THE STATE AND COERCION

BERISLAV PERIC
Yugoslavia

I

Among the many and diverse definitions of the state, a special place is held by that according to which the state is that social organization which has in its territory the "monopoly of physical coercion". Since this definition is still today largely accepted (especially in the works of M. Weber) and has a whole array of ideological and practical implications, it deserves to be subjected to a scientific analysis.

This was the immediate *cause* which motivated me to send this paper, while the scientific *reason* was much deeper, notably:

1) The state, and law, of course, are exceptionally significant socio-political factors and, therefore, also the main subject of the legal science. Law is the language through which the state speaks. If this language did not exist, the state would be dumb and helpless: it would not be able to communicate to its citizens the obligatory rules of conduct.

2) In the course of their historical existence, the state and law have been in the focus of human scientific interest, the basic issues being: What do they mean, wherein lies their essence, wherein lie their purpose and sense? As a result, there are many, not only different but also contradictory, definitions of the state and law.

3) Notional determination of the state and law has a far-reaching significance for science, not only legal but also for all social and humanist sciences. The way the state and law are defined has not only far-reaching theoretical but also *practical* implications, because the power of the state and law, their influence, affect every home, every citizen, it determines him and (partly!) "tailors" his personal destiny.

4) On the other hand, in the course of my scholarly and profes-

sional work on the theory and philosophy of law.[1] I have easily arrived at the conclusion that the state and law are social phenomena of exceptionally many facets, which are very complex, contradictory, static, but also dynamic. Definitions of the state and law have in the course of history changed to the extent to which the so-called social consciousness of the people and, above all, the material conditions of social life, have changed.

In this connection I was faced with an unavoidable question: Is it possible to bring this wealth and variety of attributes of the state and law, all their divergency and diversity, all their intricate contradictions, under a single comon denominator.

I have arrived at the conclusion that this is very difficult and that it would not serve any good purpose.

Since the state and law are very complex social phenomena, diverse and contradictory, our knowledge of them must not be one-sided. It should be many-sided, even better, it should be all-embracing. The richer in attributes the subject of our knowledge is, the more necessary is it for knowledge to be all-embracing! We find a direct Confirmation of this postulate in Lenin's *Philosophical Volumes.* Quoting in this work Hegel's idea that "the richer the subject to be defined, *i.e.* the more varied aspects it offers for consideration, the more diverse its definitions". *Lenin adds* "for example the definition of life, of the state (!), etc.".

How to define the state and law if they are really such complex and contradictory phenomena, exceptionally rich in various components, all of which makes it very risky to try to bring them under a single common dominator? I tried to do something in this sense and in my book *Science of Law and Dialectic*,[2] published in 1962, strove to draw attention to this problem, to these difficulties in arriving at a definition, and to indicate some basic contradictory attributes of the essence of the state and law.

The state and law have lived throughout human history in rich divergencies and sharp contradictions. To them can be applied a static, but also a dynamic aspect. They are motionless, but also moving, constantly changing, be these changes evolutionary or revolutionary.

Abstract identity for itself has not yet any life. . . says Hegel. . . Consequently, something has life only if it contains a contrasting opposite in itself and has enough stregth to encompass and retain it. To this he added:

[1] The books: Problem of Autonomy-Heteronomy of Law-Science of Law and Dialectic –Structure of Law– The State and Legal Order.

[2] B. Perić: Science of Law and Dialectic, IV ed. p. 65-99.

"One of the fundamental prejudices of logic and common presentation consists in the realization that opposite is not such an essential and immanent attribute as identity. . . even if it were a question of rank and if these attributes were fixed separately, the opposite should be considered as being more essential. Because compared with its opposite, identity is only an attribute of simple immediacy, of a dead being, while the contrasting opposite is the root of every movement and life: Only if something contains its contrasting opposite, does it move and have impulses and activity".

Thus the great dialectician teaches us: "The opposite is what moves the world. . ." In my book *Science of Law and Dialectic* I strove to determine and describe some of the basic contradictions of the state law. I mentioned that immament in the state and law were, in a dialectical unity, the following opposites: of ethic and non-ethic components, of autonomous and heteronomous components, of coercion, but also of free conviction, furthermore, of the factual and the normative, of class, common and individual interests, let alone all the opposites the state and law embody and endure, if we consider them in their international relations and from the aspect of their being members of the international community.

