THE STATE
Anthony de Jasay
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Preface

Though this book leans on political philosophy, economics, and history, it leans on each lightly enough to remain accessible to the educated general reader, for whom it is mainly intended. Its central theme—how state and society interact to disappoint and render each other miserable—may concern a rather wide public among both governors and governed. Most of the arguments are straightforward enough not to require for their exposition the rigour and the technical apparatus that only academic audiences can be expected to endure, let alone to enjoy.

If nothing else, the vastness of the subject and my somewhat unusual approach to it will ensure that specialist readers find many parts of the reasoning in need of elaboration, refinement, or refutation. This is all to the good, for even if I wanted to, I could not hide that my object has been neither to provide a definitive statement nor to solicit the widest possible agreement.

The reader and I both owe a debt to I. M. D. Little for scrutinizing the major part of the original draft. It is not his fault if I persevered in some of my errors.

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Author’s Note

The State is about the intrinsic nature of political power, constant in the face of changing contingencies, dictating the way forms of government evolve, rather than being dictated by them.

The logic of using political power is the same as the logic of making choices in any other field of endeavour. Rational beings have objectives they seek to attain, and they deploy their available means in the way they think will maximize the attainment of these objectives. The state has a special kind of means: power over the conduct of its subjects that when exercised in particular ways is widely accepted as legitimate. Whatever may be its objectives — whether morally commendable or not, whether good for its subjects or not — the state can attain more of them fully if it has more power rather than less. In the rational-choice paradigm that underlies the more disciplined half of the social sciences, the consumer maximizes “satisfaction,” the business undertaking maximizes “profit,” and the state maximizes “power.”

Imputing to the state a rational mind and objectives it tries to maximize has attracted a measure of surprise, criticism, and even incomprehension since the first edition of The State. The approach was difficult to reconcile with the more conventional notions of the prince’s holding power in trust, of modern government as the agent of a winning coalition within society, or of a pack of professional politicians serving particular interests in exchange for money, fun, and fame. It left no role for the social contract and no room for the common good. Above all, it treated the state, a web of institutions, as if it were a person with a mind.

Arguing as if this were the case, however, produces a “simulation,” a sort of schematic history whose power to explain and predict complex
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trends by tracing the work of simple and permanent causes may perhaps justify the break with conventional theory.

The book predicts that by relentlessly expanding the collective at the expense of the private sphere the state-as-drudge always strives to become the state-as-totalitarian-master. The years since the book first appeared have witnessed one resounding failure of this attempt, the collapse of the socialist regimes in Russia and its satellites. It is hard to say what, if anything, this collapse disproves. Must the attempt always fail in the end? I see no persuasive reason why, in one form or another, it always should. Nor does it need to go all the way for corruption and the atrophy of social virtues to set in. May we hope, though, that forewarned is forearmed?

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Introduction

What would you do if you were the state?

It is odd that political theory, at least since Machiavelli, has practically ceased asking this question. It has devoted much thought to what the individual subject, a class or the entire society can get out of the state, to the legitimacy of its commands and the rights the subject retains in the face of them. It has dealt with the obedience the hopeful users of the state’s services owe it, the manner in which they participate in making it function and the redress the victims of its eventual malfunction can claim. These are vitally important matters; with the passage of time and the growth of the state relative to civil society, they are becoming steadily more important. Is it, however, sufficient to treat them only from the point of view of the subject, what he needs, wants, can and ought to do? Would not our understanding become more complete if we could also see them as they might look from the state’s point of view?

The present book is an attempt to do this. Braving the risks of confusing institutions with persons and the difficulties of passing from the prince to his government, it chooses to treat the state as if it were a real entity, as if it had a will and were capable of reasoned decisions about means to its ends. Hence it tries to explain the state’s conduct towards us in terms of what it could be expected to do, in successive historical situations, if it rationally pursued ends that it can plausibly be supposed to have.

The young Marx saw the state “opposing” and “overcoming” civil society. He spoke of the “general secular contradiction between the political state and civil society” and contended that “when the political state . . . comes violently into being out of civil society . . . [it] can and must proceed to the abolition of religion, to the destruction of religion; but only in the same
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way as it proceeds to the abolition of private property (by imposing a maximum, by confiscation, by progressive taxation) and the abolition of life (by the guillotine).” 1 In other isolated passages (notably in “The Holy Family” and the “Eighteenth Brumaire”) he continued to represent the state as an autonomous entity, going its own way without, however, offering a theory of why this should result in “overcoming,” “confiscation,” “contradiction,” why the autonomous state is an adversary of society.

