*Part 1*

# The Basic Idea

# 1 The State as a Structure of Intelligibility

This work presents and defends an ontological theory of the state. Its basic strategy is to consider the problem of the state in the light of recent and influential developments in social thought and philosophy, and to provide thereby an account of what the state really is – a description of its essential nature.

The very idea of pursuing an account of this kind will undoubtedly strike some readers – perhaps suspicious of ontological or metaphysical inquiry *per se*, or else doubtful that the state could ever be the legitimate object of such inquiry – as eccentric, anachronistic, even perverse. In fact, my project is intended to be none of these. To the contrary: it purports to uncover and explicate an understanding of the state that is implicit in and that helps to underwrite our own ordinary ways of thinking about politics. It seeks, in other words, to reconstruct a theory to which most of us are already (tacitly and unselfconsciously) committed, and that informs and directs our own engagement in the world of affairs. It thus aims to derive the idea of the state from certain fundamental, though typically unstated, presuppositions of contemporary political life.

The account of the state itself is developed and defended in the three chapters that compose Part III pertaining, respectively, to the activity, the authority, and the internal constitution of the state. But those chapters are dependent on, and are fully intelligible only in the light of, certain premises of a speculative or theoretical nature. In particular, the idea of the state presupposes: (1) a sharp methodological distinction between philosophical and prudential ways of thinking about politics, along with an account of their unavoidable mutual connections; (2) a corresponding conceptual distinction between the state, on the one hand, and the government of a state, on the other; (3) an understanding of what it might mean to pursue an ontological or metaphysical theory, based on important and widely shared principles of post-Kantian philosophy, broadly construed; and (4) an approach to institutions and social action derived from emergent and important trends in nineteenth- and twentieth-century social thought. These formulations are developed at length in Part II, the first and second

of them primarily in Chapter 2, the third and fourth primarily in Chapter 3. Each of them constitutes, in a sense, an independent and self-standing argument, something to be explored and analyzed on its own account. Seen from the perspective of the idea of the state, however, they are also deeply intertwined and interdependent, the one with the other. Thus, the theory of the state is an ontological or metaphysical theory, but also, at the same time, the theory of an institution. Institutions, in turn, are understood not simply as objects of ontological analysis but as embodiments and reflections – systematic, organized distillations – of ontological claims. Every institution is, at base, an incarnation, a concrete reiteration, of cultural and intellectual judgments about how things in the world really are; and this suggests an ontological theory of the state according to which the state, qua institution, is itself a kind of ontological theory – a structure of metaphysical presupposition, of propositions about the nature of things, propositions that are rendered, through the state, authoritative and suitable for practice.

Before exploring these premises and the account of the state derived from them, however, I begin by offering, in Part I, a brief sketch of the basic idea. This is best read as a first approximation, designed to introduce certain central claims and to orient the reader to the overall structure of the theory. It is important to note, of course, that a first approximation is very different from a condensed version. Indeed, the argument of this book is not easily summarized; it can be understood and evaluated only on the basis of propositions elaborated in detail and defended at length. Nonetheless, Part I provides what I hope to be a useful glimpse of the theory as whole – an overview, perhaps, that can help the reader make better sense of the main arguments to be found in Parts II and III.

## 1. Two ways of thinking about politics

Political theory has, broadly speaking, two kinds of subject matter. On the one hand, it is concerned with the various particular activities that compose the political life of a state, activities undertaken by the instrumentalities – primarily governmental – of political society. On the other, it seeks to investigate the idea of the state itself. This difference of subject matter gives rise, in turn, to two kinds of political theory – two different ways of thinking about the political world, sharply distinct from one another both methodologically and substantively. Anyone who would attempt to pursue either of them in a serious way would do well to get clear about their profound differences and, equally, their unavoidable mutual connections.

1. To say of one kind of political theory that it is concerned with the various particular activities that compose the political life of a state is to

say that it studies activities that actually take place, or might take place, in the world, and that help determine, whether by design or not, the development and distribution of social goods, material and moral alike. Again, our inclination is to associate such activities with government, and we are usually right to do so. But what best distinguishes them as *political* activities is not so much their official character as the degree to which they represent efforts – governmental or otherwise – to address serious social problems by invoking in a more or less comprehensive and authoritative manner the collective resources of a community.

