

The Problem of the State

Michael Mair

Forthcoming with Routledge's *Philosophy and Method in the Social Sciences Series*, Series Editor, Phil Hutchinson, available for pre-order [here](#).

Table of Contents

Foreword

Chapter One: The Problem of the State in the Social and Political Sciences

Chapter Two: The Matter Thereof and the Artificer – Hobbes, Weber and the Constitutionalist Approach

Chapter Three: The Government of Men and Things – Foucault's Radical Critique of Constitutionalism

Chapter Four: Problematizing the State – Historical and Ethnographic Studies of State Practices

Chapter Five: The Limits of Problematization – Historical Studies and the Divorce of Discourse from Practice

Chapter Six: Fictions of Practice – Anthropological Accounts and the Fabrication of the Real

Chapter Seven: The Problem of the State Beyond Constitution and Construction

Chapter Eight: What We Talk About When We Talk About the State

Bibliography

Index

Analytical table of contents

An overview of the arguments of the chapters in the book.

Overview

The Problem of the State provides a new perspective on what the social and political sciences can contribute to understandings of the state and the ambivalent place it occupies in our collective affairs. Distinguishing two broad conceptual and methodological approaches to addressing the problem of how to study the state empirically rather than theoretically – the constitutionalist and constructionist positions – the author reviews the grounds and limits of both to reveal their common assumption: that it is up to the social and political sciences to define what the problem of the state is. Building on insights from Marx, Wittgenstein and Ethnomethodology, this book frees the study of the state from that limiting assumption and advocates a return of the problem to its proper environment, in social and political practice.

Foreword

One of the principal points I want to make in the course of the chapters that follow is that when the social and political sciences take up the problem of the state, they are engaging with that problem as a feature of situated social and political practices and rely on methods of understanding which are part of, and so trace from, those practices. While the rest of the book addresses the tangles of issues that empirical investigations into the problem of the state bring to the fore vis-a-vis those situated practices and methods of understanding, this foreword previews the argument; sets out where I argue social and political scientists begin when they set out to study the state – and where I therefore start in studying them; and clarifies where my contribution stands in relation to studies of the state.

Chapter One: The Problem of the State in the Social and Political Sciences

In this chapter I set out a broad characterisation of the argument of the book as a whole and a guide to the chapters that follow. I introduce the constitutionalist and constructionist approaches in turn, setting out the broad bases from which they proceed with reference to an example drawn from the work of artist and novelist Alasdair Gray. I then offer initial indications of the limitations of both positions as well as of the core argument of the book: that the problem of the state should be

treated as a problem for the social and political sciences by investigating the ways in which it is treated as a problem in and for social and political practice. I will argue that recognising this enables us to move beyond the impasses that have characterised studies of the state certainly for the last forty years if not much of the century before. Studies of the state have traditionally begun by asking who and what make up the state – the constitutionalist perspective – but have come to ask, more recently, how states come to be made up in the ways that they are – the constructionist perspective. However, while asking who, what and how can be useful, we also need to ask where, when, under what conditions and for whom these questions arise in the context of social and political practices.

Chapter Two: The Matter Thereof and the Artificer – Hobbes, Weber and the Constitutionalist Approach

At the start of *Leviathan*, Hobbes famously sets out the nature of his inquiry into the state and the problem it must grapple with. He explains it must take into account two things: “the matter thereof and the artificer, both which is man”. The state is explicitly recognised as a human creation but Hobbes also treats it as having an independent existence. Inquiries into the state must, therefore, not just examine what the state is, they must also examine how it comes to be constituted as such.

While Hobbes’ treatment is philosophical, it sets the stage for the study of the state within the social and political sciences. For much of their histories, they too have treated the state as a human creation, one historically anchored in distinctive social, cultural, political and economic conditions yet nonetheless having an existence over and above them. The state is therefore both socially embedded and a thing unto itself. This duality is found in Weber’s work as much as Hobbes’ but it is Weber’s formulations that have provided one of the principle methodological starting points for empirical studies of the state. Weber’s sociological reworking of the problem as introduced by Hobbes thus helped make the state investigable.

