

# Interpretation of the emergence of a state in natural law theory

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**Annotation.** The article analyzes the causes and differences between theories of the origin of the state, the natural-law interpretation of the formation of the state from a scientific and theoretical point of view.

**Keywords.** The state, the emergence of the state, theories of the emergence of the state, the theory of natural law, the views of thinkers on the formation of the state.

The phenomena of the state and law are complex and have gone through a long path of gradual development. They arose at a certain stage of human society. In the history of mankind, there have been long periods without the state and law. People have been living on the basis of various associations - clan, tribe, tribe union. Nevertheless, it sufficiently ensured the rule of peace, tranquility and justice among people.

The state and law are the most valuable phenomena discovered by mankind, and the formation of the state laid the foundation for the full manifestation of man. The long periods from the emergence of the state and law to the present have led to the diversity of views and opinions about the emergence and essence of these phenomena. Until today, various theories explaining the process of creation and development of the state and law have been applied, and new theories are emerging.

Different interpretations of the emergence and development of the phenomena of the state and law are determined by the following: first, the process of the emergence of the state and law is complex and diverse; secondly, it is related to researchers' thinking, beliefs, interests and other subjective factors; thirdly, the presence of distortions of the issue of the initial emergence of the state and law based on one or another point of view; fourthly, the length of time that has passed since the state and law came into being, the fact that factual materials have not been preserved [1; P.30.]. The study of the process of formation of the state and law is not only of theoretical importance, but also of political and practical importance. It serves to deepen the understanding of the social nature of the state and law, their essence, their characteristics and signs. It helps to clearly define all the functions characteristic of them, to further clarify their place and importance in the life of society.

In the literature of jurisprudence, it is emphasized that the process of the creation of the state and the law itself are different. Firstly, it is necessary to distinguish the process of the first appearance of the state and law in the life of society. It is necessary to separate the formation process of state and legal phenomena, institutions and institutions based on the decay of state and legal phenomena, institutions and institutions that prevailed in this society [2; P.3].

Secondly, it is necessary to distinguish the process of formation and development of new state-legal case, institutions and organizations on the basis of the state-legal phenomena, institutions and organizations that were applied before but left the socio-political scene for some reasons [1; P.30].

Each of the states that came into being in ancient times went through a unique process in its own way. Despite this, scholars have lodged different theories based on the generalization of many recurring aspects in the formation of states. The most subjective notion is allowed in the interpretation of the process of origin of the state and law. Russian scientist G. F. Shershenevich explains the reason why there are many theories explaining the emergence of the state and law. According to him, for individual scientists, it is not important how the state actually arose, but rather how to find the way of the state's emergence, which is necessary to justify the preconceived idea is important [3; P.250].

The well-known political scientist L. Gumplovich draws attention to this situation and emphasizes the following: if the concept of the state usually served as a flag for expressing political tendencies, describing political programs and achieving a political goal, the same distortions were allowed in the historical issue of the creation of the state. In many cases, it was interpreted in a distorted way in the path of "superior ideas".

The pure issue of the formation of the state was built on a certain idea, explained based on certain needs, in other words, explained based on certain practical and moral motives. According to their interpretation, in order to preserve morality and human dignity, it is necessary to hide the true, natural origin of the state, and instead to present some legal and humane doctrine acceptable to many [4; P.47].

In the legal literature, it is recognized that in Ancient Greece, Egypt, Rome, and other countries, the first state-legal systems were created on the basis of the division of society into slaves and slaveholders, while in Central Asia and Russia, the system of slavery literally did not exist, and the state and law were formed based on common land ownership.

The emergence of the state and law largely depended on the natural conditions, climate, soil, water, and the proximity or distance of the territory to water basins, which had a direct impact on the formation of the system of people's lifestyle, outlook and needs. At the same time, each generation inherits a rich heritage from the past ancestors and leaves certain lessons for future generations. In this way, the future will greatly influence the development of social life.

Notions about the formation of the state and law were also put forward by supporters of the theory of natural law. The theory of natural law, which is very common in scientific literature, is one of the theories that arose in ancient times. The formation of the theory of natural law and its development is related to the activity and creativity of ancient Greek, Roman and Chinese thinkers [5; P.25-29].

Specific rules of this theory were developed by the sophists who worked in Ancient Greece in the V-IV centuries BC. According to the Sophists, human beings lived without any rules from the beginning, but later they were forced to develop different rules to ensure their safety and to live together.

According to the ancient Greek philosophers as Socrates, Plato, and Aristotle, not all laws are strictly man-made. In addition to the laws established by humans, "there are also divine laws that reside in the hearts of people. "In other words, in addition to the laws created depending on the will of man, that is, the laws issued by the state, there are also laws that do not depend on the will of man, and they are natural law. Based on these laws, an eternal, indivisible divine order reigns, and they are not only human relations between, but also "regulates the creation of the whole world" [2; P.49-63].

According to Aristotle, the state exists by nature and is by nature primary to every human being. Nature has placed in all people the desire to strive for the union of the state. First, whoever founded this association, he rendered unparalleled service to people [6; P.379].

