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MARMARA ÜNİVERSİTESİ YAYIN NO: 478
İKTİSADİ ve İDARİ BİLİMLER FAKÜLTESİ YAYIN NO: 385

POLITICAL THEORY

Volume 1

HISTORICAL FOUNDATIONS

Prof. KEMÂLİ SAYBAŞILI, *Ph.D.*

DEPARTMENT OF INTERNATIONAL RELATIONS
UNIVERSITY OF MARMARA

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MARMARA ÜNİVERSİTESİ YAYINEVİ

To every scholar,
in the person of Dr. FATMA MANSUR,
from whom I have learned.

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FOREWORD

The primary object of **Political Theory** is to introduce the undergraduate students in the Department of International Relations of Marmara University to theory in political science. As will be seen in the pages that are to follow, there is no such thing as a determinate political theory, or for that matter, any conclusive theory at all in the social sciences. Thus, the focus of attention is the emergence and development of democratic theory in political science.

Democratic political theory, in a historical sense, is a western European phenomenon. Historical antecedents, in both political, economic and ideological respects, are the Antiquity and the Mediaeval Europe. But democratic political theory, in the modern and contemporary context, is a universal value. This, I think, justifies a historical approach to democratic political thought. Thus, tha approach is in no way "euro-centric", it only seeks to trace the historical origins of democratic political thought.

These lecture notes took some time. Some of the extra time that went into writing should have, in fact, belonged to my wife and children. So I would like to thank Figen, Nermin and Hâris for letting me, with a considerate understanding, to spend their time. I am also grateful to my parents for their unceasing support.

Kemâli Saybaşılı
12th November 1988,
İstanbul

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I. INTRODUCTION

Political theory is significant in at least two respects. First, it is a fundamental question in the study of political science. Moreover, political activity occupies an important place in the life of the individual. This is particulary so in a pluralistic democratic setting. The individual, as a voter, as a member of a political party or a pressure group, is engaged, from time to time, in political activity.

Yet there is no such thing as a political theory in the sense one can speak of general laws of motion in the natural sciences. But this is not a situation peculiar only to political science. Social sciences in general share this feature in common. This is because the element of "human will" makes the development or discovery of "general laws of human behaviour" etremely difficult, if not impossible.

However, this should not be taken to mean that human will is omnipotent, i.e. unlimited in power, authority or ability. Human will or the decision-making capacity of the individual, in contrast, is limited, in terms of the weight it carries, at the societal level. It is limited by the economic and political circumstances. As Keynes emphasised, an individual might have a demand for a certain economic good, but unless he has the "purchasing power" required to by the good in question, his intention will not materialise, and hence it will not be an "effective demand". Thus, his intention or will, in this case, will not carry any weight in the economic decision-making process concerned. In the decision-making process at the political level, the concept of "political rights" occupies a similar place. As long as the individual does not have the right to take part in the political process, his will, formally at least, will not have any impact at the political level. An obvious contemporary example is the condition of persons who do not yet have voting rights for being younger than a certain minimum age that is required by law. Historical examples can be given from Athens, Rome and even from the early modern epoch. In Athens, slaves and resident aliens or merchants did not have any political rights. It was similar in Rome. In feudal Europe, the serfs lacked any political rights, which was monopolised by members of the nobility. Later, inhabitants of the cities shared the political power with the nobility. In the course of time, the basis of political power was extended, so as to include, first, the industrial workers, agricultural labourers in the nineteenth century, and finally women, at the beginnig of the twentieth.

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This introductory discussion so far pointed out to, first, the significance of human will for political theory and, secondly, to the limitations imposed on human will by the economic and the political environment. Historically, the economic and the political limits of human will were not separate. In the Antiquity, slavery was both an economic and at the same time, a political category, so was serfdom during the Feudal Age. In other words, historically, the economic status of the individual defined his place in the political system. Thus, the class position of the individual determined not only economic resources available to him but also his political place, i.e. his political rihts or lack of them. Furthermore, the existing situation was reflected in the legal system and also in political theory. As we shall see below, both Plato and Aristotle saw slavery as a natural institution; both thinkers were influential during their age and in the later periods. Plato's philosophy was incorporated, through St. Augustine, into Christian thought, which dominated the Middle Ages. Aristotle, in contrast, was very influential during the later Middle ages, that is, from the thirteenth century onwards.

During the Middle Ages, the prevailing economic and political system was also rationalised by eminent philosophers of the time. Society was thought of as compared to the human body. In this organistic view, best represented by John of Salisbury, the clergy were looked upon as the soul, the prince or the king as the head, officials and soldiers as the hands and the serfs as the feet. In this context, the clergy were the superior judges, the prince the ruler, officials and soldiers his auxiliaries, and the serfs as those "who raise, sustain and move forward the weight of the entire body." But they only deserved aid and protection, nothing else in the way of political functions.

Political discussion was thus, historically, carried out in terms of the functions of different groups or classes of individuals. For the philosopher of the Antiquity, the place of the individual was determined by Nature. For the philosopher of the Middle Ages, the position of the individual was given by God. In the first case, it was a function of natural endowment, in the latter a decision of God. Ancient Greeks and Romans were familiar with the concept of political rights, however limited it might be taken to mean: only the citizens had any political rights, particulary the right to take part in politics, in the administration of the state. During the Middle Ages, in contrast, the concept of rights associated with the citizenship of a state gave way to the understanding of membership of a universal society, a Christian Commonwealth or a Body Social. This Commonwealth was not thought of as natural but as divine. It was, they thought, created by God and any position or office was also a creation of divine grace, or God's favour. No member of the

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society had any right to the place that he occupied. It was a divine favour; and as the rulers also did not have any right to their offices, it followed that men did not have any political rights either. They were subjects, in contrast to citizens, and as subjects, were not entitled to any political rights. Thus, the dominant political thought in the middle ages replaced the concept of state with society, natural with divine and rights with favour. Under these conditions, the human will was considered to be insignificant, for the social and political order was ordained by God and the rulers represented divine will.

It was not until the Renaissance of the later Middle Ages that the individual and his will acquired any considerable significance; and it is only on the basis of Renaissance political thought that human will, in contrast to divine grace, began to commend a renewed importance in political thought. Thus, the origins of modern political theory shuld be sought in the Renaissance movement which was a reinterpretation of the Antiquity. However, it was not until the state emerged as a separate entity from the ruler, following the Reformation, that modern political theory began to develop in the writings of Locke, Montesquieu, Paine and Rousseau.

Until Rousseau, modern political theory based its arguments on the natural rights of the individual and the individual was taken to be the basic unit of analysis. Thus, political theory was essentially individualistic and liberal. With Rousseau and the following writers such as Proudhon, a "socialist" political thought began to emerge, which acquired a new content with Marx. In socialist political thought, not only the individual and his will but also the social and economic environment is also taken into account, and with more weight attached to it.

As we do not yet have a political theory in the singular, but political theories, it seems best to introduce the student of political theory to varieties of political thought. In this context, the historical development in political thought is important. For it is only on the basis of a historical approach that it might be possible to give a clear idea on the problems involved in attempting to set up an authoritative account of politics.

The approach adopted here is historical in a double sense of the word. First, the main concern is the history of political thought or ideas. Secondly, however, the discussion will not be limited only to the historical development of ideas as recorded down by political philosophers or thinkers of different periods. The historical setting within which they lived, as shaped by the politico-economic environment, will also be taken into account. This is because it is on the basis of the issues or prob-

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lems, as brought up by the times, that one tends to think and respond. Thus, Plato, in his attempt to develop an ideal or a perfect state, wanted to eliminate factional political struggles of the Greek *polis*, so did Aristotle in his model of moderate democracy or *politiy*. Early Middle Ages was dominated by the discussions on the respective authorities or jurisdictions of the Pope and the Emperor, spiritual and temporal heads, respectively, of the christian Commonwealth. Renaissance thinkers were mainly interested in the independence of the Italian cities from both the Emperor and the Pope. The issue of "the right of resistance" to the rule of a "tyrant" was the dominating theme of the Reformation thought, but particulary so of the Counter-reformation of the following years. The Reformation contributed to the development of the doctrine of the "divine right of kings" to rule, as against the claims, to the same effect, of the Pope. French Protestants contributed most to "the right of resistance". Locke took up the right of resistance and transformed it into a democratic principle: "goverment by consent". Thus was laid down the basis of democratic political theory and also of modern political thought.

The discussion which is to follow will begin with the political thought of the Antiquity, that is Ancient Greeks and Romans. Then, political thought of the Middle Ages, from the origins up to the Renaissance, will be discussed. The Renaissanc political thought will be followed by the political thought of the Reformation and the Counter-reformation.

From the seventeenth century onwards, modern political thought begins to emerge and, particularly, the basis of democratic political theory is laid down. However, modern political thought, including, in very broad, terms both the democratic and socialist political theories, will be the subject matter of Political Theory II.

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PART ONE–THE ANTIQUITY: ORIGINS OF POLITICAL THOUGHT

In this first part, the focus of discussion will be the Ancient Greeks and the Romans. There is both a similarity and also a difference between the Greeks and the Romans. First, the similarity: the economic system. Both of the social systems were based on agriculture for their livelihood, and their economies depended on slave labour.However, whereas the Greeks could not go beyond the limits set by the city-state in political organisation, the Romans were able to extend their city-state first into a Republic and then into an Empire.

But the influence of Greek political thought, particulary of the Stoic School, on the Romans was quite extensive. In fact, Roman political thought was essentially dominated by a new form of Stoicism. As to the contribution, in the field of political thought, of Romans to the later ages, it was fundamentally through the example provided, as an ideal, by the Roman Republic and the Empire. In this context, Roman Law had an outstanding influence. During the Middle Ages, the Papacy argued, as we shall see, in terms of the basic principles of Roman Law, so did the Kings. Renaissance thinkers reinterpreted Roman Law to support their arguments. Absolute rulers of Western Europe, in the early modern epoch, utilised Roman Law in building their centralised state structures, the forerunners of the modern nation-state. Even today, Roman Law is an integral part of the curriculum of Faculties of Law.

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I. ANCIENT GREEKS

A. Politico-economic Background
1. Historical Development

History of ancient Greeks is divided into four periods: archaic, classical, Hellenistic and Roman.The archaic period covers the years between 800 or 750 BC to 500 BC. This is the formative years. Fifth and fourth centuries BC make up the classical age, the period of the independed city - states. The Hellenistic age starts with Alexander the Great, who conquered eastern Mediterranean. During this third period absolute monarchs ruled large Near - Eastern territories such as Syria and Egypt. Finally, many Greek communities came under Roman rule from the third century BC.But, the civilisation of the Eastern Roman Empire remained essentially Hellenistic to the end.

In archaic Greece, a small group of aristocratic families had the monopoly of political power. They also monopolised most of the land. Councils and magistracies, as formal institutions of political rule, existed. However, the nobility also resorted partly to marital and kinship connexions, partly to their ancestoral past for political support.

There were tensions and even open conflict between the nobility and the rest of the population. For one thing, as a result of population growth, agricultural lands ceased to support the newcomers, and the surplus population could not be absorbed in other economic activites. Secondly, the system of land tenure gave the control of the most and the best lands to the nobility, and the laws of debt were suitable for the aristocracy to compel "free" men to serve as the necessary but involuntary labour force for the larger estates. "As Aristotle wrote, 'there was civil strife between the nobles and the people for a long time, because 'the poor, with their wives and children, were enslaved to the rich' and 'had no political rights'" (Finley: 1966, p. 36) Third, the *hoplites* emerged as a potential counterweight to the nobility. A hoplite was a heavy-armed infantryman who provided his own armour and equipment, and came from the middle strata, i.e. were outside the closed aristocracy.

The 'colonisation' process seemed to postpone the problem of so-

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cial conflict for a considerable period of time. There were two waves of 'colonisation'. The first, which began before 750 BC, went west: to the inlands and coast of the Ionian Sea, to Sicily and southern Italy and to Libya and southern France. The second, which started after 540 BC, created settlements at the Black Sea coast.Thus, the colonisation process temporarily provided a safety valve.

It would be more appropriate to designate the process as emigration, rather than 'colonisation'. For the original Greek word connotes emigration. Thus, each settlement was at the beginning intended to be an independent Greek community, not a colony that the word concerned denotes. Also, as the novement was intended as a solution for problems originating from demographic and agricultural difficulties, the new communities thus established were agricultural settlements, not trading posts. Above all, the relation between the 'colony' and the 'mother-city' was neither commercially based nor imperialistic, in other ways.

As emigration did not provide any long term solutions to the difficulties that the Greek cities faced, a new and original institution was created, that of the 'tyrant'. Tyrant meant that a man seized and held power without legitimate constitutional authority, but it implied no judgement about his guality as a person or ruler. Yet, "if not in the first generation, then in the second or third the tyrants usually became what the word now means" (Finley: 1966, p.40) However, tyranny was in most cases the decisive feature in the transitional stage from the personal, familial rule of the nobility to the classical city- state.

In this transitional process, Solon was an exception in that he was not a tyrant. When the Athenian class struggle reached to a deadlock in 594 BC, Solon was chosen by the Athenians to reform the state. Thus, his authority was delegated by the Athenians, on the basis of an agreement reached among themselves.

Solon was not able to solve the economic problems which had led to the civil strife. Yet he was always recalled as a great man by the Athenians of the later ages. Thus, aristotle summed up Solon's crucial achievements as follows: (i) abolition of enslavement for debt, (ii) creation of the right of a third party to seek justice in court on behalf of a person adversely affected in respect of legal rights, and (iii) the introduction of appeals to a popular tribunal. All these measures had one basic object: to protect the weaker majority from the extra-legal power of the nobility. Thus, they were steps for equality before the law, or, in other words, democracy of the classical city-state.

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Solon's rule was followed by a generation of tyranny, and in this context, it was during the reign of Pesistratus (545-527 BC) that the peasantry obtained a reasonably secure and independent position on theland, with financial assistance when required. This brought an end to civil strife, and the political monopoly of the aristocratic families was finally broken. Although nobles continued to hold the leading civil and military offices, the common people were now genuinely free men, no longer threatened with debt bondage or wholly partisan justice. However, abolition of debt bondage was followed by the introduction of chattel slavery, a new kind of dependent labour. This is the paradox of the ancient Greeks: their freedom was based on and supported by slave labour, associated with complete loss of freedom of others.

2. The Classical City-State

a. General

The original Greek word for the city-state was *polis*. It meant a self - governing state'. To translate the word *polis* as city-state is in some ways misleading. For the rural population were the majority of the citizens. Also, the city did not rule the country, there was no such thing as an urban economy in crafts or industry; and, the Greeks used the word to denote any independent Greek community.

Although the *polis* occupied a defined territory, it was not a place. It was, above all, a community of people, acting in concert, which met and dealt with the problems they faced. It was not only self goverment but at the same time a direct goverment without any intermediaries such as a bureaucracy or representatives.

As a community of people, the power of the Greek *polis*, in principle, was total: "it was the source of all rights and obligations, and its authority reached to every sphere of human behaviour without any exception." The community was the sole source of law. (Finley: 1966, p.58)

Moreover, the community was free to change its established laws. Thus, any group or faction which could gain political influence felt it had the right and authority to introduce new legistlation, or, in other words, change the existing legal and political system. This created an important problem. Every member of the community accepted the principle devised to express the superiority of law: 'The law is the king.' However, immediately a question emerged: 'whose law was to be the king?'. This question became central to Greek political life. For strong sense of community feeling was contradicted by the existence of gross inequalities among the members of the same community. This

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was because poverty was widespread and there was a deep cleavage between the poor and the rich. The poor citizen felt that he had not only obligations to but also claims on the community, "and if the regime did not satisfy him he was not loath to do something abouth it-to get rid of it if he could. In consequence, the dividing-line between politics and sedition (*statis* the Greeks called it) was a thin one in classical Greece, and often enough *statis* grew into ruthless civil war". In this context, there were exceptions such as Athens and to some extent Sparta, "but the rough generalization may be made that in the Greek polis it was not so much policy which caused the most serious division, but the question of who should rule, 'the few' or 'the many' " (Finley: 1966 p.60)

b. Athens

Athens acquired its classical political constitution by the third quarter of the fifth century BC. Following the overthrow of the tyranny in 510 B.C. and a civil war that lasted for two years, Cleisthenes, with the support of the masses, abolished the traditional divisions between an aristocracy and common people, reorganised the citizens into local territorial demes, expanded membership of the Council which was to rule in combination with the popular Assembly. The evolution was completed in the following two generations when election by lot and pay for office was introduced.

The population of Athens was divided into three main classes that were politically and legally distinct. Slaves occupied the lowest place, without any political or legal rights. In the fifth centruy B.C., there were between 80-100,000 slaves in athens in comparison to some 30-40,000 citizens.

The second major class was made up of the resident foreigners, or *metics*. They were considered freemen, but this did not entitle them to a part in the political process. However, they were liable for military service. Their 'freedom' separated them from the slaves.

Citizens, as members of the city, were entitled to take part in the politics of the community. It was a privilege attained by birth. One could not gain citizenship unless both of the parents were citizens of the city concerned. 'Hoplite' and 'thete' classes formed the bulk of the citizenry, and the distinction between them was based on income. *Thetes* were too poor to equip themselves for heavy infantry duty. For them the navy was the most important source of income, which employed them as professional crew. From among the wealthier citizens some 300 families formed the political elite. They tended to hold the leading military and civil posts.

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Every male citizen who was eighteen or over was eligible to attend the *Ecclesia* or the Assembly. The Assembly met frequently-at least for times in every thirty-six day period-in the fifth and fourth centuries. Those who were present at any single meeting formed the *demos* or the 'people as a whole'. Thus, the key of the Athenian democracy was direct participation by its citizens.

The *Boule* or the Council of 500 made the prepatory work for the meetings of the Assembly. The Council was chosen by lot from among the citizens for the duration of one year. However, none of the citizens could be a member of the Council for more than twice in his lifetime.

Citizens were also eligible for the various posts of the state, again, by lot and for a period of one year. Among the only elective posts of the state were the ten generalships *(strategoi)* and it was possible to be reelected to these posts without limit. Various temporary *ad hoc* commissions for diplomatic negotiation and the like had a similar status.

Citizens, moreover, were entitled to participate in the jury-courts as well. Members were selected by lot from among a penel of 6 000 men nominated by each of the ten tribes that citizens were divided into. One had to be at least thirty years old in order to be eligible, and, on the whole, between 201 and 501 members were selected. The authortiy of the jury-courts was equal to the whole *demos* in matters which fell within their competence.

As the selection by lot implies, Athenians assumed that this was the most democratic method available, for it translated equality of opportunity from an ideal into a reality. Thus, each of the ten tribes of Athens gave fifty members to the Council and they worked on the basis of rotation in ofice; and, fifty members from a single tribe were active one-tenth of the year. But they were joined by one councilman from each of the nine tribles not in office. The panel for the jury-courts were also composed on the basis of equal represention from each tribe. However, the rural population was still under-represented and the elite dominated leadership and policy formulation in the fifth and fourth centuries B.C.

In spite of its shortcomings and imperfections, and paradoxes, 'by the middle of the fifth century, the 'few' and 'the many' among the Athenian citizens had established a satisfactory working balance, which is another way of saying that they had achieved a system which was *statis*-proof. For 'the many' the state provided both significant material benefits and very considerable share in goverment, for the 'few' ... the honours and satisfactions that went with political and military

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leadership. " But, The Macedonians "closed this chapter of Greek history completely in 322." (Finley : 1966, p.81)

B. Greek Political Thought

Ancient Greeks were keenly interested in politics. For taking part in politics was a way of life for them. Thus, their political thought is quite rich. But one main issue dominated their discussions and that was the relation between nature and the existing order in society. The critical Athenian was ready to appeal to natural right and justice, as against the distinctions of 'convention' or, in other words, laws created on the basis of an agreement among the members of the community. Thus, the idea of an ideal natural order sometimes provided a frame of reference to contrast with the existing social order, a consequence of convention and thus artificial. However, there were also thinkers whose sympathies were with the existing political system and thus they attempted to rationalise it with reference, again, to nature. In this context, for instance, slavery was considered to be natural. Plato and Aristotle subscribed to this second approach.

1. Philosophers of the City-State

a. Plato (427-347 BC)

Plato was an Athenian. He worked with Socrates and he accepted Socrates' doctrine that "virtue is knowledge" and thus could be learned and taught. In fact, it became the guiding principle of his works. Among the many dialogues which Plato wrote, three specifically deal with political thought. These are the *Republic*, the *Statesman* and the *Laws*. In the *Republic* he attempted to devise an ideal state. The subject matter of the *Statesman* and the *Laws* was the second-best state.

i. *The Republic*

The fundametal idea of the *Republic* followed from the Socratic doctrine. If virtue is knowledge, then there is an objective good to be known and that it can be found on the basis of a rational and logical investigation, and that it can be taught to those in charge of public affairs.

The nature of the good in question is also important, because it is the object of scientific investigation for its own sake. "The good is objectively real, whatever anybody thinks about it, and it ought to be realized not because men want it but because it is good. In other words, will comes into the matter only secondarily; what men want depends on how much they see of the good, but nothing is good merely because they want it. From this it follows that the man who knows-the philosopher, the

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scholar or sciencist-ought to have decisive power in government and that it is his knowledge alone that entitles him to this. " (Sabine and Thorson: 1973, p.53)

Thus, Plato is after the knowledge of an absolute truth. It has nothing to do with the will or the choice of the individual; only the philosopher knows it and can teach it, and only those who have the knowledge of it or have been taught of it can assume public responsibility in the different posts of the state. The model, as it is built on the knowledge of the good alone, is not only metaphysical but also totalitarian.

The basis of society, according to Plato, is the reciprocal needs of human beings and the resulting exchange of goods and services. This functional differention of members of the society should be based on, first, the natural aptitude and second, on the training of each individual. Aptitude is the natural or potential capacity of the individual and is gained by birth, but training is a matter of experience and education. The state should be so organised that aptitude can be developed by the best possible education, and utilised at the service of the state.

Plato identified two main problems in the city-state: (i) ignorance and incompetence of politicians, and (ii) extreme violance and selfishness of political struggle. Selfishness seemed to be the worst of the evils, for the political virtue of ordinary custom dictated loyalty to some form of class government instead of loyalty to the state. Thus, "The aristocrat was loyal to an oligarchical form of constitution, the man of common birth to a democratic constitution, and both alike were only too likely to make common cause with their own kind in another state... Plato attributed this largely to the discrepancy of economic interests between those who have property and those who have none... Thus in even the smallest city, there are, Plato said, two cities, a city of the rich and a city of the poor, eternally at war with eachother." (Sabine and Thorson: 1973, p.56)

Once the problems were identified, the solution, for Plato, was quite simple and straightforward: reorganisation of society. Plato's model did not have any place for private property or the family, for they nourished selfishness; and as selfishness was thus to be eliminated, it was left for education to bring about harmony to society and the state.

It is in this context that reciprocal needs and natural aptitude of men acquire importance. Exchange of services implies division of labour, and men differ in terms of their aptitudes. This means that some men are better fitted to do certain kinds of work. As natural and poten-

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tial capacities can be improved by a proper education, to the extent that a ruler can classify men according to their aptitudes, train them and then assign to particular tasks, justice and harmony can be attained.

In a state, there are three essential functions to be performed: satisfaction of the physical needs, protection of the state, and government. "The principle of specialisation demands that essential services should be distinguished, and it follows that there are three classes: the workers who produce and the "guardians", who in turn are divided... into the soldiers and the rulers, or the philosopher king if he be a single ruler. But since division of functions rests on differences of aptitude, the three classes depend upon the fact that there are three kinds of men, those who are fitted by the nature to work but not to rule, those who are fit to rule but only under the control and direction of others and finally, those who are fit for the highest duties of statesmanship such as the final choice of means and ends. " (Sabine and Thorson: 1973, pp. 62-63)

Differences in aptitude refer to differences in vital powers or "souls". Thus, there are three souls, appetitive or nutritive, executive or "spirited", i.e. brave and vigorous, and the rational. The first resides below the diaphram, the second in the chest and the third in the head. Wisdom is associated with the rational soul and courage with the executive soul. For their part, the workers are to satisfy the physical needs of the state and to obey.

Plato had a peculiar concept of justice. It is the bond which holds society together, but by "giving to every man his due " on the basis of his aptitude and then education. In this context, Plato has a theory of "communism" and a theory of education. The first envisages abolition, for the guardian class, of private property and of the institution of marriage. The second involves the setting up of a state-controlled compulsory education.

Plato's object, in arguing against private property, was not to eliminate inequalities of wealth and establish justice based on economic equality. His purpose was to attain the greatest degree of harmony and unity in the state. He had the same justification for advocating abolishment of the family. For he regarded family affection as a second rival to the state in competing for the loyalty of the rulers. In addition, private training given to the children in the family was a "poor preparation for the whole souled devotion which a state has a right to demand. "Moreover, the improvement of race demanded "a more controlled and a selective type of union." (Sabine and Thorson: 1973, p.67)

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Plato's main reliance was based on education. Thus, he assumed that the state was, above all, an educational institution. As knowledge was the fundamental element in the organisation of a good state, it followed that some form of state-controlled compulsory education was an indispensable function of a good state. His educational scheme involved two programmes: elementary education and higher education. Elementary education was to include the training of the young women and men up to the age of twenty. Higher education was to be reserved for the candidates chosen from among both sexes, for ages 20 and over, up to 35, to be educated to fill the tasks assigned to the guardians.

The model of a utopia developed in the Republic has no place for either public opinion or law, the two most important elements of a democracy. This is because, in contrast to opinion that the public hold, which is far from an objective good or the absolute truth, the philosopher-king and the rulers have the superior knowledge of the eternal truth. Thus, the philosopher-king, in the course of his activities, should not be limited by law, i.e. convention based on incompetence of opinion.

Also, there is no mention of slavery: either he considered it as an insignificant institution, or else, he implicitly incorporated slaves into the class of workers. In any case, it seems that Plato, in the *Republic*, reclassified the classes of the city state, this time, on the basis of natural aptitude rather than hereditary criteria. One radical departure from the Greek practice concerned the status of women. Whereas the laws of the city - state had not given them any political rights, Plato was more generous in this respect, in that, he did not discriminate between men and women. The problem, however, is that there is no place for any right in Plato's model, save the absolute right to rule of the philosopher king.

ii. *The Statesman and the Laws*

The *Republic* was written in Plato's mature but early manhood. However, he was still working on the *Laws* when he died at the age of eighty in 347 BC. And the *Statesman* was his second political work, nearer to the *Laws* in terms of time. His latter works were more influential. Thus, Aristotle's point of departure in writing his masterpiece, *Politics*, was the *Statesman* and the *Laws* rather than the *Republic*.

In the *Republic*, for reasons we have seen, law had no place. In the *Statesman*, however, there is reference to law, and in this context, to a second-best state. In the ideal state, the consent of the subjects was not significant. In his definition of the statesman, however, Plato draws a sharp distinction between a king and a tyrant in terms of the consent of

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the ruled. "A tyrant rules by force over unwilling subjects while the king or statesman has the art of making his rule voluntary... The classification of states which plato includes in the *Statesman* shows also that he has moved some distance from the position taken in the *Republic*. The two noticable points are, first, that ideal state is set off definitely from the class of possible states and second, that democracy is given a more favourable place than in the Republic. "(Sabine and Thorson: 1973, p. 83)

In the *Republic*, the ideal state was placed at the top and all the rest were treated as succesive degenerations, from the best to the worst. Thus, corruption of the ideal state gave way to 'timocracy' or to a military state, which further degenerated into an oligarchy, or govermment by the rich. A consequence of the corruption of oligarchy created democracy, which in its turn, degenerated into a tyranny.

In the *Statesman*, the classification is more elaborate. First, the "ideal state, or a pure monarchy ruled by the philosopher-king, is 'divine' and therefore too perfect for human affairs". It is a "model fixed in the Heavens for human imitation but not attainment." Second, the traditional threefold classification, i.e. aristocracy, oligarchy and democracy is further divided as law-abiding and lawless forms. Thus, monachy, aristocracy and moderate democracy are the law-abiding forms, whereas tyranny, oligarchy and extreme democracy are lawless states. Both forms of democracy are better than oligarchy, for although democracy is the worst of law-abiding states it is the best of lawless states.

Plato's purpose in the *Laws* was to describe a second-best state. As a philosopher-king was beyond human reach, the solution seemed to be content with a second-best state, and in this context, with the wisdom that the law embodied. Thus, in the *Laws*, the law was to take the place of the philosopher-king, an this second-best state was to be a combination of monarchic principle of wisdom with the democratic principle of freedom.

As Plato was interested in the actual states, the problem concerned the historical factors that had contributed to their rise and decline. So he often referred to history, and in this context, criticised Sparta by tracing its downfall to its exclusively military organisation, since 'ignorance is the ruin of states; mentioned Persia as an example where arbitrary power of monarchy and tyranny lead to decay; and aimed to show how an unrestrained democracy at Athens ruined itself by an excess of liberty. "Either might have been prosperous had it been

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content to remain moderate, to temper power with wisdom or liberty with order. It is the extreme in both cases that proved ruinous. Here then is the principle upon which a good state must be formed. If not a monarchy, it must at least contain the principle of monarchy, the principle of wise and vigorous government. But generally, if not a democracy, it must contain the principle of freedom and power shared by the masses, again of course subject to law." (Sabine and Thorson : 1973, p. 87)

The institutions involved are, again, ownership and use of property, and education. However, this time Plato does not advocate the abolishment of private property or the family. But he limits the amount of private ownership of property. Taking Sparta as an example, Plato divides land into equal allotments and distributes it among the citizens whose number is fixed at 5040. Allotments of land could be inherited but could neither be redivided nor alienated. Personal property, in contrast to land, had not to be equal in amount but was nonetheless limited to not more than four times the value of a lot of land. The purpose of this scheme was, of course, to eliminate excessive differences of wealth between the poor and the rich.

Slaves were to cultivate land and pay a rental in the form of a share of the produce. Only resident aliens, who were to be freemen but not citizens, were to be allowed to engage in industry and trade or have a craft or business and these economic activities were to be forbidden to the citizens. Both the possession of gold and silver, and taking interest on loans were to be forbidden. The state would only have a token-currency, i.e. that which represents or is a substitute for the standard of exchange, like the iron-money of Sparta.

Thus Plato, in the *Laws*, has, again, reproduced the class structure prevailing in any Greek city. He has also provided for the main institutions that had existed in every Greek city: town-meeting (assembly), council, and magistrates. The basic and only function of the general assembly of the citizens is to elect the magistrates. Plato calls the chief board of magistrates, which is a body of thirty-seven, 'guardians of law'. They are chosen following a threefold election. In the nominating ballot, three hundred candidates are selected. This is followed by a second ballot by which a hundred are selected from the three hundred, and finally, in the third ballot, thirtyseven are selected from among the hundred.

Council of 360 is chosen by a more complicated system of selection where the rich are in a better position. The citizens are divided into four classes and each class is assigned one-fourth of the Council. The num-

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ber of persons elected is double the places to be filled and the final choice is made by lot. Since personal property may not exceed four times the value of a lot of land, there are four property classes, the lowest class being composed of those whose personal property does not exceed the value of their land, the next of those above this amount but not exceeding txice the value of their land, and so on. "As members of the lowest class will tend to be more numerous in comparison to those of the higher property classes, and those at the top the least, the votes are weighed in favour of the richer citizens. Moreover, whereas there is a punishment, for not voting, in the case of rich citizens, this does not apply to the members of the lowest class. Finally, certain offices can be filled from the highest class or classes. (Sabine and Thorson: 1973, p. 89)

In the Laws, education still tends to be important. However, there is a new element and a novel institution. The new element is the introduction of a state religion and the novel institution is the Nocturnal Council, a new element but this time an institutional philosopher-king.

Education is compulsory and is organised by the state with paid teachers. The magistrate in charge of schools is also the chief of other magistrates. Just like education, religion is subject to the regulation and supervision of the state. Private religion is forbidden. Anything forbidden by the state religion is considered atheism and is punishable by imprisonment and death.

The Nocturnal Council is a body composed of the eldest ten of the Thirtyseven guardians, the director of education and certain priest chosen specifically for their virtues. "This Council is quite outside the law and yet given a power to control and direct all the legal institutions of the state. Its members are supposed to have the knowledge needed for the state, and Plato's final conclusion is that the Council must first be founded and the state placed in its hands." (Sabine and Thorson: 1973, p. 90)

Thus, the Nocturnal Council, as an institution, stands in the place of the philosopher-king of the *Republic*. Also, now, in addition to knowledge in its pure scientific form, a religious factor, in a state religion, is introduced to the theory of state. Moreover, the state religion is also represented in the Nocturnal Council. Only citizens are entitled to take part in politics, and among them the wealthier are in a better position, for their votes are weighed. So the system envisaged is essentially an oligarchy with a few democratic elements. But it will have to be instituted first, by an institution of a philosopher-king, i.e. the Nocturnal Council. Resident foreigners, while freemen, are still excluded from

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politics, so are the slaves. Thus, Plato has reproduced, in the *Laws*, an oligarchical form of a political system, under the name of a mixed-state.

b. Aristotle (364-322 B.C.)

Aristotle was a pupil of Plato for about twenty years. Later, he founded his own school and taught his own philosophy. His writings were, in the main, not books completed and prepared for publication. They were used in connexion to his teachings, and so lecture notes rather than books.

His work on politics, known by the same name, *Politics*, cannot therefore be regarded as a finished book. According to Sabine and Thorson, the best hypothesis put forth, in this connexion, is that of Werner Jaeger. The hypothesis is as follows: "*Politics* as it stands is Aristotle's work and not that of an editor. But the text belongs to two stages and therefore falls into to main strata. There is, in the first place, a work dealing with the ideal state... There is, in the second place, a study of actual states, mainly democracy and oligarchy, together with the causes of their decay and the best means of giving them stability ... Finally, Book I was written last of all as a general introduction to the general treatise" (Sabine and Thorson: 1973, pp. 96-97)

Thus the suggestion is that Aristotle wrote on the ideal state in 347 B.C. while he was still under the influce of Plato, but his writing on actual states was after 335 B.C., when he opened up his own school, the Lyceum. In the meantime, he had directed important research projects such as the investigation of the constitutional history of the Greek city-states. These researches were mainly historical rather than philosopical. In what follows, we shall first discuss Aristotle's work on the ideal state and then his work on the actual states.

i. The Ideal State

Books II, III, VII and VIII are on the ideal state, the latter two on its constitution. However, what Aristotle calls the ideal state is the second-best state of Plato. In this criticism of the *Republic*, he strongly objects to the abolition of private property and the family. For one thing, it would not produce the unity desired. Secondly, even if unity were produced, the state may cease to be what it is or should be. There is a vital difference between a family and the state. The question is whether citizens shall be assumed to depend upon rulers as children must be dependent upon their parents?

The same question, although posed in a different form, comes up, again, in his discussion of the *Laws*. The authority of a constitutional

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ruler over his subjects is quite different from that of a master over his slaves. For, according to Aristotle, the slave is different in nature, inferior by birth and incapable of ruling himself. Thus, Aristotle accepts and confirms the attitude of Greeks towards slavery. The slave is his master's living tool. But, furthermore, political authority is not the same with that of the husband over his wife and children. Whereas neither the wife nor the children are equals, in their standing, to the husband or the father, political relationships are, in contrast, based on equality alone.

"The ideal state, therefore, if not a democracy, at least includes a democratic element. It is a 'community of equals, aiming at the best life possible' and ' it ceases to be constitutional or genuinely political if the discrepancy between its members is so great that they cease to have the same virtue." (Sabine and Thorson: 1973, p. 100)

Aristotle accepted from the beginning that in any good state it must be the law which is the ultimate sovereign. Thus, a personal scheme of sovereignty had no place in his political philosophy. This is because law is 'reason unaffected by desire' and thus, it is better to be ruled by the best laws rather than by the best men.

Political relationship should not only be based on equality but it must recognise freedom. The subject must enjoy the consequences of his judgement and assume, as a citizen, his responsibilities. The constitutional ruler rules over willing subjects and by their consent. Constitutional rule has three main elements. First, it is a rule in the public or general interest, in contrast to private or sectional interest of a person or a class. Second, it is a rule of the law, in that, the standing customs and conventions of the costitution are respected and government is carried on not by arbitary decrees but by general laws and regulations. Third, constitutional government is based on the consent of the ruled, in that it is rule over wiling subjects and it excludes the use of force.

Aristotle, in his understanding of law, attributes important weight to experience and public opinion. Thus, accumulation of experience over the years brings about an increase in social wisdom, which is incorporated in law, particulary in the unwritten customary law. And Aristotle regards the collective wisdom of people, in the making of law, superior to that of even the wisest law-giver: "although individually they may be worst judges than those who have special knowledge-as a body they are as good or better. Moreover, there are some artists whose works are judged of solely, or in the best manner, not by themselves, but by those who do not possess the art; for example, the knowledge of the

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house is not limited to the builder only; the user, or, in other words, the master, of the house will even be a better judge than the builder, just as the pilot will judge better of a rudder than the carpenter, and the guest will judge better of a feast than the cook." (Coker (ed) : 1938, p. 67)

Thus, as far as an ideal state is concerned, a true political rule has to include, first, subordination to law, and secondly, freedom and consent on the part of its subjects. But Aristotle never completed his sketch of the ideal state. So, in book III he begins to discuss the definitions of the state, the constitution, and the citizen, and ends up by a discussion of the conflicting claims to pilitical power.

A state, according to Aristotle, is an association of men for the sake of the best moral life. A constitution is an arrangement of citizens into officies, or, in other words, in a kind of goverment and a way of life. Aristotle defines the citizen as a person who is eligible to take part in the assembly and to serve on juries. Then, he goes on to the classification of the forms of government. In this context, he adopts the sixfold classification of Plato in the *Statesman*, with one exception. Whereas the basic distinction between the states were made in terms of the contrast between law-abiding and lawless governments in the case of Plato, Aristotle chooses another criterion. His criterion is based on the contrast between general good of the people, and the private or factional good of a person or a class. Thus, the true or constitutional states are monarchy, aristocracy and moderate democracy or polity; and the three perverted or despotic states are tyranny, oligarchy and extreme democracy or mob-rule.

However, as soon as Aristotle completes his classification he goes on to discuss the conflicting claims to power. Hence, there are basically two distinct and conflicting claims to power: One is based on the rights to property, the other upon welfare of the greater number of men. This discussion leads Aristotle away from the ideal state and to the investigation of actual states.

Everyone will accept, according to Aristotle, "that the state ought to realize the largest measure of justice possible and also that justice means some kind of equality. But does equality mean that everybody is count for one and nobody for more than one, as the democrat supposes? Or does it mean that a man with large property-interest and perhaps a good social position and education ough to count for more than one, as the oligarch believes? Granted that government ought to be carried out by wise and virtuous rulers, where must you lodge power to get wisdom and virtue, or the best avaible approximation to them ?" (Sabine and Thorson : 1973, pp 106-107)

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In the words of Aristotle, objections "may be urged against all the aspirants to power. For those who found their claims on wealth or family have no basis of justice; on this principle, if any one person were richer than all the rest, it is clear that he ought to be the ruler of them." (Coker (ed) : 1938, p. 70) "Is it the multitude?... If the poor, for example because they are more in number, divide among themselves the property of the rich, -is not this unjust?... But is it just then that the few and the wealthy should be the rulers? And what if they, in like manner, rob and plunder the people, -is this just? If so the other case [i.e. the case of the majority plundering the minority] will likewise be unjust. But there can be no doubt all these things are wrong and unjust. " (Coker (ed) : 1938, p. 65)

Thus, the question in connexion to the claims to power lead Aristotle, away from the discussion of the ideal state and towards an examination of Greek forms of goverment, that is oligarchy and democracy. This did not mean, however, that Aristotle did not have ideals. He had ideals and they were the following: the sovereignty of law, the freedom and equality of citizens, justice, constitutional government and the perfection of men in the civilised life of the state. But he found it difficult, if not impossible, to discuss politics in terms of an ideal state. In the course of time, he was to end up, as we shall see below, with a state based on a mixed constitution, i.e., in an attempt to combine in a balanced form, best features of oligarchy and democracy.

ii. Actual States

Aristotle starts Book IV of Politics with a new frame of reference. Thus, the political scientist needs to know how to construct an ideal state; however, he should also take the circumstances into account and should, in this context, know the factors that lead to success, although the state that emerges on the basis of this particular knowledge, may not, in abstract terms or even under the circumstances, be the best state. "With this knowledge he can suggest the measures that will be most likely to correct the defects of existing governments... The complete art of the statesman take governments as they are and do the best it can with the means it has. It might even divorce itself from moral considerations altogether and tell the tyrant how to suceed in tyranny. " (Sabine and Thorson : 1973, p. 110)

Although he might not have intended to be a Machiavelli, in this way, Aristotle now almost adopts a value-free approach to politics. Thus, the virtue of a good man and the virtue of a citizen are not any more treated with a view that seeks an identity between them; and the problem of law-making is now presented as any branch of sientific investigation, without any connexion to noble ends. Also, he refers to his

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research on the constitutions of the Greek city-states and suggests that it may be used as a source material in studying the causes which preserve or destroy states and factors that bring good or bad goverment.

