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INTRODUCTION

# Motivating the Argument

FOR A CENTURY OR MORE, competing states or polities have claimed and controlled most of the surface of the earth; the only exceptions are international waters and some areas of wilderness.[1] While it has taken millennia for the network of states to extend over the whole planet, and while that network is consistent with continuing shifts in the distribution of power and territory, it looks now like an arrangement that is destined to survive, at least in the absence of massive shocks. It might be disrupted or undone by catastrophic climate change, by a large meteor strike, by a rampant plague, or by a nuclear world war. But short of such a radical shock, the state system is likely to stay around for the foreseeable future.

The status quo is stable for at least three reasons. First, no people can hope to live without a state in their territory; in the absence of a state their land would surely be taken over, perhaps as a protectorate, by one or another rival regime. Second, no regime is so strong that it can hope to drive others to extinction and establish itself in sole possession of the earth. And third, the distrust between peoples is likely to block the formation of a binding, sustainable contract in support of a global government.

The states that constitute this stable network are all coercive, territorial regimes in which an individual ruler or a ruling group exercises power over other residents, asserting the right to act for them in maintaining interstate relations. But otherwise, those regimes vary enormously in how they are organized, how they treat their subjects, and how they behave toward other states.

1. I use "state" and "polity" as synonyms, following a different usage from some others, such as Collins and Lawford-Smith (2021).



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The inescapability of the worldwide state system means that the future and welfare of our species—and perhaps that of others too—depends on how states perform. It is only if we can recruit states individually and collectively to the service of human flourishing that we can hope to deal with climate change, pandemic threat, chronic deprivation, and the eruptions of inhumanity that seem to come with our genes. The ideal of justice within peoples and between peoples continues to capture the human imagination. But we can hope to advance along the path to justice only if we can steer the state onto that road.

This is a challenging demand, for the state or polity is an institution with a very mixed record. While it has often been a force for domestic order and welfare, and sometimes international accord, it has just as often enabled the few to lord it over the many, legitimated xenophobia within and without its borders, and given a license to violence and war. Can we really expect it to be able to serve the cause of justice? Is it up to the task?

## *The Role and Potential of the State*

Yes, it is, at least when there is a rough balance of power between rulers and their subjects: between decision makers and decision takers. The rulers must not be so powerful that they can ignore the interests of the ruled. And, a less prominent possibility, they must not be so powerless that there is disorder and strife among those they rule. Barring such developments, so this book argues, there is a role or function we can expect the state to play, and a set of distinctively political desiderata that we can hope it will satisfy. If it plays that role—and only if it plays that role—it will have the potential to advance the cause of justice, whether it actually does so or not.

The state that plays this role will satisfy what we may describe as the ideal of statehood or, to be more exact, the ideal of modern statehood. And depending on how well it meets the demands of the role, it will satisfy the ideal to a lesser or greater degree. While statehood is compatible with justice, as we shall see, it does not make such high demands. The balance of power under which it can be realized does not require an inclusive democracy, for example, or any significant degree of civil liberty or social security. As interpreted here, indeed, that balance does not even preclude stratification among decision takers, so that only the upper echelon hold any power against rulers. Although the ideal of statehood is not high-flown, however, it still makes a range of significant demands on the state and supports the ascription of a variety of important powers.

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The theory of the state—specifically, the modern state—that is offered here is realist, then, in two distinct senses. It is historically realist in assuming that the state will endure through the foreseeable future, contrasting on that front with the idealism of traditional anarchists like Peter Kropotkin (1902). It is normatively realist in arguing that although the state need not satisfy a moral ideal like that of justice, it should satisfy a political ideal that reflects the function it will have if there is even an approximate balance of power between rulers and ruled.

The theory answers in those ways to the aspiration for a realist political theory of the kind endorsed by Bernard Williams (2005) and the many thinkers he has influenced (Leat 2010). Although less demanding, the requirement for a rough balance of power is an analogue of what Williams describes as the basic demand of legitimacy on the state. As he looks for the general shape that a state ought to assume, on political rather than moral grounds, if it is to be minimally legitimate, so we look for an account of the general shape it ought to assume, if it is to reflect a minimal balance of power between decision makers and decision takers.

