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THE STATE

Franz Oppenheimer

Over the years, many writers have claimed that the State has some kind of noble mission. Few have seen things with such clarity as the German sociologist Franz Oppenheimer. *The State*, Oppenheimer persuasively argues, is always born in the conquest of one group by another. The conquerors then set themselves up as the government and extract tribute in the form of taxes from the conquered. Furthermore, he argues, the State can have originated in no other way than through conquest and subjugation, and to advance his argument, he draws on vast historical knowledge with dramatic examples of the beginnings of the State from prehistoric to primitive, from huntsmen to herders, from the Vikings to modern day.

The State affects the most mundane as well as the most important aspects of our lives. As a powerful, sprawling institution it shapes the other major institutions of society and reaches into our most personal everyday affairs. Yet, little of importance has been written on the State in terms of its nature and development. In this significant, but long-neglected, classic, Franz Oppenheimer develops his libertarian ideas on the origin and future of the State.

I have long regarded [The State] as a classic, and welcome its fresh publication. I hope it will be read widely by the present generation.
—Robert Nisbel

Oppenheimer's...book helps us to realize how recent, precious and fragile are the ideas and institutions of democracy. —Stanislav Andreski

FRANZ OPPENHEIMER (1864-1943) was a German sociologist and political economist and Chair for Sociology and Theoretical Political Economy at Johann Wolfgang Goethe University, Frankfurt/Main. From 1934 to 1935, Oppenheimer taught in Palestine, emigrating to Los Angeles in 1936, where he was active in the American Sociological Association and a founding member of the *American Journal of Economics and Sociology*.

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INTRODUCTION

The state is a condition, a certain relationship between human beings, a mode of human behavior; we destroy it by contracting other relationships, by behaving differently.

—*Gustav Landauer*

THE STATE AFFECTS THE MOST mundane as well as the most important aspects of our lives. As a powerful, sprawling institution it shapes the other major institutions of our society and reaches into our most personal everyday affairs. As Robert Nisbet has written, “the single most decisive influence upon Western social organization has been the rise and development of the centralized territorial state.”¹

But, surprisingly, little of importance has been written on the state. In fact, a quick review of the books and articles reveals that most of them have been largely rationalizations of the coercion and force that all states practice. Such diverse people as George Sabine (a quite traditional political scientist) and Robert P. Wolff (a more radical and questioning political philosopher) have made this point.²

One exception to this tendency to rationalize is *The State* by Franz Oppenheimer. In this classic, he presents a strongly libertarian view of the state. He neither defends it nor condemns it out of hand. Rather,

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through his study of history and political economy, he seeks to understand its nature and development. His work leads him to conclude that:

The State, completely in its genesis, essentially and almost completely during the first stages of its existence, is a social institution, forced by a victorious group of men on a defeated group, with the sole purpose of regulating the dominion of the victorious group over the vanquished, and securing itself against revolt from within and attacks from abroad. Teleologically, this dominion had no other purpose than the economic exploitation of the vanquished by the victors.³

This may seem somewhat polemical, but I think he is essentially correct. I hope that this short introduction and especially the book itself, will reintroduce Oppenheimer's conquest theory of the state and prove suggestive to others studying the state.

There is very little in English on Franz Oppenheimer's intellectual and, for that matter, political development.⁴ He was the most Western-minded of the early German sociologists, rejecting racial interpretations of history while championing a Proudhonian ideal of a truly free society.⁵ But Oppenheimer did fall squarely within a German sociological tradition and he was one of its more important thinkers.

Sociology came to Germany at the beginning of the 20th century. Rooted as it was in history, philosophy and political economy, sociology did not dissipate its energy in statistical minutiae and obscure topics. Reminiscent of Comte and Spencer, early German sociology was involved in the grand sweep of history and social life.

It is not surprising then that one of the first "schools" of German sociology was historical sociology. Oppenheimer certainly fit under that rubric, along with people like Alfred Weber, Karl Mannheim, Max Scheler

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and Max Weber. Concerned with “depicting individual instances,” with “interpreting historical evolution,” and with “collective realities” (culture and the state, for instance), they wrote in large strokes for the insight it gave into current life.

Sociology is conceived as being akin to a theory of universal history and as undertaking the tasks of the philosophy of history; namely, the provision of an answer to present anxieties out of the experience of the past.⁶

They also wrote with a clear and profound understanding of the crucial role played by conflict in every area of social *life*: hence, the importance of conflict theory for this group. The two greatest names in historical sociology are Karl Marx and Max Weber. Marx preceded the development of historical sociology as a distinct school and set the tone on a number of important points. As Randall Collins outlines it:

He brought together for the first time the major sources of the conflict tradition: the revelations of historical scholarship, the effort at a materialist theory of society, the iconoclasm of the freethinkers.⁷

Of particular importance was Marx’s emphasis on the material preconditions of human action and the importance of material factors in shaping human action (without, it should be noted, denying the crucial importance of thinking as an activity by human actors). This grounded philosophy in history and was an effective attack on pure idealism.

Max Weber was without a doubt one of the greatest sociologists and thinkers of recent times. Weber and Oppenheimer were contemporaries both in time and in intellectual pursuits. They were both deeply affected by Marx and clearly immersed in historical and empirical work. Randall Collins includes them all as thinkers in the tradition of the conflict theory. Weber and Oppenheimer, however, emphasized a different

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set of problems than did Marx, and developed a different theory. While Collins rightly includes Marx in his discussion of conflict theory, Anthony Giddens is more correct when he emphasizes the importance of domination and subordination:

Oversimplifying somewhat, it might be said that Weber gives to the organization of relationships of domination and subordination the prominence which Marx attributes to relationships of production.⁸

In either case conflict is one of the important underpinnings of historical sociology.

