Unit D 12: Concepts of the state in the early modern period and in the enlightenment

1. Summary

In the Middle Ages and in the early modern period, but also since the beginning of the Enlightenment, there was a whole range of concepts of the state and theories of democracy. In this text, we pick out three approaches that continue to influence our understanding of politics to the present day: Namely, the pragmatic political theory of Niccolò Machiavelli, the Enlightenment separation of religion and state in Moses Mendelsohn, and the model of the social contract.

2. Stages in the development towards modern democratic theory.

Samuel Salzborn (2012:27/28) established the following stage model of development to modern democratic theory from antiquity to the early modern period:

	Life data	Basic idea
Plato	ca. 428/7 to ca. 348/7 b.o.e.	Systematization of forms of rule, thus: enabling the interpretation of the purpose of rule
Aristotle	384 to 322 b.o.e.	Differentiation of the doctrine of forms of rule, thus: enabling the differentiation of rule according to quantity and benefit
Cicero	106 to 43 b.o.e.	Concept of a natural law reasonableness of law, thus: enabling the formulation of non-divinely given law
Polybios	c. 200 to c. 120 b.o.e.	Mixed constitutions as ideal types, thus enabling the overcoming of ideal-typical constitutional doctrines
Augustine	354 until 430	Differentiation between secular and divine order of rule, thus: making possible a rule oriented to the human subject
Thomas Aquinas	1224/25 until 1274	Establishment of a right of resistance, thus: enabling the violent questioning of despotic rule
Marsilius of Padua	1469 till 1527	Separation of politics and morality, thus: enabling legal emancipation of the ruled.
Niccolò Machiavelli	1469 till 1527	Separation of politics and morality, thus:

		enabling the orientation of politics to interests and power conflicts
Jean Bodin	1529/30 till 1596	Founding of the modern concept of sovereignty, thus: enabling the establishment of a sole central power

Source: Salzborn 2012:27/28; b.o.e = before our era, i.e. before Christ.

2.1 The early modern period

One of the hallmarks of the transition from the Middle Ages to the modern era was a greater focus on human beings as acting subjects and as shapers of their environment. The cosmological order of the medieval world, created by God and governed - at least theoretically - by the church, broke down after centuries of conflict between secular and ecclesiastical power. In the 16th century, the Reformation led to a return to Christian religious concerns and a greater focus on people. This was evident, for example, in Luther's translation of the Holy Scriptures into German, which suddenly gave ordinary citizens direct access to religious truths previously reserved for the Latin-speaking clergy. A new pragmatism, but also a new sobriety, prevailed in politics, as was evident, for example, in the writings of Machiavelli.

2.1.1 Machiavelli

Niccolò Machiavelli was born in Florence in 1469 and died in 1527.

Machiavelli distinguished three forms of government: The autocracy, the rule of the nobility and the rule of the people (cf. Machiavelli, quoted from Kreiner 2013:120). Other authors - according to Machiavelli - contrast these three "good" forms of state with three "bad" ones: Tyranny, into which autocracy can slide, oligarchy as a degeneration of aristocratic rule, and anarchy as a perversion of democracy. Thereby there is - always according to Machiavelli (cf. Kreiner 2013:121) - something like a cycle: Autocracy turns into tyranny. The people rise up against it with weapons, and the wealthy and rich overthrow and replace the tyrant. In time, power passes to their sons, who pursue only their own interests. These princes are overthrown again and the people appoint rulers from their ranks. A people's rule without an

autocrat and without princes arises. The powerful again exploit their rule and anarchy is formed. From this arises the desire for a leader with integrity and power - and autocracy arises again. Thus the cycle begins anew.

Machiavelli believed that governments of all states are subject to this cycle (Machiavelli, as cited in Kreiner 2013:121).

Machiavelli (as cited in Kreiner 2013:122) considers all six forms of government to be pernicious: the first three because of their short-livedness and the last three because of their badness.

Therefore, a good legislator should combine the three good forms of government. In doing so, the prince (or autocrat), the nobility, and the people should mutually supervise each other and rule together (cf. Machiavelli, quoted in Kreiner 2013:122, see also Kreiner 2013:134).

According to Machiavelli, the art of politics consists in **keeping the socio-political order** - but **not necessarily the state** - **stable by all means** (cf. Kreiner 2013:136). For Machiavelli, politics is first and foremost an "ethically indifferent struggle of interests and power" (Kreiner 2013:136). In this context, the wickedness of people prevents the realization of ethical demands. Machiavelli rejects any illusionism or utopianism and sketches politics as amoral - though not necessarily immoral (cf. Kreiner 2013:137).

