**Philosophy is right**

The government possesses monopoly for legal use of means of compulsion and formally plays a role of the arbitrator in distribution of the blessings. What general principles govern the origins and organizations of the community?

What, if anything, justifies government in claiming authority over its subjects? Why do you think citizens are obligated to obey their government? Compare and contrast the different approaches of natural law, positive law, social contract theory, and utilitarianism, to these questions. In your view, is any of these approaches satisfactory in legitimizing governmental authority? Why, or why not?

The government possesses monopoly for legal use of means of compulsion and formally plays a role of the arbitrator in distribution of the blessings. There is a danger, that the government will distribute them to own advantage. In this connection in democratic societies the pluralism and competition of political influences of various subjects of the policy participating during acceptance of the state decisions takes place. For the beginning, it would be desirable to notice, that the government has the certain characteristic features. First, realization of authority occurs to the help of the detached device in the certain territory to which the state sovereignty is distributed. Second, this authority has an opportunity to use means of the organized and legislatively established violence. In such kind the government represents the best, fullest expression of political authority.

The need of authority develops of objective necessity of the organization of a social production which is impossible without submission of all participants for a single will. The authority is necessary for maintenance of integrity, unity and stability of a society. Important thus to pay attention to a problem of requital. The matter is that as a result of a division of labour in a society there is a dissatisfaction concerning that you have given and that has in exchange received. And the majority of people in this connection feels a dissatisfaction, social intensity is created. The society requires the constant coordination of private interests, their reduction public interest which is reached by means of submission of will of separate people to strong-willed abilities other others able better to define the purposes and to force itself them to carry out. Capacity and authority of authority on much depend on its legitimacy which is its basic, strategic resource. Legitimacy is a legality, the consent, mutual trust concerning a society, people and the political authority, consisting in a recognition of its right for a supervising role. Legitimacy includes two components: opinion of people on legality of the given authority, on the one hand, and comprehension by ruling circles of the right on authority, with another.

Invested with authority should lean not only on the physical compulsion authorized by the law, but also should convince citizens (people) of own necessity, justify the positions and actions. There are various theories explaining legitimacy of authority. The basis of theories is made, first of all, with the attitude to the right and the law. According to the theory of positivism the essence of the right and the law cannot be distinguished, and thus the law is the form, and the right it not one law, and all sum or set of laws. Or set of norms. And consequently the right represents set of norms established by the state and, provided with his compulsory force. The aspiration to identify the right and the law, certainly has under itself the certain basis: in this case frameworks of the right strictly are formalized, become "purer", that is erected in the law admits as the right only: outside of the law is not present and it can not be right.

However in a vein of such approach supporters of positivism reduce the right to the law and treat his compulsory character as essence of the right and his distinctive feature. On such logic it turns out, that the official authority can erect wrongly (and in general all not legal social norms) can at own discretion and to erect to an arbitrariness in the right. The help of compulsion (the order of authority) solve thus problems not only subjective character (a formulation of norms of the legislation), but also the objective plan (a formulation and creation of the right), and also a scientific structure (an establishment and finding-out of specificity of the right, his difference from other social norms). Adherents of such positivistic identification of the right and the law reduce a problem of social sense and a role of the right to a question on compulsory value of norms of the legislation.

Such unilateral sight at the right, certainly, leads to to that the authority does not require in легитимации as itself creates rules of law. The usual person turns out discharged from statement managements. At data of the right to set of norms, it becomes something external for the person, imposed to it from above. The similar narrow treatment deforms the right as for the person holes not in themselves are valuable, and those real opportunities and the blessings with which they provide. Absolute in another way supporters of the theory of the natural right concern to the given question.

According to the natural-legal concept: the natural right - an embodiment of objective properties and values of " the present right ", acting as a due sample, the purpose and criterion for an estimation of a positive law and establishing authority corresponding the right (the legislator, the states as a whole), for definition of their natural-legal importance, value. Thus the natural right is understood as already by the nature moral (religious, moral) the phenomenon and is initially allocated with corresponding absolute value. The concept of the natural right, thus includes various moral, moral characteristics.