To conclude this very summary survey of opposites and to emphasize the need for the deepest and most versatile view of the state and law, I quoted, the excellent words of F. Engels:

Dialectic, which does not know of *any hard and fast lines*, of any unconditionally applicable "either –or", which transforms unmovable metaphysical divergences into one another, and besides "either- - or" also knows of "both" at the right place, this dialectic mediates between opposites and is in the last resort the only proper way of thinking.

On the other hand, we all, both as scholars and teachers, must, *especially for didactic purposes*, have at our disposal the shortest, the most concise definitions of our basic scholarly subjects and communicate them to our students and other collocutors. How to solve this scholarly-pedagogical problem? From the scholarly point of view, we should accord priority to broader and more descriptive definitions, and from the pedagogical viewpoint –to shorter and more succinct ones.

Because of this, I must say that when such complex, multifaceted and even contradictory social phenomena as the state and law are involved, from the *scholarly point of view it is always very risky* to try to tie this wealth of attributes, this polyvalency, to the Procrustes' bedstead of our definition. The essence of the matter will perhaps in

this way be stifled, or even completely suffocated, the real wealth will be impoverished, we shall have terseness, but we shall lose rich reality. Which alternative to choose?

In order to show (be it only partly) how alive this wealth of attributes of the state and law is, I shall mention here some extreme concepts of them. Needless to say, definitions of the state and law depend, as already noted, on our social consciousness and on the material conditions of social life. But not only on this! These definitions and concepts also depend on our *emotional or experiential attitude* towards the state and law. Consequently, we have, I dare say, an entire *constellation of ideas* of the state and law, and as many definitions as we have of other, I would say, *categorial notions*, such as: freedom, equality, democracy, politics, etc., all notions that are frequently, used, but also abused. I cite here, by way of example, only a few of extremely disparate definitions and descriptions of the state and law.

II

For some theoreticians the state and law are *ethical values* of human society, because they build and defend social organization, social *order and labour*, and thereby also build and defend the *existence itself of human society*. Others consider that the main purpose and mission of the state and law is to *realize justice* and achieve *freedom and equality* in human society. Still others think that the state and law are means in the hands of the most powerful in society (preponderately *economically powerful*), that they are means in the hands of the so-called ruling class used to protect its interests and achieve its aims. Finally, there are those who, inspired by anarchic ideas, consider that the state and law have always been a great evil for mankind, and that humanity will become happy only when it has abolished the state and the legal organization of society. They, further, consider that there is not a bit of ethical or rational justification of the state and law, since they are unnecessary growths on mankind's body which should be excised as soon as possible. There is indeed an enormous range of definitions of the state and law from the extreme point of glorification to the other extreme point of "naturalistic" or nihilistic concepts.

How to decide in these difficult disproportions to which attributes of the state and law to give priority?

In order to present something, at least by way of example, from this great variety of definitions of the state and law, I shall mention the following:

"By what right, o force?" It is said that this question was posed by old Romans (quite hypocritically), as former imperialists, after they had lost economic, political and military power to the Gauls, when the latter found themselves before or had already crossed the treshold of the Roman State, by what right, asked the Romans, had they come to destroy our order and our achievements? The Gauls allegedly replied: *"Our right is on the tips of our swords!"*

Paraphasing J.J. Rousseau, F. Engels says in his *Anti-Dühring:* "But the despot is only master as long as he is able to use force and therefore 'when he is driven out', he cannot 'complain of the use of force... Force alone maintained him in power and force alone throws him'..."

Hobbes emphasizes: *Authoritas, non veritas facit legem,* and with respect to law: *ius non est iustum, sed iussum!* One can see that the element of COERCION is emphasized here in the definition of the state and law.

Let us also cite the sarcastic observation of H. Spencer, who said that the only reason for an analogy between parents and children, on the one hand, and the state and its citizens, on the other, was the childish nature of those who believed in this analogy.

But there are also other views. For example, it is emphasized that *law* is at its maximum when *coercion* is at its minimum, and that the best government is the one which governs *the least.* In his comments on the spirit of the *Code Civil,* the famous jurist PORTALIS states that "legal rules are not pure acts of p o w e r..." The writer of a capital work on the national economy, Rocher, glorifies the state when he says that the state is the most significant *immaterial capital* of every people.