As Marx moved toward system-building, he fell in with the main body of political theory whose unifying feature is to regard the state as essentially an instrument. Thus, for the mature Marx, and more explicitly still for Engels, Lenin and the socialist thought they continue to inspire, the state became a tool, subservient to the interests of the ruling class and assuring its dominance.

For non-socialist mainstream theory, too, the state is an instrument, designed to serve its user. It is seen as generally benign and helping to further the purposes of others. The shape of the instrument, the jobs it performs and the identity of the beneficiary may vary, but the instrumental character of the state is common to the major strains of modern political thought. For Hobbes, it keeps the peace, for Locke it upholds the natural right to liberty and property, for Rousseau it realizes the general will, for Bentham and Mill it is the vehicle of improving social arrangements. For today’s liberals, it overcomes the incapacity of private interests spontaneously to cooperate. It forces them to produce collectively preferred volumes of the public goods of order, defence, clean air, paved streets and universal education. Under a stretched definition of public goods, its coercion also enables society to reach for distributive justice or just plain equality.

There are, to be sure, less starry-eyed variants of the instrumental view. For the “non-market choice” or “public choice” school, the interaction of private choices through the instrument of the state is liable to overproduce public goods and fail in other ways to attain preferred outcomes. 2 This

2. As one of the founders of this school puts it, welfare economics is about market failures, public choice theory is about government failures (James M. Buchanan, The Limits of Liberty, 1975, ch. 10). Note, however, the different tack adopted by certain public choice theorists, referred to in chapter 4, pp. 270–1, n. 38.
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school deals with the unwieldiness of the tool that is the state and its potential to hurt a society that tries to wield it. Nevertheless, the state is a tool, albeit a defective one.

What, however, are defect, faulty design, inherent malfunction? And what is internal consistency? On the way from democracy to despotism, does Plato’s Republic degenerate? Or is it conforming to its own purposes?

A first step to an adequate understanding of the state is to think about an environment without one. Taking our cue from Rousseau, we tend gratuitously to associate the state of nature with savage and perhaps not very bright hunters at the dawn of history. It has become our conditioned reflex to think of it as some early, primitive stage of civilization, a more advanced stage both requiring, and being required for, the formation of a state. As a matter of empirical fact, this is as it may be. As a matter of logic, it does not follow from the sole necessary feature of the state of nature, which is that in it the participants do not surrender their sovereignty. No one has obtained a monopoly of the use of force; all keep their arms. But this condition need not be inconsistent with any given stage of civilization, backward or advanced.

Nation states are in a state of nature and show no inclination to pool sovereignty in a superstate. Yet contrary to what Hobbes is usually taken to have implied, most of them manage to avoid war a good deal of the time. They even cooperate in armed peace, most conspicuously and bravely in international trade, investment and lending, all in the face of sovereign risk. Social contract theory would predict that in these areas, there will be international thieving, default, confiscation and beggar-my-neighbour behaviour, and contracts will be worthless bits of paper. In effect, despite the lack of a superstate to enforce contracts across national jurisdictions, international cooperation is not breaking down. If anything, there is some movement the other way. International relations tend to cast doubt on the standard view of people in the state of nature as myopic simpletons clad in animal skins clubbing each other on the head. Instead, there is some reason to hold that the more civilization advances, the more viable becomes the state of nature. The fearfulness of advanced armaments may yet prove to be a more potent enforcer of abstinence from war, saving people from
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a “nasty, brutish and short life,” than were such historic super-states as Rome, the Carolingian or the British Empire, though it may be too soon to tell.

Among men and groups of men, it is harder to judge the viability of the state of nature than among nations. Civilized men have long been the subjects of states, so we have no opportunity to observe how well they would cooperate in the state of nature. Hence we cannot even pretend empirically to assess the difference it makes to have a state. Would people honour contracts in the absence of an enforcing agent possessing the monopoly of last-resort force? It used to be held that since it is every man’s interest that all other men should keep their word and that he should be free to break his, social cooperation could not be maintained on a voluntary basis. In the technical language of decision theory, a properly constructed “prisoners’ dilemma” could not have a non-imposed cooperative solution. Recent contributions of mathematics and psychology to the social sciences teach us that if men confront such dilemmas repeatedly, this need not be so. Results teach them, and expected results induce them, to cooperate spontaneously. Any argument that, since the state must force them to cooperate, they would not have done so without being forced is, of course, a non sequitur.