The central focus is on the organization of material arrangements into a system of power which divides society into interest groups struggling for control.⁹

This dynamic of struggle and how it is handled offers a way of explaining the entire social structure so well that Randall Collins contends “that conflict theory has been vindicated by empirical evidence to an extent approached by no other sociological theory.”¹⁰ This view of the dynamic of conflict is not new. Not taking into account the political use to which this insight was put, the idea is evident in the Epicureans, in Ibn Khaldun, Machiavelli, Voltaire, Hobbes, Hume, Spencer and Lester Ward. Their ideas and the indigenous conflict theories of Ludwig Gumplowicz (who Oppenheimer acknowledges was very influential on his own thinking) and Gustav Ratzenhofer set the stage for the writings on conflict theory in this century.¹¹

Oppenheimer’s emphasis, in the book at hand, is the state and its origin and development. It represents a major contribution to the theories of conflict and conquest. But who was Franz Oppenheimer?

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FRANZ OPPENHEIMER WAS BORN in a suburb of Berlin on March 30, 1864. He became a physician in 1885, and practiced medicine for a decade. He was aware of and quite concerned about the social issues of his time and he became acquainted with many of the radical movements: the Marxists and revisionists, the liberal socialists and land nationalizers, the federalists and anarchists. Influenced by all of these and yet not convinced by any, he went back to school in economics. He supported his wife and child by writing articles. In 1908, at the age of 44, he received his Ph.D. at the University of Kiel. The next year he became a *privadozent* (unsalaried lecturer receiving only student's fees) of economics at the University of Berlin. During these years he was very involved in the cooperative and back-to-the-land movements that were common then.

During the First World War he was an economic counselor in the War Office. In 1919 he became *ordinarius* (full professor) of economics and sociology at the University of Frankfurt. Ill health forced him to retire in 1929 at the age of 65 (his chair, incidentally, was taken by Karl Mannheim). For the next four years he lived at a rural cooperative settlement near Berlin that he had helped form prior to World War I.

In 1933 Oppenheimer left Germany and taught in France and Palestine and then came to the United States. He continued to write and in 1941 was a founding editor of the *American Journal of Economics and Sociology*, a journal which followed the ideas of Henry George. He died in Los Angeles on September 30, 1943.

Oppenheimer always contended that the social sciences would affirm and support the search for justice. He combined his scholarship with a reforming zeal "which sometimes becomes an obsession [calling] forth alternately respect and irritation."¹² As Eduard Heimann said:

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He was a liberal of that old, heroic, revolutionary brand which has otherwise died out long ago.... Oppenheimer calls himself a liberal socialist. He is a socialist in that he regards capitalism as a system of exploitation, and capital revenue as the gain of that exploitation, but a liberal in that he believes in the harmony of a genuinely free market.¹³

In an article published after his death, Oppenheimer set down his long held belief that there is an alternative to the totalitarianism of Fascism and Bolshevism and the exploitation of the current amalgam of political democracy, which isn't democracy at all, and capitalism, which is really just "the bastard offspring of slavery and freedom."¹⁴

There is a third possibility: a perfect democracy, not only *politically* but also *economically*.... The first condition of perfect democracy is equal opportunity for all or, which is the same, free untrammelled competition.¹⁵

That equal opportunity and free untrammelled competition seem so contradictory is indicative of the fact that we may still not have come to realize that "perfect democracy" is an alternative. But Oppenheimer believed that history and empirical work would prove these points.

It is the task of social science, especially of theoretical economics, to teach this gospel [of freedom] and spread the conviction that perfect democracy is more than a daydream of some utopianist outsiders.¹⁶

From 1893 until his death in 1943, Oppenheimer wrote hundreds of books, pamphlets, articles and reviews.¹⁷ These ran the gamut from economic theory to polemics about the major intellectual strains of his day. Very little of his major work is in English. His most important work is the four double volume *System of Sociology*. In 4500 pages Oppenheimer

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constructed a theory of general sociology and social psychology (Volume I), political theory (II), economic theory (III) and economic and social history (IV). One review referred to it as “by far the most elaborate system of sociology ever written.”¹⁸ Yet it is ironic that only an early, sketchy version of volume two has ever been translated into English: *The State*. Sketchy though it may be, there is much of interest and importance in it.

Positions of leadership are not much coveted by the Ik. They are backed by little power, and in so far as they confer any benefits (i.e., *ngag*, or food) upon the officeholder, that only serves to make him all the more edible.

—Colin Turnbull in *The Mountain People*

THERE ARE MANY WAYS TO LOOK AT THE STATE. Since the early Greek philosophers there has been a tendency to view it as the ideal and/or the only important form of social organization.¹⁹ The state is given a pre-eminence and a universality that betrays a massive bias in favor of the state.

Some, like E. Adamson Hoebel, think that “where there is political organization there is a state. If political organization is universal, so then is the state.”²⁰ This view dilutes any meaning the state might have. Others try to be rid of the concept altogether, an approach exemplified by the functionalists. Gabriel Almond and James Coleman feel that the “rejection of the ‘state and non-state’ classification...is a matter of theoretical and operational importance.... If the functions are there then the structures must be.”²¹ It does seem naive however to assume that any function must be met by a similar structure. In that case, we are confronted by an undifferentiated mass of information about different cultures and social institutions that can’t be meaningfully discussed.

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Oppenheimer, on the other hand, correctly appreciates the state's crucial importance, but he *also* emphasizes its distinctiveness. He does this by developing the distinction between the economic means and the political means. This is one of Oppenheimer's most important contributions.

