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## Contemporary American Theories on the Violent Causes of the Origin of State and Law

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**Abstract.** In the contemporary world, where debates about state power, law, justice, and the effectiveness of public administration continue unabated, understanding the origins of these categories is becoming increasingly important. Contemporary American theories have made a significant contribution to elucidating not only the causes of their emergence but also the resulting nature of these categories. Drawing on the fundamental legacy of classical political and legal thought, these authors, substantiate the role of coercion, conflict, and war in catalyzing the emergence of the first state formations and legal systems. Accordingly, a detailed examination of this issue is particularly relevant for legal theory. The purpose of this article is to identify the significance of violent causes in the emergence of the state and law in contemporary American theories. This goal is pursued by analyzing the contributions of individual theories to understanding the historical process of the formation of state and legal institutions, with particular attention to their empirical foundations. The theoretical basis of the study consists of the works of contemporary American representatives of the Chicago School of Economic Analysis of Law, as well as scholars from related social sciences, including political science, sociology, and history, along with game theory as a branch of mathematical analysis applicable to law. The research methodology relies on tools traditional to historical and legal scholarship. General philosophical and scientific methods are employed while among the specific scientific methods, in addition to legal ones, historical methods play an important role, including historical-genetic, historical-comparative, and historical-typological approaches. The study concludes that a high frequency of conflicts and clashes does indeed stimulate the emergence of centralized authority to protect against external and internal threats and, as a consequence, leads to the formation of the state and law as mechanisms for creating public goods through taxation. However, this is not the only factor, and violent causes should be considered alongside other social, economic, and cultural determinants of state and legal development.

**Key words:** Chicago School of Economic Analysis of Law, economic analysis of law, stationary bandit theory, itinerant bandit theory, circumscription theory, jurimetrics, game theory

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## Современные американские теории о насильственных причинах происхождения государства и права

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**Аннотация.** В современном мире, в котором дискуссии о государственной власти, праве, справедливости и эффективности государственного управления не утихают, понимание естества источников данных категорий приобретает все большее значение. Отдельный вклад в уяснение не только причин возникновения, но и вытекающей из них природы соответствующих категорий внесли современные американские теории. Их авторы, опираясь на фундаментальное наследие классической политико-правовой мысли, обосновывают роль принуждения, конфликтов и войн для катализации процессов появления первых государственных образований и правовых систем. Ввиду этого детальное рассмотрение обозначенного вопроса является актуальным для юридической теории. Цель работы – выявление значения насильственных причин возникновения государства и права в современных американских теориях. Достижение цели обеспечивается посредством рассмотрения вклада отдельных теорий в понимание исторического процесса формирования государственно-правовых институтов, при этом особое внимание уделяется эмпирической основе. Теоретическую основу исследования составляют труды современных американских представителей экономического анализа права в рамках Чикагской школы права, представителей иных общественных наук – политологии, социологии, истории, а также теории игр как направления математического анализа, применимой и в праве. Методология исследования основывается на традиционном для историко-правовой науки инструментарии. В частности, применялись общеправовые и общенаучные методы исследования. Среди использованных частнонаучных методов, помимо собственно юридических, важную роль играют методы исторической науки: историко-генетический, историко-сравнительный и историко-типологический. Автор приходит к выводу, что высокая частота конфликтов и столкновений является стимулом появления централизованной власти для защиты от внешних и внутренних угроз и как следствие влечет возникновение государства и права для создания общественных благ за счет налогов и сборов, однако обозначенный фактор не является единственным.

**Ключевые слова:** Чикагская школа права, экономический анализ права, теория стационарного бандита, теория оседлого бандита, теория стесненности, юриметрия, теория игр в праве

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## Introduction

Philosophical reflections on the inherent uncertainty of core legal concepts – such as law, the state, statute, freedom, and justice – underscore three key imperatives. First, establish the full spectrum of meanings embedded in these fundamental categories of legal science. Second, recognize and embrace these meanings. Third, analyze their instrumental value across a wide range, from elucidating regulatory mechanisms to uncovering root causes of their emergence and projecting immediate and prospective theoretical implications.