With the appearance of the great theoretician *R. Ihering,* the notion of the state and law assumed some very realistic components. In this respect Ihering first possed the question: Can society make do with only those acts which it is able to pay for or enforce? He replies that, apart from so-called egotistic incentives which motivate social mechanics, there are also others which are not grounded in egotism but in ethics and morals. These "moral levers" are the sense of duty, and love. It is better for society, Ihering considers if its citizens behave correctly out of a sense of duty and respect for the legal order, than because of hoping to receive remuneration, or out of fear of coercion. It cannot be said that coercion is normally sufficient to keep law and order. Who to that legal order which is upheld only because a whip swirls over the heads of its citizens. In other words, there is no nation that could achieve anything without law, but there

is neither any nation for which law alone would be sufficient. Even, law could not exist without coercion, it would not be justified to reduce law as a whole to coercion alone.

L. Duguit, after Ihering, made law dependent on *social solidarity*. According to him, a legal norm which, although validly enacted by a competent organ and although consistent with constitutional provisions, is at variance with or disrupts social solidarity, is not law. In other words, there exists something that is above and higher than law, and to whose principles law should give precedence: this is social solidarity.

His great memento reads as follows:

"The state is not, as one wanted to present it, and as was sometimes believed to be, a *force which commands*. . . it is cooperation among public services organized and controlled by those who govern. . ." And further:

"I cannot sufficiently protest against the view whereby any disposition, correctly adopted by the legislative body of a country, is a *legal norm* to which the lawyer must bow without saying a word. If this were so, the *study of law would not be worth a minute of effort*".

The view of the fact that in society and in man's life there are *some values* that are above or higher than law, has existed since the first beginnings of the legal organization of society. It suffices to recall the problem of Antigona and of that dramatic conflict in her soul when she, not wanting to violate general natural and unwritten laws, "Fearing the will of anyone", deliberately sacrificed herself to general human values which are above and higher than positive law, this dubious and limited creation of the sinful human nature.

According to modern views, one of the powerful blows to the standpoint that the state and law are predominantly coercion, was given by the German legal theoretician and author of works on international law, *R. Laun*. According to him, a legal rule is an *Offert* (offer) made to citizens by the law-maker.

"If the binding force of law and state authority can really derive from force, from coercion, then there will be no other law than the law of force. Law and force will be the same thing. . . The state and a band of robbers will not differ from each other except in size and development level of organization. . . Law as a whole will be what is referred to as the right of the stronger, the right of the victor, in other words, coercion by the stronger, by the victor. Among people there would reign the same "law" as among animals: The strong, unless prevented by the stronger, devours the week without violating

thereby any "duty", and without causing any "injustice". The word "law" will become superfluous. . ."

Even this perfunctory survey of some views on the state and law can show us how much diversity and divergency there exists in any definition of the state and law. Because of this state of affairs, it is only honest to admit that to define the state and law is a very difficult task. But we must believe that this is not impossible. A first precondition for a correct definition of the state and law is to discover the wealth and diversity of their numerous attributes, which will make a sumptuous picture indeed. Consequently, the road to the truth is a complex one, it is not a straight and paved road, and along this road there are dilemmas, turnabouts, doubts, but also progress and breakthroughs in the "strata" of our knowledge.[3]

III

If we take that the definition describing the state (and law) as the monopoly of physical coercion is sufficient and suitable, I would dare to say that this is neither monopoly nor physical coercion.

1) Why is it not monopoly?

If we agree with the view that monopoly means *reality and the appropriation of the right (exclusively) to carry out an activity and to exclude others from this activity*, then the question poses itself as to whether or not in its territory the state *exclusively* appropriates and exercises physical coercion.

To this question we could answer that, *besides the state*, coercion in its territory can also be exercised by:

a) various other organizations, and
b) individuals.

