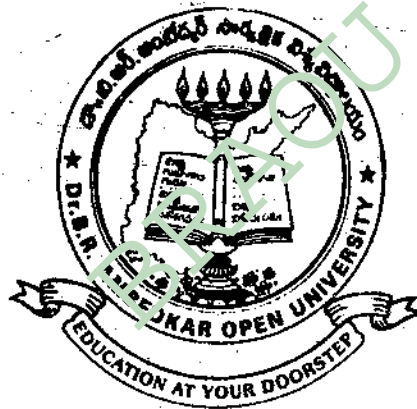


POLITICAL SCIENCE

BLOCKS I - V



DR. B.R. AMBEDKAR OPEN UNIVERSITY
Hyderabad
1992

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Revised Edition : 1990

First Published 1986

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AIMS AND OBJECTIVES

This book deals with the topics in Political Theory and Institutions included in the syllabus for the second year of the B.A. Course offered by the Andhra Pradesh Open University. These topics cover the 'core area' of the subject to be studied in the second year of the three year degree course in Arts. The Syllabus is for the sake of convenience divided into Blocks, each of which comprises a number of units. Each Unit generally covers a specific area of the subject.

The units are prepared by specialists in accordance with a format so designed as to enable the students to read and understand them without much difficulty. Each unit begins with a statement of its objectives followed by a synopsis and has at its end assignments intended to test the students' comprehension of its subject matter.

The study of political theory and institutions is of fundamental importance. It has a long history dating back to the Classical Greek times. Aristotle made a systematic study of politics and he is called the Father of Political Science. The subject is, therefore, very old. Several thinkers have made significant contribution to the growth and development of the subject. Political theory has expanded considerably during the last two hundred years. The great changes that took place in Europe and other parts of the world in the 18th and 19th centuries, the two world wars that rocked mankind in the 20th Century and the tremendous social, economic and political changes that have taken place during the last forty years have had their impact on political theory. No less important has been the impact of the scientific and technological progress. All these have made the study of political theory and institutions quite complex. The aim of these units is to present to the student, in a simple way the evolution of political science as a distinct branch of knowledge, its relation with other social sciences and the importance of the study of political theory and institutions.

For the convenience of the student the paper has been divided into five major Blocks and in all 30 small units, each dealing with an important aspect of the subject. From the definition of Political Science to the role of mass media in modern governments, it is a broad canvas covering many aspects of political theory and institutions.

The First Block deals with the fundamentals of and the approaches to the study of political science. We start with the approach of Plato and Aristotle i.e., the Greek times and compare them with later approaches i.e. the modern approaches. The relationship of political science with other social sciences is also presented in the first Block.

The Second Block seeks to discuss other fundamental concepts like state and society, state and nation, sovereignty and pluralism and the origin of the state. Such important theories as the divine right, social contract and historical theories are discussed. A reference is made to Indian theory also, highlighting the contributions of ancient thinkers like Manu and Kautilya. Theories of the functions of the state like Individualist, Marxist and Welfare State are also discussed in this Block.

The discussion of concepts is continued in the Third Block in which Law, Liberty, Rights, Justice and various views of freedom come in for special attention. These have a contemporary ring about them. The aim is to help the student understand the subtle distinctions that exist between concepts and among various theories.

Forms of government - the traditional and modern classification - are discussed in the Fourth Block. Distinction is made between Authoritarian and Totalitarian forms of government

and between Parliamentary and Presidential types. The nature of federal government and the relations between the Centre and States are among the topics discussed in this Block.

Beginning with Montesquieu's theory of separation of powers, the Fifth Block deals with Unicameralism, Bicameralism and the three branches of Government - Legislature, Executive and judiciary. Judicial Review is discussed separately. Political parties and their role in modern governments also come in for discussion in this Block.

The final part of this last BLOCK studies popular control, and its significance. The meaning and importance of mass media are taken up for discussion in this concluding Block.

Thus, the evolution of political theory and institutions and their importance in modern times are sought to be explained in about 30 units. The aim is to give the student a synoptic view of the subject stretching from the ancient to the modern times. The ideas of some eminent thinkers of the past and modern times are discussed, though not in detail, so that the student would be able to understand the evolution of theory and the rise of political institutions. However, in a paper covering so many aspects, it is not possible to expose the student to all details of the subject. The effort is mainly to help the student to acquire a grasp of the essentials and a grip over the basic ideas and concepts underlying theory and institutions.

The University hopes that this course material will help the student to get acquainted with the concepts and principles of Political Theory and Institutions.

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CONTENTS

Page No.

BLOCK - I	: FUNDAMENTALS	...	1
Unit - 1	: Definition and Scope of Political Science	...	8
Unit - 2	: Different Approaches to the study	...	15
Unit - 3	: Relation with other Social Sciences	...	21
BLOCK - II	: STATE AND SOCIETY		
Unit - 4	: Society, State and Nation	...	21
Unit - 5	: Sovereignty as a characteristic of the State - Challenges to Sovereignty - Pluralism and Internationalism	..	28
Unit - 6	: Theories of the Origin of the State-Divine right, Force, Patriarchal and Matriarchal Theories	...	34
Unit - 7	: The Theories of the Origin of the State: The Social Contract Theory	...	39
Unit - 8	: The Theories of the Origin of the State - Indian Theories	...	49
Unit - 9	: Theories of the functions of the State	...	54
BLOCK- III	: BASIC CONCEPTS		
Unit - 10	: Law, Sources of law and the concept of Rule of Law	...	61
Unit - 11	: Liberty and Equality	...	67
Unit - 12	: The Individualistic, the authoritarian and the Socialistic views of Freedom	...	73
Unit - 13	: Rights	...	78
Unit - 14	: Justice	...	85
BLOCK-IV	: FORMS OF GOVERNMENT		
Unit - 15	: Constitution - Types - Amending Procedures	...	90
Unit - 16	: Forms of Government - Monarchical, Aristocratic and Democratic	...	99
Unit - 17	: Modern Forms of Government - Totalitarian and Authoritarian	...	108
Unit - 18	: Modern Forms of Government : Democracy	...	115
Unit - 19	: Parliamentary and Presidential forms of Governments	...	123
Unit - 20	: Unitary and Federal Governments	...	131
BLOCK-V	: ORGANS OF GOVERNMENT		
Unit - 21	: The Theory of Separation of Powers	...	138
Unit - 22	: Legislature - Methods of Representation	...	144
Unit - 23	: Legislature - Unicameralism and Bicameralism	...	152
Unit - 24	: Legislature - Functions	...	159

Unit - 25	:	Executive	...	167
Unit - 26	:	Judiciary - Functions	...	174
Unit - 27	:	Judicial Review and Independence of Judiciary	...	179
Unit - 28	:	Political Parties	...	188
Unit - 29	:	Popular Control - Methods of Control - Public Opinion - Role of Mass Media.	...	194

BRAOU

BLOCK I
Fundamentals

BRAOU

BLOCK I : FUNDAMENTALS

UNIT-1: DEFINITION AND SCOPE OF POLITICAL SCIENCE

Contents

- 1.0 objectives
- 1.1 Introduction
- 1.2 Meaning and definition of Political Science
- 1.3 The Development of Political Science
- 1.4 Scope of Political Science
 - 1.4.1 Political Institutions
 - 1.4.2 Political Ideas and Ideologies
 - 1.4.3 Political Dynamics
 - 1.4.4 International Relations
- 1.5 Importance of Political Science
- 1.6 Sum Up
- 1.7 Suggested Readings
- 1.8 Model Questions

1.0 OBJECTIVES

After going through this lesson you will be able to:

- * explain the subject
- * discuss the nature, scope and contents, and
- * highlight the importance of the subject.

1.1 INTRODUCTION

In this unit you will get acquainted with the subject of Political Science. The subject, its scope contents and its importance are chiefly discussed. In this lesson it is intended to give an idea to the student about what Political Science deals with.

1.2 MEANING & DEFINITION OF POLITICAL SCIENCE

Man does not like to live in isolation and solitude. Every human being desires company, and a definite territory to live in. Because of his social nature he comes into various degrees of contact with others. People living within a definite territory become a community, sharing some common interests. The interests of different individuals in such a society may sometimes lead to conflict. To avoid such conflicts and clash of interests, it is necessary to have fixed rules to govern everyone. Violation of these rules disturbs the harmony of society. To prevent such a violation an agency is required, whose duty is to see that these rules are duly obeyed and offenders are punished. With the emergence of such an agency, society becomes politically organised. The politically organised society is called a State. The study of such a society or state is known as Political Science.

The agency which governs society is known as the Government. The rules which have been designed to govern people are known as laws. Although political science is the study that

deals with the state and the government, there are different opinions about its scope among the political thinkers and experts. Let us examine a few view points.

Bluntschli, a famous Swiss scholar, defined political science as "the science which is concerned with the State". and as essentially a study of the state and its different forms. Garner says that "Political Science begins and ends with the state."

There are other writers who maintain the view that political science is a study of the government and the state, since no state can exist without a government. Stephen Leacock, Gettell and Gilchrist have emphasised the view that political science deals with the state and the government. If the state is "a people organised for law within a definite territory" and the government is an agency which acts on behalf of the state, any study that describes the state must include the structure and functions of the government. However, it can be concluded that the state is the central subject of the study of political science. Hence, there is need to know the state in all its details. This entails a study of the state as it was, the state as it has been, and the state as it ought to be. What the state is can best be understood by knowing what it has been. By this study we can understand the evolution of the state and how its functions have increased.

By studying the past and the present one can be wise about the future. This leads us to the next question i.e., the study of the state as it ought to be. Gilchrist says that political science becomes a historical investigation of what the state has been, an analytical study of what the state is, and a politico-ethical study of what the state should be. One of the new approaches to the study of political science is the power approach. It seeks to study politics as a science of the study of power. Power approach starts with an assumption that there are relations of power among the significant aspects of a political system. This analysis of power can be applied to any kind of political system international or local or associations and groups etc. The analysis postulates that power relations are one important feature of politics. Some analysts view that power distinguishes politics from other human activity.

Harold Lasswell opines that political science is the study of the shaping and sharing of power. According to this analysis any change in the society can be interpreted as differences in the way power is distributed among individuals, groups or other units. Power may be concentrated or diffused. It may be shared among different individuals, classes, religions, groups, leaders and non-leaders and so forth.

Explaining politics by analysing relations of power is quite ancient. Aristotle differentiated the constitutions on the basis of the difference in the location of power and authorities, in a political society. Even later, political theorists were concerned with mainly power relations within a community. With the rise of modern nation states, the power concept assumed more significance in external relations more than internal ones. Hence political scientists were forced to recognise the society of power in politics and particularly in international politics.

Social scientists like Max Weber found it useful to define and interpret the state in terms of its power. Later, numerous works of the Chicago school in the USA attempted to develop systematic theories of politics based on power relations. Merriam, Lasswell, Morgenthau and David Easton were among the important contributors in this regard.

After World War II, political scientists in the West tried to redefine political science in new terms. Harold Lasswell defined politics as a science of the study of power because the state is concerned with power. Lasswell said that the political science has to examine who gets power when and how. It is argued that the state-power is used to regulate the life of the people. The question is not who exercises power but how power is exercised and policies are made which affect the lives of people. The operational form of power and authority is conceived as sovereignty which involves regulation of the affairs of the individuals and institutions in any political society. It is done by laying down certain norms and standards. It is obligatory on the part of the citizens to comply with such norms.

1.3 DEVELOPMENT OF POLITICAL SCIENCE

The growth of Political Science as a discipline is marked by a long historical evolution beginning with the city states of ancient Greece and culminating in the rise of nation states in the modern period. In the ancient period the focus was confined to the divergent aspects of the city states such as citizenship, slavery ideal states and law. Plato and Aristotle were the outstanding thinkers of this period, who sought a philosophical inquiry into various aspects of political phenomena. Therefore, it was more an attempt in philosophising the political aspects of the city states.

During the medieval period from 6th century to 14th century A.D. theology dominated politics, and resulted in universal states. Politics was viewed as the sub-servient agent of the spiritual and divine cause represented by the church. The chief representatives of this period - Gregory 7, St. Thomas Aquinas - developed political theory based on religious idealism. With the beginning of the 15th century the Renaissance and the reformation ushered in the rise of the nation states. Machiavelli and Bodin representing this period laid secular and rational foundations to the states. They separated ethics, religion and morality from politics. From the 16th century to the beginning of 20th century the focus of Political Science ranged between philosophical, legal, and institutional enquiries. After the second world war the traditional political science was challenged and its postulates were questioned by the behavioural revolution. The focus of Political Science shifted from normative legal philosophical approaches to empirical, scientific approaches.

After the establishment of the American Political Science Association in 1903, a great deal of emphasis was placed on the collection and classification of facts about political institutions and processes. The scope of political science widened to include the organisational structure, the processes of decision-making and actions, the politics of control, the policies and actions, and the legal government. Political Scientists started investigating into the problem of the location of power in society and into the operations of that power on government. Greater emphasis was placed on analysing the elements of policy making, the study of the character of political leadership and electoral process. Refined tools of observation and analysis were used to probe more effectively into the processes.

Later, greater interest was shown in the study of the impact of non-governmental organisations and growth of governmental activities. There emerged a tendency to use empirical methods in the study of institutions.

With the beginning of the 20th century, Political Science was heavily influenced by the progress made in other disciplines like biology, anthropology, etc. There was a demand for the use of 'scientific method'. There arose even a desire to make use of statistics and statistical methods. Greater stress was laid on scientific generalisations based on the objective study of the facts. The basic unit for the study of Political Science was no longer political institutions but the behaviour of individuals in a given political situation. Scientists like Lawrence Lowell and Graham Wallas gave more importance to the study of political attitudes and political behaviour. George Catlin, an English writer, explored the use of inter-disciplinary approach in the study of politics. Gradually Political Science was settling down under the influence of the developments taking place in other social sciences like sociology, psychology, social-psychology etc. All these other subjects were influenced by natural sciences.

Charles Merriam, of the University of Chicago propagated the inter-disciplinary method and emphasised the scientific character of political science. The Political Science Department in the University of Chicago became the most active academic centre producing eminent political scientists like Leonard White, Quincy Wright, Harold Lasswell, Fredrich Schuman, Herbert Simon and David Truman, VO Key and Gabriel Almond.

The European sociologists like Max Weber, Herbert Spencer and Talcott Parsons influenced political science, paving new way for the development of behaviouralism. August Comte, an eminent sociologist, tried to apply scientific methods to social phenomena and discussed in detail in his writings the impact of the changing society on the character of the State and other

Political associations. Sociologists not only influenced Political Science but some of them were also acknowledged as Political Sociologists.

The Second World War and consequent developments in the World made Political Scientists to come into close contact with other social scientists to explain the phenomenon of decision-making process. Emphasis on the study of individual attitudes, and motivations had paved the ways for greater use of 'Interview' as a source of data. Consequently, contact analysis, statistical usage, use of survey techniques, method of verification were adopted. Election studies began to be made at micro and macro levels.

The behavioural revolution which began by 1925 reached its peak in the early fifties after the Second World War. Behaviouralism could be explained as a renewed effort to take the 'Science' in Political Science seriously on the lines of the physical and Biological Sciences. 'Behaviour' being something which could be observed and objectively studied was assuming more and more importance among social scientists.

1.4 SCOPE OF POLITICAL SCIENCE

The scope of political science has increased enormously during the last hundred years. Political Science deals with man as a political being. It studies the relationship between man and the state. It seeks to find out how much authority the state should exercise and how individual freedom should be guarded. The relationship between authority and freedom is one of the important age-old problems which political science seeks to study. Political Science, in a way, studies every aspect of human behaviour because all activities of man are influenced either directly or indirectly by the state. In fact, there is no area of human activity with which the government does not concern itself either directly or indirectly. The scope of political science may be studied under the following sub-heads.

1.4.1 POLITICAL INSTITUTIONS

Political Science deals with the state and the government. It seeks to examine the nature, origin, purpose and functions of the State. In fact, traditional writers define political science as the science that begins and ends with the state. It studies the state as it is, the state as it has been and the state as it ought to be. Political Science included the study of various theories of the origin and functions of the state. The government is an instrument of the state for the realisation of its goals. The government consists of the legislature, the executive, and the judiciary. Political Science, therefore, deals with the functions and the organisation of the various organs of the government. In recent times emphasis has been laid on the study of comparative government also.

1.4.2 POLITICAL IDEAS AND IDEOLOGIES

Political philosophy constitutes an inseparable part of the study of political science. In this branch various thinkers attempted to explain the origin, nature, functions, and the end of political institutions. These philosophies emerged in the form of political ideologies. For instance, Hegel's theory of state laid foundation for the idealistic school of thought. In the same way the political philosophy of Karl Marx in collaboration with Engels paved the way for the doctrine of communism. The political philosophy of J.S. Mill and Bentham resulted in the development of individualistic school of thought. Thus the speculations of different thinkers on political phenomena emerged as different ideologies. An ideology, in the context of political science, is concerned with the sphere of state activity. The basic issue is the extent of the jurisdiction of the state vis-a-vis the freedom of the individual.

Ideologies like Individualism and liberalism uphold the freedoms of the individual and advocate minimal role for the state. On the contrary, ideologies like Idealism, Fascism, Nazism etc. lay unlimited emphasis on the authority of the state. Similarly, communism and socialism advocate socialisation of means of production and distribution and establishment of a classless

and egalitarian society. There are also ideologies like syndicalism and anarchism. The former aims at establishing classless society through the abolition of capitalism. It believes in building up a very powerful trade union movement and bring revolution. Anarchism is yet another ideology regarding this sphere of state activity. It aims at stateless society by removing all forms of law and government.

From the above account it can be said that the scope of political science is quite comprehensive. It not only deals with the institutions of state and government but also with various political ideologies and ideas. Hence, ideological doctrines are an integral component of the scope of political science.

The important concepts of ideas such as sovereignty, law, constitution, citizenship, rights, forms of government also fall within the scope of political science which deals with these concepts in relation to historical evolution. For instance, the concept of sovereignty is studied with reference to Jean Bodin and Thomas Hobbes. The same concept of sovereignty came to be associated with the modern nation states. It also discusses the rights and duties of the citizens in socialist and non-socialist political systems. Equality, liberty, fraternity, obligation, consent, authority, etc. are some of the very important political concepts which are studied within the scope of political science.

1.4.3 POLITICAL DYNAMICS

Political science studies not only political theory, but also the dynamic aspects of political life. In recent times, the process of politics, the behaviour of the electorate and the various forces which effect the functioning of political institutions have come within the scope of political science.

The study of the judicial and legal process has been the supporting pillar of political science. This aspect is concerned with the constitutional effect on the operation of the government and vice-versa. The subject deals with how the laws are enacted, administered, interpreted and implemented. The study is also concerned with the rights of the citizen.

The executive process is concerned with the executive's responsibilities and powers, and functions. How does the executive exercise the powers inherent in his office and to what extent can he create additional powers from his many roles? Do these powers in different fields complement or conflict with each other? The strength of the executive in the legislature is also to be studied in the process. The executive cannot be expected to carry out all the responsibilities of personnel. Therefore, the study of the executive process is in large part a study of bureaucracy, the way it is organised and the way it functions. Thus the study leads to the study of administrators, at all levels of bureaucratic hierarchy. How are decisions actually made? How is it that the best made plans of administrators often produce unintended results? The attitudes and the motives of administrators in decision-making are the questions that are to be studied by political science. What is the impact of their decision on the public is also a matter of study in this discipline. How actually the administrative process affects all forms of social organisations is also the concern of political science.

Another aspect of political science is the legislative process. In this field the study is concerned with the making of laws, contradictions regarding laws, rules and procedures of the legislature on the content of law, and procedures of the legislature on the content of law, the distribution of power etc. The subject is also concerned with the factors which influence the relationship of the chief executive with the legislature. The focus of the study is also on the success of the legislatures in functioning primarily as watchdogs over the executive.

The legislature is the place where the grievances of the people are ventilated and remedies demanded. The legislature has been viewed as an institution that entertains the conflicts of interests and demands expressed by political parties and other groups in society. Political Science is a study of various kinds of interests represented in the legislature, the characteristics of their leadership, the ways of influencing public policy and their ability to make decisions.

1.4.4 INTERNATIONAL RELATIONS

The study of International Relations is a major part of the scope of Political Science. Politics deals with the relations between states. In its practical aspects, 'International Relations' is 'International Politics'. In its legal aspects it is known as international Law, which binds and defines the relations among states to a considerable extent. This part of political science also includes the study of International organisations like the U.N., ASEAN, etc.

1.5 IMPORTANCE OF POLITICAL SCIENCE

As Dahl said politics is an unavoidable fact of human life. A man comes across politics in the government of a country, town, school, church, business house, club, trade union, parties, association, etc. A citizen may be involved in some kind of political system in some fashion or the other, at any stage or at any time. Virtually speaking no man is beyond the reach of politics, or some kind of political system. Not only politics but also the consequences of politics are inescapable.

In this age of democracy people play a major role in policy making and political functioning. A citizen is directly or indirectly concerned with politics.

Knowledge of political matters helps the leaders at the helm of affairs in a country to maintain high standards of administration. People become conscious of their rights and obligations and this awareness helps them in playing a useful role in social and political affairs. In a democracy the awareness of political matters makes citizens demand an honest and efficient administration. Politically enlightened electorate acts as a vigilance over the governmental authority. For example, public opinion made president Nixon to resign due to the Watergate scandal. In the same way, dictatorial tendencies have been discouraged in many countries.

A citizen invariably requires the sound knowledge of politics to express valid opinion on political matters. Knowledge of political principles provides for the effective participation of a citizen in the functioning of democratic process.