In his analysis of the existing forms of Greek goverments, he returns to his sixfold classification of governments; but this time he refers to monarchy and aristocracy as ideal states. His object, now, is a closer examination of oligarchy and democracy. A practical statesman, who is in a position to work with an actual goverment, needs to know how many kinds of oligarchy and democracy there are and what laws are suitable to each kind of institution. "This will enable him to tell what forms of government is best for most states, what is best for a state that has to exist under some special condition, what is needed to make any given form of goverment practicable and what causes make for stability or instability in different kinds of states. " (Sabine and Thorson : 1973, p. 111)

The question of democracy and oligarchy inevitable leads to the discussion or rather to a reexamination of the general nature of the constitution. In Book III, Aristotle has tended to treat the constitution as a way of life, but he had also defined it as the arrangement of offices or magistracies. In Book IV, the latter definition, which is closer to a modern understanding of a constitution is restated. Thus he makes a distinotion between the ethical and the political.

He also distinguishes the constitution from the law. In this context, in contrast to the political structure of the state, law is defined as 'the body of rules to be followed by magistrates in performing the duties of their offices'. This can be taken as a distinction between the ethical and the legal.

Finally, Aristotle incorporates into his analyis of states, groups and social classes such as families, occupational groups, i.e., farmers, artisans and merchants, and the rich and the poor. This brings about a distinction between the political structure, on the one hand, and the social and economic, on the other. Thus, "he shrewdly remarked that a political constitution is one thing and the way the constitution acually works is another. A government democratic in form may govern oligarchically, while an oligarchy may govern democratically. Thus a democracy with a prevailingly agricultural population may be quite changed by the addition of a large urban trading class, though the political structure of the state-the offices and the political rights of its citizens-is quite unchanged". (Sabine and Thorson : 1973 p. 112)

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Although the distinction Aristotle makes between the political and social structure of the state is a significant contribution to political analysis and thought, it is far from being a clear and systematic model. However, his thought is essentially as follows: there are two sets of factors, political and economic, that combine to form the political system. As to the political factors, when there are, for example, no property qualifications for voting and for eligibility to office, the political conditions are characteristic of a democracy. If there are property qualifications, on the other hand, for political participation, conditions are characteristic of an oligarchy. With respect to the economic factor, the criteria are the pattern of wealth between different classes in society and the economic predominance of one or the other class. To the extent that wealth is concentrated in the hands of the rich and they are dominant, conditions are characteristic of oligarchy, otherwise democracy. But both the economic and political conditions vary in degree between an extreme and a moderate form.

Also, the possible number of combinations are large, for alternatives are not limited to those between a democracy and an oligarchy, or to degrees of them. Thus, whereas the assembly may be organised on the basis of democratic principles, some sort of a property qualification can be required from candidates who are running for the offices of the state.

This means, first, that the way a government actually works is a function of the following elements : combination of political factors, the role of economic fastors and the pattern in which the political and economic factors are combined with eachother; secondly, some of the economic factors tend to produce a lawless state, others a law-abiding state, and this holds for the political factors and also for the combined influence of the political and economic, as well.

Then, Aristotle goes on to discuss the problems associated with democracy and oligarchy, which is to be followed by a discussion of the best practicable state. The problem with democracy is to combine, in a just manner, the political power of the masses with good government. The problem with oligarchy is, how to keep political power in the hands of a comparatively small class of rich, yet not to allow this class to become too oppressive to the masses. This is, according to Aristotle, a more difficult task, for injustice by the rich is more likely than unfair aggresssion by the poor, which makes it more problematic to control an oligarchy. Consequently, Aristotle would in the end prefer a democracy which is to be balanced by the existence of a large middle class. This he calls the *polity* or a constitutional government to denote a moderate democracy as distinct from mob-rule.

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The distinctive feature of polity is to be a mixed form of constitution in which elements of democracy and oligarchy are combined. But a large middle class is to form its social foundation. In the words of Aristotle, "the city which is composed of middle-class citizens is necessarily best governed... for the addition of the middle-class turns the scale, and prevents either of the extremes from being dominant... [W] here the middle-class is large, there are least likely to be factions and dissentions .. And democracies are safer and more permanent than oligarchies, because they have a middle class which is more numerous and has greater share in government; for when there is no middle-class, and the poor greatly exceed in number, troubles arise and the state soon comes to an end..."

"Now every city is composed of quality and quantity. By quality I mean freedom, wealth, education, good birth, and by quantity superiority of numbers. Quality may exist with one of the classes which make up the state, and quantity in the other. [Government can only be] stable where the middle class exceeds one or both of the others, and in that case there will be no fear that the rich will unite with the poor against the rulers. For neither of them will ever be willing to serve the other, and if they look for some form of government more suitable to both, they find none better than this for the rich and the poor will never consent to rule in turn, because they mistrust one another. The arbiter is the one trusted, and who is in the middle is the arbiter..." (Coker (ed): 1938, pp.85 - 87)

To recapitulate, although Aristotle had an empirical mind, he also had his ideals. These were, first, that of a constitutional rule, and second, the recognition that rule of law rather than of men, consent of those ruled and attaching a significant place to public opinion in politics, are necessary elements of a good life. On the whole then, in comparasion to that of Plato, Aristotle's model of politics is more "democratic". For whereas Plato, in the final analysis, advocated a "mixed" state of a heavily oligarchic and elitist composition, Aristotle, from the start, emphasised equality between the ruler and the ruled, importance of the wisdom of the multitude and thus of public opinion, in politics. However, his desire for stability leads him to advocate a "mixed" constitution, to be supported by a middle class of a large size. Hence, the will of the individual in politics is treated more favourably by Aristotle.

However, both philosophers tend to think in terms of the basic values of the Greek city-states, and take the *polis* as an example in building their models. Their overriding concerns are how to eliminate factional struggles along class interests, and the instability this creates

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for the *polis*. Their biased approach to the values of the *polis* is most obvious in their attitudes towards the institution of slavery. This leads them to maintain that some men are slaves by nature. But however paradoxical it may seem, it was also, Aristotle's concept of the state, a product of nature, based on the will of the citizen and a self-sufficient unit in itself, that was to provide the theoretical basis of a secular political theory as against the religious "political" understanding that had dominated mediaeval political thought. But before that, Plato's model of the ideal state, "divine and perfect, fixed in the Heavens" and so "a model to be imitated or copied" had been transformed into the City of God by St Augustine and had thus been, as we shall see, one of the sources for the totalitarian society of the Christian Middle Ages.

2. Critical Political Thought

a. General

Plato and Aristotle were philosophers of the city-state. They took the city-state, its political institutions and thus the basic principles governing economics and politics for granted and attempted to improve the *polis*. Plato at the beginning seemed to be somewhat radical. However even in the *Republic*, his model was based on social and political distinctions, only the criteria he chose to employ was in any way novel. But there were other philosophers and schools of philosophy which were more radically critical of the city-state, in that, they did not share either the principles or support the institution of the *polis*.

Critical theories of the city-state were to spread and gain wider influence during the Hellenistic age and were to provide, the starting point for Stoicism. For they rejected the traditional basis of the city-state and advocated such concepts as a 'city of the world' and 'universal citizenship.'

There were two problems with the city-state. One related to its economic and political foundations. Slave labour had its contradictions and imposed limits on economic and political development. It encouraged territorial expansion as a source of new lands and new labour power. This created a rivalry between the Greek city-states, and thus an instability at the inter-city level. But, secondly, instability was characteristic of the city-state itself internally as well. The economic and political implications of slavery aggravated this internal instability. Thus, Thuchydides reports an extreme example of a class struggle that took place in one of the city-states in 427 B.C. The struggle was so bitter that both sides appealed to the slaves for support.

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At the inter-city level, none of the city-states of ancient Greece was able to dominate others and establish a stable political union larger than the city-state. This is because citizenship was a privilege acquired by birth and Greek political system, when a democracy, was based on full participation of its citizens. Thus, it was a direct form of democracy which excluded representation and representative institutions.

The direct nature of democracy created two basic difficulties in the way of any successful political integration of the Greek peninsula. First, none of the Greek city-states extended citizenship to the members of any of their allies. For otherwise direct democracy based on participation of each citizen in the affairs of the state would not have been possible. Secondly, this direct taking part of the citizens eliminated the possibility of creating a standing or permanent bureaucracy.For bureaucratic posts were filled by citizens, and with a few exceptions, on the basis of rotation in office. Exclusive nature of citizenship meant that support for a wider political organisation would not be forthcoming. The other alternative would have been to unite and rule the cities with the help of a bureaucracy. But, again, the practice of carrying out public service by citizens and on a rotational basis, was an obstacle in the way of a standing bureaucracy. So force was not to be an alternative for support either.

The closest ancient Greeks came to a political union was the creation of leagues of states. But then there was the rivalry between the leagues led by Athens and Sparta, respectively. The first was composed of "democratic", the second of oligarchic, city-states. The rivalry culminated in the Pelopennesian wars and brought the end of the classical city-state. With the rise of first the Macedonian, later the Roman Empire, ancient Greeks came to be dominated by foreign powers.

Thus, the city-state ceased to be an ideal, and with it the idea that the Greeks were politically superior over barbarians, i.e., non-Greeks. Under these circumstance political thought that gained wide acceptance was more critical of the assumptions, principles and values of the city-state.

In this context, historically, two schools of thought are important: Epicureans or the Skeptics and the Cynic School. Skeptics advocated withdrawal from public life and thus from politics and the Cynic school tended to protest the city-state in total. Their significance should be sought in the challange they brought to the city-state. Thus, the philosophical problem they raised involved the first principles, the connexion between nature and convention, or, in other words between the meaning of nature and the rules and institutions, made by man, on the basis of custom and agreement. Their basic concern was a reexamina-

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tion of human nature so as to discover essential and permanent elements, and then derive a theory to govern human life.

b. Epicureans

Epicurianism took as its object the creation of a state of individual self-sufficiency in its students. It taught that a good life consisted in enjoying pleasure, but the approach was based on a negative definition of pleasure.

In this context, happiness was defined as consisting of avoiding all pain, worry and anxiety. This was to be accomplished by withdrawal from public life, denouncing religious convictions and joining friends similar in tastes, temparament, values etc. The wise man, therefore, will not get involved in politics unless circumstances compel him and should in any case avoid all sorts of supersitious practice and belief.

Nature meant physics or the atoms out of which everything was made up of; there was no moral value or ethical good except for self-interest and thus " the desire of every man for his own individual happiness. All other regulation of human action belongs to the class of conventions and is therefore meaningless for the wise man, except in so far as a conventional rule may be servicable in producing more happiness than men would get without it. There are, therefore, no intrinsic values of any sort except happiness. There never was an absolute justice but only a convention made in the mutual intercourse, in whatever region, from time to time, providing against the infliction or suffering of harm." (Sabine and Thorson: 1973, p. 133)

This means that states are formed only for the sake of obtaining security, particulary against violance and harm that would come from other men. As all men are essentially selfish and are after only their own self-interest, this situation, if left as it is, will be harmful to every one. So men enter among themselves into an agreement whereby they accept not to give other men any harm. There is nothing just or unjust about this agreement. Injustice is not bad in itself but the consequences are, for they give more harm tha.. the advantages to be gained. This is how the state and the law come into existence. The contract thus established creates justice among men, otherwise there would be no security or justice. Because the penalties for injustice make it unprofitable for the wise men. Thus, morality is identical with the suitable and convenient course of action, which is avoiding pain and suffering that would come as a result of punishment for the injustice concerned.

Moreover, what is suitable or convenient will vary with circumstances, and with time and place. So there is no single right or just con-

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duct, what is right for some men might be wrong for others. This applies to law as well : law needs to be changed when the conditions are no longer the same.

The only way to judge the political institutions and law are in terms of their suitability and convenience for mutual human relations. As long as they meet the need for security and facilitate safer and easier mutual relations, they are just, otherwise they are unjust. Thus, the only criteria is the self-interest of the individual, and it is not only a measuring-rod but it also explains the origin of society and the state: the will and intelligence of men.

In spite of its radical elements, Epicureans, in general, prefferred the monarchy as being the strongest and therefore the securest of governments. This feature of Epicureanism could have made it appealing to the Macedonian Empire and the Monarchies that followed. However, the matarialist and strongly anti-religious approach of Epicureanism contradicted with the ideologies of the Monarchies which claimed divine powers for their kings. As to the Romans, they valued not only their religion but also their republican ideals too highly and thus were not interested to any significant extent in this school of thought.

c. The Cynics

The Cynics adopted an extremely negative approach towards the city-state and its social and economic foundations, particulary its social distinctions. They came from among the resident foreigners and exiles. As they were in the main not citizens of the city-state, they had reason to reject everything that was associated with the *polis*, particulary the inequalities between men.

The teaching of the Cynics was based on the doctrine that the wise men ought to be completely self-sufficient. Their understanding of self-sufficiency related to the thought and character of the individual, so it was essentially the personal attribute, the moral character of the person in question. Everything except the moral character, i.e. property, family, marriage, citizenship, education, good reputation etc., were insignificant. Cynics were indifferent between such categories as a rich men and the poor, the citizen and a foreigner, the well-born and common people. All were equal, in a negative way, in the eyes of the Cynic.

Political philosophy of the cynics was utopian. Both Antisthenes and Diogenes seem to have advocated an ideal society in which property, marriage and goverment had no place. The "good life is only for the

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wise men ... a true form of society also is for the wise man only." Philosophy emancipates its ardent supporters "from the laws and conventions of the city; the wise man is equally at home everywhere and nowhere. He requires neither home nor country, neither city nor law, because his own virtue is a law to him. All institutions are equally artificial ... for between men who have attained moral self - sufficiency these thing are all unnecessary. The only true state is that in which wisdom is the requirement for citizenship and this state has neither place nor law. All wise men everywhere form a single community, the city of the world, and the wise men is a citizen of the world." (Sabine and Thorson : 1973, p. 137)

3. Hellenistic Age

a. General

Political philosophy of Cynics was essentially negative, in that they kept criticising the city-state without developing any alternative. However, their concepts of a world state and citizenship were to be significant for the Stoics, and for the Roman Empire of the later ages. Stoics emphasized the more positive side of the concepts concerned and the Roman Empire adopted the ideology of a universal state to support their territorial expansion.

Where the Greeks were not successful, Macedonians were and they managed to establish an empire. Originally Macedonian state was a tribal monarchy. Technically all land was the property of the monarch, but a tribal nobility held estates from the king and served as counsellors and governors to the king.

Philip II, who reigned between 359 and 336 B.C., after the annexation of the Thracian gold mines, overran the Greek city-states and unifed the Hellenic peninsula. His succes was essentially based on military innovations: primary emphasis on cavalry, but in combination with an infantry which had greater mobility than the hoplites; and extensive use of the long lance in the battle field.

Military victories were consolidated by creating citizens from Greeks and others in the conquered regions. However, the empire did not prove to be longlasting. After the death of Alexander in 323 B.C., the Empire was partitioned between his generals into four main zones : Mesopotamia, Egypt, Asia Minor and Greece. This is because the Empire had not acquired any chorent institutional framework. Hellenistic civilisation was essentially the product of these new Greek Monarchies of the East.

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The Monarchs enjoyed unlimited personal power and the royal authority was strengthened "with the establishment of officially decreed worship of rulers... The leading military and civilian personnel of the State were recruited from Macedonian or Greek immigrants and their descendants." A considerable bureaucracy was created. "But in all these States, the existence of centralised royal bureaucracies was accompanied by the absence of any developed legal system to stabilise or universalize their functions. No impersonal law could emerge where the arbitrary will of the ruler was the sole source of all public decisions. Thus, "the bureaucratic machinery of the State was itself condemned to a formless and random summit of the 'king's friends'" (Anderson : 1974, pp. 49-50)

The cities were only lands of the dynasty, so a genuine political independence did not exist in the cities of the Hellenistic East. As the State was dominated by a powerful royal bureaucracy, no free citizenry could emerge. Even the financial and industrial activities were under state control.

b. Hellenistic Political Thought: Stoicism

The Stoic School was founded a few years before 300 BC by Zeno of Citium, a Phoenician. Other influential figures of the School also came from Asia Minor. Chrisippus, the second influential Stoic philosopher, came from Cilicia; and Panactius, who further developed Stoicism and carried it to Rome, came from Rhodes. Thus, the founders of Stoicism at least, were not Greeks, and the School was Hellenistic in terms of its approach as well.

Originally, Stoicism was a branch of Cynicism. Zeno's book on the state resembles the utopia of Diogenes. In the ideal state, men would live without family and property or money. There would not be any distinctions on the basis of race or rank, and there would be no need for the courts of law.

Later, Zeno broke with the Cynics because the consequences of their naturalism were crudeness and lack of decorum, i.e., nonconformity to social standards of behaviour and conduct and thus undignified standing.

Stoicism acquired its classic form with the contribution of Chrisippus in the last quarter of the third century. He gave a positive moral meaning to the Cynic concepts of the world-state and universal law.

The ethical purpose of Stoicism was to produce self-sufficiency and well-being in the individual. Self-sufficiency was to be attained by

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a rigorous training of the will. Its virtues were resolution, that is firm intention and determination to act well; fortitute, or, in other words, firmness of mind in meeting danger or adversity; devotion to duty; and indifference to the lure of pleasure. And, a religious training reinforced the sense of duty.

The Stoic had a strong belief in the overruling power of Divine Providence i.e., divine guidance and care of God. A Stoic "felt his own life as a calling, a duty, assigned to him by God, as a soldier is assigned to duty by his commander. The fundametal teaching of the Stoics was a religious conviction of the oneness and perfection of nature or a true moral order. A life according to nature meant for them resignation to the will of God, co-operation with all the forces of good, a sense of dependence upon a power above man that makes for righteousness and a composure [calmness] of mind that comes from faith in the goodness and reasonables of the world. There is then a fundamental moral fitness between human nature and nature at large. This the Stoic expressed by saying that man is rational and that God is rational. " (Sabine and Thorson : 1973 pp. 147-148)

Reason gives men a special position in the world. Men have reason, speech and the sense of right and wrong. Thus, men alone are fitted for and need to live in a social setting. Men are the sons of God and therefore brothers to one another.

The firm belief of the Stoics in the Divine Providence meant for them that there was a value in social purposes and it was the duty of the good men to bear the share of them. This led the Stoics to a belief in a world-state. Both gods and men, accoding to the Stoics, were the citizens of the world-state. This world-state had a constitution: right reason, which taught men what to do and what not to do. Right reason was the law of nature, everywhere it was the standard of what is just and right. Natural law was binding on all men, including the rulers; it was the law of God and unchangeable in principles.

Social distinctions that prevailed had no meaning for the world-state. All men were equal regardless of their status, and the only inherent and essential difference between men was between the wise man and the fool. But at the potential level, citizenship of the world-city was open to all men.

For it depended on reason, a characteristic, theoretically speaking, shared in common by men. But the assumption of equality among men, implicit in this understanding, was based on indifference to social and political distinctions and not on any radical criticism of the existing political order.

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Stoics recognised two sets of laws, customary law of the city and natural law. Natural law was considered to be more perfect and so it provided the frame of reference in the criticism of customary law. In this context, the criteria were reason and equity. Customary law, or the law of the city, therefore had to conform to the natural law or to the law of the world-city. For whereas local customs and procedures were various, reason was one, and it had to provide the norm and the unity of purpose through the natural law. Yet this understanding, again, was based only on a personal and ethical approach and not on a radical criticism of the existing inequities or unreasonable laws.

But as Hellenistic Monarchies of the East were not able to set up an impersonal institutional framework in politics and in law, they shared the fate of the Macedonian Empire, in that their existence tended to be quite temporary. For by the middle of the second centruy B.C., Rome was to be the sole power in the region, and this brings us to the discussion of the Romans and their political thought.

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II. ROMANS

A. Politico-economic Environment

1. Historical Development: towards the Roman Republic

Romans started, in 753 BC, like the ancient Greeks. Rome was a city-state in origin. She first extended her position in Italy and then in the Mediterranean. The former is the period of the Republic, from 509 to 27 BC, which ended up in the founding of the Empire. The Empire was divided into the Eastern and Western parts in 395 AD, and there was a Western emperor until 476 AD. However, the death of Constantine in 336 AD marks the end of classical Rome. The years that followed are the age of transition to the Middle Ages, which is the subject of Part Two below.

Originally the community was ruled by a king. He was appointed by the heads of the leading families *(patres)* and the choice was confirmed by the community as a whole. The king held supreme power *(imperium)*. He appointed officials, administered justice and led in war; and was also the religious head of the community. The Senate was the council of the heads of leading families *(patricians)*. They were members for life. Their functions involved advice to the King but only when consulted, and nomination of a new king. The people *(plebians)* as a whole gathered only when summoned by the King or to confirm the election of a new king.

Following the overthrow of the King in the last few years of the sixth century, the power of the King passed to two magistrates. The magistrates, or, in other words, the executive officers of the state were originally called 'praetor-consuls', that is 'leaders' who are 'colleagues'. Later, they were merely called consuls. In times of crisis supreme power was entrusted to a 'dictator'. The dictator held political power for a specific purpose and for a limited period of time.

The magistrates kept their functions in their own spheres as colleagues. The principle of collegiality meant that each of the colleagues in office had the power of vetoing other's proposals. So colleagues had to act by mutual agreement. The terms of office of the consuls was one year. They were appointed by the whole people in assembly but the choice had to be ratified by the Senate. The annual term of office and the collegiate nature of the consulship, made the Senate the dominant political power. For the patrician magistrates nominated patrician succes-

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sors, and as the choice of the people had to be ratified by the Senate, the plebs were politically in a disadvantageous position.

The plebs began to challange the privileged position of the Senate and this led, in the course of time, to a change in the constitution. The plebs met in a 'Council of Plebs', an informal institution and outside the constitution. Their threat to found a rival city forced the patricians to accept the demands of the plebs. Thus, the plebians secured the right to have annual magistrates of their own. These were called 'tribunes of people' and were to be elected by the Council of Plebs, that is by plebians only.

When it was first institutied, the office of the tribune was, like the Council, outside the constitution. The tribune did not have *imperium* but was given only a special limited power *(potestas)* to proctect the plebians against the patrician magistrates. However, the tribunes were later to acquire powers of veto in the whole field of government.

The plebs next put forth the demand to limit the consul's power by law, which ended up in the Twelve Tables of 451 B.C. In this new period, the plebs were not any more satisfied with the role of 'protector'. First, in 449 B.C., the plebians secured the following political right: that the resolutions of the Council of Plebs should be binding on the whole machinery of the state. The next demand was for a 'plebian' consul, which they got by 366 BC, and thus between 367 and 287 B.C., the plebs won two significant political rights: first, that one of the two consulships must be held by a plebian; and second that the decisions of the Council of Plebs should not need the ratification of the Senate. Now, the struggle was over and the Council of Plebs had become the sovereign power of the state.

However, the Punic Wars, fought with Chartage for the mastery of the Western Mediterranean, brought about an outcome whereby Rome ended up with an oligarchical political system. The wars were fought between 262 and 202 BC, with an interval of 25 years including 243, then from 242 to 219 B.C.

During the Punic Wars, the influence of the Senate increased. The task of appointing new members to the Senate was originally within the power of consulship. Later it became a custom to recruit all elected officers of the state to the Senate upon termination of their term of office. In addition to the consuls and tribunes, which we have seen, there was the *censor* charged with the task of taking the census, acting as a registrar and mainly assessing the taxes; the *praetors* were in charge

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of the administration of the law; *aediles* were responsible for public works, streets and buildings within the city of Rome; and the *quaestors* exercised supervision over public finances; and finally, there were the provincial governors, with full *imperium* within their provinces.

As a result of the new procedure of recruitment, to its ranks, the Senate came to be composed largely of men who had been elected to various magistracies by the people.This meant that the office of magistracy brought with it the status of nobility to those plebs who managed to get elected a magistrate.

The extraordinary situation which the struggle with Chartage created further raised the Senate into a more influential position. The Senate acquired *de facto* a central place in politics. Decisions had to be made without the time consuming process which the meeting of the Council of Plebs necessitated. Continuity in policy was a must, and the Senate included within its ranks experienced statesmen and soldiers. Consequently, "'opinion of the Senate' now became 'the decree of the Senate' " (Barrow: 1949, p.51)

2. The Roman Republic: origin of the Empire

Wars that the Romans fought in Italy to unite the peninsula, and then with Chartage for the control of the Western Mediterranean, did not only change the composition of the Roman political system. They also had social and economic consequences of vital importance.

For one thing, the loss of life among Roman citizens was between 66,000 and 90,000 and that of the allies 100.000. "What is certain is that the worst of the losses fell on the Roman peasant farmers. Those who survived were scarcely more fortunate than the dead. Too many of them came back from the war to find their homes destroyed, their lands uncultivated, the farm animals killed, the vineyards and olive groves uprooted or burned". (Dudley: 1975, pp. 78 -79)

These were the *assidui* or 'those settled on land', who possessed the necessary property qualification to bear their own arms. Then there were the *proleterii*, the propertyless citizens. The decrease in the numbers of the former was reflected as an increase in the size of the latter. Thus by the end of the third century B.C, the *proleterii* were probably an absolute majority of the citizens.

In contrast to the deterioration in the economic conditions of the plebian masses, the impact of war on the patrican nobility was quite favourable. They increased their holdings of land: they not only absorbed

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the lands of the *assidui* but also appropriated the *ager publicus* or the common lands used for pasturage and cultivation. In this way they reduced the poorer peasantry into debt bondage. Moreover, the patricians expropriated territories of the defeated victims and further increased the size of their land holdings.Thus, prominent nobles could own over 200,000 acres of land in the first century B.C. These lands were worked by slave labour, and the source of slave labour was military expansion. The originality of Romans in this respect lies in the great size of the land holdings and thus the massive scale of slave labour utilised in these *latifundia*. Hence, in 225 B.C. there were some 4,400,000 free persons in Italy to 600,000 slaves. By 43 B.C. , the proportion had changed to something like 4,500,000 to 3,000,000.

Consolidation of the land holdings by the nobility created discontent on the part of the plebian masses. Furthermore, there was, within the army, a demand for distribution of land to discharged veterans. Thus, successful generals who could guarantee their soldiers land and plunder found support and consequently were potential candidates for political power. "The bond between legionary and commander came increasingly to resemble that between patron and client in civilian life: soldiers looked to their generals for economic rehabilitation and generals used their soldiers for political advancement. " (Anderson: 1974 a, p. 68) Provincial governors were in a better position to challange the central government. For from 146 B.C. onwards, they, like the consuls, enjoyed *imperium* within the areas they ruled, and as they did not have to share their *imperium* with a colleague, they had a freedom of action that the consuls did not enjoy.

Finally, following a violant rebellion, in 91 B.C., Italy had been the first provice to acquire Roman citizenship. However, the Italian gentry had been excluded from senatorial office and power. This was another source of discontent.

The senatorial oligarchy was not willing to compromise and accept even a moderate form of land reform. Nor were they willing to share political power with the provincial gentry of Italy.

The challange to the existing constitution, which started a period of revolution and civil war, came in 133 B.C. and lasted until the Battle of Actium of 31 B.C. Octavian was able to get the support of his soldiers and other forces of discontent. Following the Battle of Actium, Octavian became the sole holder of political power and chose Augustus as his name. But it was not until 27 B.C. that he made any constitutional change. Under the name of 'restoration of the republic' Augustus recon-

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stituted the Senate. The new Senate, which was composed of his supporters, offered him pro-consular powers in the provinces, i.e., authority to act on behalf of the consul in the region concerned, for ten years. The proposal was confirmed by the People in Assembly. The provinces that Augustus governed gave him control of almost all the armed forces of the Roman State, who took an oath of loyalty to him as the *Imperator*. So this was the basis of his later political power. In addition, he held the consulship each year and thus could control the appointment of the governors.

In 23 B.C. Augustus gave up his "near monopoly of consulship, was granted tribunician power *(tribunicia potestas)* for life, thus enabling him to veto the acts of all magistrates and to deal directly with the People. After his return from the east, his position in Italy was strengthened by the grant of consular power." (Dudley: 1975, pp. 145-146)

The Roman oligarchy was thus transformed into a monarchy and stayed as such until the political system formally disintegrated as a result of internal class struggles and barbarian attacks, at the end of the fifth century A.D. The two sources of power of the monarchy were the military and the senatorial class of landowners.

B. Roman Political Thought

1. General: Greek Influences

Roman political thinkers did not produce anything as original as the Greek political thought. Romans adopted, and to some extent reinterpreted Greek political thought, particularly Stoicism. For Stoicism, in the idea of a world-state, suited well and provided an ideological basis for their territorial expansion.

But before Romans adopted Stoicism, it was further revised by Panaetius of Rhodes. Early Stoicism was open to criticism on two points. First, the Stoic understanding of wise man envisaged a person with super human qualities. This wise man was thought of as distinct from ordinary man and thus self-sufficient. Secondly, the contrast between the law of nature and variety of local law and custom was not in any way accounted for.

Carneades critised Stoicism on these weak points. His first criticism maintained that the Stoic wise man was a monster. For there is no such thing in nature and it is inhuman to expect the wise man to completely destroy all feeling and emotion, and attain self-sufficiency. The second criticism was directed at the concept of natural law. Car-

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neades pointed out that, in wiew of the existing discrepancies in moral belief and practice, it is dificult to believe that there is a universal law. He argued that men are in fact governed wholly by self-interest and caution, and that justice is only an honorific cover.

Panaetius, in the third quarter of third century B.C., took up these criticism and modified Stoicism on the basis of ideas drawn particularly from Plato and Aristotle. He gave up the ideal of self-sufficiency for the wise man, and admitted the moral justifacation of the nobler ambitions and passions of public service, humanity, sympathy and kindness. He also abandoned the opposition between an ideal community of wise men and the everday social relationships. "Reason is law for all men, not merely for the wise. There is a sense in which all men are equal even after allowance has been made for the inevitable differences of rank, native endowment and wealth. They ought to have at least that minimum of rights without which human dignity is impossible and justice requires that the law should recognize such rights and protect man in the enjoyment of them. Justice is, therefore, a law for states, the bond that holds them together... in the sense that, in so far as it becomes [unjust] it loses that ground of harmony which makes it a state." (Sabine and Thorson: 1973, pp. 151-152)

With this contribution of Panaetius, Stoicism ceased to be a personal philosophy of wise men and was transformed into a political philosophy. Thus, as we shall see, 'law and justice as the bond that holds a state together', is a theme that was to be taken up and elaborated by Cicero. Also, Stoicism in this new form appealed well to the Roman ruling classes who took pride in self-control, devotion to duty and public service. Finally, in the ideological field, the Stoic concept of world-state and Roman conquests coincided well.

Polybius (204-122) is another Greek who had inluence on the Romans. He is known for his historical work on the Roman political institutions and for his theory of mixed constitution. According to Polybius, there is in history an inevitable law of growth and decay of states. This means that all unmixed forms of government tend to degenerate in characteristic ways. In this context, Polybius uses the sixfold classification of constitutions by Plato, in the *Statesman*, and by Aristotle, in the *Politics*. Thus, monarchy tends to become a despotism, aristocracy an oligarchy, and democracy mob-rule.

Rome is an exception, in that, she has unconsciously adopted a mixed constitutions in which the essential elements are 'accurately adjusted and so in exact equilibrium.' "The consuls form a monarchical

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factor, the Senate an aristocratic factor and the popular assemblies a democratic factor; but the secret of Roman government lies in the fact that the three powers check each other and thus prevent the natural tendency to decay which would result if any one of them became too powerful." (Sabine and Thorson : 1973, p. 153)

Polybius thus modified the thory of mixed constitutions. First, it is no more concerned to secure a working balance between democratic and oligarchical elements, but between three factors: aristocratic, monarchical and democratic. Second, the mixed government is not to be based on the arbitration function of a large middle class, but on separation of political powers between the aristocratic, the monarchic and democratic forces, so that each power will check and balance the other.This reflects the Roman experience and principle of collegiality which we have seen above. Thus, the theory of 'separation of powers' or the system of 'checks and balances' of the modern age can be traced back, in origin, to the Roman experience and the writings of Polybius. It was also to be taken up by Cicero but without any practical succes.

2. Major Political Thinkers

The two Roman philosophers of major importance were Cicero and Seneca. Cicero incorporated Stoic doctrine into his philosophy, which was influential on Roman jurists and thus on the development of Roman Law. In this way, he was to have an indirect but an important impact on the political thought of the later ages. This was to be through his concept of the natural law, and his theory of state. Seneca's influence, in contrast, was to be located in his emphasis of the existance of a Divine Providence, or, in other words, a divine order as a guide for government and law, and thus human conduct. So the influence of the former philosopher was essentially secular, of the latter religious.

Altough Stoic concepts such as world-state, natural justice, universal citizenship etc. had an ethical rather than a legal or political meaning, they were so influential and widespread among Romans, that they had, together with other Stoic beliefs, acquired an ideological significance. Stoic philosophy included the belief that the world is subject to divine government by a God. This God was reasonable and good so that His position to mankind was similar to the relations that existed between a father and his children. In this context, men were brothers to one another and members of a common human family. For rationality made man akin, i.e. related or of the same family, to God. Thus, in spite of the differences that existed among men, they were alike. There were thus some rules of morality, justice and good conduct which were binding on all men. This is because natural law formed an inherent and essential standard of justice and, therefore, deserved, irrespective of positive law or the penalties which follow its violation, respect.

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a. Cicero (106-55 BC)

i. Political Writings

Cicero was a successful lawyer, and a politician of some power and influence. He was even elected a consul in 63 B.C. , but later lost his life, in 44 BC, in the fierce political struggles of the late Republic.

His political object was to restore the Roman constitution to its original form, i.e., before the revolutionary tribunate of Gracchus. Gracchus represented peasant masses who agitated for land. He wanted to arrest the decline in their economic position. Although he managed to secure political power for a short period of time, was accussed by the senators as the usurper of autocratic power and killed. The following years, until the founding of the Principate, or, in other words, the Empire, were the revolutionary years of civil wars.

For Cicero, two ideas were of great importance: the theory of the historical cycle of constitutions and the belief in the excellence of mixed constitutions. These were, as we have seen, issues discussed by Plato and Aristotle, and later reinterpreted by Polybius in the light of Roman experience.

Cicero's plan was to develop a theory of perfect state, that is a mixed constitution. According to the thinker, the constitution of Roman Republic was the most stable and perfect form of goverment. So he assumed that a theory of a perfect state can be constructed on the basis of a historical analysis of its development and by studying the relations between its parts. However, as his theoretical framework was taken from Greek experience, he could not, in this respect, make an original contribution to political thought.

Cicero's importance in the development of political thought should be sought in his doctrine of natural law, and in this connexion, in his concept of state. To start with the concept of natural law, there is, according to Cicero, a universal law of nature which is rooted in (i) God's providential goverment of the world, and (ii) in the rational and social nature of human beings. This universal law of nature is the constitution of the world-state, is eternal and unchangeable and thus binding on all men and all nations. No legislation that violates "it is entitled to the name of law, for no ruler and no people can make right wrong". In the words of Cicero, "There is in fact a true law-namely right reasons-which is in accordance with nature, applies to all men, and is unchangeable and eternal... binding at all times upon all peoples and... one common master and ruler of men, namely God, who is the author of this law, its interpreter and sponsor." (Sabine and Thorson: 1973, p. 161)

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In the light of this eternal law all men are equal, particularly so in terms of their possession of reason. But the main axiom is as follows: as all men are subject to one law and thus citizens, they must be equal as well. But equality, for Cicero, is a moral concept not a legal or political requirement. So there is no implication of democracy; but this ethical axiom concerns the nature of state. Thus, the state is based on law, on mutual obligations and the mutual recognition of rights that bind its citizens together. The state is 'the affair of the people' or 'a commonwealth.'

"The state, then is a corporate body, membership in which is the common possession af all its citizens, it exists to supply its members with the advantages of mutual aid and just government. Three consequences follow: First, since the state and its law is the common property of the people, its authority arises from the collective power of the people. A people is a self-governing organization... Second, political power when rightfully and lawfully exercised really is the corporate power of the people. The magistrate who exercises it does so by virtue of his office; his warrant [i.e. justification, foundation] is law and he is the creature of law. 'For as the laws govern the magistrate, so the magistrate governs the people, and it can truly be said that the magistrate is a speaking law, and the law is a silent magistrate.' Third, the state itself and its law is always subject to the law of God, or the moral or natural law-that higher rule of right which transcends human choice and human institution." (Sabine and Thorson: 1973, pp. 163-164)

ii. Legal Influence

Thus, Cicero enumerated three general principles of government. Political authority, (i) proceeds from people, (ii) should be exercised only by authorisation of the law, and (iii) is justified only on moral grounds. These principles gained universal acceptance a short time after Cicero published his writings and exerted great influence in the later ages.

Moreover, this legalistic approach, which sees the state as a creature of law and discusses it in terms of legal authority and rights of citizenship, was a novel Roman contribution to political thought. For, as we have seen, Greeks had tended to view the state, on the whole, as an ethical good or a 'sociological phenomenon'.

The classical period in the development of Roman jurisprudence was the second and third centuries AD. The writings of the great jurists of that age was later compiled under the auspices of Emperor Justinian of the East Roman Empire and published in 533 A.D., under the name of

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Digest (or *Pandects.)* The political philosophy that the *Digest* contains is a repetition of the theories found in Cicero's writings. And, as authoritative opinon of the Roman jurists had carried weight not only with the judges but also with the emperors, who were the main legislative authority, jurisprudence came to be one of the sources of Roman law.

Like Cicero, the jurists conceived of the law as ultimately rational, universal, unchangeable and divine with respect to the main principles of law and justice. It was assumed that positive law must as far as possible conform to the norms set by 'nature'. So the Stoic concept of natural law was thus incorporated into the Roman Law. Moreover, the legalistic political argument of Cicero and his discussion of the state in terms of powers of the rulers and the rights of the citizens, as defined by law, also found its place in the Roman jurisprudence.

Thus, as Cicero argued, authority of the ruler is derived from the 'people'. It followed that 'The will of the Emperor has the force of law', for the people had transferred to him and vested in him all its power and authority. But this theory does not have any political implications, in the way of either absolute political authority or representative government. It should be understood in strictly legal terms. The idea is as follows: Law is the common possession of people in corporate capacity, And as long as the source of law is an authorised institution, it is considered to be a common possession of a politically organised people and thus to represent the people in some degree and some capacity.