Pursuing political theory with respect to this kind of subject matter means, in the first instance, asking about decisions, actual or prospective. The political theorist examines the nature or meaning of particular decisions, considers their efficacy and suitability, and perhaps suggests alternative decisions that might be more appropriate. Inquiries of this sort, however, naturally give rise to any number of broader questions about government itself or, correlatively, about non-governmental or quasi-governmental entities exercising political power. Such questions might pertain, for example, to the proper scope of governmental activity or to the ways in which that activity is organized. But these larger questions often stimulate, in turn, even more general questions concerning the *character* of political endeavor. For example, the theorist might ask about a government's particular manner of acting – whether its behavior seems to reflect, say, the economic, religious or aesthetic practices of society – and this might result, finally, in a comprehensive theory of political activity *per se*.

Of course, investigations of these various kinds often explicitly rely on or are otherwise influenced by causal analyses of decisions and decision-making. But they are not themselves examples of such analysis. They are not primarily scientific. Rather, they treat the political world essentially as an on-going and open-ended series of loosely connected exercises in practicality and judgment, informed, to be sure, by an understanding of what nature itself permits, but guided as well by a more-or-less systematic and self-critical account of aims to be achieved.[1] To speak of "politics" is

[1] As such, they depend upon but are different from all varieties of "political science," wherein theories and methods derived from other social science disciplines – primarily sociology, psychology and economics – are utilized in order to account for political behavior. In my view, the distinction between political theory or philosophy and political science has nothing to do with the difference between "empirical" and "normative" thought, or between "descriptive" and "prescriptive" theory. In some sense, any systematic analysis will be both empirical and normative, descriptive and prescriptive. The crucial question is whether or not a particular inquiry seeks primarily to discover and describe a world of causes and effects. Political science does, and this is largely what makes it a science.

to speak of a world not only of causes and effects but of alternatives, of choices freely chosen, a world composed of things that "could have been otherwise" (*Nicomachaean Ethics* 1141b.10–11). The individuals and organizations that inhabit such a world are thought to be engaged, singly or collectively, in a process of deliberation about goals and strategies. This process is understood to be influenced by, but not reducible to, the causal nexus of social facts; for it involves, as well, the activity of identifying moral intuitions – a sense of right and wrong, of value and purpose – and applying those intuitions to particular circumstances. In this sense, political endeavor is a species of prudential endeavor; and it is precisely with some such conception in mind that the political theorist examines the decision-making process, evaluates its outcomes, and seeks to make a contribution by bringing to bear upon it a perhaps more thoughtful and considered kind of prudence.

To contemplate in this way particular decisions or groups of decisions, or the institutions that make those decisions, or the character of the activities that those institutions undertake is, I would suggest, to adopt a family of subject matters all of which focus directly on problems of a practical nature, problems of policy. I construe "policy" here in a broad sense to include not only decisions about the exercise of public authority but also decisions about how those decisions should be made. Thus, we have policies for dealing with the distribution of particular benefits and obligations in society, and we also have policies about the design of social institutions and institutional procedures. A political theory that adopts one or more subject matters of this general kind is, we may say, a *theory of policy and government*, where the word "government" is understood in the broadest sense to refer not only to official policy-making entities but, when appropriate, to unofficial ones as well. The goal of any such theory is to describe just what it is that we are doing when we make social or political choices, and to consider, in the light of our moral intuitions, the possibility that it might be prudent for us to do things otherwise.

2. Very different from this is a kind of political theory that focuses on the nature of the state itself. Here the goal is to offer an analysis not of policy

It is sometimes argued that political science cannot truly be a science, but it is hard to see why this should be so. Political events are real events – things in the world that are caused and that have effects. As such, they are as suited to scientific study as any other set of phenomena. Political science may not be able to achieve the degree of precision and certainty characteristic of other sciences, but this doesn't prevent it from being itself a science. Moreover, the fact that political phenomena must be conceptualized and interpreted before they can be analyzed scientifically is a feature shared by all phenomena, natural and social alike, and again casts not the slightest doubt on the possibility of a science of politics.

and government but of a concept, a philosophical theory rather than a prudential one. Such a theory – a *theory of the idea of the state* – seeks to contemplate the state as it actually is, rather than as it appears to be. It purports to describe, among other things, those features of particular states that are common to all and that determine the fundamental nature of each. It seeks to indicate what we mean when we refer to something as a state, when we talk of the activities or reasons of state, when we speculate about the authority of the state, and so on. As such, it pursues an ontological or metaphysical theory.[2] In so doing, it attempts to uncover and identify the conceptual foundations upon which much of our political thinking is based, foundations that reflect, in turn, emergent, influential and extremely powerful notions about the very nature of human thought and action.