According to Dorothy Pickles the study of politics helps in three ways: (1) It helps to order our lives better, (2) It enables one to have better comprehension of the political problems of the nation and world at large, and (3) It does not make the average citizens feel less helpless in facing the national and international problems of his time. In short, study of politics makes a citizen politically intelligent and balanced.

Why study politics? As Robert A Dahl answers "The best reason for improving one's skill in political analysis is this". Political analysis helps one to understand the world one lives in, to make more intelligent choices among the alternatives one faces and to influence the changes inherent in all political systems. The study of political science trains people to become good citizens and good citizens can make the government responsible and responsive to public opinion.

1.6 SUM UP

The study of a politically organized society, i.e., State is known as Political Science. There are different definitions about the subject. The subject has a historical evolution in its growth. Right from ancient Greece to the 20th century the subject, approaches to the subject has been undergoing metamorphosis. Consequent development of the Second World War has caused changes in the techniques of approach to Political Science. The behavioural Revolution made the subject more scientific. With all this, the scope of Political Science has increased much. Political institutions, Political ideas and ideologies, Political Dynamics and International Relations have all come under the perview of Political Science. However, it can be concluded that Politics has become an inevitable part of day-to-day human life.

Author: Dr. T.S. Mohana

1.7 SUGGESTED READINGS

Pennock and Smith : Political Science an Introduction

1.8 MODEL QUESTIONS

I. Answer in about 30 lines.

- a) Explain the definition and meaning of Political Science
- b) Give an account of the development of Political Science.
- c) Explain the nature and scope of Political Science.

II. Answer in about 10 lines.

- a) What is the state of Political Science Today?

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UNIT-2 : DIFFERENT APPROACHES TO THE STUDY

Contents

- 2.0 Objectives
- 2.1 Introduction
- 2.2 Traditional and Modern Approaches
 - 2.2.1 Traditional Approaches
 - a) Philosophical
 - b) Historical
 - c) Legal and
 - d) Institutional
 - 2.2.2 Modern Approaches
- 2.3 Sum Up
- 2.4 Suggested Readings
- 2.5 Model Questions

2.0 OBJECTIVES

After going through this unit you will be able to:

- * explain what an approach is and what the traditional and modern approaches are
- * trace back the history of the modern approach, and
- * analyse the merits and demerits of both the approaches

2.1 INTRODUCTION

In this unit we intend to introduce you to various approaches to political science. Each approach has its own merits and defects. We want to make the student aware of all of them.

An approach is a way of looking at a particular phenomenon, rather, it can be called a 'perspective'. This perspective can be broad enough to cover the entire study of politics, or it could be so narrow as to embrace one aspect of local, regional, national or international politics. An approach consists of collection of data, an investigation, the analysis of a hypothesis (a proposition assumed for the sake of argument) etc. It is for this reason that the approaches to the study of politics are many. An approach consists of 'selecting the problem', collecting the data and the analysis. These can be looked at from different stand points by different scholars. As such many approaches have been formulated. When a scholar systematizes his approaches (i.e., selection of a problem and collection of data) in a presentable form, it leads to the creation of a method. Approaches and methods are closely interrelated. A method is part of an approach. If approaches consist of criteria for selecting the problems and relevant data, methods are procedures for obtaining and utilising data.

A method is essentially a technique used to denote the assumptions on which the search for knowledge is based. Different methods in political science are borrowed from other social and natural sciences. A method is more susceptible to routine application and it is highly specialised. It depends less on imaginative intelligence. An approach can be extended into a theory when its function goes beyond the selection of problems and data about the subject under study.

After the World War II, the countries of the Third World (Middle East, Africa and Asia) achieved political independence from the clutches of Western Colonialism. In these societies a new spirit of nationalism marked their independent nation hood. However, the historical, social, cultural and political conditions of these nations remained quite distinct from those of the European Political system. There started a process of interaction between the tradition of these societies and the modern structures of democracy and representative institutions.

With the rise of independent nations of Africa, Asia and Latin America, the colonial domination of the major European powers almost came to an end. It also resulted in new relationships between these nations and the international organisations such as the U.N.O. Thus began an era of increasing intervention and penetration of international community into these nations.

Communism as a major force assumed international proportions. It emerged as a strong force in competing for hegemony and domination over the new nations. Further, it tended to influence to a substantial measure both the national and international policies. Thus the emergence of the ideology of communism added a new dimension in relation to the policies of new nations.

In the light of the above developments, the fractions of political science have also been considerably widened incorporating the experience of the developing societies. Studies of non-Western governments and their political processes, studies on voting behaviour, party system, and pressure groups have been widely undertaken to explore the political phenomena of these new societies. Thus, the perspectives of political science and its approaches have come to transcend the European experience and encompass the experience of the nations of the third world. Attention has also been focussed on the issues of political development, institution building, modernisation, participation, political culture, etc. These aspects are specifically examined in relation to some of the newly independent Afro- Asian nations.

2.2 TRADITIONAL AND MODERN APPROACHES

Approaches to the study of politics have been classified into two categories traditional or normative and modern or empirical. The traditional approach is based on 'values'. The modern approach is based on 'facts'. The traditional approach has a historical and descriptive character giving more importance to values, morals, and goals. Most of the ancient studies are of this type. The modern approaches seek to replace normativism by empiricism. The modern approach is an empirical, scientific investigation of the relevant data and is a result of the quest among political scientists to make political science a 'pure science'.

2.2.1 SALIENT FEATURES OF THE TRADITIONAL APPROACHES

The traditional approaches were characterised by a normative orientation, when there was not much distinction between ethics and politics. For example, Greek philosophy deals with problems like the 'size of the state' and the 'ideal state' etc. Things were expressed as they were desired to be or as they ought to be. The traditional approaches were descriptive in nature. Traditional thinkers had their own views and preferences, irrespective of facts. The main feature was that it was a value-laden study. The following are some of the traditional approaches.

a) THE PHILOSOPHICAL APPROACH

The Philosophical approach is a deductive method. Its prominent exponents are Plato, Rousseau, Hegel, Bradey, Kant, Bosanquet, and Sedgwick. Deduction is the process of drawing generalisations through reasoning on the basis of certain assumptions which are either self-evident or based on observation. Deduction gives particular conclusions from a number of general principles, which are assumed to be true. The philosophical method is, thus, reasoning from a general principle to its consequences. In political science this approach starts from some abstract original idea about human nature, and deduces from that, nature of the state, its aim, its functions and its future. This approach attempts to link theories with actual facts of history.

Political philosophy is interested not so much in how people and governments behave, but as to how they ought to behave. Political philosophy essentially studied ideas and tries to find out which have the greatest validity. The works of Plato, Hobbes, John Locke, Jean Jacques Rousseau, Edmund Burke, Jeremy Bentham, Hegel, Karl Marx and J.S.Mill, all deal with philosophical questions like why should citizen obey the state? Is the society or individual come first? etc. These moral questions have many answers. These questions have been answered by different thinkers in different ways. But these answers provide the best starting point for the study of the moral aspects of political life. The philosophical or ethical approach seems to be advising the rulers and members of a political community to pursue higher ends. The philosophical approach is speculative and abstract. This approach leads us far away from the world or reality. In political philosophy, politics becomes the handmaid of ethics. Values became an indispensable part of political philosophy, and they cannot be excluded from the study of politics.

b) THE HISTORICAL APPROACH

This approach focusses on the past so as to find out an explanation of what institutions are, and are tending to be, etc. In this approach, history is treated as a genetic process. The study proceeds on the lines of 'how man got to be', what man once was, and how he is now. In this approach individual motives, actions, accomplishments, failures and contingencies are also relevant to the scholar. The historical approach is based on the assumptions that political theory emerges when a socio-economic crisis occurs, leaving its impact on the minds of the thinkers. Historical evidence is the basis of political theory. Great thinkers like, Socrates, Plato, Aristotle, Hobbes, all reacted to their times, societies and events. The capitalist system of the 19th century produced Mill and Marx. To understand a political theory one has to understand the time, place and circumstances in which it was evolved. A political philosopher is affected by the politics of his time and in his own turn, he tries to affect it. Great political theories originated during social and political crisis.

According to some thinkers any political activity springs from existing traditions of behaviour. Here one learns to understand the political tradition which is concrete manner of behaviour. For this reason, it is proper to have politics as a historical study at the academic level.

The historical method supplements the experimental method. The source of experiments in political science is history, based on observation and experiences. Any change in the government, any law passed and any war fought is an experiment in political science. Political institutions are the product of history. To know them one has to study their evolution. The present tradition and institutions in society are determined by the past.

There are many thinkers who have adopted the historical approach. Montesquieu, Saviney, Seley, Maine, Laski, and Freeman are some of the eminent exponents of the historical approach. For Karl Marx, the historical approach was an exclusive approach. But the historical approach has certain weaknesses. As James Bryce says, it is often loaded with superficial resemblances. These resemblances make things look as though they are repetitive. Apart from this a scholar who adopts this approach looks at these historical matters in his own way. As such, it is also possible that he may be influenced by his own emotions or prejudices as in the case of Machiavelli and Oakshott. Nevertheless it can be concluded that such an approach has its own usefulness in understanding the meaning of the philosophies of eminent thinkers from Plato to Mao.

c) THE LEGAL APPROACH

The legal approach is also known as the judicial approach, which is a study of legal processes and legal institutions. The state is viewed as the maintainer of an effective and equitable system of law and order. The focus of the study is on matters relating to the organisations, jurisdiction and independence of judicial institutions. Politics is viewed as the science of legal norms. The state is viewed primarily as an organisation for the creation and enforcement of law.

In the early modern period, the works of Jean Bodin, Hugo Grotius and Thomas Hobbes dealt extensively with legalism. One of the aspects was sovereignty. The works of Bentham, John Austin, Sir Henry Maine, and A.V.Dicey, may be referred to as some more examples. The story of politics is ultimately integrally bound up with the legal processes of the country and the existence of a harmonious state of liberty and equality known as the 'rule of law'. The legal approach is based on the assumption that law prescribes actions to be taken in a given situation and also forbids the same in certain other situations.

Law embraces only one aspect of people's lives, as such, it cannot cover the entire behaviour of political actions. This approach makes the mistake of reducing every aspect of a political system into a judicial entity. There are ever so many political actions which have got to be explained on the basis of something other than legal approach.

d) THE INSTITUTIONAL APPROACH

In this approach the emphasis is on the study of the formal structure of a political organisation like the executive, the legislature, and the judiciary. This trend is evident in the writings of Aristotle, among the ancients, right down to Finer in the modern period. Modern writers included the study of political parties in this approach; others like Bentley, Truman, V.O. Key also added the study of interest groups, claiming on the ground that they constituted the infrastructure of a political system. For this reason the institutional approach has been called the structural approach.

The works of Walter Bagehot, F.A.C. 1867, W.B.Munro, Herman Finer, H.J. Laski, C.F. Strong, Bernard Crick, James Bryce, Maurice Duverger and Giovanni Sartori are the examples of this approach. In all their works the study of politics has been limited to the formal and informal institutional structures of a political system and in some, a comparison of major governmental systems has been made for illustrative purposes.

This approach is too narrow. It ignores the role of individuals, which is an important component of a political system. The significance of this approach has been diminished because of this drawback. International politics has been ignored by this approach. There are no world institutions similar to government and state institutions.

2.2.2 THE MODERN APPROACH

In recent times, a variety of approaches were developed in political science as a reaction against traditional approaches. The emergence of the 'behavioural movement' is a landmark.

Recent developments in the natural sciences influenced the mode of thinking in the social sciences. Particularly after World War II there was growing sophistication in the field of political science. A new movement was started in the United States which expressed a sort of total dissatisfaction with traditional approaches to political science. Modern political scientists also took note of the developments in the other social sciences like sociology, anthropology, psychology, etc. The unhappiness of these modern political scientists ultimately contributed positively to political science in the form of an approach. This is what is known as Behaviouralism in political science. Along with Behaviouralism there emerged several other approaches after World War II.

The Behavioural Approach

Modern empirical approaches were manifested in behaviouralism. Behaviouralism caused revolution in political science. The origin of the behavioural movement in the field of politics can be traced to the intellectual developments of the present century-one in philosophy and the other in psychology. These intellectual currents led to scientific discourse in political science. The first sightings of the behavioural approach in political science occurred in the 1920's. Graham Wallis and Arthur Bentley were the first writers. The other books worth referring to are *New Aspects of Politics* - by Marriam. *The Sciences and Method in Politics* - George Catlin, *Quantitative Methods in Politics* - Stuart Rice. Although Behaviouralism drew inspiration from European thinkers it is essentially a contribution of the American Political scientists. This trend of political behaviourism gained ground in the period following World War II.

The most important factor that influenced contemporary political theory in the direction of behaviouralism was the growth of Communism after the Second World War. American political scientists tried to vest Marxism with the weapon of behaviouralism. Behaviouralism returned to vitality in the 1950's as a result of which political science moved closer and closer to the world of psychology, sociology and economics in the hands of eminent figures like David Easton, Harold Lasswell and Gabriel A. Almond. Myron Weiner, Joseph La Palombra, Sidney Verba, Karl Deutch, G.B. Powell, R.A. Dahl, David Apter, Edward Shils and others sought to study political issues in the context of non-political phenomena in a number of ways. Behaviouralism represented an approach, a challenge, an orientation and a reform movement.

Behaviouralism has changed the emphasis of individuals and social groups. It stresses the mutual interdependence of theory and research. Theoretical assumptions should be stated so as to be useful for the purposes of empirical research. And, in turn, empirical findings should have a bearing on the development of political theory. The approach insists upon developing a rigorous research design and applying precise methods of analysis to the study of political behaviour. Generalisations must be testable with reference to human behaviour. The data cannot be taken for granted. They are to be examined self-consciously. The ethical evaluation (values) and empirical explanations (facts) should be kept separate. The whole material from different social sciences should be integrated. By using this approach the scope of political science has been widened. The nature of the discipline improved in understanding and explaining 'political reality'. The important achievement of behaviouralism is that it has provided tools and techniques for the scientific study of politics.

Contrary to the classical or traditional theory, present political theory is said to focus research on actualities i.e., disclosing facts and analysing their inter-relationships. Contemporary political theory is more dependent on using relevant statistics in this analysis. As such, a new language and new concepts have emerged, paving the way for development of intellectual links among its several sub-fields. Reference can be made to concepts like 'power' 'political system', political socialisation etc. Thus contemporary political theory is a systematic, empirical, casual explanation of certain phenomena whereas the traditional approach is a moral or philosophical prescription. Robert Dahl, an eminent political scientist, describes behaviouralism as an attempt to make the empirical component of political science more scientific.

According to Dahl, the behavioural approach aims at studying all the phenomena of government in terms of observable behaviour of men. It pays attention to methodological sophistication of problems of observation and verification, quantification and testing, etc. All empirical aspects of political life are explained by means of methods, theories and proof i.e., a scientific explanation. Thus the behavioural approach can be called a 'scientific outlook' or a 'scientific approach'.

According to Prof. Easton, the movement of political behaviouralism has been constructed on certain assumptions.

There are some uniformities in the political behaviour of human beings that can be shaped into theories which are capable of explaining and predicting social phenomena. As such, political

scientists should search for such regularities (uniformities and variables which are associated with them) of political behaviour.

If knowledge is to be valid, it should consist of propositions which are empirically investigated. All evidence must be based on observation. Every aspect of research should be verified by concrete realities of the situation.

There is emphasis on the adoption of correct techniques for acquiring and interpreting data. Hence there is a need for using sophisticated research tools.

Data or research should be quantified and measured, so that the conclusions may be verified on the basis of quantified evidence.

The behaviouralists should put facts and values apart. Scientific enquiry, if it has to be valid, should be free from ethical and moral aspects. The approach should be value-free.

Research in all fields of political science should be theory oriented and systematic. Theory should not consist of speculation but of analysis, explanation and prediction. Research should be purely scientific i.e., it should be verifiable by evidence.

Behaviouralism believes in the interdisciplinary approach. Political science is not treated as a separate discipline by behaviouralists. To them it is one of the social sciences. Hence it should be integrated with other social sciences which also deal with different aspects of man.

The most important aspect of behaviouralism, which distinguishes it from traditional and other approaches, is the use of more precise techniques of observing, classifying and measuring data and also the use of the most sophisticated means of mathematical analysis. The significant characteristic of behaviouralism is that it employs charts, tables, formulas and mathematical symbols.

Behaviouralists sacrifice values at the altar of facts. The contributions of the behaviouralists are criticised for reducing norms and values to facts, quality into quantity, reason into unreason, human components of personality into mechanical sub-human elements. The great weakness of the behaviouralists is their craze for Scientism (to be scientific). They totally rely on 'facts'. It has been said that the behaviouralists are a frustrated group of intellectuals who want to make 'science' out of politics, but cannot do so. But behaviouralists have made their own contributions by making valuable predictions about the acts of man. The post-behavioural movement sought to correct the weaknesses of the behavioural movement.

Traditional approaches stand for a value laden system. Empiricism is the hallmark of the modern approaches. The modern approaches are loaded with facts. It is obvious that empiricism is available in the classical approaches of great political theorists from Aristotle and Polybius among the ancients, and to Marx in the modern age. Similarly, normativism is seen even in the modern approaches. Marxism, too, has a normative orientation in the end when it conceives an era of emancipated humanity. Thus traditionalism plays an important role in modern political studies, although it no longer monopolises the approaches.

The dichotomy of facts and values should not be given undue importance. A value system is not totally hypothetical. Sometimes facts do support value judgement.

None of the approaches is totally independent of each other. There tend to be some overlapping. For instance, the sociological approach may be psychological in some aspects. Most of the elements of the empirical approach may be seen in behavioural approaches.

The traditional modern approaches have a relevance of their own in the study of politics. The purpose is to understand and analyse political reality. In attaining this goal it should not lead to a situation where conclusions become too abstract or too mechanistic. This is undesirable because a mechanistic conclusion is not applicable to the life of living and dynamic people.

Behaviouralists have committed a blunder by treating politics like a game of soulless creatures. Scientism is good, but the mad 'craze' for the same is bad, hence it should be avoided. As H.R. Greves opines, a value-free political analysis would prove to be destructive to political theory. Apart from this, scientific predictions of the behaviouralists should not be confused with forecasting. A scientific explanation alone will not give us a complete understanding of a problem.

2.3 SUM UP

Each of the main approaches to politics has its own significance. The philosophical approach is concerned with the establishment of moral purposes and an ethical basis of the political community. In the same way other traditional approaches are important in one way or the other. Behaviouralism focusses on experimental methods, how decisions are made and how organisations affect group behaviour etc. The systems approach emphasises class and elite change, ideology, social position, stability and integration.

The behavioural movement created a crisis, in the discipline of political science. Though behaviouralism has proved its worth, it has many limitations. Some political scientists are dissatisfied with behaviouralism because of its strict use of methodology drawn from the natural sciences. The post-behavioural movement pleads for more relevant research. Post-behaviouralism is an attempt to synthesise the normative and empirical-behavioural approaches. It has been accepted as sound in principle and it is finding support among many political scientists now.

The explanation of the phenomenon of the state can be studied from several points of view. The result is the emergence of a variety of approaches like the historical, the sociological, the geographical and the philosophical. These explanations differ in respect of their interpretations. Therefore, the literature of politics is ever growing. Consequently the approaches are also multiplying. Recently sociological and anthropological approaches have been added to the study of politics. A single approach cannot give us a complete understanding of politics. There is a need to analyse all the forces or some forces like the sociological, the anthropological and the economic. Any approach should be supplemented with other approaches for a comprehensive understanding of political science.

Author Dr. T.S. Mohana

2.4 SUGGESTED READINGS

1. Rodee, Anderson and Green : Introduction to Political science
2. E. Asirvatham : Political Theory
3. Pennock & Smith : Political Science; An Introduction

2.5 MODEL EXAMINATION QUESTIONS

I. Answer in about 30 lines.

1. Explain the Traditional Approaches to Political Science.
2. Describe the Modern approaches to Political Science.
3. What is Behavioural approach? What are the characteristics of this approach?

II. Answer in about 10 lines.

1. What are the defects and merits of Behavioural approach.
2. Explain the Systems approach.

UNIT-3 : RELATIONS WITH OTHER SOCIAL SCIENCES

Contents

- 3.0 Objectives
- 3.1 Introduction
- 3.2 Growth of Social Sciences Vs. Politics
- 3.3 Relationship of Political Science with other Social Sciences
 - 3.3.1 Political Science and Sociology
 - 3.3.2 Political Science and Economics
 - 3.3.3 Political Science and Psychology
 - 3.3.4 Political Science and Anthropology
- 3.4 Sum up
- 3.5 Suggested Readings
- 3.6 Model Questions

3.0 OBJECTIVES

After going through this lesson you will be able to:

- * trace the history and growth of Political Science as a separate branch of knowledge among Social Sciences.
- * analyse the interdependence of Political Science and related social sciences and
- * evaluate the position of Political Science in the world of social sciences in modern times.

3.2 GROWTH OF SOCIAL SCIENCES Vs. POLITICS

The study of politics proceeded on rather two extreme lines for a long time. At one end political institutions were visualised as key agencies of social control and social change. Others emphasized extra political factors or conditions that affected political institutions and events. The question was whether society was primary or polity was primary? Whatever may be the opinion of different thinkers the fact still remains that society was prior to polity. People started living together first and then found a leader to rule them. This led to the creation of polity. People 'living together' itself constituted society. Plato looked for a prince who would use political power to set up the 'Ideal Republic'. But he also paid adequate attention to social structures like the family and education. Aristotle explained the relationship between the distribution of wealth and status in the community and the political regime. Marxian political philosophy is based on the explanation of the economic system.