The book offers a theory of the role of the state in the first chapter of part I; specifically, of the state where rulers and ruled enjoy a rough balance of power. Many states are outliers on this count, with rulers who are powerful enough to practice brutal repression or so powerless that they fail to achieve effective control. An implication of the theory is that such regimes are not proper states but failed or failing counterparts. If they still count as states, that is only in the sense in which the heart that has ceased to pump blood is still a heart.

These states count as outliers because they fail to serve the function ascribed to the polity. But are they likely to be statistical outliers too: that is, empirically atypical? Yes, insofar as the balance of power required is not very demanding; the state may exist without anything like an equality of power between rulers and ruled, or indeed within the ranks of the ruled themselves. Such a balance has often been achieved in history and is routinely achieved today. Indeed, it looms as a prospect that threatens every state where the ruling clique try to rule only for themselves.

Where the opening chapter of part I offers an account of the role ascribed to the state, the remaining two chapters argue that if it is to do as well as possible by that role—if it is to realize the ideal of statehood fully—the state should meet two further desiderata. The functional state should be organized as a corporate agent to pursue its role, but ought at the same time to be composed out of decentralized, mutually constraining units.

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The book goes on in part II to argue that, contrary to some common doctrines, the functional state will have the potential to deliver three important benefits. Contrary to an absolutist form of statism, it will be able to give its people collective, countervailing power; contrary to a radical libertarianism, it will be able to recognize and honor significant rights on their part as individuals; and contrary to laissez-faire theory, it will have the capacity to intervene productively in the market economy.

As these remarks indicate, a major reason for wanting to have a theory of the state is that it is required for developing a relatively realistic picture of what we may expect to be able to achieve by way of justice. But, while the focus on justice remains in the background of the discussion, the theory developed may be of interest in legal and political theory more generally, and across a range of the social sciences. It is a striking feature of work in these fields that while much has been written on the history, economics, and dynamics of states, there has been little work on the theory of the state in the sense in which we pursue it here.

In discussing the various issues raised by the function and potential of the state, I frequently draw on the arguments of historical figures like Jean Bodin, Thomas Hobbes, John Locke, Jean-Jacques Rousseau, and Immanuel Kant. I do this because they are the sources of arguments that remain current and important today and because they often offer the clearest, most challenging statements of the arguments. But while I situate those thinkers in the context of their times, this is not a work of intellectual or political history. I focus on the idea and institution of the state that first emerged in modern times—in Europe, from about the sixteenth century on—and that has assumed its distinctive form only in the last century or two.[2]

## *Three Assumptions about Role or Function*

There are three assumptions that we may expect to be satisfied by anything that is to count as a function of the state. While that function must consist in a particular effect that the state has in the lives of its members, no effect can count as part of its function unless it meets the constraints encoded in

2. On the framework of ideas and influences within which the practice and idea of the modern state arose, the outstanding source is Quentin Skinner's (1978) magisterial study of *The Foundations of Modern Political Thought*. On the challenges that the emerging state raised for established thinking about natural law, see Brett (2011).

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those assumptions. And if none of the effects it has meets the constraints, then we must give up on the idea that the state as such has a distinctive role or function.

The first assumption is that the function of the state or polity is an effect that it brings about robustly over a certain range of possible variations in the society; it brings about the effect regardless of such variations, at least when they preserve the required balance of power. These variations allow the population to be large or small, for example, culturally uniform or diverse, as they are and have been in many states. And they even allow that those who are ruled in a state may be divided or stratified, as they have been in many regimes, with only one subclass accounting for the required balance of power in relation to rulers; those outside that class, distinguished by gender, ethnicity, or whatever, will typically be subordinate to its members.

This last variation means that a state may count as functional even if those it serves directly—its citizens proper, as we may describe them—are not inclusive of the population as a whole. They may be restricted to the barons with whom King John signed the Magna Carta; to the propertied, mainstream males who dominated the more progressive states in modern Europe; or to men alone, as remained the case in even progressive, nineteenth-century democracies. But there is an important point to notice here. That the function of the state is one that it can play whether the citizenry is restricted or not means that it cannot be a discriminatory effect like that of supporting the subordination of an underprivileged class. The state may support that subordination in a stratified society but, by our first assumption, that cannot count as part of its function; it is not an effect that the state will bring about robustly, since it won't bring it about under the social variation where the citizenry are inclusive.