Thus, customary law has the consent of people, for custom exists only in the common practice. It is the same with any authorised source of law. Authorised sources of law are: (i) enactments of a popular assembly *(leges),* (ii) an authorised institution of people such as the Plebian Assembly *(plebiscita),* (iii) a decree of the Senate *(senatus consulta),* (iv) a decree of the Emperor *(constitutionas),* or (v) an edict of an ordinance-issuing officer. In this connexion, the 'people' is an abstract concept and does not coincide with persons who make up a particular community at a certain historical period. Also, subjection to law is not incompatible with moral freedom and human dignity. So, as law essentially is 'impersonal reason' it should be supreme. "Thus, the Roman Law preserved the spirit of Cicero's striking phrase: 'we are servant of law in order that we may be free'". (Sabine and Thorson: 1973, p. 169)

The Roman Law codified by Justinan was used in East Roman Empire. When Italy, in the middle of the sixth century, was recovered by his generals from the 'barbarian kings', it became law there also

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and thus it became known in Western Europe. Eventually, schools and universities came into being largely to study Roman Law. Hence, Roman Law acquired prominence with the educated men of Western Europe, which it still commends.

b. Seneca (4 BC-65 AD)

Seneca lived and wrote during the early years of the Empire and thus his writings reflect Roman political thought of the first century A.D. His philosophy is essentially religious and supports autocratic political rule. One student of the Romans has the following to say on Seneca: "in reading his philosophy it is hard not to remember that this praise of manly independence comes from the man who flattered the Emperor Claudius while he lived, and as soon as he was dead" wrote malicious and abusive personal satires about him. "It is hard not to remember that this praise of poverty comes from the man who in five years of Nero's favor became the richest subject in the Empire, with money at usury... as far out as Britain." (Davenport(ed) : 1977, p.482)

As a Stoic, Seneca also belived in the existence of two distinct sets of commonwealths. In the civil state man was a subject, but in the greater state of the world, which was composed of all rational beings, he was a member and belonged there by virtue of his humanity. Seneca envisaged the world - state or the greater commonwealth as a society rather than state; so the bonds were not legal and political but moral or religious. Thus, he brought a new and essentially a religious element to the Stoic concept of the world-state. In this context, a wise and good man can serve humanity by virtue of his thought and teachings even though he might not have political power.

Seneca's main interest, in addition to 'finance', lay in philosophy and spiritual life. Thus, the body is but 'chains and darkness to the soul' and that 'the soul must struggle continually against the burden of flesh'. It followed that ethics and religion dominated Seneca's whole political philosophy. He believed in the inherent sinfulness of human nature and sought the solution personally in philosophy and politically in strong government. Thus, according to Seneca, Rome has fallen into senility, i.e., like or caused by old age, corruption was everywhere and despotism was inevitable. For Seneca, therefore, the civil state was not any more the highest agency of moral perfection, and service to the state ceased to be a supreme virtue and government was only a necessary remedy for wickedness.

Seneca's philosophy is based on an understanding of a Golden Age, when men were still happy and inocent. They loved the simple life

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they lived. This is not to say that they were wise or morally perfect, for their goodness was not the result of any virtues but a consequence of 'innocence of ignorance'. Excesses and luxuries of civilisation did not yet exist. It was a state of nature where the institution of private property and thus greed, was non - existent. This primitive purity was destroyed with avarice brought about as a result of private property.

When men were pure, "they had no need for government or law; they obeyed voluntarily the wisest and best men, who sought no advantage of their own in ruling over their fellows." But when men were corrupted by "the desire to make things their own, they became self seeking and rulers became tyrants. The advance of the arts brought luxury and corruption. It was this train of consequences that made law and coercion necessary in order that vices and corruption of human nature might be curbed." (Sabine and Thorson: 1973, p. 174)

Seneca's concept of law as a cure for human wickedness was contrary to the republican understanding which regarded it'a true philosophy'. So was his understanding of government as a remedy for human evil. It was the first century of the Empire and Rome was no more a Republic. Thus, Seneca provided an ideology for a new political system where the emperors came to be the sole source of political power, "reign by reign they took away more power from the Senate and the other institutions surviving from the Republic. There was still a legal fiction that Rome was a republic", but everyone " knew that at the death of the emperor the supreme power would go to whoever could seize it or persuade the dying emperor to give it to him." (Davenport(ed): 1977, p. 479)

Under these conditions, Seneca's pessimism and his emphasis of philosophical and religious, instead of political, activity should not be surprising. Thus, supreme value of citizenship is replaced by a philosophical and religious concept of membership, on the basis of human quilities, in a greater commonwealth, and the state is no more considered a positive agency for human perfection but a coercive power, a remedy for human wickedness. As we shall see below, these themes were to be taken up, further developed and then were to provide the basic assumptions for the principles of government and politics in the Middle Ages.

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PART TWO: THE MIDDLE AGES-1: A DIGRESSION

The Middle Ages covers the years from 800 to 1449. As far as political thought is concerned, the unity is provided by the influence of religion, and in Western Europe, the Catholic Church. The influence of religion, however, started earlier, during the latter Roman Empire of the fourth century and it was dominating until the Renaissance of the fourteenth and fifteenth centuries, and the Reformation and the Counter-reformatian of the sixteenth centuries.

The theocratic political thought of the Church was first challanged on the basis of feudal principles of government and politics, in the eleventh century, but without any success. But the controversy continued and gave way, in the course of time, to the triumph of secular political thought, first, in the writings of Renaissance thinkers, and, later, following the Reformation and the Counter-reformation, in the modern political thought of the seventeenth and eighteenth centuries.

In this second part of the historical foundations of political thought, we shall discuss the theocratic and feudal understandings of politics and government. Political thought of the Renaissance, the Reformation and the Counter-reformation, as foundations of modern political thought, will be the subject matter of Part Three.

Presentation will follow the course of historical developments, starting with the weakening and decline of the Roman Empire. For it was within this context that the Catholic Church emerged and ideologically dominated political thought in Western Europe. These are the transitionary years. Then comes the formative years, from the beginning of the ninth to the eleventh century. By the time we come to the eleventh century, political literature begins to emerge in connexion to the respective authorities of the Pope and the Emperor, in the appointment of personnel to religious posts. Papacy was to be the victorious party of the contest. However, the following years worked to decrease the authority of the Popes, on the basis of developments which can be located in the feudal organisation and understanding of government, particularly from the thirteenth century onwards. Thus, after twenty years of sessions, the Council of Basle, which had come together as a body representing the whole of Catholic Europe, dissolved in 1449. The Council had contained representatives from both the kingdoms and churches of Europe and claimed powers "to judge religious and political controversies." This was, formally and institutionally, the end of the ideal of a Catholic Europe. Then a new approach was to dominate the history of political thought: secular political thought of the Renaissance.

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I. TRANSITIONARY YEARS

A. Origins of Theocratic (Religious) Political Thought

1. Politico-economic Background

a. General

Transtionary years covers the period from the fourth tothe ninth century. Towards the end of the fourth century AD, Theodosius adopted Christianity as a state religion for the Roman Empire. Hopes on the success and survival of the Roman Empire depended on this new religion. However, Rome could not survive the internal class struggles or the barbarian invasions.

The invasions were carried, by Germanic tribes, in two successive phases. The first wave started at the end of 405 AD. Within a few years, the Visigoths sacked Rome in 410, the Vandals took Carthage on 439, and by 480 'barbarian kingdoms' had been established in former Roman territories, i.e., Gaul, Spain, North Africa and Italy. Thus, the economic, political and the military unity of Western Roman Empire had come to an end.

The life-span of these barbarian kingdoms was not long. Franks, in the second wave of Germanic invasions, expelled Visigoths from Gaul and subjected Burgundians to their rule. Byzantine expeditions crushed the Vandals in Africa and exterminated Ostrogoths in Italy, and Islamic invaders terminated the Visigothic rule in Spain. "Little trace of their respective settlements were left behind. It was the next wave of Germanic invasions which determined the later map of Western feudalism profoundly and permanently. The three main episodes of this second phase of barbarian expansion were... the Frankish conquest of Gaul, the Anglo Saxon occupation of England-a century later, in its own way-the Lombard descend on Italy." (Anderson: 1974 a, p. 120)

This Germanic element was important in the emergence of the feudal system which shaped the latter developments in Western Europe. So we shall discuss below their role in the development of feudalism. For the time being, it should be sufficient to note that Franks adopted Catholicism in the last years of fifth century, the Anglo-Saxons were gradually converted in the seventh century and the Lombards accepted Catholicism in 587. In this way, history of feudalism and Catholic

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Church in Western Europe came to be fused. And as the Christian Church had been established in the latter Roman Empire, it is best to start with the history of the Church under the Roman Empire.

b. The Latter Roman Empire

Problems of the Roman Empire started in the first and second centuries. A.D. For the territorial expansion of the Empire had come to an end by the beginning of the second century and with it the sources of slave labour dried up. As the slave labour did not possess a natural and internal mechanism of self-reproduction, supply of slaves was largely secured by foreign conquest. The commercial slave trade could not make up for the shortages of labour. This is because it had also depended on military operations. Thus, by the first and second centuries A.D., slave prices were eight to ten times the levels of the second and first centuries BC.

Female slaves were few and generally unprofitable to the owner. Because there was a lack of ready employment for them except for domestic tasks. Shortage of slave labour encouraged the landowners to give premia to womenslaves for child-bearing. Although this method did not provide a solution in the long run, it probably postponed the crisis.

Productivity increase might have solved the problem. However, agricultural production was based on 'annexation of labour' rather than the exploitation of land or the accumulation of capital. Thus, an incentive for technological innovation did not exist.

There were limits to the development of the crafts and industry. Transport costs were so high that manufacture could not concentrate at certain centres and develop a more advanced division of labour. Masses did not possess the purchasing power to stimulate industrial production. The state dominated the economy. Although the Roman State was the largest single consumer in the Empire, it was an obstacle in the way of economic progress. For, "throughout classical Antiquity, ordinary public works-roads, buildings, aqueducts, drains-were typically executed by slave labour. The Roman empire... saw a corresponding extension of this principle, for the entire armaments and considerable proportion of the procurements supply for its military and civilian apparatus came to be furnished autarchically by its own industries, manned by submilitary personnel of hereditary state slaves. The one truly large-scale manufacturing sector was thus to a great extent subtracted fom commodity exchange altogether... Thus the State could expand, but the urban economy received litte benefit from its growth." (Anderson : 1974 a, pp. 81-82)

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Under these circumstances, where there was no place for increases of productivity in either agriculture or industry, the political order broke down; the outcome was chaos and civil wars. From 235 to 284, there were more than twenty emperors, and eighteen of these died violent deaths. The same period also witnessed foreign invasions by Franks and other Germanic tribes.

Chaos came to an end with the emperorship, in 284, of Diocletian, who completely reorganised the Roman State. Diocletian enlarged the imperial armies by the re-introduction of conscription. Thus, the total number of troops was doubled and reached to 4,500,000. This process was coupled with the appointment of men of equestrian rank, i.e. , provincial nobility, to the top military posts. Thus, the senatorial oligarchy was displaced from posts of political power and authority. Senators were also systematically excluded from posts in the civil administration. In this way, Diocletian established the 'Dominate' and 'restored' the Empire.

However, the political unification was secured at the expense of social divisions within the dominant classes. Senatorial aristocracy still possessed economic power, but they were excluded from the posts of political power and authority.

Furthermore, with the christianisation of the Roman State at the beginning of the fourth century, a new factor was introduced into the picture.Thus Christians, in addition to the provincial nobility, were also recruited to the bureaucratic posts of the state. Moreover, the establishment of Christiantiy as the offical Church of the Empire meant that a new clerical bureaucracy was added to the existing administrative system. The size of the army was further increased by Constantine in the course of the fourth century, and thus the state came to be the 'universal master.'

In the course of time, the senatorial aristocracy struggled to recapture the imperial office from the army and 'progressively ran down the whole defense apparatus... The landed nobility of the West thus finally, and fatally, regained central influence in the imperial State. Within a few years, this gathering aristocatic coup from above was follewed by mass insurrections from below.' The social polarisation of the West thus ended," first, with internal struggles and, later, with Germanic invasions, to bring about the end of Western Roman Empire. (Anderson: 1974 a, pp. 101-103.)

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2. The Christian Church and the Origins of a Religious Political Thought

a. General

Following the adoption of Christianity as a state religion, the power of the Emperor increased at the ideological level. As God's representative on earth, he claimed powers of divinity and vice-regency, i.e., an officer authorised by God, as a monarch, to exercise His powers. In this context, his power was absolute and was not called into question.

The senators had lost their political power, enjoying only certain exemptions from some taxes and certain dignities associated with the membership of the Senate. They kept on ownership of land and thus their economic power. Roman citizenship had lost its original meanning from the beginning of the third century and kept on declining in the following years. "Many of the offices of the state, the magistracies, had disappeared or had been so altered as not to be the same offices except in name. The function of the praetor was to organise public shows; once it had been a high judicial authority. The consulship was a high honour-for it was bestowed by the emperor-and was nothing more; yet in AD 399, it was so valued that it was called a 'Divine reward'. The great provincial commands, formely the last honour and heaviest responsibility of those who had served the state in a series of magistracies to which they were elected by the people, became rungs (*) in the ladder of promotion ascended by the professional civil servant employed by the Emperon." The civil servant was hated, "for his function was to extor(**) taxes ... The state was the universal master." (Barrow: 1949, pp. 189-190)

In this depressing situation the Church acquired a functional significance. Bishops instead of magistrates were the persons to whom the oppressed appealed for help and protection. Since the bishops were elected by the town population, they not only had the support of the masses, but also authority stemming from their religious and popular posi-tions. They protected the masses against the magistrates and provincial governors, and even took the matters to the Emperor himself. Also, the Church provided hospitals and schools, orphanages and charity in general, and thus its influence on the poor increased in the way of relief and hope for the future.

(*) steps

(**) obtain by force of injustice; exact illegally

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Christian leaders were often the best educated men of their times. However, they were faced with the challange of the Graceo-Roman civilisation. "In the first place, they were themselves the product of... Greco-Roman civilisation; and to think beyond it and outside it implied a supreme effort of thought and will. Secondly, many of them loved pagan literature with real devotion, they owed to it the very tools with which they were going to criticise, and thus, they were engaged upon the difficult task of an intellectual and emotional reorientation." (Barrow: 1949, p.198)

In this context, St Augustine is an outstanding example of success. He provided the philosophical foundations of the Christian theology, which was to be influential until the sixteenth and even the seventeenth centuries. The other two influential personalities of the period were St Jerome, who gave the Western Church its Latin Bible, and St Ambrose, who determined the ecclesiastical conception of the relations between the spiritual and temporal authorities in the Christian society of the faithful.

b. St Augusine

In AD 410 , Goths invaded Italy, captured and sacked, i.e. , plundered, Rome but then withdrew. The Romans were shocked and they began to seek the reason in the new religion. 'If Rome had been true to the ancient gods, this catastrophe would never have happened', was a common reaction.

St Augustine began to write his book, *On the City of God*, in 413 and finished in 426. Of the twenty-two books of his work, the first ten books are devoted to the refutation of the charge that held Christianity responsible for the disaster. After an analysis of the Roman history, St Augustine reaches to the conclusion that "the Roman gods did not in fact save Rome in other crises and by their very character were incapable of saving her. Nor can the Roman gods offer anything of guarantee to the individual soul for the life to come." (Barrow: 1949, p. 199)

However, St Augustine profoundly admired Roman achievements in history and the Roman virtues. He criticised the Roman character for materialism, cruelty and immortality; and went on to argue that although there is much to admire in Roman history, and in Roman character, non was in any way associated with the ancient religion.

The whole question, according to St Augustine, was related to the nature of pagan thought. Pagan thought regarded man as self-sufficient to himself and attempted to explain the world with, again, the

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world. However, Christianity maintained that unless man invokes a principle outside himself, he can find no solutions to his problems, "Thus, it is no longer a matter of securing the good will of the gods for the successful achievement of what man will; but doing the will of God, for its own sake, often in violation of what men, left to themselves, would will... The Christian believed that Greco-Roman thought attempted to move the world from within and naturally failed; only Christianity offered the principle from outside." (Barrow 1949, p. 202)

Thus, with the advent of Christian thought, the will of the individual is definitely rejected in favour of the will of God, or divine will. This would, as we shall see below, be reflected in a new understanding of sovereignty, as an authority not stemming from the citizens' will, and thus not limited, but delegated by God, and as such absolute. And this new conception of political authority had both Platonic an Stoic elements.

The Stoic idea that a man was a citizen of two cities, the city of his birth and the greater state of the world, was reinterpreted as a double citizenship, one in the city of the world, and the other, in the City of God. The City of God resembles the ideal or the perfect state of Plato. For it was thought of as perfect and Heavenly. Men's nature contained a spirit and a body, the former in the citizen of the City of God, the latter in the citizen of the world.

In this connexion, the body had worldly interests and the spirit other-wordly interests. Whereas the earthly city was founded upon the worldly, appetitive and possessive impulses of the lower human nature, the City of God was based on the hope of heavenly peace and spiritual salvation." The first is the kingdom of Satan, beginning its history from pagan empires of Assyria and Rome. The other is the kingdom of Christ, which embodied itself in the Hebrew nation, and later in the Church, and the Christianised empire. History is the dramatic story of the struggle between these societies and of the ultimate mastery which must fall to the City of God." (Sabine and Thorson: 1973, p. 184)

The quotation given above should be taken in a metaphorical and not in a literal sense. For Augustine did not mean to identify either the City of God or the earthly city with existing human institutions. Thus, the Church as an institution was not the same with the Kingdom of God nor was the temporal or earthly government identical with the Kingdom of Devil. Only that for St Augustine, the Church, in its spiritual capacity, represented the City of God, whereas, the pagan empires represented the kingdom of evil.

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Thus, Augustine regarded the appearance of the Christian Church as a turning point in history in terms of the struggle between the forces of good and those of evil or rebellious spirits. In this context, the Church as the leader of the Christian Commonwealth, acquired a significant place in politics. For it was assumed in Western Europe for many centuries that the 'state' must be a Christian 'state' and serve the community of the faithful, preserve the purity of faith and contribute to human salvation. And the theory of the Holy Roman Empire of the tenth century was built upon St Augustine's concept of the City of God. "The necessity that a true commonwealth must be Christian was put by Augustine in the strongest possible way. A just state must be one in which a belief in the true religion is taught and... one in which it is maintained by law and authority. No state can be just, since the advent of Christianity, unless it is also Christian and a government considered apart from its relatio to the church is devoid of justice. Thus [the purpose of the 'state'] is to realize justice and right. In some fashion or other, the state is bound to be also a church, since the ultimate form of social organization was religious." (Sabine and Thorson: 1973, p. 186)

c. St Ambrose

The two other influential figures of the early Church were, as mentioned, St Jerome and St Ambrose. St Jerome translated the Bible into Latin, and St Ambrose argued for the autonomy of the Church from the ' state', in spiritual matters.

St Ambrose strongly argued in favour of jurisdictional authority of the Church, over all Christians including the Emperor, in spiritual matters. For, according to Ambrose, the Emperor, like every other Christian, was the son of the Church, was within the Church and not above it.

However, he did not it any way question the duty of a Christian to obey civil authorities. But he maintained that it was not only the right but also a duty of a priest to criticise and guide the Emperor on spiritual matters. The Emperor had no authority on either religious matters or on church buildings; yet the rights of the Church were to be protected by spiritual means and not by resistance.

Thus, Augustine, in his *City of God,* had, by maintaining that the 'state' must be at the service of Christian faith, fixed the theology of the Church. Ambrose, in claiming independence from and authority over the Emperor in spiritual matters, introduced a second major element, which was to be utilised in the development of the political theory of the latter Church. However, Mediaeval Europe did not consist of either the Church or the Christian religion alone. The economic system, that is

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feudalism,was an even more significant factor to be taken into account in the discussion of the history of political thought. For in contrast to the to talitarian nature of Christian political thought, feudal principles of government and politics contained democratic elements.

B. Feudal Origins

1. Historical Development

History of the feudal system begins with the Carolingian Monarchy of the sixth century AD. By the end of the eight century AD, Charlemagne was the sole ruler of the Christian West. In 800, on the inititation of the Pope Gregory I, he assumed the title of Emperor.

The basic administrative unit of the Carolingian Monarchy was the county. The emperor appointed, from among the nobles that he trusted, counts to govern particular regions. The counts were delegated public authority, and thus military and judicial powers, by the Emperor. The title was not inheritable, so revocable by the Emperor. There were between 250 to 350 of these officials throughout the empire. Instead of a salary, they received land and part of the local royal revenues.

This system was controlled by a central group of clerical and secular magnates, i.e. men of noble rank from both the Church hierarchy and lay persons. These were, in the name *missi dominici*, imperial agents. From 802 onwards, they became a regular institution of Charlemagne's rule. But now they were increasingly recruited from bishops and abbots with a view to insulating them from local pressures.

In this period, the innovation which laid down the foundations of feudalism was the practice of granting land in return for service. The practice of an oath of personal homage or fealty, i.e. , loyalty to the reigning monarch, was known before. The monarchs also had granted land to nobles in their service. But these two processes were never combined; that is, donation of land and bonds of service were not necessarily connected in any systematic or fundamental way.

"In the course of the later eighth century, 'vassalage' (personal homage) and 'benefice' (grant of land) slowly fused, while in the course of the ninth century 'benefice' in its turn became increasingly assimilated to 'honour' (public office and juristiction). Grants of land by rulers thereby ceased to be gifts, to become conditional tenures held, in exchange for sworn services; and lower administrative positions tended to approximate legally to them. A class of *vassi dominici*, direct vassals of the Emperor, who held their benefices from Charlemagne

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himself, now developed in the countryside, forming a local landowning class... It was this royal *vassi* who provided the nucleus of the Carolingian army." (Anderson: 1974 a, p. 139)

But this system of personal dependency on a superior lord was not limited to the relations that existed between the Emperor and his vassals. Princes who were vassals of the supreme ruler also gave benefice in return for service. At the same time, legal 'immunities' or juridical exemptions from the royal justice, which had been the prerogative of the Church, started to be recognised to secular warriors as well. Thus, these vassals came to be immune from interference to their territories by the local counts. "The eventual result of this convergent evolution was the emergence of the 'fief' as delegated grant of land, vested with juridical and political powers, in exchange for military service." (Anderson: 1974 a, p. 140)

These lands were worked by a depended peasantry. As military campaigns became longer-range and lengthier, and as military functions came to be a prerogative of the nobility, these agricultural lands had to be cultivated by others. These were the disarmed peasant masses. They were not slaves but they were bound to the lands they cultivated, and they owed dues in kind and labour services to their masters. There were also free peasant tenants who owed dues and services but without any servile dependence on their masters. However, this group of peasants was much less common. Hired labour and slaves were also used as agricultural labour force, and made up some 10 to 20 per cent of the rural population.

The fief, or, in other words, the 'manor' of the early Middle Ages, was a large self-sufficient estate composed of two parts: *demesne*, i.e. , land reserved for the exclusive use of the seigneur, and peasent plots. It varied between 2,000 to 4,000 acres in size. The *demesne*, that is the seigneurial reserve, covered about a quarter of the total area. In addition to aristocratic property in land, small allodial holdings, i.e. , land held in absolute ownership without any conditions of service attached to it, owned and tilled by free tenants, also existed; and these made up a significant proportion of rural population.

In the course of time, the benefice ceased to be a grant of land in return for a particular service and became inheritable. This situation weakened the Carolingian State, and following the dynastic civil wars, and the Viking, Magyar and Saracen invasions, the imperial political system disintegrated.

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2. Political Implications

By 850 benefices were virtually everywhere inheritable, by 870 the *missi dominici* or the imperial agents had ceased to exist, and by the 880s *vassi dominici* or the royal vassals had been incorporated into the existing system of local government on the condition that they would retain their titles and some governmental rights on their lands, and finally, by the 890s the counts had in effect become hereditary lords in their regions.

But the feudal system was not in any way complete yet; and, furthermore, it was based on custom and practice, not in any way on a sophisticated theory and ideology of a feudal state. So the Church dominated the ideology, the law and the theory of government in Western Europe until the eleventh and even the twelfth and thirteenth centuries.

This is in spite of the historical experience of the 'barbarian kingdoms'. The King was in origin a war leader and as such was elected, and could be deposed, by the popular assembly of the community. The popular assembly of the people also functioned as a court of law. Thus, there was a 'democratic' historical past, however primitive it might have been.

Moreover, the grant of benefice in return for a service was essentially a 'contract', and as such it involved a mutual relationship. It folllowed that there existed a degree of equality between the parties to the contract. For the independent and autonomous will of both parties were required for the establishment of a contractual relation. Also, 'the contract' in question could be terminated when one of the parties was not satisfied with the outcome. Thus, the feudal relations that prevailed among the members of the nobility was based on a 'democratic element' in the 'equality' of the parties, and in the freedom of will to establish or terminate a contract.

Historical past was, under the influence of Christianity and the Catholic Church, disregarded, if not forgotten; and, the 'democratic element' inherent in the relations of vassalage, on the other hand, applied only to the members of the nobility. Rural population did not enjoy similar privileges; and the urban community had not yet emerged as a new and autonomous third factor. It was only the beginnings and thus the Church, as the only organised institution of the era, dominated the scene in the early Middle Ages. In any case, the church had the advantage of its religious influence.

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II. FORMATIVE YEARS: THE IDEOLOGICAL ASCENT OF THE PAPAL THEOCRATIC THESIS OF GOVERNMENT

A. Historical Development

1. General

Ullmann suggests that 'the history of political ideas in the Middle Ages is to a very great extent a history of the conflicts between 'ascending' and 'descending' theories of government. Whereas an ascending thesis located original power in the people, and so was a 'popular' theory of government, the descending thesis looked for a supreme being as a source of original political power, namely God, and thus it was a 'theocratic' theory of government.

As the descending theory envisaged government by ecclesiastics, that is by clergymen, it was essentially e 'hierocratic' understanding of government. This hierocratic theory claimed supreme power for the office of the Pope. This supreme authority was delegated by God and organised, in its turn, on a hierarchical basis. Thus, each office in the hierarchy received its authority from the office at the top of the power structure. Hence the hierocratic theory was based on a religious conception of government and politics, and was advocated by the Christian Church. The supreme ruler, that is the Pope, was responsible to God alone, who had appointed him and had delegated him power.

The ascending theory of government, on the other hand, historically, existed in the customs and traditions of the Germanic tribes. original power resided in the people and this gave them the right to elect a war leader. He had no power except that which the electing assembly had given him. As his power was limited and he was accountable to the assembly, people had a *right* of resistance to the ruler, so the king could be deposed by an assembly of the people. The assembly was also a court of law. So this was a popular or a 'democratic' conception of government and politics. But as "a result of the overpowering influence of Christianity, the Germanic peoples adopted the theory inherent in Christian doctrine... and the ascending theme was driven underground, not to emerge again as a theoretical proposition until the late thirteenth century." (Ullmann: 1970, p. 13)

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The influence of the descending thesis o government is to a great extent related to the influence of the clerics or the clergymen. Until the eleventh century, the clergy were the only educated persons; also, it was the clergy who furnished the personnel of the courts and other offices of the kings and the emperors. Moreover, it must have been appealing to the kings to claim unlimited power on the basis of a divine delegation. However, there was a paradox in this claim. For whereas the descending thesis of government tended to increase the power of the rulers vis-a-vis the popular masses, it at the same time put them on a disadvantageous position in relation on the popes. This is because, the popes, as the vice-gerents of god, claimed superior power, an authority to lay down the law and even judge the temporal rulers.

Between the fifth and eleventh century there is almost no thinker who wrote on politics. Political ideas were created, shaped and applied by the popes, the kings and the emperors. Thus, history of political thought in this period is closely related to the actual history of the times. The governments expressed their political views through the vehicle of law. "Watever we are inclined to call 'political' was for the greater part of the Middle Ages expessed within the terms of the law. It was the law issued by various governments which attempted to translate the aim of society into reality... Medieval law was, one might well say, applied political doctrine, and in fact for large stretches of the medieval period the law was the only means which allows the historian to recognize pure political doctrine, because it was enshrined in, and applied by, the law" (Ullmann: 1970, p.15)

This is why the original location of political power acquired crucial importance. For it determined whether a government was entitled to issue law or not. There was no distinction, in the earlier part of the Middle Ages, between religious, moral or political norms. Law covered every aspect of life. There was a crucial distinction, however, between the clergy, that is members of the Church, and the laity or secular persons, particularly rulers. The nature of the relations between the clergy, represented by the priests, and the laity, represented by the kings, was a fundamental problem in the Middle Ages. The Latin term for the priesthood was *sacerdotium* and for kingship, it was the *regnum*.

The Mediaeval Age, until the thirteenth century, was not familiar with the concept of the state, "understood as an independent, self-sufficient, autonomous body of citizens which lived... on its own substance and on its own laws... Kingdoms and empires counted as parts of a larger unit, of the whole body of Christians, and did not count as individual, self-sufficient, autonomous, sovereign bodies. [T] he very

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term 'political' did not enter the vocabulary of governments and writers before the thirteenth century... The term which was used was... 'government' *(gubernatio or gubernaculum* or *gubernator)* and this was linked with the roman term of laying down the law-*jus dicere* (jurisdiction). " (Ullmann: 1970, p. 17)

Thus the fundamental question was, 'where was original power located? ', and consequently, 'who had the right to lay down the law? 'This should not be taken to mean, as is frequently done, that there was a conflict between the Church and the State as two autonomous and independent bodies. The conflict was between the *sacerdotium* and the *regnum*, and furthermore, it was fought 'within one and the same body', the society of Christians or the Christian Commonwealth. And political thought dealt with the ultimate authority of government, to lay down law and thus establish the path to be followed by society, or, in other words, with sovereignty.

2. The Foundations of the Hierocratic Theory

a. The Papal Doctrine

Following the adoption of Christianity by the Roman Empire, the Church of Rome, that is the Papacy, became a governmental institution. The Papacy, in the process of elaborating the Christian doctrine, began to issue legal maxims and principles. Also, the Bible, above all the old Testament, had contained legal material, and, the Bible was taken as the model in deriving basic governmental principles.

The Latin translation of the Hebrew and Greek Bible, the Vulgate, by St Jerome was of crucial importance. For his translation contained terms and notions of the Roman jurists, and thus, on matters concerning government, it was presented in a juristic complexion and in the language of Roman Law.

In this context, Pope Leo I (440-561) claimed that the Pope had monarchic functions, in that, he 'was the juristic successor to the powers and functions given by Christ to St Peter'. The succession meant that the powers and functions of St Peter continued in the office of the Pope.

In this connexion, a distinction was made between the person and the office of St Peter. St Peter had received the 'plenary', that is full, powers from Christ 'to bind and to loose', i.e., to put down the law an act as a judge of human conduct. It was St Peter's personal qualities which had lead Christ to delegate him authority 'to build', that is to govern, the Church. The Pope did not claim to possess such personal traits.

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His formula was that however 'unworthy' the Pope might be, he was still the 'heir of the office of St Peter' and thus inherited 'the powers of the office', but not of the person.

This thesis was supported by reference to the Roman Law, according to which the powers 'were entirely objective and independent of the person to whom they were originally given, and they were held capable of being transmitted by inheritance.' The inheritance had two crucial consequences: first, the powers of the Pope was exactly the same as those of St Peter, and secondly, the Pope succeeded St Peter directly and without any intermediaries.

The first consequence meant that as long as the Pope legitimately held his office, his decrees, laws and orders or his governmental acts were official and binding. For they emaneted not from his person but from his office.

The second consequence concerned the nature of the powers that the Pope had. Each Pope was considered a monarch and in this function popes were thought of as immediate successors of St Peter. "This side of papal position is technically called the *potestas jurisdictionis*, because it was with laying down of law, with declaring what was and what was not to be done, that the papal office concerned itself... because solely the pope, as heir and continuator of Petrine (*) powers, possessed what Leo I called the plenitude of power *(plenitudo potestatis)* and because this plenitude of power was solely concerned with *gubernatio* (government) and therefore the law, the pope occupied not only the *principatus* (**) of the Church (another term borrowed from Roman constitution), but was also in no need of any specific legal order. Any layman, provided he was baptised, could (and can) become pope. The essential point was that the pope was validly elected: once validly elected he was the heir of St Peter." (Ullmann: 1970, p. 27)

Thus, on the basis of a juristic interpretation of office, the Pope claimed to have absolute authority. He stood outside and above the Church. The Church was, in public and governmental respects, entirely dependent on its 'builder', that is its governor. Powers of the offices of the Church were 'derived' from the Pope. His judgements and decisions were final, a mechanism of further review or appeals did not exist.

(*) Pertaining to St Peter

(**) Principal, i.e. highest in rank authority and importance

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Finally, since the Church did not give any powers to the Pope, it had no legitimate means of depriving him of his powers. The Pope was unaccountable, he was only responsible to God. Those that the Pope governed were his inferiors or *sub-diti*, i.e., subjects of the monarch.

For in the Old Testament, the position of the ruler, usally a king, was frequently stated in such language as 'set *over* the people' and 'exercising his rule *over* the *subjects* '. The members of the Church, in this context, had no power unless it was explicitly conferred or implicitly approved by the Pope. Furthermore, 'they had no right to office, they possessed their offices as a matter of grace, a divine favour'.

The Pauline (*) doctrine which said, 'What I am, I am by the grace of God', was also influential in this respect. It promoted the idea that the Christian had had no right to anything. "What he was" was the outflow of "God's good will which showed itself as a divine favour, as a divine grace, as a divine good deed" or action. Thus the position of a Christian was nothing else but a concession made by divinity. (Ullmann: 1970, p. 29)

b. Pseudo-Denys

The papal doctrine outlined above was supplemented by the influential tracts written in the second half of the fifth century. There is not much information on the writer. He is usually referred as the Denys the Aeropagite or Pseudo-Denys. He had persuaded everyone in the Middle Ages that he was a pupil of St Paul, but probably he was a Syrian who was successful in hiding his real personality.

Pseudo-Denys wrote on the origin of power in the Christian world. "He maintained that there was but one supreme being which possessed the sum-total of all power, and that was God, called by him the principle of unity. From this supreme being all power was derived and thus order in this world was guaranteed". (Ullmann: 1970, p. 31)

Pseudo-Denys was also the person who invented the idea and used the term of hierarchy *(hierarchia)*. His starting point was essentially Pauline and Neo-Platonist. According to St Paul, 'There was no power but of God' and Neo-Platonists had emphasised the unity of the One, the Spirit and the Soul. The One was supreme, Spirit came next, followed by the Soul. The One was the God and the Good. The Spirit was the image of the One, and the Soul was the offspring of the Divine Intellect. Its image, in turn, was reflected as the Nature, in the visible world of senses.

(*) Of or by St Paul

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According to Pseudo-Denys, order consisted of differences in the grades and ranks of officers. In this context, each officer was dependant on his immediate superior officer. The term hierarchy expressed the differences in ranks and functions, and thus the basis of order. "God had erected in the heavens diferent orders and they found their copy on earth. The ecclesiastical hierarchy was... a continuation of the celestial hierarchy. All power, he said, flowed downwards or descended from that one supreme being to the different grades, so that there was a kind of a pyramid in which the apex embodied the sum-total of power. In the proper distribution of power downwards by the hierarchs themselves, the author found the guarantes for harmony and...order...What he was furthermore insistent upon was the principle of obedience of the lower ranking officer to his superior officer. The idea of subordination-clearly foreshadowed in the Bible-received with Pseudo-Denys its pronouncedly descending or theocratic complexion". (Ullmann: 1970, pp. 31-32)

The importance of Pseudo-Denys was related to his clear and to some extent a more explicit expression of his understanding in connexion to the origin of power in a Christian society. The theocratic theory of government was already widely accepted; Pseudo-Denys gave it a semi-philosophical and a semi-theological basis.His views exerted a very great influence on both the ecclesiastical and royal governments throughout the Middle Ages.

3. Clash With the Roman Imperial Political Ideals

a. The Clash

It was inevitable that tis hierocratic understanding of government would clash with the imperial conception that the Roman Emperor, in the East, had. For there was no Emperor in the West but there was a Pope who claimed governmental powers. East Roman Empire had an Emperor, Justinian (527-65) and he wanted to re-institute the Ancient Roman Empire; he also claimed to have supreme power over the Empire.

Following the christianisation of the Roman Empire, the emperors had claimed authority on religious matters as well. The Emperor considered himself a universal monarch and a vicar, that is a deputy or vicegerent of God. Thus the motto characterising imperial ideology had become, 'One God, one Empire, one Church'. This ideology became particularly influential after the transfer of capital, by Constantine, to Constantinople, in the fourth century.

Justinian drew on the historical development, and considered himself, as the Roman Caeser, the supreme and sovereign ruler of the empire, who directed and ruled the Empire in accordance with Christian principles. He wanted to see that the clerical offfices of the Empire consisted of suitable officers. He did not recognise the juristictional primacy of the Pope. He thus claimed juristiction on matters concerning the Christian faith as well, and legislated on religious matters. Furthermore, the Council of Constantinople of 536 supported the imperial standing, "when they declared that 'nothing must be done in the Church against the command and will of the emperor.' " (Ullmann : 1970, p. 48)

Justinian went further, and applied his scheme. Under this situation the Papacy found itself in a very difficult dilemma. On the one hand, as Romans and Popes, they were the subjects of the Emperor; on the other hand, their office had the function and the power for 'building', i.e., governing the Church. There was no grounds for compromise, either the Pope was sovereign or the Emperor.

b. The Alternative

When Gregory I (590-603) became the Pope, he reached to the conclusion that it would be dangerous and foolishly bold to challange the Emperor. For it was unconstitutional and also had no chance of success. But if the Popes were to defend and apply their own governmental theory in regions where the Emperor and his government did not have any jurisdiction, then there would be no problem.

Thus, Gregory turned West and began by sending missions to Gaul and England. In Western Europe, moreover, the Pope found a receptive environment. For the rulers, although of Germanic origin, were Christians and they had, without any papal influence, already developed an essentially theocratic conception of government in the principle, 'King by the grace of God.' This royal-theocratic understanding of government coincided well with the papal-theocratic thesis of sovereignty.

B. The Fusion of Papal and Frankish Ideas

1. The King by the Grace of God

In the fifth century St Augustine had said that, 'God distributed the laws to mankind through the medium of the kings.' But before that there was the Bible which said that, Christ addressed the Roman officer who gave him up to be crucified: 'You would have no *power* at all against me, if it had not been *given* to you from *above*.' This text from

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the Bible was linked with the Pauline statements: 'There is no power but of God' and 'What I am, I am by the grace of God.' As Christian rulers, the kings adopted these principles as the basis of their royal-theocratic understanding of government; and, this conception of government had developed without any 'observable concrete papal influence.'

Thus, the Lombard kings in Northern Italy, in complete contrast to their original understanding of an ascending or popular form of government, began from the late sixth century onwards to call themselves 'King by the Grace of God.' The Anglo-Saxon kings had become familiar with the new thesis in the seventh century. "From the eight century onwards this designation became standard with all kings of Western and Southern Europe". (Ullmann: 1970, p. 54)

In this context, the King considered that his kingship rested upon the good will, the favour, the 'grace' conferred upon him as a gift by God. As the people had no place in this new approach, as the King's power was not delegated to him by them but given by God, the kings pushed them into the background. People did not possess any legal means to take this power back from the King. For just as the King's rulership was not based on any right but on the 'grace of God', the people likewise did not possess any 'political rights'. All "power came from God through the king who then distributed parts of it to his subjects. This was the essence of all - important principle of concession, according to which the subjects received offices, function, rights etc. , as a matter of royal concession," i.e. grant, as an outflow of royal favour. "What mattered was the'will of the prince', precisely because he was the recipient of divine favours. To all intents and purposes the king was God's vicegerent on earth. The people itself was merely the recipient of royal favours: it was subjected to the will of the king, hence they were subjects in the literal meaning of the term." (Ullmann: 1970, p. 55)

The people as subjects of the King were, in this theory, entrusted or committed by God to the King's government. They were treated as being in the Munt of the King, that is under the protection of the King but in a way which resembled the protection given by a father to a child or by a husband over a wife. The protector, in this case the King, knew best the interests of the people entrusted to him, and had juristiction over them. The people could, in this context, express wishes, aspirations and desires but they were not binding on the King.

Thus, the King, like the Pope, stood outside and above the people or his entrusted subjects. The King, through the vehicle of the law, provid-

ed for the protection of his subjects. The law was not made by the people, it was given to them, as subjects, by the King. Hence, "law from the eight century onwards became overwhelmingly royal law, and... ousted the hitherto prevailing folk-law, mainly customary law made by the folk (the people). Similary, until the ascending thesis gave way to its counterpart, there also prevailed in the kingdom the peace guaranteed by the people itself-the so-called *Volksfriede*-which, on the application of descending form of government gave way to peace guaranteed by the king (so-called *Königsfriede)*. For the supreme duty which the divinity was said to have laid upon the king was the preservation of peace. In giving protection and in preserving peace, mainly through the law, the king acted entirely on his own insight, knowledge, and understanding, he was alone responsible to God for keeping the peace in his kingdom." (Ullmann: 1970. pp. 57-58)

In spite of the similarities between the papal-hierocratic and royal-theocratic theses of government, there was one major difference. In the seventh and eight centuries, the people committed to the King's government included clergy, particularly the episcopacy, i.e. , government of the Church in which bishops are the highest in rank. Thus, the kings claimed and exercised power over the members of the churches in their royal lands.