In the late nineteenth and early twentieth centuries the social sciences emerged as separate disciplines. But each discipline concentrated on different aspects of human behaviour. Various fields have been distinguished according to specific human behaviour. There is almost no form of behaviour which has not been treated by one or the other of the social sciences. Each discipline differs only in its primary area of interest. The economist is concerned with analysing the economic factors which affect social behaviour in the system of production. That is, he asks what affects decisions about investment capital, labour and goods. Since the value of these

can be specified in monetary terms the economist can analyse his theoretical conceptions in the language of mathematics. Yet the economist is forced to analyse the impact of non-economic behaviour like decisions to invest. The psychologist is interested in learning why individuals differ in their behaviour. Since one of the key sources of personality formation is participation in society and interactions with each other in society, the psychologist should also study social psychology i.e. group psychology. The anthropologist is concerned with the different ways in which men have organised their culture. To analyse culture, the anthropologist has to study the basic values of each society, its economic conditions, its political systems etc. The sociologist is concerned with how institutions fulfill the changing needs of man in society, including every aspect of human behaviour. The study of politics, like philosophy, traces the intellectual origins of society, covers present society, social relationships, family system, ways of producing goods, and culture etc. What goes on behind the political system can be known only from the study of the social structure. As Gabriel Almond points out, classical political theory is more of political sociology and psychology than a theory of the political process. The study of politics, however, long remained a general field, which dealt with all aspects of human behaviour.

The term political science, which gradually emerged to describe a particular academic field of study, originally meant what we now call policy science. One of the earliest appearances of the term in the 'All American Universities' catalogue was in the 1880's, when the Columbia University Graduate Social Science faculty was founded as the faculty of Political Science. This faculty included departments like economics, sociology, history, anthropology, statistics, public law and government. The latter department was seen as one of policy sciences. While Political Science was emerging as a separate field, the other disciplines continued to exhibit considerable interest in politics. This was particularly true of the early sociologists both in Europe and America. Psychologists interested in the formation of attitudes turned to examine political values and the behaviour of people. Political Sociology rapidly emerged as an expanding discipline; it attempts to apply various concepts and methods of sociology to the study of political behaviour and institutions. Political Sociology rapidly emerged as an expanding voting behaviour but also to explain the impact of governmental agencies, political parties and economic institutions of society. Economists were also interested in political economy to elaborate their increasingly vigorous mathematical and statistical models. The study of authoritarian personality of the 1940's involved efforts to apply psychological methods to understand extremist political appeals. Sociologists and anthropologists have been in the lead in formulating concepts. The result is the formation of a 'System Theory' - Functional analysis' which first emerged in these fields. Political scientists started elaborating the system theory, giving special attention to the role of polity in affecting social development. Now the system theory is concerned with developed states as well as international relations.

On the intellectual side, there was an increasing acceptance of the usage of mathematical models as the best way to formulate social science theory. Many social scientists believed that social science must follow the path of economics in explaining their propositions. Poverty, race and the problems of urban government have taken over as the dominant domestic issues of the day. These involved efforts to decide how to allocate resources to attain objectives. The problems formulated are conducive to economic analysis. Thus the political scientist has turned to policy science - economics - to find a model for enquiry. As a result, the field of study of political science remains as heterogeneous as ever. The interrelationship of political science with the neighbouring social sciences has complicated the task of scholars and students in the field.

Although political science is concerned with other fields and there is an increasing overlapping between these fields, this is not a threat to the autonomy of the subject. Its concern with the form of the decision-making process, distribution of power, legitimacy and authority, voting behaviour etc. has intruded into the work of the other social sciences.

3.3 RELATION WITH OTHER SOCIAL SCIENCES

Political science is intimately related to all other social sciences. Each social science supplements and fortifies the rest. All are inter-dependent and interrelated. In recent times the dimensions of political science have been extended to many fields following the growth

of the inter-disciplinary approach. This inter-disciplinary approach is an aid to the complete knowledge of man's organised political life.

3.3.1 POLITICAL SCIENCE AND SOCIOLOGY

Sociology is the science of society. It deals with social development in general and describes social life in all its phases and complexities. Sociology can be defined as a science of the origin and development, structure and functions, of social groups, their forms, laws, customs, culture and civilisation.

Political Science and sociology are intimately connected. They are mutually contributory. Political science gives to the sociology the facts about the organisations, functions of the state, and obtains from it the knowledge and origin of political authority and laws which control society. A political scientist must be a sociologist and a sociologist must be a political scientist. For example, the institution of marriage by itself is an element in the social life of man and it is the concern of sociology. But if a code of marriage like the Hindu marriage Act is enacted in a particular way, it falls within the domain of political science which deals with the scope of organised control and obedience. The Hindu, the Sikh, the Muslim and the Christian communities by themselves are the subjects of sociology. But when they quarrel among themselves and the quarrels flare up into communal riots, it not only represents the pathological side of Indian social life, but also a problem of political concern to prevent their recurrence by removing the causes of conflict in order to yield them into a patriotic nation.

During the past two decades the relationships between political science and sociology has been increasingly emphasised. There has been growing emphasis of the sociological foundations of politics. It has been argued that the conditions of social life impose some politically relevant patterns of behaviour on man. The result of this argument is a new branch of study. Political Sociology interpretations of the political phenomenon. Political Sociology explains the sociological takes the concept of the political system, first developed by David Easton. It seeks to examine it in sociological terms on the basis that the political system in a country is integrally related to other social systems. A system implies interdependence of parts. By interdependence is meant that whenever there is a change in one part there should be corresponding changes in the other parts also. That is, the other parts are also affected. It is the function of the political sociology to examine this phenomenon.

In spite of this close affinity, study of both the sciences is distinct and their problems are by no means the same: Sociology deals with man in all his varied social relations and in all forms of human associations. Political Science on the other hand is a study of the political governance of man and it is a specialised branch of sociology. It has a narrower field to cover than sociology. The political life of man begins much later than his social life. Sociology is prior to political science. Sociology studies organised and unorganised communities and the conscious and unconscious activities of man. Political science aims at past, present and future determinations of political organisations, whereas sociology is the study of various social institutions that exist or have hitherto existed. It cannot predict the nature of future society.

Sociology and cultural anthropology have become much interrelated with political studies in recent years. The fields of political sociology and political anthropology have become recognised subdisciplines on many campuses. Sociology is a special study of social behaviour and human inter-actions. It provides information on social customs and cultures which bear significantly on political development and political institutions. Comparative studies of families, clans, tribes, classes, and races and their interrelationships, furnish the political scientists with a better understanding of the nature of various communities and their problems. Such data are particularly applicable to the current interest in emerging and transitory states. The interchange of discipline is especially appreciated by behaviouralists.

3.3.2 POLITICAL SCIENCE AND ECONOMICS

Economics is the study of those individual and social activities involved in the production, distribution and consumption of wealth. Till recently, Economics was regarded as a branch

of political science. The Greeks called Economics by the name 'Political economy'. Aristotle said that the way the bulk of the people earn their living whether they are farmers, herdsmen, mechanics, shop keepers or labourers, will have much to do in deciding the nature of the state. Adam Smith, the English classical economist, in his famous book, "An Enquiry into the Nature and Cause of Wealth of Nations" claims that the political economy proposes to enrich the people and the sovereign. In modern times economics has been regarded as a separate discipline, which studies how man gets his income and how he uses it. Its scope has been confined to the study of human welfare and includes a discussion of consumption, production, exchange and distribution.

In spite of the differences of opinions about the subject there is a unanimous opinion that political science and economics are auxiliary to each other. Man in society is the common factor to both the sciences. The welfare of man and society are the concern of both the subjects. It is the function of the state to create such conditions in society that every individual gets an opportunity for pursuing his activities, particularly economic activities. The state has to create an atmosphere which is conducive to the good life of man and to give equal opportunities for growth and development.

It is one of the important functions of the state to see what its citizens consume. The state is concerned with the health of the people of the state. It becomes necessary for the state to see how commodities are produced. For example, the government makes ceaseless efforts for producing more, keeping pace with the total demand of the country. Or for instance agriculture is the back-bone of the Indian economy. The agriculturist's mainstay is a gamble on the rains. It is the duty of the government of India to maintain sufficient reserves of food to cope with scarcities caused by natural calamities. When the demand exceeds the supply, conditions of scarcity are created and prices rise. Rising prices cause distress among the masses. It is the duty of the government to remove the conditions of distress. No country produces merely for its internal needs. Some essential goods may have to be imported. Whatever has been produced abundantly has to be exported to get foreign exchange. It is the duty of the state to decide its import and export policy. Thus government regulates the production in the state.

Goods are not exchanged for goods. The barter system has been replaced by the money economy. It is the function of the state to coin money and regulate it to avoid inflation etc. The economic prosperity of any nation depends upon the soundness of its banking organisation. The state regulates the functions of the bank. The most difficult task which every country is facing is the problem of distribution. The mode of distribution depends upon the nature of the political system. The capitalist society, with its production and distribution has brought about an uneven distribution of wealth. In a socialist society one section of society does not thrive at the cost of the rest. The theories of individualism and socialism illustrate the interaction of political science and economics.

The major problems of every state are economic in character. The solution of many of the economic problems comes through political agencies. World War II was called a war of democracy against dictatorship. But the cause of the war were also economic. The rise of Nazism was due to the economic exploitation of Germany by the victorious nations of World War I. Most of the political issues of the present days are twined with economic problems. For example, government control of industries, the state's attitude towards labour and capital, etc. The slogan that economic democracy should precede political democracy has revolutionised the politics of every society. The concept of the welfare state has made the whole theory of government administration totally economic. By undertaking production the government performs purely economic functions. The status of the government is judged by its economic progress and achievements i.e., by the production of food and arrangements for its distributions at a reasonable price, growth of production, employment opportunities, and development of the economy as a whole.

Some argue that economic factors determine politics, others claim that political forms will shape and determine the economic system. But one can conclude that the two are highly interdependent. State socialism furnishes us with a combination of political and economic doctrines.

3.3.3 POLITICAL SCIENCE AND PSYCHOLOGY

Fifty years ago, Walter Lippman observed that to talk about politics without reference to human beings is just the deepest error in our political thinking. Psychology deals with the behaviour of man and explains what he actually does. It explains the motives of human actions. It judges the rationality, traditionality and instinctivity of human behaviour. Political Science which deals with the political behaviour of human beings cannot ignore the psychological effects. The state and other political institutions are products of the human mind. A man's psychology affects his political conduct thoroughly. This has been well shown in some of the contributions made by modern social psychology to political science. There has been much emphasis on the affinity between psychology and political science. Gabriel Almond, Le Bon MacDougall, Graham Wallas and Baldwin are some of the writers who argue that political traditions and institutions are what the human mind has made them. The popularity and stability of a government depends upon its reflection of the ideas and normal sentiments of those who are subject to its authority. Le Bon calls it the harmony with "the mental constitution of the race". Group behaviour as well as individual behaviour is studied by modern psychologists. The study of social psychology has much relevance to political science.

Political science was under the influence of philosophy, and, therefore, political scientists were not fully aware of the realities of life. Thinkers assumed certain facts analysis of political institutions and political science will be futile unless we know exactly the way in which human beings begin to think and behave as individuals and as members of society under different circumstances and influences.

Not all political problems have a psychological explanation. There are some areas of study in political science which have been subjected to the behaviourist approach to a great extent. Such an area is that of public opinion, voting and election, political parties and pressure groups. It has also been applied to such concepts as 'power' and 'influence'. Psychology is concerned with mental acts which must be considered in relation to the observable individual mind. Political Science is concerned with the impulsive reactions of man in an organised society.

3.3.4 POLITICAL SCIENCE AND ANTHROPOLOGY

Anthropology is a study of racial divisions of man, his physical character, his geographic division, his environment and social relation, and his cultural development. The researches in the racial division, habits, customs and organisations of primitive man help us to know the real origin of the state and the development of political institutions. The political behaviour of man is greatly influenced by the culture and environment in which he lives. Race unity is one of the strongest bonds of nationality. With the help of anthropology, whether a particular society was communal in character in the past or not can be determined. Anthropology also brings out what the practices were in the early stages of that society. For instance, in early society marriage was the rule rather than the exception. In course of time the need for regulating marriage arose. Civilisation advanced and people started settling down permanently. Such stability of institutions led to the emergence of a state.

Anthropology helps the study of political science by providing knowledge of early societies, their laws, customs and modes of government. During the last two decades a lot of literature has been published on the process of modernisation for which anthropology was very useful. Political anthropology has been now recognised as an independent discipline. Anthropology enables a comparative study of developing countries by providing data about the traditional elements, attitudes, values, patterns of behaviour and leadership etc.

3.4 SUM UP

Political Science is an important social science. Social science has been compared to be a banyan tree which has many branches. But the central object of all the social sciences is man. Each social science deals with one aspect of the human being as a member of society. Since man is the central point for all social sciences we cannot have a clear-cut demarcation between any two social sciences. There is bound to be some overlapping among social sciences disciplines.

The study of one particular discipline alone will not give us a full understanding of that subject. One has to consider the findings of other disciplines which are influencing this particular field of study. Then alone the study can be complete and comprehensive.

Political Science cannot be studied as an isolated subject. For that matter no social science is an isolated discipline. They are all inter-related. If politics is a game played by human beings, why, when and how they take steps in playing the game also matters much. What makes a man act in a particular manner in a given political situations like elections or a political event? This political attitude of man must be the result of several other factors like, his philosophy, his culture and the environment in which he is brought up. There are ever so many psychological and sociological factors which influence the political attitude of leaders and individuals. Thus the study of the political attitude of the person can be explained more accurately if the study is extended to the economic, social, psychological and cultural aspects of that person. These "other aspects" belong to other fields. Yet the study of these is inevitable.

For example, why did the people of India rebel against the British? or What were the causes of the 1857 "Sepoy Mutiny"? These political questions cannot be answered without tracing the historical, social and economic events of the past. Naturally the discipline of political science influences other social sciences. Here, political science is not merely the study of polity, or state or government or any other political institution. It is rather a study of the past political events, forces and institutions and also the study of the social and cultural factors which led to such political events.

Thus, it is clear that political science is a vast and comprehensive subject dealing with many aspects of society. Social scientists, realising the depth of the interdependence of the Social Sciences have resorted to an inter-disciplinary approach. Due to this development many sub-disciplines of political science have come up. Political Sociology, Political economy, psychology of politics, Political analysis and Policy are some of the new branches of political science. The growing importance of the inter-disciplinary approach is promoting the growth of social sciences. As such, political sciences has developed into an autonomous subject, and at the same time it is very comprehensive, covering many fields of other social sciences.

Author Dr. T. S. MOHANA

3.5 SUGGESTED READINGS

- Amal Ray & Mohit Bhattacharya : Political Theory, Ideas and Institutions.
Andrew Hacker : The study of Politics.
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3.6 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Trace the growth of Social Sciences for past half a century.
2. Enlighten on the development of Political Science right from 18th Century.
3. Explain the relationship between Political Science and Sociology.
4. Explain the relationship between Political Science and Economics.

II. Answer in about 10 lines.

1. Trace the relationship between Anthropology and Political Science.
2. To talk about politics without reference to human psychology is just the 'deepest error' in political thinking - Explain.

BLOCK-II : STATE AND SOCIETY

UNIT-4 : SOCIETY, STATE AND NATION

Contents

- 4.0 Objectives
- 4.1 Introduction
- 4.2 Society and voluntary associations
- 4.3 The State
 - 4.3.1 The Elements of the State
 - 4.3.2 State and society and the difference between state and society and voluntary organisation
 - 4.3.3 State and government
 - 4.3.4 state and voluntary associations
- 4.4 Nationality and Nation
 - 4.4.1 State and Nation
- 4.5 Sum up
- 4.6 Suggested Readings
- 4.7 Model Questions

4.0 OBJECTIVES

After going through this Unit you will be able to:

- * explain the meaning and nature of Society, State and other organizations,
- * describe the elements of the State in detail,
- * list out the differences between State and other organizations, and
- * discuss the meaning and nature of the nation and nationality.

4.1 INTRODUCTION

In this Unit you will read about the State, Society and Nation and their scope and limitations. The differences between them have also been mentioned.

4.2 SOCIETY AND VOLUNTARY ASSOCIATIONS

Aristotle says that man is a social animal. This implies that man has an inherited instinct to live with his fellows. Associated social life has several benefits. The various benefits include protection and comforts of life, satisfaction of individual aspirations and development of the individual personality.

At this point we are required to know the meaning of society. In simple words, society is a collection of human beings living a collective life. It denotes a complex net-work of human relationships. These relationships are formed and developed through various associations and institutions. In other words, society consists of associations and institutions. These associations and groups contribute to the development of the human personality.

We have already seen that society comprises associations and institutions. By an association is meant a group of persons organized for the pursuit of specific purposes. An association comes into existence for the purpose of promoting the common interests of its members. In our modern society we come across a number of associations; social, religious, economic and cultural. These arise chiefly to satisfy varied human needs.

Associations are of two types - compulsory and voluntary. The family and the state, for example, are compulsory associations. Membership of these associations is not left to the choice of the individual. It is in the family that an individual learns civic virtues such as self-sacrifice, tolerance, mutual help and cooperation. It also develops political attitudes in children. Thus the family acts as the primary school of citizenship. The state is another compulsory association. It regulates and controls various social forces. It thus creates a favourable atmosphere for the citizens to lead a happy and socially useful life.

In modern society there are a large number of voluntary associations such as trade unions, business associations, professional associations, etc. People become members of these associations by deliberate choice. These are organised groups which protect and promote the interests of their members. They sometimes resort to lobbying to achieve their goals.

Every association has its institutions. By an institution is meant a form of procedure or a pattern of relationship. Thus, the association of the family has the institution of marriage. To give another example, the church is a religious association which has its institution of rituals.

4.3 THE STATE

Now let us consider the meaning and elements of the state and the differences between the state and society, the state and the government and other associations.

Traditionally political science is defined as the science of the state. This definition implies that the state is the central theme of political science. In its modern sense, the term 'state' entered the vocabulary of political science in the sixteenth century. In his "The prince", Machiavelli defines the state as "the power which has authority over men". Since then, it has been used by various thinkers in different ways. This accounts for the existence of a number of definitions of the state.

Definition of the State : Definitions of the state are too numerous to be quoted here. For our purpose let us take two definitions given by modern writers on the subject.

1. ".....the word state means a community or society politically organized under one independent government within a definite territory". (Dillon and others, Introduction to Political Science.)
2. The state is "A collection of people in a certain territory having organized government and possessing autonomy with respect to other such units". (S.L. Wasby, Political Science - The Discipline and its Dimensions).

4.3.1 THE ELEMENTS OF THE STATE

From the foregoing definitions, it is clear that the modern state has four essential elements, viz., (1) population, (2) territory, (3) government and (4) sovereignty. These essential elements are sometimes referred to as the characteristics of the state. Some modern writers add international recognition to the four elements mentioned above. Each of the essential elements will be elaborated in the pages that follow.

1. **Population:** The state is a human institution. Hence, there can be no state without population. An uninhabited portion of the earth, such as the wastes of Antarctica, cannot form a state.

How many people are required to form a state? There is no definite answer to this question. No definite limit can be fixed for the number of persons necessary to form a state. In his "Laws", Plato fixed the population of a state at 5,040. Rousseau fixed the population of a state at 10,000. Aristotle laid down the principle that the population should be large enough to be self-sufficient and small enough to be well-governed. However, the population must be sufficiently numerous to provide the rulers and the ruled. It should be in proportion to the territorial area and resources of the state. Both over-population and under-population may become serious problems to states.

It may be noted that there are states like China, India, Russia and the U.S.A. with millions of population. Contrastingly, there are small states like Monaco, and Andorra with a few thousands of people. Thus in the modern world the population of states varies.

Some writers say that a homogeneous population is essential for a good government. But many modern states contain a heterogeneous population. The governments of states with heterogeneous populations are often as good as those of the states with homogeneous populations.

More than the size, the quality of the population of a state is very important. The quality of the population of a state depends upon the level of literacy and cultural advancement, scientific outlook, skills in technology, etc. The strength of the modern state depends upon the quality of its population.

2. Territory : A fixed territory is the second important characteristic of the modern state. Territory means a definite area of the earth's surface upon which the population permanently resides. A wandering tribe without a fixed area to live in cannot form a state. Before 1948, the Jews were scattered all over the world. They did not form a state until they settled permanently in Israel which was created in 1948.

The territory of state includes land, water and air space. The state exercises its sovereign power over the land, rivers and lakes within its boundaries. The territorial waters of a state extend upto 12 miles from the shore. Its authority extends also to the air space above its territory.

The territory of a state may be compact or geographically divided and disconnected. As a rule, the territory must be contiguous. This helps the growth of nationalism and contributes to efficient government.

There is no definite limit with regard to the size of the territory of the state. There are large as well as small states in the modern world. For example, the territory of India is many times more than that of Sri Lanka. Both big and small states have equal status and rights according to international law. In the modern scientific and technological age big states have both economic and military advantages when compared with smaller states. However, the prominence of a state does not depend upon the size of the territory alone. Climate, geographical configurations, the availability of natural resources are also important factors in deciding the importance of a state.

3. Government : The third element of the state is the government. The government is the machinery by means of which the state expresses and enforces its will. The state maintains its existence through the government. While the state includes all the people within its territory, the government includes those people who are engaged in formulating and enforcing the will of the state. The government maintains law and order and provides common services to the people. In the sphere of international relations, the state deals with other states through the agency of the government. Thus the government is the organizational focus of the state.

4. Sovereignty: Sovereignty is the last and most important element of the state. In the absence of sovereignty, a populated territory having a government cannot become a state. Sovereignty means the unlimited legal authority of the state.

Sovereignty of the state has two aspects-internal and external. Internally, the state has the supreme power to make laws and enforce them over all individuals and associations within its territory. External sovereignty means full independence of the state in relation to other states.

