The chief principle of human life in the state of nature is self-assertion and seeking of one's own interest. Therefore, in this study, transformation of the state of nature is appraised under the following sub-themes: the state of nature and its features, the origin of the state (or civil society). Also, the state and the rights of individual are critically examined. The findings show that the very essence of the state is to foster man's flourishing, and he cannot flourish in isolation but in the mutual and beneficial interaction in the society hence, the emergency of state pulled man from inextricable communion that, he will flourish by subsuming his self-actualization to societal goals and aspirations; which are observed and safeguarded for common good of all³. The state which now stands to take decisions for the people through established political machinery, now owes it as a responsibility to provide for the people basic services and protection that will enable the continued existence of the state. However, the study concludes that the grown tensions in various parts of the world are clear manifestations of the failure of states to secure lives and property; and to ensure welfare of the people which are their primary functions. Today, everywhere is possible target of terrorist attack thereby heighten the ominous signs of fear and insecurity which is hallmark of the state of nature.

Introduction

Prior to the creation of modern state, man governs himself. That is to say, in a state of nature, man's conditions were brutal, selfish, egoistic, covetous and rapacious, and utterly devoid of the sense of right and wrong. Everything depended on physical power which alone could limit the right of men.⁴ State of nature denotes how men live or would have lived without the authority of civil law, state or political control. At this stage, there is no industry, no systematic production. Men live not only to nature; they have to depend on the beauty of nature for their survival.⁵ Their behaviour is largely governed by their inner impulses unrestrained by civil law, although 'natural law' supposed to have existed. Men have no recognized rights, although they enjoy some 'natural rights'.⁶

Hobbes draws a gloomy picture of the state of nature⁷. This is a natural corollary of his concept of human nature. Hobbes posits that man is selfish by nature; self-interest is the main spring of human action not by intellect or reason, but by their appetites, desires and passion.⁸ The two factors which dominated over men in this state were fear and selfish-interest⁹. Mass position in the pre-social stage can be summarized thus: 1. Man was not social, 2. He wanted to grab more and more, 3. Selfishness and fear made him wage an

endless war with neighbours and it was a case of “A war of every man against every man,” 4. Man’s condition was solitary, poor, nasty, brutish and short, 5. There was no peace and weak has no chance of survival, 6. There was no morality and no consciousness of obligation, 7. Man loved power and took pressure in exercising it, 8. All his energy was channelled on satisfying his appetites and desire, 9. Though, he had thinking or reasoning power by virtue of which he was superior to animal, he was overruled by his passion, 10. The spirit of the strife competition prevailed among men, 11. The power of thinking made men realized that for their self- preservation, peace and co-operation were quite important, 12. There was no political authority or organized power of the community for enforcing law and establishing peace, 13. The only law which prevailed was natural law which made men use force and fraud, 14. What men possessed was unsafe, as there was no protector, 15. Men had freedom to do whatever they like but this freedom was a curse, as it resulted in anarchy.

The state of nature was indeed too gloomy and too terrible to continue perpetually and indefinitely. As everyman was enemy to every other man, there was nothing but constant fear and insecurity in such a condition, there was no progress of any kind in any field. Men came to the conclusion that unless there come together and decided to submit universal authority, they could get no relief.¹⁰

Moreover, Locke gave diametrically opposite picture of the state of nature. In his postulation, it is not a state of constant welfare.¹¹ On the contrary, it is a state of peace, goodwill, mutual assistance and preservation.¹² It is a state of liberty not a state of license. The majority of the people at this stage obey the law of the nature, which is the law of inward morality. Men are by natural rational beings, impelled by their inner nature to treat humanity- whether in their own person or that of any other person, in any case as an end, never as a means only. This was in tandem with Kant’s exhortation and admonition that man should never be used as a means to achieve anything but as an end, because it is only on this aspect that his rationality will be respected.¹³ Locke noted that there are a few people who set aside the rules of morality in pursuance of their self- interest. In the absence of any established authority in the state of nature, it becomes very difficult to deal with such offenders. If men become judges of their own cases, justice will not be secured. In this regard, the state of nature proves to be inconvenient. In order to rectify this defect, men abandon state of nature and enter into civil or political society by means of a contract.