Ignoring his more phenomenological pronouncements on the state as an oriented to complex of action and interaction, attention has focused on Weber’s pithy ideal-typical rendering in ‘Politics as a Vocation’: the state is a human community that successfully claims the monopoly on the legitimate use of physical force within a given territory. One of the most well-known ‘definitions’ in the social sciences, it exercises a grip on the imaginations of social and political scientists to this day. Most importantly, and despite representing a misreading of Weber’s nominalism, it provides the basis for the constitutionalist approach which seeks to define what the state is and has to be by exploring the necessary and

sufficient conditions of statehood. The basis for the constitutionalist approach is to look at what needs to be in place for a state – or a kind of state, such as a democratic state or capitalist state – to be a state at all. It does not neglect what states do but it treats such matters as constitutionally enabled. The how is, therefore, approached via the what, function via structure or form, and it is the latter which is treated as analytically primitive. Seen constitutionally, an entity cannot be a state unless it has such things, for instance, as a standing army: either to maintain law and order, for the neo-Weberians and liberal theorists, or to enforce the demands of capital and enforce domination, for the neo-Marxists and critical theorists.

The emphasis on the constitution of the state – the elements upon which it is founded, which together make it up and make it possible for it do certain things – has produced a number of waves of research, including that grouped together under the call to ‘bring the state back in’ in the mid-1980s which involved such figures as Theda Skocpol, Charles Tilly, Anthony Giddens and Michael Mann. More recently, Gøsta Esping-Andersen and research inspired by his *The Three Worlds of Welfare Capitalism* on the varieties of capitalist welfare state has helped reshape understandings not just of the state but of its relationship to society and economy through investigations of the structural role the state plays in different political economic contexts. Constitutionalist work has, undoubtedly, produced real insights. Nonetheless, it has been subjected to sustained critique. The most powerful of those critiques is that presented by Michel Foucault. For Foucault, the constitutionalist position was conceptually and methodologically unstable: one could not access the what of the state if one relegated the how to a secondary position. The chapter ends with an examination of some of the problems that result from this methodological prioritisation, suggesting the constitutionalist approach has proven illuminating not because of its commitments but in spite of them.

Chapter Three: The Government of Men and Things – Foucault’s Radical Critique of Constitutionalism

This chapter examines Foucault’s break with the constitutionalist position and how he sought to re-orient research on the state, best viewed as a set of conceptual and methodological proposals rather than substantive points. Foucault notes we talk of the state as a complex of men and things but asks ‘what does that mean?’. For Foucault, it cannot merely be a structure in which certain functions are housed. Not only does the constitutionalist vision offer an over-simplified picture of social and political life, it is conceptually and methodologically impoverished. Against the ontological certainties that characterise the constitutionalist position, that the what

of the state is clearly and easily accessed, Foucault raises a series of epistemological objections, variants on the question, ‘how could we possibly know?’. Foucault’s radical insight, one which distinguishes his work from others, was that we can only talk about the state and its structures – we can only know the state – by virtue of arrangements of practices – ways of recording, mapping, documenting, describing, counting, weighing, differentiating, classifying and so on – that enable us to treat the state as an entity in the first place. The structures of the state are not what enable us to talk of the state; rather, we come to know the structures of the state through interwoven complexes of ancillary practices upon which the state rests. Without them, there is no state – it is a product and we do not understand it unless we understand what it is produced by. This is not to say structures are unimportant, they patently are. But they are not analytically primitive, they are secondary – the constitutionalists, on Foucault’s reading, are wrong. What is more, the sense in which they are secondary can be empirically examined: we can see how the structures of the state come to acquire their form concretely in different contexts and historical periods. The chapter ends by examining what Foucauldian studies of the state and state practices promise by way of new insights.