The basis and condition for defining the scope of a concept's meanings is the idea, which unifies their diversity. The idea of the state and the idea of law differ from applied legal concepts (e.g., crime, legal capacity, branch of law) in encompassing not only their properties but also their essences. The essence of approaches to the origins of the state and law often aligns closely with the scientific school of the authors, though not all have verifiable historical foundations.

Modern American research on violent theories of state origins relies on empirical analysis of reliably recorded data on violence distribution – for instance, in California territories after the Capitulation at Cahuenga, early 20<sup>th</sup>-century civil war-torn China, and Europe as the epicenter of the first two world wars.

The ideas examined clarify root causes of state and law emergence within empirically grounded theories. However, the state and law likely arose from a combination of factors, rather than any single cause emphasized by individual theories. Nevertheless, jurimetric analysis of specific ideas – using data on population density, geography, and agricultural development in ancient societies – reveals each factor's essence and actual role in state and law formation.

In modern discourse, alongside European – particularly French – studies (N. Rouland (Rouland, 1998: 23–58), P. Bourdieu (Bourdieu, 2014: 190–206), A. Leroi-Gourhan (Leroi-Gourhan, 2025:109–116), et al.) on the origins of the state and law, American scholars' empirical research holds a prominent place. R. Carneiro (Carneiro, 1970) argues that resource scarcity, including fertile land, combined with demographic pressure, inevitably sparks intergroup conflicts, leading victorious groups to develop centralized authority for effective management. Meanwhile, M. McGuire, M. Olson (McGuire & Olson, 1996), and C. Tilly (Tilly, 1992) revive the violent origins of state and law as military monopolization of violence in territories to extract rents, while modern economic analysis of law and game theory provide fresh perspectives on their economic prerequisites, employing mathematical analysis, microeconomics, and institutional economics.

### **The Role of Resource Scarcity and Demographic Pressure (R. Carneiro's Theory)**

R. Carneiro was among the first to analyze the violent origins of the state and law through economic factors. Noting Heraclitus of Ephesus's ancient view of war as the “father of all things” as far back as 25 centuries ago (Carneiro, 1970:734), he rightly observes that violence alone cannot account for state emergence (Carneiro, 1970:734). To assess violence's role and identify auxiliary conditions, Carneiro compared state formation conditions in Mesopotamia, Egypt, the Indus Valley, Mesoamerica (particularly Maya and Aztec civilizations), and Peru's coastal valleys.

Historical analysis of a Peruvian valley reveals that conflicts over scarce resources supplemented violence in driving formation. The political evolution of communities into states carries economic implications: landless groups akin to Marxist theory, gravitated toward powerful settlements and leaders – gaining authority via military campaigns – to access production means. Carneiro's “circumscription theory” similarly highlights fiercer confrontations over a socio-territorial association's central territories compared to peripheries, due to limited mobility under demographic pressure and occupied surroundings, fostering cohesive unification and political alliances that advanced political development. In a parallel vein, Chicago School sociologists R.E. Park and E.W. Burgess described the city as a “social organism” emerging from natural processes of competition in confined spaces, leading to “specialization” (division of labor) and social institutions (Park, Burgess & McKenzie, 1925).

R. Carneiro's ethnographic research demonstrated that in tribes inhabiting isolated valleys or islands, population growth intensified competition and conflicts over resources. Under these conditions, societies evolved toward more complex social organization, such as chiefdoms and early forms of statehood, featuring specialized roles like chiefs, priests, and warriors. External constraints thus compelled tribes to develop advanced governance and coordination mechanisms.

In support of R. Carneiro's theory, it aligns with archaeological and ethnographic data (Arkush & Allen, 2008; Chagnon & Raymond, 1979; et al.). Examples from the Nile Valley, Mesopotamia, and Mesoamerica, where social and geographical constraints fueled state formation, confirm his theses. Notably, following his seminal 1970 work "A Theory of the Origin of the State", the 1983 Talheim burial ground discovery in southern Germany revealed skeletons with repeated, healed injuries, likely from competition among farmers for fertile soil (Guidi, 2012:56). Similarly, ancient Amazonian settlements on fertile soils showed higher population density, social stratification, and supreme chief authority – explaining proto-state origins amid competition – while nearby areas with less fertile but arable land lacked such developments (Rozov, 2002).