To talk about the economic and the political *means* is Oppenheimer's way of emphasizing the actions and processes by which people seek to satisfy their common needs for material sustenance. There are two basic organizing principles of social life. One is essentially peaceful and is what Oppenheimer calls the economic means: "one's own labor and the equivalent exchange of one's own labor for the labor of others." Life is based on peaceful existence, equality of opportunity and voluntary exchange. The other is the political means, which is based on domination and is essentially violent: "the unrequited appropriation of the labor of others."²²

The difference between the political and the economic means is similar to the probably better known distinction between state and society.²³ In fact, Oppenheimer calls the state the "organization of the political means." However, Oppenheimer's choice of words constantly reminds us of the action and process involved in the distinctions. "Society," for instance, is often seen as a static and monolithic term. It is not; nor is it some integrated whole as the functionalists, among others, suggest. It is, rather, a vast and fluid network of individuals and groups that interact voluntarily on the basis of shared economic interests or on the basis of feelings of identity and community. This is the economic means at work. It is unfortunate that we have become so jaded that we cannot see the effectiveness and importance of these voluntary interactions in our daily lives and in the larger social order.²⁴

In earlier times this voluntary interaction was called "natural society." It is in a real sense prior to the state. In fact it can be said that the

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state develops out of society as a secondary formation and is “the alienated form of society,”²⁵ serving the interests of social classes unequally.

The state rises out of society when some people utilize the political means for their own advantage. Some individuals or groups are in a position to enforce actions upon others and by others. Relations become based on super- and sub-ordination. The state then “is first of all an apparatus of domination.”²⁶

This distinction between the economic means and the political means or society and state is a powerful tool in understanding the world that has past us and the world around us. While the two in fact flow into one another, at times, they are essentially separate and this should be constantly kept in mind. As Reinhard Bendix says in his article on “Social Stratification and the Political Community”:

The distinction refers to a universal attribute of group life in the sense that, however interrelated, these two types of human association are not reducible to each other. From an analytical viewpoint it is necessary to consider ‘society’ and ‘the state’ as interdependent, but autonomous spheres of thought and action which coexist in one form or another in all complex societies.²⁷

This distinction between the two means of coordination is not merely an analytic nicety. In an admittedly simplified form it is the major dynamic of history, “the basic social struggle in human history.”²⁸

We see the voluntary cooperation of the economic means every day, from our own personal friendships to the small-scale exchange of goods and services between individuals.²⁹ But there have also been cases where these voluntary means were virtually the sole mechanism of coordination among groups of people. Often considered primitive by our patronizing language of progress, they were quite extraordinary societies. The study of these stateless societies (as they have come to be called) is

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important and interesting precisely because “one of the most essential things that we can learn from the life of rude tribes is how society can function without the policeman to keep order.”³⁰ Studying stateless societies gives us a better perspective on the uses of the economic means and on those societies which *have* states.

Any group of people have to interact and that means some form of coordination must be effected. As we have seen, cooperation and domination are these ways. Within such a group there will also arise moments of conflict, and they must be mediated and resolved in some way. There is a view which holds that the minimal domain of the state is the protection and the provision of justice. Such a position is untenable in view of the numerous ways conflicts are resolved without the state. Stateless societies are important precisely because they show that non-state resolutions of conflict can encompass large social groups and continue for some time.

Stateless societies include many dissimilar types. It is only necessary to define them in a general way here. Stateless societies

have few or no roles whose primarily goal is the exercise of authority. Authority and political action there are, but they are exercised through multipurpose roles in which they cannot be said to form the primary element.³¹

Stateless societies are not just a few geographically restricted and primitive societies. Most of the evidence is about primitive societies but this says more about the imperialistic nature of states than it does about the limitations of stateless societies. There is no inherent reason why we can not have and can not work for a stateless society in our own time. Some of these societies have included the Kung Bushmen of South Africa and the African Logoli, the Tallinsi and the Nuer, the Eskimos, the Ifugao of the Philippines and the Star Mountain people of New Guinea.³² They have ranged from patrilineal to matrilineal and from pastoral to hunting.

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They have lived nomadically, in villages or confederacies. In fact until conquered by the Europeans, state organizations were *exceptional* in Oceania, sub-Saharan Africa and the Americas.³³

It is held that the state is necessary for the integration of society. The modern state provides “a uniquely effective form of social integration.”³⁴ Indeed terrifyingly effective! Compare this to the “remarkable spectacle of societies maintaining themselves at a high level of integration without any obvious specialized means of enforcement....”³⁵ We may say then that stateless societies achieve the same ends as states but through vastly different means.³⁶ Aidan Southall sums this up beautifully when he says:

Stateless societies are so constituted that the kaleidoscopic succession of concrete social situations provides the stimulus that motivates each individual to act for his own interest or for that of close kin and neighbors with whom he is so totally involved, in a manner which maintains the fabric of society. It is a little like the classical model of laissez-faire economics translated into the political field...the lack of specialized roles and the resulting multiplex quality of social networks mean that neither economic nor political ends can be exclusively pursued by anyone to the detriment of society, because the ends are intertwined with each other and further channeled by ritual and controlled by the beliefs which ritual expresses.³⁷

We need not look solely to so-called primitive societies for examples of stateless societies. Germany in the early middle ages “was in some ways the complete antithesis of the modern state.”³⁸ Until the seventeenth century, Ireland had “no legislature, no bailiffs, no police, no public enforcement of justice.... There was no trace of State-administered justice.”³⁹ And in early America there were notable attempts to forge something anarchistic. Murray Rothbard has mentioned Albemarle, Rhode Island and Pennsylvania.⁴⁰

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The point is not to suggest that the stateless and near stateless societies which have existed were in any way perfect. They were not, but they did exist and they did attempt to solve social problems in a way different from the usual reliance on force, centralization and the political means. Stateless societies have been remarkably viable.

Since his interest was specifically on the state, Oppenheimer spent no time on this larger discussion of the economic means and stateless societies. We have mentioned such societies because they suggest a breadth to the significance of the economic means.

Taking the State wherever found, striking into its history at any point, one sees no way to differentiate the activities of its founders, administrators, and beneficiaries from those of a professional-criminal class.

—Albert Jay Nock

THE FIRST TASK OPPENHEIMER set himself was to trace the origins of the state. He saw the state rising out of conflict and out of the conquest of one group by another. Let us put this in context by briefly discussing other theories of the state.

The usual view of the origin of the state (when it is discussed at all) is that it rose spontaneously and naturally. People voluntarily gave up their sovereignty. This is known as the Social Contract, a convenient metaphor. It is an implausible theory and there is just no proof that such a thing ever really happened.