For Machiavelli, there is a great need for guarantors of political unity in the face of "tense competition and the plurality of interests" (Hidalgo 2014:203). In this regard, Machiavelli sees religion as a kind of "instrumental counter-principle" to the conflicting forces in the republic (cf. Hidalgo 2014:203). It is interesting to note here that Machiavelli sees "recourse to God" as a legitimizing basis for the republic's founding laws (cf. Discorsi I 11:54, see also Hidalgo 2014:203). Machiavelli thus breaks through the medieval understanding of religion and faith and founds his republic on the two complementary pillars of harmony and conflict, neither of which is to be given predominance in the long run.

Many (e.g., Salzborn 2012:25 and Deppe 2014:19) see Machiavelli's approach as primarily a separation of politics and morality. At the same time, Machiavelli opened an "empirical view of political reality" (Salzborn 2012:25). Or in the words of Machiavelli himself: He described "the "reality of things" and the "real essence of the thing." Today we would say: Machiavelli developed an efficiency-oriented political action strategy. Deppe (2014:19) says of Machiavelli: "Machiavelli's thinking is captivating because of its clarity - which is always heightened to the point of brutality." Machiavelli is not concerned with a "Machiavellianism" that is heightened to the abysmal, but with a kind of "chess game" (Deppe 2014:37) of power or, better, of the calculation of power: "This game, like hardly any other, demands intelligence and the ability to think strategically in the calculation of various alternative actions and decisions in order to succeed, to win" (Deppe 2014:37). It is interesting to note that Thomas More wrote his "Utopia" almost at the same time as Machiavelli wrote his "Prince," yet the two are diametrically opposed in a certain sense: Here the pragmatic-opportunistic Machiavelli, there the idealistic-social-critical utopian Thomas More.

2.2 Enlightenment

Arguably one of the most important demands of the Enlightenment was the idea that religion should be considered a private matter in the modern state. John Locke (1996:57 and 65) demanded as early as 1685/1686 in his "Letter on Toleration" that the state authorities should not enforce or declare generally binding any religious rites, nor should they prohibit the performance of religious rites or ceremonies.

2.2.1 Moses Mendelsohn

In the second half of the 18th century, demands for emancipation among Jewish citizens increased in three ways (cf. Battenberg 1990:63-68). There were three main reasons for this: A first impulse came from the largely negative evaluation of Jewish commercial activity. In this view, trade and commerce were considered unproductive and only agriculture was considered a productive activity. Therefore, many saw the work of Jews as unproductive or even harmful. A second impetus resulted from the special legal position of the Jews, who were always a pawn of the ruling aristocracy and at times had to pay horrendous taxes. In

Prussia, for example, their own "Judenordnungen" and special police ordinances regulated the everyday life of the Jews down to the last detail. A third reason for demands for emancipation was the negative view of Jewish culture, which had retained a great deal of independence, not least because of the Yiddish language.

During this period, people's thinking and consciousness also changed. This development was later called Enlightenment thinking. According to Kant, "Enlightenment ... is the exit of man from his self-inflicted immaturity. Immaturity is the inability to use one's intellect without the guidance of another" (quoted from Bahr 1986:9).

As early as 1784, Mendelssohn (2009b:211) had divided education into culture and enlightenment in his essay "Über die Frage: was heisst aufklären." Mendelssohn saw the practical in culture, but rather the theoretical in enlightenment.

In this context, the state played a central role in Mendelssohn's Enlightenment thinking (2009b:213): "Unhappy [sic] is the state that must confess to itself that in it the essential destiny of man does not harmonize with the essential one of the citizen, that the Enlightenment, which is indispensable to mankind, cannot spread over all the estates of the empire; without the constitution being in danger of going to ruin".

According to Doris Schmid (2003:59), "Jerusalem" represents the most important work of Moses Mendelsohn. The writing appeared for the first time in 1783 and represented an attempt to combine Jewish religion and Enlightenment philosophy (cf. Stern 1971: 395; but also Schmid 2003:59). In this text, Mendelssohn (2009b:133) criticized a state that interferes with religion and the church, but conversely he also accused the church of reaching far into the territory of the state as a "marmal" (Mendelssohn 2009b:133). A harmonious or at least non-conflicting relationship between the two benefits the freedom of conscience of citizens because it benefits both the state and religion. Thus, the state enacts laws, and religion imparts commandments.