2. Fusion of Papal an Frankish Understandings of Government

a. Donation of Constantine

The fusion of Franskish and Papal understandings of governmet was ideologically based on a forged document i.e. , a counterfeit or a skillful and dishonest 'creation', known by the name of Donation of Constantine. The document was forged in an attempt to 'explain' the following question : 'How did Constantinople actually become the capital of the Empire, thereby degrading Rome? '

The author of the Donation explicitly maintained that the transfer of imperial government from Rome to Constantinople took place with the agreement and approval of the Pope, Silvester. According to the Donation, Constantine wished to give the 'Roman Church imperial power and dignity of glory, vigour and honour'. So he handed over to the Pope all his imperial badges of office, symbols of authority and sovereignty, flags and banners etc. They all had thus become Pope's property.

Furthermore, to express his humbleness Constantine had even led the papal horse for a short distance. He had furthermore give. he Pope the imperial palace as a residence, the whole city of Rome, all provinces of Italy and the Occident or the West.

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Finally, "Constantine wished to put the imperial crown on the pope's head, but-most significantly-the pope refused to wear the imperial diadem.(*) Constantine nevertheless decreed that the pope might use the imperial insignia.(**) In this document the pope was called the vicar," i.e., representative on earth of Christ. According to the author, the document conferred such constitutional rights as the right to appoint consuls, and members to the order of nobility founded by Constantine under the name of patricians. The forger of Donation went on to argue that, although the Pope refused to wear the imperial crown it was his property and Constantine had worn it with the willing approval of the Pope. As "a result of the pope's refusal to wear the imperial crown-the highest symbol of leadership-it migrated to Constantinople which was thereby raised to the status of capital, because the imperial government and rulership was there." (Ullmann: 1970, pp. 60-61)

The thesis that in the end emerged, maintained that Constantine and his successors wore the imperial crown on the permission and consent of the Pope, and, the Pope, if he so wished, could also re-transfer it to Rome. Thus, Donation of Constantine, forged as it might be, was used by the popes to 'legitimise' their claims for superior power.

b. Towards the Holy Roman Empire

Pope Stephan II went to the Frankish Kingdom in 753 and in 754 with the object of emancipating the Papacy from the framework of the imperial constitution and thus to escape the authority of the imperial government. He asked for Pippin's help against 'the alleged threat of the Lombards to Rome'; and he used the Donation of Constantine to substantiate his argument. As a result, he managed to establish a Papal State, "an entity that was carved out of the empire and governed by the-pope alone.This remained in existence until 1870 and is now reduced to the Vatican City". (Ullmann: 1970, p. 59) Pippin and his son Charlemagne both gave promises of security for the Papal State and recognised it in public law. However, as should be expected, the Papal State was not recognised by Byzantium. The Pope, in order to make sure that the agreement would be implemented, appointed Pippin as a Patrician of Romans.The appointment was significant, for the office imposed on Pippin a duty to protect the Papal State. Thus, Pippin, in addition to being the King of Franks, assumed a duty of protection. Pippin, in this new duty of 'special protector of the Roman Church', was to be active 'when instructed by the Pope to act.'

(*) The crown.
(**) Symbols of office

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Pippin conquered the territory in question from the Lombards and handed it over to the Papacy, that is he 'restored' the future Papal State to the 'rightful owner'. When the Pope met Pippin in 754, he also annointed him, i.e., poured sacred oil upon as a sacred rite. He 'did not fail to stress that he acted as a mediator between God and the king... The king, the Pope said, had been distinguished by this act of anointing, and he became thereby consecrated (*) to the service of papacy." (Ullmann: 1070, p. 65)

Thus, the Pope Stephan II gained a long distance in the way of securing success for his hierocratic understanding of government. On the basis of a false document, the Donation of Constantine, he created support for his claims of constitutional authority over Italy and the Western provinces of the ancient Roman Empire. He thus also escaped the constitutional authority of Byzantium.

The coronation of Pippin's son, Charlemagne, on December 800, as Emperor was a second major step in the establishment of a new Roman Empire. Rome became, once again, the centre of Roman Empire; and from the papal viewpoint, the Eastern Emperor 'had sunk to the level of a mere Greek King or Emperor'. For he did not follow the Roman Church as a Roman Emperor should. However, when Charlemagne was given the title of the 'Emperor of Romans', his intention 'was to be in the West what the Byzantine Emperor was in the East. He did not consider himself as the sole and legitimate Emperor of Romans, and hence of the world, as the Papacy assumed. He thought in terms of the 'Kingdom of Europe', kingdom of 'a Latin Christendom', 'Rectorship (chiefdom) of Europe'. "Europe and Church were identical in his scheme: they constituted the corporate union of all Latin Christians. It was of this that Alcunin, his main adviser in these matters, spoke declaring it to be the practical manifestation of St Augustine's City of God." (Ullmann:1970, p. 68)

Charlemagne saw himself as a theocratic monarch on earth. He considered himself a vicegerent of God and a vicar of Christ, and thus claimed supreme power in Europe. In contrast, Charlemagne's successors saw the title of the 'Emperor of Romans' identical with the ancient Roman Emperorship: supreme governorship of the world. Thus, they took themselves as 'the sole and legitimate emperors of Romans.'

(*) Set apart for service to God, but in this case through the medium of the Pope.

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c. An Early-feudal Interruption

The Empire of Charlemagne was partitioned between his heirs in 843 into three parts as West Francia (now France), East Francia (now Germany) and the Middle Kingdom, which was composed of the lands of Carolingian Empire left outside the former two and including parts of Italy. From the middle of the ninth century, external attacks by Saracens in the South, Vikings in the North and Hungarians in the East, created new pressures. Henry of the East Frankish Kingdom was successful in defeating and stopping the Hungarians in 933, which was to be followed twenty-two years later, by his son Otto, to its final conclusion of eliminating the Magyar danger completely. This "victory established his title to the imperial dignity. In 961, Otto led an army to Italy and was crowned king of Lombardy: in the next year he was crowned emperor by Pope John XII." (Keen: 1969, p. 42)

Otto I was called to Italy by the Pope to drive out the Lombard armies. The course of events lead to the re-birth of the Roman Empire in Europe. The significant novel element in this respect was 'the proprietary church system' of Germanic origin. According to this system, the owner of land was entitled to build a church on it. The church became the property of the landower and he had the right to appoint the religious personnel of the church.

In the course of time, this system, in the appointment of bishops and archbishops, was to be extended throughout the whole of Western Europe to cover all of the churches. Thus the lay lords could, in this way, create a group of clergymen faithful and loyal to themselves. The control of the lay lord over the appointments was firm and thus instrumental in bringing about political control as well. This control was even extended to the relations between Otto I and the Papacy. "The Roman Church became approximated to a German proprietary Church. Accordingly, the elected pope had to take an oath to the imperial legates (*) who thereby were placed in a position of judging the suitability of the papal candidate for his office. This was the monarchic principle at work, because the monarch alone was entitled to say whether or not a candidate for office was suitable. That had also been the reason for the wide extension in Germany of the proprietary church system, which had by now come to embrace all important episcopal and metropolitan sees. (**) The arrangement was embodied in the famous document called Ottanium of 6 December 963. It formed the constitutional basis for the strict monarchic control of the popes by the Germans down to 1059. In this

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(*) Representatives

(*) Diocese (s), i.e., area under the jurisdiction of an arch-bishop or of a bishop

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period, there were twenty-five popes, of whom no less than twelve were directly appointed by the emperor and five dismissed." (Ullmann: 1970, p. 93)

The system was 'feudal' in origin, and by the eleventh century, it had developed into a fully feudal practice. The process was called the 'investiture', for the cleric received a 'benefice' from the lord in return for the provision of religious 'service'. And in order to be entitled to the benefice, the candidate for the office had to pledge personal 'homage' or, in other words, an oath of loyaly to the lord in question.

German Kings argued, on the basis of their 'feudal' understanding, that they had the right to Emperorship and that it was the duty of the popes to confer them the title. This was because they exercised regal power over Italy. However, their arguments lacked both a historical basis and a sound ideological support. For since the days of Charlemagne, it had been the popes that crowned the emperors and there was the Donation of Constantine, a 'legal' document that supported the papal thesis. Finally, since the Donation of Constantine, there had emerged new forged 'documents'.

Among the forged 'documents' mentioned Pseudo-Isidore was of crucial importance. It was presented as a copy of the genuine Isidore of Seville, that is, the collection of papal and synodal (i.e. pertaining to the ecclesiastical councils) documents from post-apostolic times onwards. But it was a false document; and furthermore, the full extent of the forgery was not established until the nineteenth century. The 'decrees' specifically emphasised the superior power of the Pope, i.e. , plenitude of power, the strict hierarchical ordering of society and the inferior status of imperial and royal power.

In this context, two theses were put forward, 'immunity of the clerics from secular control' and that 'all major causes *(causo maiores)* were to be tried by the Pope'. The latter thesis was instrumental in establishing the control of Papacy over the bishops and other members of the clergy. Finally, another recurrent thesis was that 'no council was empowered to issue binding decisions unless summoned and approved by the Pope'.

So the papal thesis of hierocratic government still had a chance of practical success. This came as a result of, and following, the Investiture Controversy of the eleventh century.Thus, When Pope Innocent III

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summoned the fourth Lateran (*) Council in 1215, it represented the whole Christendom. Every province of the Western Church was represented, "and every religious order: as also the Latin patriarchs of Constantinople, Jerusalem, and Antioch, and the churches of Armenia and Bulgaria. The western emperor, the emperor of Constantinople, and the kings of France, England, Jerusalem, Hungary and Poland, all had proctors, (**) to speak for them. Something like a representative parliament of Christendom was brought together. In their presence the Pope presided, as the acknowledged director of the affairs, spiritual and temporal, of Christian society. He defined doctrine... He gave judgement between the rival candidates for the empire." (Keen: 1969, pp. 143-144)

C. The Clash of Royal Theocratic and Papal Theocratic (Hierocratic) Understandings of Government

1. The Hierocratic Thesis: A Recapitulation

As we have seen in the first section of this chapter, the Pope claimed to possess supreme power. He had, as a legal successor of St Peter, who had received his power to 'build', i.e. , govern the Church from Chirst, a supreme authority in the field of legislation. Thus, the power the office of the Pope enjoyed was given from above, that is delegated by God, and so it was absolute. The Pope was not accountable to anyone but responsible to God alone. He was the sole authority in laying down the law.

To express the superior position of the Pope, and in this context, of the clergy, the metaphor of 'soul' and the 'body' was utilised, to show the inferiority of the laity and the superiority of the clergy. Just as the soul ruled the body, the clergy were to rule the laity. For the clergy were responsible for the exposition of the faith. The 'soul' in this allegory referred to the idea of right and law, and hence justice.

This Christian Society which the Pope ruled as a universal monarch with absolute power was hierarchical in nature. Offices were hierarchically graded, and as long as everyone remained within the functions assigned to him by God, through the mediatory role of the Pope, this Christian Commonwealth was to enjoy harmony and order. Bishops had their special functions so had the kings and other members of the community.

(*) The cathedral church of Rome and highest in rank of all churches in the Catholic Church.

(**) Representatives

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The King was, furthermore, viewed as a subject of the Pope and it was his duty to obey the papal commands. But there was one significant exception, the popes were not concerned with feudal matters except when 'sin' was involved. This was a technical expression to denote that the Pope had overriding jurisdiction, and it was the Pope who decided when sin was involved.

In the twelfth century, introduction of the concept of the 'Pope as the vicar of Christ', that is his deputy or vicegerent, was to further underline the superior position of the Pope, 'standing outside and above the community.' Tha maxim, 'The Pope cannot be judged by anyone' was the mediaeval manner of expressing his sovereignty. Furthermore, the Pope had full freedom to change the law, he was not bound by the law issued by the former Popes.

However, the popes lacked the meterial means necessary for the application of their theses of government. For under the feudal system, the clergy were given benefices and appointed to their offices on the basis of personal homage and fealty, a feudal practice called the investiture. The dependency on the part of the clergymen to the lords which this investiture created was heavily criticised. But in any case, the popes lacked any control on subordinate officers, and it was a must to control the episcopacy, i.e., the bishops, in order to successfully implement the hierocratic thesis of government.

In this context the Pope put forth the thesis that the Bishop received his power to govern the diocese, i.e. , the area under his juristiction, from the Pope. So a bishop could be suspended or deposed by the Pope, and this referred to his powers to govern. He still remained a bishop, but without governmental powers.

Another thesis put forth by the popes related to their claim to exercise control over the temporal rulers, that is the Emperor and the kings. Within this context, the Emperor, in comparison to the kings, was in a rather disadvantageous position. For the imperial crown was an 'apostolic favour', i.e., it was granted by the Pope in his capacity as successor or St Peter. By the twelfth century the popes were to go further and claim to have transferred the Crown from the Greeks to the Germans.

However, the Papacy never established at the doctrinal level such a close control over the kings. He only crowned them, and this did not involve either the favour or the transfer of the title to their offices. But the royal view which explained kingdom 'by the grace of God' nonetheless put them at a disadvatageous position in connexion to the Pope who

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claimed to be the vicar of Christ. For according to the old Gelasian view, 'the popes had to render an account of how the kings discharged their trust'. Therefore, if in the papal view the kings had misused their trust, they could either be excommunicated, suspended, or removed from office. Thus the German King Henry was first suspended in 1076, and four years later removed from office. Excommunication was a lighter sanction and a consequence of disobedience to the Roman Church. It excluded a person from the Christian Commonwealth and this made government extremely difficult. For nobody except the close family of the excommunicated person was allowed to have any contact or relations with the person in question.

The Pope also claimed, by virtue of his sovereign function in the Christian Commonwealth, the right "to declare treaties between kings null and void; to annul secular laws...; to decree ecclessiastical censures (*) against those who exected unjust tolls or fees on the highways or rivers, to order the kings to despatch armed troops in support of another king or against pagans or heretics; to sanction territories obtained by military conquest as legitimate possessions; to compel belligerent parties to stop hostilities and to enter into peace negotiations; to force by interdict (**) or excommunication the population of a kingdom not to obey a king; and so on." (Ullmann: 1970, pp. 112-113)

2. The Investiture Controversy: Ascent of the Hierocratic Thesis of Government

a. General : Doctrine of Two Swords

The Investiture Controversy started towards the end of eleventh century during the pontificate of Gregory VII (1073-1085). The issue at stake was not limited only to the question of investiture of bishops and ecclesiastics by the lay lord or the King. It involved the respective authorities of the Pope and the Emperor, of the Pope and the kings and of the religious and temporal leaders etc.

For the first time since its ascent, the basic concepts of the hierocratic thesis of government was challanged by the royal and imperial side: the source of authority, its essence, its scope and limitations, the concept of law, of right, of the authority to issue law and its scope etc. However, as the feudal system worked on the basis of custom and tradition, in contrast to the papal thesis of government, it was not supported

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(*) Sentence ; give a sanction.
(**) Decree forbidding something where the sanction involved the loss o legal rights.

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by an ideology as strong as that of the Papacy and a legal system as sophisticated as the Roman jurisprudence. So when the royal side resorted to feudal custom to defend their case, the Pope could reply, 'The Lord did not say "I am custom", but "the Lord said I am the Truth." Thus against the 'truth' which the Pope alone knew, 'facts and historical experience' had no ideological meaning.

The weakness of the royal theocratic position was also related to the status to which the kings were elevated under their religious understanding of government. They, like the popes, stood outside and above the community of the people. But this situation created two negative consequences: first, as estrangement took place between the King and the people, kings were not any longer in a position to count on the support of their subjects; secondly, as the kings had claimed that they were under God's law and that their juridical decrees and decisions did not violate the divine law, the kings, at the same time, had given the Papacy a grounds for intervention. For the clergy in general, and the Pope in particular, were vocationally considered to be the 'expositors of God's will and the divine law'.

In spite of these weaknesses, the royal side attempted to defend their position. The target of the royal attacks was the concept of the papal plenitude of power, that is the claim of the popes for supreme and absolute power. However the discussion was not carried in terms of a distinction between a Church and a State. As the concept of a State, an autonomous and self-sufficient institution organised on a territorial basis, was not yet available; and, as the royal side thought in terms of the 'temporal' power of he rulers as against the 'spiritual' power of the clergy, both of which in the final analysis made up the same society, the Christian Commonwealth, the controversy was not defined as Church v.s. the State, but was carried out on the level of kingship *(regnum)* vs priesthood *(sacerdotium)*.

The royal side utilised the allegory of the two swords. The doctrine was first put forth at the end of fifth century by Pope Gelasius I. It involved a dual organisation of power in Christian society, one for spiritual interest and eternal salvation, and the other for temporal or secular interest of peace, order and justice. This doctrine of dual power, which was also called the doctrine of two swords, originally had maintained that on matters concerning the faith and thus doctrine, the Emperor must be subject to the will of clergy; otherwise, the two authorities were conceived of as independent of eachother, but in mutual harmony. In the course of time, this doctrine was modified and strengthened in favour of the Papacy. Thus, the doctrine by the eleventh century had

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changed and come to maintain that the Pope possesed both swords, i.e. powers in the spiritual and the temporal or material spheres, the spiritual power of the Pope signified his priestly coercive power and the temporal his regal coercive power. In this context, the temporal authority, particularly the Emperor was seen as an auxiliary arm of the Papacy against evil.

The royal and imperial side, in this context, advanced the following argument: 'that Christ had established a duality of governing authority over the Christian Body-social in the persons of the Pope and the King'. The temporal power of the kings was claimed to be autonomous and thus the King was also independent, in temporal matters, from the Pope. But the argument did not solve the problem, and two questions remained: first, 'What were the criteria by which the " temporal" would be separated from the"spiritual"?; and secondly, 'Who was to draw the line of demarcation?'

Thus, the argument on the basis of existence of a dual power, where the temporal was autonomous of the spiritual, did not bring victory to the royal and imperial side, but still it aroused interest. It also suggested the conception of a 'dual vicariate of Christ'. Hence, Emperor Frederick I in the twelfth century maintained that, "Christ was both king and priest. His royal function was vicariously in the hands of the emperor. His priestly function in those of the pope. Moreover, because the pope was only the priestly vicar of Christ, he had no power to issue laws... ' the holy laws of the emperors and the good custom of our predecessors' were the only basis of governing the empire: the pope had no right to interfere in the govenment of the kings or emperors." (Ullmann: 1970, p. 140)

b. The Roman Law Argument

In addition to the concept of dual authority, the Roman Law provided another frame of reference in the arguments against the law-creating function of the popes. Peter Crassus of Ravenna was the first writer to employ the Roman Law as an ideolcgical weapon against the Papacy. According to Crassus, Pope Gregory VII in the eleventh century had set aside the 'sacred laws of the Emperors' and attributed himself the function of a lawgiver. He was not justified in this act which was entirely alien to the conception of papacy and was a seizure of power. Thus, he had disregarded divine justice.

In this connexion, Crassus went on to make a distinction between the clergy and the laymen. Clergy, he accepted, might be ruled by the Pope as their lawgiver. The Laymen, on the other hand, could be gov-

erned only by the imperial laws. Thus, there was 'a doubleset of laws', one applied to the clerics, the other to the laity.

The distinction that Crassus made was not based on the duality of 'temporal' and 'spiritual' spheres. He instead advocated that the laymen should be primarily governed by civil laws, and canon or ecclesiastical law should apply exclusively to the clerics; but as civil laws were 'given by God through the mouthpiece of the emperor', the clergy also had to obey them.

c. The Feudal Argument

The feudal postion of the bishops and clerics lead some writers to argue in favour of the monarchic sovereignty of the King. Their starting point was the material possessions, such as the estates of the bishops. These writers maintained that the kings had regalian rights over the possessions of the bishops. For these estates were granted to the bishops under the terms of vassalage, i.e., they were benefices or fiefs conferred by the King. The estate belonged to the King as a consequence of his function of kingship and thus could not be separated from the kingship; these regalian rights were designated as 'inelienable', that is incapable of being alienated, transferred or surrendered. Thus, the regalian rights belonged solely to the King and a cleric invested with such possessions had merely a usefruct of the goods in question, i.e., the right of temporary possession and use of property belonging to another person. The aim of the writers involved was to separate ecclesiastical office from ecclesiastical possessions.

These writers admitted that the King had no right to confer ecclesiastical offices, but the possessions of the clerics in connexion to their holdings were temporary in nature. At the beginning of twelfth century, the regalian rights were defined as follows: cities; duchies or in other words territories ruled by dukes; markgravates, that is, marches or frontier or border lands; countyship or, in other words, territories ruled by counts; mints; tolls; customs; markets; hundredcourts, that is, the smallest territorial division that had a court, a shire; soldiery; and fortifications. "Although the cleric was invested with these rights, the king remained the owner. The sovereignty of the king rested therefore on these material possessions." (Ullmann; 1970, p. 142)

3. Discussion

The imperial and royal sides thus argued against the plenitude of power, i.e., supreme power, claimed by the Pope, in terms of three main lines of argument. However, this was not done in a consistent way that the ideological struggle in question necessitated.

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Those who argued in terms of the dual thesis of power, spiritual and temporal, placed themselves in a position of weakness. For the concept was essentially a religious one, which meant that the Pope, had the vocational authority to judge what is temporal and what is spiritual. Also, as the Emperor and the kings, too, claimed divine power for their offices, they were implicitly in a disadvantageous position in comparison to the leader of the Christian Church, the corporate body to which they all belonged. This created a paradox: rulers 'by divine grace' could not have successfully combatted the 'official vicegerent of God and the vicar of Christ'. For in this context, power was 'given from above' and the Pope was the 'expert' by authority of the Papal Office.

A second line of reasoning based its argument on the Roman Law and the distinction between civil law which primarily applied to the laity and the canon or ecclesiastical law which exclusively involved the clergy. But again, ancient Roman Empire was something of the past and so was the Emperor. The existing Emperor was 'a creation of the Pope as an auxiliary arm of the Papacy', nothing more. He was crowned by the Pope and given a sword, i.e., power to supress evil. It was a religious function and the Pope could claim, as he did, that he possessed both of the swords, the temporal and the spiritual. Without a reinterpretation of the Roman Law, in the light of the historical circumstances, an ideological success was not possible.

The feudal argument was more promising; that was where the strength of the Emperor and the kings were laid. For they were not only theocratic monarchs but feudal monarchs at the same time; and their feudal functions entitled them to the rights their old customs gave. It was on this basis, as we have seen, that feudal kings of the earlier period had appointed bishops and arch-bishops, and the emperors had appointed popes. However, a counterpart of the process in the ideological field had not developed. A theoretical framework such as a separation between a Church and a State was non-existent. For the concept of State, as a territorial organisation, with supreme political authority over a specified region, composed of citizens with juridical rights and not Christians with duties as members of a universal religious society, in short, the autonomous and self-sufficient institution of political organisation, was not yet present.

In spite of this, the feudal argument based on regalian rights contained some elements of the concept of State. This is because ownership rights over certain possessions temporarily held by ecclessiastics and other vassals of the feudal monarch implied a territorial basis of authority for the King. However, this was only the 'feudal custom', not

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'the law or a legitimate source of the law'. Thus, feudal principle lost on the ideological plane, however, only to have its impact in the thirteenth and fourteenth centuries, and in the following years.

In the mean time, the Emperor was to lose not only in the ideological field, but in the political sphere as well. For, together with and in addition to the Investiture Contest that he had to fight with the Pope, he faced problems within his Empire. This is because, in comparison to the English and French cases, a less developed form of feudalism existed in Germany: the proportion of allodial lands and free non-noble population was higher, and the legal and political control of the Emperor was less extensive. So when the Emperor was weakened as a consequence of his quarrel with the Pope, the local nobility utilised the opportunity to rebel, and a civil war, which was to last for fifty years, started. When the civil war was over, the nobility had consolidated and increased their holdings of land at the expense of freemen and allodial lands.

But the feudal kingship in England, starting with the Magna Carta in the thirteenth century, culminated in 'constitutionalism', the feudal kings of France were able to defeat the Papacy towards the end at the beginning of the fourteenth century, and feudal 'city-republics' in Italy provided the environmental background for the Renaissance.

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III. FEUDALISM, GOVERNMENT AND POLITICAL THOUGHT

A. Feudalism

The discussion in the previous chapter led us to concretely see the significance of feudalism in the development of political practice and political theory. In chapter I, we had pointed out to the elements of feudalism, and feudalism was also taken up in chapter II in connexion to the investiture of the ecclesiastics. Now is the time to discus feudalism in some detail, and then cover the developments in feudal England, France and to some extent, in Germany. In this context, the object will be to trace the development of governmental principles and thus of political thought in the latter Middle Ages, i.e., thirteenth century and the initial years of the fourteenth.

1. General

By the eleventh century, feudalism as an economic and social system had established itself in Western Europe; and, by the end of the eleventh century both the artisan class and the merchant class had been so numerous and indispensable for the society, that, in addition to the basic economic unit of agriculture, i.e., the manor or the self-sufficent village community, towns and cities were to emerge, and gain importance in the course of time. Bloch designates eleventh century and the later years as a second feudal age, which he defines in terms of the following basic characteristics: " A subject peasantry; widespread use of the service tenement (i.e. the fief) instead of salary, which was out of the question; the supremacy of a class of specialized warriors, ties of obedience and protection which bind man to man and, within the warrior class, assume the distictive form called vassalage; fragmentation of authority-leading to disorder; and in the midst of all this, survival of other forms of association, family and State, of which the latter, during the second feudal age, was to acquire renewed strength-such then seem to be the fundamental features of European feudalism." (Bloch : 1961V. 2, p. 446)

The crucial terms in the definition are, a subject pesantry, i.e., serfs and serfdom, the designation of a status which bound them to the manor and to the authority of the manorial lord; the fief or in other words the benefice; supremacy of a warrior class, that is of the nobility; vassalage, or, in other words, the ties of dependence within the nobility; and finally, fragmentation of authority, i.e. parcellisation of sovereignty among the members of the nobility, which was to be instrumental in the origin and paricularly in the autonomous existence of the cities within the feudal order.

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The fief *(benefice)* created personal dependency through the act of '*homage*'. It was a source of revenue, generally land. Homage was the ceremony which bound one man to another, or, in other words, a subordinate person to a superior one. In this context, the superior party was in general called 'lord' and the subordinate party 'the man of this lord', or his vassal. Homage kept to be the basis of the relationship concerned throughout the feudal era. However, from the ninth century onwards, the ceremony was modified to include a second and a religious rite: 'fealty'. Fealty was the religious ceremony, again, involving an oath of loyalty on the part of the subordinate person.

In theory, the tie formed with the homage lasted as long as both men lived, and was automatically terminated upon the death of one of the parties involved. Vassals were recruited only from among the members of the nobility, that is from the ruling classes which had monopolised the military and governmental functions.

2. Serfdom and Feudalism

a. Serfdom

Whereas vassalage was the form of attachment peculiar to the members of the noble classes, serfdom bound the serf to a lord not as a subordinate but as an inferior. In the first case, although vassalage involved a hierarchical relationship of superiority and subordination, it also was based on the 'equal' status of the parties by virtue of being from the same class, i.e., the nobility. Furthermore, it was not in origin a hereditary bond. It was a contract and could be terminated by either of the two parties.

The status of the serfs and thus of serfdom was, in contrast to vassalage, hereditary. Serfs were attached to the soil, were under obligation to pay rent in kind from their produce, and also to provide compulsory labour for the lord. The lord was not the superior in an hierarchy composed of men of equal status, but the master. For this second form of attachment was not within the same class but beween two distinct classes, the ruling nobility and the subject population of servile peasantry, i.e. the serfs.

b. Fiefs and Allods

The original word used for the fief or the land granted in exchange for service was 'benefit' or 'benefice', and at the beginning it involved temporary grants especially to vassals. The fief is basically an economic concept. It meant that a property was granted not against an obligation to pay a rent but against an obligation to do something, to

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perform a specialised task. Thus, although it was in the main granted to vassals in return for military service, it could also be granted to "a lord's serjeant(*) on condition that he should exercise faithful supervision over the other tenants, or to a painter in return for decorating the church of the monks whom he served; or to a carpenter or goldsmith on the understanding that he would henceforth place his skill at the disposal of the lord; or to a parish(**) priest as payment for exercising the cure of souls; or finally, to a vassal, the armed companion of his lord and warrior by profession." (Bloch: 1961 V.1, p. 167)

It would be wrong to assume that all fiefs were created by a grant of the lord. Many fiefs, in contrast, "originated in a gift by the vassal to a lord: for the man who sought a protector had frequently to pay for the privilege. The powerful individual who forced his weaker neigbour to submit to him was apt to require the surrender of his property as well as his person... The lord, once the bond of personal subordination had been sealed, restored to his new dependent the property thus temporarily surrendered, but subject now to his superior right, expressed by the various obligations imposed upon it. "(Bloch: 1961 V.1, p. 171)

Although the enfeoffed, i.e., the fief-holder, had ownership rights over his property, his property rights were not absolute, they were conditional on performing a certain specified service. 'Allods' or 'allodial lands' were, on the other hand, estates without any service obligation, but only at the 'upper and of the scale'. Thus, the allod of the lord, under him, could contain tenants end even feudatories who, although in practice and not by legal right, in most cases had hereditary rights over the lands they tilled or possessed. But the lord in question had no overlord or a superior person in the hierarchy. These lands were called 'fief of the sun', that is to say, without human lord. Thus, there was a basic contrast between fief and an allod, the owners of the latter having property rights closer to absolute ownership, as against the conditional nature of feudal ownership

3. Vassalage: the 'democratic' element of feudalism

Originally the fief was a temporary grant of land and it had to be renewed upon the death of the holder. However provided that the heir was ready to do homage to the lord, the lord in question was not in a position to refuse the investiture. This was to provide, in the course of time, for a grounds of inheritability on the basis of a legal right.The process began in the late ninth century and had been completed by the eleventh.

(*) Steward, deputy on administrative matters

(**) Smallest local unit in civil or ecclesiastical administration

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Another development that had taken place by the twelfth century was related to the nature of the vassalage. Originally, a man could only have one lord, it was forbidden to pledge loyalty to another lord while remaining to be the vassal of the initial lord. But later in the twelfth century the practice of doing homage, at the same time, to two or more lords came to be the usual practice. 'The number of this successive acts of homage was sometimes very great. In the last years of the thirteenth century, one German baron became in this way the enfeoffed vassal of twenty different lords; another of forty-three." (Bloch: 1961 V. I, pp. 213-214)

This created problems of a conflict between multiple loyalties. The question can beput as follows: 'When two of his lords were at war, with whom would lay the loyalty of the vassal?'. The problem of conflicting loyalties in the case of multiple homage was temporarily solved with the introduction of the practice of 'liege' homage to a super or liege-lord, and the vassal became a 'liege-man'. The nearest translation of the world in question would be absolute. Thus, one act of homage and hence one super lord was singled out from among the engagements of multiple loyalty. In this way two different degrees of vassalage had been created. In England, superior liege-lordship ended up to be a privilege of the King, but in other countries it deteriorated and lost its original significance.

The relationship between a vassal and his lord was a contract which created a mutual relationship. The vassal thus accepted to be under on obligation to 'serve' or to 'aid' his lord, while the lord in his turn agreed to the mutual obligation created as a result of the bond: to 'protect' the vassal.

The primary duty of the vassal was military service. He had to serve his lord an horseback and with full equipment. He was also required to garrison, i.e., place troops to defend, the lord's castle during the hostilities, or at any time in rotation with other vassals. From the eleventh century onwards the maximum length of military service came to be forty days, on the expiration of this period the vassals were free to return home. A vassal would also have vassals of his own, but his troops in military operations in aid of his lord was limited in size to between 10 to 20 per cent of his own men. The lower limit was reserved for the cases which involved service to the King.

During peace-time, the vassal made up the 'court' of the lord. The court had three basic functions: it operated as a court of law; as an institution, which the lord had an obligation to convene and the vassal a

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right to take part, for advice and counsel on all serious matters; and finally, as a ceremonial parade of rank and power. "Military service was an obligation and little else, but attendance at court carried many advantages: gifts from one's lord, a groaning board (*) and a share in the exercise of authority." (Bloch: 1961 V.1, p. 222)

The lord's obligation of protection of the vassal was not in any precise manner defined. The implicit understanding was that the 'vassal was to be defended by his lord towards and against all men who may live and die, first and foremost in his person, but also in his property and more especially in his fiefs'. Moreover, the lord was not required to make any verbal or written promise corresponding to the oath of the vassal. So the mutual relationship founded on the basis of vassal homage was not strictly reciprocal. But as both the vassal and the lord were of the same class, the relationship involved a degree of equality however hierarchical it may have been. As the fief became inheritable, the inequality of the vassal and the overlord came to be resented, and those who suffered from it were anxious to limit their burdens. Yet the idea of contract, and termination upon breach of engagements by either party, was always to remain an implicit principle. "Indeed, certain tribunals were in theory available for such cases: There was in the first place the lord's court, composed in reality by the vassals themselves, who were considered the natural judges of the law suits between the lord, their master, and his man, their peer; next, at the level above, there was the court of the chief of more exalted(**) rank to whom the lord in his turn had done homage." (Bloch: 1961 V.1, p. 229)

B. The Governmental System of feudalism: The 'Dynamic' Element

The basic economic unit of the feudal system was the manor (*seigneurie*) or the lord's estate. The manor was also a political unit in that the lord had jurisdiction over the whole territory making up his estate.

In the manor, the economic aspect o the relationship between the lord and the serfs was of primary importance. For the lord, through the exercise of his ownership right and politico-legal powers within the area, secured, from both land and the serfs, revenue. Thus, the manor was above all an estate *(terre)*. It was divided into two parts; first, there was the 'demesne' or the 'reserve', and second, the 'tenements' (ten

(*) A table, especially a table for food; food, meals and sometimes meals and lodging.
(**) Of higher rank, overlord in this case.

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ures). The demesne was the land that was exclusively appropriated by the lord. The tenements were, on the other hand, small and medium-sized peasant holdings. The demesne was cultivated by the serfs but the whole produce of the land went to the lord. The tenements were also cultivated by the serfs; but in return of the superior real property rights of the lord over them, the serfs paid in kind, part of the produce, to the lord as a tax *(tithe)*. So the serfs were under a double obligation: to provide compulsory labour services, and to pay taxes to the lord. In both respects they were subject to the jurisdiction of the lord.

All manors were not of the same size; some covered the whole of a village community. However, from the ninth century onwards, this ceased to be the usual case, and increasingly it came to be a rare case. There "were many manors which spread their tenacles (*) over the lands of several villages at once, without coinciding with any. " It was only in the recently cleared virgin lands, where villages and manors were founded together, that the manor and the village community coincided. In the twelfth century, "the majority o the peasants belonged therefore at one and the same time to two groups constantly out of step with each other; one of them composed of subjects of the same master, the other members of the same village community. For the cultivators whose houses stood side by side and whose holdings were interspersed(**) were perforce (***) united-although they might be subject to different lords-by all manner of bonds of common interest, and indeed by submission to common agricultural practices. This dualism was eventually to bring about a serious weakening of the lord's authority." (Bloch: 1961 V 1, p. 244)

Serfs were not only subject to the jurisdiction of their lords, they were also servile, i.e., bound to land. The lord had a legal right to retain his serfs, for he was in need of labour services. However, as there was no central political authority and political power was fragmented, that is parcellised between lords, the lords at times found it difficult to keep the serfs on the manor. For the jurisdiction of each lord was limited to his own manor and did not extend beyond it. Also, there was always virgin soil available in Europe and thus in possession of another lord. Hence it was possible for a serf to find himself a place in another manor and with a new lord.

Furthermore, agricultural population was not composed of only lords on the one hand and serfs on the other. For one thing, side by side

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(*) Holdings
(**) Scattered
(***) By necessity.

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with the serfs 'free' population existed throughout the feudal era. Secondly, urban population were also 'free' for they did not share the status of serfdom: they were called burghers or burgesses, a term which donated that they resided in burghs, (*) i.e., towns having a charter, that is a distinct legal status. The burghers were in the course of time to form, in addition to the clergy and the nobility, the first two estates, a third estate of the feudal Europe.

In this context, an estate refers to a corporate body which enjoys certain specific rights and privileges. Just as the manor forms the estate of the lord, the nobility together constituted an estate, or a political order, in the feudal political system. So had the clergy, and the burghers with the establishment of the towns in Europe. When the towns were established and the third estate thus emerged in the representation of the towns, the serfs, in addition to the manors, had another outlet of attraction. This was because residence in a town for more than a duration of one year brought with it a new status, that of the burgher.

As to the 'free' population of the agricultural lands, the term used was *villain* (villein). It referred to an inhabitant of a manor, and as such villeins were also subject to the authority of the lord. However, a villein was not servile like the serf and was 'free' to leave the manor if he chose to do so. Thus, "if a *villain* sold, gave away, or abandoned his land to go and live elsewhere, nothing any longer tied him to the lord from whom this plot was held." Hence the authority the lord enjoyed over the population of the manor was territorial and was based on his property rights. But in terms of their status, serfs and villeins were distinct. Hence, whereas the serf was personally a subject of the lord as well, and thus servile, the villein was subject only to the territorial authority of the lord, and thus not of servile status. If and when this territorial bond was terminated, the authority of the lord legally ceased to bind him. In France, for example, there was a vast majority of serfs; but side by side with them there were "free villeins in groups of gradually varying density. Sometimes we see them closely intermixed with the servile population, house to house on the same manor. Sometimes, on the contrary, there are villages which seem to have escaped servitute." (Bloch: 1961 V. 1, pp. 265-266)

In England, in the twelfth century, the situation was very similar to the one prevailing in France. "On one point however there was a really profound contrast with France. The English lord was much more successful than his continental neighbours in retaining his serfs

(*) *Burgh or borough is used for the English towns, and bourg for the Continental ones.*

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and even his ordinary tenants on his estate. " This was, first, because the royal authority was centralised and quite strong so that runaway serfs could be tracked down and punished. Secondly, the English lord had established a system of mutual suretyship ('frankpledge'). In this context, the free population of England had been divided into groups of ten and each group held responsible for the appearance of its members in court. This also was a royal arrangement originally aimed at including all freemen under this scheme. "Then an important and very rapid change took place; and the only people who remained subject to frankpledge were the dependants of manors, irrespective of their status... Moreover, the right to hold a judicial inspection of this kind ('view of fankpledge' it was called.), since there were not enongh officials to exercise it, was increasingly entrusted to the lords themselves, or at least to a considerable number of them. In their hands it was destined to be a powerful instrument of coercion." (Bloch: 1961 V.1, p. 271)

The English experience seems to be an exception to the extent of the fragmentation of authority under the feudal system. However, there also, vileins existed side by side with the serfs, and allodial lands alongside the fiefs. Moreover, the towns and cities with the 'freedom' they offered in the privileges that went with the status of the *third estate*, provided a dynamic location of opposition to the manor and serfdom. In addition to the manufacture and commerce as complementary economic activities to agricultere at the beginning, but alternative in the long run, the towns contained in their autonomy original elements of capitalism and democracy.

Towns were first established on a large scale in the middle of the eleventh century. Frontiers of Europe began to expand and new lands were brought into cultivation. The kings, princes, and lords, the monasteries and the churches had lands to offer; " they learned to encourage colonization because they found its cultivation made them richer. But there was plenty of land to go round, and they had to make their terms attractive to the colonist. The most inviting prospect they could offer to the cultivator was greater freedom. The countryman who came to live in a new town was protected by the charter of the founder. He did not have to labour on his lords land: he paid a rent in money or kind. He and his descendants were not bound to the soil; they could sell their holdings and seek better circumstances elsewhere. Hence the famous principle'town air makes free'. There were other advantages, too, the larger a community, the better was its chance of defending itself effec

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tively. In the twelfth century the *razzias* (*) of nobleman could be as serious a threat to the labourer's existence as bad harvests and famine." (Keen: 1969, pp. 86-87)

Towns were, in this way, founded by feudal men or feudal institutions, and on feudal lands. However, in order to attract labour, the founders offered 'liberty'. Thus, although towns were also a feudal phenomena, they proved in the long run, to be successful rivals to the manors. This was the beginning in the decline of the monarial system.