The second assumption about the role or function of the state is that it is one that the state will play only when the officials who run it—the rulers and their appointees—act as their offices in the state require them to act. This means that in searching out the role of the polity, we must take corruption among public authorities—that is, a failure to enact their offices properly—to be absent or limited. If the polity has a function in the lives of its citizens, after all, then presumably it will discharge that function only when those who run the organization meet this constraint.

The third assumption we make about the role or function of the polity is that it is not just an effect that the state contingently generates—not, for example, a contingent benefit that it happens to provide for its citizens—but one

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that has a special explanatory role. This is grounded in the more general assumption that no effect that an institution generates will deserve to be called a role or function that it plays unless its occurrence helps in some way to explain the existence of that entity.

There are three ways in which an institutional effect might meet this explanatory condition. The institution may have been intentionally designed by its creators for the generation of that effect. The institution may have been selected for that effect in past competition between societies where it was present and societies where it was not. Or the institution may be likely to survive a variety of possible problems in virtue of having that effect; the effect may explain why it exists as a relatively resilient feature of the society: why it enjoys an enduring rather than an ephemeral presence there.[3]

To anticipate later argument, the role assigned to the state under the theory defended here is an effect of the third variety. It is an effect that might be expected to keep the state resiliently in place, even if its presence were not required by the state-bound character of the world. Given that state-bound world, it is an effect that may be expected, at least so long as citizens retain a balance of power with rulers, to keep the state in a shape that is suited to producing the effect: to stop the state from devolving into the form of an outlier regime.

## *Exploring the Role of the State*

The method we adopt for exploring the role of the state has a genealogical character. It runs a thought experiment that explores what would be likely to transpire in a world without a state—indeed a world, as we shall see, without even conventions, norms, or laws—where the protagonists are human beings like us and the circumstances allow an approximate balance of power among many members, if not among all. The aim is to see whether a state would be likely to appear and survive in such a world, without any miraculous or lucky trigger: whether in that sense its appearance and survival would be robustly rather than just fortuitously likely.

If the thought experiment is run under appropriate constraints, and if it turns out that something recognizable as a state or polity would reliably materialize there, then that prompts an obvious question. What effect does the state generate that might account for the robust likelihood of this development? If

3. On this conception of function, and for a suggestion that it was endorsed among classical functionalists like Émile Durkheim, see Pettit (1996).

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we can identify an effect or set of effects that meets the constraints for counting as a function, then that will direct us to the function that the state discharges in the counterfactual model. And that will then give us at least a hypothesis about the state in the actual world: namely, that its role or function parallels that which it has in the model. The degree to which the hypothesis is plausible will depend, as we note in chapter 1, on how well the counterfactual world is taken to model the actual one.

While a suitable genealogy, if it were available, would deliver this reward, there is no guarantee that it will be available. The thesis defended is that there is indeed a suitable genealogy available—one that identifies a plausible function for the state in the model—but that is a claim supported by our thought experiment, not something that had to be true. For all we might have guessed in advance, nothing like a state might be destined to appear in our counterfactual world. Or the state that was destined to appear might be one that does not live up to what we might have hoped; it might be a purely repressive regime, for example, incapable of advancing the cause of justice.

The genealogical methodology is routinely used in philosophy, as we shall see later. But it is also employed in social science. It figures prominently, for example, in the approach traditionally adopted among economists for identifying the role and nature of money (Menger 1892). We shall look at this approach to money in chapter 1.

The book develops a counterfactual genealogy of the state or polity, building on the genealogy of law developed by Herbert Hart (2012) in his classic study from the early 1960s (Pettit 2019b). It starts from a world where power is roughly balanced among at least a privileged class of members and argues that a state would emerge and endure there in virtue of the intelligible, unplanned adjustments that individuals would be robustly likely to make to their circumstances.

A state would appear and survive in that counterfactual world, so the story goes, because of supporting a benefit for those individuals. And that benefit points us to a role that the actual state properly plays. That role is, first, to establish or enforce a coercive, territorial regime of law under which its citizens, whether they be an inclusive or privileged class, know what they can do with legal impunity and legal protection; and second, to entrench or safeguard that regime against internal and external dangers, such as dangers of collapse or colonization.