In other words, the civil society, as a moral person, can hold coercive rights, and has actually received them through the social contract. The religious society makes no claim to coercive

rights and cannot obtain coercive rights by all the contracts in the world. The **state** possesses **perfect rights**, **the church** merely **imperfect rights** (cf. Mendelssohn 2009b:141).

Already one year before the publication of "Jerusalem" Menselssohn (2009b:81) had criticized in his writing "Manasseh Ben Israel: Salvation of the Jews" all attempts of the state to remove the Jews "from all arts, sciences and other useful trades and occupations of the people" and to keep them away. Literally, he wrote: One "blocks us all ways to useful improvement, and makes the lack of Cultur [sic] the reason of our distant oppression. They tie our hands and reproach us for not using them" (Mendelssohn 2009b:81).

Furthermore, Mendelssohn (2009b:85) stated that every person is useful to the state and society.

In "Jerusalem," Mendelssohn (2009b:134) made reference to Thomas Hobbes' concept of the state, for whom peace and security were the most important things, which is why he postulated the "unity and inseparability of the supreme power in the state." In Hobbes's sense, right belongs to the one who has the power. But Hobbes did not have an open ear for individual, civil liberties; on the contrary, he preferred to abolish civil liberties rather than see them abused (Mendelssohn 2009b:134). Regarding Hobbes' concept of the state, Mendelssohn (2009b:135) noted that there was much truth in it, and that many negative consequences of this concept of the state resulted from its exaggerations. Mendelssohn (2009b:135) argued that physical and moral capacities not infrequently diverged, which is why might and right are often entirely different things.

In contrast, according to Mendelssohn, the ideal of tolerance postulated by Locke was based on the fact that he understood the state as a community of people who wanted to secure their "temporal welfare" (Mendelssohn 2009b:136) collectively. Somewhat polemically, Mendelssohn (2009b:136) asked why this welfare was only "temporally" limited. And he immediately gave the answer himself: yes, because the church (or religion) was responsible for eternal welfare. Accordingly, he said, the state is responsible for civil and temporal welfare, but the church is responsible for eternal welfare - both with the authority corresponding to them. "The reasons which guide man to reasonable actions and

dispositions are based partly on relations of men against each other, partly on relations of men against their author and sustainer. The former belong to the state, the latter to religion" (Mendelssohn 2009b:138). Therefore, public-spirited actions are a matter for the civic constitution and the state, whereas the relationship and responsibility of people towards God belong to the realm of churches, synagogues or mosques. According to Mendelssohn (2009b:160), both the state and religion must avoid coercion and bribery and limit themselves to teaching, admonishing and rebuking (Mendelssohn 2009b:160).

It is interesting in this context - something that has unfortunately not infrequently been lost in today's "political business" - that Mendelsohns emphasizes that the **state and politics should pursue charitable goals**, i.e., the interests of the entire population, should be pursued, not particular interests of individual actors or groups. Only in this way can the state be "a moral person."

Mendelssohn also already circumscribed a kind of communal autonomy and a property system. Also, Mendelssohn (2009b:88/89) already demanded that disputes within communities ("colonies") be settled among their members, which the state or the government could "apparently indulge in without harm" (Mendelssohn 2009b:89) (for a detailed discussion of Mendelssohn's understanding of the state, see Jäggi 2016:34ff).

Interestingly, Kant counted Mendelssohn's writing "Jerusalem" among the few books that he partially allowed to be considered as evidence of authority in his 1797 doctrine of law (cf. Klenner 2000:108).

Enlightenment and culture should go hand in hand; according to Mendelssohn (2009b:213), they are the best means against corruption. If one of them is missing, there will be excesses: "Misuse of enlightenment weakens moral feeling, leads to hardheadedness, egoism, irreligion, and anarchy. Abuse of culture produces opulence, ... softness, superstition, and slavery" (Mendelssohn 2009b:213).

According to Klenner (2000:110), Mendelssohn's idea of progress was limited to the individual, while humanity as a whole was in a "circular race" (cf. Klenner 2000:110). Thus -

according to Mendelssohn 2009a:137) - even a savage has the aspiration to become more perfect. Or in his 1764 treatise on "Doubts about the Destiny of Man," Mendelssohn (2009a:336) names as man's actual destiny "the formation of the soul's capacity according to divine intentions."