The establishment of the towns also facilitated commerce and industry. For they provided markets for finished products, and served as places where urban industry could concentrate. The artisan's need for security was also instrumental, so was that of the merchant. Both the artisan and the merchant found associates in a town or a city. "Association in a group of company merchants diminished risks, and made available more capital for enterprise on a bigger scale. The merchant's need for security was greater, if anything, than the artisan's. He needed it not only in his home but on his travels too, and in the places where he came to buy and sell." (Keen: 1969, p.88)

Thus, in the early thirteenth century European commerce began to expand. But this does not mean that capitalism emerged or was to develop in the near future. Nor was there any democracy or was to develop until the seventeenth century. Democracy first developed in England during and following the seventeenth century. It was not until the eighteenth century that it was to begin its course of development in France.

Towns and cities were still feudal, in that they were founded by and subject to the territorial jurisdiction of the feudal magnates, be it a lord or a clergyman. In fact, even some of the well-established merchants were noblemen. In this context, Italian cities of Venice, Genoa, Pisa, Florence and Milan acquired a prominent place. The same revival took place in northern Europe. However, in nothern Europe, members of nobility who permanently lived in the cities were few. So the cities in this part of Europe could not acquire the autonomy or the independence of the Italian cities, and they depended on the feudal rulers or the feudal nobility for protection.

The cities in the course of their development attained a degree of self-government. However, this was essentially a government by an

(*) *Plundering invasion*

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oligarchy of nobleman and merchants, not a genuine local government of a democratic nature. The extent and degree of the autonomy of those cities were only relative and by comparison to the position of the inhabitants of the manors. Yet it was sufficient to support the Renaissance movement in Italy, and the Reformation in northern Europe.

C. Discussion

To recapitulate, feudalism had at the potential level a democratic element so far as vassalage was concerned. For it was essentially a contract establishing mutual, if not strictly reciprocal, obligations among the members of the nobility. Secondly, alongside serfs, freemen also existed; so did 'private' proverty in the example of the allods, in addition to the fief, or feudal property. Finally, as the jurisdiction of every feudal lord was limited to his estate and did not thus extend beyond his *terre*, a certain specified area, new practices in politics and in economics, could emerge, within still a feudal order.

For the purposes of these lecture notes, the feudal system in Europe in the long term, supported three main lines of political development. First, there is, the development of constitutionalism in England. Second, in the 'city-republics' of Italy new ways of political organisation and new ways of thought, and thus Renaissance, could emerge. Finally, the clash of the feudal and hierocratic understandings of government initially led to the defeat of the Papacy, and thus to the triumph of the feudal conception of government. However, as the feudal understanding also contained theocratic elements, its ascent culminated, first, in Reformation and later in the Counter-reformation. For the Reformation was instrumental in bringing about the theory of the 'divine right of the kings to rule'; the reaction in the divine right of the kings, in turn, culminated in the Counter-reformation.

Modern democratic political thought acquired its secular aspect first with the Renaissance, and later, with the Counter-reformation forces of the Huguenots, or, in other words, French Protestants, who were able to develop the concept of 'resistance to an unlawful ruler'. Otherwise, divine right of the kings advocated thoughout the Reformation was to bring the end of the Movement itself. Conciliarism or the movement for a constitutional rule in the Church was, in this context, only an 'improved' version of the hierocratic thesis of government which we have discussed above.

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This brief discussion concerning the impact of feudalism in Europe on the development of politics and political thought also gives us an outline of the topics that are to follow. Thus, first, we shall take up the advent of constitutionalism in England. This will be followed by a discussion of two religious controversies: first, the contest between the French King and the Pope, second the controversy between the Emperor, and, again, the Pope. At the end the Papacy was to be fatally defeated by the feudal rulers, of course with the ideological help provided by the philosophers. Finally, after a discussion of the Renaissance, the Reformation and the Counter-reformation, the ground will be ready for the modern and democratic political thought of the seventeenth and the eighteenth centuries; but only in a separate course: modern political thought.

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PART THREE: THE MIDDLE AGES - 2: FOUNDATIONS OF MODERN POLITICAL THOUGHT

Modern political thought is closely connected historically with the contract theory. In this context, the political system is envisaged as originatiog as a result of a contract. Parties to the contract are the individuals and their free will. The individual, on the basis of his autonomous and independent decision creates a political authority or a state. The political power thus created has sovereignty over a certain specified territory to make and enforce laws.

The nature of the sovereign authority thus created is not so important. It could possess unlimited power, as the 'Leviathian' of Hobbes, and thus be absolute in extent, or it could be limited, as in Locke's model of 'government by consent', and hence democratic. The point is the source of power: the unit of analysis is the individual who somehow delegates power to a third party, or, in other words, to the state. The state in this connexion is not identified with the individuals or citizens who are parties to the contract, nor is it identified with the government, and still less with a person such as a king or a prince. It is an 'impersonal authority, separate and autonomous from any, individual, group or class'. Thus, the contract theory, in the main, claims that the state has its own 'independent' existence, but original power is delegated by the individual; and the individual in question is not a person, it is an abtract concept without any connotations of religion, class or status, and as such, it is defined in terms of the basic traits of a human being. Thus, it implies a certain minimum degree of equality, in the autonomous capacity of the idividual in question, to make sound judgements.

This modern approach to politics started in the seventeenth century, but it had its roots in the constitutional developments in England; in the final defeat of the Pope and thus the papal - hierocratic thesis of government, by the French King and also by the Emperor; in the secular political thought of Renaissance Italy; in the Reformation movement which nourished the doctrine of the 'divine right of kings'; and in the Counter - reformation thought during which developed 'the right of resistance to the tyrants' or to unlawful political authority. Thus, this third and final part of the lecture notes will trace, from the thirteenth to the seventeenth century, the developments which were to provide for the foundations of modern political thought.

Following on from the final Chapter of Part II, the first two Chapters below will cover the new trends in feudal Europe, in particular, 'democratic' elements or tendencies of the thirteenth and early fourteenth centuries. The third Chapter will be devoted to the Italian Renaissance and to its political influence. In the fourth Chapter, the focus of attention will be the doctrine of 'the divine right of kings' and absolutism, and the 'right of resistance to tyrants' which was developed on the basis of a 'contract theory'.

Finally, the third Part will be followed by a short chapter of summary and conclusions, in which the ground will be prepared for beginning the discussion of modern political theory. In this context, the discussion will centre on the secular and 'democratic' heritage of the preceding years, as well as on the new concept of the State as an impersonal authority, a separate entity from both the ruled, or the citizens, and the ruler or the government, i.e., the Monarch and/or his Ministers.

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I. ORIGINS OF MODERN POLITICAL THOUGHT

A. General: the Politico - Economic Enviroment

Two features of feudalism are extremely significant for the development of 'democratic' or 'popular' forms of government. First, there is the reletionship between the King as an overlord of vassals in a feudal framework. As we have seen above, this involved a mutual relationship between 'equals' by virtue of belonging to the same class, that of nobility. The basis of this relationship was a contract and as such democratic. Second, the parcellised nature of sovereignty introduced a dynamic element on the basis of which towns and cities were founded. The town not only provided an alternative to the manor, but offered, with its charter, certain immunities from feudal dues and obligations.Thus, the third estate could enjoy 'freedom' and 'autonomy', in that, towns were in principle, self - governing islands within a still feudal environment. The 'freedom' and 'autonomy' of the towns were based on privileges granted by feudal overlords. However, on the basis of this limited self - govrement, popular trends could find a suitable ground in the towns.

In many towns in western Europe, there was a noticeable conflict between 'the lord of the town' and the town council, "particularly in Germany and the Low Lands, and partly also in England, a conflict which was in the last analysis, nothing else but that between the descending point of view, represented by the town's lord, and the ascending standpoint, represented by the council. The aim of the council was to widen its constitutional competency at the expense of the lord. Again, by the fourteenth century the right of tolls, taxation and coinage had come into the hands of the town council; in a number of places the latter also acquired all judical and police power including legislation concerning weights and measures. In a word, towns represent a rather clear demonstration of entities governing themselves". (Ullmann: 1961, p.219)

In this context, the emergence of the town council alongside the 'lord of the town' is a concrete example of the ascending or popular thesis of government. Although the entire population of the town did not take even a passive or indirect, still less an active, part in the political process, the council still derived its powers 'from below' and not 'from above'. 'In several cases the work of the council extended to legislation concerning the administration of the ecclesiastical matters such as

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hospitals and schools and the economic affairs of the church. In northern Italy, even 'republican' forms of government developed.

Guilds of the artisans, founded to organise crafts and industry, and those of the merchants, instituted to regulate commercial undertaking, were also self - governing units. "But whichever the guild, it was a body which governed itself, elected or appointed its own officers, who remained responsible to the guild and above all legislated for its own affairs. The Hansa itself -one of the oldest, if not the oldest, was the London one- is another union of merchants which, for their own interests and purposes, was autonomous and later led to a number of leagues of towns with similar interests and pursuits." (Ullmann: 1961, p. 221)

The towns also sponsored universities where for the first time in mediaeval Europe, the monopoly of the Church and clerics on learning was broken. In Bologna in the twelfth century lay scholars began to study Roman Law. Although lay scholors had no intention to develop a popular theory of government as against the hierocratic thesis; and although they opposed the papal thesis but to support the imperial theocratic thesis of government, their main theme was legal - historical. Thus, their approach brought about the adaptation of the ancient Roman Law to contemporary conditions. They took the Roman past as a model and made recourse to Roman Law, that is to the *lex regia*, as the legal basis for the establishment of people's government. Thus, the concern on the part of these lay scholars for legitimation of the 'republican' or 'populist' form of governments in the Italian cities, led them to defend "legislative sovereignty of the people, and they could do this, because they were trained in Roman Law, and as laymen had a natural interest in this vital problem." (Ullmann: 1961, 229) In this context, the argument is that 'the Roman people at one time possessed all the power which they later transferred to the Emperor.'

In addition to the self - governing towns and organisation such as the guilds organised on a popular basis, or the universities, which defended a popular form of government, there was another significant entity organised on 'democratic' principles: the village community. The peasant, as we have seen was a serf of a lord and subject to his jurisdiction, on the one hand, but a member of a village community on the other. And as a member of the village community, he could escape the jurisdiction of a single lord. For the lord's jurisdicton very seldom coincied with a territory covered by a specific village.

This meant that village communities could, in certain respect, govern themselves. Land which was communal, i.e., that part outside

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the seigneurial demesne or domain, and peasant plots, were administered by the village community. The community fixed the times of ploughing and sowing, of harvesting and fallowing. It also policed the fields. "The same applies to the utilization of water and pastoral land. The common wells, brooks(*), rivers, bridges and so forth, were regulated by the villagers themselves. The same can be said about the regulations concerning compensation for damages to crops by wandering cattle or fire, no less than for damage caused by unlicenced timbering. If the community owned querries(**), tileries (***), mills, simithies or potteries, they too were regulated by the 'law' or custom of the people themselves. Moreover, they appointed their own men in charge of these communal properties, such as shepherds, foresters, gamekeepers, and the like. 'Policemen' too can faintly be discerned, particularly in regard to custody and maintenance of hedges (****) bridges, woods and so on." (Ullmann: 1961, p.218)

These officers were elected by the village community, which met as a whole, and decided by numerical majority. The community also elected a mayor *(major villae* or the *magister vicinorum)*. All oficers were responsible to the village itself. Thus, although their authority was limited to communal lands and properties, these village communities were self-governing and autonomous entities. So, feudalism could nourish customs of popular government even at the level of village communities. Existence of towns further helped to strengthen the 'democratic' element present at the village level. For they not only provided a model of self - government, but presented an alternative to the village and thus to serfdom.

In conclusion, although the town was in a leading and also in a stronger position, both the feudal town and the feudal village shared certain basic elements in 'democratic' custom and usage. This means that the environment was ready to register support for a 'popular' or 'ascending' as against the dominant ideology of the 'descending' or 'theocratic' thesis of government. The royal and imperial side accomplished success against the papal thesis with the help of the theoretical framework provided as a result of the revival of Aristotle on the one hand, and in consequence of the English experience of constitutionalism, on the other hand. Constitutionalism is an example of the develop-

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(*) A stream smaller than a river or creek, especially a primary stream rising directly form a spring.

(**) Open pit from which building stone, sand gravel etc. are taken.

(***) Places where thin pieces of tiled clay, used for roofing ploors, roofs etc., are produced.

(****) Closely planted line of shrubs or small trees forming boundaries or fence

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ment of feudal relations of vassalage along limiting the authority of the King in his capacity as a feudal overlord. Thus, whereas the English King emphasised his feudal function both the French King and the Emperor stressed the theocratic aspect of their rule in connexion to their subjects. They utilised their feudal function only in their challenge of the papal claims of plenitude of power. We shall discuss below both lines of development, but it will follow a discussion first of constitutionalism and then of Aristotle, Dante and territorial sovereignty, so as the give an idea on the implications of the new orientation for politics and political thought of the Middle Ages in the thirteenth and the fourteenth centuries.

B. Constitutionalism

1. General

Kings in western Europe during the feudal age were not only theocratic monarchs, bu had, at the same time, the function of a feudal overlord or suzerain. Thus, a king in a feudal setting, having vassalage relationships with other members of the nobility was at the summit of feudal hiearchy. And the feudal function of the ruler was far more important. For it was through the obligations of military service which his vassals owed to him that he was able to command troops, raise revenues, and keep law and order.

In terms of the source of authority, the feudal function of the King was the exact opposite of his theocratic function. For in this context, whereas his theocratic function was based on the understanding that 'the will of the prince created the law', in connexion to his feudal function, it was the explicit or implied 'consent' of the feudal lords, that is, his vassals or barons that created the law. This meant that the King had independent and unlimited authority with respect to his theocratic function, but when it came to his feudal function he had to consult his vassals and secure their agreement. For although the King was the superior lord, i.e. overlord or suzerain, in the hierarchy of feudal relations, he was still one of the parties of a contract created by the mutual agreement of the parties. Thus, the King in his capacity as a feudal overlord, was bounded by the terms of the feudal contract: he did not stand outside and above his vassals, but came first among equals. Thus, the feudal society, as far as the feudal nobility was concerned, was governed by the law of contract. The "feudal contract created a legal bond between lord and vassal. This legal bond not only made it possible to conceive of the King as a member of the feudal community but also made operation of consent in regard to those measures which affected both parts of the contract. The law that regulated the interests of both parts was a mutual

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agreement between the king and his barons. The essential nature of a contract was that both parts to it had to become active: for the keeping of a contract two were (and are) necessary. The further consequence was that of the possibility of cancelling, that is, repudiating the contract (the so - called *diffidatio*) if the one party had failed to act in conformity with the contract; for instance if disloyalty was involved. None of these features were applicable to a theocratic kingship, for it was precisely because of its very essence that there was no contract between the king and community, since the latter was entrusted to him by divinity. The very point at which the theocratic kingship virtually came to grief(*) was that of resistance to the king who that turned out to be a tyrant. That difficulty was prevented by feudal kingship: feudal law itself had provided for this contingency." (Ullmann: 1970, pp. 147 - 148)

Thus, the feudal kingshep had such basic concepts of democracy as 'counsel and consent' in the conception and practice of the contract. This, in turn, meant that the feudal law had to be made on the basis of the counsel and the consent of the vassals. It was a joint effort of the King and his vassals or barons; and whereas the theocratic understanding of kingship excluded any possibility, on the part of the subjects, to resist an unlawful king, this was, in contrast, a right under the feudal conception of kingship for the vassal, when his interests were impaired of when his rights were violated.

The contradictory nature of the functions mentioned, in other words, the contrast between the absolute nature of power based on the theocratic understanding of kingship as against relatively the more democratic attribute of power inherent in the feudal conception and practice of kingship, was a source of a dilemma for the feudal kings. Thus, the kings, in order to increase their power tended to minimize the feudal function and lay more emphasis on the theocratic function. But to the extent that the kings stressed their theocratic functions, they could, so long as they could find support for their claims, block the road to constitutionalism; conversely, so long as he feudal function of the King came to occupy a primary place, constitutionalism, that is, the process of restricting the power of the King in connexion to a 'consitution', was possible on the basis of debates, negotiation and compromise, i.e., a peaceful pattern of political change. Political developments and thus political thought in France and Germany in the main conform to the former pattern, that of England to the latter.

(*) Suffer misfortune, injury, disaster etc.

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2. Constitutionalism in England

The English development from the early thirteenth century onwards was dominated by the primary emphasis on the feudal function of the King at the expense of his theocratic standing. King John I over - used his monarchic functions and this caused an open hostility of his barons. His exactions, that is, severe, unreasonable and oppressive demands in the field of taxation; his 'disseizins', or, in other words, acts of unlawfully dispossessing persons of their estates; his 'outlawry', i.e, declaring a person an outlaw or an outcast whereby he is deprived of all legal rihts and protection; etc., was one basic source of discontent. In the meantime, he had, after an unsuccessful war, lost Normandy, that is the English territory in France, to the French Monarchy. But he did not give up, and raised money to finance another war against the French so as to win back what he had lost in the previous war. He managed to organise, together with Flanders and Germany, forces against the French to regain his lost estates; but could not win, and was defeated by the French forces at Bouvines, in 1214. This further weakened the position of King John I.

As the King was 'the Lord's annointed' in his capacity as a theocratic monarch, he had, in theory, unlimited power. "The only means by which the king could be restricted was in theory and in fact through the machinery which the feudal function of the king provided: to a very large extent Magna Carta was the application of feudal principles of government: the spring months of 1215 afforded perhaps the last opportunity of fetching(*)the king back into his feudal mould. (**) (Ulmann: 1970, p.149)

In this context the 39 th Chapter of Magna Carta is of fundamental importance. It was a clause based in its main elements on a feudal law issued by the German King Conrad II, in 1036 but it was adapted to the needs of the time. It read as follows: "No freeman (***) shall be captured and imprisoned or disseized or outlawed or exiled or in any case harmed, except by a legitimate court of his peers (****) and by the law of the land." (Ulmann: 1970, p. 150)

The crucial element was brought about by an institutional solution, that is, a properly constituted court, which was to apply a specific legal understanding expressed in the term, 'the law of the land', or, in

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(*) To get and bring back an object or a person.
(**) Character
(***) Serfs are excluded
(****) Person of equal rank or status

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other words, the law of Britain made with the counsel and consent of the barons, and the cases which were to demand such a procedure were enumerated.

'The law of the land' was not that law which the King had given or issued, but that law which was approved by both the King and his vassals or barons. It was the result of the working of the feudal contract, a joint effort, a law that was 'common' to the King and the barons. "As such, the law of the land referred to that body of rules, not necessarily written, which had its deep roots in native feudalism, hence the preponderance of land law (property, tenure, succession etc.) and which derived its material ingredients from the implicit or explicit consent of both the king and barons." (Ullmann: 1970, p.150)

With this concept of 'the law of the land', in addition to Roman Law and to the Canon Law, a third system of law, based on feudal custom and practice, and thus on consent, emerged. Hence when Locke took consent as the basis of government and became the forerunner of modern democratic thought, he could draw on the experience of several centuries.

The idea and institution of representation was, within the context of constitutionalism, another significant contribution of the feudal system. Thus, by the second half of the fourteenth century, there were in England people who maintained that 'the law of the land was made in Parliament by the King and the spiritual and temporal lords of the community of the realm. The idea of the 'community of the realm' emerged in the thirteenth century. It consisted of the King and the barons, and matters pertaining to it had to be treated by both parties. Furthermore, in the course of the thirteeth century, the feudal 'court' of the King was transformed into a national parliament. "Of perhaps even greater significance was that law as a joint effort was *made* and not given by the king, and made it was by the king and the barons or other corporate body. This is particularly important in view of the very significant addition to the coronation promise of Edward II in 1308. The new clause of Edward II's promise embodied the ideological and consequently constitutional development of the thirteenth century since Magna Carta. Because the law was made jointly by the king and the community of the realm, the latter had a right to see the law enforced. The unilateral non-observance of the law by the king was prevented by his promise, 'to uphold and protect the laws and rightful customs which the community of the realm will have chosen' " (Ullmann: 1970, pp. 152 - 153)

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C. Theocratic and Hierocratic Theses of Government

1. General

In contrast to the English King, the French Kings, and the German Emperors both empasised the theocratic function of the kingship. Hence whereas the English King could resort to the feudal concept of the Crown, the abstract symbol of the community of the realm, and thus defend himself against papal interventions, The French King and the Emperor did not have such a shield.

The feudal baronage of France did not have a common policy, and the King issued his laws on the basis of the 'royal plentitude of power'. The King was frequently characterised as 'king and priest' and his royal court was overwhelmingly staffed with professional experts of Roman Law. He was considered to be a *souverain* (sovereign), that is, a supreme ruler or monarch over all barons, and whatever 'pleased the prince was held as law'. He was viewed as an Emperor in his realm. And just like the ancient Roman Emperor, who was held to possess the sum - total of all sovereign rights, the French King claimed supreme power for himself.

The Emperor, likewise, argued on similar lines. Thus, by electing the King as emperor of Romans, the seven German Princes, it was claimed, gave the King the rights and privileges associated with the Roman Emperorship. The constitutive element, the claim held, was the process of election; and the coronation performed by the Pope was merely a formality or the declaratory aspect of the act. However, although the imperial side utilised the ascending or popular thesis of government, against the Pope, when it came to the Emporer's relations with his subjects, 'he was not accountable, to anyone, because he derived his powers directly from God'.

Thus, both the French King and the Emperor, or the former German King, placed themselves, at the ideological level, to a vulnerable position *vis-a-vis* the Pope. For the Pope also claimed that he derived his powers from God and that he had 'plenitude of power'; and moreover, he asserted to have it on a universal scale, in this case, over both the French King and the German Emperor. This was the main issue in the controversies between the Pope and the French King towards the end of the thirteenth and in the initial years of the fourteenth century, and later, between the Emperor and the Pope. The rest of this chapter will be devoted to these controversies and their implications for the development of political thought. But before, the new orientation in Europe, as a background, needs to be discussed.

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2.The New Orientation: Towards the Emergence of the Concept of State

Three essential elements of the new orientation are, the revival of Aristotle, the new emphasis on the Empire as a universal power as against the Papacy, and legitimation of the territorial basis of sovereignty by a papal decree. Now, let us see these elements in the order given above.

a. Revival of Aristotle

i. General

Revival of Aristotle should essentially be seen as part of the process of popular self-government *vis-a-vis* the descending thesis of government that claimed to derive power from God. Aristotle provided a theoretical justification for the democratic elements already present in the feudal Europe of twelfth and thirteenth centuries. This was mainly through the concepts of 'citizen', 'state', 'nature', and above all, the 'will of the individul', as the source of government and law.

Aristotle's political thought, as we have seen, took the state as a supreme community of citizens. This organisation was the product of nature and the result of the working of the laws of nature; and the laws of nature which created tha state applied to the man in his capacity as a human being, as against a Christian. "He was born with them and they determined him to live in a self-sufficient, independent, autonomous community, the State, without which man could not exist-only beasts and gods could-and within which he could achieve his own perfection. Man was by nature a political animal. The State to him was the consummation(*) of all other natural unions, such as the family, the village, the town etc." (Ullmann: 1970, p.168)

In this context, the two crucial points were, first, 'the natural growth of state from below', or, in other words, its being made up of all the smaller communities mentioned above; and second, the naturel basis of the state. It was only natural that human reason and human will, in accordance with the laws of nature, would bring about the state and make its laws. Nature 'willed the good', 'the state was the supreme expression of all human associations', and thus, 'the state aimed at the highest good'; and this 'good' was to be achieved through the law, which was 'the articulated will of nature pronounced by the citizens on the basis of human reason'. The will of the citizen found its expression in the

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(*)Perfection, completion.

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'popular assembly as the sovereign and supreme institution aiming at the promotion of common good'. Furthermore, it was a natural and democratic element. Aristotle, in addition to the natural and democratic elements, stressed the autonomous character of the state: "the state or political community, which is the highest of all, and which embraces all the rest, aims, and in a greater degree that any other, at the highest good... the state is a creation of nature, and... man is by nature a political animal. And he who by nature and not by mere accident is without a state, is either above humanity or below it... But a state is composite, and like any other whole, made up of many parts; these are the citizens who compose it...his (*) special characteristic is that he shares in the edministration of justice, and in offices...and our definition is best adapted to the citizen of a democracy...He who has the power to take part in the deliberative or judical administration of any state is said by us to be a citizen of that state; and speaking generally, a state is a body of citizens sufficing for the purposes of life." (Coker (ed): 1938, pp. 55-63)

In Aristotle's model, there was a conceptual difference between 'man' and 'citizen'. Whereas the 'citizen' was defined in terms of the political and the legal processes, 'man' was to be governed by norms pertaining to ethics. "This sharp conceptual contradiction between man and citizen was to be of crucial importance: it broke down the monolithic structure, it broke down the oneness and the 'totalitarian' or wholeness of point of view, and considered the individual person from at least two angles, the political and the moral. And, when once the implications of this dichotomy were understood, the consepuences also followed: first, the separation of the Christian from the citizen, and from man; and later ensued(**) the further categorisation into social, economic, cultural, etc. norms, each with its own set of principles." (Ullmann: 1970, pp. 169 - 170)

Thus, within the Aristotelian framework, man is not only a religious being but also a natural, a human, a political, etc. creature. The state, in turn, is the product of nature and subject to laws of nature and to natural evolution; it is not, as the hierocratic thesis of goverment maintained, an institution set up by God, and is hence not subject to the laws of divinity and aiming at unity and uniformity. It took account of diversities and variations of the human natural development; and whereas the christocentric theme was mainly interested in the 'other world', the Aristotelian approach was concerned with 'this world' alone, and 'preparation for the other world', the basic goal of the former view, was irrelevant or besides the point.

(*) The citizen's special
(**) Follow, result from.

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Above all, the concept of the natural, political and legal rights in general, and the rights of the citizen or later the individual, in particular, was to replace in connexion to politics, the belief in 'the grace of God' or 'the divine favour' or 'the divine good deed', which did not take into consideration any' right' whatsoever at all. And, as the concept of a right is explicitly or implicitly based on an 'autonomous and independent will ' for the person in question, 'the will of the divinity' began to loose its significance, at least so far as the political and economic processes were concerned.

ii. St Thomas Aquinas (1126 - 1274) and Theocratic Aristotelianism: the re-introduction of the concept of state

The initial reaction of the Church to Aristotle was one of hostility. Later, St Thomas Aquinas attempted to accommodate his doctrine with the Christian framework, and finally, during the Italian Renaissance, Aristotle was gradually released from the Christian elements injected into his model.

Aristotle's basic idea was an evolutionary concept of nature, a physical reality or an actual being, as against an idealised postulate of the Christian society which tended to explain everything in terms of "divine will'. This Aristotelian concept of nature, as an element which had its own force and its own principles, came to be an important frame of reference for St Thomas. Furthermore, the Aristotelian doctrine which maintained that all things and processes were designated by nature to fulfil a purpose, and the idea of the state as a product of nature also reappeared in the Thomist system; and so did the Aristotelian definition of 'man as a political animal'. Thomas further developed this conception by defining man also as 'a social animal', so that man in this context acquired a new characteristic. Thus, political, in addition to the governmental concepts, were re-introduced.

Thomas made a distinction between 'man' and 'Christian': man as a member of human society was a 'social animal', and he was a 'political animal' or 'citizen' in organised society, And in contrast to the mediaeval concept of the subject who simply had to obey to superior authority, Thomas re-introduced the Aristotelian definition of the citizen as the one who took part in and thus shared the authority of government. Hence, man exchanged 'inferior' status as subject, with the 'superior' status of a citizen, This was to be of crucial importance, for it re-introduced, on the theoretical level, the 'democratic' element of equality in connexion to sovereign authority.

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Moreover, the distinction between man and the citizen meant that in each sphere, in connexion to the operations of man, two different sets of norms were applicable. Thus, political science was also re-introduced. Thomas defined *scientia politica* as the knowledge concerning the government of the state. The basis of this science was natural human reason which man was endowed with by nature. It was based on concrate experience, and was concerned with the actual doing of things and with putting theories into practice. "Still more important, political science had its working principles within itself - it needed no outside agency to make it work-and hence he called political science the most practical as well as the most fundamental ... of all sciences, 'aiming as it did at the perfect good in human affairs. 'The birth of political science at once brought forth its human and practical character: it was human experience that counted and the observation of the natural-human elements, because political science, as he stressed, was part of the *human* sciences and therefore 'aimed at imitating nature'. Reality as it is, and not as it ought to be, was for Thomas the key note of the new science. This realistic approach emerged in his statement, for instance, that 'the law can rightly be changed because of the changes of man's conditions, according to which different laws are required.'" (Ullmann: 1970, pp. 177-178)

Another new concept that Thomas introducad was that of the 'political government' *(regimen politicum)*. Thus, whereas the 'regal government', that is, the theocratic form of government was characterised by the king's possessing of 'full powers' and by his 'unaccountability' for his governmental actions, 'political government' was opposed to this, in that, the 'ruler had his powers circumscribed(*) according to the laws of the state'. This ruler was restrained by the laws of the state, or, in other words, 'restricted by positive law'.

Thomas very clearly approached the ascending or populist theory of government, particularly when "he spoke of the *status popularis* in connexion with democracy and 'the will of the people'. His definition of democracy left little to be desired: here operated the will of the people, because 'from the members of the people the leaders can be elected and their election belongs to the people. 'And at once the principle of representation emerged: the leader 'personifies' the state, so that it can be said that 'what the Ruler of the State does, the State itself is said to do.'" (Ullmann: 1970, p. 178)

According to Thomas, it was 'men's natural instinct' that brought forth the state, or, in other words, organised human society.

(*) Encircled, constrained within narrow limits.

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Thus, the state was a product of nature and therefore followed the laws of nature. 'Natural reason urged this human association', and it followed that no 'divine or supra-natural' elements were necessary for the working of the state. It had all the laws of its own operation within itself. As 'nature leaves nothing imperfect', Thomas called the state a perfect community and also 'the most perfect human association'. In this context, since the Church, being instituted by divinity, had nothing to do with nature, it was a 'supra-natural product'; but the state was a 'natural product'. Thus, a gulf opened up between the Chruch and the state. "Thomas's definition of the State -'the State is nothing but the congregation of men' brought into clear relief its essential difference to its supra-natural counterpart, the Church, which was 'the congregation of the faithful'. This was the dichotomy(*) between men and the faithul Christian. The State was a matter for men or the citizen only: it had neither in its origin nor in its working anything to do with any ecclesiastical authority. Being a natural product, it pursued aims which were inherent in its natural essence and that aim was the well-being the welfare of its members. This aim could be quaranteed only if the State was independent and self-suficient." (Ullmann: 1970, p.179)

Thomas saw the state as a *corpus politicum et morale*, that is, a body politic with moral ends and which took into consideration the social habits and customs of its citizens. The Church, in contrast, was a 'mystical body' *(corpus misticum)*.

These ideas were reflected in Thomas's legal theory. He called the 'enacted law' by the novel term 'positive law'. If it was to be a law, it had to be derived from the natural law, not from 'divine law', and had to be 'an enforceable rule'. Otherwise it was not law at all. As the state itself was a product of nature, its laws had to be derived from nature; and furthermore, so long as human positive law was based on 'natural reason', divine law did not annul it. However, to Thomas, the ultimate source of law was the eternal law of God, 'divine reason and intellect governing the universe'.

Thus, Thomas is still working within the context of Christian and theocratic outlook. In this context, his attempt is to incorporate Aristotle into the existing ideology. Hence, he distinguished rational creature from the irrational on the basis of 'the ability to reason and therefore to perceive the eternal law of God', or, in other words, the divine ordering of things. But for the time being, we shall keep on concentrating on the 'natural aspect' of his theory.

(*) Classification into two classes by paired opposites; division into two parts.

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"His definition of law was: 'an ordinance(*)of human reason for the common good, and the right to ordain(**)anything for the common good belongs either to the whole community or to someone who acts in the place of the people; therefore, the authority to establish a law pertains either to the whole multitude or to a public person who has the care of the multitude". However, the problem with his definition of law was that it was appilcable to both the ascending or populist and the descending or theocratic theses of government. He "declared that the enforceable character of the law consisted in the power to compel. 'The ability to compel is possessed by the multitude (people) or by a public person who has the right to inflict penalties (in case on non-observance), and for this reason he alone can make laws." (Ullmann: 1970, p. 181)

The supra-natural aspect of Thomism related to his belief in the necessity of two distinct levels of discussion in connexion to political topics. One concerned the 'nature' the other 'the grace' or ' the divine order'. However, whereas in the traditional doctrine a contrast or a dichotamy exited between nature and grace, Thomas tended to think in terms of two orders, neither in opposition nor in a state of hostility, but still differing w'th respect to hierarchical status. For in his view 'God was the author of nature' and 'the supreme regent of the world'.

As the dichatomy between the 'natural' and 'the divine' was replaced by 'harmony', "The inflexible contrast between nature and grace gave way to a more flexible and realistic dualism." Man could be a Christian in the individual sphere, but he was a citizen, in the public sphere, "and each belonged to the natural order of things. The State itself was the congregation of citizens, a product of nature. The complement in the supra-natural sphere was the faithful Christian, and the congregetion of the faithful, the Church. Both the State and the Church were manifestations of the divine ordering of things, the former on the natural, the latter on the supra-natural level." (Ullmann: 1970, p. 183)

Thomas did not have any sympathy with the doctrine of the 'Fall of men' which maintained that men, left to himself, was incapable of making sound judgements and therefore secular power existed to repress evil. On the contrary, the state as a product of nature, was embedded in the divine order of things. "Nor did Thomas have any words of condemnation for the State of the infidels or pagans: they exercised their authority legitimately, because their state was as much a product of nature as any other State was. " Thus, the "sole source of power was

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(*) That which is ordered by an authority.
(**) To decree, to enact.

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no longer Christ's statements to Peter, but could be located in the natural community, the State... The individual himself could be viewed from two angles, from the natural angle of man (and in the political field as citizen) and from the supra-natural angle of the faithful Christian." (Ullmann: 1970, pp. 183 - 184)

The link that existed in Thomas's model, between God and nature, was broken in the course of the political controversies that followed. In this context, the thesis was that there existed a 'natural law' which was valid irrespective of 'divine law', for natural law was reasonable in itself. Thus, Thomas Aquinas, at the theoretical level prepared the ground for the influential attack first to the Papacy and later to the descending or theocratic thesis of government.

b. Dante (1265-1321) and the Origins of Humanism: The Universal State

The struggle between the Papacy and the Emperor, which had started with the Investiture Contest, led some people, in the course of the thirteenth century, to ask the following question: 'Could a Universal Roman Empire be justified at all?'. In his context, Dante's *Monarchia* deserves special attention. For it was the first and the most influential treatment of the problem of Empire on a secular and also on a humanist basis. Dante asks three guestion: (i) 'Was a universal monarchy justifed?; (ii) 'Did the Roman People rightfully acquire the office of monarchy?'; and (iii) 'Was the monarchic office immediately derived from God?'.

Dante's essential concern was to find a solution to the political problems of Italy. In northern and central Italy, there was a struggle between the Pope, and the Emperor for political control over Italy. There was a new foreign dynasty in Sicily. Towns were not only divided between themselves but there were quarrels within the cities as well. "Family rivalries divided the ruling oligarchies; the commercial aristocracy of the trade guilds feuded against the older nobility; rival factions among the powerful, the clergy, and demagogues, all alike bid for the support of the discontended people. All sought to draw such advantages as they could from supporting one side or the other once the great conflict of the Church and the Empire began... The labels Gulf (for the church) and Ghibelline (for the empire) came to denote the allegiance of certain families, guilds, and individuals in certain towns, and little more... In the absence of any external authority (such as the empire might have been) to restrain them, disorders became endemic

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and local feuds ingrained(*) Their struggles conduced for a time to a condition of chronic instablitiy." (Keen: 1969, pp. 175-176)

In connexion to his first guestion, Dante argued in favour of the Empire as an institution that would save the well-being of not only Italy but of the world as a whole as well. In his view, the conditions of human, and not only Christin or Italian, welfare were best served by a universal monarch. For only a universal empire was in a position to guarantee peace and tranquility. Dante's universal monarch was based on the historical model provided by the Roman Empire and as such was given supra-national authority, i.e., sovereignty over other nations. Thus,the universal monarch was to have more authority than that of a co-ordinating organ, such as the existing Holy Roman Emperor had.

As to the second question, Dante's conclusion was that the Romans had rightfully earned the Empire. Furthermore, it was perhaps above all nature which had made the Roman people rightfully possess world monarchy. 'And what nature had ordained,' it is right to observe. 'This would, in Dante's opinion, be demonstrated by the history of Rome. 'The Roman people was ordained by nature to command'. And consequenty he would say that 'nature had ordained in the world a place and a people for universal command.'" (Ullmann: 1970, p.191)

The answer to the third question was, 'Yes, the Emperor was directly instituted by God'. Thus, the necessity of a universal monarch was, in the main, seen as a supra-natural phenomenon. However, in the third Book in which Dante specifically discusses the third question, the supra-natural authority of the universal monarch becomes a natural necessity. In this context, the Pope does not have any rights over the Emperor; neither is the Emperorship seen as a title created by the Pope. Thus, 'what is received from nature is received from God.' It followed that the Emperor's authority was autonomous and independent from the Papacy.

This was essentially an application of the Thomist principle which maintained that relations between divinity and nature were complementary. In his refutation of the sun-moon allegory of the hierocratic party, Dante made this clear: " 'as to its *existence* the moon is in no way dependent on the sun' because the moon had its own motions, its own motor, its own operations. 'But with respect to the moon's *better* operation, it does receive someting from the sun, to wit(**) abundance of

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(*) Permeating every part, firmly established.
(**) That is to say.

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light by the receipt of which it operates with more virtue.' This was the Dantesque expression of the Thomist view that 'grace does not do away with nature, but perfects it', which is here used for imperial authority. Continuing, Dante stated: 'In the same way I say that the temporal power does not receive its being from the spiritual nor its authority', though for the better working of the former could well profit from the 'light of grace which the blessing of the chief Priest(*) infuses into it.'" (Ullmann: 1970, p. 192)

Dante based his argument of autonomous and independent authority for the Emperor on the idea of nature and natural law. Thus, 'with respect to natural operations, the successor of Peter has no divine powers.' The universal monarch was a product of the nature and was not created by the Pope, 'since God could not in any way commit the power of creating' to the Pope.

Dante's solution for the problem of imperial authority entailed several important general ideas and thus implications. For one thing, Dante set forth a pure and strict dualism of spiritual and temporal authority. The essential contribution of Dante was this: The Pope's authority does not cover natural things, his authority is limited to supra-natural ones. Thus, the basis of Dante's arguments was not the dual organisation of power, such as the one maintained by the doctrine of two swords, according to which discussions of the nature of both powers were conducted with reference to the Bible and to theological writings on the nature of a Christian society. It was a new orientation which located temporal power in natural order of things, and in complete autonomy and independence from papal authority. In this context, Dante completely disregarded the writings on the 'Fathers of the Christian Church', the Fathers themselves or the study of their writings. His frame of referance was nature, nothing else.

Secondly, Dante had a unique conception of 'mankind'. It was one unit, not made up of Christians only, but also of peoples believing in other religions such as Islam and Judaism, and including the pagans as well. He called this body 'the human race', 'humanity' *(humanitas)*, or 'the human state' *(* the *human civilitas)*. His emphasis was on the human race, on mankind and still more on the citizens who composed it. "And this *civilitas* was of natural origin where the natural laws of operation were effective. The supra-natural complement was the body of the faithful, the Church, *christianitas* itself... The *christianitas* was 'not an effect of nature", hence different norms, different

(*) God

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modes of operation, different sets of principles were appliable. Man pursued therefore a twofold aim, as a citizen a this-worldly, as a Christian an other-worldly, end, the one natural, the other supra-natural... Above all, rulership was no longer an issue or a result of the working of grace, but of nature. Government belonged to the natural entity, the *humana civilitas*. In this scheme of things there was nothing that could be 'mediated' by the priests-the human State had everything it needed for its working." (Ullmann: 1970, p. 194)

Thus, Dante re-itroduced the human being as against the Christian. This feature of his contribution can best be seen in connexion to his considerations of human liberty and the exercise of human will. The intellectual powers of man was for Dante the highest qualification of man. It was the intellectual powers of man which was to guide and rule all human matters. In this context, the exercise of free will was precondition of human liberty, 'which is the greatest gift God conferred on human nature'.