Certainly, geographical factors played a key role. R. Carneiro demonstrates that state formation along the Amazon River stemmed from migrations of small groups that gradually united and concentrated in areas with favorable natural conditions, which were militarily contested (Carneiro, 1970:736–737). Similarly, E.P. Lanning argues that fishing settlements near abundant fish stocks on the Peruvian coast exhibited stronger signs of statehood – and even civilization, previously associated only with agrarian societies – compared to those in less productive areas (Lanning, 1967:59). Criticism of Carneiro's approach, noting that Amazonian wars targeted women, revenge, and prestige rather than land (Bukhantsov, Komarova & Chebunin, 2015:724), does not fundamentally refute the theory, as these examples still reflect struggles over subjectively limited goods within bounded territories. The stakes – sources of authority, well-being, and procreation – rather than territory itself, underscore how economic competition for resources laid groundwork for centralized power, complex social hierarchies, and ultimately the state.

In conditions of resource struggles and the impossibility of avoiding conflict by fleeing the territory, the most likely outcome is not the total destruction of one community but its subjugation by a stronger, more organized one. The victorious group cannot simply expel the weaker one, as that would forfeit labor resources and potential tribute-payers. Instead, victors establish a complex social structure with key state features – public authority organized by the conquerors, a system of taxes and tributes from the defeated within the same bounded territory, and governance of the subjugated population through legal norms backed by coercive power.

Thus, R. Carneiro developed a theory of the origin of the state and law positing that these phenomena emerge as a reaction by individuals forming stable political-legal structures in response to specific conditions, primarily resource scarcity. This process disregards the means of achieving the goal, relying chiefly on violence as the most effective method in such contexts. Once goods are seized by force, they are maintained not through ongoing military action but via coercive mechanisms –enforcing compliance with legal norms established by the victors. This explanation of state and law origins represents a realistic, pragmatic, and somewhat harsh yet relatively comprehensive approach (though it may undervalue cultural, ideological, and contingent factors). It reveals that complex

social institutions, now accepted as commonplace, trace their roots to violence, survival struggles, resource competition, and conflicts inevitably spurred by human population growth.

### **The Role of Demand for Violence and Its Monopolization (Theory of the Stationary Bandit)**

A distinctive feature of all violent theories of the origin of the state and law is the approach to the causes of these phenomena through conquest, violence, and the enslavement of some groups by others. Unlike classical economic analyses focused on financial indicators and class origins, these theories examine the conquest process through the balance of supply and demand for “violence,” using categories from neoclassical economic frameworks.

M. Weber defined the state as “a human community that successfully claims the monopoly of the legitimate use of physical force within a given territory,” employing it as a dominance tool concentrating physical productive facilities in the hands of its leaders and expropriating estate officials’ powers to install them in top positions” (Weber, 1990:651). The theory of the itinerating bandit and the stationary bandit, developed by M. McGuire and M. Olson, explains state and law origins through the acquisition and exercise of this violence monopoly, while explaining regime effectiveness variations based on its application. The itinerant bandit maximizes short-term gains via raids that plunder populations entirely, whereas the stationary bandit pursues sustained rent extraction by protecting the populace from external and internal threats, fostering economic growth to boost tax revenues, thereby birthing the state.

M. Olson cites 1920s China as historical justification for his theory, where warlords-controlled territories, declared themselves rulers, and imposed high exactions. Feng Yuxiang gained fame by defeating the itinerating bandit “White Wolf,” and establishing order, leading Olson to note that “most people wanted Feng to stay with them forever; they found it easier with him than with itinerating bandits” (Kruglova, 2015:100). More recent historical examples include post-Second Congo War (1998–2003), where weakened central authority enabled armed groups to assume governance. The groups established a monopoly on using violence within clearly defined boundaries, enforcing rules, providing security, and collecting taxes – thus fulfilling core state functions (Sanchez de la Sierra, 2020).