(ad a) The alleged monopoly of the state cannot be refuted by the fact that other organizations in its territory also carry out acts of physical coercion (these organizations we described above in detail). We repeat that these organizations can, by exercising *their own* coercion, grow so powerful or are already so powerful that they constitute a dangerous competitor to the state. Who then in such a state and in its territory possesses or exercises the strongest power of coercion: The state or some other organizations? And, if coercion exercised by these other organizations in the territory of this state

3 B. Perić: *Science of Law and Dialectic*, IV ed. p. 175, 258.

increases to such an extent, then from the aspect of coercion we can speak of "a state within the state". If, however, coercion by these other organizations *prevails or overcomes* coercion exercised by the state power itself, then this state power is soon overthrown or it only exists on paper (in legal acts, but not in reality!)

(ad b) That in the territory of a state *coercion is,* in addition to the state and other organizations, *also exercised by individual,* need not, I think, be especially explained. The fact itself that a legal order has been constituted and that it exists proves that it is possible for citizens to behave ANTI-NORMATIVELY, i.e. for them to act unlawfully. A state in which no anti-normative acts were possible, would not, of course, need any legal order and sanctions. The moment LAW exists, its existence is a presumption for the emergence of UNLAWFULNESS. The proof that individuals in a state exercise coercion and commit acts of physical violence lies in the fact that illegal acts and criminal and other offences are committed in it. A criminal offence committed by one individual against another is always a form of coercion.

From the above analysis it is possible to conclude: It is not only the state which exercises "physical coercion" in its territory, but in reality, coercion is also, as a rule, exercised by *other organizations, as well as by individuals.*[4]

Question: If we admit that in the territory of a state coercion is, in addition to state authority, also exercised by specific groups, and even by individuals, is it then justified to emphasize that such state has the *monopoly of physical coercion in its territory*?

2) Why is this not "physical coercion alone?"

Even if we presumed that physical coercion was only exercised by the state, I would like to answer that this is not quite exact and that, in addition to exercising physical coercion, the state *also exercises many other forms of coercion* which are by no means minor or insignificant. Moreover, in certain situations we can pose the question: Which of the *possible forms of coercion* that a state has at its disposal is more significant and more rigorous for the existence of state power?

In this respect I would like to point out, be it even summarily, that, in addition to physical coercion, the state also has at its disposal and exercise numerous other forms of coercion, such as: a) psyhic, b) economic, c) ideological, d) religious, etc., etc., without having any pretension to enumerate them all.

Needless to say, all these forms of coercion frequently change their

[4] B. Perié: *Structure of Law,* VII ed. p. 39, 262.

place with respect to significance, or they go hand in hand, combine, or act simultaneously and synchronously. And if this is so, why should we then say that the state has the monopoly of physical coercion alone? With it, or even before this monopoly, the state strives to strengthen its general psychic coercion and to act in its territory as the most powerful creator, but also as a "policeman of the spirit".

Allow me to explain this in brief.

We frequently forget that the state also exercises *psychic coercion,* not only physical. If we consider only the fact that the state prescribes legal norms, that law is that language with which it speaks, then we can see that state authority strives through legal norms to govern the behaviour of its subjects in the way that best suits its interests.[5]

Since a legal norm (with it so-called parts hypothesis and disposition) also contains a *sanction*, as a *hint or threat* by the state as to how its organs will punish those citizens who violate or do not respect this norm, it is obvious that by this hint or threat the state exerts explicit *psychic coercion* upon its subjects and it simply threatens them. It threatens them in the following sense: Do not violate *legal* values, because you will lose *your own* values![6] This means: Do not violate those social values which are protected by law, because you will lose your own values, such as your personal interests, freedom, integrity, and even life! This *fear of punishment* is somentimes the only motive for some citizens to respect legal norms.

However, this is not the only form of psychic coercion that can be applied by the state. In this respect, the state also has at its disposal *other forms* by which it strives simply to captivate or, in conformity with law, to shape the will and conduct of its citizens. A state, and especially the modern state, can have at its disposal *powerful propaganda media* which influence the psyche of its citizens, shaping it, enslaving it, crushing it, or forming it, so to say, "from the cradle!" Thus, and individual, mentally limited almost his birth, enters life with a psyche which has, perhaps without his being aware of it, been irrevocably invaded by certain specific criteria, judgements, views and attitudes. This form of coercion exercised by the state, which we here generally call state propaganda, affects citizens' consciousness through numerous "channels". Here I would like first to mention the so-called *state religion,* religion, that is, which identifies itself with state power, so that we can speak of a theocratic state or of a state religion. Instructive in this respect is the fate of Socrates. He was

5 B. Perić: *The State and Legal Order,* II ed. p. 21, 222.
6 B. Perić: *Structure of Law,* VII ed. p. 44, 259.

brought to trial and condemned "for not believing in the gods in which the people and State of Athens believe" and "for corrupting the youth". Neither his philosophy, nor his ingenious views on the autonomy of the human personality could save him from the millstone of popular and religious conservativism, supported by the courts of Athens. This great genious of autonomy sacrified himself to the unconditional and *a priori* belief in the principle of legality of the Athenian State (. . ."Laws shall be respected". . .)