On the other hand, the longer they have been forced to cooperate, the less likely they are to have preserved (if they ever had it) the faculty to cooperate spontaneously. “Those who can, do,” but the converse, “those who do, can,” is no less true, for we learn by doing. People who have been made to rely on the state never learn the art of self-reliance nor acquire the habits of civic action. One of Tocqueville’s most celebrated insights (though he had more subtle ones) was in fact about English and American “government” which left both room and need for grass-roots initiatives and, by benign neglect, induced people to run their own affairs, and French “administration” which did neither. The habit-forming effects of the state, the dependence of people’s values and tastes on the very political arrangements which they are supposed to bring about, is a basic motif which keeps surfacing throughout my argument.

Its other basic and recurrent element is the waywardness of cause and
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effect in social relations. State action may or may not achieve its intended effect, for its proximate incidence gives no sure clue to the ultimate one. Nearly always, however, it will also have other effects, possibly more important and longer-lasting ones. These unintended effects may, in addition, also be positively unwanted, unforeseen and, in the nature of the case, often unpredictable. This is what lends such a gooseflesh-raising quality to the bland view that politics is pluralistic vector-geometry, and that civil society governs itself and controls the state, which is just a machine to register and execute “social choices.”

The argument of this book is arranged in five chapters, spanning the logical (though not the real-time) progression of the state from one limiting extreme, where its ends do not compete with the ends of its subjects, to the other where it has come to own most of their property and liberty.

Chapter 1, “The Capitalist State,” first deals with the roles of violence, obedience and preference at the birth of the state. It then sets out to deduce the characteristic outline of a state which, if it existed, would not be in conflict with civil society. I call it “capitalist” to stress the decisive character of its treatment of property and contract. Its conception of good title to property is that finders are keepers. It does not interfere in people’s contracts for their own good (which also excludes its compelling them to conclude a comprehensive, omnilateral social contract designed to overcome their free-rider temptations). It does not indulge such compassion and sympathy as it may harbour for its less fortunate subjects by forcing the more fortunate to assist them. By the same token, it is also a policy-less, minimal state (“The Contours of the Minimal State”).

It seems anomalous if not self-contradictory for the state both to have a will and to want to minimize itself. For this to be rational, its ends must lie beyond politics, and be unattainable through governing. The purpose of governing, then, is merely to keep out any non-minimal rivals (preventing revolution). There has of course never been such a state in history, though the style and overtones of one or two in the eighteenth and nineteenth centuries do faintly suggest it.

The “political hedonist” who regards the state as the source of a favour-
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able balance in the calculus of help and hindrance, must logically aspire to a more than minimal state and would invent it if it did not exist. Political hedonism on the part of the individual subject underlies the wish for a more comprehensive and less optional scheme of cooperation than the patchwork of contracts that arises from voluntary negotiation (“Inventing the State: The Social Contract”). On the part of a hypothetical ruling class, political hedonism is supposed to call for a machine assuring dominance (“Inventing the State: The Instrument of Class Rule”). Both versions of political hedonism presuppose a certain gullibility as to the risks of disarming oneself to arm the state. They involve a belief in the instrumental character of the state, made to serve the ends of others and having none of its own. Yet in any non-unanimous society with a plurality of interests, the state, no matter how accommodating, cannot possibly pursue ends other than its own. Its manner of resolving conflicts, and the respective weights it attaches to the ends of others, constitute the satisfaction of its own ends (“Closing the Loop by False Consciousness”).

The question whether political hedonism is sensible, prudent, rational, whether having the state around us makes us better or worse off, whether the goods the state, acting in pursuit of its interest, chooses to produce are what we should have chosen, are addressed again in chapter 2 in relation to reform, improvement and utility, and in chapter 3 in such contexts as one-man—one-vote, egalitarianism (both as a means and as an end) and distributive justice.

While violence and preference may stand respectively at its historical and logical origins, political obedience continues to be elicited by the state through recourse to the old triad of repression, legitimacy and consent, the subject of the first section of chapter 2. Legitimacy is obeyed regardless of hope of reward and fear of punishment. The state cannot, except in the very long run, breed more of it at its choice. In getting itself obeyed, its alternatives are reduced to various combinations of repression and consent.

3. The term “political hedonist” was coined by the great Leo Strauss to denote Leviathan’s willing subject.

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