Statistics on population mobility in the Roman Republic support the McGuire-Olson approach. Migration surged in the Mediterranean from Alexander the Great’s era of conquests onward (Moatti, 2006). K. Killgrove estimates nearly half the population lived outside their birth region (Killgrove, 2010), W. Scheidel cites 40% among men over 45 (Scheidel, 2004), and other sources indicate 90% of Rome’s population during the Roman Empire was born elsewhere (McAdam, 2011:30). While not solely due to violent policies – like conquest relocations, slave transports, or flights from seized lands – such high mobility during state formation and shifts is hard to explain without violence’s influence. This

aligns with stationary bandit theory, where conquest disrupts populations but stable rule eventually curbs roving banditry.

In pursuit of utility maximization, one-time violence by one group against another features maximal expropriation, short planning horizons, and investments solely in enhancing violence potential. With high discount rates, economic analysis deems this strategy efficient, enabling perpetrators to extract maximum gains from brief, single raids. Efficiency for the itinerant bandit diminishes only as resistance levels rise.

In contrast, recurring raids or occupation of captured territory demanded planning horizons, reduced expropriation, and even public goods provision. Institutionalizing power, social relations, order, and security then becomes efficient. Consequently, the state emerges from long-term violence profiteering, where stabilizing gains requires formal legal structures, population protection, and steady rent extraction. When a usurper's violence meets demand for public goods, a social contract forms: the conqueror becomes a ruler, trading stability and security for constant rent rather than one-off plunder. This elevates total utility for both bandit and subjects. Legal regulation converts violence from destruction to a tool for structured social interaction.

American theorist D. North defines the state as an organization with a comparative advantage in violence over extended periods, its scale determined by tax-levying needs – a “Leviathan” wielding strong coercive legal tools to impose economic rules that align actors' interests with the common good (North, Wallis & Weingast, 2011:443).

The state thus requires rules and institutions beyond mere rent and tax collection, ensuring stability and predictability through rational choices that minimize conflicts and foster order.

### **Economic Analysis of Law: The Chicago School Approach**

Although representatives of the Chicago School of Economic Analysis of Law have not developed recognized, standalone theory of the origin of the state and law comparable to contract theory, violence theory, or Marxist theory, its proponents nevertheless analyze existing theories and substantially supplement them using the traditional toolkit of the economic analysis of law (Polyakov, Kozlikhin & Dorokhin, 2021:1075–1076).

It appears that employing the methodology and categories of the economic theory, which seeks the root causes of various decisions, proves useful not only for examining the effectiveness of modern law but also in relation to the history of law, as well as in determining the factors influencing the origin of law and the state. As K.E. Sigalov notes, truly historical research today relies precisely on the factor of dynamic comprehension of the historical process; the most important events are typically predicted, with greater or lesser accuracy, by serious analysts employing advanced methodologies (Sigalov, 2025:213). In this regard, certain prospects for applying the methodology of economic analysis of law, as used by the Chicago School, warrant attention in relation to developing a new modern theory of the origin of the state

and law. The concept of utility maximization enables identification of the actual motives for group unification, which, amid the complication of social structure, evolved into states.

Individual ideas in this direction have already been expressed by representatives of the Chicago School of Economic Analysis of Law – R.A. Posner (Posner, 1995:312–328) and D. Friedman (Friedman, 1979). Thus, they substantiated the emergence of law in medieval Iceland, essentially still in the pre-state period. The Icelandic legal system developed without any central authority comparable to an Anglo-Saxon king (Blair, 1977:194); it represents a mechanism for private enforcement of legal norms in a purer form than in any other society (Friedman, 1979: 400). Even in cases where this legal system recognized what was essentially a “public” offense, punishment consisted of granting a specific private individual (in some cases chosen by lot) the right to bring a case and collect a fine.