In was only later on that the masses of the Athenian people realized what kind of man they had condemned to death, so that they kept coming to the homes of his prosecutors and judges, exclaiming bitterly: "Be damned, you have killed the best man of Athens"!

By imposing upon its citizens so called official public opinion by *means of ideologies* and by the media, especially the *press,* state psychic coercion can exercise a strong influence on their thinking and conduct. An English writer stated in this connection: "In the Middle Ages people had *torture,* today they have the *press,* which is in any case progress". And O. Spengler warns: "Not freedom of the press, but freedom FROM the press!". Needless to say, the more social life and technology develop, the more the information media (a modest expression indeed: "information") in the hands of the state can develop and grow in importance.

Furthermore, this being so obvious, it is perhaps not necessary also to mention so-called *economic coercion* applied by the state to its citizens. The institutions of *taxation* represents itself a *levy* imposed by the state on the property and income of its citizens, with their money being taken away to fill the state coffers. No state could exist without it. Taxes are like a ticket bought by citizens to allow them to live in the state community and to participate in so-called common benefits. How and among which classes and groups this economic levy or coercion is distributed is not of essential importance here. But is an indisputable fact that this "economic coercion" has existed ever since the inception of the state, so that we can go so far as to assert that the history of a state is partly the history of its takes!

I think we can admit that we frequently find in a state a very complex and contradictory or unclear situation as to what power centres exist in it, which of them is the strongest and in whose hands really lies this "monopoly of physical coercion".

The question also poses itself of relations between holders of political power (or the "monopoly of physical coercion") and holders of so-called economic power. Can these two levers of power be in differnt hands? If so, which of them is more important? Furthermore, can

these two kinds of power be restricted and overshelmed by spiritual power? In this connection I especially have in mind the spiritual power of ideology and religion. We certainly concur with the view that *theory* (which is what ideology and religion certainly are) tends to become a material force when it has assumed mastery over the masses!

Question: if the state applies, in addition to physical coercion, other kinds of coercion, if these other kinds of coercion are sometimes more pronounced or even stronger than physical coercion, or they make up a special powerful complex, is it then justified in defining the state only to mention physical coercion and leave out these other kinds of coercion?

IV

Do the state and law contain, besides the elements of coercion, some other elements contrary to coercion?

The fact that the state and law embody elements of both autonomy and heteronomy serves as a basis for explaining the problem of relationships between the state and law, on the one hand, coercion, on the other. The question as to whether the state and law are identical with coercion and if they can be reduced to coercion alone, and the question as to whether they can exist without coercion, are two different questions. We consider that the state and law cannot be identified with coercion alone, but also that they cannot exist *without* coercion!

Force and coercion are the driving force and support of the state and law, they are constant elements in their existence, but this does not allow us to assume that the state and law only mean coercion and that coercion is the right expression for them. In addition to coercion (certainly!), immanent in law is also an other element as an antipode to coercion, namely, the conviction of the citizens to which it addresses itself. Consequently, law is neither fully autonomous nor fully heteronomous. Depending on the attitude of those to whom the apply, legal norms adopted by the state have for one category of citizens an autonomous character (because they morally approve and implement them), while for another group of citizens they have a heteronomous character (because they do not morally accept them, do not approve them, violate them, or they implement them under the threat of force).

Furthermore, it should be concluded that the elements of autonomy and heteronomy which are unavoidable in any state and in any legal

system, are not in a static, but rather in a *dynamic relationship:* not only does this *autonomy-heteronomy* relationship differ from state to state, but also one and the same state power and one and the same legal system can alternately change this ratio of autonomy to heteronomy. There will sometimes be more freedom and conviction, and sometimes more coercion and less freedom.[7]

It must be admitted that in the course of history *some* states meant nothing else but "stark violence" over a large majority of its citizens (and very likely there are also some such states today). In spite of this, we can rightly ask whether the true essence of the state and law is confined solely to force and coercion and nothing else.

