

STATE, CIVIL SOCIETY AND DEMOCRATIC LEGITIMACY

Luiz Carlos Bresser-Pereira

Capitalism is usually seen as the mode of production or the economic system in which privately owned business firms striving for profits are coordinated by the market. In this definition, the state is an outsider, a foreign body. Capitalism would only be the sum total of capitalist business enterprises coordinated by the market. This is the definition that would most commonly be given by neo-liberals. The commonplace definition of capitalism goes along these same lines. Marx, who was responsible for a more comprehensive definition and analysis of capitalism, certainly did not think in these terms. But the simple Marxist definition of capitalism - the mode of production in which the private ownership of the means of production prevails and in which surplus value is appropriated by the bourgeoisie in the market through the exchange of equivalent values - may lead also to the idea that the state is not essential to capitalism.

In this paper, I take a view that is opposite to the neoliberal definition of capitalism, where the state is left out. Even if one thinks in terms of pure capitalism, in terms of a mode of production where only the essential characteristics of capitalism appear, the role of the state is essential. The capitalist business enterprise is, indeed, a privately owned business that seeks profit in the market. But capitalist business enterprises are not part of a simple, small economic system that could dispense with the state. Capitalism is a complex economic system formed of capitalist business enterprises coordinated by a market that is regulated by the state. Contemporary capitalism is very far from pure or even from classical, nineteenth century capitalism; contemporary capitalism is regulated, technobureaucratic capitalism. There is no capitalism, nor capitalist market, without a state that regulates it, that creates the general conditions for capitalist

production, that establishes the national currency, that issues and enforces the law, that defines property relations. Starting from this basic assumption, let us examine the concept of state.

1. The Meanings of the Expression "State"

The concept of state is very confusing in political science. It is very common to mix state with government, with nation-state or country, and with a given type of political regime. In some cases, a state is identified with a political regime, in others it is confused with an economic system. Particularly in the Anglo-Saxon tradition, the state is often viewed as synonym of government. Government will be always understood as the political elite that occupies the top positions of power in the state. In the European tradition, the national state or country is frequently identified with the state. Expressions like "liberal state" or "bureaucratic state" are usually an indication that "state" is being utilized as a synonym for a political regime. Finally, expressions like "capitalist state" or "socialist state", identify the state with an economic and political system or with the total political superstructure of a given mode of production.¹

It is valid to use expressions like these when we want to define the type of state prevailing in the different political regimes and modes of production. In this case, we are not confusing the state with a political regime, but rather are saying that the state in a democracy will be different from the state in an authoritarian regime, or that that the state in capitalism is quite different from the state in feudalism or in technobureaucratism. In any case, in this paper the state will be understood as clearly distinguished from the government, the nation-state and the political regime.

The state is a part of society. It is a juridical and organizational structure that is imposed on society, becoming part of it. When a social system begins to produce an economic surplus, society becomes divided into classes. The dominant class that then

¹ Sabino Cassese (1986) reports that a 1931 study found 145 usages for the word "state". Klaus von Beyme observes that "American scholars have sometimes argued that the state is either a legal or a Marxist term" (1986: 115). In insisting on using the expression "government" as a substitute for "state", conservative scholars lose the possibility of making the crucial distinction between the state apparatus and a part of it - its governing body - the government.

appears needs the political conditions to exercise its domination and to appropriate the economic surplus. The institutionalization of a sovereign nationstate and, as part of it, of a state apparatus are the result of such need. From this point on, a society existing within a nation-state is not only divided into classes, but is also formed of a civil society and a state.

Concluding this first session and advancing some ideas that will be developed in the next ones, it will be important to have clear the distinction between: (a) the nation-state or the country, a sovereign political entity formed by a people living in a given territory and ruled by a civil society and a state; (b) the people, that includes all citizens of a nation endowed with theoretically equal rights; (c) civil society, made up of social classes and groups that have different access to effective political power; (d) the state, a bureaucratic organization made up of a political elite representing the civil society and implying the existence of a dominant political pact, a staff of public officials that administers the state and a public armed force, a special kind of bureaucratic apparatus that holds the monopoly of violence over the people of a nation-state; and (e) the political regime (sometimes called "state") that prevails in this nation: democratic or authoritarian, liberal or conservative, neoliberal or social-democratic.