The aspiration to bring a strong moral basis under the legislation and separate laws, - is doubtless, rather noble business. It is possible to dream only that under each law issued in this or that country there was a solid moral, moral basis. However categories of evil and goods are important for definition of essence of morals, but not essence of the right. Morals it too a normative social regulator, however, norms of the right and norm of morals have essential distinctions. The question on a parity of the state and morals is very much combined, because in many cases it is completely opposite things. From the occurrence of the concept "state", both authority, and scientists dealing with a problem of the theory of the state and the right, diligently was outlined, that a basis of any state system are moral standards of a society. And as a vivid example of such statements the theocratic theory of occurrence of the state can serve. She considers the state as the Divine craft, as the Charism to humanity. Also that laws of the state should be based on the Divine laws.

But also there is also completely opposite sight at a problem of mutual relation of the state and morals. Many known politicians in general denied interrelation of the state and morals. In particular U.Cherchil spoke " the State has no morals but only interests ", but I think that it not absolutely correct point of view, though and not deprived the bases. One more theory which considers the given problem, the theory of a contractual origin of the state has arisen in depth of centuries. In Ancient Greece some sophists considered, that the state has arisen as a result of contractual association of people with the purpose of maintenance of validity.

Supporters of the named theory recognized that to the state the natural condition which they characterized differently precedes. For Russo, for example, people in a natural condition possess the born rights and freedom, for Gobbs this condition " wars of all against all ". Then for the sake of the world and well-being the public contract between each member of a society and the created state consists. Under this contract people transfer a part of the rights of the government and take up engagement subordinate to it, and the state undertakes to protect inaliennable human rights, i.e. the right of the property, freedom, safety. The agreement of people, on Russo's ideas, - a basis of legitimate authority. In result everyone agreeing submits to the general will, but at the same time becomes one of participants of this will. The sovereignty belongs to people as a whole, and governors are representatives of people, obliged to report to it and replaced on his will. The contractual theory has begun the doctrine about people's sovereignty, подконтрольности, the accountability before people of all state - power structures, their removability.

There are many the different points of view to definition of legitimacy of authority. According to M.Veber, for example, legitimacy is not only legality of the given authority from the formal-legal point of view, and more likely - the phenomenon of the social psychology consisting in acceptance by a society of the given political authority or, at least, passive obedience to it. So again arising modes can become legitimate if will provide to itself support of a significant part of a society. In this connection the nature of legitimacy, its sources and ways of maintenance can be rather various, depending on a cultural level, traditions, psychology of the population. How the authority gets legitimacy? In due time M.Veber has allocated three opportunities:

1. Due to tradition. By virtue of that "always" (from the point of view of citizens) was legitimate. The authority has traditional character when she is consecrated by authority of long since existing patriarchal establishments, and also religious norms. Such way of legitimizing governmental authority is characteristic for a monarchy. 2. As the rational-legal authority existing there where to the persons in power, obey by virtue of a recognition of legitimacy of laws due to which they came to domination. This type of authority is based on belief by virtue of the right, the law. 3. As the charismatic authority based on belief in the head, the leader to which are attributed great, sometimes personal qualities: in some cases the element of worship (for example when the question is the religious prophet) is possible, and can happen, that such belief results from display of exclusive talents. The charismatic type of legitimate authority is under construction on reckless trust to the leader, the blind submission involved on fear and an instinct of self-preservation.