In this connection we must pose the question: What is with the regulatory role of the state and law in social life, what is even with their certain conciliatory role, when the state and law act in a certain sense as a catalyst of social contradictions and social conflicts? Speaking of these two roles of the state and law, F. Engels noted that the "state was invented" so that the classes should not exhaust themselves in mutual struggles and thus annihilate not only themselves *but also human society*. What else can we conclude from this than that the state and law really have a certain regulatory and conciliatory function in human society. They do not only protect class interests, but also individual and even common interest. Likewise, what to say about their protection of law and order? In my book *Science of Law and Dialectic* (1962)[8] I posed the following question of principle: "Would equality without order be more valuable than order without equality?"

Practically speaking, emotionally we like (approve) or hate (disapprove) a particular state power, or are indifferent to it. Also, we sometimes like a state power, *sometimes* we hate it, and are *sometimes* indifferent to it, depending on our momentary attitude towards it and its regulations, this again depending on our interests and motives. But scholarly speaking, both heteronomy and autonomy are always present in the being of a given state power, it is "only" the question of the extent of the role each of them plays. With some state power the quantum of coercion will be greater and with others the quantum of autonomy and free conviction of citizens will be greater. A given state power can be at variance with the consciousness of the large majority of its citizens, while another one will rely on and be defended by the consciousness of the majority of its citizens. Consequently,

7 B. Perić: Problem of Autonomy-Heteronomy of Law, I ed. p. 207.
8 B. Perić: Problem of Autonomy-Heteronomy of Law, I ed. p. 261.

this is a purely historical question: State authorities have varied quantums of elements of autonomy and heteronomy. But not only this. One and the same state can in the various periods of its existence have displayed various quantums of autonomy and heteronomy. In other words, within the framework of a state these elements of heteronomy and autonomy *vary* and surpass each other. It is hardly necessary to mention how much, for example, war, emergency and crisis *within* a state (and even *outside* it) can influence the freedom of its citizens, i.e. the rise in heteronomy or coercion.

There are also periods when a state is *at odds* with society or in *conflict* with the majority of its citizens. *When this is so, a revolution is in the offing!*

Question: Consequently, if we agree that every state power and law are imbued with elements of both heteronomy and autonomy, is it then justified to consider the state to be the "holder of the monopoly of physical coercion"? Does not this definition of the state *leaves out* the other *essential* element of the state and law, i.e. the element of autonomy, the element of recognition and acceptance of state power on the part of certain individuals or groups?

V

The question poses itself in particular as to whether the definition of the state as the "monopolist of physical coercion" is satisfactory if we neglect the internal-legal aspect of the state and *consider its international-legal aspect.*

As is well-known, states are members of the *international community,* where they are *compelled* to take care of their own *rights,* but also to undertake *obligations.* With respect to the international community, they have both *benefits* and *burdens.* The question, consequently, poses itself as to how to define the state from this international-legal viewpoint. Would the definition of the state as the monopolist of physical coercion in its territory be satisfactory relative to its status as a member of the international community?

A state in this international community (depending on its strenght, wealth and reputation) can *impose* its influence upon other states, but it can also be *subjected* to the influence of other states. In this respect exceptionally diverse relations can exist:

a) A state power can internally exercise maximal violence and internationally be a puppet or a satellite of another much stronger state.

b) A state can in its territory exercise the greatest possible physical

coercion upon its citizens, but also be a "nobody" in international relations, weak and without reputation and influence.

c) A state can in its territory dispose of and exercise maximum physical and other kinds of coercion, while being in international relations *economically enslaved* by, and essentially dependent on, another state. For, along with the so-called political power, one must always take into account the so-called economic power of a state. The question of which of these two powers is stronger will never be solved.

I dare say that no *ideology* has ever succeeded in saving a faltering economy, but a faltering *economy* has always ruined even the best ideology.