Chapter Four: Problematizing the State – Historical and Ethnographic Studies of State Practices

Following Foucault’s methodological critique of the constitutionalist position through, this chapter discusses a body of social and political research which is organised around a different way of approaching empirical studies of states and governmental practices. That body of work methodologically foregrounds construction not constitution. Within it, the state remains a significant focus of social and political inquiry but this is a state that is recognised as possessing no unambiguous centre, no clearly identifiable loci of control, no core architectures, no permanent, fixed boundaries, territorially or organisationally, no settled modes of operation, no clear functional characteristics and no ultimately definable purpose or telos. Instead of treating Weber’s ideal-type as a methodological solution (the constitutionalist position), the ideal-type is treated as posing the problem. Rather than use the ideal-type as a definition of the state, the aim is to deconstruct the models of statehood it projects. This is achieved by bracketing representations (or perhaps better, various acts of representation) of the state as the ‘human community that (successfully) claims the monopoly on the legitimate use of physical force within a given territory’, the foremost political institution of civil society, and exploring the conditions of their success. In doing so, researchers problematise these idealised representations to demonstrate that they represent the outcome of, and are made possible by, historically, socially and culturally

contingent processes and practices in and through which the territoriality, legitimacy, authority and power of the state – Leviathan’s dread properties – have taken shape, found voice and been given material form.

There are two main variants within the field of studies which take this approach: those which examine the historical emergence of fields of state practices and those which ethnographically examine the workings of the state in the present. In the first camp we have studies of governmentality, the state effect and legibility projects, such as those undertaken by Philip Corrigan, Derek Sayer, Nikolas Rose, Peter Miller, Timothy Mitchell and James Scott (and paralleled by historical-conceptual work in philosophy such as that of Quentin Skinner among others), and in the second we have a diverse body of work by anthropologists such as Michael Taussig, James Ferguson, Akhil Gupta, Begoña Aretxaga, Yael Navaro-Yashin, Veena Das and Matthew Hull as well as ‘ethnographic’ works by archaeologists such as Bruce Routledge and Norman Yoffee and the political scientists Mark Bevir and R.A.W. Rhodes. I will argue these can be separated methodologically and not just by focus. The first kind of study begins with specific claims advanced by the state and tracks backwards, tracing them to the diffuse sets of sites, personnel, bodies of knowledge and objects and technologies from which they originated. The second kind of studies begins with specific claims and tracks forwards, following the social and cultural careers, trajectories, ‘biographies’, etc., of those claims once they have been formulated and advanced. Where the purpose of the first kind of study is to find out how various acts of naming the state as impersonal power, Hobbes’s ‘Mortall God’, are made possible and to investigate what configurations they rest on, the purpose of the second is to find out what happens once the state has been accepted as such. These contrasting methodological strategies are used to determine what it means to talk of the state in particular socio-political contexts.

Chapter Five: The Limits of Problematisation – Historical Studies and the Divorce of Discourse from Practice

As I will begin to show in this chapter by concentrating on historical studies in the first instance, the constructionist methodological strategies described in the last chapter have their own internal limits and generate conceptual problems of their own. A general goal of constructionist studies of the state is to open up the analytical room needed to inspect the form, substance, origins and subsequent aetiology of the very idea of the state and the claims made about ‘it’ – in terms of the loosely-woven complexes of social and political practices they are connected to

and anchored in – at different moments in time and space. The purpose of this chapter is to turn a critical eye to the ways in which particular constructionist studies effect their problematisation of the state. In a context where the investigator cannot employ formal means of designating their phenomena in advance – in this case, because definitions of the state are held to be problematic – the examples they use come to take on a particularly important role. Rather than trying to define – in the sense of ‘writing-out’ or ‘telling’ us – what their phenomena are, these studies attempt to show their phenomena – to exhibit or display how they were recovered in and through their analyses. Although no single, unified set of ‘state phenomena’ can be specified, the implication is that the phenomena these studies describe – these things and other things like them – exemplify what we should be looking for when we address the problem of the state. The success of the demonstrations thus hinges on the adequacy of the examples. This chapter argues there are several reasons for questioning their adequacy on these grounds. Based on five cases drawn from historical research, from Foucault, Corrigan and Sayer, Rose and Miller, Miller and Scott respectively, I show that the use of examples in constructionist research generates a range of internal methodological difficulties, problems and paradoxes. These in turn are argued to be indicative of a deeper homology with the constitutionalist position.