It may be noted that sovereign power is exercised by the government of the day. But such power is the essential attribute of the state and not of the government.

5. International Recognition: Some international lawyers like Hyde and Fenwick regard international recognition as an essential element of the state. It denotes formal recognition of the sovereign power of a state over a given territory and population by other states. However, this is not essential for the existence and continuance of a state. Whether recognised or not a state is a state, if it has population, a fixed territory, government and sovereignty..

In conclusion, we may say that the state is characterised by a populated territory and an independent government. In the absence of any one of these four elements there can be no state. Thus the federating units of the Indian Union such as Andhra Pradesh, Karnataka, Punjab, and so on are not states. None of them possess the essential element of sovereignty, although each of them has population, territory and government.

4.3.2 STATE AND SOCIETY

It has already been noted that the state is one of the many associations in society. This suggests that state and society are not identical. Any attempt to identify the two bars any understanding of either society or the state. The state differs from society in the following respects:

1. Society is prior to the state. Society came first and the state is a later growth. As language precedes grammar, so does society precede the state.
2. The term society is wider than the term state. Society comprises a network of associations and institutions. The state is one of them. It is a politically organised society and does not cover the various customs, traditions and procedures suggested by the term society.
3. A definite territory is not an essential element of society. On the contrary, the state must have a fixed territory.
4. Society includes both organized and unorganized groups. On the other hand, the state denotes a politically organized community. Without an organized government, there can be no state.
5. The activities of society cover the whole life of man. They fulfil various purposes such as religious, economic, cultural and political. Unlike society, the state exists for one primary purpose, viz., the enforcement of law and order in society.
6. Society has no coercive power. It cannot punish those who disobey its customs and conventions. It operates through persuasion and public opinion. Contrarily, the state possesses coercive power. It can inflict physical punishment on those who disobey its laws.

The distinction between society and the state is essential for safeguarding individual liberty. If the state is identified with society, there will be no limit to state interference in the life of the individual. Such a situation would also result in a totalitarian government. Totalitarianism implies total control of all aspects of social life. Therefore, in the interests of individual liberty and democracy, the distinction between society and the state is essential.

4.3.3 STATE AND GOVERNMENT

In common language, the terms, 'state' and 'government' are used interchangeably. Even some well-known political thinkers like Hobbes and Hegel failed to distinguish between the state and the government.

Nevertheless, the state and the government are not one and the same. The differences between them may be stated as follows:

1. The state is the principle, while the government is merely an agent. Government is one of the four elements of the state, the machinery through which the purposes of the state are realized.

2. The term 'state is wider' than the term 'government'. 'State' includes all the people within its territory - both the governors and the governed. 'Government' includes a definite body of officials (both elected and appointed) who run the administration in the name of the state.
3. The state is a concept, a mere abstraction. It has no concrete shape. On the contrary, the government is tangible and concrete. It consists people who carry out the operations of the state.
4. The state is permanent, while the government is temporary. The state continues to exist as long as it exercises sovereign power. Unlike the state, governments often change through elections or revolutions. In India since independence governments have changed, but these changes have not affected the continuity of the state.
5. Sovereignty is an essential attribute of the state and not of the government. Therefore, the powers of the state are original and absolute, while those of the government are delegated and limited.
6. All states are similar. All have the four essential elements of population, territory, government and sovereignty. But the forms of government vary from state to state.

The distinction between the state and the government is very important from the point of view of individual liberty. Failure to distinguish them would result in unlimited government. The government, is, after all a body of officials who are fallible like other individuals. They may abuse their power and endanger the liberty of the individual. Hence the importance of the distinction between the state and the government.

4.3.4 STATE AND VOLUNTARY ASSOCIATIONS

We have already seen that the state is one of many associations. But it is not similar to other associations. It differs from them in the following respects:

1. Membership of the state is compulsory while membership of association is voluntary. All people who are born and are living in a state automatically become its members. The membership of an association depends upon the likes and dislikes of individuals. Further, an individual can be a member of one state at one time. On the contrary, an individual can be a member of more than one association at one and the same time.
2. A fixed territory is an essential element of the state. An association by contrast has no fixed territorial boundaries. The members of an association may belong to a small area within the state or may belong to several states. Thus, territoriality distinguishes a state from other association.
3. The state is more permanent than other associations. A particular state continues to exist unless it is conquered by another state. An association may be dissolved, by the decision of its members not to have it. Some associations automatically disappear after having fulfilled their purposes.
4. The functions of the state are comprehensive and concern the whole community. Associations have definite and limited functions. They aim at promoting the specific interests of their members.
5. The State exercise coercive power. It can impose penalties for the breach of law. The associations have no coercive power. A disobedient member of an association can at best be expelled from its membership. This distinction follows from the fact that the state alone possesses sovereignty. All other associations carry on their activities subject to the authority of the state.

From the foregoing analysis it is clear that the state is a comprehensive, and compulsive association. It regulates and coordinates the activities of other associations in the interest of the welfare of the community. It is thus an association of associations. However, other associations are not dependent; upon the state for their existence. They contribute in their own way to

the development of the individual personality. Therefore, they must be allowed freedom and autonomy in their spheres consistent with their functions.

4.4 NATIONALITY AND NATION

The terms nationality and nation are difficult to define because they are associated with many variables. However, we shall make an attempt here to explain their meanings and bring out the differences between them.

The terms nationality and nation are derived from the same Latin word "Natus" or "natio" which means birth. Although they are derived from the same Latin root, they differ in meaning.

Nationality denotes a group of people united by historical, cultural or ethnic relationship. Thus, it suggests the corporate sentiment of a group of people. It is the feeling of oneness that exists in a group. Such a sentiment of unity is generated by the forces of a common homeland, language, religion, history and cultural traditions. Thus, nationality is used to denote a culturally homogenous group having the sentiment of unity. When such a group of people achieves or desires to achieve political independence, it becomes a nation.

From the foregoing, it is obvious that the term nation has a broader meaning than the term nationality. The term nation includes nationality plus political independence. The term nation has thus a more distinctively political connotation than the word nationality.

4.4.1 STATE AND NATION

Sometimes the terms state and nation are wrongly used synonymously. It is, therefore, necessary to understand clearly the distinction between 'state' and 'nation'.

A state is characterised by a populated territory and an independent government. It is a legal entity. A nation, on the contrary, is a psychological concept; it is the product of the emotional unity of a group of people. Nation carries with it the element of nationality.

A state is a state even if the people in it may lack the sentiment of oneness. Before World War I, Austria-Hungary was a state, but not a nation. A state becomes a nation or nation-state when there exists only one nationality in it. In the modern world the tendency is to equate statehood with nationhood i.e., to organize state on the basis of one nation, one state. According to J.S. Mill, nation-states are ideal.

From the preceding discussion, it is clear that the boundaries of a state are geographical, while the boundaries of a nation are psychological. Their boundaries need not always be co-terminous. Nevertheless, after the First and Second World Wars, a number of nation-states have come into existence in Europe, Asia, Africa and Latin America.

Since nationality is very important in our discussion, it is necessary to examine the various elements or factors that promote it. The following are some of the most important elements that contribute to the feeling of nationality.

1. **Common Race:** The belief in a common race unites a people and promotes the feeling of nationality. But, in modern times it is recognised that racial purity is a myth. Therefore, the concept of race is not absolutely essential for the feeling of oneness. There is an unmistakable American nationality despite the existence of several races in the U.S.A.
2. **Common Language:** A common language provides cultural unity among a group of people. It helps them to share their feelings and thoughts. However, a common language is not essential to create the feeling of unity. In Switzerland the people speak German, French and Italian. Yet, they feel that they are all Swiss. In India we feel that we are all Indians despite the many languages spoken by us.

3. **Common Religion:** Religion creates the necessary emotional unity among the people following a particular faith. However, in modern times with the growth of secularism, the importance of religion as a binding factor has been declining. It is not an indispensable factor in our age, in promoting national unity.
4. **Common Homeland:** The possession of a common homeland helps to create a sense of belonging. It fosters the growth of patriotism. But, it should be noted that the scattered Jews maintained the sentiments of nationality without a common homeland before the creation of Israel.
5. **Common Political Aspirations :** The desire of a people to become politically independent promotes nationality. It was the common political aspirations that united the people of India under British Rule. It helped them unite and fight for independence.
6. **Common History and Traditions:** A common historical past, a common tradition reflect in art and literature and common customs bind the people together. In the opinion of J.S.Mill, collective pride and humiliation connected with historical events generate nationality. Common economic interests also strengthen the ties of unity.

To end the discussion, it may be noted that none of the factors mentioned above is essential and adequate to develop the sentiment of nationality. Nationality depends also upon subjective feeling. It is essentially a spiritual sentiment. It may exist among the inhabitants of a definite territory despite racial, religious, and linguistic differences among them. It is a product of both subjective and objective factors.

4.5 SUM UP

Political activity takes place in society. By society is meant a net-work of social relationships. It consists of associations and institutions. The state is a powerful association in society. The state differs from both society and associations. It is essential to create the necessary peace and order in society and associations. It is essential to create the necessary peace and order in society. It acts through its instrument, the government. Therefore, the state and the government are not identical. The modern state is often referred to as the nation - state. And yet, 'State' and 'Nation' are not synonymous. A state may contain one nationality or several nationalities. Nationality plus political independence results, in the birth of a nation - state. The basis of a nationstate is nationality, which is a product of various subjective and objective forces.

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4.6 SUGGESTED READINGS

R.N. Gilchrist : Principles of Political Science

4.7 MODEL QUESTIONS

A. Answer in about 30 lines.

1. What are the essential elements of the State? Which do you think is the most important one in distinguishing states from non-states?

B. Answer in about 10 lines.

2. Distinguish between (a) the state and society and (b) the state and voluntary association.
3. What is meant by government? How does it differ from the state?

UNIT-5: SOVEREIGNTY AS A CHARACTERISTIC OF THE STATE - CHALLENGES TO SOVEREIGNTY. PLURALISM AND INTERNATIONALISM

Contents

- 5.0 Objectives
- 5.1 Introduction
- 5.2 Meaning and Definition of Sovereignty
 - 5.2.1 A brief historical analysis of the concept of sovereignty
 - 5.2.2 Characteristics of Sovereignty
- 5.3 Kinds of Sovereignty
 - 5.3.1 Relationship between legal and political Sovereignty
- 5.4 Austin's Theory of Sovereignty
- 5.5 Pluralism
- 5.6 Sum Up
- 5.7 Suggested Readings
- 5.8 Model Questions

5.0 OBJECTIVES

- After going through this unit you will be able to:
- * explain the meaning and definition of Sovereignty
 - * list out the kinds of Sovereignty
 - * discuss Austin's theory of Sovereignty, and
 - * analyse the impact of pluralism and Internationalism on Sovereignty.

5.1 INTRODUCTION

Sovereignty is an important concept both in legal and political theory. The modern state is referred to as the sovereign state. This implies that sovereignty is an essential element of the state. The possession of sovereign power enables the state to issue commands to all within its area. In the absence of this supreme power of the state, there will be virtual anarchy in society. In this course you will study about Sovereignty.

5.2 MEANING AND DEFINITION OF SOVEREIGNTY

The term sovereignty is derived from the Latin word 'Superanus' which means supreme. Thus sovereignty denotes supreme and final legal authority above and beyond which no further legal power exists.

Sovereignty has two aspects-internal and external. Internally, sovereignty implies the power of the state to make laws and enforce them over all individuals and associations within the state. In any matter its word is final. Externally, Sovereignty implies the independence of a state from foreign control. For example, India is a sovereign state, because she is not subject to the authority of a foreign state.

5.2.1 A BRIEF HISTORICAL ANALYSIS OF THE CONCEPT OF SOVEREIGNTY

The concept of sovereignty made its appearance with the rise of the modern nation-state. Jean Bodin, the French political philosopher of the sixteenth century, put forth the concept of sovereignty systematically. In his "Six Books of the State" Bodin defined sovereignty as the "supreme power over citizens and subjects, unrestrained by law". He thus clearly analysed the internal aspect of sovereignty. After Bodin, Hugo Grotius, a seventeenth century Dutch Jurist, elaborated the external aspect of sovereignty.

Later on, while Hobbes developed the legal view of sovereignty, Locke gave the theory of political sovereignty, and Rousseau offered popular sovereignty. Legal sovereignty was subsequently developed by Bentham and Austin. The monistic theory of sovereignty was admitted by Austin.

In recent times, the pluralists challenged the monistic view of absolute and indivisible sovereignty. They argue that sovereignty is not a unity and it must be divided between the state and other associations.

We shall now proceed to define sovereignty. Burgess defines sovereignty as the "original, absolute, unlimited power over the individual subject and over all associations of subjects."

John Houston defines sovereignty as "a legal attribute of state which entitles it to make decisions with respect to matters within its jurisdiction free of external restraint or coercion"

5.2.2 CHARACTERISTICS OF SOVEREIGNTY

Now we are in a position to analyse the main characteristics of sovereignty. According to the legal theory, sovereignty has the following characteristics:

1. **Absoluteness** : The sovereignty of a state is absolute and illimitable. The state is supreme both internally and externally. Its legal supremacy cannot be challenged by any power within or from outside the state.

2. **Universality**: Sovereignty is universal. It extends to all individuals and associations within its area. No one is exempted from its control. Diplomatic representatives from other states are exempted from the control of the sovereign of a state. But the immunity granted to diplomatic personnel can be removed by sovereign at any time.

3. **Permanence** : Sovereignty is permanent. It continues as long as the state exists. It disappears when the state dies. Changes in government do not affect the continuity of sovereignty which is an attribute of the state.

4. **Indivisibility** : Sovereignty is indivisible. There cannot exist more than one sovereign body in state. It cannot be shared between the different agencies or persons. As Gettel remarks, to divide sovereignty is to destroy it. Critics point out that sovereignty is divided between the centre and the states (provinces) in a federation. This argument is not valid. What is divided in a federal state is not sovereignty but the exercise of its powers.

5. **Inalienability**: Sovereignty is inalienable. It cannot be transferred to any other body. To surrender sovereignty means to destroy it. The abdication of a sovereign or monarch also does not mean the alienation of sovereignty.

5.3 KINDS OR TYPES OF SOVEREIGNTY

Some writers have classified sovereignty on the basis of its location in different bodies. The following are the different forms of sovereignty.

- (a) **Titular Sovereignty**: Titular sovereignty means sovereignty in name only. A titular sovereign has no real power. Queen Elizabeth II of Great Britain today is the best example of a titular or nominal sovereign. The real authority is exercised in practice by the cabinet in the name of the Queen.

- (b) **Legal Sovereignty** : The legal sovereign is that authority which has the power to make laws. Such laws alone are treated as final commands of the state. The laws made by the legal sovereign are recognised by the courts. In modern democracies the law-making bodies are the legal sovereign. In Great Britain the Queen-in-Parliament is the legal sovereign. Any disobedience to the commands issued by the legal sovereign is punishable. The authority of the legal sovereign is absolute and universal.
- (c) **Political Sovereignty** : The concept of political sovereignty is significant in the context of modern democracies. The political sovereign is that body of persons to whom the legal sovereign must bow. It is the sum total of the influence in state which lies behind the law. Some writers identify it with the electorate or the body of citizens who have the right to vote. Some others identify it with public opinion. Sometimes it is also described as the power of the people.

5.3.1 RELATIONSHIP BETWEEN LEGAL AND POLITICAL SOVEREIGNTY

The legal sovereignty is determinate and precise, while political sovereignty is indeterminate and vague. Legal sovereignty is organised. On the contrary, political sovereignty is unorganised. The legal sovereign can express the will of the state in the form of laws. The political sovereign cannot issue such commands in the form of laws. However, in case of conflict, the political sovereign can overthrow the legal sovereign. The political sovereign conditions and limits the legal sovereign in a democracy.

Gettel observes, "the problem of good government is largely one of the proper relation between the legal and the ultimate political sovereignty". In a direct democracy the legal and political sovereign would practically coincide. Law is the expression of the whole body of citizens. Hence, there is no possibility of conflict between legal and political sovereignty in a direct democracy. In an indirect democracy the relation between the legal and political sovereign is significant. While the legislature is the legal sovereign, the voters are the political sovereign. There should not be any conflict between the will of the legislature and the voters. In the interests of the harmonious working of government, laws made by the legislature should conform to public opinion properly expressed by the people. In a true democratic form of government the legal sovereign must respect the wishes of the political sovereign.

- (d) **Popular Sovereignty** : Popular sovereignty means the sovereignty of the people. It roughly means the power of the masses. It regards the people as the source of all authority in the state. The chief exponent of the concept of popular sovereignty is Rousseau. In his opinion the sovereign is the "General Will" which represents the real will of all the people. The doctrine of popular sovereignty forms the basis of democracy. In a democracy people exercise their will directly through the press and from the platform.

The concept of popular sovereignty is a contradiction in itself. An unorganised and indeterminate mass cannot be called sovereign. Further, the voters do not rule directly. The electorate does not include all the people. Thus, the idea of popular sovereignty is vague and confusing.

- (e) **De Jure and De Facto Sovereignty**: De Jure sovereignty is one that has legal claim to supreme power. Its basis rests on law. It is legally authorised to issue the highest commands of the state. It has also the power to exact obedience to its commands.

The de facto sovereign, on the other hand, is the sovereign that is in actual possession of sovereign power. The de facto sovereign has its foundation in force. Such a sovereign acquires power through conspiracies or coup d'état. He may be a military general, a dictator or a usurper. The present military rulers of Pakistan, Bangladesh and Nigeria are examples of de facto sovereigns. A de facto sovereign may become sovereign de jure if he continues in power for a long time and secures the obedience of the people and recognition of other states.

Analytical jurists like Austin do not recognise the distinction between de jure and de facto sovereignty. They argue that sovereignty is an attribute of the state. It cannot be legal or illegal. It would be more scientific if the terms de facto and de jure were applied to government.

5.4 AUSTIN'S THEORY OF SOVEREIGNTY

The chief exponent of the monistic theory of sovereignty is John Austin. He was a famous English jurist of the nineteenth century. He expounded his theory of sovereignty in his book, "The Province of Jurisprudence Determined." His concept of sovereignty is based on the theories of Hobbes and Bentham.

Austin comes to the definition of sovereignty through the definition of law. He defines law as "a command given by a superior to an inferior." His command theory of law is, therefore, essential to the understanding of his concept of sovereignty.

Austin's definition of sovereignty

Austin defines the sovereign as that determinate person, or body of persons, to whom the bulk of the population owes habitual obedience, while he, the sovereign, owes obedience to no other person or body of persons.

Thus Austin has a strictly legal or juristic conception of sovereignty. His theory is called monistic because, it envisages a single sovereign authority in the state.

Implications of Austin's Theory

Austin's juristic view of sovereignty has been attacked by a number of writers such as Henry Maine, Sidgwick and pluralists like H.J. Laski. The various criticisms levelled against Austin's theory may be briefly stated as follows:

1. Sir Henry Maine points out that it is very difficult to locate a determinate sovereign even in a despotic state. He gives the example of Ranjit Singh of Punjab. Although he was a great despot, he never issued a command which Austin would call a law. He never exercised unlimited authority. The life of his subjects was regulated by immemorial customs, usages and religious prescriptions. Maine says that from the historical point of view Austin's theory of sovereignty is artificial to the point of absurdity. We can hardly find anywhere a sovereign of the Austinian description.
2. Austin's theory recognises the legal sovereign and ignores the political and popular sovereign. In modern democracies sovereign authority is conditioned and controlled by various forces such as the electorate, public opinion and pressure groups. It therefore, conflicts with the idea of democracy.
3. Austin's theory of unlimited sovereignty is not acceptable. As we have seen, sovereign power is limited by customs and usages. It is also limited by constitutional law and international law.
4. Austin's view that sovereignty is indivisible has been challenged. The critics cite the example of a federal state in which power is divided between the centre and several constituent units.
5. Austin's concept of law as a command of the sovereign is also criticised. The critics say that the sovereign is not the only source of law. Law proceeds from many sources such as customs, equity, sense of justice, etc. It is, therefore, positively wrong to treat law as the command of the sovereign. Further, it recognises a duty-imposing type of law and ignores power-conferring types of laws.
6. The pluralists have also attacked Austin's monistic view of sovereignty. They have challenged the claim of the state to supremacy on the ground that it is one of the many associations. They argue that various associations are also performing essential social functions and must share sovereign power with the state.

To sum up, Austin's theory is inadequate from the wider perspective of the legal point of view. We shall now pass on to examine the pluralist theory of sovereignty in detail.

5.5 PLURALISM

The pluralistic theory of sovereignty is opposed to the monistic theory of unlimited sovereignty of the state. It rejects the state's claim to supremacy. It advocates autonomy for various associations in society. Thus it is a doctrine of groups autonomy. It stands for division of power between the state and other associations.

The beginning of the pluralist doctrine can be traced to the writings of Gierke and Maitland. In modern times Barker, G.D.H. Cole, Laski, Lindsay and MacIver are important pluralist thinkers.

The main principles of pluralism may be summed up as follows:

1. The pluralists argue that the state is one of many associations in society. The various social, religious, economic and cultural associations, are not created by the state. They do not depend upon the will of the state for their existence. These groups are real in the same sense that the state is real. Each of them has its own personality and will. They perform many socially useful functions and thus they contribute to the development of the individual personality. Therefore, they must have functional freedom. They should not be controlled by the state. The state should not claim to possess supreme power exclusively. It must share sovereign power with other associations in society. Laski aptly remarks that "because society is federal, authority must be federal also".
2. The pluralists do not reject the state altogether. They accept the state as an important political association. But, they say that the state cannot claim the complete monopoly of power. It is at best first among equals.
3. The pluralists also find fault with the monistic concept of law as a command of the sovereign. Duguit says that laws are the conditions of social solidarity. The sovereign is not the source of law. Law arises from the community's sense of right or justice. It is obeyed because it is a condition of social living.
4. The pluralists also find it very difficult to locate sovereignty in a determinate superior. This is more so in the case of a federal state. Laski therefore concludes that "it would be of lasting benefit to political science if the whole concept of sovereignty were surrendered." In a similar tone Krabbe declared that "sovereignty must be expunged from political theory".