According to representatives of the Chicago School of Economics, G. Becker and G. Stigler, this system created a sufficiently effective deterrent against crime (Becker, Stigler, 1974). However, there was no consensus on this issue within the Chicago School – W. Landes and R.A. Posner objected (Landes & Posner, 1975).

Even with the emergence of state institutions, typical state functions were performed by private individuals without state intervention: financial liability was stipulated for murders to compensate harm to close relatives and enforcement of legal norms was also in private hands (Friedman, 1979:400).

While the theories of R. Carneiro, as well as M. McGuire and M. Olson, analyze rather the violent prerequisites for the emergence of the state and law, the Chicago School of Economic Analysis of Law justifies the very necessity of the state’s appearance and the reasons for its further existence. Thus, from the perspective of economic analysis of law, the state arises and exists because it efficiently solves certain problems that cannot be resolved at the level of individual non-state agreements.

However, the Chicago School of Economics does not entirely reject the role of violence in this process – it demonstrates that coercion, on which other modern American violent theories of the origin of the state and law are built, when directed toward ensuring public order and protecting property rights, can lead to increased overall efficiency. For example, coercive tax collection enables financing public goods, including police, environmental protection, national defense, and justice, which, under effective legal policy and functioning institutions, form the basis for economic growth and reduced transaction costs.

Thus, analyzing the process of the origin of the state and law through the methodology of economic theory leads to the conclusion that the state and law arise because:

- the “free-rider” problem can be solved only under state conditions. This encompasses not only – or not so much – the construction of irrigation facilities, as in K. Wittfogel’s work (Wittfogel, 2024), but also other public goods, especially protection from the tragedy of the commons (arising from each individuals

maximization of personal benefit, e.g., through overfishing, water and air pollution, or deforestation), from unlawful violence, which are realized through maintaining law and order and protection from external threats – necessities for all members of society, yet ones for which individuals lack incentive to finance if they can be used for free. The state, through taxes and (or) compulsory duties, provides such goods within its territory;

- it ensures a reduction in transaction costs. By creating a monetary system, unified legal regulation, courts, and mechanisms for enforcing norms, the state significantly simplifies and reduces the cost of interaction and exchange. Instead of negotiating a significant number of terms for a transaction – which, moreover, without collateral in a stateless society, may not be fulfilled – the state, by regulating the relevant social relations, simplifies exchange and stimulates economic turnover;

- it protects and clearly defines property rights. Creating and maintaining a system aimed at protecting property rights (courts, law enforcement authorities, legislation) requires significant resources and coordination. Although a representative of the Chicago School of Economics, R. Coase, pointed out that, according to British Admiralty data, no lighthouse was built by the state – all were created with private funds (Coase, 1974) – and some monopolization of law and order functions by the state in certain Anglo-Saxon countries occurred only at the beginning of the 19th century, nevertheless, in modern times, mechanisms limiting the protection of one's property rights to only individual efforts may not be efficient enough<sup>1</sup>. Although this issue remains debatable (MacDonald, Klick, Grunwald, 2016).

### **Quantitative Complementarities in American Violence Theories**

Historically, many state formations arose or were substantially transformed as a result of military conflicts. The conquests of Alexander the Great led to the interaction of various cultures, the synthesis of which (together with other factors) resulted in the emergence of Hellenistic statehood. The expansion of the Roman Empire's territory was accompanied by military campaigns, as a result of which the state's area at its peak reached about 5 million km<sup>2</sup>. Moreover, proximity to Rome, according to L.D. Young, increased the probability of the emergence of a state with strong institutions by 32% (Young, 2022:193), because conflicting neighbors prompt states to create stronger administrative structures. European colonial powers enhanced their influence through the forceful seizure of colonial territories, which is still reflected in the modern political map of the world (e.g., the English king formally remains the head of state for sovereign Australia, Canada, New Zealand, and some other states that were formerly British colonies). Given this, violence as one of the fundamental factors contributing to the formation and development of the state and law is often the subject of review in the works of American legal philosophers and other

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<sup>1</sup> Based on empirical analysis, some researchers note that private security firms are more interested in creating a favorable business climate for their employer than in ensuring justice (Stenning, 2000; Heaton et al., 2016: 891, et al.).

researchers who approach this problem, including from the perspective of quantitative analysis.