In my opinion, democratic legitimacy is based on primacy of the rights and freedom of the person, electivity of the central authorities, the constitutional limitation of a field of activity of the state, equality of all political forces working within the framework of the constitution. Liberal-democratic legitimacy - a result of long evolutions of a society, transformation of humanistic principles of equality, freedom, solidarity, validity in steady features of a way of life of a society. In conditions of civilized social attitudes the major party legitimizing is legal settlement and practical realization of change of parties and the maximum officials at authority. It first of all - observance of terms of general election, stay in the rank of the president; leaving of the government in resignation at disapproval of his policy, leaving of figures from a political arena (even temporary) on ethical reasons. Only the authority strictly observing norms of the right receives legitimacy in opinion of people which is ready to support her without threat of application of force. Legitimacy is always connected to observance of the strict political responsibility state and public figures before the citizens, and not just before parliament or voters of the district.

**Elective question #1**

What general principles govern the origins and organizations of the community (polis) according to Plato? According to Hobbes? How does the answer each gives shape his view of justice and the proper form of government?

Platon puts forward idea of the ideal state in which there is a class of philosophers, a class of soldiers, or guards, and a class of handicraftsmen, farmers and workers. In Platon's ideal state all should be precisely fixed, all is constructed under the certain plan which anybody from citizens cannot break. That is why it differs from the known states-policies described by fragility, absence of the strict order and, as consequence, domination of injustice. Platon connects the ideal state with leadership of the law. All citizens of the state should submit to the law equally. Moreover, ideal polis is that state where the law predominates. To provide observance of the lawful order in a life, it is necessary to develop special system of the measures providing durability and stability of the law, his compulsion for all. Proceeding from properties of the state, it is necessary to deduce logically his private characteristics, to define his device, and finally, to solve the problem on a role of individuals in it. Thus, Platon's logic goes in sequence of conclusions from the state to the individual. Individual freedom admits only that measure in what she is necessary for the state.

However according to Platon's idea about the policy, in the ideal state natural propensities of people are taken into account, and compulsion is called, only to promote fuller realization of these propensities.

Platon's ideas about the policy and the government are some similar to ideas Hobbes. Gobbs's doctrine about the state is based on concept of the natural law. The first basic natural law says: everyone should achieve the piece by all means available at his order and if it cannot receive the piece, it can search and use all means and advantages to war. Directly second law follows from this law: everyone should be ready to refuse the right on everything when others too wish it as it counts this refusal necessary for the piece and self-defense. Besides refusal of the rights there can be still a carry of these rights. The third natural law says, that people should adhere to own contracts. In this law to be function of validity. The theory of the State of Gobbs logically follows from his theory of the right and morals. The basis of the state lays in reasonable aspiration of people to self-preservation. From here it is clear, that the confidence of the safety is necessary for observance of natural laws, and for achievement of safety there is no other way as connection of sufficient quantity of people for mutual protection. For general welfare, people, as Gobbs considers, should agree to refuse the rights in the name of the piece and preservation of a life and to be united together for performance of the agreement. Such contract or such transferring of the rights also is formation of the state. Gobbs defines the state as follows: " The state is one person or assembly which will by virtue of the agreement of many people is the law for all of them as it can use forces and abilities of everyone for maintenance of the general piece and protection.

The person or assembly to which will all submit other, receives the name of the Supreme authority; all other are citizens ".

Thus, the State, by virtue of transferring on it of the rights of all possesses all rights belonging to the person in a natural condition, that is rights of the state are boundless. At Gobbs, the purpose of the state - to abolish a natural condition of the person, and to install the order at which to people safety and quiet existence would be provided. Clearly, that for preservation of this condition of safety the government should be armed with the necessary rights.

**Elective question #2**

Do we have an obligation to help starving people here and/or in other lands? If so, what is the basis of this obligation? If not, do we have any other reason to help such people? Identify and critically use any of the philosophies we studied including those in the text that we did not touch upon in class.