The pluralistic theory of sovereignty is not free from criticism. First, it suffers from an inner contradiction. On the one hand, the pluralists deny the state the position of pre-eminence, and on the other hand, they give it the role of coordinating agency in society. It is given power to settle disputes among the groups. Secondly, pluralism would result in chaos since the state is treated as one among many associations. Thirdly, they do not agree among themselves as regards the nature, functions and place of the state in the largest society.

Despite these defects, pluralism has rendered some valuable service to political theory. It points out the dangers of an all powerful state. It emphasises the need for dispersal of power and functional decentralization.

Both monistic and pluralistic theories represent two extremes. Sovereignty can neither be monistic nor pluralistic in a rigid way. The truth lies between the two positions taken by monism and pluralism.

The impact of Internationalism on Sovereignty

If we accept the traditional theory in the sphere of international relations it would lead to anarchic conditions. The notion of an independent state comes in a way of pacific settlement of international disputes. It also hampers the work of international organisations like the U.N. Therefore, in the interests of humanity the sovereignty of each state must be subject to

international law. With the growth of Internationalism all the states in the world are becoming more and more independent. No state can be self sufficient in all respects. The traditional theory also endangers the safety and security of small and weak states. With the emergence of internationalism, the behaviour of each state in relation to other states must be guided by the rules of international law, and international conventions. Therefore, the traditional theory does not hold good in the context of the contemporary emerging international order.

5.6 SUM UP

Sovereignty is an essential attribute of the modern state. It is the absolute legal authority of the state which distinguishes the state from other associations. The monistic theory as developed by Bodin and Austin states that the sovereignty of the state is absolute and indivisible. As against this theory, pluralism advocates limited and divided sovereignty. It pleads for the division of sovereignty between the state and other associations. It also points out how sovereignty is limited by a fast emerging international society.

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5.7 SUGGESTED READINGS

1. Andrew Hacker : The study of Politics
2. A.C. Kapoor : Principles of Political Science

5.8 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Define Sovereignty and explain its characteristics.
2. State and criticise Austin's theory of Sovereignty in the light of modern conditions.

II. Answer in about 10 lines.

3. Write a short essay on the pluralistic theory of Sovereignty.

UNIT-6 : THEORIES OF THE ORIGIN OF STATE : DIVINE RIGHT, FORCE, PATRIARCHAL AND MATRIARCHAL THEORIES

Contents

- 6.0 Objectives
- 6.1 Introduction
- 6.2 Theories of the Origin of the State
 - 6.2.1 The Divine Origin theory
 - 6.2.2 The Force theory
 - 6.2.3 The Patriarchal and Matriarchal theories
 - 6.2.4 The Historical Theory
- 6.3 Sum Up
- 6.4 Suggested Readings
- 6.5 Model Questions

6.0 OBJECTIVES

After going through this unit you will be able to:

- * introduce the theories of the origin of the state briefly,
- * discuss about the Divine origin theory, Force theory, Matriarchal and Patriarchal theories and Historical theory in detail; and
- * give a critical account of all these theories.

6.1 INTRODUCTION

In this unit you will study the various theories of the origin of the state.

6.2 THEORIES OF THE ORIGIN OF THE STATE

An important problem in the study of political theory is the question of the origin of the state. How did the state begin? This question is often asked. But it cannot be answered with finality. The reason is that pre-historic man did not leave sufficient information as regards the formation of the state. In the absence of adequate information political thinkers have been compelled to make guesses and invent various theories explaining the origin of the state. Consequently a number of speculative theories have come into existence. The most important of them are : (1) the Divine origin theory, (2) the Force theory, (3) the Patriarchal and matriarchal theories, and (4) Social contract theory.

The above mentioned theories are in the form of speculations. They attempt to explain why men lived in a political organization and why they submit to political authority. These theories have now been rejected as inadequate. However, the study of these theories is useful as each one of them contains some important truth. Each gives its own reason as to why the state came into existence.

In recent times the historical theory of the origin of the state has been put forward. It says that the state is an historical growth. It is at present the most widely accepted theory of the

origin of the state. Now we shall pass on to consider these theories, except the social contract theory. The social contract theory will be examined in the next lesson.

6.2.1 THE DIVINE ORIGIN THEORY

The divine origin theory is perhaps the oldest of all theories of the origin of the state. It is as old as the speculation about the state itself. The divine origin theory holds that the state is created by God. The ruler rules the state as the representative of God on earth. Obedience to the authority of the king is a religious duty; disobedience is a sin. Disobedience to the king is disobedience to God. It is an act of sacrilege.

The notion of divine origin prevailed in ancient times both in the East and the West. Many passages in the Mahabharata suggest the idea of the divine origin of state. The Old testament regards God as the immediate fountain-head of royal powers. The early Hebrews had similar ideas regarding the origin of the state. During the middle ages the divine theory went unquestioned.

Divine right of kings.

During the sixteenth and seventeenth centuries, in England the divine origin theory took the form of the Divine right of kings. The divine right theory assumes that the authority of the king is also of divine origin. It asserts that the monarchs had received their authority directly from God. Thus it implies that royal authority has divine sanction. The theory of the divine right of kings was supported by the Stuart king of England, James I, and Sir Robert Filmer. James I used this theory to justify his despotic and arbitrary rule. He declared, "kings are breathing images of God upon earth". In his view, kings are lieutenants of God upon earth. In France the despotism of Louis XIV was justified by Bossuet on the basis of this theory. Later on the popular revolutions challenged the divine pretensions of royal absolutism. As a result of the success of these revolutions and the emergence of democracy, the theory of divine right began to decline.

As an explanation of the origin of the state this theory is not acceptable today. It is based on religious faith and not upon reason and logical thinking. We all know now that the state is not a divine creation. It is a human institution created by man to serve his needs.

This theory contains an element of danger. It puts the community at the mercy of the ruler who is responsible to God. It justifies even the autocratic rule of cruel and unjust rulers. It condemns all forms of government except the monarchical.

Despite these defects, the theory has its merits. It points out the part played by religion in the growth of the state. It introduced a sense of morality into politics and strengthened the respect for authority. It taught men to obey when they were not yet ready to govern themselves. It emphasized the moral responsibilities of kings.

6.2.2 THE FORCE THEORY

The force theory is based on the old saying that 'war begets kings'. It holds that the state originated in the conquest and coercion of the weaker by the stronger. Thus, this theory assumes that early in history strong men established dominion over their weaker fellows. When the stronger took over and began to make rules and to settle disputes, the state and the government had begun. David Hume, Leacock, Jenks, and Treitschke are some of the important supporters of this theory.

History provides many examples of dictators and dynasties coming to power through force and violence. Ancient Egypt offers many examples of the creation of new dynasties by violence. In recent times dictatorships are also established by force. The Russian, German, Italian and Spanish dictatorships in the twentieth century were established by force and violence. Thus history is replete with many examples of states coming into existence in this fashion.

The force theory has been used by different groups of thinkers for different purposes. In the middle Ages, the church fathers used this theory to justify the superiority of the church over the state. They argued that the state was based on force and injustice. Therefore, it was subordinate to the spiritual power of the church.

In the latter part of the nineteenth century, a group of German theorists used this theory to justify the power and force of the state. They argued that the state was power, and that force was the most important attribute of the state.

The individualists and the anarchists made use of this theory to advocate individual freedom and limited state action. The socialists argue that the state resulted from the aggression and exploitation of labourers by capitalists. Therefore, the state stands in need of complete examination and repair.

Criticism

The force theory, no doubt, contains an element of truth. Force is an important element in the development of the modern state. Force is also necessary for the maintenance of the state. But it is not the only factor that contributes to the development of the state. Other factors kinship, religion, property and political consciousness have played their part in the evolution of the state. Further, no state can permanently continue to existence only on the basis of force. It has to be based on the consent of the people also. T.H. Green says, "will, not force, is the basis of the state". Another fallacy is that the force theory does not sanction any resistance to the acts of government. It also fails to preserve the liberty of the citizen. For these reasons, the theory of force cannot provide an adequate explanation of the origin of the state.

6.23 PATRIARCHAL AND MATRIARCHAL THEORIES

(A) Patriarchal Theory

The patriarchal theory holds that the state is the result of the natural expansion of the family into clans and tribes. It postulates that the father or the oldest male was the head of the family. The father exercised complete authority over other members of the family. The single family multiplied into a number of families through marriages. Several such families formed a clan. An aggregation of such clans makes the tribe. In this process the habits of obedience were carried over from the father to the tribal leader. An aggregation of such tribes constitutes the state.

The basic assumptions of patriarchal theory are: (i) male kinship, (ii) a system of permanent marriage and (iii) paternal authority.

The chief exponent of the patriarchal theory was Sir Henry Maine. He gave a detailed account of this theory in his two books, *Ancient Law* and *Early History of Institution*.

Criticism

The patriarchal theory has been criticised by the exponents of the matriarchal theory such as Mc Lenan. They argue that the patriarchal family was not universal in ancient times. In their opinion the matriarchal family was the original organization. Its assumption that the institution of permanent marriage existed in primitive societies is not correct. Further, it gave too much importance to male kinship in the making of the state. This is not a satisfactory explanation of the origin of the state. Nevertheless, it draws our attention to kinship as a factor in the evolution of the state.

(B) Matriarchal Theory

According to the matriarchal theory, the origin of the state lies in the matriarchal family. It assumes that in primitive society descent was traced through females. The oldest woman was the head of the family. Another of its assumptions is the existence of the practice of one

woman having several husbands in primitive societies. The matriarchal family, evolving through successive stages, ultimately gave birth to the state. The main exponents of this theory were McLennan, Morgan and Jenks.

Criticism

The matriarchal theory, like the patriarchal theory, fails to give a satisfactory account of the origin of the state. Matriarchal family system was also not universal. Both patriarchal and matriarchal systems existed side by side. However, both theories seek to emphasise the family as the original link in the evolution of the state.

6.2.4 THE HISTORICAL OR EVOLUTIONARY THEORY

We have seen in the preceding pages that none of the speculative theories has given a satisfactory account of the origin of the state. They have been rejected as unsatisfactory and inadequate theories. Garner remarks, "The state is neither the handiwork of God, nor the result of superior physical force, nor the creation of resolution or convention, nor a mere expansion of the family." They are not based upon any scientific evidence that supports their claims.

The most acceptable theory of the origin of the state is the historical or evolutionary theory. According to this theory, the state is the product of a gradual process of social development. It is a growth and not a make. It has evolved from more simple and elementary social structures. It was not deliberately created at any particular time. According to Gettell, "like other social institutions, the state arose from many sources and under various conditions and it emerged almost imperceptibly." This theory has been developed on the basis of scientific, historical, anthropological and sociological evidence and research. The main supporters of the historical theory are J.W. Burgess, Maclver, Garner and Gettell.

Several forces have contributed to the origin and development of the state. The most important factors of force are: (1) kinship, (2) religion, (3) property, (4) war and (5) political consciousness.

(1) Kinship : By kinship is meant blood-relationship. The early social groups such as clans and tribes were based on the bond of kinship. Belief in descent from a common ancestor held the members of a clan together. It is this belief that made the members of a clan or tribe obey the authority of the chief kinsman or tribal leader. People who were not related by blood relationship were treated as strangers and enemies. Gettell remarks, "personal relations were more important than the territorial basis in early states". Early rulers were lords of their people, not of their land. Thus, kinship was a source of unity among the primitive groups and played an important part in state building.

(2) Religion : Religion was another important factor in state building. Primitive men could not understand the mysteries of nature like floods, lightnings, and thunder and of human life. In the course of time they began to worship these forces and their deceased ancestors. In this way, the primitive forms of religion called animism and ancestor worship and later nature worship developed. As a result of superstitious beliefs, medicine men and priests controlled large groups of people and commanded obedience from them.

Kinship and religion were two aspects of the same thing. Ancestor worship strengthened the ties of kinship and contributed to the solidarity of the tribe. As tribes expanded and included diverse people, nature worship provided the necessary bond of unity among them. The authority of the ruler was given religious sanction. Thus, in the earliest period religion averted barbaric anarchy and taught the primitive men reverence and obedience. Even in modern times the influence of religion can be seen in many states.

(3) Property : The economic activities of early people contributed to the origin of the state in many ways. The birth of a pastoral economy and the rise of the institution of private property marked an important stage in the growth of social institutions. Both these called for stronger

social controls and leadership. During the state of agricultural economy wealth increased and the idea of private property developed. Class distinctions based on wealth also appeared. These changes necessitated the creation and enforcement of laws for the protection and regulation of property rights and the settlement of property disputes. As agriculture bound men to the soil in a fixed place of abode, the territorial state came into being. Attachment to a particular territory supplimented the earlier bond of kinship. Thus, economic factors played an important part in state -building.

(4) War : War and conquest seem to have played an important role in state- formation. The rise of private property gave rise to inter-group conflicts. In times of war, for the purpose of defence or aggression the members of a group had to work unitedly under the command of a leader. If such a person proved his ability as a leader in war, he was acknowledged as the ruler. The people in the conquered territory became his subjects and rendered obedience to him. A sense of loyalty to the ruler was also established. Thus, the element of force has influenced the evolution of the state and the government.

(5) Political consciousness : By political consciousness is meant the awareness of the need for a common authority to promote common ends. Men, down the ages, have realised the need for order and security. This awareness of people has led to the creation of some kind of organization to regulate their social relations and to achieve common ends through cooperation. With the maturity of political consciousness, people consciously developed various political institutions.

From our discussion, it is clear that the state is the end product of many factors-biological, religious, economic, and military. Like all human institutions, the evolution of the state cannot be explained in terms of any single factor. Its development also is not unbroken.

6.3 SUM UP

The theories of the origin of state are many. Each theory gives its own explanation of how and why the state came into existence. Thus the divine origin theory holds that the state is directly and deliberately created by God. The force theory says that the state is the direct outcome of war and conquest. The patriarchal and matriarchal theories explain that the state originated with the family. All these theories have been rejected as they are in the form of conjectures. Historical or evolutionary theory considers the state as a gradual and continuous growth. This theory has been accepted as the most satisfactory theory of the origin of the state. It contains all the best elements found in the several theories of the origin of the state.

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6.4 SUGGESTED READINGS

Amal Ray & Mohit Bhattacharya : Political Theory, Ideas and Institutions.

6.5 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Discuss the various theories of the origin of the state.
2. Discuss the evolutionary theory of the origin of the state.

II. Answer in about 10 lines.

3. Examine the theory of the divine right of the kings.
4. State and examine the theory of force as an explanation of the origin of the state.

UNIT-7 : THE THEORIES OF THE ORIGIN OF THE STATE : THE SOCIAL CONTRACT THEORY

Contents

- 7.0 Objectives
- 7.1 Introduction
- 7.2 Social Contract Theory
 - 7.2.1 Hobbes Theory of Social Contract
 - 7.2.2 Locke's Theory of Social Contract
 - 7.2.3 Rousseau's Theory of Social Contract
 - 7.2.4 Evaluation of Social Contract Theory
- 7.3 Sum Up
- 7.4 Suggested Readings
- 7.5 Model Questions

7.0 OBJECTIVES

After going through this unit you will be able to

- * explain the social contract theory as a theory of the origin of the State;
- * describe the social contract theory as propounded by Hobbes, Locke and Rousseau giving the background for their ideas and
- * Critically evaluate the social contract theory.

7.1 INTRODUCTION

In this unit you will study the Social Contract Theory of the origin of the state by Hobbes, Locke and Rousseau and to examine its importance in political theory.

7.2 SOCIAL CONTRACT THEORY

Ever since Aristotle said that the state exists for the sake of a good life, the purpose of the state is said to be clear. Although there has been a debate about the origin of the state, a good deal of speculation is true, and such speculation led to a number of theories. Some of them are important. Each of the theories contains some elements of truth and some fallacies too. The historical or evolutionary theory is accepted by all as the correct theory of the origin of the state.

The social contract theory is one of the oldest theories about the origin of the state. The word contract, means an agreement. This theory explains that the state had come into existence as a result of an agreement. Before we speak about the origin of the state and its theories, it is essential to know the state of the nature of the society prior to the state. The state of nature had no political organisations and no institutions like government, court, rules etc. Man's life was uncontrolled by any laws of human imposition. His relation with others and his behaviour with others were not regulated by any human authority. The only regulation men followed was their instinct, guided by nature. The code of conduct prescribed was prevalent in human nature which guided the social life in the state of nature. This code was known as the law of nature. The conditions prevailing in the state of nature have been described in different ways

by different authors. According to some there was, in the state of nature innocence and bliss. People were not selfish and did not exploit others. In fact there was harmony in society. Some others say that the condition of society was miserable and gloomy. As there was wild savagery, might was right. Many other thinkers view it as a state of insecurity and inconveniences. But all the thinkers agree that people in a state of nature were compelled, for one reason or the other, to change the condition of society by substituting it with a political body. Man in the state of nature used to enjoy some rights known as natural rights. Once civil society was established through contract, natural law was replaced by human law and man began to enjoy civil and political rights. All this process of development was nothing but the result of a contract. How did the contract take place? What were the terms of the contract? Who were the parties to the contract? These questions are dealt with different ways by different thinkers.

This theory was supported both in the west and the east. Kautilya, the minister of Chandragupta Maurya, explained it in his book, Arthashastra. He says that people in the state of nature suffered because of anarchy- the proverbial tendency of "a large fish swallowing a small one" prevailed. In order to overcome such a situation people elected Manu as their king. He was placed in charge of the safety and security of the subjects. In the Shantiparva of Mahabharata there is a reference to such a contract. The concept of contract was also accepted by the Roman jurists. Although the origin of the contract theory can be traced back to such periods, it was only after the middle ages that the idea of social contract found a significant place in the literature of political science. In the sixteenth and seventeenth centuries the theory was widely accepted. Hooker was the first scientific writer to give a logical expression to the theory of social contract. The theory was also supported by the writings of Hugo Grotius, the Dutch jurist. In the writings of Hobbes, Locke and Rousseau it received a systematic and wide treatment. These three writers were called social contractualists. Let us examine each of the theories propounded by Hobbes, Locke and Rousseau.

7.2.1 HOBBS'S THEORY OF SOCIAL CONTRACT

Hobbes was born in 1588. At that time political uncertainties were at their worst. The attempts made on the lives of Elizabeth, Henry IV and other rulers had their impact on Hobbes's thinking. The feeling of insecurity was the central character of his life, possibly due to the fact that his father deserted the family at an early age.

After completing his education at Oxford, he became a tutor to William Cavendish in 1609. By that time he was thoroughly conversant with classical Greek learning. Later he became the tutor of the Earl of Devonshire. He travelled widely, and during his tour of the continent he met Galileo. Hobbes started admiring geometry. This led to a keen interest in mathematics which deeply influenced his political thinking.

During that century, Europe was politically in a state of disarray. A most senseless war broke out in 1608, ending only in 1648. This made Hobbes think about 'how order could be restored'. When the bloody civil war broke out between the Parliament and the King, Hobbes fled back and forth between Britain and Europe in fear of his life. Meanwhile, he had published **Elements of Law, Natural and Politique, Deceive and Leviathan**.

Before his death in 1679, he managed to touch upon the whole range of human knowledge, from physics to politics in his writings. He was much influenced by the 'new science' of his time. Political disorders of his own and of the previous generations furnished the background for his political philosophy. The 'new science' and philosophy suggested a method to him.

In his book **Leviathan** in 1651 he sought to justify the absolute power of the king or monarch. He condemned the Civil War of 1642 saying that such a revolution would lead to disintegration. He was a tutor to Charles II and developed a personal interest in the royal family; he believed that monarchy was the most stable and orderly of governments which could bring peace and happiness to England. His theory supported the absolute powers of the monarch. Hobbes defended the theory of unlimited authority of kings when there was a severe opposition to such power. He witnessed the civil war and his political writings were intended to support

the king. Hobbes's theory of social contract can be appreciated better if it is examined with reference to the circumstances he lived in as mentioned earlier.

Hobbes explains his theory beginning with the state of nature. The state of nature according to him was pre-social. Before describing the state of nature he analyses man's nature. Man, according to him is essentially a selfish and self-seeking animal. Man is egoistic and his actions are motivated by his own desire for security and power. He always seeks to satisfy his appetite and desires. He has continuous desire for power. His craving for glory would come to an end only with his death. In his pursuit of self-interest, he is guided not by reason and intellect but by his own appetite and desires. Hobbes concluded that the company of fellow beings would bring nothing but grief to a man. All are equally selfish, self-seeking, cunning, egoistic, brutal, covetous and aggressive. Hence in the state of nature they were continually in a state of war. Every man considered the other to be his enemy. So every man was an enemy to every other man. Men in the state of nature were like hungry wolves, each ready to devour the other. Natural rights they were enjoying were the rights of might. The natural liberty was the liberty that each man had to use his own power for the preservation of his life, wealth and nature. There was no distinction or difference between right and wrong, justice and injustice, as the rule of life was to procure anything that one can get and keep it. As long as there was such a clash of interests among men, there could be no industry, navigation, cultivation of the soil, building, art or letters. Nobody was sure that he would eat the fruits of his efforts. Once his efforts yielded fruit anybody might snatch it away, as might was right. In such a society, being uncertain about the enjoyment of the profits of their efforts, men would not be interested in working hard and producing more. Thus there would not be any progress in any of the fields. Hobbes concluded that all this had made man's life "solitary, poor, nasty, brutish, and short". There was no security to life and property.