Furthermore, Rousseau presents a fascinating picture of the state of nature. He describes natural man as a ‘noble savage’, living a life of Idyllic blissfulness and primitive simplicity.¹⁴ He asserts that men in the state of nature are equal, self-sufficient and contented but with the rise of civilization inequalities are introduced. With the development of arts and science, private property comes into existence with the consequent division of labour. This necessitates establishment of civil society. The state is thus an evil; its formation becomes necessary due to inequalities among men.¹⁵

This situation of satisfying individual passion did not augur well for the peace and security of the society as it led to many conflicting situations.¹⁶ This made men to come together in a common wealth so as to overcome the conflicts inherent in the state of nature or stateless society. This agreement to work together in a common wealth, with a common goal is what is referred to by social philosophers and political theorists like Thomas Hobbes¹⁷ and John Locke¹⁸ as social contract.

Natural law doctrines

Natural law doctrines include, but are not limited to, the state of nature, natural rights, the social contract, and the rule of law. Because natural law can be inferred from what is innate in the nature of man and the world. Natural law doctrines are discovered through the use of reason.¹⁹ The state of nature includes the suppositional circumstances that are assumed to have existed before the institution of civil government. Because all persons are free and equal in the state of nature, it follows that no one person has the natural right to reign over any of the others.

Society is natural to man as an associative being. It is within society that man can make voluntary exchanges that please and fulfill him. Furthermore, government is essential to enable each man to keep what is his and to live peacefully while having mutually beneficial voluntary relations with others. The state is not society. It is simply the entity charged with the function of protecting the society that overflows the boundaries of the state. If a society was synonymous with the state, it would not be free because all human activity would be proscribed and governed by law. The ideas of social cooperation, spontaneous order, and progressive evolution of the social order are included within natural law; that which is appropriate for society appropriate for human nature, and thus, according to natural law. If the law emerges and evolves spontaneously then, it has its roots in human nature and human intelligence.

Natural law provides a criterion by which positive laws are judged. Natural law underpins the inalienable rights of life, liberty, and the pursuit of happiness. Freedom from man-made constraints and obstacles is a necessary condition to fulfill the potentialities of one's nature. This does not imply freedom from obstacles in general. Not having the abilities or resources is not coercion and therefore, does not constitute a lack of freedom.

According to the precepts of natural law, a person should not be forced into acting or using his resources in a way in which he has not given his consent. It follows that man has certain natural rights to life, to the use of one's faculties as one wills for one's own ends, and to the fruits of one's labour. These rights are inherent in man's nature and predate government, constitutions, and courts. Natural rights are derived from the facts of human nature and respected because they are promotive of individual's well-being.²⁰

Government is needed in order to enable people to live well in society. It is needed only to prohibit it and punish the private violation of the natural rights of those who peacefully use their energies and resources, to punish fraud and deception, and to settle disputes that may arise. Of course, the existence of a natural order prior to government means that government's role should be limited and restrained. Natural law theory limits government to its proper sphere, sets bounds to its actions, and subjects the government itself to the law. It follows that to circumscribe government to its proper role, power must be separated into its different functions and power must be counter balanced to keep those who govern from exceeding their legitimate bounds. This is important because when those who govern, act outside the law, they do so with the full coercive power of the government.

The evolution of modern states

The emergency of civil society was attributed to ceaseless war in the state of nature. In state of nature, men were frightened and insecure. It is a theatre of "war of each against all."²¹ Men live in savage squalor with "no arts, no letter, no society; and which is worst of all, continual solitary, poor, nasty, brutish, and short."²² To exit from this horror people, out of their profound self-interest, rationally joined together to form civil society.

In this union, man surrendered his power to the state or sovereign, who governs and makes appropriate rules, laws and regulations guiding the society. This marked the origin of the state. Hobbes aptly captured this when he posited that civil society evolved when men agreed amongst themselves to submit to some men, or assemble of men voluntarily, on confide to be protected by him against all other."²³ Hobbes called this type of society a political common-wealth. The major characteristics of this being that men by their own volition, decided to come together in a voluntary manner and in confidence for their good and happiness, submitted themselves to a man or assemble of men who they believed will protect them.