2. The Basic Concept of State

Engels defined the three main forms by which the state appears when the tribes and clans are dissolved. In Athens, the state was the direct result of class antagonisms; in Rome, it was formed of citizens, mingling the aristocracy and plebeians. In both cases, the dominated class was reduced to slavery. Lastly, among the Germans, the state came out of the conquest of foreign territories (1884). Most likely because Engels was writing *The Origin of the Family, Private Property and the State* as a commentary on L. H. Morgan's investigations, he did not examine a fourth case that is more important than the others: the Asiatic state formed in the hydraulic societies. Marx examined the Asiatic mode of production in *Grundrisse* (1858) as part of his analysis of pre-capitalist social formations. In this case as well, it is very clear that the state, that became the organizing instrument for the whole society, was the result of the dissolution of the primitive community and of the division of society into classes. Thus Engels noted:

The state is, therefore, by no means a power forced on society from without; just as little is it "the reality of the ethical idea," "the image and reality of reason," as Hegel maintains. Rather, it is a product of society at a certain stage of development; it is the admission that this society has become entangled in an insoluble contradiction with itself, that it has split into irreconcilable antagonisms which it is powerless to dispel. But in order that these antagonisms, classes with conflicting economic interests, might not consume themselves and society in fruitless struggle, it became necessary to have a power seemingly standing above society that would alleviate the conflict and keep it within the bounds of "order"; and this power, arisen out of society but placing itself above it, and alienating itself more and more from it, is the state. (1884: 326-327)

In this classical text, Engels summarized the origin of the state while defining it: it is a "power", i.e., an organizational structure destined to insure order or the prevailing class system in society. The state is a political structure, an organized power that permits the economically dominant class to also be politically dominant and thereby guarantee the appropriation of the surplus for itself. Its constitutive elements are: a) a government formed by members of the political elite, that tends to be recruited in the dominant class; b) a bureaucracy or technobureaucracy, i.e., a hierarchically organized staff of officials who take care of administration; and c) a public armed force, oriented not only to defend the country against an external enemy, but mainly to maintain internal order. On the other hand, this political organization has the monopoly on institutionalized violence, that is translated into two basic rights or powers: a) the power to establish laws, to impose juridical order that coerces the citizens; and b) the power to levy taxes. Lastly, the state exerts its power or sovereignty over (a) a territory and (b) a population. The territory and population are not constitutive elements of the state, but rather the objects of state sovereignty.

In short, the state is a political structure made up of a political elite, a bureaucracy and a public armed force, endowed with the power to legislate and to tax. It is a structure through which the economically dominant class becomes politically dominant as well, thus insuring the appropriation the surplus for itself. Control of the state and appropriation of the surplus maintain a dialectic relationship. A class is dominant not only because it controls the factors of production, but also because it controls the state. Control of the state reinforces its control over the means of production, and vice versa. On the other hand, the appropriation of the surplus resulting from this also reinforces the position of the dominant

class. The state is the political organization that constitutes the juridical-institutional superstructure of every society.

3. State and Civil Society

The extent to which a social system is democratic will determine whether civil society can be identified with the people, i.e., with a group of citizens with effective political rights. In these terms, the people are not as an object of the state, but rather as a constitutive element of it. Political power, or at least part of it, always emanates from the people. In contemporary capitalism, as in all other class systems, political power derives from civil society. In civil society, citizens are organized in a multitude of ways, into classes, fractions of classes, interest groups, formally and informally - so that each citizen has different political weight depending on the power groups to which he or she belongs.

Civil society encompasses all social relations that are outside the state but that influence it. According to Marxist tradition, civil society corresponds to the economic structure of society. The economically dominant class has most weight in civil society. This is usually true, but civil society should be clearly distinguished from the state and from the people. Civil society is constituted by the people, but the political weight each one has in this association is extremely variable. Civil society exerts its power over the state. In modern democracies the power of the state is theoretically derived from the people, but this is only true when civil society itself is democratic, i.e., when it is increasingly identified with the people.