Liberty, defined in terms of the free exercise of human will, was for Dante the guarantee of human happiness on this earth. Because freedom referred to the state of existence for its own sake, not for the sake of something or somebody else. "The pursuit of human ends based as they were on the natural insight of man himself, in other words, the pursuit of humanity for its own sake-and not for the sake of otherworldly aim-was Dante's theme. And that human activity which pursued these human ends Dante called *politizare*, that is acting in a political manner with the aim of achieving human happiness." For Dante, the function of any right government is to see that men exists for their own sakes. Thus, whereas the traditional view had tended to designate the ruler as a 'minister (servant) of God', Dante defined government in terms of service to the people: the government was 'the minister (servant) of all *(minister omnium)*.

In conclusion, "Dante's thesis culminated in the release of humanity from Christianity, in the release of human element from its specifically Christian incrustrations.(*) Man was re-born. He himself had once again become after so many centuries the pivot(**) of *civic* life, and was thereby recognized as fully capable of mastering and shaping his own fate." (Ullmann: 1970, p. 195)

(*) State of being covered or lined with a crust or hard coat.
(**) That on which all depends.

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c. Territorial Basis of Sovereignty

A third element of the new orientation of the late thirteenth and early fourteenth century was related to the concept and legal right of the territorial basis of the sovereignty of a ruler. The theory of doctrine of territorial sovereignty was, in this context, transformed into a legal rule by a Papal Decree.

In France, throughout the latter part of the thirteenth century, the principle that was voiced maintained that 'the King was an Emperor in his realm,' meaning that the King was the sovereign authority within his kingdom. This is a Roman Law concept which considers the Emperor as the supreme or rather the 'superior' authority. The principle meant to apply within the Kingdom of France against other feudal claims of power; above all, it stressed that 'what pleases the prince has the force of law', and appeals to any other court in France, against the decision of the King of France, was not allowed.

In the Kingdom of Sicily, a very similar body of opinion emerged also in the latter half of the thirteenth century, and independently of the French development. Jurists and scholars of the University of Naples put forth the following thesis: 'The Sicilian King was a monarch in every sense of the term'. His government was exercised over the territory of his kingdom, and though his laws did not have any force outside his kingdom, within the confines of his kingdom nobody could interfere with his government. Scholars called this 'monarch' 'free', for he was unrestricted in the exercise of his authority within the boundaries of his kingdom. "The Sicilian jurists argued mainly on the basis of Roman Law and its enactments concerning the territorially limited powers of a judge's jurisdiction: for instance, no Roman judge could summon(*) anyone from the district of another judge. These jurists concluded that the Sicilian King was excluded also from the jurisdiction of the emperor, holding as they did that his authority was similarly restricted to territorial confines." (Ullmann: 1970, pp. 195-196)

These views were put to test at the beginning of the fourteenth century. In 1313, Emperor Henry VII attempted to invade Italy. King of Sicily organised both military, and, in the towns, civil resistance against the Emperor. Henry VII charged the King of Sicily with high treason against himself, the Emperor. His charges were 'that King Robert had

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(*) Require the attendance of somebody in court.

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encouraged the Lombards and Tuscans to revolt against him, that he had concluded treaties of alliance with the rebel leaders, and that he had expelled the German imperial administration in northern Italy'.

King Robert was summoned before the imperial tribunal for trial, but he ignored the summons and did not appear. In his absence, the King was condemned for the crime of *lese majeste*, that is, was found guilty of commiting a crime against a sovereign, i.e., violating the dignity of a ruler as representative of a sovereign power. The juristic problem was this: 'Was the Emperor by law entitled to take steps against the King? Could, above all, a King be summoned by the Emperor before his court?'

Nominally the Kingdom of Sicily was a fief of the Papacy, so King Robert submitted the case to the Pope. Pope Clement V officially endorsed the view 'that a King was sovereign, that he could not be summoned before the tribunal of any other King, not even before that of an Emperor, and that as King he could not commit high treason against another King, because he was no subject.'

The Papal Decree of 1313 stressed the territorial understanding of sovereignty. "The Pope laid down as a matter of law that a king could not be summoned by anyone, including the emperor, because the king was resident in his own kingdom, had his ordinay domicile there, and hence not even the emperor had any 'superiority' (sovereignty) over the king on territorial grounds. The exercise of public power was territorially confined, and there was no organ that could legitimately exercise jurisdiction beyond that territory, with the consequence that one ruler could not issue a summons against another. Hence also a king who was superior (sovereign) could not possibly commit high treason against another Ruler since no Ruler was the subject of another Ruler." (Ullmann% 1970, p. 198)

The Decree was significant in that it was the first legal expression of the feudal understanding of government which based its argument on the territory of a fief. Also, the Papal viewpoint, paradoxically, denied the universality of the Emperor's power: the emperor's sovereignty was limited to the confines of his own territory. Thus, the Papacy, instead of a thesis of a universal monarch, supported the claims of individual sovereign kings as lords of their domains and as such, would do, within their kingdoms, as it pleased them.

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D. Dicsussion

Origins of modern political thought should thus be located in the late thirteenth and early fourteenth centuries. In this Chapter, we emphasised only one aspect of the new developments: the progress of feudal constitutionalism and the re-emergence of the concept of 'state', as distinct from government, and the re-birth of 'man' in contrast to Christian.

Feudal constitutionalism developed in England on the basis of the mutual relations of the overlord, in this case the King, and his vassals or more specifically the barons. Starting with the feudal contract of Magna Carta, the barons limited the powers of the King, and the process marked the beginning, in feudal practice, of government by consent.

It was again on the feudal custom and practice that the Pope decreed that a Ruler is the sole and the full sovereign within the borders of his fief or 'state' and its 'socereign'.

Finally, the theoretical framework provided by Thomas with reference to Aristotle only helped to legitimise, at the ideological level, the existing practice of popular govermnet in the cities, in the guilds and even in the village communities. And with the revival of Aristotle, not only did popular government find a theoretical justification, but also man began to be emancipated from his Christian features and start to acquire his human characteristics. This process was, in the course of the fourteenth and fifteenth centuries, to lead to the concept of popular sovereignty in the person of the concept of the citizen, which is the subject matter of the following Chapter.

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II. THE BEGINNING OF THE END OF THE PAPACY AND THE EMPIRE: TOWARDS POPULAR SOVEREIGNTY

In the previous Chapter, the focus of attention was the reintroduction of the state as a natural institution, the autonomy of imperial power with respect to the Pope and the re-birth of man as a human being in contrast to a mere Christian, and finally , recognition and support by the Canon Law, of the territorial basis of sovereignty. These new elements primarily concerned the state. First a natural, in contrast to supra-natural, existence is a precondition for the autonomy of the institution concerned from any sort of religious authority. Secondly, this means that the traditional thesis which maintained that government must, at the same time, be a rule by and for Christians, is shaken. Now man is not only a Christian but a human being and thus could be a non-Christian or even a pagan, but would still have a right for a state. In the third place, once sovereignty of a government is defined in terms of territorial confines, it follows that no single state has, with respect to authority, a superior or an inferior position, i.e., every Ruler is the sole sovereign within the boundaries of his own state, and thus equal with other rulers in standing.

The theme of discussion that is to follow in this Chapter will, in addition to the new concept of state, concern the place of man in society as well, particularly in connexion to the source of sovereignty. Political writings that we shall discuss were, again, written within the context of the controversies between first the french King and the Pope, and secondly, the Emperor and the Pope.

A. Royal Theocracy vs Papal Hierocracy: Towards 'Babilonish Captivity' of the Pope

1. General

In the controversy that took place between the French King Philip the Fair and the Pope Boniface VIII the main issue concerned was the nature and extent of the authority of the territorial rulers in relation to taxation. The English and French Kings claimed authority to tax the clergy, but the Pope did not recognise such power. However, both the English and the French clergy supported their national kings and the Pope lost the case.

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The English and French Kings had been allies of the Papacy in the course of its struggles with other powers in Westren Europe, particularly with the Emperor, and during the crusades. In these operations, France and England provided money and arms. With the crusades, the practice of taxing the whole body of clergy throughout Europe had begun. In this context, secular rulers were granted permission by the Pope to keep one tenth of the revenue thus collected. This satarted not only a cooperation between the secular rulers and their national clergy on financial matters, but a precedent to tax the subjects as well, including the clergy, when it was deemed necessary.

There were other reasons that helped to draw the Kings of France and England, and their native clergy close together. "In the thirteenth century the papacy in order to defray(*) costs of administration and to reward its Italian servants and allies and their families, greatly extended the practice of 'providing(**) Italians to benefices outside Italy ... and reserving the presentation of benefices to itself in advance for this purpose. The 'provisiors' nominated drew the revenues of the benefices which they attained and paid others (often inadequately) to discharge their duties in their absence. That native clergyman should have bitterly resented this system was natural. They resented also the demands made of them by papal legates when these were in their country, and the expenses to which ligitation(***)in the courts of Rome often put them. They looked to their own kings to protect their interests against foreigners from the *curia*.(****) Their kings had more to offer them besides protection, for their political influence enabled them to ensure preferment for their own servants and fovorites." (Keen: 1969, p. 209)

Thus, there was every reason for the native clergy to side with their kings. So when Boniface issued in 1296 his Bull *Clericis Laicos*, problems started. For the Pope forbade all clergy to contribute in any way to taxes imposed by a secular authority, except when these were approved by the Pope.

King of England reacted by withdrawing, from the English clergy who did not pay the taxes, the protection of his common law. King of France, in turn, reacted by prohibiting the export of any form of coin money from his Kingdom. The English clergy appealed to the Pope to

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(*) Pay
(**) Nominating
(***) Being a party at a law suit; contest at law.
(****) Papal court.

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moderate his Bull; also, as the Pope could not do without the revenues he was receiving from France, he was forced to a compromise. He issued two additional Bulls. In the first, he permitted clerics to pay taxes to a secular ruler, 'if a situation of national emergency justified his demand for them'. In the second, in July 1297, he made it clear that it was lawful for the King to decide himself whether such an emergency had arisen.

The English and the French Kings thus came to be the victorious party of the contest. The English King was not to be involved in another controversy with the Pope, but the French King was to be. He had been in touch with Boniface's enemies before 1296, when the quarrel became open. The case for the next controversy was to be provided by the legal position of a Bishop in France who had been appointed to his post by the Pope. King's officials arrested the bishop on charges of "sedition', that is, excitement of discontent against the government; and of resistance to lawful authority, including treason, and of 'heresy' or, in other words, religious opinion opposed to authorised doctrinal standards of any particular church, and tending to promote schism.

The Bishop in question appealed to the Pope and demanded, as a cleric, a fair trial in the courts of the Church. As the charges against him included treason as well, the appeal concerned respective authorities of the Pope and the King of France. For if the Pope were to intervene, it would have been to claim that he, and not the King of France, "was the proper arbiter as to what was or what was not treason committed by a subject against the King of France. This meant that the affair must bring into open questions about the precise nature of the sovereignty which the Pope claimed to exercise in the Christian community, and how far it gave him the right to intervene in temporal affairs of a Christian kingdom." (Keen: 1969, pp. 213 - 214)

The Pope in his Bull, *Unam Sanctam*, of 1302, which had followed a previous Bull, addressed directly to the King of France, asserted two main principles: first, the Pope is supreme in the Church and subjection to him is a prerequisite for salvation, and second, both swords belong to the Church, that is, the Pope is in possesion of both spiritual and temporal authority. This did not mean that the priests were to use the temporal sword, but that it was to be used 'at the command and with the permission of the priests'.

The reaction of the French King was to summon the Estates General. The Papal Bull was manipulated so that it was read to the assembly as follows: "all who denied the pope's control of presentation to all

benefices in France were heretics. This was followed up with a long catalogue of Boniface's alleged offences, avarice, nepotism, irregularities in presenting to benefices, and much more... The propaganda was skilfully prepared and presented and had its desired effect. It brought the representatives of the clergy into line with the king's wishes and elicited(*) a prayer from the nobles and the third estate that he act to defend the rights of the kingdom and of the French Church." (Keen: 1969, p. 215)

In the end, the French King won the contest and managed, in 1305, to make a Frenchman the Pope. This started a new period, for before this date, Pope's had generally been recruited from Italian aristorcracy; and also with this new Pope, Clement V, the exile of the Popes from Italy or their 'Babilonish Captivity' at Avignon, in France, began and lasted for 75 years.

2. John of Paris: Feudal Constitutional Monarchy

John Paris wrote his influential tract, *De potesteta regia et papali (On Royal and Papal Power)*, at the beginning of the fourteenth century with the primary aim of supporting the French King against the papal claims. The Pope, in his function as pope, had, according to John, no right to intervene in the affairs of a kingdom. Thus, his main consideration was 'the demonstration of the autonomous character of the kingdom'.

John emphasised the Kingdom as against the Empire, and argued at the beginning of his work that the Church requires universality but temporal authority does not. His starting point is a natural conception of the state and the Church. Thus, in the work of John of Paris, there is a strong emphasis of the Church as a purely mystical body, as a supra-natural community which has nothing to do with the natural body politic. Whereas the Church or the mystical body of Christ was held together by 'bonds of faith, the state as a natural body had only natural ends'. And as nature as well was created by God, it had nothing to do with ecclesiastical hierarchy. "The task of the king's government was to provide the means for the realization of the ends germane(**) to the State; it had no qualification to lead the faithful to the supra-natural end." In this context, the introduction of the Aristotelian and Thomist concepts of the natural is significant. "Since the temporal could be equated with

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(*) Drew forth.
(**) Approriate, relevant.

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the natural it could indeed be said it was autonomous, because it lived, so to speak, on its own laws which were those of nature. Morever, it pursued its own end." (Ullmann: 1970, pp. 210-202)

John called the state a political community in which ecclesiastic laws did not display any validity. Clerics were anly instructors of faith and of morals. They had no right to interfere in the possesions of laymen, who had true 'dominion' over their goods. For they had acquired these as a result of their own labour and industry. Thus, cleircs do not have coercive power, they only possess spiritual authority.

As to the problem of ecclesiastical property, the clergy is entitled to have property, as a means of carrying out their spiritual work, but the legal control of property is vested in the temporal authority. "With this general position John unites several interesting and important supplementary points. He denies, first, that the ownership of ecclesiastical property vests in the pope; it belongs to no individual but to the community as a corporate body, and the pope's control of it is that of an executive *(dispensator)* (*). The pope can be held responsible for a misuse of the church's property, second, he makes a clear distinction in the case of secular(**) rulers, between ownership, which in the case of laymen vests in individuals, and the political or public regulation or the uses of property, which the ruler has as the head of civil society. The king is to respect the rights of private property, regulating it only as public need directs." (Sabine and Thorson: 1973, pp. 264-265)

In connexion to the problem of spiritual and temporal authorities, John's argument is based on the separateness of the two. Although both powers are derived directly from God, there is no reason for the subordination of the temporal to the spiritual authority. The spiritual authority has power only to excommunicate, but this does not necessarily have any material consequences. Thus, the subjects of an excommunicated king may disobey him, but this is only incidental and does not imply any right on the part of the spiritual authority to coerce. The remaining two powers of regulation by the spiritual authority, that is, those over the clergy and over church property, likewise, do not imply any powers over the temporal authority.

John then goes on to discuss the nature of the relations between the Pope and the King of France. In this context, he first argues on histori-

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(*) Administrator.

(**) Temporal is the appropriate word; similarly we cannot speak of private property or of civil society in a feudal political system.

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cal grounds that the Donation of Constantine was applicable only to certain parts of Italy. Next, he attaks the legal validity of the Donation arguing that the Emperor could not possibly have alienated part of the Empire and transferred the title deed. Third, John goes on to argue that even if the first two points were put aside for the present, imperial authority would still not apply to France. For the Franks had neven been subject to the Empire. Finally, even if Franks had once been subject to the authority of the Empire, they might well have gained their independence by prescription, that is to say, by uninterrupted possession of it over a long period of time. After all, had not the Empire usurped its power from earlier peoples?

On the issue of the nature and extent of the powers of the Pope, John of Paris, in contrast to the traditional view which maintained that the Pope was unaccountable, emphasises the accountability of the Pope. Thus, if the Pope is, through a mechanism of election, invested with his powers, he can also be divested of it by some legal process. As the spiritual authority resides in the church as a corporation, its represantative, meeting in a General Council can depose a Pope from his office. His opinion is that the College of Cardinals have legal authority to depose a Pope. For he compares the College with the Estates of the feudal system.

Thus, John's madel of political organisation is rooted in the feudal practice of constitutional monarchy. He does not accept the claim of the Pope that he had deposed the Merovingians and instituted Pippin as the King of Franks, which was to initiate the beginnings of the Holy Roman Empire, in the Carolingian Empire of the King mentioned above. Pippin was, according to John, chosen 'by election of the barons'. "In all temporal matters it is the barons which check and discipline the king. Here again John brings Aristotle to his aid by identifying constitutional monarchy with the polity, which is a mixture of democracy and aristocracy." (Sabine and Thorson: 1973, p. 267)

In conclusion, John's approach to politics is essentially shaped by the feudal understanding of government. However, he also utilises Thomist and consequently Aristotelian principles so far as the autonomy of the state is concerned. His model also implies consent of the ruled in the case of both the King and the Pope. But John had a theocentric concept of government. Thus, since "the political community, the State, was a natural product and since God had created the whole nature, the government of the state was also traceable to God, but more immediately to the people. John was emphatic(*) in asserting that there

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(*) Attaching special attention; strong.

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was no link between the Church and the State, for the king's power was derived from God through the election by the people. Still more articulate was the thesis of the people's sovereignty in his statement that the king came into power 'by the will of the people' *(rex est a populi voluntate)*. The King's function was to preserve social order, to impose living conditions within the kingdom, in short, to provide for the necessities of good civic life." (Ullmann: 1970, p. 203)

It is on this issue of the origin of political power that John of Paris provides a radical departure from both the royal theocratic and papal hierocratic theses of government. For whereas, as we have seen, both the papal hierocratic and royal theocratic theses of government derived power from God, the former directly, the latter indirectly through the metiation of the Pope, John also derived political power from God, but this time through the medium of the people. Thus, John introduced into the picture man, who had been absent before, as an indirect source of sovereignty. However, as his doctrine in connexion to the source of power was stil under the influence of the Christian understanding of government, he could not argue for a full and hence a secular sovereignty on the part of people. Still,he was charged with heresy and "died in 1306 at Bordeaux on the way to the papal curia, where he was to expect a definitive sentence for heresy." (Ullmann: 1970, p. 204)

John's writings, together with Tohamas and Dante, represent the transitionary stage in the evolution of political thought in the early fourteenth century. And so long as nature was seen as part of the divine order of things, it was not possible to arrive at a full autonomy for the state and full sovereignty for the people or the citizen. In this connexion, there was a need for a more radical departure from the traditional doctrine. This was to be accomplisehd by the Renaissance thinkers, of which, Marsiglio of Padua is the forerunner.

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B. Imperial Theocracy vs Papal Hierocracy

1. General

'Babilonish captivity' of the Popes at Avignon, which started with the defeat of Boniface VIII in his struggle with Philip the Fair, lasted for 75 years; and all of the six Popes who governed the Roman Church from Avignon were Frenchmen. This, the English found offending, for they were at war with France; so did the Italians who were used to seeing Italian nobles at the post of Papacy. It was within this hostile background that the Pope Clement declared the Order of St Francis heretical in 1323, deposed and excommunicated the leader of the Order. The issue concerned the emphasis of poverty by the Franciscans. In this contest, two influential figures, among others, were Marsiglio of Padua and William of Oackam. They escaped from Avignon and took refuge with the Emperor. In a second controversy, this time with the Emperor Lewis the Bavarian, the Pope was to lose again. It started in 1323 and was not settled until 1347, when Lewis the Bavarian died. In the contest concerned, both Marsiglio of Padua and William of Oackam supported the Emperor.

The Pope excommuniceted the Emperor who would not abandon his alliance with the Ghibellines(*) of Lombardy. Imperial elections that followed were disputed, for the Pope did not recognise the other candidate and put forward a third one. This raised the centuries-old question of the right and authority of the Pope to intervene in an imperial election; and finally, in 1338, Imperial Electors in the Declaration of Rense asserted that an election did not require any confirmation by the Pope. This thesis was finally accepted by the Pope in the Golden Bull of 1356, which made no reference to the confirmation by the Pope. In the end, the imperial side had won their case for independence from the Papacy, which they had maintained since the Investiture Contest, and which had been developed into maturity during the thirteenth century: that by electing a German King the Princes thereby gave the King a title deed to the Roman Emperorship?'

However, the Emperor had to pay a price in return for the support of the Electors against the Papacy. "The bull confirmed to electors all mining rights in their territories, and the right to issue coinage, and made it high treason to plot against an elector's life. No subject of an

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(*) *Supporters of the Emperor.*

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elector was to be entitled to sue, or be sued, outside the territories of his native electorate. Effectively, the Golden Bull gave the electors sovereign rights in their own territories." (Keen: 1969, pp. 304-305)

2. Marsiglio of Padua (1274-1343): Political Sovereignty of the Citizens

In the contest of the Emperor with the Pope, Marsiglio of Padua and William of Oackam came out to be the two most influential political thinkers. Oackam stayed within the Christian tradition and in the main defended the freedom of the Church. His main theme was the limitation of papal authority in matters of faith. However, his influence was more than that of a anti-papal polemist. He forcibly argued that it was the Emperor who had authority for administration of all the temporal goods of the Church, and that the Emperor also had final jurisdiction in all cases involving temporal properties, irrespective of the status of the parties, i.e., layman or clerics. William's method was based on logical reasoning and experience; but still, his writings are relevant more to 'conciliarism' or the constitutionalist movement within the Church, than to new approaches in the political thought proper.

In this context, Marsiglio of Padua is more significant. For his method was not primarily theocratic like Oackam, but heavily Aristotelian and thus secular. Because, in contrast to Thomas, Dante, and John of Paris, who in the final analysis operated within the framework of a divine and thus a hierarchical order of things, Marsiglio's thesis is as follows: for operational purposes, the link between divinity and nature in political science, no longer exists. For the political scientist has to take things as they are, and the question as to 'how nature has come about?' is irrelevant in political science. The basis of Marsiglio's system is the idea of law and its nature; and, it is the enforceable character of a rule that makes it law. 'This enforceable character can, however, be attributed only to the human law: the natural law-whether in the old or in the new sense-is no law because it cannot be enforced: the divine law is no law for the same reason. Enforceability can be attributed only to those rules of conduct which emanate from a human agency that is concerned with the realization of human needs and aims. The body which is capable of effecting this is the State. This Marsilian State is a *civitas* or a *universitas civium*... It is the product of the natural desire of man to live together and has all the capabilities of attanining the ends desired by men. These ends are this - wordly: what follows in the other world may be very important, but it is of no concern to the ordering of the *universitas civium*." (Ullmann: 1970, p. 269)

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If it is in reality a human enacted law, that is, a positive human law, natural law can also be enforceable and thus become a law. But the enforceability of this particular law is related to its being based on the will of the legislator, not on its being natural. In the public sphere power is firmly fixed and located in the humans themselves. The state constitutes a natural entity, it shares natural impulses and inclinations of its members which are made manifest in the will of the people. The crucial element is this will of people *(voluntas populi)*: it is the only factor that gives the enforceable character to laws. The *voluntas populi* or the will of the citizenhood knows best what sould be done or not done in the political sphere.

Marsiglio designates people as the *legislator humanus*, and thus brings out the main function of the state, that is, to make laws. This is the basic theme. Social order in a state can ony be regulated by means of the laws: they are the only vehicles through which the end of the whole citizenhood (the *universitas civium)* can be achieved. "The will of the people becomes the pivotal point of the laws and the focal point of Marsiglio's doctrine. And this will of the people is autogenous(*) because it emanates from the natural impulses and desires. Consequently, the people or the *universitas civium* is the one and unrestricted bearer of power. The only restriction that can naturally be placed upon the exercise of its sovereign power results from nature itself, that is the natural desires and appetites." (Ullmann: 1961, p. 271)

This 'restriction' is at the same time the reason as to why there cannot be any 'unjust laws'. For the laws are the expressed will of the people, and as they follow their natural desires, it is not, by definition, possible for people to enact 'unjust' laws. People as legislator know best what is just and what is unjust. Furthermore, the people, as the *legislator humanus*, has no superior. It is the community of citizens which is superior, or, in other words, the sovereign, in itself. For the plenitude of power, defined as 'power limited by no means whatsoever' by Marsiglio, belongs to the people. Their primary function is to legislate, and thus there is an identity between politics and legislation. Legislation is the outflow of a human authority which belongs solely to the community of citizens. This is Marsiglio's interpretation of the Roman Law principle of 'what touches all, must be approved by all'. Furthermore, the 'human authority' also takes the place of natural law, which used to be the standard frame of reference for the Roman jurists.

(*) Self-produced

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For Marsiglio, the essential point is that power should always remain with the community of citizens. As long as the government receives its power from the will of people, the form of its organisation is irrelevant: it could be monarchic, oligarchic or republican. But the state has to be based on a legal system. "Because the people has the sum-total of power, it concedes(*) to the government, the *pars princapans*, certain functions and powers, and these latter will vary according to the constitution or what he terms the *forma*. The government belongs to the instrumental or executive offices within the State. While the legislator is the primary cause of the working of the State, we call, he says, the ruler, the secondary or instrumental or executive cause of the working of the State, because he has been granted the authority. If we were to transpose (**) his thought into modern terminology, we could say that the government of the State is created through a constitutional law-the *forma* through which the legislator hands over to the government the actual ordering of civil affairs." (Ullmann: 1960, p. 273)

Delegation of power by the legislator, or, in other words, the citizens, to the government makes it self-evident that Marsiglio insists on election. Election is the only method to grant authority to a ruler. If some form of election is lacking the authority of the ruler is not legitimate. Thus, men is not anymore a subject who only receives laws made by the ruler but is a citizen as the source of both legislation and governmental authority. He is no more merely a member of a Christian Commonwealth, and as such, under the guidance of the Church and the clergy, but also a citizen who takes active part in politics alongside other citizens, including the clerics. Thus, in their function as citizens, the layman and the cleric had no difference in terms of their standing: each had the same status of citizenship. Moreover, laymen were in majority.

Marsiglio, in addition to the mechanism of elections, provided for the removal of government if and when it violated the constitutional law under which it took office. "Moreover, the government might be elected for life or for a number of years, it might include several persons or only one-all this depended uyon the people's will ... The governmet was the instrument of the people's will. The great significance of this standpoint lay in that it did away the vital theocratic principle, according to which the office of the rulers was, so to speak, laid up in heaven; it was for this reason that the electors could not modify or alter the substance of the office. Here, however, the office was defined by the citizenhood itself, which could lay down; in the constitutional law, the

(*) *Grant, admit*
(**) *Change the order or position of.*

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extent and scope of the office: the office itself had once again been created by the sovereign people... And so the office could understandably be taken away by those who had conferred it." (Ullmann: 1970, pp. 209-210)

It was Marsiglio's concern with law, its origin and binding character that determined his attitude towards the Church and the Pope. He does not consider the Church as a society or an organised union. For its law is not made by the will of people. The 'law' of the Church is not of human popular but of divine origin. Thus, as the 'law' of the Church is not of enforceable character, the clergy do not have any coercive powers. They are only citizens and as such are subject to the authority of the state which represents the will of the citizens.

For Marsiglio, the Pope through his claim for jurisdiction had disturbed peace and tranquility; and, he attempted to solve the problem. In contrast to the 'law' of the Church which is of divine origin, the ecclesiastical hierarchy is of human origin and its authority is based on human law. The 'priestly character' has no earthly origin and thus does not carry with it any earthly power or ecclesiastical rank. The Pope has no authority as the successor of St Peter, and St Peter did not have any superior standing with respect to other Apostles. Moreover, Marsiglio denied that there is any reliable evidence that St Peter was in Rome or that he was a Bishop. In any case, the Pope does not have any law-making powers; and a Papal Decree is not a law; in order to be law, it would need the sanction of the community.

Marsiglio applies to government of the Church his concept of sovereignty of the citizens. He takes the whole body of Christians to be similar, in composition and in functions, to the community of citizens in a state. In this context, a General Council takes the place of the government as the delegates of people. This Council is to be a representative body. He proposes that all the main territorial divisions of the Christian Society should, under the direction of their rulers, choose representatives in proportion to the number and quality of their Christian Population. And this Council, which is to be composed of both laymen and clerics, would have supreme authority in matters and controversies relating to the Christian faith. However, coercive authority will be in the hands of the temporal rulers.

Thus, although Marsiglio departed radically from the theocratic understanding of government, his citizens are still members of both the state and of the Christian Commonwealth. "Marsiglio's state is therefore not quite a separate secular institution, obliged to keep its hand off

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religious faith, as his church is certainly not a purely voluntary association with no need for coercive power." (Sabine and Thorson: 1973, p. 284)

C. Bartolus (1314-1357) and the Origins of an Alternative

Whereas Marsiglio based his arguments on political philosophy, the model developed by Bartolus was, in the main, a re-interpretation of Roman Law in the light of the experience of north Italian cities. These cities enacted their own laws and their own statues; and, in this process, neither the Pope nor the Emperor was in any way a frame of reference. Bartolus started from this existing situation and legitimised it with reference to certain Roman Law elements. The elements concerned were the concept of citizen, the concept of customary law and the *lex regia*.

The Digest had represented the citizen as full bearer of rights and duties in every sense of the term. It also recognised customary law as a valid and properly enforceable law. In this context, however, the binding force of the customary law did not, as claimed by the dominant mediaeval doctrine, result from the 'will of the prince', but from 'the will of those who have acted in a particular manner for more or less specified period of time'. It resulted from continuous usage and practice by the people itself and thus it was based on the consent of the people involved. But because a significant problem would arise in case there was to be a coflict between the terms of customary and statutory, that is, written, law *(lex)*, Justinian had attributed superior authority to the *lex*.

Customary law had existed in feudal Europe as well and it had mainly governed feudal economic and political relations. The traditional doctrine did not recognise the element of the will of people in the origin of customary law. The explanation was that customary law existed not because people had willed, but because 'the prince had not objected to it'.

The *lex regia* was not a law, it was rather a construction of the second century AD which attempted to explain to the Romans how their Emperor had obtained power: originally it was the people who had the power, but they had later transferred it to the Emperor. Although the common opinion of the jurists of the twelfth and thirteenth centuries was that *lex regia* was an 'irrevocable grant made by the Romans', practice in north Italian cities, in contrast, supported the thesis contained in *lex regia* that the people had the power. "Bartolus argued that if the people could create customary law-and nobody ever doubted this-

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there was no reason to withold from the people the right to make also statutory, that is written, enacted law. The element which infused legal character to mere practices and usages was consent of the people: it was a tacit(*) consent of people which created customary law. But what the people could do by tacit consent, Bartolus reasoned, they could also do by explicit consent, that is to make statutes, written law." (Ullmann: 1970, p. 215)

Thus, for Bartolus, the only difference between the customary and written law related to the way consent was expressed: in the customary law consent was tacit, in the statutory or written law it was explicit. Otherwise, both tacit and expressed consent were of equal force. Bartolus called those people who made their own laws as 'a free people' and compared to the Roman people, which according to the *lex regia*, originally had the power. In the view of Bartolus, a free people did not recognise any superior. For it was its own 'superior': 'a free people was its own prince'. The thesis which maintained that 'the King in his Kingdom is an Emperor' became in Bartolus's thesis 'the people itself as its own prince'. Thus, whereas former stressed the sovereignty of the King, Bartolus emphasised sovereignty of the people.

This concept of popular sovereignty meant that the government belonged to the people. "And when government lay in hands of the people the maxims and principles applicable to the monarchic-sovereign Ruler could be applied to the government of the people: the State, which Bartolus called the *civitas*-could legistlate 'as it pleased'. "In this context, the idea of representation is of particular importance: "the people in the popular assembly elected the Council, which was the governing body, and the Council represented the whole citizenhood, the State. It represented, as Bartolus very succintly stated, 'the mind of the people'. " (Ullmann: 1970, p. 216)

The people or the citizenhood had in Bartolus's model full sovereignty. It had power to determine the extent and the nature of the Council's power, to restrict the power of the Council or to freely fix the duration of its authority. For authority stemmed from people, not from a superior authority as claimed by the Pope, the Emperor or the kings and princes. Thus, the source of political authority is not 'divine grace' but 'the will of people'. It followed, in Bartolus's model that the concept of 'citizen', with the associated rights and duties, particularly legislative sovereignty, replaced the 'subject' of the mediaeval political thought.

(*) Implied but not openly expressed, expressed only through silence.

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However, Bartolus's concept of citizenship is far from a modern undersanding. For following the existing situation in the north Italian cities, he had an exclusive idea in connexion to the concept of citizenship. Bartolus, like Marsiglio, excluded slaves, foreigners, women and children from citizenship. But whereas Marsiglio's justification in this context was mainly Aristotelian, Bartolus had a juristic explanation. The reason he gave was that they 'were incapable of giving legally relevant consent'. In addition, Bartolus excluded clerics from citizenship as well: for the laity and the clergy formed two separate sections, and the laws of citizens did not have any relevance for the clergy, and vice versa.

D. Discussion

In conclusion, the late thirteenth and early fourteenth centuries witnessed new developments in terms of new approaches. Historical facts point out to the deterioration of the authority of the Pope, which started with the 'Babilonish captivity' of Clement V. Another institution which lost authority and prestige was the Holy Roman Emperorship. For although the Emperor had won his case against the Pope, and thus had furher weakened him, it was at the cost of recognising full sovereignty for Elector Princes within their princedoms: the Empire was in this way reduced to a place of political weaknees and insignificance.

So when we come to the fifteenth century we find that the only powerful entities, in fact and in law, were the national kings, the provincial princes, and the cities, particularly those of northern Italy where 'independent' city republics could flourish. As to the development of political thought, two basic trends were tracceable: first, in the reemergence of the state as an autonomous and self-sufficient entity, covering a particular territory, and enjoying full sovereignty within the borders of the territory concerned; and second, in the re-birth of the citizen, with the rights associated, which, in the main, gave him power to take part in politics, and thus enact laws, elect or depose governments and hence full sovereignty in connexion to the political process.

However, neither the state nor the citizen are yet used in the modern meaning of the terms. The state is still identified with the ruler, i.e., the King, Emperor or a Prince, or with the whole community of citizens. It is not yet a separate institution, representing, through a mechanism of government, the citizens, but not identified with either the Ruler or the People. Moreover, citizenship is still restricted to a few people,

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excluding majority of the population. Finally, these observations are only trends seen in certain parts of Europe and advocated by a few thinkers. The conservative tradition was still in existence, and in some cases quite strong.

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III. RENAISSANCE AND THE FOUNDATIONS OF MODERN POLITICAL "THEORY": SECULAR POLITICAL THOUGHT

Mediaeval understanding of government had, as we have seen, lost ground theoretically, as well as historically. The new historical entities were kingdoms, principalities and cities, not the Papacy and the Empire, or either one of them. At the theoretical level, the new concepts were, first, the state as a self-sufficient and autonomous entity enjoying full sovereignty within a given territory, and, second, the citizen, with his political rights.

However, the state was still identified with the Ruler, and thus represented a personal power, or with the people, in which case it was seen as a community of citizens. It did not yet denote an impersonal and institutional power, representing the citizens but autonomous, in a relative sense, from both the Ruler and/or government, and from the community of people. Also, the citizen was not in any way a universal category including women as well as well as men, and the poor alongside the noble and the wealthy. Moreover, as the religious factor was still considered relevant in politics and political thought, a secular political thought was not to emerge before the Italian Renaissance, but still, only in the writings of Machivelli in the course of the sixteenth century. The State as an institution, separate from both the Ruler ard/or government, and the people was to emerge in the writings of Bodin during the Counter-reformation. The final element of modern political thought, as a precondition of popular sovereignty, was the right of resistance to unlawful authority; and this was to be a contribution of French Protestants or the Huguenots.

In this third Chapter of Part Three, the discussion will centre on the modern concepts of politics with reference to the Italian Renaissance and in particular to the writings of Machiavelli.

A. Renaissance and the Modern Concept of Politics

Renaissance was exclusively an Italian phenomenon and it later spread to northern Europe. The original feature of Italy should be sought in the economic and political power of the cities in northern Italy. The Italian peninsula can, in terms of different spheres of influence, be divided into three geographical regions. The Papal State covered central Italy, including the city of Rome. Southern Italy and

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the Island of Sicily formed the Kingdom o of Sicily. Florance lay between the Papal State and the western coast of Italy; other important cities were Milan and Venice in the north. These and other nothern Italian cities had acquired an 'independent' status and had managed to subject adjacent rural territories to their political control.

The independence of north Italian cities goes back to the twelfth century. The Emperor was King of Italy as well and thus an overlord of the north Italian cities. He attempted to establish a direct imperial administration in Lombardy, that is, in the north of Italy. The north Italian cities in turn formed, under the leadership of Milan, a League in 1167 against the Emperor, which was supported also by the Pope. The Emperor was defeated in 1176, and in return for an annual tribute, the Emperor agreed with the Treaty of Constance (1183) to accept the internal freedom of the cities, "Like the English Magna Carta, this treaty defined the limits of the emperor's overlodrdship: it did not in any sense end it. But it gave the cities a much greater independance to control their private affairs than the English barons won from king John, an independence that amounted to a right of internal government." (Keen: 1969, p. 115)

Originally, north Italian cities were governed by consuls which were elected by the citizens for a term of one year, and this obviously was a sharp contrast to the feudal practice of rule by a hereditary monarch. In the course of the twelfth certury the rule of consuls was replaced by an elective government. This government consisted of a *podesta*, the administrative and judical officer, usually a citizen of another city, elected and responsible to the body of citizens. He worked in return for a salary and the term of office was limited usually to six months. He worked in association with one or two councils, in most cases representing the leading citizens. However, he always remained accountable to the body of citizens.

Emperors never gave up their claims on northern Italy, but the cities were equally determined to defend their republican form of government and internal freedom. The second campaign of the Emperor started in 1235, but his enemies, under the leadership of Milan, were able to defeat him by 1250. The Emperors continued to press with their claims for rights of legal rulership over Italy, and organised military campaigns in 1312 and 1327. In the first case, they were defeated by Italian cities organised under the leadership of Florence; and the second campaign ended with the failure of the Emperor when he ran short of financial resources. For when the Emperor could not anymore pay his soldiers, the army could not be kept together.

It was within the context of this long struggle of the north Italian cities with the Emperor, over their independence, which they were in each case able to win, that they also managed to build up an armoury of ideological weapons with which they sought to legitimate this continued resistance to their nominal overlord. The essence of their response to the Emperor's demands consisted of the claim that they had a right to preserve their 'liberty' against any external interference... the city propagandists usually had two quite clear and distinct ideas in mind when defending their 'liberty' against the Empire: one was the idea of their right to be free from any outside control of their political life-an assertion of their sovereignty; the other was the idea of their corresponding right to govern themselves as they thought it fit in defence of their existing Republican constitutions." (Skinner: 1978 V1, pp. 6-7)

Bartolus, as we have seen, was to be a single most important figure in that he re-interpreted the Roman Law to support the thesis of popular sovereignty of the citizen body. It was the Papacy which had always supported the Italian cities against the Emperor, but then, as they were soon to discover, the popes began to aspire themselves to rule the Kingdom of Italy. Moreover, the popes registered considerable meansure of success; and by the end of the thirteenth century, the popes were in direct control of central and most of the major cities of nothern Italy. This time, the cities had to fight the Papacy. Dante's book on *Monarchy* should be evaluated within this context; but it did not provide any feasible solution for the problems of the cities concerned. Marsiglio's contribution, in his criticism of the papal plenitude of power and denial of coercive authority to the Church and thus to the Papacy, was a major step forward. Also, instead of the papacy, he instituted the human legislator. However, as a result of the class divisions which created internal factions, most of the cities were forced by the end of the thirteenth century to abondon their republican constitutions and transfer power to despots or *signori*. With the coming of the *signori* a new style of political theory began to develop and in this literature the *signori* were praised as 'the bringers of peace and unity'.