Others see the state rising rather naturally from economic surplus and the division of labor. R.H. Lowie and R.M. MacIver see the state as one association (albeit the most powerful) out of many that make up the larger society.⁴¹ While there is a definite validity to economic differentia-

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tion and the state-like possibilities of primitive associations, they do not, as Oppenheimer would be quick to point out, cause or lead naturally to the state. There is no discussion of what exactly would propel differentiation or association into the state.

Another view of the rise of the state sees the propelling force in the imperatives of technological centralization. This was most forcefully presented by Karl Wittfogel in his study of oriental despotisms.⁴² For him the material needs of an area and the solution (specifically large-scale irrigation) led to the formation of a central political unit: the state. While irrigation projects did significantly strengthen the state, they did not bring about its formation. As Jacques Gernet has pointed out

historically, it was the pre-existing state structures and the large, well trained labor force provided by the armies that made the great irrigation projects possible.⁴³

Furthermore, it is not clearly the case that the solutions to certain problems (that is to make progress in civilization) must come *a priori* out of or result in technological centralization. Clearly there is something else at work.⁴⁴

This brings us to the conflict theory of the origins of the state.⁴⁵ For as important as these previous theories are, they can not account for the “jump” from non-state to state. For Oppenheimer this rests on the point where the voluntarism of the economic means is subsumed under concerted and continuous use of the political means:

A close examination of history indicates that only a coercive theory can account for the rise of the state. Force, and not enlightened self-interest, is the mechanism by which political evolution has led, step by step, from autonomous villages to the state.⁴⁶

The state rises out of a condition of statelessness or “practical anarchy.” In general, these are essentially societies of equals and there are no roles of authority and little social or economic differentiation. Certain eco-

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conomic inequalities do arise through luck, cleverness, etc. Oppenheimer explicitly recognizes these economic inequalities among herdsmen as an element of statehood. However, because of his Georgist view of the importance of land and his understanding of the dynamics of the economic means, he sees a tendency for these inequalities to remain modest and to be resolved. The condition of relative equality will be approximately restored. Thus, while he sees that differentiation can and does arise through economic means, he explicitly rejects that it is this primitive accumulation which results in the state.

This condition of relative equality is permanently destroyed by the use of the political means by one group against another in the form of war or raiding. For Oppenheimer, the state rises through conquest. In fact:

No primitive state known to history originated in any other manner... Everywhere we find some warlike tribe of wild men breaking through the boundaries of some less warlike people, settling down as nobility and founding the State.⁴⁷

Oppenheimer proceeds to mention examples from around the world. Lawrence Krader has more recently pointed out, "There is no doubt that conquest played a part in most if not all processes of state formation."⁴⁸

It is conquest, then, of one group by another that leads directly to the state. While this is a striking and important insight, it can not really be considered sufficient.

The conquest theory failed as a general theory of the origin of the state because it introduced only external factors and failed to take into account internal processes.⁴⁹

It would be helpful, then, to go back to the beginnings of economic differentiation and take another look at how conflict and the political means enter into the process of state-formation.

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Morton Fried goes considerably beyond Oppenheimer in his discussion of inequality as a germ of statehood. In his discussion of the evolution of political society, he sees it going through stages from an egalitarian to a ranking to a stratified society. Society is still basically stateless at this point. In the latter case, access to basic resources is limited and there is clear economic differentiation. But rather than saying, as Oppenheimer does, that this situation will resolve itself back towards equality, Fried makes the point that stratification is unstable and must change—there are two possibilities:

The state forms in embryo in the stratified society, which, by this reasoning, must be one of the least stable models of organization that has ever existed. The stratified society is torn between two possibilities: It builds within itself great pressures for its own dissolution and for a return to a simpler kind of organization, either of ranking or egalitarian kind.... On the other side, the stratified community, to maintain itself, must evolve more powerful institutions of political control than ever were called upon to maintain a system of differential ranking.⁵⁰

Within this instability there are movements toward equality and the economic means and movements in the direction of the political means whereby some seek to rigidify their economic gains. However, the outcome seems depressingly clear according to Oppenheimer, that “whenever opportunity offers, and man possesses the power, he prefers political to economic means for the preservation of his life.”⁵¹

As the use of the political means of robbery and expropriation becomes more frequent and institutionalized, the state takes shape. *Internally*, although Oppenheimer is not concerned with this, war (or raids) leads to the centralization of the warring group. As Georg Simmel said, “war needs a centralistic intensification of the group form, and this is guaranteed best by despotism.”⁵²

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In fact there is some evidence that defense against external conquest led to the development of the state in Ancient Sumer.⁵³ Booty from such wars certainly solidified class differentiation within an already hierarchical form. Randolph Bourne's insightful comment that "War is the health of the State" certainly is true, even in our own times.⁵⁴

Externally, which is Oppenheimer's emphasis, the political means leads to the conquest of one group by another and to the genesis of the state. Oppenheimer distinguishes six stages in this process.

The first stage involves continuous raiding and killing between groups. But it is the second stage that exhibits two necessary elements that make the giant step from robbery to state robbery. The peasants cease to resist these incursions. They accept their fate and their subservience. The herdsmen no longer merely loot, rape and kill, though such violence is continued to the extent necessary to insure acquiescence, now they appropriate the surplus of the peasants, leaving enough for the peasants to continue producing so that the herdsmen may skim the top off the next harvest also.

The moment when first the conqueror spared his victim in order permanently to exploit him in productive work, was of incomparable historical importance. It gave birth to nation and state, to right and the higher economics, with all the developments and ramifications which have grown and which will hereafter grow out of them.⁵⁵

Out of this 'arrangement' comes the beginning of the process of integration whereby both master and 'slave' recognize certain common interests and their common humanity. Customary rights begin to develop into the first threads of jural relations. Even though this internal development begins and legal rights and wrongs become defined, it is important to keep in mind that these develop within the context of class interests and for class interests.