The problem of obligation in helpping starving people here and in other lands follows from a problem of a parity of the state, the law and morals. There is a question, whether the state is obliged to help the citizens and other requiring people? It is possible to answer this question proceeding from concept of a legal status of the person. The legal status of the person in the general view can be characterized as system of the rights and the duties, legislatively fixed by the state in constitutions and other legal certificates. In the rights and duties not only samples, standards of behaviour which the state counts obligatory, useful, expedient for normal ability to live of social system are fixed, but also main principles of mutual relations of the state and the person are opened.

Interrelations of the state and the person demand precise orderliness. It is caused special by such importance of attitudes for maintenance existing building, for his normal functioning. The precondition of possession the rights and duties is citizenship as the certain legal condition of the person. It expresses a legal accessory of the individual to the state which " acts in the legal form, receives legal expression in institute of citizenship which norms define conditions and the order of purchase, loss of citizenship, etc. " . Citizenship is the legislative ground for the person to have the legal rights and freedom and to carry out the duties established by the law, i.e. the basis of a legal status of the person. Citizenship and legal consequences following from him are inseparable by nature the states, from his social orientation. Rights and duties fix complex system of interrelations of the state and the person, based on democratic principles.

Rights of the person is its social opportunities determined by economic conditions of a life of a society and legislatively fixed by the state. In them that measure of freedom which is objectively possible for the person at a concrete historical stage of development of a society is expressed. Within the limits of this formally fixed freedom self-determination of the person is carried out, conditions of real using by the social blessings in various spheres political, economic, welfare and private life are established. Rights of the person is not potential, but the real social opportunities of the individual following directly from the law. The state fixes rights of the person not any way. The set of the rights, their volume are always caused by a level of economic development of a society. The legislator can fix only such rights for which realization the social and economic and political preconditions following from real public attitudes were generated. Rights of the person - not "gift" of the legislator, and the social opportunities, providing to the person the certain standard of a life.

The democratic society is a society of social justice. Therefore interconditionality of the rights and duties represents the necessary factor of maintenance of his normal ability to live. At a present stage of development of a society the social responsibility covers not only the attitude of the person to the rights, to their most active realization and use in interests of a society, but also the attitude of the person to the duties which is connected to comprehension of the debt and necessity of performance of legal requirements. Basic value is got with a problem of legal equality in various spheres of a life of a society and the state. Its decision assumes creation by the state of the reliable guarantees providing such equality the Declaration of Independence proclaims, that there are inaliennable human rights for which maintenance the state is created. Taking into account all told, I think, that State is obliged to help the requiring citizens.

As to not citezens and people living in other countries, this problem is solved with the help of international law and main principles of morals and morals. The list of the rights and freedom of the person and the citizen, peculiar to a lawful state, contains in the international certificates. It first of all the General declaration of human rights accepted by General Assembly of the United Nations on December, 10 1948., the International pact on the economic, social and cultural rights, the International pact about the civil and political rights accepted at XXI session of General Assembly of the United Nations on December, 16 1966. The general declaration of the rights and freedom of the person, the accepted United Nations in 1948 will consist of 30 clauses. In it it is proclaimed, that " all people are born free and equal on the advantage and the rights. They are allocated reason and conscience and should act in the attitude each other in spirit of a brotherhood ". The international declarations and contracts establish principles which assert necessity of the help to less developed countries.

I think, that any state carries out also universal mission without which there can not be no society. Realization of various collective needs of a society concerns to performance of common causes first of all: the organization of public health services, formation, social security, automobiles and communications, construction of irrigational constructions, struggle against epidemics, criminality, measures on prevention of war and maintenance of the world, etc. The Universal applicability of the state in a more comprehensive sense will be to be the tool of the social compromise, mitigations and overcomings of contradictions, search of the consent and co-operation of various layers of the population and public forces. If the state really wants prosperity for the citizens, it should put moral standards in a basis of the policy, adhering to positions of the democratic concept of the state which are based on uniqueness and self-value of each person, his respect on the part of the state, care of each citizen of a society, the person and the state, and also the help on the part of the state that who cannot independently provide itself.