Thus, like R. Carneiro, C. Tilly emphasizes the role of conflict related to the struggle for resources in the process of the origin of the state and law. At the same time, for C. Tilly, the role of violence in this process is even more evident. Wars and conflicts stimulate the development of the state apparatus because waging war requires funds obtained through taxes, whose collection in turn demands violence in the form of coercion to enforce payment (Tilly, 1992:19). For example, Frederick William I of Brandenburg-Prussia spent over 80% of revenues on violent purposes from 1713 to 1732, i.e., during a period of relative geopolitical calm (Ross & Childs, 1982:180; Friedrich, 2012:30–36; Clark, 2006:243–246). The Holy Roman Empire was no less committed to this approach than Prussia (Hochedlinger, 2009:63). In France, even in the mid-18th century, when the state was undergoing rapid development, the largest projects remained those related to royal conquests (Collins, 1995:184–193).

T. Ertmann sees similar causes for the origin of the state and law in the necessity of creating potential for waging wars through capital accumulation and the imposition of violent power on the population (Ertmann, 1997:4). This power and coercion are examined through legal methods; they regulate hierarchical relations between authority and subjects, determine the order for the efficient use of resources by the authority, and guarantee the enforcement of authoritative decisions. Society obeyed to the ruler because it depended on him for protection from warlike neighbors. Such obedience contributed to the strengthening of the ruler's power and provided him with opportunities to structure authority in a way that would increase taxes and create bureaucratic structures for simplified governance (Tilly, 1992). If power was dispersed in pre-state societies, state-like formations emerged when the need for defense of attack arose, organizing the collection of significant funds through taxes. Thus, as famously encapsulated, “war made the state, and the state made war” (Jude, 2022:209).

Jurimetric studies show that as the number of conflicts a state-like formation faces increases, the probability that it will possess strong institutional potential rises. As N.A. Vlasenko notes, “the movement and development of society and social systems can also be measured” (Vlasenko, 2017:10). In L.D. Young's research – based on historical examples and building on C. Tilly's premise – it is substantiated that participation in twenty-five conflicts per year (including minor ones) yields a 95% probability that a state will have a strong state structure, whereas participation in five conflicts per year results in well-developed state institutions with only a 17% probability (Young, 2022:192).

External environmental factors and living conditions also matter. State formations bordering conflict zones are more likely to have strong institutions (up to 55% among them are strong) (Young, 2022:192). Landlocked status more often characterizes a state as having a medium level of development but with less chance of becoming strong (up to 43%, while the probability that it is weak is 18%) (Young, 2022:192). Island state formations have a greater chance of forming strong state institutions (on average by 15%) (Young, 2022:192), but this does not

significantly affect their overall level of development. Such analysis, although characterized by a relatively vague notion of how states can be classified, allows assessing the correlation between specific factors influencing state formation and its subsequent development and the actual historical process that led to statehood in one form or another.

J. Scott emphasizes that the emergence of the state is often associated with the imposition of power and control, accompanied by violence and resistance. “It might be supposed that ‘without slavery there is no state... Slaves constituted an absolute majority, possibly even 2/3 of Athenian society; in Rome in Augustine’s time, slaves comprised from 1/4 to 1/3 of the entire population” (Scott, 2020:181–182). The researcher concludes that slavery created conditions for the concentration of power and resources, which, in turn, contributed to the emergence of the first states. Similarly, Chicago School representative D. North, while noting that efficient institutions should ensure a reduction in transaction costs – whereas state intervention often fails to achieve this goal – nevertheless admits that in the early stages of state development, violence, as a tool for strengthening power, may paradoxically lead to a more predictable environment for social development, though initially without considering the interests of the majority of the population.