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The third stage arrives when the peasants regularly bring their surplus as tribute. This is the beginning of taxation.

The next stage in the genesis of the state comes with the territorial union of the two groups. This allows the ruling group to “protect” its subjects and its economic base from external incursions. But it also permits the ruling group to better oversee internal affairs and smash uprisings against its hegemony.

In the fifth stage, the rulers assume the right to arbitrate. Thus the judicial function is taken out of the local and common law context. This gives the rulers much greater control to enforce their own interests and to mediate conflicts.

Finally the primitive state is complete. The last stage is the need to develop the habit of rule and the usages of government. The two groups, separated to begin with, and then united on one territory, are at first merely laid alongside one another, then are scattered through one another...soon the bonds of relationship unite the upper and the lower strata.⁵⁶

These stages, which Oppenheimer describes, are analytically useful. But Oppenheimer did not mean to have them rigidly regarded. Some states have developed through these stages; others, however, have skipped or combined stages. In any case, the state is formed.

The state then is the organization of the political means. The state “can have originated in no other way than through conquest and subjugation.”⁵⁷ For Oppenheimer, every state in history has been a state of classes; that is a polity of superior and inferior social groups, based upon distinctions either of rank or of property. The master or ruling class tries to maintain the “law of the political means” and is thereby conservative and even reactionary. The subject or the ruled class wants to substitute the “law of equality” for all inhabitants of the state, which makes for liberalism and revolution.

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His emphasis on class, on the distinction between rulers and ruled, has led some observers, like R.H. Lowie, to claim that Oppenheimer's theory is properly not a theory of the State but a theory of caste. It explains the origin of hereditary classes, but it does not solve the more fundamental problem of all political organization... Conquest led to complication and integration, but the germs of statehood antedated these processes.⁵⁸

Of course, as we have seen, Oppenheimer agrees that the germs of statehood were there, but it was only with concerted use of the political means, the conquest of one group by another, that led to the actual formation of the state. While other factors are also involved, the state always retains its class characteristics.

Once Oppenheimer had made the distinction between the economic means and the political means, described the genesis of the state and indicated its basic nature in the political means, conquest and class, he proceeded to outline the state's further development. Oppenheimer's own discussion of this is itself very short and often borders on the metaphorical. But there is significant material there. It is important to point out a few of the major points.

Whatever the further developments of the state are, Oppenheimer constantly repeats that its basic form and nature do not change. From the primitive feudal state through the modern constitutional state, it is still the institutionalization of the political means by one class to expropriate the economic wealth of another.

The development of the state beginning with the primitive feudal state brought two internal developments which had opposite directions: first, a continuing process of social integration, of breaking down the separate cultures of various groups within the state; and second, a process of social differentiation along class lines leading to class-consciousness.

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A whole series of processes, ranging from the assimilation of languages and religions to intermarriage, lead to a “spirit of fraternity and of equity.” Ethnic differences and the mere recognition of physical boundaries produce a ‘them’ and ‘us’ mentality, along with a feeling of group solidarity. And internally, “A far stronger bond of psychical community between high and low...is woven by legal protection against the aggression of the mighty.” This is “a consciousness of belonging to the same state.”⁵⁹

This pulling together is opposed by a pulling apart that is just as powerful. This is the development of class consciousness among both the upper strata (rulers) and the lower strata (ruled). Class consciousness through the development of class theories is the psychological dynamic in history, just as economic needs is the material dynamic. As the process of state consciousness proceeds, a class theory of the ruling group becomes necessary to direct, modify and sustain the state. Although approached from a somewhat different angle, this crucial point is admitted by most political philosophers.

As soon, however, as the psychic integration develops, in any degree, the community feeling of state consciousness, as soon as the bond servant acquires ‘rights,’ and the consciousness of essential equality percolates through the mass, the political means requires a system of justification; and there arises in the ruling class the group theory of ‘legitimacy.’⁶⁰

All questions of state legitimacy, then, can only be founded on or traced back to class and class theories. As Morton Fried so succinctly put it, “Legitimacy, no matter how its definition is phrased, is the means by which ideology is blended with power.”⁶¹

The final stage in the state’s development is what Oppenheimer calls the modern constitutional state. This is the most sophisticated level because domination and exploitation continue but are limited by public law and hidden by a complex ideological superstructure. As Oppenheimer says:

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Its *form* still continues to be domination, its content still remains the exploitation of the economic means. The latter continues to be limited by public law which on the one hand protects the traditional 'distribution' of the total products of the nation; while on the other it attempts to maintain at their full efficiency the taxpayers and those bound to render service. The internal policy of the state continues to revolve in the path prescribed for it by the parallelogram of the centrifugal force of class contests and the centripetal impulse of the common interests in the state; and its foreign policy continues to be determined by the interests of the master class, now comprising besides the landed also the moneyed interests.⁶²

It should be clear by now that in addition to the sameness that the state exhibits throughout all its stages, Oppenheimer also sees a steady progress in the state's development. This assumption of the inevitability of progress is problematic as there is little basis for believing it in this day and age. But for Oppenheimer it meant that the state culminated in what he called the freemen's citizenship. In his last chapter he makes it clear that the state of the future will be society guided by self-government. Even though the state rises out of the political means and conquest, and is a class state, Oppenheimer sees the economic means eventually predominating and the class-state disappearing. Oppenheimer, however, is no anarchist. He was, as we have mentioned, quite the classical liberal.

*No great society can exist without a body which renders final decisions on debatable issues and has the means, in case of emergency, to enforce decisions. No society can exist without the power of punishment of the judge, nor without the right to expropriate property even against the wish of the proprietor, if the public interest demands it.*⁶³

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Once the domination and administration of the ruling class and the economic monopoly of the land are removed from the class state, then we would have, according to Oppenheimer, a truly free society (perhaps a class-less state).