This account suggests that if the state plays that role, then it will prove relatively resilient; it will preserve a character that continues to support the

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function, provided the balance of power between rulers and ruled is not disturbed.[4] The idea is that under that proviso the complaints and protests that functional failures would elicit among citizens, or the anticipation of such complaints and protests on the part of rulers, would be likely to keep the state more or less true to its function.

This view of the function of the state does not entail that if rulers—say, a single individual or family or clique—were very powerful relative to others in the society, still they would be inclined to introduce a functional state. And it does not entail that if the rulers in a functional state developed such a preponderance of power, say because of a new military or informational technology, then they would continue to ensure that the state serves its proper function. Those rulers might be led to hold the state to its function for fear of protests among the ruled. But then again, they might not: the attractions of power for members of the ruling clique might lead them to opt for brutal repression.

## *The Plan of the Book*

The three chapters that form part I of the book offer a picture of the role of the state and its demands. Chapter 1 develops the genealogical argument and offers support for a law-centered account of the function of the state. But the state, as we shall see, may serve that function more effectively or less effectively, and that observation leads into the argument of the following two chapters. Chapter 2 holds that the state will play its allotted function better insofar as it incorporates fully as an agent or agency and acts reliably, across different scenarios, for a stable set of ends. Chapter 3 goes on to maintain that nevertheless its function also argues that it ought to assume a decentralized form, materializing in the interaction of mutually constraining subagencies.

While part I gives us a picture of the nature of the state, and how it should be organized to serve its purpose best, the three chapters in part II address in turn three questions related to the potential of that polity. Can the functional state grant countervailing powers to its people or citizens collectively? Can it countenance significant rights on the part of its individual citizens? Can it satisfy the requirements of an autonomous market economy? The issue in each case is whether it can follow that course while discharging its function properly.

4. This condition requires more than that the state will continue to exist in some form, such as a repressive one. Its continuing to exist in some form would be ensured in any case by the considerations reviewed earlier that entrench the state system worldwide.

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The three questions are raised by familiar doctrines in political philosophy, which we may describe as statism, libertarianism, and laissez-faire theory. Chapters 4, 5, and 6 defend affirmative answers to the questions, arguing in turn against those doctrines. First, the citizenry will have considerable, collective power, constitutional and extra-constitutional, in any functional polity—indeed, in any polity whatsoever—and may have it in a greater or lesser measure. Second, citizens will enjoy significant rights against one another, officials included, in any functional polity and, those rights being institutional rather than natural in character, they may vary in their scope and in the security they provide. And third, the functional polity will assume a constructive, interventionist role in any modern market economy, although the role it assumes may be more or less extensive, more or less radical.

The function ascribed to the state in chapter 1 will hardly prove surprising, since it has long been ascribed to the polity in different intellectual traditions. Those who are less interested in the genealogical argument presented for the ascription of the role may prefer to focus on the claims in the remainder of the book. They may find more interest in the argument that that function supports the case for an incorporated, yet decentralized, polity, and that it does not deeply limit the potential of the state in the respects examined in the later part.

## *Back to Justice*

The properly functional polity may fall well short of justice, but the ideal of statehood that it embodies is still significant. While the functional polity serves only the citizens well, the citizenry it serves may be inclusive, and even if they are not inclusive, the state cannot be required by its function to support the subordination of noncitizens. How will the functional polity serve its citizens? By establishing and entrenching laws that enable them to tell how they may act with legal impunity and under legal protection. It will provide this service more reliably to the extent that it is incorporated enough to make the laws determinate, yet decentralized enough to guard against the danger of capture by private interests. Thus, the fully functional state should give each citizen a reliable, determinate zone of legal security, however limited it may be, within which they can decide on how they want to live their lives.

How does the ideal of statehood so interpreted relate to that of justice? Broadly in the way that the ideal of prudence relates to that of morality. As the demands of prudence on an individual are a subset of those of morality, so plausibly the demands of statehood are a subset of those of justice. As the

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demands of prudence are conditions that an agent must satisfy to count properly as a person—or at least an intertemporally connected person—so the demands of statehood are conditions that the state must satisfy to be properly a state. And as the demands of prudence may be satisfied in different degrees by an individual, so a state may satisfy the demands of statehood in different degrees.