Chapter Six: Fictions of Practice – Anthropological Accounts and the Fabrication of the Real

This chapter further explores the limits of problematisation as a method in constructionist studies of the state with a focus on a single case-study analysed by James Ferguson and Akhil Gupta (2002). As I will argue, their treatment of that case-study exemplifies many of the conceptual and methodological difficulties with ethnographically-oriented constructionist studies. The aim, ultimately, in discussing this particular study is to show that constructionist and constitutionalist studies share a conviction that models represent solutions to the problem of the state. There are, of course, differences. Constitutional analyses operate on the premise that we require a general model to study the state. By contrast, constructionist studies argue that we can only study the state by describing how models of the state are implicated in the state-making and state-maintaining work of local actors in local circumstances – work brought to the fore in constructionist studies. The plurality of such models is taken to show that there are many possible approaches to handling the problem of the state, an insight that led to the investigation of how questions alongside an investigation of the what of the state. Where constitutionalists try to keep model building in-house as the preserve of the

analyst, therefore, constructionists outsource the analytical work to those being studied.

However, it is only when we generalise from the specific problems members of society encounter in actual situations, when we attempt to analytically fix the problem of the state in place, that we are tempted to think of models of any sort as a solution. If on the other hand, we deny that there is any single, monolithic problem of the state, if we resist what Wittgenstein termed the “craving for generality” and the “contemptuous attitude towards the particular case” he argued it displays, the path is open for investigations of a different sort, investigations that do not accord authority to models and so avoid the accompanying conceptual and methodological snares and traps. The point of such investigations would not be to deny that models can be useful (recognising that they are useful under some circumstances, not all). They would, however, undercut attempts to treat the use of models as if it were somehow independent of the nexus of social practices and circumstantial considerations within which models acquire whatever utility they can sometimes have. The critical analysis presented in this chapter sets up the focus of the next chapter where an alternative approach to the problem of the state will be outlined.

Chapter Seven: The Problem of the State Beyond Constitution and Construction

What would an approach to the problem of the state that did not repeat the problems of constitutionalism and constructionism look like? In many respects, it would be an approach that took Foucault’s radical insights seriously and did not try to reserve a position of authority for the researcher. It would instead look to social and political practices and attempt to grapple with the sense in which the problem of the state is a problem for anyone.

There is a precursor: Marx’s lengthy exposition of the circumstances that led up to the collapse of French parliamentary democracy in 1851, following the 1848 revolution, and allowed Louis-Napoleon, the then President of the French Second Republic, to reclaim the Imperial throne his uncle (Napoleon) had been forced to abdicate – The 18th Brumaire. Marx has often been castigated for not offering a general theory of the state in his work. The argument here is that this was precisely the point. In framing his analysis in the way he did Marx is asking us, as readers, to treat what it might mean to describe the state as itself a phenomenon for investigation, a problem within political practice, and a problem, moreover, to which his own text is explicitly addressed. It is this feature of Marx’s description of the French state that is worth concentrating on; namely, its insistence on treating the problem of the state in practical political terms. What is most significant about Marx’s treatment is that he does not allow us to move from his description to a generalised problem of the state, and so blocks attempts to treat the former as a

manifestation of the latter. Indeed, one of the lessons of the account is that the claim there is a general, transcontextual problem of the state has no content and thus lacks an identifiable sense.

One of the most striking things about *The 18th Brumaire* is that it is made up of unrelentingly detailed descriptions of complex sequences of events, where the analytical emphasis continually re-centres on a consideration of what was happening at each step within unfolding sequences of practical political action. The significance of any one episode within a longer sequence, such as the question of who did what when ('details' of the sort that are frequently dismissed as trivial by many constitutionalists and constructionists alike), can only be determined with respect to the manner in which it was seen in practice, by the parties involved, as connected to what came before and their orientation to what might come after. In other words, to draw on conversation analytic terminology, Marx is showing us that some possible next political move by any one of the protagonists became intelligible in the context of some identifiably prior move by another. When we read *The 18th Brumaire* as a specifically interactional account of collaboratively produced 'chains' of political activity, it becomes easier to see why Marx would resist the idea that there could be a general problem of the state: to generalise the problem would be to divorce it from the environments within which the state could come to be a problem for those involved within the political scenarios he is examining.