Systematic and self-conscious political philosophy of this kind is no longer widely practiced. Indeed, it is often explicitly rejected as unsuitable. The appropriate task of political theory is thought to be distinctively "political" and, as such, decidedly and pointedly non-metaphysical; and it is a fact that a great many political theorists today devote themselves almost exclusively to the pragmatic or prudential study of policy and government, focusing in particular on issues internal to the political life of modern liberal societies and avoiding, or attempting to avoid, larger questions about the idea of the state itself. This seems to me both peculiar and unfortunate. It is peculiar because it runs directly counter to extremely important and influential currents in the larger world of philosophy, both analytic and continental, where metaphysical or ontological questions have become a central preoccupation. It is unfortunate, because I believe that many of the most important controversies of contemporary political theory – controversies about policy and government – are deeply bound up with questions of a conceptual or ontological nature; and I believe, further, that the seeming intractability of such controversies often reflects what might fairly be called a culture of philosophical uncertainty, born of indifference and inattention and nourished by a well-developed and widespread mood of skepticism.

Under the influence of such a mood, many political theorists have come to ignore – or have dismissed as uninteresting or unintelligible – precisely the kinds of fundamental questions that inform and authorize,

[2] Here and throughout, I follow Strawson in presupposing that the words "metaphysical" and "ontological" can be used more or less interchangeably, at least for some purposes. See P. F. Strawson, *Metaphysics and Analysis: An Introduction to Philosophy* (Oxford: Oxford University Press, 1992), p. 30. For a standard and representative textbook view of this matter, see Stephen Laurence and Cynthia Macdonald, *Contemporary Readings in the Foundations of Metaphysics* (Oxford: Blackwell, 1998), pp. 3–4.

however tacitly, our own various theories of politics. As a result, we have all too often lost sight of what is really at stake when we disagree about policy and government. Relatively trivial political differences have become, in our eyes, ironclad oppositions; fundamental agreements remain unacknowledged or unappreciated. To get clear about the idea of the state, on the other hand, is precisely to clarify, perhaps even to resolve, many of our deepest political differences. For the fact is that all of our beliefs about public life – including our beliefs about policy and government – inevitably reflect deep-seated assumptions regarding the very nature of the state: its essence and purpose, its justification, its internal constitution. We need to examine those assumptions in detail, hence to make them available for intelligent criticism, if we wish to see our disagreements for what they really are.

## 2. State and government

The word "state," as it operates in contemporary political discourse, is used characteristically in two quite different and fundamentally incompatible ways, the one corresponding roughly to prudential, the other to philosophical, modes of theorizing. Of course, what is true of theories is also true of words: observing and attending carefully to (in this case terminological) differences is a minimal requirement – too often unmet – for thinking clearly and perspicuously about politics and the state.

1. On the one hand, we commonly talk about the "separation of church and state," or about "state-sponsored terrorism," or about the "regulation of the economy by the state," and when we do so we think of the "state" as more or less synonymous with "government" and as sharply distinguished from "civil society." Certainly, this latter distinction – state versus civil society – has become an absolutely central preoccupation of contemporary political thought. The state has thus increasingly "come to be seen by many as merely an apparatus of rule, an apparatus distinguished preeminently by the fact that it involves a monopoly of coercion."[3]

It should be noted that the state/civil society distinction has its origins not so much in Hegel's *Rechtsphilosophie* as in Marx's astonishing, perhaps intentional, misreading of it. I say misreading, because Hegel, despite what Marx said,[4] never understood *Staat* and *bürgerliche Gesellschaft* to

[3] Murray Forsyth, "State," in *The Blackwell Encyclopedia of Political Thought*, ed. David Miller (Oxford: Basil Blackwell, 1987), p. 505.
[4] Karl Marx, *Critique of Hegel's 'Philosophy of Right'* (Cambridge: Cambridge University Press, 1970 [1843]), pp. 5–11, 73–83.