The achievements of game theory, as a branch of mathematical analysis, in researching social issues are undeniable. Such achievements have enabled a shift from descriptive theories to more formalized analyses of interaction mechanisms, explaining how rationally acting, self-interested individuals can recognize the necessity of creating universally binding rules and institutions, ultimately leading to the emergence of the state. However, game theory demonstrates that although actions taken in self-interest often result in opportunistic and selfish behavior, this is not invariably the case. Thus, R. Axelrod – a graduate of the University of Chicago, whose research direction aligns closely with the Chicago School’s Economic Analysis of Law – analyzing the process of state origin, substantiates that long-term relationships and mutual benefit from cooperation often prove a more effective strategy. A strategy beginning with cooperation and continuing by repeating the opponent’s previous move allows for reducing transaction costs while avoiding the waste of resources on a “war of all against all” (*bellum omnium contra omnes*), provided there is a possibility to agree.

The principle of *lex talionis*, known primarily among primitive peoples and primarily aimed at equating punishment with the harm caused, from the perspective of game theory creates certain expectations among participants in social relations; such expectations form the basis for rule formation. Under conditions of repeated interactions (“iterated prisoner’s dilemma”), these expectations effectively shape behavior. Violation of these expectations by an individual in repeated interactions leads to a loss of trust and refusal to interact. As social connections become more complex and the number of interacting individuals increases, a need for coordination and conflict resolution arises. Precisely because of this, the state and law emerge. Although violence and the dominance of one group

over another play an important role in this process, nevertheless, under this approach, the state and law arise more as a socially conditioned mechanism ensuring the maintenance of cooperation.

### **Conclusion**

The existence of numerous diverse theories of the origin of the state and law – and their inconsistency regarding the factors influencing this process – emphasizes that, at the current stage, none of the theories can substantiate the causes of the emergence of the state and law in a way recognized as exhaustive and comprehensive in science. However, undoubtedly, compared to more classical theories, modern authors introduce new progressive ideas to understanding the root causes of the emergence of the state and law. This is because the ever-increasing volume of available information regarding all aspects of objective reality allows for considering a greater number of circumstances, and new methodologies often make it possible to discern the deep essences of phenomena previously hidden from researchers.

The analyzed American violent theories of the origin of the state and law, despite differences in methodology and emphases, offer partly similar ideas. The assertion that states are created as a result of wars is largely valid. Moreover, conflicts in a region can influence state formation processes, even if the relevant population is not directly involved in them. Often, the state is viewed as a tool that arises from the struggle for resources and goods, and law as a mechanism ensuring rent extraction and stability for those obtaining such resources and goods. A positive effect of law for the rest may also be present, but it is mediated by the interests of those who won the struggle in obtaining goods.

The violent direction in understanding the processes of the origin of the state and law, although it has significantly influenced ideas about the causes of their emergence, is not exclusively American. Rather, it can be noted that this direction in the works of American researchers forms part of a broader scientific movement, also represented by European scholars. However, over the past half-century, the contribution of representatives of American legal thought has increased. At the same time, the study of American theories of the origin of the state and law reveals that these directions largely complement each other. R. Carneiro explains how coercion – caused by resource scarcity and the impossibility of migration – became a catalyst for state formation. Researchers from the Chicago School of Economic Analysis of Law and game theory, in turn, demonstrate how state institutions, even when based on coercion, can become an efficient solution to a number of economic problems, facilitating the reduction of transaction costs, protection of property rights, and provision of public goods. The theories of M. McGuire, M. Olson, and C. Tilly also consider the necessity of maximizing economic efficiency and are based, first, on ensuring the security of the “stationary bandit” from external and internal threats and, second, on guaranteeing the maintenance of law and order and legality to achieve stability and predictability. Additionally, the “stationary bandit” is interested in protecting the property rights of the population – the cornerstone of the Chicago School of Economic Analysis of Law – because this stimulates

investment and production, which ultimately increases tax revenues. In turn, the ideas of the Chicago School of Economic Analysis of Law allow for hypothesizing the most effective tools related to the protection of property rights and ensuring economic growth.

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