But not only does the ideal of statehood square in this way with the ideal of justice; it also directs us to the range of questions that a theory of the just state should surely consider. How broad should the category of citizenship be? How deep should be the security that the law provides for citizens in relation to one another? How deep should be the security that it provides in relation to those—those other citizens, as we assume—in public office? And how should the state behave in relation to the peoples of other states, presumably as part of an international community?

Our account of statehood in this book should serve, then, to orient discussion of what justice requires of the state. But it should also emancipate the discussion from some traditional barriers, which are discussed in part II. Arguing that statehood is not challenged in the manner envisaged by absolute statists, right-wing libertarians, or laissez-faire thinkers, the account of statehood opens up questions that those doctrines would shut down. How far does justice require that the citizenry should have collective powers against the state? How far does it require that individual citizens should enjoy significant rights against one another and against the state? And how far does it allow or necessitate intervention in the market economy?

While postponing discussion of justice for a companion volume, it may be useful, for the record, to sketch the view that our account of statehood foreshadows. In a just state, according to that view, all adult, able-minded, relatively permanent residents

1. should count as full citizens, with special provision for individuals outside those categories: say, for children, for certain atypical adults, for refugees and temporary immigrants;
2. should be equally provided with a deep enough security against one another's power of interference to be able to relate to one another—in a common phrase, to look one another in the eye—without reason for fear or deference on that count;
3. should share in such an equal and adequate system of control over the state that they also enjoy deep enough security against the government of the state to be able to look on personally unwelcome initiatives as just tough luck, not the work of an alien will;

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4. should be able to require their polity to work toward an international order that enables the people of every state, consistently with preserving the global commons, to enjoy as much security as possible against other states and bodies;
5. and should be able to require their polity to work for other ends that, like international order, are goods that attract a high enough level of popular support to count as common goods and that are unlikely to be otherwise available.

The view of justice outlined in these points fits with what I have elsewhere described as a neo-republican theory. That theory is distinctive in taking incorporation as an equal citizen under a state to be essential for anyone's enjoyment of justice and in treating global justice as essentially dependent on the relationship of states to one another. It connects with the long tradition of republicanism insofar as it makes freedom fundamental for justice and takes freedom to require security against the will of others: the absence of domination. And it connects further with that tradition insofar as it takes the required security to be needed both to combat private domination—that of other citizens or corporate bodies—and to guard against public domination by the authorities who act in the name of the state. Thus, the theory of the state developed here may be viewed as a prologue to a neo-republican theory of justice, although I hope that it may also appeal on other grounds.[5]

While the theory foreshadows such a theory of justice, however, it remains realist, as we saw, in the two senses associated with the way of thinking that Bernard Williams (2005) advocated. It is historically realist insofar as it presupposes that justice can be achieved only by the state. And it is normatively realist in arguing that independently of moral ideals like that of justice, the state has to satisfy functional norms of its own, at least on the assumption of an approximate balance of power between rulers and ruled: this, as mentioned, is a weaker analogue of what Williams calls the basic demand of legitimacy. Satisfying those functional norms, the state need not be a weapon in the arsenal of an elite; it can in principle be mobilized for the good of its members and of humanity as a whole (Pettit 2017).[6]

5. For my own conception of neo-republican justice within the state, see Pettit (1997; 2012; 2014; 2015a). And for my view of its implications for global justice, see Pettit (2014, chap. 6; 2015b); see too Laborde and Ronzoni (2016). More generally, see Lovett and Sellers (forthcoming).

6. I am grateful to Nic Southwood for drawing my attention to the connection with Williams's political realism. For a discussion of realism in relation to republicanism, see Pettit (2017).

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## *Acknowledgments*

I worked through the material of the book in graduate seminars at Princeton in Fall 2018 and Fall 2021 and learned enormously from the continual, constructive interrogation of the participants, some students, some visitors; I cannot name them all and must simply acknowledge my debt to them collectively. I wrote up much of the material at the Australian National University, where, in an ideal research environment, I benefitted from many discussions with my colleagues and students there. And I took a raft of ideas from the anonymous reviewers of the manuscript at Princeton University Press, as well as from my editor, Rob Tempio. My thanks to all for forcing me to defend the lines taken on various issues and for their many observations and suggestions. And my special thanks, as always, to Tori McGeer, who continues to be the mainstay of my life.

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