denote independent and opposed realms of human activity, the one exercising power or authority over and against the other. Rather, he viewed them – and all the other "moments" of right, including systems of property, abstract law, morality and the family – as constitutive elements of a single, all-encompassing, organic entity. Hegel's work thus reflects a quite different and quite venerable tradition of discourse in which the word "state" is used much more broadly, as for example when we talk about the "city-states" of ancient Greece or renaissance Italy, or of the "modern nation-state," or of the "newly independent states of the post-colonial world," or of "the Organization of American States." Here "state" is not synonymous with but, to the contrary, sharply distinguished from "government" as the whole is distinguished from the part. The state itself is a larger notion that refers, essentially, to the entirety of political society, i.e., to "the body politic or political community as such, something that has existed throughout history in a wide variety of differing forms."[5] According to this usage, the term "state," far from being distinguished from, is in fact roughly synonymous

[5] Forsyth, "State," pp. 503–4. The dual uses of the term "state" are widely remarked upon in early twentieth-century writings. Sidgwick indicates that "I must begin by distinguishing between (1) the narrow use of the word 'State' to denote the community considered exclusively in its corporate capacity, as the subject of public as distinct from private rights and obligations; and (2) the wider use to denote the community however considered" (Henry Sidgwick, *The Elements of Politics* [London: Macmillan, 1908], p. 220). Anson says much the same: "[W]hen we talk of the State we often use the term with some uncertainty as to its meaning. Sometimes the expression is used as equivalent to a whole community, or independent political society. Sometimes it is limited to the central force, or sovereign, in that society" (William R. Anson, *The Law and Custom of the Constitution, vol. 1: Parliament* [Oxford: Oxford University Press, 1911], p. 15).

For a related contemporary discussion, see Stuart Hall, "The State in Question," in George McLennan, David Held and Stuart Hall, eds., *The Idea of the Modern State* (London: Open University Press, 1984). In many ways, the essays in this latter volume reflect the ambivalences and inconsistencies that I have described. Thus, Hall indicates that "there has been a long-standing debate as to whether the terms 'government' and 'state' are interchangeable" (p. 19). He denies that they are. But only a few pages later, David Held's article, "Central Perspectives on the Modern State," begins with the flat assertion that the state is nothing other than "an apparatus of 'government'" (p. 29). See also David Copp, "The Idea of a Legitimate State," *Philosophy and Public Affairs* 28 (Winter 1999), according to which (p. 7) "the state is the system of animated institutions that govern the territory and its residents, and administer and enforce the legal system and carry out the programs of government."

Along these lines, it is revealing, I think, that the Greek word *polis*, as it appears in, say, Plato's work, is often translated by scholars as "state." Compare, for example, various English language renditions of *Crito* 50a–c and 52a–b. Grube (1975) tends to translate *polis* as "city," but he also uses "state" (50a). Church (1948) generally uses "state," but also uses "city" (52b) and "commonwealth" (50a). Gallop (1997) prefers "city" but also uses "state" (50a), whereas Tredennick (1954) prefers "state" but also uses both "city" (50b) and "government" (50a). Doherty (1923) usually uses "state" but also uses "government" (50a). Jowett (1937) sometimes prefers "state" (50b–c, 52c), sometimes "city" (52b–c), and at least once uses "government" (50a). Much the same is true of Fowler (1914), who likes

with "civil society," and with a host of other terms including "commonwealth," "commonweal," "political community," "political society," "body politic," "republic" or "res publica," "civitas," and the like. Thus, state and civil society are opposed not to one another – they are the same – but to a particular kind of human circumstance, what is sometimes referred to as the "natural condition" of humankind or any other circumstance that arises when the agreements and understandings about law and authority that make political society possible collapse. Such agreements and understandings compose, in some larger sense, the idea of the state or civil society, and their absence is what is often called "anarchy."

2. The fact that a single term can be used in two quite different ways is hardly unusual. Nor is it especially problematic, provided that we are careful. When, however, we are not careful – when we fail to keep the relevant distinctions clearly in mind – the result can be all manner of miscommunication and theoretical error.