There are periods when it becomes difficult to distinguish the state from civil society, such is the predominance and scope of the state; at other times, civil society is clearly separate from the state and divides power with it. This leads some authors to give much importance to this state-civil society dichotomy, and to imagine that societies can be classified according to the predominance of one or the other. This opposition is interesting, as it establishes the distinction between two power systems: the system of centralized, structured power, represented by the state, and the system of diffuse but real power, that is found in corporations, associations, trade unions, religious organizations and families, i.e., in civil society. Political parties represent the formal bridge between civil society and the state, in modern societies.

The state is thus a system of organized power that is dialectically related to another more effective system of diffuse power -- civil society. Civil society is, in final terms, a way in which the dominant class (or the dominant classes, since often more than one class performs dominant roles) organizes itself outside of the state in order to control it and place it at its service. Civil society should not be confused with the people. The people can be considered as all the citizens having equal rights; civil society is citizens organized and weighted according to the power of the groups and organizations they are a part of. The state formally exerts its power over civil society and over the people. Actually civil society is the real source of power for the state, as it establishes the limits and conditions for the exercise of state power.

This concept of the state and its relationship with civil society does not confuse the two terms, although it also does not radically separate the state from civil society or subordinate civil society to the state as did Hegel (1821). The philosopher was identified with absolutism in Germany and was a precursor of the technobureaucratic ideology proposing a neutral, rational state. He rebelled against the liberal state and the social contract proposed by Rousseau. According to him, the state was a rational entity in itself, to which the interests of individuals, i.e., civil society, should be subordinated. As Draper observed,

the 'rational' state involving a just and ethical relationship of harmony among the elements of society is an ideal against which existing states are to be measured... in contrast, civil society embraces the private world of individuals striving and interests (1977: 32).

When the state is confused with civil society, when it has the role of protecting property and the freedom of the individuals who form civil society, the interest of individuals becomes the supreme end, making it optional to be a member of the state. Hegel affirmed that this is a mistaken relationship between the state and the individual. Since the state is the spirit of objectivity, the only form for individuals living in association, it is only as a member of the state than an individual has objectivity, truth and morality.

Our concept of state does not radically separate it from civil society, nor does it subordinate it to it, as liberal thinkers would like. The state also does not emerge from a social contract, as Rousseau contended. It is not a free form of association that protects the

individual against external forces, nor is it an association in which each member fully conserves his or her individuality, where each one obeying the state is obeying himself, thus being as free as before, as wanted Rousseau (1762).

The state is a way by which the dominant classes, organized as civil society, impose or try to impose their will on the rest of the population. Civil society may show several degrees of openness. It may be a democratic civil society, where the dominant classes shares power with dominated ones, or, in other words, where the distinction between a ruling and a ruled class loses clarity. It may also be an authoritarian civil society, where one dominant class holds all power.

Gramsci did not make a very clear the distinction between the state and political regimes. According to him, the state is a "political society" that is both distinguished from and confused with "civil society." Concerned with analyzing the "liberal state", in which civil society was very powerful, Gramsci finally made civil society a part of the state in order to understand the hegemony of the capitalist class:

...by state should be understood not only the apparatus of government, but also the `private' apparatus of hegemony or civil society... the general notion of state includes elements which need to be referred back to the notion of civil society (in the sense that one might say that state = political society + civil society, in other words, hegemony protected by the armour of coercion). (1934: 261-263)

Norberto Bobbio observed that Gramsci introduced a profound innovation in Marxist tradition by including civil society in the superstructure, as part of the state, rather than in the basic structure of society (1976). Following this line proposed by Gramsci, Althusser said that the state has a "repressive apparatus," made up of the government, administration, army, police, courts, and prisons, and an "ideological apparatus" made up of the churches, public and private schools, families, laws, political parties, trade unions, mass communication systems, and cultural and sports institutions (1970: 142-143). For Althusser, it does not matter if the institutions that function as ideological apparatuses of the state are public or private. What is important is that they mainly work "through ideology," and not "through violence" (1970: 145). Althusser needed this extraordinarily broad view of the state, that in the end includes the whole civil society, because he maintained that the "reproduction of the relations of production," the maintenance of the

prevailing power and property relationships, is the preeminent function of the state, particularly of its "ideological apparatus" (1970: 148).

