

Djilali bounaama university
Faculty of law and political science
Law departement
Course: Constitutional Law
Level: 1st year Bachelor degree
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Section two : the states and nations

2.1. Definition of State

A **State** is a sovereign political entity characterized by defined territorial boundaries, a permanent population, a centralized and recognized system of governance, and the capacity to engage in diplomatic relations with other States. It represents the highest authority within its territory and possesses the power to enact and enforce laws.

2.2. Elements of State

In constitutional law, the concept of a **State** is underpinned by specific attributes that collectively define its legal and political existence. These fundamental components, known as the "**Elements of States**," comprise the essential building blocks upon which a State's sovereignty and authority rest. Each element - Population, Territory, and Government - holds distinct significance, collectively forming the bedrock of a State's constitutional framework.

2.2.1. Population

The **population** of a State encompasses the aggregate of individuals, both citizens and non-citizens, who permanently reside within its recognized borders and are subject to its legal jurisdiction. It constitutes the foundational human component of the State. Algeria has a diverse population comprising various ethnic and linguistic groups, including Arab-Berbers (1) , Tuaregs, and others. The population is estimated to be over 44 million people (2)

Nigeria is the most populous country in Africa, with an estimated population of over 206 million people

2.2.2. Territory

Territory denotes the delineated geographical expanse over which a State exercises exclusive sovereignty and control. It encompasses not only landmasses but also territorial waters and airspace, providing the spatial framework within which the State operates.

Algeria is situated in North Africa and is the largest country on the continent, covering approximately 2.38 million square kilometers. Its borders extend from the Mediterranean coast in the north to the Saharan desert in the south.

Nigeria is located in West Africa and covers an area of approximately 923,768 square kilometers. It shares borders with Benin, Niger, Chad, and Cameroon, along with coastlines along the Gulf of Guinea.

2.2.3. Government

Government pertains to the authoritative apparatus through which the State formulates and executes policies, enforces laws, and administers public affairs. It

comprises the executive, legislative, and judicial branches, each with distinct functions in the governance structure.

Algeria operates as a republic with a presidential system. It has a multi-tiered government structure, including the executive, legislative, and judicial branches. The President serves as the head of state .

Nigeria operates as a federal republic with a presidential system. It has a tripartite government structure consisting of the executive, legislative, and judicial branches. The President serves as both the head of state and government. 3

2.2.4 Sovereignty:

Somme thinkers consider a Sovereignty the most exclusive element of State. State alone posses sovereignty. Without sovereignty no state can exist. Some institutions can have the first three elements (Population Territory and Government) but not sovereignty. (4)

2.3. Definition of Nation

A **Nation** is an organic social and cultural community characterized by shared linguistic, religious, historical, and often ethnic attributes, generating a collective consciousness and identity among its members. It may or may not coincide with the territorial boundaries of a State.

2.4. Elements of Nation

a **Nation** extends beyond geographical boundaries. It encompasses a social and cultural entity bound by shared historical, cultural, and ideological ties. The "Elements of Nations" encapsulate the essential features that solidify a community's collective identity. These elements - Common Culture, Common History, and Religion - contribute to the formation of a cohesive national consciousness, influencing legal and political frameworks within a given territory.

2.4.1. Common Culture

Common culture encompasses the shared system of values, customs, traditions, language, arts, and intellectual pursuits that define the cultural identity of a nation. It constitutes a unifying force, fostering a sense of solidarity and belonging among members of the national community.

2.4.2. Common History

Common history encompasses the collective experiences, historical events, and narratives that shape the shared memory of a nation. It serves as a foundational element in the construction of national identity and can significantly influence the development of legal and political institutions.

2.4.3. Religion

Religion serves as a potential unifying factor within a nation, providing a shared system of spiritual beliefs, rituals, and moral codes. However, it's important to acknowledge that not all nations are delineated by religious homogeneity, and secular States may accommodate diverse religious affiliations within their legal framework.