Consider, in this regard, the very end of Skinner's important two-volume study of the *Foundations of Modern Political Thought*. Skinner argues persuasively that the sixteenth century saw a fundamental change in the use of the term "state." Whereas earlier writers employed the term largely to describe either "the state or condition in which the ruler finds himself" or else the "'general state of the nation,'" sixteenth-century writers gave it a "modern and more abstract meaning."[6] The trouble, however, is that Skinner's account of this latter meaning is often highly problematic. His central claim is that "state" was used to refer to an independent or distinct "apparatus" of politics or policy-making, suggesting thereby that it was essentially synonymous with government itself as distinct both from the particular individual(s) in whom governmental power resided and from the body of citizens.[7] But several of the key passages that he cites, even as he glosses them, do not seem to support such a reading, at least not unambiguously. For example, he attributes to Bodin the notion that the "state" is "a locus of power which can be institutionalised in a variety of

both "state" (50a–c and 52c) and "city" (52b–c), and who also uses "commonwealth" (50b). And similarly for Livingstone (1938), who uses "city" (52b–c), "state" (50b–c, 52c) and "government" (50a, 52c). The point is not to criticize translations but merely to note the varied and often inconsistent usage of the word "state." What seems clear is that *polis* denotes not simply the apparatus of decision-making, not simply government, but the entire community understood as a political or civil society; and virtually every translator at least on some occasions renders this as "state."

[6] Quentin Skinner, *The Foundations of Modern Political Thought*, vol. 2 (Cambridge: Cambridge University Press, 1978), p. 353. For a rather different and extremely helpful account, see Kenneth H. F. Dyson, *The State Tradition in Europe: A Study of an Idea and Institution* (New York: Oxford University Press, 1980), especially chs. 1 and 2.

[7] Skinner, *The Foundations of Modern Political Thought*, vol. 2, pp. 353–55.

ways," implying that the state is indeed a policy-making apparatus. But he also quotes Bodin to the effect that while "the government of a commonweale may be more or less popular, aristocratic or royal . . . the state in itself receives no comparisons of more or less."[8] Here, government is explicitly distinguished from the commonweal; if the commonweal *has* a government – the government *of* a commonweal – then it cannot *be* a government. It is also explicitly differentiated from the state, which in this passage seems to be the same thing as the commonweal. Moreover, the larger contexts in which passages such as this occur show Bodin's usage, as translated (in 1606) by Knolles, to be in fact uneven throughout and often rather different from what Skinner suggests. For example, Bodin sometimes uses the word "state" (Knolles's translation of *etat*) interchangeably with "commonweale" (Knolles's translation of *république*), though the latter appears with greater frequency. And while he occasionally thinks of "commonweale" and "government" as synonyms ("a commonweale is a lawfull government"[9]), he also says, among other things, that a power may try "to invade the State of other princes," clearly implying that a state is more than its government; and he adds that a commonweal – hence a state? – is composed not just of a common government but of "markets, churches . . . lawes, decrees, judgements, voyces, customs, theaters, wals, publick buildings, common pastures, lands, and treasure."[10]

Elsewhere, Skinner quotes Raleigh to the effect that the identity of a state may continue essentially unchanged even if the particular form of government – not simply the identity of the ruler(s) but the structure itself – were to change substantially. The passages in question are entirely apposite, but it is hard to see how they support Skinner's claim that Raleigh thinks of the state as merely a political or policy-making apparatus. Indeed, Raleigh's usage is, like Bodin's, highly equivocal and inconsistent. He writes, for example, that "a monarchy is the government of a state by one head or chief . . . an aristocracy is the government of a commonwealth by some competent number of the better sort . . . a popular state is the government of a state by the choicer sort of people."[11] It is a peculiar passage, and characteristically so. In the first two clauses, "state" seems to be interchangeable with "commonwealth" and differentiated from "government," but in the third clause it seems to be differentiated from, dare I say, itself. Soon thereafter Raleigh gives

[8] *Ibid.*, p. 356.
[9] Jean Bodin, *The Six Bookes of the Commonweale*, tr. Richard Knolles (Cambridge: Cambridge University Press, 1962), pp. 1 and 12.
[10] *Ibid.*, p. 11.
[11] Walter Raleigh, *Works*, vol. 8 (Oxford: Oxford University Press, 1829), pp. 2–3.