In such a condition the inhabitants agreed among themselves to put an end to the chaos and substitute it by a civil society. A civil society would provide a life of union rather than a life of isolation. To bring such a life of union there had to be universal control by some common authority. The civil society thus was a deliberate creation of all by an act of natural agreement. It was a contract of each with all and of all with each. Here starts the germination of the social contract where each man said to every other man "I authorise and give up my right of governing myself to this man, or to this assembly of men, on this condition that thou give thy right to him, and authorise all his actions in like manner".

In this way individuals surrendered their natural rights to some particular man or assembly of men. The body to whom individuals surrendered their rights was the sovereign and individuals who agreed to submit to the authority of the sovereign were the subjects of the sovereign. He was not a party to the contract and his authority was unlimited. This agreement binding each and all to the unquestioning obedience to the sovereign established a stable commonwealth according to Hobbes.

Since it is a contract among individuals and not between the sovereign and the people, it is a social contract and not a governmental contract. And the sovereign is not a party to the contract. Since all individuals gave up their natural rights to a common authority, that is, the sovereign, the sovereign is superior to all.

The sovereign's power is absolute and unlimited. Since he is not a party to the contract and is not expected to abide by any conditions. Since sovereign authority has been made so powerful keeping in view the needs and aims of civil society, that is, peace and defence, the sovereign is created by reducing all the wills into one will.

Once the contract is created, individuals are left with no rights for themselves except the right of self preservation. Any breach of the contract is nothing but reverting to the anarchic conditions of the state of nature.

Once the contract takes place, people do not have the right to rise against the sovereign power. Since the sovereign is not a party to the contract, any of his actions cannot be questioned

for breach of the contract. The sovereign personifies the will of all. All his actions are justified and therefore people should obey him. Whatever the sovereign does is unquestionable and unpunishable by the people.

Law is the command of the sovereign power. Liberty is the gift of the sovereign. The sovereign prescribes the rules which will dictate and direct people in their actions. Liberty can be seen to have two aspects from the writings of Hobbes, 1) whatever the sovereign has not forbidden, 2) What is not given up by the original contract - the right of self-preservation-which cannot be surrendered.

The individual may therefore refuse to kill himself if the sovereign forces him to do so. He can resist assault. He can defend himself against an offence (if he is innocent of it) that would jeopardise his life; with proper reasons he may even refuse to serve in the army.

But for this limitation, Hobbes gives to his sovereign absolute, inalienable, indivisible and unlimited authority. Hobbes's sovereignty could rest either in one man or in an assembly of men. He felt that Monarchy was the best form of government, with more advantages and fewer drawbacks compared to other forms of government.

Conclusion:

Hobbes was the first Englishman who prescribed a logical and coherent political philosophy. The theory of Hobbes has been subjected to severe attack, and sometimes his ideas have been misunderstood. But he had the great virtue of logical rigour and consistency.

Hobbes describes the state of nature as pre-social and pre-political. Society exists by nature and necessity. Man is basically social and hence he cannot lead an isolated life.

Every right has a corresponding obligation but there does not exist any with Hobbesian man in the state of nature. According to Hobbes there is a surrender of rights. But he says that man retains to himself the right of self-preservation. There cannot be a complete surrender with the reservations of right.

Hobbes's legal view of rights, as Baski observed, is insufficient for political philosophy. It fails to distinguish between the rights recognised by the state and the rights which required recognition as the indispensable condition for the development of individual personality. Popular sovereignty is the basis of modern democracies. But Hobbes neglected the concept of popular sovereignty.

7.2.2 LOCKE'S THEORY OF SOCIAL CONTRACT

From 1660 to the 18th Century, people desperately sought concepts which, while continuing to preserve individual freedom and the right of resistance, would at the same time promise stability based on something other than force. The political philosophy of John Locke seemed to respond to this quest. Retaining individualism, it attempted to modify the harshness of Hobbes's egoism. Rejecting Hobbes's atheism he tried to root Christianity in reason. Locke's doctrine became an important philosophy for understanding the political mind of Europe upto 1776.

Locke was born in 1632 and his political attitudes were developed before he was twenty, when he went to Oxford to study. His father was a parliamentarian and his views on child discipline were reflected in Locke's political philosophy at a later time.

From 1667 to 1668 he was a tutor and physician to Lord Ashely. He worked as secretary to the Council of Trade and Plantation for a brief time. He was also a dabbler in the politics of royal succession. In 1685, James II ascended the throne. He was alarmed at the claim to the throne of the Duke of Monmouth, the illegitimate son of Charles II. Then he fled to Holland and returned later after the suppression of the Monmouth rebellion. From 1686

onwards he was dominated by an urge for writing and publication. He prepared a detailed journal of all his observations known as the **Common Place Books**. From these jottings, he drew his ideas to write his influential works such as the '**First Letter Concerning Toleration**' and in 1690 the **Two Treatises on Civil Government** and the philosophical '**Essay Concerning Human Understanding**'. In 1693 he published '**Some Thoughts Concerning Education**' and in 1695 '**The Reasonableness of Christianity**'.

Locke supported the Glorious Revolution of 1688 and provided a kind of text for the so called Whiggish mentality of the first half of the 18th century. By the time Locke began to think about man and nature, the great scientific and philosophical revolution was also beginning to be questioned.

Locke is described as the chief political theorist of English Whiggism. Whiggism could be described as political theory of benevolent aristocracy. Many political thinkers of this time whose views were recognizable in terms of civic vision were looking to England for inspiration. England was seen as the most advanced European state, the home of freedom, growing material wealth, military and naval power and scientific progress. Of particular attraction was the English system of limited constitutional government.

Locke's theory was in justification of the revolution of 1688, and the disposition of James II. The theory of John Locke is found in his '**Two Treatises on Government**'. He defended the ultimate right of the people to dispose the monarch from authority if he ever deprived them of their 'liberties and prosperities'. The words in the consent of the people, forms the key note of Locke's theory. Civil power is based on consent.

Locke starts his theory with the conception of the state of nature. For him the state of nature was pre-political rather than pre-social. It was not a lawless state. The state of nature was one of "Peace, goodwill, mutual assistance and preservation", Locke's man in the state of nature was social and sympathetic towards others. His attitude was determined by the law of nature.

By the words 'Law of nature' Locke means the law for which reason is the interpreter; equality is the basis for man's relation with one another. According to this concept of law of nature, Locke builds up the doctrine of natural rights. These rights belong to everyone. These rights are concentrated in three-life, liberty and property. People in the state of nature were conscious of and respected these natural rights. Locke's state of nature is a state of liberty but not of licence. Every man in the state of liberty, while valuing his own liberty respected the liberty of others as a matter of duty. Although there was peace and reason prevailing in the state of nature, a few inconveniences did exist. These inconveniences were- (1) there was no clear definition of natural law, 2) there was no competent authority to interpret it, 3) there was none to enforce it effectively. All these inconveniences made the state of nature unsafe and uneasy.

Although the law of nature was the law of reason, the clash of interests made its application uncertain as everybody started interpreting it to his own advantage. Such a condition led to disputes among people. There was none in the state who could decide such differences according to established law. There was a want of some authority who could support the punishment given to a wrong-doer. The necessity of a definite and positive law which would guarantee the maintenance of individual rights was felt. As a result civil society came into existence. A civil society or state was a remedy to all the inconveniences of the state of nature. The state was an instrument for effective enforcement of rights.

Locke's civil society was a creation of contract. There are two contracts implied in the Lockean analysis. The first contract puts an end to the state of nature and leads to the creation of a civil society. In this contract, each individual contracts with each other to unite into and constitute a community. The purpose of this contract is to protect 'property'. By the word 'property' Locke meant life, liberty and estate of each member of the community. This contract or agreement implies that each of the individuals would give up his natural right of enforcing

the law of reason. Thus only one single right is given up by each individual, that is, the natural right is given up not to a man or assembly of men but to the community as a whole. After this contract, people as a whole enter into another contract, that is, a government contract. In this contract people instituted a government. This government was empowered to make laws (which are consistent with the law of nature). The government was expected to act as a remedy to the inconveniences faced by people in the state of nature. The purpose in creating the government was to carry on the execution of the 'established laws' by impartial judges. If the government fails to carry out the requirements of the social contract, the society may dismiss it and appoint another government, without itself being driven back to the state of nature. To this extent it can be said that the second contract is subordinate to the first one. Locke makes the monarch a party to the contract and limits his authority.

Locke draws a distinction between the legislature and the legislative functions of the government. He advocates the separation of powers between the two to determine the relationships between the legislature and the executive.

Locke makes the legislature supreme over the executive because the legislature is the body through which the will of the society is expressed. Although the legislature is supreme it is not sovereign. Locke never used the term sovereignty anywhere in his philosophy. The supreme power is given to the collective body which is created by the social pact, that is, the community.

The important contribution of Locke to political theory is his doctrine of natural rights. The Civil society exists for the preservation of these natural rights. Locke makes a clear distinction between the state and the government. The government is an agency through which natural rights are attained and ensured. He introduced the theory of consent, which occupied an important place in English politics. The government holds power according to the wish of the people. The government derives authority from the people who are ultimately sovereign. The sovereignty of the state is not the sovereignty of the ruler. The end of the state is happiness and security of the individual. The government endures as long as it can ensure the welfare of the individual of the state. Locke gives the right to revolution and thus deprives the ruler of his power if he fails to fulfil the terms of the contract. The law is an expression of the will of the people and not the command of the sovereign. Consent is the source of all governmental authority. Locke recognises the force of political sovereignty.

7.23 ROUSSEAU'S THEORY OF SOCIAL CONTRACT

Rousseau is one of the most complex thinkers in the entire history of political theory and at the same time he has been one of the most influential. He was directly influenced by Locke's views. He became one of the founders of the romantic school in literature and politics. Historically, he was looked upon by many French revolutionary leaders as the intellectual dependent of 'liberty, equality and fraternity'. His own emotional turmoil directly conditioned his attitude to nature. His view of nature in turn affected the way in which he saw civil and political society. Psychologically, his frustrations provoked in him certain characteristic reactions. These reactions were reflected in his writings.

Rousseau was born in Geneva in the year 1712. Rousseau's mother died in child-birth and his father followed no discipline of conventional education in bringing up the boy. Rousseau's father was a man of violent temper. He was sent to prison for an altercation. Later he fled to Lyons. Thereafter the young Rousseau never saw him again. The ten year old Rousseau was supervised by his mother's relatives. In 1724, he was taken into the house of an uncle and later was apprenticed to a notary. The notary was not impressed by the boy and sent him back to his relatives. Then the boy joined an engineer as an apprentice. But he was not successful there too. At the age of sixteen he fled from Geneva. That was in the year 1728. Thereafter he was to wander from place to place. His first wanderings were through Italy. Here the boy was attracted to a woman, Madame de Waran. Later he fell in love with Madame de Waren.

His mistress was, of course, older than him. Later his wander-lust affected him again and in 1740 he journeyed to Lyons, where he became a tutor. Meanwhile, he had been seeking to

develop a new system of musical notation, hoping that he could win not only fortune but fame through it. For a short period he was Secretary to the French Ambassador to Venice. This position was only a brief interlude. In 1744 he went to Paris, where he took a new mistress, who would remain with him for a long time and became the mother of his five children. The children themselves were all brought up in a foundling hospital.

In his middle twenties he began his literary career, when he contributed an article on music to the great encyclopaedia. But his real initiation came in 1749, when in response to an essay contest of the Academy of Dijon on the subject 'How the progress of sciences and arts contributed to corrupt or purify morals?', he submitted a paper which won a prize. He argued that civilisation represented a degeneration in morality. The life of nature was the ideal according to him.

From 1744 to 1756 Rousseau was continuously a resident of Paris and it was during this period that his interest in political questions expanded. His intimate association with the nobility in the capital led him to make first hand observations on the monarchical institutions presided over by Louis XV

The publication of the 'Social Contract' and 'Emile' immediately created difficulties with the authorities. They saw in them subversive tracts which might undermine all contemporary institutions. *Emile* was published in May 1762 and by June it was ordered to be burned by the Parliament of Paris. The Parliament also decreed the arrest of Rousseau who was charged with attacks on Christianity.

After a brief period of exile in Keuchatel, he sought refuge on a little island on the lake of Biemme. This place was under the control of the Canton of Berne. For a short time he appeared to be happy and safe there, not being aware that the Canton had forbidden him access to its territory. When the Government of Berns ordered him out of its domain, he made one of the most extraordinary requests in human history. He asked the Government to imprison him for life, with right to access to a few books and the privilege of occasional exercise in a garden. After the rejection of this amazing proposal, he eventually found his way to Britain. He was not however happy in Britain, where he fought with David Hume, a Scottish philosopher.

His unhappy experience in England came to an end in 1767, when he returned to the continent and spent several years wandering. Eventually, however, he found his way to Paris, where he remained until 1778. He took up his residence in Ermenoville, about twenty miles from the French capital, where he died in the same year.

The life of Rousseau reflects some of the most important tensions which are found in his works. The most important of these tensions are those between the intellect and feeling, civilization and nature, and the individual and the group. Throughout his life and his works, he tries to resolve these assumed oppositions but never succeeds. All the tensions of his disturbed life are reflected in his political speculation.

Rousseau, unlike his predecessors, had not advocated his theory for any specific purpose. However, his teachings inspired the French Revolution in 1789. Rousseau also starts his theory with the state of nature. Rousseau gives a green picture of the state of nature. Man in the state of nature was a 'noble savage'. He was independent, contented, self-sufficient, healthy, and fearless. He was pleasantly aloof but not unhappy, nor had he the desire to harm anyone. He knew neither right nor wrong and was free from all notions of virtue and vice. Thus it was a pure, simple, innocent life with perfect freedom and equality. Rousseau says that man had no reason at that time, and reason is the cause of all social ills.

'A thinking man', says Rousseau is a 'deprived animal'. Therefore all social evils would creep in. There were two factors which disturbed the peaceful atmosphere of the state of nature. One was the increase in population and the other was the dawn of reason. The increase in population inevitably led to economic progress; with that the life of simplicity and idyllic

happiness disappeared. Fixed homes led to the establishment of the family and the institution of property. Human equality was disturbed. Man began to think in terms of mine and thine. It is the beginning of the institution of private property. The civil society was found when man occupied a piece of land and claimed it to be his. The arts of agriculture and metallurgy were discovered. Co-operative activities revealed men's individual talents. The stronger men did the greater amount of work. Diversified talents created differences between rich and the poor. Mankind went into a state of war resembling Hobbes's state of nature. War, murder, wretchedness and horror that had been unknown to the savage became common. The rich and the poor became hostile to each other. In hostility, each one became anxious to get rid of the other. Escape was found in a civil society. A social contract was evolved to give place to civil freedom. As a result of this contract a multitude of individuals became a collective unit a society.

By the contract the individual surrenders himself completely and unconditionally to the will of the body of which he becomes a member. The body created is a collective body and Rousseau calls it the General Will. The general will represents the interests of all its members. And as such it is the sovereign authority of all.

It is sovereign because all entered it voluntarily and surrendered all their sovereign rights to it. They merged into the general will. Such sovereignty is inalienable, indivisible and unlimited. The government is only a subordinate authority and enjoys that delegated power which can be modified and limited by the people who are ultimately sovereign. The state is created by the social contract and it manifests itself in the supreme General Will. The government is created by the decision of the sovereign. The government means executive power. Law-making is a function not of the government but of the sovereign. By surrendering himself to the general will he is surrendering himself to none because every other fellow being has surrendered his rights to the general will. By losing his rights to the general will he is losing nothing because he retains the amount of another individual's right which has been surrendered to the general will. He is a subject because he must obey the general will which stands for public good.

An individual cannot disobey the general will because it amounts to disobeying himself. Rousseau says that whoever refuses to obey the general will, shall be forced to obey, by the whole body. This compulsion is nothing but forcing the individual to be free. Whatever action the general will takes is justified because every action of the general will aims at social good. It considers the interests of all in the society. The individual should not wish for something different from the general will because he does not know rightly whether it is good for him or not. Whereas the general will can never go wrong. Thus, Rousseau subordinates the individual to the general will.

Rousseau supported popular sovereignty. He justified revolution against arbitrary rule and preached the ideals of democracy. He vested the legislative power in the people and as such paved the way for direct democracy. Rousseau's political philosophy had a deep impact on the fathers of the constitutions of America and France. By placing no limit to the absolute authority of the general will Rousseau reveals his inconsistency. Actually, he paved the way for the idealist theory of the state.

7.2.4 EVALUATION OF SOCIAL CONTRACT THEORY

The theory is merely a historical fiction. There is no proof in history for such a contract being the basis of the origin of the state. Even the "Mayflower" agreement concluded by the men who sailed from England to America in 1620 cannot be given as an example of social contract, because the people who travelled in the ship were from a civilised society in Europe and not from the "state of nature". Without knowing what the government is, a man cannot create a political society. Social contract is an individual oriented theory, that is, it explains that the individual's security and safety were responsible for the birth of the state. History reveals that most of the laws were communal in nature rather than individualistic. Sir Henry Maine argues that the social contract was not the beginning but the end of society. In primitive society

birth decided the status of man. It was a matter of choice. The state is neither the handbook of man nor the creation of God, nor the result of force but is the product of growth and evolution.

The whole concept of the state of nature and natural law is wrong. The social contract is a mechanical and artificial explanation of the origin of civil society. Man is part of nature and his impulses and actions are as natural as is his life. The state is the very expression of man's nature. Man is by nature political and social.

The theory is illogical. There can be no liberty in the state of nature. Liberty implies rights and rights arise not from physical force but from a common consciousness of common well-being. Rights go hand in hand with duties. Both are correlative terms. In the state of nature the only right is force. There is no such thing as duty. The only duty is self-preservation.

The condition of the contract presupposes a system of law to support it. There must be the will of a community behind a contract.

Although there are weaknesses in the contract theory, due credit must be given to it for its merits. Civil society rests on the consent of the ruled. By saying this, the theory became an important factor in the development of modern democracy. The social contract theory was the chief enemy of the divine right theory. The divine right theory gave divine power to the ruler, leaving only the duty of obedience to the ruled. The contract theory brought out the idea that the state and the government are actually founded in the minds of the citizens themselves. The cry for equal right of voting for all citizens is the legacy of Rousseau's ideal of equal political rights.

The social contract theory assumed utmost importance in Rousseau's time. Its historical mark was found in the French Revolution. After Rousseau, the theory gradually faded out and in the nineteenth century the theory completely declined. The historical approach, the theory of evolution and other such theories were introduced in political science. This contributed to the decline of the social contract theory. Apart from these, the general unsoundness of the theory led to its own decline.

7.3 SUM UP

The social contract theory is one of the oldest theories of the origin of the state. Traces of the social contract theory can be found in Indian as well as Western political thought. The political philosophy of thinkers usually reflects the conditions of their times. The conditions of the times in which they lived influenced their political philosophy. Hobbes was very pessimistic in explaining the state of nature and human nature that led to the creation of the social contract. Hobbes was influenced by the social and political conditions of his time. His theory supported absolute sovereignty. Locke was more optimistic and liberal in explaining human nature. He supported limited sovereignty. Locke attaches more importance to the Legislature than to the Executive. His influence is noticed on the American Constitution also. Rousseau's irregular life is reflected in his political philosophy. Rousseau expresses the view that philosophy is the cause of all evils in society. He was very optimistic in analysing human nature. His philosophy proposes popular sovereignty. These three theories aroused keen interest and long debate in political theory though it is accepted that social contract was not the basis of the state.

(Author : Dr. T.S. Mohana)

7.4 SUGGESTED READINGS

1. W. A. Dunning : Modern Western Political Thought.
2. G. Saline : History of Political Theory.

7.5 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Summarise the social contract theory of the origin of the state.
2. Describe the social contract theory of Hobbes.
3. Enlighten on the social contract theory of John Locke?
4. Discuss about the General will of Rousseau.

II. Answer in about 10 lines.

1. Evaluate the social contract theory.
2. "The life of Rousseau reflects the tension found in his works". Explain.
3. Explain the conditions in the state of nature according to Hobbes.
4. Explain the state of nature according to Rousseau.

BRAOU

UNIT-8 : THE THEORIES OF THE ORIGIN OF THE STATE - INDIAN THEORIES

Contents

- 8.0 Objectives
- 8.1 Introduction
- 8.2 Nature of the Indian theories of the origin of the state
 - 8.2.1 Theory of the origin of the State in War
 - 8.2.2 Election theory of Kingship
 - 8.2.3 Theory of Divine Origin
 - 8.2.4 Theory of Social Contract
 - 8.2.5 Theory of Evolution
- 8.3 Sum Up
- 8.4 Suggested Readings
- 8.5 Model Questions

8.0 OBJECTIVES

After going through this unit you will be able to,

- * explain the nature of the Indian theories of the origin of the State;
- * discuss various theories of the State, and
- * analyse the nature of State in ancient India.

8.1 INTRODUCTION

It is not widely known that the ancient Indians reflected on the origin, nature and functions of the state. In fact they did bestow much thought on the subject. But since their views about the state and the government are scattered in many works they can only be gathered from different sources such as the Vedas, the Puranas, the great epics, Smriti literature, the Arthashastra of Kautilya and so on. These are the important sources for the study of ancient Indian polity. We shall now proceed to describe the various Indian theories of the origin of the state.

8.2 NATURE OF INDIAN THEORIES OF ORIGIN OF THE STATE

In ancient India the state (Rajya) played a very important role in the maintenance of social order, social morality and economic well being. In the words of Gokhale, the state in ancient India was the symbol of law, order, justice and security. Thus it was given a pride of place in ancient Indian thinking.