There were, of course, exceptions such as Milan, Padua and Florence, which kept on defending their republican constitutions. In this context, the study of rhetoric, that is, interest in language for the purpose of better letter writing and for the preparation of more eloquent formal speeches, was significant. For the *dictatores* (instructors) made frequent references to the writings of the chief figures of the Antiquity, in particular to Cicero. In the course of time writings of the prominent thinkers and historians of the Antiquity ceased to be a mere source of reference and began to be utilised as examples of ideal letters and

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speeches, and came to be studied on their own account as works of history, philosophy, politics, etc. Thus, there arose interest in city chronicles, or, in other words, historical record of the cities, on the one hand, and in advice books for the rulers, that is, 'miror-for-princes' literature, on the other.

Another important source utilised in the defence of republican ideals, in addition to the rhetoric, was scholastic philosophy of Thomas, Dante, Marsiglio and Bartolus. In this context, there was interest not only in Aristotle, but in the history of ancient Rome and particularly in the writings of Cicero. Hence, political independence and republican sef-government could be defended with reference to the history of ancient Rome and the writings of Aristotle and Cicero.

B. The Italian Renaissance

1. General

Fifteenth century in Florence saw the development of a new form of humanism. The humanists defined the concept of liberty in terms of independence and self-goverment, that is freedom from external interference, and, also in being able to take an active part in politics. This involved an attack on monarchy, and thus the Empire, and a belief that a republican form of government is the best for Italy. In this context, the basic value of humanists was that 'virtue constitutes the only true nobility', and this meant that individual self-development was of utmost importance.

The model of the fifteenth century humanists is the Roman Republic. They express their 'preference for the Roman Republic over the despotism of the later Empire'. This approach had its roots in the fourteenth century writers, the most important of which was Bartolus.

In the fourteenth century, there was a new development in the teaching of rhetoric, that is the use of language to persuade or impress. It was increasingly devoted to the study and imitation of classical history, poetry and moral philosophy. One important development was a rapid growth of information about the ancient world. This was based on the re-discovery of new classical texts by Cicero, Tacitus, Thucydides and Plutarch. A more important line of development related to a change of attitude on the part of humanists in connexion to the study of classical Antiquity. "A new sense of historical distance was achieved, as a result of which the civilisation of Rome began to appear as a wholly separate culture, one which deserved-and indeed required-to be reconstructed and appreciated as far as possible on its own distinctive terms." (Skinner: 1978 v1, p. 86)

In this context, the concept of *virtus* is most significant. It refers to" ' the single virtue' which has been 'found to outshine the rest'. Cicero even maintained that ' it is from the word for man *(vir)* that the word virtue *(virtus)* is derived. So he insists that this special quality of *virtus* is the one we must seek above all to acquire, not merely 'if we wish to prove possessors of virtue' but also 'if we wish to be man.' "Hence, the "fundamental aim of all education is thus taken to be the development of the *vir virtutis*-the truly manly man." (Skinner: 1978 V1, p. 87)

This concept of *virtus* had several important consequences for the humanists. They assumed, first, that it was possible for man to attain this highest kind of excellence. Second, this goal was to be achieved by the right kind of education; and, third, the contents of proper education had to be based on rhetoric and ancient philosophy. In the course of the fifteenth century, the so-called 'Renaissance man', that is, the man who aims at universal excellence, became the ideal to be imitated. He was the man who had succeeded in combining the courtier's, soldier's, scholar's eye, tongue, sword'.

However, by far the most important consequence of adopting the ideal of universal man was that, 'it led the humanists to reject the Augustinian picture of human nature'. "St Augustine had explicitly laid it down in the *City of God* that the idea of pursuing *virtus*, or total human excellence, was based on a presumtuous(*) and mistaken view of what a man can hope to achieve by his own efforts. He himself argued that, if ever a mortal ruler succeeded in governing virtuously, such a triumph can never be ascribed to his own powers but 'only to the grace of God'. He was careful to add, moreover, that even when God 'has granted virtue' to such a ruler in response to his prayers, he will still be sure to 'fall short of perfection in righteousness' due to his fundamentally corrupted nature." (Skinner: 1978 V1, p. 91)

Thus, whereas the dominant doctrine of the Middle Ages assumed that God alone possesed excellence, and only Christ personified it, the fifteenth century humanists, in contrast, emphasised the 'excellence and dignity of man'; and since it was assumed that man was capable of attaining excellence, it followed that he had a 'duty to make the pursuit of *virtus* the main aim of his life'. This attitude, furthermore, had two significant consequences. The first concerned the belief in the power of man to shape his own destiny, and the second involved a new understanding of history.

(*) Arrogant.

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In connexion to the first new element, the Renaissance writers revived the classical belief in the opposition between *virtus* and *fortuna*. In this opposition, *virtus* represented man's will and *fortuna* referred to the goddess Fortuna: although she had great power on human affairs, it was possible for a man of true *virtus* to win her over and even to conquer and overcome her. For fortune favoured the brave. This, again, was in complete contrast to the Augustinian view which maintained that achievements of men are a consequence of God's will and thus 'a gift of God'. It did not have anything whatsoever with the power of a man or a goddess.

As to the second significant contribution of the humanists, it also consisted of the challange of another key assumption of Augustinian Christianity. "St Augustine had viewed the march of history essentially as a linear development, a gradual unfolding(*) of God's purposes for the world. The humanists by contrast reverted to the claim originally advanced by Aristotle in Book V of the *Politics*, and reiterated by Polybius and Cicero, that the course of human events can be shown to proceed in a series of recurring cycles." (Skinner 1978 v1, pp. 109-110)

2. Machiavelli (1469-1527) and the Foundations of Modern Political Thought

a. General

It might seem strange to take Machiavelli as one of the founders of modern political thought. For Machiavelli is seen by most as a 'preacher of evil'. More important, still, he is a controversial thinker. There are more than twentyfive leading interpretations of his work, the *Prince*; but then, he has other works, most notably the *Discourses*, as well. Some of the interpretations of Machiavelli are as follows: 'immoral', 'a ruthless but a glorius nationalist', 'a democratic and humane patriot', 'a cold technician', 'an agonised humanist crucified between the conflicting intensities of his perception of the *is* and his sense of the *ought*', 'a supreme realist', 'an anticipator of Galileo's scientific method', *a priori* (**) dogmatist who dressed himself up in bits of palace gossip about history and science', 'a univensal genius'.

(*) Revelation
(**) (Reasoning) from cause to effect.

But "his latest commentator... makes it plain that he could have hardly hoped for a pass degree had he studied history at Swansea. To Macaulay he was an elagant, balanced and patriotic Whig; (*)to Gramsci he was as near to a preincarnation (**) of Lenin as any mortal man could get before the birth of Marx; and to Professors Sabine and Max Lerner, he was an american political scientists of behavioural persuasion.Jacob Burckhardt saw him as an atheist and James Burnham saw him as a managerial-bureaucrat. A funny kind of Christian to Professor Germino... and either a pagan or an atheist to so many others; a toady (***) of princes, or a democratic satirist... there is no end to it, nor will there ever be. (Crick(ed) : 1970, p. 15-Introduction)

If one of the basic reasons for this wide-ranging but extremely controversial nature of interpretations is the originality of Machiavelli, another is abstracting Machiavelli from his times and not taking into consideration the political and economic environment within which he lived. Machiavelli worked for fourteen years at high level posts in the Republic of Florence, until the Medici restored, with the help of the Spanish Army, a despotic government in 1512. He was first, in 1498, appointed to the head of the second Chancery; his work involved home affairs and war. Later in the same year he was appointed as secretary of the Council of Ten. The Council was among one of the executive boards for carrying out policy in Florence; it managed the conduct of foreign policy and war. When the Medici rule was restored, Machiavelli was to be the most famous victim. He was dismissed from his office, imprisoned for a short time and then exiled to his small estate near Florence.

Among his works of comedy, history and politics, the *Prince* and the *Discourses* deserve special attention. 'These two treatises signify the beginning of a new stage-one might say the modern stage-in the development of political *thought*." (Gilbert: 1965 p. 153)

When Machiavelli wrote at the beginning of the sixteenth century, the dominant form of government had come to be that of the despotic rule of princes. The troubles had started in 1494 with the French

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(*) Member of English political group aiming at giving more power to Parliament, which after 1868 became the Liberal Party.
(**) Previous personification.
(***) Flatterer in the strongest sense of the word.

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invasion. But until that time, as the long conflict between Milan and Florence had finally come to an end in 1454, there had been a long period of peace and tranquility in northern Italy. French invasion generated endemic warfare through out Italy. The situation was further complicated, and transformed into a disaster by the decision of the Emperor Charles V "in the early 1520's to contest the French control of Milan, which converted the whole of *Regnum Italicum*(*) into a battlefield for the next thirty years." (Skinner: 1978 V1, p. 113)

It was in this context that in some cities, such as Naples and Milan, which already did not possess a republican form of government, that new and more powerful rule of princes were imposed. But in other cities of active republican traditions, such as Florence and Rome, where despotic rule was to be a novel form of government, there were conflicts between advocates of republican liberty and tyrannical government. In any case princely government came to be the general rule in Italian cities.

The final triumph of *signori* almost everywhere in Italy had two consequences for political thought. One was reflected in the new meaning attached to the traditional republican concept of citizenship. Thus, leading philosophers of the latter fifteenth century began to praise withdrawal from public life and contemplation instead of active participation. Another alternation of attitude related to the change in the audience of political writings. Hence, whereas earlier humanists had written for the citizen body of a republican form of government as a whole, the humanists of the later Renaissance began to write advice books for princes, although their own preferences, as in the case of Machiavelli, would have been for the republican form of government.

b. Machiavelli's Political Ideas

Machiavelli wrote the *Prince* and the *Discourses* after he was removed from office in 1512. His object, as he declared in the dedication of the *Prince*, was "to impart to others the knowledge which he had acquired through a long experience of modern events and constant study of the past. One might say that the *Prince* and the *Discourses* are the works of a defeated politician who reflects on the mistakes which brought about the failure of his cause. The dominating idea in these two works is an appeal to recognize the crucial importance of force in politics." (Gilbert: 1965, p. 154)

(*) Kingdom of Italy, i.e. the northern part of contemporary Italy.

Machiavelli, like his contemporaries, had learned about the crucial role of force in politics during the struggle between the King of France and Emperor over the control of Italy, and as a consequence of the overthrow of the republican government of Florence by the Medici, with the help of the Spanish forces. Machiavelli's proposal was to establish a citizen army instead of the Italian practice of utilising mercenaries, or, in other words, professional foreign soldiers employed by a state, or auxiliaries, that is, foreign or allied troops in the service of a state at war.

When Machiavelli wrote the *Prince*, the speculation was that the Medici Pope Leo X wanted to establish his brother and his nephew on a throne. So Machiavelli's main theme in the *Prince* is the conditions of succes of a prince, and particularly of a new prince. The theme of the *Discourses*, on the other hand, is the prerequisites for the establishment of a good republic. "Again this was a question of immediate political significance.In the first years after the return of the Medici it was by no means clear that they would settle up in Florence as permenant rulers. Both Guiliano and Lorenzo seemed inclined to prefer ruling a less troublesome state. Thus the form which a republican government ought to take remained a much debated issue in Florence." (Gilbert: 1965, p. 155)

Machiavelli wrote the *Discourses* in view of the problems which disturbed and eventually destroyed the republican regime of Florence. So it must be read in the light of these problems. Thus, he regarded all men evil in the sense that they all pursue their own egoistic interests. It is on this assumption that actions of men become calculable and could be utilised to increase the strength of the body politic. Hence, his basic approach is rationalistic, that is, based on reason. However, reason, in Machiavelli's perspective is not everything. Determination and will power are the two qualities which might predominate over reason. Preconditions of success in politics are action and initiative, there is no place for neutrality and the middleway.

Machiavelli based his political views on experience and authority; and for him authority was 'the knowledge of the ancient world which can be found in the ancient writers'. "Machiavelli intended to do for politics what others had been doing for art, jurisprudence and medicine: to clarify and codify the principles which the ancients had followed. Machiavelli only wanted to state that he was applying to politics those methods which had been successful in other areas... His position was identical neither with that of the humanists nor with that of the Florentine aristocrats. Machiavelli differed from the humanists about the

purposes of political literature, and he looked upon the Florentine political scene from an angle opposite to that of the aristocrats." (Gilbert: 1965, pp. 158-160)

Machiavelli's main interest lay in active politics, in taking part and determining the course of events. "Almost everything that he wrote after 1512 was produced for the single purpose of gaining the support of those who could help him to resume his career in active politics. The ambitions o the younger Medici, first Guiliano and then Lorenzo, for founding a dynasty stimulated him to prepare a treatise on the policy to be followed by a "new prince". The favours which the playwrights enjoyed at the court of Pope Leo X induced him to turn his attention to the writing of comedies. In the dedication to the *Discourses* he confessed that he would never have written this work had not two of his patrons... exerted pressure on him to do it. His last extended literary work, the *Florentine History* was commissioned by... Cardinal Guilio Medici." (Gilbert: 1965, p. 161)

However, this did not lead Machiavelli to argue for, or to defend, aristocratic interest and policy. Although he was a writer with practical political purposes, he was not a member of the Florentine ruling group. Moreover, he opposed to the ruling group in Florence. There were several reasons for this. For one thing, Machiavelli came from a patrician but an impoverished family of Florence; it seemed to him that he was excluded from the ruling group because of not having sufficient wealth. Secondly, during the republican period of Florence, he had been a close associate of Soderini, head of the state, who had adopted an independent attitude with respect to the aristocratic group. With the failure of the republican cause, the collapse of the republican regime, Sodereni's exile, and the return of Medici, Machiavelli was placed "in a lonely, almost hopeless situation. That Machiavelli was the only chancellery official whom the Medici dismissed was their recognition of the close relationship between Machiavelli and *Gonfaloniere* (*) The aristocrats who supported the Medici shared their notion of the influence which Machiavelli exerted during the republic. Other aristocrats, though opposed to the return of the Medici, saw no reason to lift a finger for the creature of Soderini. Still others of the aristocrats felt so insecure under the Medici that they would not risk speaking in favor of a man whom the Medici regarded as their enemy." (Gilbert: 1965, p. 173)

Machiavelli denounced aristocratic influence and policy, and held the aristocrats responsible for the destruction of the Florentine Re

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(*) Head of the state, in this case Soderini.

public. However, this does not mean that he was against the presence of a ruling group in political organisation. He only criticised the criterion on which the Florentine ruling group was based. Otherwise, he believed that each political body consisted of two groups, the rulers and the ruled or those who were the leaders and those who were lead. To Machiavelli membership of the Florentine ruling group was based mainly on wealth. But money and wealth were evil as the Roman history showed. For the decline of Roman freedom was a consequence of the emergence of factions and internal strife. This was because desire for riches had 'made the conflict between the Senate and the people irreconcible'. Both the people and the nobles could reach to an agreement on honours, 'but when it came to a question of property, then the nobility resisted with so much pertinacity (*) that the people, to satisfy their thirst for riches, resorted to extraordinary proceedings'. The argument in the *Discourses*, given above, that seeking for wealth is evil, is stated in a different form in the *Prince:* a' man might be willing to forgive the murder of his brother or his father, but he could not forgive the violation of his property'. To Machiavelli, the relationship between 'common good' and 'private interest' was one of irreconcilability. For he identified 'private interest' with the'desire for wealth', which was 'evil'.

In Machiavelli's writings the word *stato* (state) is most frequently used as the 'power or apparatus of power of a ruler or ruling group'. Sometimes *stato* is used by Machiavelli to designate a geographical area or territory , or to indicate the form of a government. But the state in themodern sense, which refers to the impersonal and sovereign authority in a political system, cannot be found in Machiavelli's writings. But "his idea of a political society as a collective body having its own laws of existence was novel." (Gilbert: 1965, p. 178)

Machiavelli's opposition to aristocrats led him to advocate a popular form of political system. In his view, the best form of government was a system in which the mass of the citizens had the power. This Machiavelli explains as follows in the *Discourses*: Although the multitude have been accused of unreliability and inconstancy, "all men inividually can be accused of it, and chiefly princes; for he who is not regulated by the laws will commit the same mistakes as the ungoverned multitude. And it is easy to make sure of this, because there are and have been many princes, and the good and wise ones have been few... the comparison ought to be made with a multitude regulated by laws... because all err equally when all are free to err without considering right and wrong.

(*) Persistency

I conclude, then, against the common opinion, which says that the people, when they are rulers, are variable, changeable and ungrateful, for I affirm that in those sins they do not differ from individual princes. And anybody who accuses both the people and the princes surely tells the truth, but in excepting the princes he deceives himself, because a people that commands and is well organized will be just as stable, prudent(*) and grateful as a prince, or will be more so than a prince, even though he is thought wise. And on the other hand, a prince set loose from the laws will be more ungrateful, variable and imprudent than a people. And the variation in their actions comes not from a different nature-because that is the same in all men, and if there is any superiority, it is with the people-but from having more or less respect for the laws... I could say that a people is more prudent, more stable and of better judgement than a prince." (Plamenatz(ed): 1972, pp. 209-211); Crick(ed): 1969, pp. 249-261)

Machiavelli, even after 1512, believed that the institutional arrangements of the Florentine Republic were essentialy sound, but it was the spirit which was lacking. This, Machiavelli designated as *virtu* but in the collective sense. *Virtu* is an Italianised form of the Latin word *virtus* and denoted 'the fundamental quality of man which enabled him to achieve great works and deeds'. It had nothing to do with the 'virtues' preached by Christianity, but preserved its classical meaning of 'strength and vigour'. *Virtu* at the individual level was a prerequisite of leadership, but it was at the same time, a more general spirit which existed in a well-organised society. Thus, Machiavelli's concept of the *virtu* "postulates the existence of coherence among the institutions of political society. Moreover, in its widest sense his concept of *virtu* implies that certain fundamental elements of strength and vitality have to be present in any well-organized society regardless of its particular form of government... By separating politics from other human concerns Machiavelli made one contribution to the genesis of the modern idea of state; his concept of *virtu* represents another." Machiavelli's basic ideas in this context were "that laws exist which govern the world of politics, that man must live for politics to the exclusion of all else, that virtu must be present in the individual and in well-organized societies." (Gilbert : 1965, p. 180)

In spite of his modern ideas in connexion to politics, which even led him to treat class struggle, that takes place within constitutional limits, as a factor that helps to bring about the common good and thus

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(*) Careful; judicious.

liberty, Machiavelli's ideal was the republican Rome. Also, he took the history of the ancient world to be a guide for human action. This led him to adopt a static concept of politics. Thus, Machiavelli went back to the traditions of Aristotle's *Politics* and Cicero's *Republic* and to Polybius. This means that he goes on to adopt the theory on the 'historical cycle of constitutions' and of 'mixed government'. But government comes about when the three essential elements, that is, forces or tendencies, i.e., 'regal power', 'influence of the men of substance' and 'popular government', are in a most appropriate combination; but corruption is inevitable, the difference will be reflected in the duration of survival.

However, this did not mean that Rome was a model to be imitated, it only meant that man was one of the forces of nature and his actions had to be connected to the changing circumstances of the situation. In this context, the key concepts are *Fortuna*, virtu and *Necessita*. *Necessita* referred to the factor that determined man's actions but was outside his control. But it is not only a hostile force, it may coerce man to take an action which reason demands or may create opportunities for action. Thus, there is no such thing as a desperate situation. "At most times there are possibilities for men to turn circumstances to their advantage. As long as man uses all the capacities with which nature has endowed him he is not helpless in the face of external pressures." This held for the relations between man and *Fortuna*. He believed that men who possessed *virtu* "can exert a certain counterweight against *Fortuna*, and that there is a certain balance between *virtu* and *Fortuna*: 'I think it may be true that *Fortuna* is the ruler of half of our actions, but she allows the other half or thereabouts to be governed by us"; and further, it was possible to conquer *Fortuna* by force and to overcome it by bold action. (Gilbert: 1965, pp. 193-194)

Thus, man in Machiavelli's understanding is not a passive receiver of God's will or a prisoner of fate, but is an active agent in politics who uses his own reason to choose the best course of action from among the alternatives and acts in accordance with his will power and determination. To the extent he possesses *virtu*, he would defeat *Fortuna*, manipulate *Necessita* and achieve success. Success, in turn, is a function of *virtu* which has nothing to do with Christian 'virtues'. This can best be illustrated in connexion to the concept of 'virtues' and with reference to Machiavelli's advice to the ruler in the *Prince*.

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First, there were equity, liberality(*) and love which hold men in human society. Then, there were the four cardinal, that is, fundamental, virtues of the Antiquity: justice, visdom, temperance(**) and fortitude. (***) The function of these latter were to sustain men against the adversities, i.e., states of misfortune and distress, of life. But the humanist had, until Machiavelli, also included in the 'virtues' concerned two further claims of Christian origin: "The first is that we must never congradulate ourselves on acquiring any of these 'great and excellent' virtues, since we must recognise that this ability has been 'instilled in our souls by God'. The other is that no one can in consequence be said to be following a truly virtuous life unless his 'excellent deeds' are performed not merely with 'manly firmness', but also with 'a love of righteousness' and a constant desire to commend himself to his Maker." (Skinner: 1978 V1, p. 92)

Whereas the traditional humanist literature argued with respect to the prince who wanted to 'maintain his state and achieve great things' that he must at all times follow the dictates of christian morality, Machiavelli, in contrast, put forth the view that "if a ruler is genuinely concerned to 'maintain his state', he will have to shake off (****) the demands of Christian virtue, wholeheartedly embracing the very different morality which his situation dictates. Thus the difference between Machiavelli and his contemporaries cannot adequately be characterised as a difference between a moral view of politics and a view of politics as divorced from morality. The essential contrast is rather between two different moralities-two rival and incompatible accounts of what ought ultimately to be done... So the most accurate summary of his advice... is that the prince 'should not deviate from what is good, if that is possible, but he should know how to do evil, if that is necessary'." (Skinner: 1978 v1, pp. 134-136)

In conclusion, a secular approach to politics is one fundamental contribution of Machiavelli. A second basic contribution of the writer was "that all legislation favourable to liberty is brought about by the clash between the classes, and thus that class conflict is not the solvent but the cement of a commonwealth. "(Skinner: 1978 V1, p. 181)

(*) Generosity.
(**) Moderation.
(***) Strength of mind.
(****) Free oneself from.

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This Machiavelli expresses in the *Discourses* as follows: "I must not fail to discuss the tumults(*) that broke in Rome... nor yet to mention certain facts which militate against the view of those who allege that the republic of Rome was so tumultuous and so full of confusion that had not good fortune and military virtue counterbalanced these defects, its condition would have been worse than that of any other republic...

To me those who condemn the quarrels between the nobles and the plebs, seem to be cavilling(**) at the very things that were the primary cause of Rome's retaining her freedom, and that they pay more attention to the noises and clamour(***) resulting from such commotions(****) than to what resulted from them, i.e., to the good effects which they produced. Nor do they realize that in every republic there are two dispositions, that of the populace and that of the upper class, and that all legislation favourable to liberty is brought about by the clash between them." (Crick(ed) : 1070, p. 113; Plamenatz (ed): 1972, pp. 152-153)

C. Discussion

Italian Renaissance was a new stage in the development of political thought, and as such it had influence in other countries, most notably in France and England. As we shall see in the next chapter, Bodin was one of the French political thinkers in whose work there is extensive reference to Machiavelli.

The two fundamental contributions of Italian Renaissance are related, first, to the nature of human will and, secondly, to the secular, as against theocratic, approach to politics. Until the Renaissance, the Augustinian approach to human nature dominated politics and also political thought. The assumption was that human nature was corrupted and thus man was incapable of making sound judgements and hence of right conduct. In other words, if man were left to himself, his behaviour would be far from adequate. So there was a need to guide human behaviour. In this contxt, the two relevant authorities were the spiritual power of the Church, on the one hand, and the governmental power of the temporal authorities on the other. The former was to devise the rules of conduct and the latter to see to it that the proper rules of behaviour were observed, and to repress evil. In this understanding of society and

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(*) Agitation of a multitude, usually with great uproar and confusion of voices.
(**) Find fault without good reason.
(***) Noise, outcry, especially of opposition or of complaint
(****) Agitation, disturbance; tumult, uprising.

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politics there was no place for a man who could decide for himself, and on the basis of his own merits, his independent and autonomous will, as to his course of action or for his future. Man was considered to be so corrupt that others were to decide for his fate.

The basic contribution of the Rehaisance thinkers was to challange this dominant doctrine in connexion to the human nature and to argue instead that man was capable of shaping his own destiny. It was possible for man to possess the virtues which were required of him for both living in a social context and for achieving success against unfortunate circumstances. Thus, the individual and his positive capabilities were restored to a central place in politics.

The Renaissance thinkers argued in terms of the possibility of man's achieving great things and acquiring fame, glory, and success on the basis of his virtues. Although this was a radical departure from the dominant ideology, the humanists' concept of virtue included Christian virtues of modesty and faithfulness as well. Machiavelli's contribution become more significant particularly at this point. This is because, for Machiavelli Christian virtues are irrelevant, his only concern is for *virtus*, that is purely secular or civic virtues. His model is the classical world of Republican Rome and his approach takes the form of 'if, then', i.e. 'if a prince wants to establish a new state, then the conditions of success are as follows:...', or, 'if you want to preserve liberty, then the following are the prerequisites...'. In this context, reason, *virtus* and force have their specific roles, but the frame of reference is the secular world of politics only, nothing else.

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IV. REFORMATION, ABSOLUTISM AND THE RIGHT OF RESISTANCE

Reformation and the Counter-reformation provided the political context for the emergence of the modern concept of state, and also, however paradoxical it may seem, the right of resistance. Modern concept of state, in origin, was based on the 'divine right of kings' for 'absolute power', However, the term 'absolute' did not denote unlimited political power. It was rather a reaction to the claims of universal authority by the Pope, on the one hand, and to the parcellised nature of sovereignty under the feudal political system on the other. In the final analysis, the new concept of state was based on a doctrine of sovereignty in which political power would be located at some specific point in the organisation of the political system. In other words, the object was the creation of a centralised system of sovereignty.

The right of resistance, in contrast, was a counter-reaction to the claim of absolute sovereignty on the part of the kings. It was in origin a Protestant reaction to the massacres and oppressive policies, in France, of a Catholic majority. But the right of resistance was derived from a basically 'democratic' understanding of the relationship between the people and the Ruler. It was based on the concept of a contract between the people and the Ruler, which saw the Ruler as an elected representative of the former, and hence charged with the function of promoting the welfare of the people. Thus, as the authority of the Ruler was based on the power delegated by the people, his rule was founded on consent. This meant that, when the ruler turned into a tyrant he did not any more have a legitimate right for obedience on the part of the people. That is to say, when the welfare of the people or, in other words, people's natural rights over their lives and property, are no longer upheld by the Ruler, this means that the ruler has turned into a tyrant. Then, it follows that the people have a right to resist this particular Ruler: for he has failed to honour the terms of the contract mentioned.

A. Reformation and the Modern Concept of State

1. Reformation and the Divine Right of Kings

a. General

Reformation refers to the religious movement which aimed at restoring 'the golden age of the Church'. So it was not only a religious

movement but was also characteristically mediaeval. Because it tended to look backwards for its model and standard. "The puritan of the Middle ages saw in money the root of nearly all evil. And perhaps the most painful contrast between religious ideal and clerical practice lay at this point... Money the root of evil-and yet ecclesiastical benefices seemed to the laity too often a mode of heaping(*) gold upon gold. And in the realm of money, in the opprtunities for ecclesiastical good living, it seemed to many observers that Rome was pre-eminent. Everything in the Church, said the critics with exaggeration, is sold for money-pardons, masses, candles, ceremonies, curacies, benefices, bishoprics, the Papacy itself." (Chadwick: 1972, p. 19)

There was nothing so novel about the problem. Since the Investiture Contest of the eleventh century, there was, as we have seen, friction between the temporal rulers and the Papacy over the authority to appoint clerics to ecclesiastical benefices. The right of the Pope to 'provision' or to nominate his candidates to benefices outside Italy had created, since at least the thirteenth century, resentments amongst native clergymen. This had led them to look for the protection and favours from their own kings and princes. The temporal authorities who wanted to extend royal authority at the expense of the Papacy utilised this source of frustration to build up support for their programmes of consolidation of royal power.

Moreover, Church property, including the vast lands of the monasteries, were, provided that they could be utilised for royal ends, to be important sources of revenue in creating a centralised state structure out of the parcellised system of sovereignty under the existing feudal arrangements. Thus, it was no accient that the English King, during the Reformation, not only transferred the whole ecclesiastical apparatus to the control of the state, but also dissolved monasteries and expropriated their vast landed wealth. When, for instance, Sweden became officially a Lutheran country in 1527, and had completed the process by 1544, it was undoubtedly the most successful economic operation of its kind accomplished by any dynasty in Europe. "For by contrast with the dissipated(**) results of the Tudor seizure of monasteries, or the German princes' secularisation of church lands, virtually the entire windfall of ecclesiastical estates accrued *en bloc* to the Swedish monarchy." (Anderson: 1974 b, p. 173)

(*) Piling
(**) Wasted, melted away; Henry VIII had to sell Church estates to finance his war effort, in alliance with the Emperor, against the French, in the 1540's.

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Another factor that should be taken into consideration in any account of the Reformation is the fact that the monopoly of the clerics over learning had been broken with the advent of the Italian Renaissance, and with its spreading in northern Europe. It vas a time when the upper classes, the rulers and the merchants had better education, which was further facilitated by the invention of printing.

Thus, the reformation was a religious movement but it had deep-rooted economic and political reasons; and the consequence of the Reformation, for the purposes of this lecture notes, was the development of the doctrine of the divine right of the kings. It was on the basis of this ideological weapon that the feudal monarchies of Western Europe reorganised the political system and established the'absolutist state', that is, instituted a centralised form of sovereignty in contrast to the parcellised system of sovereignty which had existed under the feudal political system.

Basic accomplishments of the absolutist state were the introduction, instead of vassal homage, of a professional bureaucracy; setting up of universal taxation in the place of feudal dues and obligations; creation of a univarsal legal system, a unified national market, a national currency; administration of a common customs policy towards third parties; and promotion of mercantilism, or, in other words, an agressive international trade policy which brought about accumulation of capital through colonisation, and favourable terms of trade for the mother country. So, although the Reformation re-oriented secular political thought of the Renaissance humanism back to religious considerations, it nevertheless contributed towards the emergence of a 'modern' state within the confines of a still feudal and mediaeval Europe.

- b. Luther (1493-1546)

The basic effect of the writings of Luther was, like that of other protestant thinkers such as Calvin, to give a final and fatal blow to the authority and prestige of the Pope. Luther's approach to politics, as a religious leader, was theological. It concerned man's relations with God.

Traditional doctrine, before Luther, had maintained that it was only through the sacraments, that is, rituals of the Church, that a Christian could attain salvation. In this context, the clergy, according to the official teachings of the Church, occupied a special position between man and God, in that they were 'mediators between God and the Christian'. Thus, the spiritual authority, or the church, claimed superiority with respect to temporal authority of the king and princes.

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Luther rejected this mediatory role for the clergy and thus of the Catholic Church, and put forth the doctrine of the 'Priesthood of All Believers'. The docrine concerned maintained that "there was no essential difference between priests and laymen, since all those who truly believed shared equally in the priesthood of Christ. At the same time, Luther challenged the papal doctrine of Two Swords... by insisting that temporal rulers derived their power directly from God." (Thompson, in, Thomson(ed): 1969, p. 36)

Thus, to Luther, the Pope did not possess both the spiritual and the temporal authorities, and he was not, as he claimed, a mediator between God and a temporal ruler. If temporal rulers derived their authority directly from God, it followed that the Pope did not have any authority in the sphere of temporal matters. Moreover, this meant that the subjects of a tyrannical ruler did not have any rights whatsoever in the way of resistance. Hence, another doctrine advocated by Luther was 'the doctrine of non-resistance'. For the temporal rulers represented the will of God.

These doctrines were not all new, nor were they only advocated by Luther. However, throughout the Reformation the impact of the ideas concerned had been quite 'revolutionary'. The foundation of Luther's teaching is the 'Doctrine of Justification by Faith'. This is an Augustinian belief that 'human nature is so corrupted by sin that man is incapable of attaining salvation by his own eforts and can besaved only by God's grace which is freely given to those who believe in Christ.' The novel element in the Doctrine was that 'salvation was entirely dependent on God's grace' and 'it was not possible to acquire merit with God through the performance of good works and/or with the aid of the sacraments of the Church.'

Luther first attacked the Indulgences, that is, the grant of forgiveness or pardon by the Catholic Church for the guilt of the sins. Later, he challanged the Church's claim to be the final arbiter in matters of doctrine. The only authority Luther recognised in this context was 'the authority of the scripture or the biblical text'. And Luther further argued that the Church was not to be identified with any particular earthly institution but was an 'invisible society of the elect who constituted the true Body of Christ'.

Luther published his work, *Of Temporal Government*, in 1523. The work is based on two closely related ideas: 'the divine character of all temporal authority' and 'the duty of Christian obedience'. Two concepts are central to his theology: the Doctrine of the 'Two Kindoms' or

'Regiments', and the Doctrine of 'an eternal conflict between the Kingdom of God and the Kingdom of Devil'. The basic idea is as follows: God has ebtablished two different orders in the world, the spiritual and the temporal. Spiritual order brings men to salvation and the temporal order provides for man's natural life, but both are governed by God. "Man has, as Luther puts it, 'two persons; he is at once a soul to be saved, a 'spiritual person' who exists only in relation to God, and a 'temporal person' who exists in the world where he is involved in responsibilities towards other people, although here too he is ultimately in relationship with God." (Thompson, in, Thomson(ed): 1969, p. 40)

Operation of God in each Kingdom or Regiment is different. The spiritual Regiment is 'an inward government of the soul' and its purpose is 'to lead man to everlasting life'. It is governed by the Holy Spirit, that is, the third person of the Trinity(*)and the Word or the Bible. This is an invisible government and 'a purely voluntrary rule, a rule of love'? Force has no place in this regiment. The Temporal Regiment, in contrast, is essentially an 'external government' and 'a rule of force'. Its purpose is 'the maintenance of external peace and justice in the world'. God has entrusted the sword to the temporal rulers and magistrates so that they would use it, on His behalf, for the 'punishment of sin and the maintenance of law and order in the world'.

Another concept closely connected with the doctrine of Two Regiments is the idea that 'the human race is divided into two opposing Kingdoms, the Kingdom of God and the Kingdom of the World or the Devil'. This, again, is an Augustinian concept, according to which there exists a perpetual state of war between the Kingdoms concerned. For Satan is always seeking to overthrow the Kingdom of God. "This conflict for Luther is the dominating factor in the history of mankind. It explains both the nature of human society and the constant presence of war and strife in the world'. Because of this, God has instituted the two Regiments in their present form: the Word exists for those who belong to God's Kingdom, and the temporal sword exists because the majority of men are subject of the Devil and can only be restrained from evil by force. The two Regiments are in a sense the weapons which God employs in this struggle against the Devil's Kingdom: for through the Word he attempts to draw men's hearts away from Satan and to bring them into willing obedience to himself, while through the sword he punishes those who remain obdurate(**) and who refuse to listen to the teaching of the Word." (Thomson(ed): 1969, p. 42)

(*) The Trinity is composed of the Father, the Son and the Holy Ghost; all three are one God in substance, but three persons as to individuality.

(**) Stubborn

Thus, government, in the view of Luther, was 'a consequence of the sinfulness of human nature' and also' a divine institution'. This divine nature of government was to be of utmost importance for the development of the doctrine of 'divine right of kings'. Luther insisted that 'it is one of the greatest blessings God has conferred on mankind'. He spoke of temporal authority in the highest terms: 'a wonderful gift of God', 'a great treasure', 'a divine ordinance'; and he designated rulers as 'God's agents', and 'ministers', i.e., servants 'wnom God himself refers to in the scriptures as gods' since 'they stand in his place on earth'. Princes and magistrates for Luther are 'God's intruments', 'it is God who directs all their actions' and they are merely the 'masks behind which He conceals His power'.

Luther's doctrine of the Two Regiments also shaped his views on the relations between temporal and spiritual authorities. The two Regiments are quite distinct and are completely independent of eachother. The difference does not only come from the fact "that each owes its existence directly to God, but they are also totally different in character. The authority of the clergy is purely spiritual; they are concerned only with the salvation of souls and the ministry of the Word and the Sacraments. Since the rule of the Word rests only on voluntary obedience, they can have no coercive power of any kind, even in matters of morals, for physical punishment is a matter for the magistrate alone... Conversely, the authority of the temporal rulers in entirely external and coercive. They are precluded from anything to do with the spiritual matters, for the power of the sword extends only over men's lives and actions. It carries no jurisdiction over their souls... The magistrate, as magistrate, had no responsibilities in spiritual affairs." (Thompson, in, Thomson(ed): 1969, p. 45)

In conclusion, the originality of Luther's understanding of government was essentially related to the extreme care he had shown to challange the Pope's, and, in this context, Catholic Church's authority in both the spiritual matters and in the temporal field. The only authority so far as religious doctrine was concerned was the Bible, and the sole authority in connexion to temproal matters was the magistrate, or, in other words, the Ruler. The temporal authority, moreover, enjoyed its power on behalf of and as an instrument of God. Thus, it was the only legitimate authority entitled to use force; and as it was charged, by divine will, with maintaining peace and order, everyone owed obedience to his earthly but divine power.

Luther's idea of the divine nature of govenment and the sinfulness of rebellion, and thus the doctrine of non-resistance or the duty of

Christian obedience, was shared by all the early Protestant reformers. Although Luther did not teach the doctrine of divine right of kings, it came to be the dominant ideology in the course of the sixteenth century. The doctrine mentioned was implicit in their teachings of the 'divine nature of Government' and the 'doctrine of Christian obedience or non-resistance'. It was popularised and gained widespread acceptance during the religious civil wars of the sixteenth century.

2. Bodin (1530-1596) and the Modern Concept of State

a. General

Whereas some rulers, such as those of Denmark, Sweden and certain princes in Germany supported the Reformation, Catholic rulers of western Europe, in particular the French King and the Emperor, began to supress the movement in question. The tide turned against the Reformation even in England. It was in this context that two contradictory theoretical approaches developed: the doctrine of the divine right of the kings and the right of resistance to a tyrannical ruler. The modern concept of the State emerged in this context, so did the contract theory; and both were specifically French. So it is worth summarising, in its main outlines, the politico-economic environment and the political developments in France.

In the development of French absolutism, the religious wars of the sixteenth century is significant. It was a struggle between the Huguenots, that is, the French Protestants, and the Holy League of Catholics, for the control of the French Monarchy which in practice was vacant. For Henry II was dead, and as the heir to the throne, Charles IX was only a minor; the Queen Mother, Catherine of Medici, was the regent, or, in effect, the ruler. There were three rival magnate lineages involved in the religious wars. These were the Guise, the Montmorency and the Bourbon families. The Guise family was in control of the North-East, the sphere of the Montmorency-Chatillon line was located in the Centre, and that of the Bourbons in the South-West of France. During the course of the struggle the towns split into two: many of the southern cities supported the Huguenots and virtually all of the Northern inland towns became strong defenders of the League.

Huguenotism could be appealing for the artisans and burghers in the towns but it was in a disadvantageous position with respect to the peasantry. "For Huguenot social leadership, in fact, was drawn overwhelmingly from the landowning class, where it could claim perhaps half the nobility in France in the 1560s-while it never surpassed more than 10-20 per cent of the population as a whole." (Anderson: 1974 b, p.92)

At the beginnings of the conflict the Protestant armies secured control of the South. This meant that the northern cities had to make up for the loss of tax revenue, and thus a radicalisation and even a tendency dowards republicanism began in the northern cities in the 1580s. The Guise lords, on the other hand, detached from the Kingdom of France their lands in the name of Catholism. Spanish armies invaded to aid the League. Municipal revolutions exploded in the northern cities, which was to be followed by other cities, including Paris. Finally, the 1590s saw non-religious risings of the peasants in the South. "It was this dual radicalisation in town and country that finally reunited the ruling class: the nobility started to close ranks as soon as there was a real danger of upheaval from below. Henry IV tactically accepted Catholicism, rallied the aristocratic patrons of the League, isolated the Committees,(*) and suppressed the peasant revolts. The Religious Wars ended with a reaffirmed royal state." (Anderson: 1974 b, p. 93)

b. Bodin, Absolutism and the Modern Concept of State

i. General

The year 1572 is a turning point in the history of political thought in France. Until then the Huguenots had enjoyed a certain degree of toleration. But when Catherine felt herself under pressure from the Guises (the most powerful Catholic family of France) as to her constitutional position, she reacted, in fear of the Huguenots as well, by the Massacre of St Bartholemew of 1572. On this occasion, about 2,000 members of the Huguenot leadership were killed in Paris only. A further 10,000 or more were massacred in the provinces. The consequence of the massacres was to force the Huguenots into resistance. Active resistance of the Huguenots and the instability that followed, in its turn, lead the moderate political thinkers into a more radical position, that is, to the defence of absolute political power.