In such a society all political power would lie in the base of the pyramid: in the communitives [sic] and cooperatives. While the administrators on top, as I once wrote, would only have a power comparable let us say, to the one of the international geodetic committee.⁶⁴

When the class-less society is reached it would rest in a steady state. For similar to his discussion of primitive accumulation earlier, he sees that it would be “impossible for any abuse of power to be introduced beyond the simple level of individual theft, which would be swiftly punished.”⁶⁵

It is certainly shocking and unsettling to read his conclusion. After a sustained and remarkable discussion of the state as oppressive and class-oriented, it is difficult to see how we will be rather miraculously presented with a society somewhere between the anarchist ideal of free collectives and the classical liberal ideal of a neutral state. Everything Oppenheimer has said and taught us shows the neutral state as contradictory. As C.J. Friedrich said years ago, “The ‘state’ as some kind of neutral god charged with looking after the national interest is so central in all dictatorial ideologies.”⁶⁶ This may be a little hard on Oppenheimer but it is to the point.

Part of the context for Oppenheimer’s conclusion can be seen in the contrasts between the sociological optimism and pessimism of his day. The pessimists accepted the rise of the state and totalitarianism with either glee or regret. Those who were part of the ruled class saw, then, revolution as the only solution. This would, in Oppenheimer’s eyes, cause more problems than it would solve. He, on the other hand, was an optimist and his reading of history and political economy showed him

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that the class state would indeed evolve into a class-less state. He was one of the small fraction of social liberals, or liberal socialists who

believe in the evolution of a society without class dominion and class exploitation which will guarantee to the individual, besides political, also economic liberty of movement, within of course the limitations of the economic means. That was the *credo* of the old social liberalism of pre-Manchester days, enunciated by Quesnay and especially by Adam Smith, and again taken up in modern times by Henry George and Theodore Hertzka.⁶⁷

While his optimism and belief in evolution may be misplaced for us who live in an increasingly centralized and politicized world, Oppenheimer's analysis can be very helpful as we try to understand and change our world.

Oppenheimer's optimistic conclusion that states will necessarily give way to what he termed freemen's citizenship seems much less certain to us today. In a world dominated by war and the authoritarian state, our sense of inevitable progress has been shaken.

Oppenheimer's historical discussion of the origins and rise of the state, however, is clearly very relevant. The element of conflict and conquest has played a part in the origins of most states. Together with the emphasis on the use of the political means and the class nature of the state's interests, we can begin to see history a little differently. No longer can we say that states are benign in the process of history.

Any further judgement on the significance of *The State* can be made by the reader. Whatever its relevance Oppenheimer believed that the social sciences were important precisely to the extent that they valued and tried to extend human life and freedom.

C. Hamilton
Crompond, NY, May 1975

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Notes

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AUTHOR'S PREFACE

THIS LITTLE BOOK HAS MADE ITS WAY. In addition to the present translation into English, there are authorized editions in French, Hungarian and Serbian. I am also informed that there are translations published in Japanese, Russian, Hebrew and Yiddish; but these, of course, are pirated. The book has stood the test of criticism, and has been judged both favorably and unfavorably. It has, unquestionably, revived the discussion on the origin and essence of the State.

Several prominent ethnologists, particularly Holsti, the present Minister of Foreign Affairs of the Finnish Free State, have attacked the basic principle formulated and demonstrated in this work, but they have failed, because their definition of the State assumed the very matter that required to be proven. They have brought together a large array of facts in proof of the existence of some forms of *Government* and *Leadership*, even where no classes obtained, and to the substance of these forms they have given the name of "The State." It is not my intention to controvert these facts. It is self-evident that in any group of human beings, be it ever so small, there must exist an authority which determines conflicts and, in extraordinary situations, assumes the leadership. But this authority is not "The State," in the sense in which I use the word. The State may be defined as an organization of *one class* dominating over the other

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classes. Such a class organization can come about in one way only, namely, through conquest and the subjection of ethnic groups by the dominating group. This can be demonstrated with almost mathematical certainty. Not one of my critics has brought proofs to invalidate this thesis. Most modern sociologists, among whom may be named Albion Small, Alfred Vierkandt and Wilhelm Wundt, accept this thesis. Wilhelm Wundt, in particular, asserts in unmistakable language, that "the political society (a term identical with the State in the sense employed in this book) first came about and could originate only in the period of migration and conquest," whereby the subjugation of one people by another was effected.

But even some of my opponents are favorably inclined to my arguments, as in the case of the venerable Adolf Wagner, whose words I am proud to quote. In his article on "The State" in the *Handwörterbuch der Staatswissenschaften*, he writes: "The sociologic concept of the State, to which I have referred, particularly in the broad scope and treatment of it given by Oppenheimer, deserves careful consideration, especially from political economists and political historians. The vista opened out, from this point of view, of the economic development of peoples and that of the State during historic times, should be attractive even to the opponents of the concept itself."

The "sociologic concept of the State," as Ludwig Gumplowicz termed it, is assured of ultimate general acceptance. Its opponents are strenuous and persevering, and I once called them "the sociologic root of all evil," but the concept, nonetheless, is the basic principle of "bourgeois" sociology, and will be found of value in the study, not only of economics and history, but in that of Law and Constitutional History. I permit myself to make a few remarks on this point.