We have to note an important point as regards the nature of Indian theories of the origin of the state. In ancient India the king was identified with the state. Therefore, the different accounts of the origin of kingship are to be taken as the theories of the origin of the state.

The Indian theories are mostly in the nature of speculations. They are based on the uncertain light of legends and mythology. Further, the same source contains different and sometimes contradictory accounts of the origin of the state. For example, the Santiparva in Mahabharata hints at the divine origin of the state as well as the contractual basis of the state.

With these preliminary remarks about the nature of Indian theories, we shall now proceed to examine each of them.

8.2.1 THEORY OF STATE ORIGIN IN WAR

Vedic literature attributes the origin of kingship to war. In the earliest times the successful waging of a war required an able leader to command the forces. The successful war leader was recognised by his followers as their king.

This theory is also found in the Athraya Brahmana. It narrates how the Devas (i.e. the ancient Aryans) originally had no king. In their struggle with the Asuras, the Devas were repeatedly defeated. They attributed the victory of the Asuras to the fact that the latter had a king to lead them. This realization made them agree to elect a king. Jayaswal comments that this theory "would" suggest that the institution of kingship was borrowed from the Dravidians". It may be noted that this theory is a variant of the modern force theory of the origin of the state.

8.2.2 ELECTION THEORY OF KINGSHIP

There is no agreement as to whether kingship was elective in ancient India. Dr. A.S. Altekar says that it was so in some cases in the early Vedic period. A passage in the Rigveda refers to the people electing a king. The Atharva Veda contains a passage which suggests that the king is chosen by nobles, king-makers, sutas, village headmen, chariot-makers and metal workers. The epic literature - Ramayana and Mahabharata - also refers to the practice of electing the king. It is told in the Ramayana that "when king Sagara died, the subjects selected the pious Ansuman as their king".

However, Dr. Altekar opines that the cases of election were the exception rather than the rule. Kingship had become hereditary long before the later Vedic period. Only when a king died without heirs, the ministers and other high dignitaries used to elect a suitable successor from among the relations of the deceased king. Kingship was not elective in normal times.

8.2.3 THEORY OF DIVINE ORIGIN

Dr. Altekar observes, "Most institutions were regarded in ancient India as due to divine agency or inspiration and the state was no exception to this rule." The Vedas, the great epics Mahabharata and Ramayana and the Puranas contain references to the divine origin of the state.

The early references to the divine appointment of the king are to be found in the Rig-veda. One of the hymns clearly states that Indra makes a man King. According to the Ramayana, the first among the earthly kings was appointed by Brahma when people requested him to appoint someone as their king. Their request was conceded by Brahma when the people pointed out to him that Indra was the ruler of the gods and that they needed an earthly king.

The Santiparva of the Mahabharata gives two divergent accounts of the origin of the state-one deals with the divine origin and the other with the contractual origin. Here we shall concern ourselves with the former view.

According to the Santiparva, in the beginning there was neither king nor state. There was peace, prosperity and order. But after some time there was moral degeneration. People became greedy and selfish. As a result, the law of the jungle began to prevail. Gods became alarmed. When people approached Brahma, he thought over the matter and composed a comprehensive code of laws to guide mankind. Then they went to Vishnu and requested him to appoint the strongest among them as their king. Vishnu created an asexual son named Virajas and appointed him king, whose command the people agreed to obey. This account in the Mahabharata shows that the state was regarded as a divine institution. The king got the right to govern because he was a divine creation.

The Taittiriya Brahmana also advocated the divine origin of kingship. To put it briefly, it says that Indra was made the lord of the celestial world by Brahma.

The Manu Samhita also states the divine origin theory of the state. It says, "the lord created a king for the protection of this whole creation, taking eternal particles of Indra, of the wind, of Yama, of the Sun, of Fire, of Varuna, of the Moon, and of the Lord of Wealth (Kubera). Even an infant king must not be despised because he is a mere mortal; for, he is a great diety in human form".

All the above illustrations clearly imply that the state was a divine institution and the king was divinely appointed. After the Epic age, especially in the Puranic age, the king was looked upon as the avtar of one god or the other. Spellman is of the opinion that basically the divinity of the king was not a very dominant theory in early vedic times. Dr. Altekar writes that the theory of the king's divinity was yet confined to the imagination of a few grateful courtiers. We know now that the state is a human institution and it developed gradually. It is not the handwork of God. It is as old as society. It owed its origin to the socio-political instincts of man.

8.2.4 THEORY OF SOCIAL CONTRACT

The social contract theory of the origin of the state also exercised much influence in ancient India. It is mentioned in the Mahabharata and in Buddhist literature. In India the genesis of the contract theory has been traced to the Sutra period. In this period it was held that the king was to protect his subjects, receiving as his pay a sixth part of their gains.

The theory of social contract is stated more fully in the Santiparva of the Mahabharata. In the beginning there was no king. People lived in anarchic conditions, with the strong devouring the weak. They got tired of the law of the jungle. To put an end to the deplorable conditions the people entered into a mutual contract. By this contract they agreed to expel persons guilty of unsocial acts like misappropriation and adultery. Even after the contract, the people continued to be unhappy, because there was no king or government to enforce the contract. They then approached the creator and requested him to appoint a capable ruler as their king. The creator appointed Manu as their King.

Manu, however, refused to rule over sinful people. He stated that it was exceedingly difficult to govern deceitful men. They then assured Manu that the law would be followed and the sins would affect the law-breakers and not the king. They further agreed to pay the necessary taxes. On these conditions Manu agreed to become their ruler and began to rule.

Buddhist literature gives a more complete account of the origin of kingship through social contract. Digha Nikaya claims a human origin for kingship. Buddhists did not believe in God and so Brahmadeva as the creator of the first king does not figure in Buddhist literature. According to Digha Nikaya, in the distant past there was a golden age when people lived in virtue and happiness. Somehow there was a fall from this ideal. Consequently there arose anarchy and chaos. Violation of property rights became common. They decided to put an end to this deplorable condition. Eventually, there came on the scene a person called Mahajanassammata (one acceptable to the great community). He was wise, virtuous and able. The people requested him to become their king and to put an end to the prevailing chaos and he agreed to do so. They then elected him their king and also agreed to give him a portion of their crops in return for his services.

Kautilya also gives a similar account of the theory of social contract. According to him government came into existence to counteract the law of the jungle that prevailed in society. People themselves elected Manu as their king and agreed to pay him the necessary taxes. In return for these payments the kings took upon themselves the responsibility of maintaining the safety and security of their subjects.

In the opinion of Spellman, the theory as stated in the Digha Nijaya is clearly similar to the theory of social contract. "The king draws his authority from those who chose him and is paid for fulfilling the terms of the contract."

Dr. Altekar points out that the contract theory of the origin of the state is bad history and worse logic. It fails to explain how the first agreement took place among the members of a community, which was still in the state of nature. A contract is possible only in a society where mutual rights and obligations are respected. Entering into a contract is obviously impossible in a society where the law of the jungle prevails.

The ancient Indian theory of contract was intended to emphasise the power of the king rather than that of the people. Unlike the modern western contractualists, Hobbes, Locke and Rousseau, the ancient Indian thinkers failed to define the authority of the sovereign. They did not also prescribe the conditions under which people would not be expected to obey the king. The western thinkers living in an age of rationalism looked at the problem from a purely secular point of view. Ancient Indian writers, on the other hand, looked at the question from a semi-religious and semi-sociological point of view.

8.2.5 THEORY OF EVOLUTION

This theory says that the state has evolved out of the institutions of the patriarchal joint family of the Indo-European communities. On the evidence of comparative philology, it is said that even the Aryans in their original homes lived in big joint families. The patriarch of the joint-family exercised very wide powers over its members.

His position was more or less like that of a king.

The Rigvedic evidence shows that Aryan society in that early period was divided into families, janmas, visas, and janas. Janmas seemed to have corresponded to a common descent. A number of such villages joined together by bond of kingship seem to have constituted a vis. The head of a vis was known as the vispati. Several visas made a jana, or a tribe. The head of a jana was known as the janapati or the king.

Dr. Altekar concludes that the state evolved in India also in prehistoric times out of the institution of the joint family. The power of the kings gradually became more and more extensive as states became larger and larger. The rise of the notion of the family, property also played an important role in the origin and growth of the state. The peaceful enjoyment of property could be guaranteed by the institutions of the state alone. Thus the institution of the family played its own part in the origin of the state. This theory seems to be the most satisfactory explanation of the origin of the state.

From the various accounts of the origin of the state given above, the nature of the state is clear. It was not regarded either as an evil or a necessary evil. The ancient Indians regarded it as essentially a beneficent institution. It evolved in pre-historic times for the efficient protection of life, family and property rights. Another important duty of the state was to ensure the better realisation of the higher ideals of Moksha was later added. For the purpose of maintaining and promoting these ideals the state is believed to have come into existence.

8.3 SUM UP

By way of summary, it may be stated that the ancient Indian thinkers did not differentiate between the origin of kingship and the origin of the institution of the state. The Indian theories of the origin of the state are developed on the basis of information found in legends and mythology. One theory attributes the origin of the state to war. Another theory says that kingship was elective. The Santiparva of the Mahabharata gives two divergent views - one view regards the state as a divine institution and the king as divinely appointed; the same source describes state as the product of mutual agreements made by the people living in anarchic conditions. Digha Nikaya, a Buddhist work, holds a contractual view of the origin of the state. Lastly there is a theory of evolution which says that the state evolved in pre-historic times out of the institution of the joint family.

Author: Mr. S. Polinaidu.

8.4 SUGGESTED READINGS

Dr. Altekar : Ancient Indian Political Thought

8.5 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Describe the various Indian theories of the origin of the state.
2. Explain the contract theory of the origin of the state as outlined in the Shantiparva of the Mahabharata and the Dighanikaya.

II. Answer in about 10 lines.

1. Theory of the origin of the state in war.
2. Divine origin theory.
3. The contract theory as outlined in the Santiparva.

BRAOU

UNIT-9 : THEORIES OF THE FUNCTIONS OF THE STATE

Contents

- 9.0 Objectives
- 9.1 Introduction
- 9.2 The Individualistic theory of the functions of the state
- 9.3 The liberal theory of the functions of the State
- 9.4 The marxist theory of the functions of the State
- 9.5 The collectivist theory of the functions of the State
- 9.6 The welfare state theory
- 9.7 Sum Up
- 9.8 Suggested Readings
- 9.9 Model Questions

9.0 OBJECTIVES

After going through this unit you will be able to:

- * explain different theories of the State and
- * critically analyse the theories.

9.1 INTRODUCTION

Aristotle says that the purpose of the state is to promote the good life of the people. But, the question is what are functions that the state should undertake to promote the good life of the people. On this question there is no unanimity of opinion. This lack of agreement as regards the functions of the state accounts for the existence of the various theories of the functions of the State. These theories show wide variation, ranging from the individualist view at one extreme to the collectivist view at the other. We shall now proceed to consider in some detail the various theories mentioned above.

9.2 INDIVIDUALISTIC THEORY OF THE FUNCTIONS OF THE STATE

Meaning and Development

The individualistic theory is also known as the laissez-faire theory. The French phrase laissez-faire means "let alone". The doctrine of laissez-faire individualism advocates the maximum freedom of the individual and limited government.

Although it traces its origin to Locke, the individualist theory was developed fully by Adam Smith, Bentham, J.S. Mill and Herbert Spencer. During the seventeenth and eighteenth centuries, in the name of mercantilism, the state intervened and regulated trade and economic activities. As a protest against mercantilism the theory of individualism arose.

Main features of Individualism

According to the individualists, the state is a necessary evil. It is an evil because it imposes regulations and restricts individual liberty. However, it is necessary because without its regulations the freedom of the individual cannot be safeguarded.

Since the state is a necessary evil, its activities should be limited to the protection of life, liberty and property. Any extension of its functions beyond these essential functions is considered as a restriction of the sphere of individual freedom.

J.S. Mill divides the activities of the individual into two types - self-regarding and others - regarding. In the opinion of J.S. Mill, the individual enjoys absolute freedom in the sphere of self-regarding activities. He says, "over himself, over his own body and mind, the individual is sovereign". In the sphere of others - regarding activities he justifies the state's interference on the ground of preventing harm to others.

Thus the individualists view the state as a hindrance to individual freedom. It is a negative state. Its duty is to restrain and protect the rest from selfish or thoughtless persons. It is not concerned with the promotion of the general good. However, some individualists believe that the state is justified in undertaking certain positive functions in the general interest of society.

Laissez-faire individualism is an aspect of liberal political theory. It, therefore regards the property rights of the individual as a necessary condition of liberty. Since it attached importance to property rights, it advocates non-intervention of the state in the economic activities of individuals, such as trade, commerce and industry. Thus the individualistic theory assumes that the government is the best which governs least.

Functions of the individualist State.

Prof. Gilchrist summaries the functions of the laissez- faire state as follows:

1. Protection of the state and individuals from foreign aggression.
2. Protection of individuals against each other, that is, from physical injury, slander and so on.
3. Protection of property from robbery or damage.
4. Protection of individuals against false contracts or breach of contract.
5. Protection of the unfit.
6. Protection of individuals against preventable evils such as plague or malaria.

The last two functions are not accepted by all individualists. This shows that all the individualists are not in agreement as to the exact functions which the state should undertake.

The exponents of this doctrine tried to justify restricted state activity on ethical, economic and scientific grounds:

1. **Ethical Argument:** It is argued that each man knows his own interests best. Therefore, left to himself, the individual can personality. State interference and control on the other hand would kill self-reliance and the initiative of the individual. Because of these evil effects, state intervention is ethically wrong.
2. **Economic Argument:** Free competition in economic activities is profitable to the society as a whole. The natural laws of economics should be allowed to operate without any interference from the state. Under conditions of free competition, the consumer would get quality and quantity; the producer maximise his profits; the labourers would get fair wages. State interference hampers the economic order.
3. **Scientific Argument:** This argument is based on the biological law of struggle for existence and survival of the fittest. It was put forward mainly by Spencer. If this natural law is permitted to operate in society, the weak and unfit will be eliminated and only the best will survive. As a result of this process, social progress can be achieved.

Criticism

The various arguments advanced in support of individualism do not stand the test of critical examination. It is said that all people do not know their own interests in some cases. They require protection by collective interest. The free and unrestricted economic competition is not

always good. Free economic system became the basis of capitalism. Capitalism has developed adverse effects - child labour, low wages, long hours of work, monopolies, etc. In fact, these evils led to state regulations of business and industry. Its scientific argument is misleading and mischievous. The survival of the fittest does not mean the survival of the best.

The individualists' concept of the state as a necessary evil is wrong. History shows that the state is also a positive good. The authority of the state does not always destroy liberty. In fact the authority of the state is necessary to create and protect liberty. Therefore, their concept of negative liberty is wrong.

Because of its defects the theory of individualism does not provide a satisfactory basis for state functions. Under the complex modern conditions men become increasingly interdependent. This factor points to growing demands for state action. State control and regulation are necessary in the complex life of the modern world.

9.3 LIBERAL THEORY OF FUNCTIONS OF THE STATE

Liberalism has a complex history and it assumed many forms in western thought. It developed in the West in a particular historical setting. The decline of feudalism of privileged classes and of absolute government gave rise to liberalism. It began taking shape in the eighteenth century. Liberalism was systematically formulated in the nineteenth century. It is closely related to the ideas of enlightenment and the French Revolution. It is important to remember that liberalism began as the ideology of the rising middle class intellectuals, professionals, merchants, bankers etc.

Meaning of Liberalism

Now let us pass on to examine the meaning of liberalism. Liberalism is a loose term. Therefore, any attempt to define it precisely is a difficult task. Its meaning has changed from time to time. However, liberalism as a political doctrine stands for limited government. It believes in the supreme value of the individual, his freedom and his rights. It is opposed to all forms of dictatorship and authoritarianism. It represents faith in democracy. As a theory of state functions, it represents "a position mid-way between conservation and socialism". It advocates change, but opposes radical or revolutionary changes in society.

Liberalism may be divided into two types classical liberalism and modern liberalism. At this point, let us turn to examine the functions of the state according to classical and modern liberalism.

Classical liberal theory of state functions

The early phase of liberalism is called classical liberalism. It is also described as negative liberalism because it insisted on the negative functions of the state. It advocated the policy of laissez-faire. The principal exponents of classical liberalism are Locke, Adam Smith, Bentham, Herbert Spencer and James Mill.

The exponents of classical liberalism believed in the political theory of limited government. They maintained that the government is the best which governs least. The state was not given any positive role. It is therefore the purpose of maximizing individual freedom by maintaining law and order. The state should not interfere in the economic activities of individuals. They assumed that rational men could pursue their economic self-interest if they were left alone. Prof. Gilchrist summarises the functions of the state according to classical liberalism as follows:

1. Protection of the state and individuals from foreign aggression.
2. Protection of individuals against each other.
3. Protection of property from robbery or damage.
4. Protection of individuals against false contracts or breach of contract.

These are the minimal functions of the state. The functions assigned to it point out that its role is no more than that of a policeman or night watchman.

The Modern Liberal Theory of state functions

The modern or neo-liberal theory is also known as positive liberalism. It gives a positive role to the state in the development of the individual personality. The ideas associated with classical liberalism of the eighteenth and nineteenth centuries are not appropriate to the industrially and economically developed societies of the twentieth century. In fact, the shift from classical to modern liberalism can be seen in the writings of J.S. Mill and T.H. Green. Classical liberal ideology led to the growth of capitalism and its evils. This necessitated the modification of liberal theory to suit the changed socio-economic conditions. Apart from J.S. Mill and T.H. Green, the other important exponents of modern liberalism are L.T. Hobhouse, H.J. Laski and R.M. MacIver.

The neo-liberals do not consider the state a necessary evil. On the other hand, the state is considered a positive good. They insist that the state must intervene in the affairs of citizens to secure the welfare of all. In their opinion the government is a necessary instrument for securing for all citizens equal opportunity for individual self-development. Thus modern liberalism implies a concern for the political, social and economic rights of all citizens. The negative concept of liberty is supplemented by a positive concept of liberty. Liberty is no longer understood as the absence of state interference. It is understood as the presence of opportunity. Purposeful governmental action is necessary for providing such an opportunity.

The modern liberal state is a positive "Service State". Besides the essential functions, it undertakes many social, economic and cultural functions. The social and economic legislation enacted by the modern liberal states in the West indicates the range of its activities. It tries to remove ignorance by making education more widely available. It established social insurance systems. It regulates the hours, wages and working conditions of labour. It restricts the labour of children. It curbs various anti-social business practices. It promotes the welfare of all, especially of the weaker sections in society.

Thus liberalism is a flexible doctrine. It accepts the principle that the functions of government must change in response to the changing needs of citizens.

9.4 MARXIST THEORY OF THE FUNCTIONS OF THE STATE

Karl Marx, the founder of Communism, viewed the state as a product of the class struggle. The state is not a natural institution. It is created by men at a particular time in history. It arose when society had been divided into two antagonistic classes—the haves and the have-nots. Throughout history the state has performed only one function namely, to protect the interests of the ruling propertied class. It has also oppressed the poor people. The Marxist theory is that the "State is nothing more than a machine for the oppression of one class by another".

According to Marx, the socialist state comes into existence after the overthrow of the capitalist bourgeois state through a proletarian revolution. The political power passes into the hands of the proletariat. The exercise of power by the proletariat is termed by Marx as the dictatorship of the proletariat. This is a transitional state. It has two important functions to perform, namely, to liquidate the bourgeois class and to consolidate the gains of the socialist revolution.

Another important function of the socialist state is socialization of the means of production and distribution in the spheres of industry and agriculture. There is no place for the private ownership of the means of production.

Raising the productivity of labour is another important function of the socialist state. For this purpose it has to develop science and technology fully. Scientific and technological developments should be used in the industrial and agricultural spheres.

The socialist state must take upon itself the task of transforming bourgeois culture. The people must be initiated into socialist culture. This can be done by means of education.

After achieving these tasks a classless society would emerge. In a classless society there is no necessity of the state. It simply withers away.

9.5 THE COLLECTIVIST THEORY OF THE FUNCTIONS OF THE STATE

Collectivism arose as a reaction against the evils of extreme individualism. It is thus opposed to the doctrine of individualism or the policy of laissez-faire. Like Marxian socialism, collectivism rejects capitalism and condemns the unjust capitalist order based on inequality. Except for this, collectivism has nothing in common with Marxian socialism. It wants to replace the unjust capitalist order with a just socialist order through constitutional and peaceful methods.

Meaning of collectivism

Collectivism is a vague term. It covers a wide variety of state actions and many forms of evolutionary socialism such as Fabianism and Democratic socialism. Collectivism is also known as State socialism.

Collectivism is the theory that advocates collective ownership and control of the means of production, distribution and exchange. The economic resources of the community must be utilized for the benefit of all instead of the rich few. This is the core of collectivism.

In England the collectivist doctrine was popularised by the Fabian Society established in 1884. Its members included such influential intellectual figures as Sidney and Beatrice Webb, H.G. Wells, G.B. Shaw and many Labour party politicians. In India, the theory of democratic socialism, the accepted ideology of the Congress party, is more or less similar to collectivism.

Functions of the collectivist state

The advocates of collectivism want to achieve socialism through the parliamentary system of government. They are not opposed to the institution of the state. They do not agree with the individualistic view that the state is an evil. They consider it a positive good and an indispensable factor in social progress. They believe that it can bring about a transformation of society from capitalism to socialism through gradual reforms. It can promote the interests of all by passing useful legislation. The state under collectivism has, therefore, an important role to play.

According to the collectivists, private ownership of the means of production is the main cause of social and economic evils. Therefore, the first task of the state is the abolition of private capital and the nationalisation of important industries and services. Industry should be carried on for the purpose of serving the needs of the community. Thus social service should be substituted for private profit.