Marx's method of analysis in *The 18th Brumaire* works to prevent the severing of contextual ties by building on the observation that determinations about the state (its proper scope, role, character, structure, powers, activities, jurisdictions, failures, and so on) are made within social and political practices. Approached in this way, the objective in Marx's account then becomes to see how such determinations acquire their sense in, through and as part of practical courses of action. Marx shows us why we should not try to specify in advance what form those determinations will take, where we will find them, or what import they will or can have, but instead look to see if, when and how they become relevant in a given situation. It is in this sense that the account points us in a very different direction to the other forms of investigation that have been examined so far. Marx, like Machiavelli before him, shows us that general problems of the state cannot be identified independently of members of society's specific practical concerns, projects and activities and urges us to explicate the ties between them.

For this reason, it is not enough to look into the imbrications of structures, functions and socio-historical processes that are implicated in the ways in which members of society pose questions of the state, we must also address the circumstances within which these questions become meaningful, significant, consequential in the specific ways that they do. Rather than treat the problem of the state as having a timeless validity, or trans-historical relevance, investigations would concentrate on looking at the implications of raising particular questions at the specific moments in time and the specific places in which they were raised. Proceeding in this way the ground is thus prepared for a respecification of the

‘classical’ problem of the state in and through empirical investigations of social and political practices. The central contention advanced in this book is that it is in this sense that ‘the problem of the state’ can best be addressed, i.e., by returning ‘the problem’ to its home environment, namely our practices, including the disputes and conflicts that both surround and arise out of them.

Chapter Eight: What We Talk About When We Talk About The State

As a way of concluding my third order study of the study of the state, in this, the final chapter of the book, I return to a question initially raised in its opening chapters: namely, what are we talking about when we talk about the state? The arguments up to this point have been geared to showing that we will not find an answer to that question in constitution or construction treated in isolation because the problem of the state resists narrow treatment in those terms. A focus on either can be illuminating but can also be misleading, depending on the circumstances. Crucially, however, it is the circumstances which determine which is the case. The work of Marx and Machiavelli, and indeed Weber when freed from neo-Weberian interpretations, encourages us to examine the ways in which the problem of the state arises in and as part of social and political affairs for those engaged in them. In so doing, that work allows us to dissolve the problems of constitution and construction by reminding us that we do not need to extend primacy to either, or indeed anything else. Our task on this view is to see how the problem of the state acquires whatever practical relevance and urgency it has in concrete socio-political circumstances and take our lead from that. By taking that lead, I have argued, we can re-ground our studies and acquire a clarity on the problem of the state it is all too easy to otherwise lose. However, I am not the only voice arguing for the need to re-ground our inquiries into the problem of the state and in this chapter I turn my attention to recent work by two of the most prominent figures in this field on that front: Bob Jessop and Bruno Latour. This involves a shift in focus away from empirical research because their work, like mine, is also of the third-order. While they do not offer studies of the state per se, in other words, they do offer meta-methodological frameworks designed to guide such studies, albeit in Latour’s case indirectly so. Taking up the question of what we talk about when we talk about the state from a different angle, I highlight the points at which the work of both aligns with the position I have argued for in previous chapters as well as where they depart from it. The key issue of contention concerns ontology, our commitment to theories of what there is and what there can be, and whether we need to take a stance on it – Jessop and Latour both believe we do, I believe we do not. Treated as methodologists on a weak reading which brackets out and ignores the ontological aspects of their positions, I argue it is possible to learn much from the work of both; but when read on the basis of the strong ontological claims they

advance, however, their frameworks raise many problems. This is primarily because those frameworks disguise the crucial point that we learn from members of social and political communities what we could be talking of in talking of the problem of the state – and hence of the kind of problem the problem of the state could be – not from metaphysical schemas designed to define the forms that problem does or could possibly take. We are not nor could we be legislators in this domain and we need to avoid subordinating our phenomena to our intellectual preoccupations or treating what we find in the world as reflecting our investigative orientation to it for that very reason. The problem of the state isn't ours as social and political scientists; it belongs to social and political practice and ought to be studied in those practices' own terms.