At the end of his dissertation, Vogt (2005:237) made an interesting remark about the Enlightenment of the 18th century on the one hand and the 19th/20th century on the other: while the Enlightenment critique - with all the different perspectives and points of view - of Hegel, Marx, Nietzsche, Horkheimer, Adorno and Habermas in the 19th. and 20th century attempted to "abolish the discrepancy between reason and reality, subject and object, self and world in a unity" (Vogt 2005:237), Mendelssohn's Enlightenment concept in particular emphasized the importance of the pre-rational realm.

Today we can say that Mendelssohn's **distinction between the state and the religious spheres** was probably **historically groundbreaking**. In this context, the state appeared as the guarantor of the public sphere, while religion was relegated or outsourced to the private sphere. One could put it this way, that the idea of the secular state, superior and subordinate to any private-religious sphere-with simultaneous competence of religious communities for their internal conflict regulation-represented **a kind of European answer** to the **wars of religion and confession** (cf. Dreier 2013:17/18 and 37/38 as well as Polke 2009:32), and indeed a solution approach that, all in all, did not work badly.

Although it became apparent as early as the 19th century that Mendelssohn's concept of the state was extremely successful in theory and also rallied many supporters behind it, in practice, however, many barriers remained for individual minorities and especially for the Jews at the interfaces between the state (public sphere) and religious communities (religious-private sphere). The new concept of the state could not overcome the exclusion and marginalization of Jews. In the first half of the 20th century, discrimination against Jews even worsened as a result of increasing and militant anti-Semitism. Until long after the mid-19th century, entry into an academic career for people of Jewish origin was only possible if the applicant of Jewish faith had first been baptized, that is, only after a "renunciation of

Jewishness" (Pawliczek 2011:29). As late as 1871, there were practically no (non-baptized) Jews at the University of Berlin (Pawliczek 2011:29).

Despite individualization thrusts and broad secularization tendencies, the problem of conflicting secular and religious worldviews was also evident in the second half of the 20th century. Even in today's situation of social, ideological and religious pluralism, the different normativities, some of which are in competition with each other, represent a largely unresolved problem. Because in recent years the number of - individual and collective - ways of life has continuously increased and continues to increase, this problem will become even more acute, especially in everyday life and in many areas of society.

In this situation, fundamental rights play an important role because, on the one hand, they guarantee equal rights for all and, on the other hand, they also ensure the right to be different (for a detailed discussion of fundamental rights, cf. ► Unit D 15: "Human Rights, Fundamental Rights, and the Constitutional State," chapter 2.1).

2.3   The Social Contract

The social contract is one of the most significant achievements of modern state thought (cf. Gamper 2010:112). Its strength lies in its theoretical explanatory function. It centers on the idea that rational people have voluntarily joined together to transfer the violence of individuals to the state. From this, the state derives its claim to overall power (= monopoly on the use of force). The most important three contract theorists - were Thomas Hobbes (1588 - 1679), John Locke (1632 - 1704) and Jean-Jacques Rousseau (1712 - 1778).

There were different variants of the social contract model. **Thomas Hobbes** emphasized above all the **unrestricted transfer of the power** to rule from the individual to the state, because the individual - in the sense of Hobbes' pessimistic view of man - would otherwise be in a situation of war of all against all (cf. Gamper 2010:114 and Salzborn 2012:31). Accordingly, Hobbes placed the peace function of the state at the center.

Hobbes' variety of contractualism contains (according to Nida-Rümelin 2015:27) two elements or assumptions: "(1) Norms are established if their establishment is in the interest of every person, and persons are therefore willing (or would be willing, given suitable circumstances) to enter into a contract with all others to establish and sanction these norms. (2) Norms become effective or guide action through establishment" (Nida-Rümelin 2015:27).

In contrast, **John Locke** placed the **idea of freedom** at the center: whoever did not want to submit to the social contract could - according to Locke - remain in the state of nature.

In contrast, Locke saw the main task of the state as overcoming the state of nature and submitting interpersonal conflicts to impartial judges. Locke did not consider the social contract to be compatible with absolute monarchy - absolute rule was for him per se incompatible with the social contract. Locke also tried to prove the factuality of his model with historical examples (cf. Gamper 2010:116).

In contrast to Hobbes, for example, for John Locke the contract serves less to enforce individual interests than to secure individual rights (Nida-Rümelin 2015:28).