Similarly, Locke argues that wherever therefore any number of men are so united into one society, as to quit everyone his executive power of the law of nature and to resign it to the public, there and there only, is a political or civil society ... and this puts men out of a state of nature into that of a common wealth."²⁴ From the above postulation of Locke, it is crystal clear that man quits or forgoes his executive powers and

vests it to the public in a given civil society. It therefore implies that man abdicated his power of autonomy for common good.

However, Rousseau noted that with the emergency of the institution of private property, people who were formerly “noble savage” became selfish, greedy, and acquisitive, everyone tried to grab as much as possible for himself; resulting to endless quarrelling and loss of peace.²⁵ As the conditions degenerated, unhappiness, bickering and disorder became the general rule. Men in effort to find recipe to the state of perpetual strife, enter into a social and political contract. The social contract, in which each individual made agreement with all, and all with each, gave rise to a civil society or state in which all depended upon each and each depended on all. The contract was for common good; and also for the good of each individual.²⁶ Unlike in Locke’s theory, there is only one social and political contract. There is no second contract. When man made a contract, he lost his original simple happiness. Rousseau in his introductory sentence of the social contract says, “Man is born free, but is everywhere in chain” the natural freedom enjoyed by noble savage was lost but he won civil freedom.²⁷

For Plato, “the state is the individual writ large.” The origin of the state is as a result of man economic needs.²⁸ “States do not come out of an oak or a rock but from the characters of men that dwells therein.”²⁹ From the above postulation, Plato shows that the state is a natural institution because it reflects the structure of human nature. He argues that a state comes into existence because no individual is self-sufficient. Each and every one of us has a multiple needs which requires many skills and no one possess all the skills needed to provide basic necessitate of live. Thus, the state evolved to harmonize the human needs and provide platform for their realization which engenders happiness and prosperity for all and sundry. In Republic, Plato was pre-occupied by outlining principles that will forestall injustice going on in his days and eliminate quagmire prevalent in his society. He looked forward to a society that would be peaceful for the citizen and everyone could develop to his highest capacity.

In addition, Aristotle sees the state as a project that helps man to achieve his ultimate goals. He posited that man by nature is political animal.³⁰ For him; man is closely tied to the state, as he cannot realize himself except in the state. This prompted Aristotle to quipped that “He who is unable to live in the society or has no need because he is sufficient must neither be a beast or a God”³¹. He rightly observed that the primary motive of establishing state is economic function and to provide for supreme good, which he identified as moral and intellectual life. Thus, a state is politically organized society in a certain territory. Aristotle says that a state is a natural and necessary institution which preserves, protects lives and property of the people.

On the other hand, theory of divine origin of state stipulates that God, the creator and ruler of the universe, created the state. This implies that the power of the state has divine will as its solid base. The above is encapsulated in three-fold doctrine that: God established the state, God appointed the king and the king is responsible to God alone³². In the medieval period in Europe, people criticized the kings for flagrant abuse of power, the kings and their apogees restored to divine right of king theory to shield, to the defend royal powers. For instance, King James I of England (1603-25) who ruled by Divine Right gave the following principles embodying the Divine Right Theory in his book *The Law of Free Monarchies*:

- a. Kings derive power straight from God.
- b. Kings have no legal obligations to the people.
- c. Laws which are products of kings’ authority cannot be above the king.
- d. Kings have power of life and death over their subjects.
- e. Subjects should obey their kings, and even if they happen to be bad, subjects cannot rise in rebellion against them, as they are the “breathing images of God upon the earth.” Disobedient to king is an unpardonable crime and sin.
- f. A king does not surrender his unbridled power even when he takes his coronation oath.

Monarchs of Europe of employed Divine Right Theory as defend mechanism against the inroads, which Church Fathers and proponents of democracies who want to curb their power to rule³³.