The earliest evidence of the recognition of the idea underlying the *law of previous accumulation*, may be traced back, at the latest, to the

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period of the decay of classical civilization, at the time when the capitalistic slave economy brought the city states to ruin as though their peoples had suffered from a galloping consumption. As in our modern capitalistic age, which resembles that period in many respects, there occurred a breach in all those naturally developed relations in which the individual has found protection. What Ferdinand Toennies calls the "community bonds" were loosened. The individual found himself unprotected, compelled to rely on his own efforts and on his own reason in the seething sea of competition which followed. The collective reason, the product of the wisdom of thousands of years of experience, could no longer guide or safeguard him. It had become scattered. Out of this need for an individual reason, there arose the idea of *nationalism*. This idea had its justification at first, as a line of development and a method in the newly born science of social government; but when later it became what Rubenstein (in his work *Romantic Socialism*) calls a "tendency," it was not justified. The community, to use Toennies' term, changed into a "society." "Contract" seemed to be the only bond that held men together—the contract based on the purely rationalistic relation of service for service, the *do ut des*, the "Contrat Social" of Rousseau. A "society" would thus appear to be a union of self-seeking individuals who hoped through combination to obtain their personal satisfactions. Aristotle had taught that the State had developed, by gradual growth, from the family group. The Stoics and Epicureans held that individuals formed the State—with this difference, that the former viewed the individual as being socially inclined by nature, and the latter that he was naturally anti-social. To the Stoics, therefore, the "State of Nature" was a peaceful union; to the Epicureans it was a war of each against the other, with Society as a compelling means for a decent *modus vivendi*. With the one a Society was conditioned "physei" (by nature); with the other it was "nomo" (by decree).

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In spite, however, of this fundamental difference between these schools, both assumed the premise that, at the beginning, individuals were *free, equal* politically and economically, and that it was from such an original social order there had developed, through gradual differentiation, the fully developed State with its class hierarchy. This is the *law of previous accumulation*.

But we should err if we believed that this thesis was originally intended as a historical account. Rationalism is essentially unhistoric, even anti-historic. On the contrary, the thesis was originally put forward as a "fiction," a theory, a conscious unhistorical assumption. In this form it acquired the name of *natural law*. It was under this name that it came into modern thought, tintured stoically in Grotius and Puffendorf, and epicureanly in Hobbes. It became the operative weapon of thought among the rising third estate of the capitalists.

The capitalists used the weapon, first against the feudal state with its privileged class, and, later against the fourth estate, with its class theory of Socialism. Against the feudal domination it argued that a "Law of Nature" knows and permits no privileges. After its victories in the English Revolution of 1648, and the great French Revolution of 1789, it justified, by the same reasoning, its own *de facto* pre-eminence, its own social and economic class superiority, against the claims of the working classes. According to Adam Smith, the classes in a society are the results of "natural" development. From an original state of equality, these arose from no other cause than the exercise of the economic virtues of industry, frugality and providence. Since these virtues are pre-eminently those of a bourgeois society, the capitalist rule, thus sanctioned by natural law, is just and unassailable. As a corollary to this theorem the claims of Socialism cannot be admitted.

Thus, what originally was put forward as a "fiction," became first, a hypothesis and finally the *axiom* of all bourgeois sociology. Those who

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support it accept the axiom as self-evident, as not requiring proof. For them, class domination, on this theory, is the result of a gradual differentiation from an original state of general equality and freedom, with no implication in it of any extra-economic power. Robert Malthus applied this alleged law to the future, in his attempt to demonstrate any kind of Socialism to be purely Utopian. His celebrated *Law of Population* is nothing but the *law of original accumulation* projected into the future. He claims that if any attempt were made to restore the state of economic equality, the workings of the law would have the effect—because of the difference in economic efficiency—of restoring modern class conditions. All orthodox sociology begins with the struggle against this supposed law of class formations. Yet every step of progress made in the various fields of the science of sociology, has been made by tearing up, one by one, the innumerable and far-spreading roots which have proceeded from this supposed axiom. A sound sociology has to recall the fact that class formation in historic times, did not take place through gradual differentiation in pacific economic competition, but was the result of violent conquest and subjugation.

As both Capitalism and Socialism had their origins in England, these new ideas were certain to find their first expression in that country. So that we find Gerrard Winstanley, the leader of the “true levellers” of Cromwell’s time, arraying the facts of history against this anti-historical theoretical assumption. He showed that the English ruling class (the Squirearchy) was composed essentially of the victorious conquerors, the Normans, and that the subject class were the conquered English Saxons. But his demonstration had little influence. It was only when the great French Revolution brought the contrast out sharply that the thought sunk in. No less a person than Count St. Simon, acknowledged as the founder of the science of modern sociology, and the no less scientific Socialism, discovered in the dominant class of his country the Frankish and Burgundian conquerors,

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and in its subject population, the descendants of the Romanized Celts. It was the publication of this discovery that gave birth to Western European sociology. The conclusions drawn from it were carried further by St. Simon's disciple, August Comte, in his *Philosophy of History*, and by the Saint Simonists, Enfantin and Bazard. These thinkers had great influence on the economic development of the next century; but their chief contribution was the elaboration of the sociologic idea of the State.

Among the peoples of Western Europe, the new sociology found a readier acceptance than it did among those of Eastern Europe. The reason for this can easily be seen when it is remembered that in the East the contrast between the "State" and "Society," had not been so definitely realized, as it had been in the West. Even in the West, this contrast was only fully appreciated, as a social fact, in England, France, the Netherlands and Italy, because in these countries only the class of mobile wealth which had worked its way up as the third estate, had succeeded in ousting the feudal "State." In France, the league of the capitalists with the Crown against the then armed and active nobility had succeeded in subjecting the Frondeurs under the absolute power of the King. From this time on, this new estate represented itself as the Nation, and the term "National Economy" takes the place of the older term "Political Economy." The members of this third estate felt themselves to be those subjects of the State whose rights and liberties had been curtailed by the privileges of the two dominant estates of the nobility and the clergy. Henceforth, the Third Estate proclaims the rights of "Society" and against the "State," opposes the eternal Law of Nature—that of original equality and freedom—against the theoretic-historical rights of the Estates. The concept of Society as a contrast to the concept of the State, first appears in Locke, and from his time on this contrast was more and more defined, especially in the writings of the physiocrat school of economists.