As a matter of fact, Althusser made the concept of state too broad. The "ideological apparatus of the state" is mostly in the hands of civil society. The state owns its own ideological apparatus, when the ideological agencies are publicly owned, but in contemporary capitalism, most ideological agencies - the press, schools, the churches - are private. There is no need or reason for the state to be exclusively responsible for the legitimization and reproduction of the prevailing relations of production. The state is only one of the institutions through which the dominant class legitimizes its power. When we dump everything on the state, it loses its identity. It becomes confused with society itself or with the institutions of civil society.

The legitimacy of the power of the state, or the legitimacy of the political elite that runs the state in the name of civil society, depends on its ability to establish ideological hegemony over the rest of society. Civil society - the socially organized class or alliance of classes that have power over the state - has a series of institutions at its disposal that function as ideological apparatuses. The main one is the state itself, that is not only an ideological and coercive apparatus, but also a regulating and executive one, as it is increasingly responsible for short and long term economic policy.

The state presently also possesses an economic apparatus, aside from the coercive and ideological ones. Even during the period of competitive capitalism, when the liberal state prevailed, and the economic functions of the state were minimal, it was possible to find a small economic apparatus in the state. When it was transformed into the regulating state of technobureaucratic capitalism, the importance of this economic apparatus grew enormously. In statism, the state economic apparatus has become confused with the economic system itself.

4. The Marxist Theories of the State

It should be very clear that it is to simplify things to say that the state represents the dominant class. Actually, it is unlikely that just one dominant class will be represented in the political elite that runs the state. More frequently there are political pacts, there are

associations of classes and of fractions of classes. Not only the dominant classes, but also fractions of the dominated classes can participate in these associations. Thus they form what Gramsci called "historical blocks", to identify the complex system that holds state power in each period of history. The relations between social classes and the state in each moment of history, in each nation-state, are very complex. Usually the state is an arena where social conflict develops. As democracy advances the dominant classes are forced to make concessions to the dominated classes, the state is transformed into a provider of social benefits, which mitigate at the same time as corroborate the relationship of domination.

The debate among Marxists and neo-Marxists on the theory of the state and on the relations between the state and social classes has been quite lively. The old instrumentalist view of the state, which Marxists such as Ralph Miliband still maintain (1965), lost ground in the 70's to the German derivation or logic of capital theory of the state² and to the class-political approach of Poulantzas (1968, 1974, 1978), which was also loosely followed by James O'Connor (1973), Esping-Anderson, Friedlan and Wright (1976), Eric Olin Wright (1978) and Joachin Hirsch (1973).³ Both groups start from what Poulantzas calls the "relative autonomy" of the state and both naturally reject the liberal theory of the state as a neutral political agent.⁴

The logic of capital theory derives its concept of the state from the "logic of capital". The state is perceived as a special institution not subject to the limitations of capital, as a non-capitalist form of social organization since it does not produce surplus value, and as an organization that should provide the general conditions - infrastructure and laws - necessary for capitalism. Their representatives criticize the Keynesian, social-democratic theory of the state, according to which the state would have a redistributive function. The state cannot carry out this function because the most important thing is the

² Their better known representatives are Müller and Neusüss (1970), Elmar Altvater (1972) and Joachin Hirsch (1973). The more important papers of this school are published in English in Holloway and Picciotto (1978a).

³ A third technobureaucratic approach to the state and its relations with the dominant class is the corporatist or neo-corporatist approach.

⁴ For a broad survey not only of the Marxist theory of state, but also of the pluralist and various forms of conservative theory of the state see Martin Carnoy (1984) and Dunleavy and O'Leary (1987). For a specific survey of the Marxist and neo-Marxist theories of the

rate of return on capital invested instead of effective demand. The state regulation aimed at limiting the exploitation of workers cannot be explained in terms of the immediate interests of capital, but are understandable in terms of collective interests of capital. In the long run, it is necessary for capital to protect and develop the labor force through the action of the state. The state, however, although separate from capital, is not an organized apparatus but a function of capital: the state establishes the legal relations and basic political organization of society that guarantee private property and the functioning of capitalism.