Among the moderate Catholic political thinkers who had thus changed their minds, by far the most important was Bodin. He was one of the leading representatives of the third estate in the Estates General which had met in 1567. And he also served as counsellor in the courts of Henry III and Henry IV.

Bodin abandoned his constitutionalist position and published in 1576 his *Six Books on Commonveal.* In this book, 'Bodin is a strong

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(*) Radical committees of self-government established in the cities.

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defender of absolutism, demands outlawing of all resistance and 'acceptance of a strong monarchy as the only means of restoring political unity and peace'

Bodin's basic preoccupation is with the difficulty but the necessity of establishing a suitable order and harmony in every commonwealth. Machiavelli's emphasis on the 'inexorable(*) tendency of kingdoms and republics to fall into corruption' is echoed throughout the *Six Books*. So there is a Machiavellian influence on the writings of Bodin. Bodin had been a witness to the massacre of St Bartholemew, from which he had narrowly escaped with his life. This experience might have taught him to fear anarchy as well.In addition, the Huguenot leadership consisted mainly of the landowning nobility of the South: Bodin might have identified the Huguenots with feudal separationism, too. "Whatever the cause of his fears, the outcome was a conviction that 'the flourishing estate' of any commonwealth can never hope to be 'of any long continuance', due to the continual 'change of things which are so mutable and uncertain'." (Skinner: 1978 v2, pp. 284-285)

Thus, Bodin was convinced that 'order' was fragile, and the basic problem was related to the ways and means of maintaining it. Hence, "Bodin clearly saw his major ideological task in the *Six Books* as that of attacking and repudiating the Huguenot theory of resistance, which he had come to regard as the greatest single threat to the possibility of re-establishing a well-ordered monarchy in France." His "response to the Huguenot revolutionaries is direct and uncompromising: he insists that no public act of resistance by a subject against a legitimate sovereign can ever be justified." He denounces the Huguenot writings which claim that 'subjects may, in the name of public good, take up arms against their prince when there was tyranny'. His argument is as follows: "it can never be lawful 'for any one of the subjects in particular, or all of them in general, to attempt anything either by way of fact or justice against the honour, life or dignity of the sovereign, albeit he had committed all the wickedness, impiety and cruelty that could be spoken'. He adds that 'if any man shall so much as conceit have a thought for the violating' of his sovereign prince, then he is 'worthy of death', even though he may have 'attempted nothing'. And he ends by citing with full approval Cicero's remark to the effect that no cause can ever be 'just or sufficient for us to take up arms against our country'." (Skinner: 1978 V2, pp. 285-286)

(*) Inflexible, relentless.

So far, there is nothing original in Bodin's writings, and he is a straightforward defender of absolutism. But when we come to the analysis of Bodin's concept of sovereignty, we can identify the modern element in his theory of absolutism. For Bodin, sovereignty is 'the principal and most necessary point for the understanding of the nature of a commonwealth'. In this context, there is a contrast between liberty and sovereignty: for when a ruler is not an 'absolute sovereign it is lawful for his subjects to resist him and to proceed a tyrant by way of justice'. However, as the fundamental aim of government must be to secure order rather than liberty 'any act of resistance by a subject against his Ruler must be altogether outlawed in the name of trying to preserve the fragile structure of the commonwealth'.

Bodin defines sovereignty as 'the most high, absolute, and perpetual power over the citizens and subjects in a commonwealth'. Designation of the sovereign as 'absolute' means that 'even if his commands are never just and honest, it is still not lawful for the subject to break the laws of his prince or in any other way to oppose him under the colour of honesty or justice'. For the person in whom the sovereignty rests' is required to give account to none but to the immortal God alone'.

Thus, the doctrine of non-resistance is an analytical implication of sovereignty and as such part of the traditional approach to the nature of the Ruler's power. However, Bodin goes further and treats the idea of absolute sovereignty as an analytical implication of the concept of State as distinct fom the authority of a feudal Ruler. This is the crucial contribution: The mediaeval understanding of authority was that of a feudal ruler. In this context, authority referred to the exercise of traditional justice, i.e., judicious administration of feudal custom and practice, which was based, as we have seen, on a contract. Bodin, in contrast, makes a distinction between a law and a contract. As Bodin himself puts it: "We must not confuse laws and contracts. Law depends upon the will of him who holds supreme power in the state, and who can bind subjects by his law, but cannot bind himself. A contract beween a prince and his subjects has mutual binding force, so it cannot be departed from save with the consent of both parties; in this the prince seems to have nothing above his subjects, except that the purposes of a law to which he has sworn having ceased to exist, he is no longer bound either by the law or by the oath which he took with regard to the law. A well advised prince will not suffer himself to be bound by oath to observe the laws, for in such case he does not possess the supreme authority in the commonwealth." (Coker(ed) : 1949, p. 377)

Bodin's discussion of sovereignty is, however, quite traditional when it comes to the 'true marks of sovereignty: the power to legislate, to make war and peace, appoint higher magistrates, hear final appeals, grant pardons, receive homage, coin money, regulate weights and measures, and impose taxes'. But then in his chapter on sovereignty, the dominant assumption is that the rights inherent in sovereignty and their historical origin is not sufficient to understand the idea of supremacy in the State. Bodin 'begins by insisting that the proper approach must instead consist of seeking to *define* 'what majesty or sovereignty is' by reflecting on the concepts of state and of political supremacy in themselves." According to Bodin, 'no lawyer nor political philosopher' has managed to give such a definition "but that he himself has now succeeded in the task. He has already established, he claims, that the state must be defined as 'the lawful government of many families' by means of 'high and perpetual power'. He has now laid it down that the concept of sovereignty must be taken to denote just such a 'high, absolute and perpetual power over citizens'. So it follows, he concludes, that the absolute and nonaccountable form of authority which he has annexed to the idea of sovereignty must by definition be exercised by some determinate individual or group within any association which is properly to be classified as a state. "(Skinner: 1978 V2, p. 288)

This new approach leads Bodin to reject the concept of mixed government. His criterion with respect to the classification of the forms of rule is the number of persons who may be said to hold sovereignty. This, in turn, means that only 'three estates or sorts of commonwealth are possible,namely, monarchy, aristocracy or democracy, depending on whether the sovereignty is held by one or a few or all the citizens'. Thus, the 'mixed state' is a 'thing impossible' and Bodin ends by showing that all the examples given 'are in fact reducible either to monarchies, aristocracies or democracies'.

Another novel feature of Bodin's analysis is related to his claim that 'sovereignty must be fundamentally legislative in character. For Bodin, the highest and in some sense the sole 'mark' of sovereignty must be that of 'giving laws to the subjects in general without their consent'. "This contention carries with it the rejection of the orthodox belief, still largely endorsed by the legists,(*) that since the ruler is

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(*) A group of political philosophers who began during the first half of the sixteenth century arguing, on constitutional grounds, that the power of the king is limited

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essentially a judge, his primary function must be that of upholding the sense of justice already embodied in the laws and the customs of the commonwealth. Bodin argues instead that the concept of positive law must be defined 'without any other addition' as 'the command of a sovereign concerning all his subjects'. He thus insists with an epochmaking lack of equivocation,(*) that 'the laws of a sovereign prince, although they be grounded on good and lively reasons, depend nevertheless upon nothing but his mere and frank good will. Finally, he stresses that this in turn means that any sovereign must by definition be *legibus solutus*-totally acquitted(**) from any obligation to obey the positive laws of the state. He must certainly be exempted from the laws of his predecessors since his sovereignty could otherwise be infringed. And he can never 'be subject to his own laws'." (Skinner: 1978, V2 p.289)

The basic feature of sovereignty is, thus unlimited and supreme power. In the words of Bodin, "The first and principal function of sovereignty is to give laws to the citizens generally and individually, and it must be added, not necessarily with the consent of superiors, equals or inferiors. If the consent of superiors is required, then the prince is clearly a subject; if he must have the consent of equals, then others share his authority; if the consent of inferiors-the people or the senate-is necessary, then he lacks supreme authority". (Coker (ed): 1938, p. 377)

Bodin's justification for his conclusion that 'an absolute and irresistable form of legislative sovereignty must by definition be located at some determinate point in every genuine state' is based on a neohumanist methodology. According to Bodin, there are two further tasks to be accomplished before a genuine legal and political science can be founded. First, the study of ancient Rome is not sufficient in itself; there is a need to 'bring together and compare the legal frameworks of all states'. Second, a far more wide-ranging study of 'the custom of the peoples is essential; and this refers to a 'comparative analysis of the beginnings, growth, conditions, changes and declines of all states'.

Bodin believed that 'in history the best part of the universal law lies, hidden', and he thinks 'it must be possible to establish inductively what laws any commonwealth needs to possess by examining what laws all successful commonwealths have at all times possessed'. "According to his sociological and historical investigations, the existence of such an authority is in fact a central feature, as he tells us, of

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(*) Ambiguity or uncertainity of meaning(
(**) Discharged

the legal systems 'of France, of Spain, of England, Scotland, Turkey, Muscovy, Tartary, Persia, Ethiopia, India and almost all the kingdoms of Africa and Asia. According to the methodology governing his researches, to establish such a claim with such a degree of empirical density is in effect to establish that the embodiment of precisely this kind of authority in any political society must be a necessary condition of its counting as a genuine state." (Skinner: 1978 v2, p. 293)

ii. Bodin's Concept of Sovereignty

Bodin's concept of sovereignty should have been clarified by now. It is supreme power, a royal plenitude of power. However, there remains one fundamental problem: to what extent the powers of the sovereign should be taken to be unlimited? Older commentaries on Bodin was that Bodin 'had extinguished the idea of constitutional state'. However, Skinner in his remarkable work of quite recent date, argues rather convincingly, that this is not the case. For Bodin accepts some of the constitutionalist arguments devised to check the power of the king.

The constitutionalist arguments are based on the assumption that the constitution of France is a model for the present. The concepts of *la police, la religion* and *la justice* provide the main tools of the approach concerned. These concepts refer to the constitutional checks on the power of a king. *La police* involves three elements: first, the King is limited by two fundamental laws which even princes are not allowed to change. One of these stipulates that 'the domain and royal patrimony may not be alienated without absolute necessity'. The second is the requirement of the Salic law which says that 'the kingdom must go by male succession without falling into the female line'. 'The second element of *la police* amounts in effect to a check on the power of the King by the authority of custom, and in particular by a conception of the 'good order and harmony which exists between all classes of man in the kingdom'. A pyramidal structure of society has grown up over centuries which serves to assign each stratum of society its proper status and its accompanying rights and obligations. The king has a duty not to oppress or alter any aspect of this established hierarchy, and to ensure that each man is rendered his due according to the rightful place he occupies within it. Finally, the king is said to be bridled(*) by an obligation to take counsel, the third element of *la police*." (Skinner: 1978 V2, p. 261)

(*) Restrained.

La justice envisaged that the 'true office of the prince' was to be that of acting as a judge appointed by God himself in order to ensure that His will is duly carried out in the world. 'This means that the principles of justice and not the mere will of the King, must form the basis of laws in any well-ordered commonwealth'. Thus, justice is to be a second check on the prince. The third check, that of *la religion*, is a corollary of the nature of the office in question. As the king is said to be 'deputed by divine providence to execute this great and honourable charge', the King himself must be wholly governed by the laws of God. In this connexion, whereas *la religion* refers to the religious position of the Ruler, *la justice* denotes the feudal function of the King, and thus his being restricted by feudal custom and established feudal structures such as the Estates.

In this connexion, Bodin's concept of sovereignty does not involve unlimited power. There are several checks on the power of the sovereign. There is first the constraint of the *Leges Imperii*, the two fundamental laws of France, which impose limits on the sovereignty of the prince. The first is the Salic law guaranteeing a male succession, which Bodin defends with the "claim that 'the rule and government of women is directly against the law of nature. The other prescribes that even in an absolute monarchy the ruler enjoys 'the use only' and never the true ownership of the royal domain. This in turn means that 'all monarchs and states have held it for a general and undoubted law' that the land granted to the sovereign in order to enable him to 'live of his own' cannot lawfully be mortgaged, alienated or sold, since they represent a part of 'the public revenues' and as such must be' holy, sacred and inalienable'." (Skinner: 1978 V2, pp. 293-294)

This prohibition of alienation forms part of the definition, by Bodin, of sovereignty. His line of reasoning is as follows: A sovereign must be granted the material means to rule; as he cannot be assumed to possess them, these will be assigned to him in the form of a special grant; but the domain is annexed to the sovereignty as a function and not to the soveregn in person; ' it retains the status of public revenue, never becoming the private property of the sovereign himself'. Thus, the owner of the domain is at all times the commonwealth rather than its Ruler.

Furthermore, Bodin argues that 'although the *form* of the positive laws may be nothing more than the declared will of the sovereign, their *contents* must remain at all times in accordance with the dictates of natural justice'. This means that 'the sovereign must be checked by a genuine law in all his public acts, since he is bound to regard the laws

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of nature and of God as his main guides to upholding a system of natural justice. " Thus, the doctrine of non-resistance is applicable only with respect to 'civil justice and utility' and it does not apply to commands of the sovereign which are contrary to the Laws of God or to the laws of nature based on them. It follows that, "If the prince issues a command which is contrary to these higher laws, it remains the duty not merely of the magistrates but of all the people to disobey, since 'the honour of God' and the need to respect the laws of nature 'ought to be to all subjects greater and more precious than the wealth, the life, the honour of all the princes in the world.'" (Skinner: 1978 V2, p. 295)

The obligation of the sovereign to follow the dictates of natural law has two concrete implications which limit the power of the sovereign. In the first place, although the sovereign has supreme authority, 'he remains obliged to honour his contracts, even those he makes with his own subjects. For natural law stipulates that one is obliged to keep his promises. Whereas "the law depends upon the 'will and pleasure of him that has the sovereignty', a contract 'between the prince and his subjects is mutual, which reciprocally binds both parties, so that the one party may not start therefrom to the prejudice or without the consent of the other'. " In this context, a second limit on the power of the sovereign is his 'obligation to respect the holding of private property by his subjects as an inalienable right.' This constraint is an outcome of Bodin's 'belief that the family unit constitutes both the origin and the essence of commonwealth', and families need to retain their property 'in order to maintain their material existence'. Moreover, 'nothing is more religiously by God's laws forbidden than to rob and spoil other men of their goods'. He then reminds us that even 'a sovereign prince may not remove the bonds established by 'the everlasting laws of nature. 'So he concludes that those who say 'a sovereign prince has power by violance to take away another man's goods' are preaching a doctrine directly contrary to the laws of God. Even the most absolute sovereign can never have the right to 'take nor give another man's goods without the consent of the owner." (Skinner: 1978 V2, pp. 295-296)

The very special place Bodin gives to private property leads him to put a further constraint on the power of the sovereign. This concerns the power and authority to tax. Thus, all taxation requires explicit consent, and that new taxes ought so far as possible to be avoided. Otherwise it would amount to an act of confiscation and hence would be contrary to the laws of God.

The discussion of Bodin's concept of sovereignty is thus completed: he accepts the checks provided by *la police* and *la religion* but re-

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jects the constraints of *la justice*. Bodin's approach is essentially anti - feudal For he rejects the judicial function of the King, but envisages for him a legislative function, and in complete contrast to the feudal function of governing with reference to the feudal contract and on the basis of feudal custom and practice, the legislative function of the King is based on superior power of law-making. Hence this new concept of sovereignty is not limited by feudal custom, practice or contract. Moreover, Bodin makes a distinction between the person of the Ruler and the function of sovereignty or the concept of State, the perpetual power. Unless power is perpetual, it is not sovereignty. Thus, sovereignty is a functional and not a personal attribute. These two aspects of sovereignty, that is, the anti-feudal and anti-personal nature of the power of the Sovereign, leads Bodin to arrive at the first modern concept of the State.

However, Bodin's concept of State had religious overtones in connexion to the special place given to the concepts of the law of God and of the natural law. This aspect of Bodin's theory made it easy for other writers to combine Bodin's thesis of absolute sovereignty with the originally Protestant belief that power is ordained by God, and thus, 'resistance to the King came to be equivalent of resisting thewill of God' and the doctrine of divine right of kings emerged. The doctrine concerned was to be used for the legitimation of the emergent royal Absolutism in western Europe; and it provided the ideological support for the absolutist State in western Europe until the latter part of the seventeenth century in England and the eighteenth in France.

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B. From the Right of Resistance to the Huguenot Theory of Popular Sovereignty

It was, again, first in France that the right of resistance against tyrants developed. This was a Huguenot contribution to modern political thought. Huguenots, in contrast to their Lutheran and Calvinist counterparts in other countries of Europe, were a small minority of the French population. They may only have amounted to between two to five per cent of the population. Thus, when the Counter-reformation started they could not argue on the basis of 'a religious duty to resist to uphold God's laws', or as a matter of 'individual self defence against the acts of an injust magistrate'. This is because they wanted to enlist the support of moderate Catholics. Also, the Monarchy was hostile to the Huguenots. So their main argument had to be based on religious toleration.

From the year 1562, when the Religious wars started, up to the St Bartholemew's massacre of 1572, the Huguenots maintained that 'they were merely defending the lawful government against the usurpations of the Guises', that is, against the most influential Catholic contender for the Throne. However, following the massacres of 1572 throughout the country, the Huguenots repudiated their loyalty to the Crown, and "within a year, Languedoc(*) had virtually become a separate Huguenot enclave within the kingdom, operating its own feudal system of government and demanding to be recognised and tolerated." (Skinner: 1978 V2, p. 304)

It was in this context that revolutionary Huguenot political thought began to emerge in order to legitimise their direct attack on the Valois Monarchy. The revolutionary writings emphasised the tyrannical nature of the Catherine of Medici government with reference to her being the daughter of Lorenzo Medici to whom Machiavelli had dedicated the *Prince* .

The next and a more promising move to be made by the Huguenots was an appeal to the positive law. This was a more positive attitude which aimed at developing the heritage of revolutionary Calvinism to meet their ideological needs. First, they had to reassure their followers that it was legitimate in engaging in revolutionary activity against a government on grounds of conscience. Second, as they were in need of broadening the basis of their support, they had to produce a less religious and more constitutionalist ideology of opposition.

(*) Historical name for the South of France extending from the West and the Centre up to the Mediterranean coast.

This lead the Huguenots to take the 'constitutional checks on the power of the crown' as a starting point. The Huguenots, in this context, argued that the most important checks on the powers of the Crown are furnished by *la religion* and *la justice* But the emphasis was on the function of the Estates General as an institution that is to 'ensure that the legislative actions of government remain in line with the dictates of *la religion* and *la justice* The former referred, as we have seen, to the laws of God and also to natural law, the latter to the theocratic and also the feudal function of the King. In this connexion, the King is only a judge and not a legislator as Bodin had argued. However, Parlements, or, in other words, the feudal courts of justice, are dismissed as supporters of royal absolutism. Thus, Parlements are viewed as agents in the process of usurpation of power by the later kings.

The core of the argument is contained in the following thesis: originally the French Monarchy was elective and the Assembly of the Three Estates had the highest power. This means that, the Estates General does not have only power to restrain the King, but it also has superior authority, and as such, should be a vehicle for the popular control of the Monarch. This argument, however, was later challanged by some writers on historical grounds. In this connexion, there are two criticisms: first, that the customary laws of France had always allowed 'the right of hereditary succession', and, second, it followed that 'the King of France must have an individual *Imperium*', that is, supreme authority not in any way shared with the Estates.

The argument in question had two weaknesses. First, it only provided for a historical explanation of the French constitution, which was open to criticism, with reference to historical facts. Second, it did not contain any explicit legitimation of an armed attack by the people to be directed at the Monarchy on grounds of tyranny. Thus, the revolutionary Huguenots were in need of a new approach and so they turned to the scholastic and Roman Law traditions of radical constitutionalism. "They rejected the characteristically Protestant tendency to suppose that God places all men in a condition of political subjection as a remedy for their sins. Instead they began to argue that the original and fundamental condition of the people must be one of natural liberty. This, in turn, enabled them to abandon the ortodox Pauline contention that all the powers that be must be seen as directly ordained by God. Instead they inferred that any legitimate political society must originate in an act of free consent on the part of the whole populace." (Skinner: 1978 V2, p. 320)

This new approach solved one of the basic problems of the Huguenots. For by abandoning the religious considerations in their cause, they could, with more ease, expect to secure for their revolutionary activities support from even among the moderate members of the Catholic majority. Thus, appeal to natural law arguments suited better to the ideological ends of the Huguenots. In this connexion, the basic assumption was that 'man's fundamental condition must be one of natural liberty' and it would be absurd to deny this because people are older than rulers, whom they originally decide to constitute simply in order to achieve a better regulation of their affairs'.

Then the main question would concern the origin of political societies. To this question the Huguenot answer is almost always the same: they all argue that "'if we ask about the cause and occasion of the creation of magistrates', it is impossible to conceive of any other reason than 'the safety, the welfare and conservation of the people'." It follows that the kings should "remember that 'it is due to the people, and for the sake of the people's welfare, that they exercise their power', so that 'they must not say, as they often do, that they hold their sword by the ordination of God unless they also say that it was the people who first placed it in their hands'" (Skinner: 1978 V2, p. 327)

The origin of political society is not always discussed with reference to the concept of general welfare. Sometimes the discussion is carried out in terms of preservation of individual rights. The concept of a right, in this context, refers to the freedom to dispose the object of the right in question within the bounds of the law of nature ,one example is 'the right to hold and dispose of one's property'. Thus, people have a right to those possessions which they must originally must have held, before the political society had been established. It follows that the people have natural rights to their lives, liberties and estates, and 'a right of resistence must always exist to defend one's natural rights of liberty, property and security'.

When people's welfare, in particular their natural rights, are taken by Huguenots to be as the final cause of setting up a commonwealth or a political society, consent acquires a predominant place in the organisation of society. The assumption is that an act of ' free and lawful consent' is always essential before any ruler can be installed in office; and this involved, in the French case, a mechanism of delegation of authority. The idea is that the people have chosen magistrates and delegated them authority to elect the superior magistrate, i.e., the King, and also to control him. This means that "the sovereign rights and privileges originally held by the people as a whole should be exer-

cised by their elected 'officers of the kingdom' on their behalf and in their own best interests." (Skinner: 1978 v2, p. 330)

There are two kinds of 'officers of the kingdom'. There are the local and seigneurial magistrates such as 'dukes, marquises, counts, barons, chatelains(*) and the elected officers of the towns. Then there are the magistrates elected to sit as representatives of the people in the Assembly of the Three Estates'. It is only 'the estates of the country that, as representatives of people, have the sovereign right of governing the kingdom'.

Thus, the commonwealth is originally set up with the consent of the people and the reason for founding it is to improve the welfare of people and to secure their rights. It follows that, it must be based on a contract or *Lex Regia*, which reflects the agreement between the representatives of the people and their future ruler; and its terms must stipulate that the King will pursue the welfare and uphold the rights of the people.

This is a novel idea and wholly separate from the concept of a religious covenant. The concept of the covenant referred to an agreement with God that it was the duty of both the magistrate and the people 'to uphold the laws of God'. The concept of the contract, in contrast, denoted a purely political pact between the people and the King, on the definite conditions imposed by people on his rule. It takes the form of 'a mutual oath between the King and the people' or 'the reciprocal arrangement between the Prince and the subjects'.However, although the relationship established as a result of the contract is in the main, reciprocal, the terms of the contract are weighed in favour of the natural rights of the people. Thus, whereas people's representatives swear 'a conditional obligation' to the King, the King swears 'an absolute obligation' to the representatives of the people. The obligation of the people is conditional on the 'preservation by the King of the people's welfare, and be just'. Finally, the agreement of the contract thus created 'cannot be superseded by any other contract or violated in the name of any other right'; and the King who breaks it would be a 'tyrant'.

The theory of the contract developed by the Huguenots is in the first place based on popular sovereignty. The defence of lawful resistance is only an implication of the theory thus developed. This is expressed as follows by Mornay, one of the leading Huguenot writers: "since the people are originally free of government, and only consent

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(*) A governor or warden of a castle.

to establish it for their own purposes, they must at all times be regarded as 'the true proprietor' of the commonwealth, exercising 'supreme dominion' over it in the same way that the owner of a fief remains in ultimate control, even though he may choose its actual administration to someone else... the people at all times 'remain in the position of the owner' of their original sovereignty, which they merely delegate to their ruler 'in order that he may exercise it for the public good'. There is thus no question of the king being 'above the people'. It is evident on the contrary that 'the whole people is greater than the king and is above him'." (Skinner: 1978 V2, pp. 332-333)

This is because 'people never alienete their sovereignty, but merely delegate the right to exercise it to their King'. In this connexion, there are two further implications. First, the magistrates are 'the servants of the Kingdom, not of the King', for it is the people who create the King. Second, the King is 'a kind of minister to the commonwealth'; he is merely an 'agent' of the people and it is the people which is the proprietor of the commonwealth: 'he is merely the supervisor and executor of laws'. It follows that the King is not a *legibus solutus*, that is, a genuine sovereign free from any obligation to obey his own positive laws; thus, the King, as well, is subject to laws, even to his own laws.

Thus, the Huguenots were able "to make the epoch-making move from a purely religious theory of resistance, depending on the idea of a covenant to uphold the Laws of God, to a genuinely political theory of revolution, based on the idea of a contract which gives rise to a moral right (and not a merely religious duty) to resist any ruler who fails in his corresponding obligation to pursue the welfare of the people in all his public acts... The result is a *fully* political, recognisably modern, secularised thesis about natural rights and original sovereignty of people." (Skinner: 1978 V2, pp. 335-338)

However, there is still a missing link. For the act of consent was a collective and not an individual right to a political activity. This meant that no private individual had a right of resistance against a lawfully constituted king: 'for the people create the Prince not as individuals but altogether'. It follows that 'their rights against him are the rights of a corporation, not the rights of any single individual who may happen to be a member of it, and the magistrates below the King and the Assembly of the Estates represented the people in their corporate capacity. Thus, although the people as a whole retain the ultimate sovereignty, this must beunderstood as follows: 'people have delegated the right to exercise sovereignty to their specially chosen magistrates'. "So the

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authority to resist a tyrant can never be lodged with the body of people, but only with the magistrates 'to whom they have transferred their authority and power." (Skinner: 1978 v2, p. 335)

This novel approach to the right of resistance as derived from a political contract between the people and the King on the one hand, and based on the natural rights of the people on the other, was, as we have seen, based on the consent. Thus, the political contract approach contained all the elements of a democratic political thought, however undeveloped they might have been. It only needed to be worked on and developed, but the original components of a democratic political thought was present.

Moreover, the contract theory concerned had a wide appeal, and outside France as well. Thus, the Huguenot theory of the right of resistance, developed after 1572, was utilised in particular in the Netherlands in a similar revolutionary situation in the 1580s. Another country in which the Huguenot theory was utilised was Scotland; but furthermore, the Scots had their original contribution to make.

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C. George Buchanan (1506-1582) and the Defence of Popular Revolution

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Buchanan wrote within the context of the Calvinist revolution in Scotland. After the Reformation Parliament of 1560, Scotland accepted Calvinist faith; however, Mary, Queen of Scots, remained a firm adherent of the Catholic faith. She controlled the government until shewas deposed, that is, removed from the Throne, in 1567. It was within this context that the question as to 'whether the people could properly be said to have the right to repudiate a legitimate prince?', had acquired relevance and significance.

Buchanan was a friend and correspondent of Beza and Mornay, the leading two Huguenot thinkers. However, he differs from the thinkers mentioned at two crucial points. First, there is no reference to any religious covenant in Buchanan's writings. He is silent on this issue. For his main concern is politics not theology and thus his main interest is the concept of rights and not religious duties. In the second place, Buchanan has a different understanding of the contract which leads to the formation of a commonwealth. "The Huguenots had evolved a theory of representative rather than direct popular sovereignty, arguing that the people sign away their authority to choose and control their rulers to an 'epitome(*) of magistrates'. Again, Buchanan is eloquently silent on this additional contract, insisting that 'the whole body of people' must be pictured as 'coming together' to elect 'someone to deliberate and concern themselves with the affairs of each member of the community'. There is no suggestion that the citizens delegate their authority to create a ruler in the way that Beza and Mornay had supposed. On the contrary, Buchanan makes it clear that when the people institute a ruler, they do so by means of a straightforward contract, without intermediaries, in which one signatory is the prospective ruler and the other 'the whole body of people'." (Skinner: 1978 v2, p. 342)

Buchanan then goes on to point out that this account of the formation of political society implies a 'radical thesis of popular sovereignty'. The consent of the people to establish a ruler over themselves does not give the ruler absolute sovereignty. The ruler is only a *minister* and is in consequence bound by the positive laws of the commonwealth. Constitutional checks on the power of the Ruler was one of the major themes of the Huguenots as well. However, in this context, Buchanan is far more revolutionary. He has a highly individualistic view of the

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(*) A compact representation

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right of political resistance, and is the first constitutional theorist to state it in a completely clear and consistent form: "Since the people as a body create their ruler, it is said to be possible at any time 'for the people to shake off whatever *Imperium* (*)they may have imposed on themselves, the reason being that 'anything which is done by a given power can be undone by a like power'. Furthermore, Buchanan adds that, since each individual must be pictured as agreeing to the formation of the commonwealth for his own greater security and benefit, it follows that the right to kill or remove a tyrant must be e lodged at all times 'not only with the whole body of the people *(universo populo)* ' but 'even with every individual citizen *(singulus etiam).*' (Skinner: 1978 V2, p. 343)

Buchanan's contribution thus consists in his individualistic as against the corporate and representative character of the Huguenot theory of political contract. Also, he disregards the covenant or the religious contract, and builds his theory purely on secular and political grounds. Hence, the right of resistance in Buchanan's writings has nothing to do with a moral obligation to uphold a covenant, but is a right. For greater security and welfare of the individual is the sole aim of the people in devising the contract. Furthermore, he does not depend on the initiative and the activities of 'elected representatives' such as magistrates below the King or on those of the members of the Estates. The main reason for his more radical theoretical approach was perhaps related to the strength of his political position, or, in other words, to the Calvinist majority in Scotland. For whereas the Huguenots were, as we have seen, in the minority, and in order to increase their basis of support they were thus forced to be moderate, in particular they had to avoid the charge of preaching anarchy, Buchanan did not have such a problem, and could afford to be more radical.

(*) Sovereignty

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D. Discussion

In this fourth Chapter of Part Three of the lecture notes, the focus of discussion was the emergence of the modern concept of State on the one hand, and the political, as against religious, contract theory which was to provide a historical frame of reference for the political thinkers to come. Two major new lines of development can be identified.

First, there is both a trend and also attempts to legitimise the emerging centralised political power. This, in turn, has towo basic but contradictory sources with respect to its foundations: (i) the Protestant theory which supported the doctrine of the divine right of the kings, and (ii) 'empirical' and historical basis of justification of Bodin's theory of sovereignty.

Second, there is within a separate context and at a different level, a novel but a religious reaction in origin, this time to the unlimited nature of the political power of this new form and institution of political organisation. Although one of the main motives behind the activities and the theoretical standpoint of the revolutionary Huguenots was religious, they were forced by their peculiar historical ciscumstances into developing a secular political theory of the right of resistance. For they were in minority and they were also aware that they were in need of all the ideological support that they could hope to secure. So they had to put forth a theory which would help to solve two fundamental and to some extent dichatomous problems.

The Huguenots first had to develop a theory of resistance. Second, althought the Huguenot position was that of religious revolution to a Catholic Ruler, they had to draw support from at least the moderate section of the overwhelming Catholic majority. This forced them to adopt a natural rights approach as against a religious duty to resist. Thus, they based their position on a political, and not on a religious contract. This was a contract between the people and the Ruler. The source of authority was the people and the object of the contract was their welfare; and people's welfare was defined in terms of natural rights and freedoms in connexion to their lives and possessions. Finally, and above all else, the contract was made to maintain and promote the welfare of the people. When this object was materialised no more, the Ruler was to be considered as a tyrant; and a tyrant did not have any right for obedience on the part of the people. It followed that the power and authority of the Ruler was based on and was legitimate so long as the people gave their consent to his rule; the only criterion in this context was the welfare of the people defined in terms of their natural rights.

The new concept of State was 'modern', for it replaced the feudal undarstanding of power. It was however limited in two respects. First, it had, even in the theoretical model of Bodin, religious overtones. Second, the nature of its sovereignty did not recognise any 'democratic' limits.

The Huguenot concept of the political contract was also in the main 'modern', for it did not have a religious justification. Yet it had one fundamental limitation: it was in its essence a feudal model where the leading positions belonged to the magistrates below the King or the feudal office-holders and representatives. However, although this shortcoming was eliminated by Buchanan's model of political contract theory, it, in its turn, had its own shortcoming. It was almost an anarchical theory of politics.

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SUMMARY AND CONCLUSION

The discussion above as to the historical fondations of political thought had one dominant theme: the nature of relations between the individual and the state. In this context, the basic question was the place the individual occupied in society with respect to the political process. Thus, the individual could be a citizen, with the legal rights incorporated in the concept concerned or he could be a subject with only duties and no rights at all. In the first case, the state would, in the main, be organised on a 'democratic', in the second, on a 'totalitarian' basis.

Athens, in ancient Greece, and Republican Rome, both knew the 'democratic' forms of state. That is to say, government was, in principle, accountable to the citizen body in each case. Thus, the source of political power was the citizens. However, there were two political problems. First, the citizenship was a hereditary right and thus a privilege acquired by birth. This meant that 'democracy' was limited to only a few number of people, or, in other words, a majority of the population was excluded from the political process. Second, state was identified with the community of citizens and as such, its power was not, in either fact or in theory, limited. The community of citizens possessed political power in total, and this was one of the main sources of instability. For when the state is identical with community, then any majority represents, at the same time, the government, the state and the community. It follows that holding political power, rather than producing alternative policies, becomes the main object. This was a major source of political instability. The definition of the citizen in terms of membership in a community further aggravated the problem; for there were, amongst citizens, gross inequalities, in the system under consideration. Propertyless and poor citizens of both Ancient Greece and Rome thus had claims of a more egalitarian distribution of wealth in their communities. Sparta solved the problem by an oligarchic political system and so did Rome. Even Athens was not an exception. The existence of resident aliens, furthermore, complicated the situation.

The problems mentioned brought about the end of the politico-economic system in question. The individual of the Middle Ages faced altogether different problems. He was not even a citizen any more, but was a subject. This meant that he did not take part in politics any long-

er. The individual was reduced to a passive political status, in that, he had duties but no rights. In this context, the noble classes represented by the Church and the clergy on the one hand, and the temporal rulers, and their vassals, on the other, emerged as new centres of political power. But then, the Church and the clergy and also the kingdoms, principalities and other noble rulers, all claimed unrestricted political power in their own spheres, i.e. domains.

Both the spiritual and the temporal rulers conceived of themselves primarily as members of a Christian society. In this view, a concept of political power, organised on a territorial basis, and composed of citizens, does not have a place. Every ruler is a monarch with supreme power in the field of lawmaking and accountable to God alone. But this theocratic understanding of government raised a basic problem as to the respective authorities of the Pope and the Emperor on the one hand, and those of the kings and princes on the other.

The dilemma concerned was to be solved in the latter part of the Middle Ages, from the thirteenth century onwards, on the basis of a feudal understanding of government, and with the help of the theoretical framework provided by Aristotle. This new approach took the state as a natural and self-sufficient unit, established on a certain territory, and composed of citizens who participated, as a matter of right, in politics.

In contrast to the theocratic understanding of government, which did not recognise or accept any limits to its power, except for divine law, the feudal monarch was, in principle, limited in power by feudal custom and practice. Hence, in a feudal context, the King was, above all, limited by the terms of the feudal contract. The feudal relations was based on the terms of the contract. This meant that political power emerged as a consequence of a mutual agreement. The mutual aspect of the contract, in turn, implied equality among the parties, and the agreement referred to the consent of the vassal. Thus, the feudal contract, in the main, established a 'democratic' relationship. It followed that the vassals could limit the power of a feudal king or a prince.

Parcellised nature of sovereignty under the feudal system provided another limit on the power of a feudal monarch. Thus, the towns and cities could be established on the territories which lay behind the jurisdiction of a king or a prince, and by authority of any other feudal institution or person. It was in these feudal towns that self-government and a third estate, in addition to the first two, namely, the clergy and the nobility, could emerge.

These cities, as autonomous and self-sufficient units, in both economic and political respects, were to support not only the secular political thought of the Renaissance, but they were also to provide a refuge to the philosophers of the Reformation movement, victims of the Counter-reformation, and even to the serfs who had escaped from their lords and manors. Thus, their place in both the origins and development of democratic process is most significant. But this 'democracy' was limited in practice to only a few relatively richer citizens. So it was far from a modern concept of universal and democratic political participation on the basis of equality.

The modern concepts of State and democracy were both to emerge later, in the sixteenth century, in the writings of Bodin and the Protestant thinkers. Bodin's political writings were essentially anti-feudal, in that, he was against any rival right, on the part of individuals, or any equality of authority, on the part of feudal nobility, to the sovereignty of the State. The State in this context is separate from the Ruler, and at the same time, it is not identical with the community of citizens as was the case in the Antiquity.Thus, there is a new concept of State, separate from both government, and hence political power, and also from the community: it refers not to a social and/or to an economic system, but is, in the main, a political institution.

Skinner sums up Bodin's contribution, to the modern concept of State, as follows: "it is clear from Bodin's analysis of the concept that he thinks of he State as a distinct apparatus of power, and it is instructive that he not only speaks of it on numerous occasions as l'*Etat*, but Knolles generally felt able to translate this term as 'State', and to employ the term with some consistency in a recognisably modern sense."

"It is clear in the first place that Bodin distinguishes the State from its citizens, for he claims that we may sometimes find that 'the people' are 'into divers places dispersed, or else utterly destroyed', even though the city or state' may remain 'standing whole'. Similarly, he distinguishes the powers of the State from those of its rulers, for he speaks of 'magistrates and officers' as having a duty 'to command, judge and provide for the government of the state'." (Skinner: 1978 V1, pp. 355-56)

England was another country in which a similar conceptual shift took place. Thus, in England by the end of 1530's, an 'increasingly bureaucratic style of central government, together with a growing interest amongst English humanists on the problems of politics and public law' had started.

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This means that the origin of the modern concept of State may without any doubt be traced back to the Italian humanists, and partclarly to Machiavelli. For it was Machiavelli who first analysed politics and the state on a strictly secular basis, and emphasised the autonomous and independent will of the individual as the single most important factor in politics. However, even Machiavelli had a tendency to identify the state with the Prince or the Ruler, and thus as a personal political power. Bodin was under the influence of Machiavelli, but he could not escape from developing a concept of State which had religious overtones.

Finally, it was the Huguenots who reacted to both the absolute nature of the sovereignty of the State and were also, in a way, forced into developing a non-religious concept of a contract. The contract theory developed by the Huguenots was political as against a religious covenant, and, furthermore, was based on natural rights in contrast to religious duties associated with a covenant.

Although the Huguenots worked with the concept of natural rights and thus located the source of power with the people, their model was in the main feudal. For whereas their concept of political society, as it was based on consent, was generally democratic, and it even gave the people the right of resistance to a tyrant, the right in question belonged to the people in a corporate capacity. It followed that the concept of natural rights did not entitle its individual possessor to take an individual action. People had to act through their representatives.

Buchanan was the political philosopher who analysed the rights in question from an individualistic perspective. But then, if the individual, on the basis of his natural rights, can resist a tyrant, the question arises as to how to avoid anarchy. One of the basic problems that the contract theory of the later ages had to take into consideration was thus how to avoid anarchy, but at the same time to attain a democratic political society. In other words, the main issue involved the limits of natural rights, but it at the same time dealt with political and legal restraints on the political power of the government.

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