I think I do not need to speak about various forms of international political dependence. However, since the world is increasingly becoming an interdependent whole, the economic strength of the powerful is not, as a rule, stopped by the political borders of other states. International monopolies, cartels, transnational companies, armament requirements and blackmail by powerful weapons-selling states, the so-called transfer of technology, foreign licences and patents, external indebtedness and other economic obligations, the power of international or national banks vis-à-vis other states, the emergence of neocolonialism, real monopolies of so-called strategic materials and primary commodities, all this shows that such *centres of political and economic power* can be and have been formed in actual international life, that relative to these centres some states (although they exercise maximum physical coercion in their territories) are on the international scene without any power and influence. Thus, a state can be a *despot* in its territory, and a *servant* in international relations. How then to define such a state?

Question: Since every state is a member of the international community and its status in this community imparts to it its essential characteristics, gives it *rights* but also imposes obligations upon it, a state can also be restricted by *strong dependence* of various kinds which can even jeopardize its sovereignty. Is it then justified to define a state as the "monopolist of physical coercion" in its territory, if other external forces penetrate its territory and there display their real power, and restrict its authority by means of various kinds of pressure or dependence?

VI

Every definition, including the definition of the state and law, must perceive and present the essence of its subject matter. In order to

succeed in it, our *knowledge* on the road to the *truth* has the duty to discover and encompass *many* and *diverse* features of a subject or phenomenon. Consequently, in trying to perceive the state and law, our first task is to discover their many and diverse features, and subsequently to determine the *essential ones* among them. In this way we shall avoid eclecticism, whose main schortcoming is that it detects everything, but does not discover the essential. Piecing together the esential features of a phenomenon, our knowledge can then obtain a notion thereof. If human knowledge did not have notions, it could not arrive at judgements (conclusions). If there were no conclusions, there would to be no science. Thus, we find ourselves in a process, on a road, which I. Kant, and then G.W.F. Hegel called "the royal road to science".

The view has also been expressed that a state, although it does not have a real "monopoly of physical coercion" in its territory, "proclaims this monopoly, appropriates it for itself, and adorns itself with it", and that for this reason it is justified to consider that it holds the monopoly of physical coercion. I resolutely maintain that this standpoint has an essential gnosiological error. For, it should be noted that our scientific view of the state and law cannot be based on what a particular state and law think of themselves, but only on real facts. It is well-known that the state and law have in the course of history adorned themselves with diverse epithets and given themselves various features. This should, however, be irrelevant to scholars. What is relevant to them is only to what extent the state and law present themselves in social relations in real terms, rather than what they themselves have written about themselves in their *own* normative acts (*e.g.* in the constitution).

If the opposite were the case, in order to obtain a realistic insight into the conditions of a state and law, it would be sufficient to read its constitution. But in this case this would not be a *real* picture of the actual state of affairs, but only a normative declaration of this state about itself!

In view of all the foregoing, I would suggest to define the state as a social organization which holds power, which within its borders has not only the "monopoly of physical coercion", but also exercises the *greatest coercion* in its territory. In relation to other states, this power is equal with the equals". What is more, this power has also some other characteristics: it is sovereign and coercive. Furthermore, this power has its territory (over which it rules), and its population as a group of people to whom its norms apply. Finally, this power has its

law by means of which it orders, forbids, allows and talks to its subjects.

Here it is necessary also to emphasize the following: If a state power has at its disposal the greatest and strongest coercion in its territory, and it *loses* such coercion, it will cease to be a state power and its pronouncements will cease to be law. Another political force that would take in its hand or would seize this greatest and strongest coercion in this territory would thereby become the new state power, and its pronouncements would be new laws. This is called change of power.

Not even now, at the end of this paper, do I wish (in such a complex, subtle and contradictory matter as is the essence of the state and law) to make any final or apodictical conclusions. I know from my own scholarly experience that it is sometimes better to broach a problem than apoditictically to solve it. I personally believe in the "stratiform" character of human knowledge and in its relativity. We inherit knowledge from earlier generations and move forward, "climbing on to the backs of our predecessors". Scientific truth is, consequently, markedly diachronic, it is acquired in the process of knowledge. It is, as Hegel wisely noted, not a currency which can be given and received in cash. Scientific truth is enhanced by the diachronic, but also by the synchronic cooperation of scholars. On this road: *fit fabricando feber*!