As Altvater and associates (1977) underlined, the limits to state intervention are quite clear. State expenditures oriented towards improving the general conditions of production represent, on the one hand, a basic prerequisite for the accumulation of capital, but, on the other hand, they reduce the funds available for private capital accumulation. Thus there is a basic contradiction in the capitalist state. Its basic function is to guarantee the accumulation process, but to do that, it uses resources that otherwise could be appropriated directly by the private sector. If we add to this the fact that the state is also supposed to promote welfare, in order to perform its "legitimization" function (O'Connor, 1973), this contradiction is intensified. At this point, the neo-orthodox and the Poulantzas class-political approach, mediated by Claus Offe (1973, 1980), are quite close to each other.

While the "logic of capital" or neo-orthodox theory has a strong economic basis, the Poulantzas approach is based on the autonomy of the political sphere in relation to the economic sphere and on the decisive role of class struggle. He views the state as the "condensation" or the "expression" of the class powers. Classes and fractions of classes are represented in the state according to different powers. Following Gramsci, Poulantzas says that they tend to form a historical power bloc with political and ideological hegemony. Along the same line later adopted by Altvater, he goes back to Marx to say that the state is a factor in the reproduction of the general conditions of production. Moreover, as the political sphere is relatively autonomous, the state provides cohesion in the capitalist social formation.

state see Holloway and Picciotto (1978b), Bob Jessop (1982), Hugh Mosley (1982), Les Johnston (1986) and Goran Therborn (1986).

In his earlier works, Poulantzas insisted that the state is not a "thing", but a relation, a condensation of contradictory relations of class power. The bourgeoisie, being the dominant class, is basically its beneficiary, but the other classes are also able to influence state policy. Poulantzas came close to detecting the emergence of a new class, but finally got caught in contradiction when he made his proposal of a "new small bourgeoisie" (1974). As for the concept of state, he came close to admitting the apparatus character of the state (1978), but was finally unable to be clear on the subject.

As their reviewers Hugh Mosley (1982) and Les Johnston (1986) emphasize both the contributions of the neo-orthodox theoreticians and of Poulantzas are functionalist. The state is a function of capital and of capitalists. Yet, both see certain autonomy of the state in relation to capital.

5. Relative Autonomy and Contradictory Character

If we return to the tradition of Engels and recognize that the state, besides being a political relation that gives a legal form to the capitalist social formations, is also and essentially a bureaucratic apparatus formed by a political elite, a group of civil servants and a military force, able to legislate and impose tributes on a population in a given territory, we will be able to solve the problem that neither Poulantzas or the neo-orthodox theoreticians have been able to solve.

The state is not a "purely" capitalist entity because it is founded on organization instead of on commodity. But the state is an essential part of capitalism, be it liberal (competitive) capitalism or technobureaucratic (monopoly) capitalism. The state is a bureaucratic organization that is essential to the functioning of the capitalist mode of production. There is an intrinsic contradiction in the capitalist state. The state is capitalist because establishes the general conditions for the capitalism to function, but at the same time, it is technobureaucratic because it is not a commodity relation, a capital relation, but a organization relation.

While the state is small, while the number of technobureaucrats working for the state is limited, while the state is the old liberal state, performing the functions of police, the administration of justice and defense against external enemies, this contradiction is not

self-evident. But when the states becomes larger and larger, when the number of civilian and military state employees increases when stateowned corporations are responsible for a significant part of production, when the state assumes new welfare and regulatory functions, when, besides insuring the general conditions for production, the state partially replaces also the market in the coordination of the economic system, when the state becomes the shelter and the source of power of the technobureaucracy - changed into a class itself -, then the dialectic relation of conflict and cooperation between the state and capital, its apparatus or bureaucratic organizational character, and its possibility of turning into the all-encompassing organization which subordinates all other organizations becomes apparent.