Rule of law

The rule of law means the supremacy of the law as opposed to arbitrary exercise of power by those who rule. Under rule of law, everyone, including the government, is bound by rules. The idea that the government is under the law is a condition of the liberty of the people. The rule of law requires law to be general and abstract, known and certain, and equally applicable to all persons in any unknown number of future instances³⁴. A.V. Dicey has the reputation of giving the classical exposition of the principles of the rule of law. When he posited: "That no man is punishable or can be lawfully made to suffer in body or good except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land." Basic principles of rule of law include: equality, impartiality and fundamental human rights

Critical appraisal of transformation of the state of the nature

The dawn of civil society has been heralded by some political philosophers as a recipe to incessant insecurity that is prevalent in the state of nature where every man would have been the enemy of every other man.³⁵ In a bid to get out of this horror, people out of their profound self-interest rationally joined together to form civil society. The civil society necessitated the evolution of concept of legal sovereignty³⁶ by Hobbes, which later led to Austin's theory of sovereignty.³⁷ In the same vein, Locke espoused the cause of limited monarchy and gave the concept of political sovereignty.³⁸ However, Rousseau's theory revolutionized political thought and stirred the people's mind deeply. It provided the intellectual ammunition to resist autocratic leaders.³⁹

Moreover, some critics described the emergency of states as: "... bad history, bad logic and bad philosophy."⁴⁰ Hobbes's postulations that society is based on rational self-interest, is at odds with Aristotle's theory that human are born "political animal" (Have humans ever lived as solitary animals?). However, the Hobbesian situations have been recurring decimal in the various states of the world as large scale of violence are unleashed on humans through terrorism, ethnic violence, religious crisis, kidnapping, ritual killings, wars as being witnessed in Syria, Somalia and South Sudan; terrorist attacks in France, Kenya and Brussels. Also, ethnic violence in Iraq where Sunni and Shia murder each other as if there were no government. The Rwanda genocide or ethnic cleanse between Hutus and Tutsi begs for attention.

Similarly, in home front, the Boko Haram attacks, the Fulani herdsmen attacks, incessant kidnapping, massacre of unarmed Biafra and IPOB agitators, the militancy in Niger-Delta. The afore mentioned incidences are clear indication that human beings are gradually degenerating into state of nature which portends war of each against all.

In addition, the growing tensions and resistance to civil authorities across the regions of the world is clear manifestations of contradiction that civil society was not created by deliberate decision of the people. Hence, the idea of social contract as depicted by Hobbes, Locke and others was both historically improbable and philosophically unnecessary to explain allegiance.

From the philosophical point of view, it is not fair to treat any contract as eternally binding on all generations. The contract hampers progress, and acts as a dead weight. It denies freedom to every generation to act freely for itself according to new ideas. Therefore, civil society created to cater and safeguard the welfare of human beings end up enslaving and dehumanizing them. The state has eclipsed human beings and subjugates them in order to preserve itself. Today legal system of many states empowers them to restrain to certain degree human rights (freedoms) and in some situations to take human life for interest of public safety or preservation of peace. By these enactments human beings are treated as means in defiance to exhortation of Kant, in his categorical imperatives that human beings should be treated as an end,⁴¹ because it is only in this aspect that his humanity will be respected. Thus, the states which endowed man with civil rights invariably through legislations that authorize restriction on human freedoms in some circumstances strip them of such civil rights.

Furthermore, state as the product of the will of all individuals comprising the state has been perverted as some dominant sections or the chosen few are so well-organized and vocal such that they have become self-styled representatives of all the will of society, and seek to justify their authority on this ground. Hence, the very essence of the state is eroded; few powerful individuals monopolize power and use the state machineries to protect their personal interests to the detriment of the majority.

Conclusion

It is a truism that in contemporary society, the escalation of conflicts (especially those conflicts with socio-economic and political undertone) across the regions of the world is evidence of failure by the various states to discharge their primary functions which include: provision of security of lives and property, and promotion of the well-being of the people by ensuring prosperity for all. Perturbed by this development, people (individually or by group) gradually rethink exodus to the state of nature by forming resistance to civil authorities. As people strive to re-gain the natural rights which they surrendered to civil society in the wake of social contract as canvassed by some political philosophers. Today, everywhere is possible target for terrorist attack thereby heightening the atmosphere of fear and insecurity which is hallmark of the state of nature.

Endnotes

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