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In this struggle between classes and ideas, neither Middle nor Eastern Europe played any important part. In Germany there had once developed a Capitalist class (in the period of the Fuggers of Augsburg) which attained to almost American magnitude. But it was crushed by the Religious Wars and the various French invasions of the sixteenth and seventeenth centuries, which left Germany a devastated, depopulated desert. At the end of the period there remained a few cities and small states under the absolute domination of princes. Within the cities the artisans were bound together in their craft-leagues, and the rest consisted of those of educational pursuits and academic officials. In a large degree all these were dependent on the State—the members of the craft-guilds because they accepted a privileged condition, the officials because they were servants of the State, and the professional men, because they belonged to the upper estate of the society. For this reason there was no economic or social movement of the third estate in Germany; there was only a literary movement influenced by the flow of ideas from the West. This explains why the contrast between the two ideas of the State and of Society was not present in the minds of the German people. On the contrary, the two terms were used as synonyms, both connotating an essentially necessary conformity to nature.

But there is still another cause for this difference in the mental attitude between Western and Eastern Europe. In England and France, from the time of Descartes, the problems and inquiries of science were set by men trained in mathematics and the natural sciences. Especially in the new study of the philosophy of history, the beginning of our modern sociology, did these men act as guides. In Germany, on the contrary, it was the theologians and especially the Protestant theologians who were the leaders of thought. In their hands the State came to be looked upon as an instrument of Divine fashioning, and, indeed, of immanent divinity. This thought resulted in a worship of the State, which reached its height in the

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well-known Hegelian system. It thus happened that two rivers of thought flowed for a time side by side—the Sociology of Western Europe, and the philosophy of History of Germany—with occasional intercommunicating streams, such as Althusios and Puffendorf into the French, English and Dutch teaching of natural law, and that of Rousseau into Hegel. In 1840, however, a direct junction was effected through Lorenz Stein, one of Hegel's most gifted pupils who, later, became the leading German teacher of administrative law, and influenced generations of thinkers. He came to Paris, as a young man, for the purpose of studying Socialism at the fountain head. He became acquainted with the celebrated men of that heroic time—with Enfantin and Bazard, with Louis Blanc, Reybaud, and Proudhon.

Lorenz Stein absorbed the new thought with enthusiasm, and in his fertile mind there was precipitated the creative synthesis between the Western Europe scientific sociological thought and the metaphysical German philosophy of history. The product was called by him the Science of Society (*Gesellschaftswissenschaft*). It is from the writings of Stein that almost all the important developments of German sociologic thought received their first impulses. Karl Marx, especially (as Struve has shown), as well as Schaeffle, Othmar Spann and Gumpłowicz are largely indebted to him.

It is not my purpose to develop this historical theme. I am concerned only in tracing the development of the sociologic idea of the State. The first effect of this meeting of the two streams of thought was a mischievous confusion of terminology. The writers in Western Europe had long ago lost control of the unification of expressions in thinking. As stated above, the Third Estate began by thinking itself to be "Society," as opposed to the State. But when the Fourth Estate grew to class consciousness and became aware of its own theoretic existence, it arrogated to itself the term "Society" (as may be seen from the selection of the word Socialism), and it treated the Bourgeoisie as a form of the "State," of the class state. There

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were thus two widely differing concepts of "Society." Yet here was an underlying idea common to both Bourgeoisie and Socialist, since they conceived the State as a collection of privileges arising and maintained *in violation* of natural law, while Society was thought of as the prescribed form of human union in *conformity* with natural law. They differed in one essential only, namely, that while the Third Estate declared its capitalistic Society to be the result of the processes of natural law, the Socialists regarded their aims as not yet attained, and proclaimed that the ideal society of the future which would really be the product of the processes of natural law, could only be realized by the elimination of all "surplus value." Though both were in conflict with regard to fundamentals, both agreed in viewing the "State" as *civitas diaboli* and "Society" as *civitas dei*.

Stein, however, reversed the objectives of the two concepts. As an Hegelian, and pre-eminently a worshipper of the State, he conceived the State as *civitas coelestis*. Society, which he understood to mean only the dominant bourgeois Society, he viewed through the eyes of his Socialist friends and teachers, and conceived it as *civitas terrena*.

What in Plato's sense is the "pure idea," the "ordre naturel" of the early physiocrats and termed by Frenchmen and Englishmen "Society," was to Stein, the "State." What had been contaminated and made impure by the admixture of coarse matter, they termed the "State," while the German called it "Society." In reality, however, there is little difference between the two. Stein realized with pain, that Hegel's pure concept of a State based on right and freedom, was bound to remain an "idea" only. Eternally fettered, as he assumed it must be, by the forces of property and the culture proceeding from them, it could never be a fact. This is his conclusion regarding "Society," so that its effective development is obstructed by the beneficent association of human beings, as Stein conceived that association.

THE STATE

Thus was attained the very pinnacle of confused thinking. All German sociologists, with the single exception of Carl Dietzel, soon realized that the Hegelian concept of the State was impotent, existing only in the "Idea." In no point did it touch the reality of historical growth, and in no sense could it be made to stand for what had always been considered as the State. Long ago both Marx and Bakunin—respectively the founders of scientific collectivism and practical anarchism—and especially Ludwig Gumplowicz, abandoned the Hegelian terminology and accepted that of Western Europe and this has been generally accepted everywhere.

In this little book I have followed the Western European terminology. By the "State," I do not mean the human aggregation which may perchance *come about to be*, or, as it properly *should be*. I mean by it that summation of privileges and dominating positions which are brought into being by extra-economic power. And in contrast to this, I mean by Society, the totality of concepts of all purely natural relations and institutions between man and man, which will not be fully realized until the last remnant of the creations of the barbaric "ages of conquest and migration," has been eliminated from community life. Others may call any form of leadership and government or some other ideal, the "State." That is a matter of personal choice. It is useless to quarrel about definitions. But it might be well if those other thinkers were to understand that they have not controverted the sociologic idea of the "State," if a concept of the "State" grounded on a different basis, does not correspond to that which they have evolved. And they must guard themselves particularly against the danger of applying any definition other than that used in this book to those actual historical products which have hitherto been called "States," the essence, development, course and future of which must be explained by any true teaching or philosophy of the State.

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