The relative autonomy of the state then becomes meaningful. The state is relatively autonomous not because the political sphere is relatively independent of the economic one, but because the technobureaucracy is a class that not only influences the state from outside, as the bourgeoisie and the working class do, but also from inside, since the public officials and military are technobureaucrats. Public policies are still the result of the condensation of the power of classes and fractions of classes, which influence the political elite, but the new technobureaucratic class assumes a strategic role, given the position it occupies inside the state. It is a new social class that is the candidate to be the dominant class, having direct control over the state and deriving from this control the relative autonomy of the state.

Theda Skocpol adopts a similar view on this issue, but she sees the state is an entity independent from class power. According to her, the state is clearly an organization, an apparatus that, at least potentially, is independent from direct dominant-class control. State organizations that she does not necessarily equate with the bureaucracy compete to some extent with the dominant classes (1979: 24-33). Fred Block goes in the same direction. Trying to find a solution to the relative autonomy problem, he sees as an alternative to the Marxist reduction of state power to class power the acknowledgement that state managers are able to pursue their self-interest. In his words:

The starting point of an alternative formulation is the acknowledgement that state power is *sui generis*, not reducible to class power... State managers collectively are self-interest maximizers, interested in maximizing the power, prestige and wealth. (1980: 84).

Indeed, as a social class, the technobureaucracy and particularly the state managers pursue their self-interest. The relative autonomy of the state derives from this precise fact. But this is not an alternative to the reduction of state power to class power, for the simple reason that technobureaucracy is a social class - it is a social class internal to the state. Fred Block, whose analysis on the relations of the state managers with the capitalist class is very interesting, indirectly - and contradictorily - recognizes the class character of the state managers when he says that "state managers pose a potential threat to other classes" (1980: 84, italics added), but instead of acknowledging the class character of the state managers, he insists in the idea of the sui generis character of the state.

As a matter of fact the state should be viewed as an organization, an apparatus, that is under the influence of three types of social agents: its technobureaucratic elite, the dominant class and civil society. State action is not only the result of the autonomy of state managers, is not only "the committee of the bourgeoisie", and is not only the expression of general interests. As Rueschemeyer and Evans say,

The state tends to be an expression of a pact of domination, to act coherently as a corporate unit, to become an arena of social conflict, and to present itself as the guardian of universal interests" (1985: 48).

For sure these tendencies are contradictory, but the state is contradictory in itself. It will be more or less democratic depending on being controlled rather by a large civil society than by a narrow dominant class or a still narrower technobureaucratic internal elite. It will be more or less efficient and effective depending on the degree of internal contradiction that prevails within it. These contradictions will express tensions and will define the political pact that relates the state with civil society.

5. State and Political Regime

Therefore, the state is never a neutral, abstract entity, as the liberal and technobureaucratic ideologies still maintain. It is always the representative of certain interests, in which the dominant classes predominate, but not exclusively.

These interests join together into historical blocks that change in time, as the class interests change in keeping with the economic environment, that is also constantly changing.

The legitimacy of a government depends on its support from civil society. Legitimacy is not the same as representativeness of the whole people. If a government has the support of civil society, it can be legitimate without being democratic. As society becomes democratic as its civil society broadens its bases and eventually includes the middle classes and the workers. The nearer the concepts of civil society and the people, the more the citizens have equal political rights, the more democratic the civil society will be. This assumes that civil society controls the state. But it is possible to have situations where the state controls civil society. In this case, the government will not have legitimacy by definition. In an authoritarian regime, either civil society is not democratic, or the state controls civil society. In the first case, it will be an authoritarian regime legitimate by civil society, and in the second, an authoritarian regime without legitimacy, where a group was able to take political power without the corresponding civil power.

In practical terms a dialectical process takes place between civil society and the state, one controlling the other, and vice versa. At the same time in which the base of civil society is being widened in the modern capitalist democracies, with the growing, although clearly subordinate, participation of the workers, the apparatus of the state itself is also enlarged. The technobureaucracy emerges as a class within the state apparatus. As this happens, the state tends to gain, or tries to gain relative autonomy in relation to civil society. We will see, however, that there is no long-term tendency to this relative autonomy of the state increase.⁵

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⁵ The major papers by the German derivation or logic of capital theory are published in English in Holloway and Picciotto (1978a).

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