The state is a product of natural development. In this respect, it is similar to the primary association of people, such as the family and the village. The union of a man and a woman to produce offspring creates a family. The increase of families creates villages, and the increase of villages creates the state. The ancient Greek philosopher Epicurus (341-270 BC) advocated the theory of natural law. In his opinion, nature develops according to its own laws, without the intervention of God. Justice, by its very nature, is a contract for benefit, not to harm each other and not to be harmed.

The ancient Greek historian Polybius (BC 210-123) describes the emergence of statehood and the change of state forms as a natural process that takes place according to the laws of nature. The creation of the human community is due to the natural weakness inherent in all living beings, which leads both animals and humans to unite into a single herd. Natural legal doctrines are reflected in the works of ancient Roman jurists and philosophers. According to Roman jurists, Roman law consists of *ius civil* (ancient Roman law that only regulates relations between Roman citizens), *ius gentium* (law that regulates property relations between Roman citizens and other peoples), and *ius natural-natural law*. Like the ancient Greeks, the Romans divided law into positive law, natural law, and divine law.

At all stages of the development of Roman law, according to Roman jurists, there was a difference in the essence of natural law and its relations common to all nations. Some Roman jurists distinguished them. Some saw them as equals. But almost all Roman jurists, unlike the ancient Greek jurists and philosophers, focused their attention on the conflict between positive law and natural law in a number of cases. One of the contradictions between natural law and positive law is that in natural law, all people are equal in law, there should be no difference between them according to their class and other social characteristics, and positive law is formed on the basis of those differences.

According to Zeno (336-264 BC), the founder of Stoicism, natural law is divine and has the power to command truth and forbid injustice. Stoics emphasize that civil society is based on the natural desire of people

towards each other, their natural relations. Accordingly, the state is not an artificial, conditional, contractual association, but a natural association.

Based on the idea of the unity of the divine and human worlds of the Roman Stoics, the Roman philosopher and statesman Seneca believed that people are related by blood and are parts of a single body. He believed that nature created all people from the same substance for the same purpose. The Supreme Bliss is the consciousness that is the divine soul placed in the human body. Consciousness makes man like God. In addition to consciousness, nature has given man the ability to join a community based on the unity of the human race. Thanks to consciousness and communication, humans outstripped animals in the struggle for survival, subjugated natural phenomena, and began to live as close communities.

The universe, according to Seneca, is a natural state in its own right, recognition of which is a necessary and conscious act. All human beings are members of this state by natural law, regardless of whether they recognize it or not. Separate state structures are important only for a limited number of people, not for the entire humanity.

The Roman jurist M. T. Cicero believes that the reason for the creation of the state is not only the weakness of people, but also their desire to live together. Based on Aristotle's teachings, Cicero emphasizes the importance of the family in the emergence of the state [7; P.21].

State and law are divine in their nature and essence and are based on common sense and justice. Studying all of nature leads to the realization that the world is ruled by consciousness. Humans are naturally embodied in consciousness and justice, and because of this, they can acquire divine foundations, the origin of ordered human society, virtue, state and law.

Hugo Grotius and Spinoza in Holland, Thomas Hobbes and John Locke in England, Jean-Jacques Rousseau, Paul Holbach in France, Alexander Radishev in Russia and others made their due contributions to the development of the theory of natural law.

According to Hugo Grotius, one of the founders of the school of natural law, human nature is the mother of natural law. Natural law means giving people what they already own and fulfilling the obligations imposed on them. Truth (justice) is compliance with the norms of natural law. Natural law does not depend on anyone because it is not the product of anyone's will [8; P.18].

He created the theoretical basis of the revolutionary movement in France and gave it an ideological basis. Jean Jacques Rousseau (1712-1778) brought the doctrine of natural law to its logical conclusion. Jean-Jacques Rousseau, comparing the theory of natural law with the reality of the environment, strongly condemned the regime of that time. Man by nature, writes Rousseau, is born free and free, but we now see their rights chained together. By nature, all men are related to each other by blood, but everywhere we see such differences between different strata, groups and classes, according to Rousseau, is the struggle for wealth. The main reason for such problems faced by people is ownership of private property and inequality [9; P.124-125].

In modern natural legal doctrines, special attention is paid to the issue of the emergence of the state. According to him, before explaining the emergence of the state, it is important to determine which category and group the state belongs to. The state is created on the basis of human associations or society. Some of them arose naturally (for example, family, clan, tribe), and some artificially (business association, religious associations, etc.). In the creation of the state, only the natural associations that formed it are taken into account.

O.R.Sulaymanov, one of the international scholars from Uzbekistan, admits that natural, inalienable human rights are constitutionally and internationally enshrined in the legal systems of many countries [11; P.45-50].

The most important difference between societies that exist separately or independently and societies that are part of higher associations is that individual associations are absorbed into and become part of higher associations, thus ceasing to function independently. This process continues naturally from the early stages of human society. Thus, according to Aristotle, the natural emergence of the state takes place. It can be seen that the modern theory of natural law has not moved away from its ideological basis. In general, natural law is the starting point of any law, therefore of legal order, positive law, moral law, political law and other forms of such rights.

Thus, society is an association of people interconnected by a certain system of relations, which was created before the state and law. The state as a complex socio-political phenomenon has traveled a long way of development. The emergence, formation and development of the state is covered based on different approaches. It is important to study both their positive and negative aspects without making one or another approach absolute.

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