In the current discussion, a radicalized version of Locke's contractualism plays an important role, namely the approach of Robert Nozick (cf. Nida-Rümelin 2015:28). This variety of contractualism - also called libertarianism - sees no obligation to help the weaker and rejects the principle of distributive justice (cf. (cf. Nida-Rümelin 2015:28/29) only voluntary transfer without any violation of individual rights is affirmed.

Immanuel **Kant** saw the **social contract as an idea of reason**.

Kant assumed "inalienable" rights of the individual, which include freedom, equality and independence (autonomy). Kant focused on the **dignity of the individual** free human being, whereby the social contract, concretized in democracy, fundamental rights, separation of powers and the rule of law, should not disproportionately curtail individual freedom (cf. Gamper 2010:117).

Jean-Jacques Rousseau wrote his own treatise on the social contract **("contract social").** According to Rousseau (1981:280/281), this social contract arises as follows: "Each of us collectively submits his person and all his strength to the supreme direction of the common will, and we, as a body, receive each member as an inseparable part of the whole." This gives rise - always following Rousseau (1981:281) - to a public person, which in Greece was the polis, but today is the republic.

In this, the social contract is concretized as a contract of government - according to Rousseau (2008:242/243) - "between the people and the chiefs...whom they choose."

Like Kant, Rousseau considered the overruling of the minority by the majority permissible. He contrasted the common will ("volonté générale") with the sum of the individual wills ("volonté de tous"), whereby the majority had to express the former. This common will embodies the common good. This way of thinking can, but does not have to, encourage an anti-democratic abuse (cf. Gamper 2010:119). Therefore, Rousseau has also been accused of being the founder of a totalitarian state order (cf. Müller 2009:35), either as state dominance through the laws or as tyranny of the majority. Müller (2009:35), however, does not consider either to be valid, because the common will should express "the legitimate, commonly acceptable needs and interests of the individuals" (Müller 2009:35) and because the political order as a whole should be supported by the consent of all, and majority decisions might be necessary, but are only legitimate within the framework of the basic consensus of the constitutional order.

Theories of the social contract had their heyday in the 17th and 18th centuries. With the rise of **utilitarianism**, i.e. the ethical concept of striving for the greatest possible common good while accepting the distribution of this good among a small number of people, and the later **legal positivism** - i.e. the codification of rights and duties in the form of a code of law without further reflection on their justification - the social contract lost importance and increasingly acquired only a hypothetical explanatory function. Also left unresolved in social contract theory was the question of the inalienable rights with which individuals are endowed from birth (Gamper 2010:120).

3.   Control Questions

1.   What influence did modern thought have on the understanding of politics?

2.   What three "good" and three "bad" forms of government did Machiavelli distinguish?

3.   What form of state does Machiavelli propose, given his view that all six forms of state are problematic?

4.   According to Machiavelli, what is the art of politics?

5.   Why can Machiavelli's understanding of politics be compared to the game of chess?

6.   To what extent did Mendelssohn's Jewish origins become apparent in his thinking?

7.   According to Kant, what is meant by enlightenment?

8.   Which tasks does Mendelssohn ascribe to the state, which to religion?

9.   Why were Mendelssohn's statements groundbreaking from today's point of view?

10.   Explain the idea of the social contract!

11.   What aspects were central to Thomas Hobbes', John Locke's, and Jean-Jacques Rousseau's conception of the social contract?

12.   Why did the idea of the social contract become less important with the rise of utilitarianism and legal positivism?

4.   Links

Aphorismen von Niccolò Machiavelli
http://www.aphorismen.de/suche?f_autor=2469_Niccol%C3%B3+Machiavelli

Von Machiavelli lernen – entnetzt euch!
http://www.faz.net/aktuell/feuilleton/buecher/von-machiavelli-lernen-entnetzt-euch-11671331.html

Jüdische Geschichte: Moses Mendelssohn
http://www.judentum-projekt.de/persoenlichkeiten/geschichte/mendelssohn/index.html

Moses Mendelssohn Zentrum in Potsdam
http://www.mmz-potsdam.de/

Das Menschenbild von Thomas Hobbes
http://www.thomas-hobbes.de/deutsch/menschenbild.html

John Locke: Begründer des Empirismus mit revolutionärem Gedankengut
http://www.wissen.de/john-locke

Jean-Jacques Rousseau: Vom Gesellschaftsvertrag
http://www.zeit.de/1983/34/vom-gesellschaftsvertrag

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