The state should eliminate all forms of economic exploitation and economic inequalities. It should also remove unemployment. It should provide social security against sickness, unemployment and old age. It must regulate production and distribution of goods and services for the common good of all the members of the community. Thus the state is viewed as the agency of the whole community for the good of the whole community. The collectivist state, therefore, claims control over all groups and associations of individuals.

All these socialist goals should be achieved through the agency of the state by employing peaceful, constitutional and democratic methods. Collectivism has no faith in violent and revolutionary methods. Further, the change from the capitalist to the socialist order should not be sudden. It is to be a slow and gradual process. It believes in the promotion of society with socialist ideas through lectures and books. Candidates with socialist ideas should be elected to the legislature. Then it is possible to make laws in order to establish a socialist order of society.

The Collectivist theory is criticised on the ground that it gives too much power to government officials. The officials may misuse their powers and endanger the liberty of the individual. It is also said that it substitutes state capitalism for private capitalism.

9.6 THE THEORY OF THE WELFARE STATE

The modern state is often described as a Welfare state. It is a recent concept, originally introduced by Archbishop William Temple in "Citizen and Churchmen" (1941). After World War II the term welfare state has become quite popular in both capitalist and socialist countries. This shows that the welfare state is not an ideology. In fact it cuts across different ideologies.

The origin of the welfare state can be traced to the "Beveridge Report" that came out during World War II. It promised adequate protection against want, unemployment, illness and old age to every Briton. It became a reality when the British Labour party after the Second World War implemented many social and economic measures.

The British experiment in the establishment of a welfare state has inspired many countries including India. Part IV of the Indian Constitution dealing with the Directive Principles of State Policy aims at establishing a Welfare state in India. The state is directed to promote the welfare of the people by securing social, economic, and political justice.

What is a welfare state?

There is no single definition of a welfare state that is acceptable to all. It has been described as a half-way house between pure capitalism and pure socialism. But this is not an accurate description of the concept of welfare state. It is essentially a social service state. It agrees to provide for its citizens a wide range of social services such as provision of employment, education, medical, and social security the sick, the poor, the elderly, the disabled, and the indigent. Thus, its primary aim is to help those who cannot help themselves.

Features of a welfare state

A welfare state is neither a police state nor a socialist state. It is not a negative state. It is a positive state. It aims at the general welfare of the people.

It is a democratic state. It wants to ensure maximum liberty and equality to all people. It functions within the framework of democratic political institutions. It adopts democratic methods and it allows private property. But, it regulates private property in the general interest.

It believes in the principle of mixed economy. It owns and operates key industries and enterprises and strictly regulates private enterprises. In this way, it tries to mitigate the adverse economic effects of the capitalist system.

Functions of the welfare state.

The functions of the modern welfare state are two-fold, namely, (i) essential functions and (ii) non-essential or welfare functions. We shall briefly describe these two types of functions.

1. **Essential Functions** : Each state must exercise certain fundamental functions in order to ensure its existence as a sovereign political organisation. These include (i) the maintenance of internal peace, order and safety of person and property and (ii) external security. These are essential to the existence of the state.
2. **Welfare Functions** : Almost all modern civilised governments undertake a vast number of functions which aim at promoting the general welfare of the people as a whole. These relate to economic welfare, social security, public health, education and so on.

The welfare state tries to reduce economic inequalities by a system of progressive taxation and imposing ceiling on the size of private property. It assures a minimum standard of living to every one.

It takes care of the poor and the incapable. It provides protection against want, sickness and old age. It maintains for common use roads, railways, bridges, post and telegraph services, sanitation, health and education, libraries, play grounds etc., It provides cloth and other essential commodities at controlled prices. It regulates business practice, trade, industry and labour. It assures help to the needy at every step. This catalogue of functions is enough to show the kind of functions performed by the modern welfare state.

Criticism

Certain criticisms are levelled against the welfare state. It is argued that the welfare state kills self-help and initiative. It interferes too much with the life of the people. It increases the power of the bureaucracy and thus may pose a threat to individual liberty. It tries to remove injustice caused by the capitalist system, but does not seek to remove the cause of injustice. It does not attempt to transform the capitalist system, which is said to be the root cause of social injustice. Despite these defects the welfare state has come to stay.

9.7 SUM UP

There are several theories of the functions of the state. Each gives its own view of what the state should do. According to individualism, the state is a necessary evil. It should perform the barest minimum functions which are essential for the maintenance of society. Early liberalism is more or less similar to laissez-faire individualism in emphasising the negative role of the state. However, neo-liberalism allows the state a positive role. To Marxists, the state does not serve the interests of all. It serves the interests of only the property-owning class. Collectivism considers the state a positive good. True to its evolutionary character, collectivism wants to bring about socialism gradually through the instrument of the state. The welfare state ideology is a mixture of liberal and socialist ideologies. It believes in a mixed economy.

(Author : Mr. S. Polinaidu)

9.8 SUGGESTED READINGS

1. E. Ashirvatham : Political Theory

9.9 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Critically examine the individualist view of the functions of the state.
2. What, according to the liberal theory, are the functions of the state?
3. State and criticise the concept of the welfare state.

II. Answer in about 10 lines.

1. The distinction between classical and modern liberalism
2. Marxist theory of the functions of the state.
3. Collectivist theory of the functions of the state
4. The concept of the welfare state.

BLOCK III BASIC CONCEPTS

UNIT-10: LAW, SOURCES OF LAW AND THE CONCEPT OF RULE OF LAW

Contents

- 10.0 Objectives
- 10.1 Introduction
- 10.2 Meaning and Definition of Law
- 10.3 Characteristics and Nature of Law
- 10.4 Development of Law
- 10.5 Sources of Law - Kinds of Law
- 10.6 Law, Morality and Justice
- 10.7 Meaning and features of Rule of Law
- 10.8 Sum Up
- 10.9 Suggested Readings
- 10.10 Model Questions

10.0 OBJECTIVES

After going through this unit you will be able to:

- * explain meaning and definition of Law.
- * describe the characteristics and nature of Law.
- * trace back the origin and evolution of Law.
- * list out the sources and kinds of law.
- * analyse the relationship between Law, Morality and Justice, and
- * Discuss the Rule of Law.

10.1 INTRODUCTION

This unit introduces certain basic or key concepts in political science, law, liberty, equality, justice, etc.,. These concepts are part of our daily speech. Such concepts as liberty and equality are emotive and obscure, a proper understanding of the sense in which they are used in political science is necessary. This unit is, therefore, concerned with an analysis of the basic concepts with a view to enable the student gain a fuller understanding of them.

10.2 MEANING AND DEFINITION OF LAW

Law is one of the key concepts in political science. If sovereignty is the essence of state, law is the essence of sovereignty. The sovereignty of the state is manifested through its monopoly of law. Law is, therefore, the hallmark of the state.

Law prescribes an acceptable code of social behaviour for the citizens. It protects the rights and liberties of the citizens. It provides, peace order and security without which no society can exist. It substitutes peaceful settlement of disputes for brute force. The goal of modern state is the attainment of law to reach this goal. In the modern welfare state, law is an important

instrument of socio-economic change. Therefore, no modern society can operate without the benefits of law.

Meaning of Law : The word 'law' derived from an old Teutonic root 'lag', which means something which lies fixed or evenly. In ordinary usage, the term law denotes any principle that is uniform and generally followed.

The term law carries with it different meanings. Thus, we commonly speak of scientific, divine, natural, economic and social laws. In all these contexts the term law does not convey the same meaning. For example, in physical science it means sequence of cause and effect; when we speak of social laws, the term law refers to rules for the guidance of human conduct.

In political science, the term law is used in a special sense. In political science it means a body of rules of conduct enforced by a sovereign political authority. In this lesson we shall deal with law in the sense in which it is used in political science.

Definition of Law : In simple terms law can be defined as rules of conduct backed by the coercive force of the state.

According to Holland, "A Law is a general rule of external action enforced by a sovereign political authority".

Salmond defines law as "the body of principles recognised and applied by the state in the administration of justice".

T.H. Green defines law as "the system of rights and obligations which the state enforces".

10.3 CHARACTERISTICS AND NATURE OF LAW

An analysis of the definition given above indicates the essential characteristics of law. These are as follows :

1. Law includes only those general rules which are recognised and enforced by the sovereign authority of the state. The sanction of the state is the distinguishing characteristic of law. Its violation leads to punishment.
2. Law seeks to regulate only the external acts of individual. It cannot control the inner thoughts and motives.
3. Law is universal and applies to all individuals and groups in similar circumstances. It does not make any exception.
4. The Law is definite and precise.
5. The purpose of law is to maintain the universal external conditions of social order to promote general social welfare.

10.4 DEVELOPMENT OF LAW

A brief historical survey of the evolution of law will further add to our understanding of the nature of law. In the static civilizations of early times law was in the form of customs. The customary law was viewed as something permanent and immutable. But, as society developed the customary law could not meet the changed conditions in society. This failure of custom to meet the requirements of a changing society gave the state the opportunity to act as the creator of law. At this stage the judges played an important part in the evolution of law. Under the guise of interpretation they created law. The jurists also helped in the development of law through codification. All this led to the formulation of general principles. The next stage in the evolution of law was the enactment of statute law. At this stage law has become dynamic enough to accommodate rapid social changes and new social situations.

In the West, modern European law arose from the fusion of Roman and Teutonic legal ideas. To the Romans, law meant the commands of the state issued through its officials; to the Teutons, law was a matter of custom. Roman law was the law of unified state, Teutonic law was the law of diverse peoples. The legal system of continental Europe rests on the Roman law; the British legal system is based on the Teutonic customs.

10.5 SOURCES OF LAW - KINDS OF LAW

Where does law come from? The answer to this question does not suggest any single source of law. In fact legal ideas have been derived from various sources. Some of the important sources may now be outlined as follows :

- 1. Custom :** Custom means rules of conduct resting upon general acceptance. It is the earliest source of law. In early primitive societies disputes were settled according to the prevailing customs. The customs were based on the general usage of the family, tribe or clan. The usages arose out of such needs of security of person or property or utility. In England the common law consists mainly of customary rules. These are duly recognised by the English courts. Customs also form an integral part of Hindu law.
- 2. Religion :** Like custom, religion also played an important role in the making of law. In primitive societies customary law was closely connected with religion. In most cases customs had religious sanction. In early societies religion was the basis of law. For instance, the early laws of Rome were a body of technical religious rules. In India, both Hindu law and Muslim law originated from religion.
- 3. Judicial Decisions :** Judicial decisions or adjudication is another important source of law. The primary function of the judiciary is to interpret the laws and settle disputes. While interpreting the existing laws, the judges cannot help making new laws. The new interpreting given to the existing law becomes part of law after it is recognised by the state. These laws are called judge-made laws or case laws.
- 4. Equity :** Equity is also a source of law. Equity means fairness or general principles of justice. When the existing laws do not apply to a particular dispute, such a dispute is decided according to common sense or principles of natural justice. Thus equity provides relief when the existing laws fail. It modifies and makes law flexible. It is the informal method of making new law or altering old law. It differs from caste-law. The judge interprets the existing law, while in equity he adds to the existing law.
- 5. Scientific Commentaries :** The writings of great jurists sometimes contain legal principles. The jurists collect, compare, and arrange in logical form past customs, decisions and laws. By doing so, a jurist lays down guiding principles for possible cases. He indicates the omissions and deduces principles to govern them. Lawyers and courts attach importance to their carefully considered opinions. When such opinions gain recognition, they become part of law. Thus the opinions of Coke and Blackstone in England and Kent in America are held in the highest respect. In India the Mitakshara and the Dayabhaga are similarly respected.
- 6. Legislation :** In modern state the most important source of law is legislation. Legislation is the declared will of the sovereign state. Legislature makes most of the laws in the modern world. Legislation tends to supplant the other sources. But, the other sources also influence the making of laws by the legislature.

Kinds of Law

Law may be classified in various ways. Here, we shall describe briefly the different kinds of law, instead of going into the details of the principles which form the basis of classification.

Law may be broadly divided into two categories. (1) National Law and (2) International Law.

(1) **National Law** : National Law is called Municipal Law. It applies to individuals and associations within the State.

(2) **International Law** : It is the body of rules that regulates the relations of State to State.

National law is again divided into constitutional law and ordinary law.

(3) **Constitutional Law** : Defines the organisation of the state and outlines the scope and manner or exercise of governmental powers.

(4) **Ordinary Law or Statute Law** : Determines the relation of citizens and association of citizens to the state and to one another.

Ordinary law is again subdivided into private law and public law.

(5) **Private Law** : regulates the relation of person to person. It covers the whole field of Civil Rights. It includes the laws of property, of contracts, of courts and of civil procedure. In private law the state is only an enforcing authority.

(6) **Public Law** : regulates the relation of a citizens to the state. In public law the state is both an interested party and the enforcing authority. It includes the whole field of political rights. It also includes those civil rights which the individual enjoys against governmental interference. It includes **criminal law** which defines crimes and offences against the public order.

Public law is again subdivided into administrative law and general law.

(7) **Administrative Law** : determines the relation of officials to the state. It defines the powers and responsibilities of government officials. It is also known as *droit administratif*. It is popular in France and other countries of Europe. It is enforced by a separate set of courts known as administrative courts.

(8) **General Law** : determines the relation of private citizens to the state.

(9) **Ordinance** : is also a kind of law. Ordinances are issued by the executive within the powers allotted to it by the law of the state. As a rule, ordinances are not permanent. They are issued for the special purpose of administrative convenience.

10.6 LAW, MORALITY AND JUSTICE

We shall now examine the relation of law to morality and justice. Law is the subject of political science, while morality comes under ethics. However, both deal with man as a moral agent in society. Although law and morality differ from each other, their relationship cannot be ignored. We shall briefly note the points of difference as well as similarities between law and morality.

Differences

Law differs from morality in content, sanction and definiteness.

1. Law differs from morality in **content**. Morality deals with the whole life of man. It covers his thoughts and purposes as well as his actions. Law is concerned with outward acts only. Law cannot control man's inner motives and feelings.

2. Law and morality also differ in their **sanction**. Moral rules are enforced by individual conscience or by pressure of public opinion. Law is enforced by the coercive power of the state. Violation of moral rules cannot be punished by the state. Immoral acts may be socially condemned. Violation of law can be punished by the state.

3. Law is **definite** and precise, while morals are vague and uncertain. In the case of law, there is the legislature to make laws and there are courts to interpret them. The moral rules are largely unwritten. From this it follows that law is objective and morality is subjective. Morality differs from man to man and the meanings attached to it vary from place to place.

4. Many things which are immoral such as ingratitude, jealousy and meanness, are not **illegal**. Similarly, things which are not morally wrong are prohibited by law. Law often follows standards of expediency. On the other hand, absolute standards of right and wrong are prescribed by moral rules.

Despite the differences mentioned above, there is close connection between law and morals. They were identical in origin. Both arose as the result of habit and experience in the primitive society when moral and political ideas were not separated. Even after they become distinct, points of contact remained between them. Certain widely held moral ideas were incorporated into law. Laws which represent national habits and beliefs can easily be enforced. Laws which come into conflict with prevailing ethical ideas are difficult to administer. Laws also, sometimes, modify and improve ethical standards. For instance, in India, the evil practices of **suttee** and polygamy were prohibited by law. In a word, both law and morals interact and influence each other.

Law and Justice

Since we are going to discuss in detail the concept of justice in Lesson 14, here we shall briefly bring out the relation between law and justice.

The term justice suggests the quality of being just, right or reasonable. Since these qualities are primarily moral in nature, justice is an ethical concept. Literally, the concept of justice suggests the idea of joining. According to Barker, justice is the synthesis of liberty, equality and fraternity. Justice adjusts and joins these three political values. It also implies reward for services contributing to the common good. A society is just, when it maintains these values of justice in an organised system of human relations.

One of the primary ends of state is justice. Law is the instrument of justice. It is through law that the state endeavour to accomplish the ideals of justice. But it is wrong if we think that mere impartial administration of law is justice. If the content of law is unjust, its impartial application fails to provide justice.

From the preceding lines it is clear that justice requires that the law must be just in substance as well as in application. As we have seen, justice is characterised by an emphasis on liberty, equality and co-operation. These ideals are the ultimate guide by which law is judged. The state must also positively seek to promote the ideals of justice through its legal system. In modern states, many taxation laws, and regulatory laws have justice as their objective. The taxation laws, for instance, seek to redistribute income to meet the requirements of justice. With the same end in view there are many laws that regulate business practices. The purpose of an ideal system of law is justice. Where there is justice or just society, ideal relations between men and the state exist. Law is thus related to justice.

10.7 MEANING AND FEATURES OF RULE OF LAW

The 'rule of law' is one of the basic features of the British Constitution. It is derived from the common law tradition. It is practised in the United Kingdom and other countries which follow the British legal system. The phrase 'rule and law' was used by A.V. Dicey in his "Law of the Constitution," first published in 1885.

Rule of law means government of law as against government of men. It implies supremacy of law and absence of arbitrariness. According to Dicey the doctrine of rule of law includes the following three principles. :

1. Citizen's legal duties and his liability to punishment should be determined by the regular law, and not by the arbitrary fiat of officials. In other words, no person should be deprived of his life, liberty and property except for a distinct breach of law proved in the ordinary courts of law.
2. Law should treat all people equally. No individual or group should be given any preferential treatment. Law should bind everyone, including government officials. Disputes between a private citizen and an official should be subject to the jurisdiction of the ordinary courts. No one is above law.
3. The fundamental rights of the citizen should arise from the ordinary law. They should not rest on a special guarantee by the constitution.

In Dicey's view these principles underline the British constitution. He thought that rule of law is a check on the arbitrary power of government. It is a better guarantee of the rights of the people. In the Cabinet system it ensures individual ministerial responsibility.

Dicey's analysis of rule of law does not hold good in the context of modern welfare state. Even in the U.K. there are significant departures from the doctrine of the rule of law. As a consequence to the growth of state functions many administrative agencies have been given the power to adjudicate in many areas. Their decisions in those matters are also final. Thus, a sort of administrative law has developed. The growth of delegated legislation has also increased the discretionary powers of the officials. Thus the rule of law as interpreted by Dicey does not prevail in U.K. today.

10.8 SUM UP

Law is one of the key concepts in political science. In political science, law means a body of general rules having the sanction of the state. It is wrong to think that sovereignty is the only source of law. The evolution of law has been influenced by many factors such as custom, judicial decisions, principles of equality, etc. Though law differs from morals, they react and influence each other. Conventionally law is distinguished from justice, but, their relationship is very close. Rule of law, derived from the common law tradition, is an important safeguard for individual liberty.

(Author : MR. S. POLINAIDU)

10.9 SUGGESTED READINGS

- A. Appa Dorai : The substance of Politics

10.10 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Define law and examine the characteristics of law and its nature.
2. Discuss the relationship between law and morality.
3. Explain the various sources of law.

II. Answer in about 10 lines.

1. Bring out the relationship between Law and Justice.
2. What is rule of law? How does Dicey analyse it?

UNIT-11 : LIBERTY AND EQUALITY

Contents

- 11.0 Objectives
- 11.1 Introduction
- 11.2 Definitions of liberty
- 11.3 kinds of liberty
 - 11.3.1 Natural liberty
 - 11.3.2 Civil liberty
 - 11.3.3 Political liberty
 - 11.3.4 Economic liberty
 - 11.3.5 National liberty
- 11.4 Law and liberty
- 11.5 Equality
- 11.6 Kinds of equality
 - 11.6.1 Legal Equality
 - 11.6.2 political Equality
 - 11.6.3 Economic Equality
- 11.7 Liberty and Equality
- 11.8 Sum up
- 11.9 Suggested Readings
- 11.10 Model questions

11.0 OBJECTIVES

After giving through this unit you will be able to :

- * describe the concepts of Liberty and Equality, distinguish their different kinds and relate liberty with law and equality.

11.1 INTRODUCTION

The concepts "Liberty" and "Equality" are widely used in our daily lives and have an emotional appeal for us. In political Science they have a wide range of meanings, as they are used in different contexts. It is therefore, necessary to have a clear understanding of what they mean and how they are interrelated in order to know how, why, and where they are used.

11.2 DEFINITIONS OF LIBERTY

To the Greeks, liberty meant subjection to the dictates of law as distinguished from the will of a tyrant . The French Philosopher Rousseau formulated his concept of liberty in the form of a paradox. In civil society, the individual is really free only when he surrenders himself completely to the General will. To an individualist like Herbert Spencer liberty meant absence of restraints. Immanuel Kant rejected such a view of liberty as negative as it implied the subjection of the individual to his lower self. Real liberty according to him meant the individual subjection to the

"categorical imperative" which he equated with the dictates of the universal reason. T.H. Green a liberal idealist viewed liberty as the positive power or capacity of doing or enjoying something worth doing or enjoying. According to Marxists true liberty is possible only in society in which there are no classes and the instruments of production are owned by the community rather than private individuals. Where there is so much difference of opinion among men of learning on the meaning of liberty, can we blame the man on the street who thinks liberty means his right to do whatever he likes.

Liberty may be defined in the words of Harold J. Laski as "an atmosphere in which men have the opportunity to be their best selves". Liberty is a social condition in which men feel free and contribute their peculiar and intimate experience to the common stock. Man's life in the society is regulated by certain rules of conduct. Social good is the basis for the formulation of such rules of conduct. Competing demands of men in a society are channelised and rules are framed to provide good life for all. Men can lead good lives of their own only by being obedient to these rules of conduct. Generally it is felt that liberty means absence of restraints. This is a negative condition. Therefore the absence of restraints cannot constitute true liberty. Restraints are created only when the competing desires of the members of a society clash with each other and in any civil society such situations are ample. These limitations on liberty however should not be arbitrary. All restrictions which hamper man's physical mental or moral growth are evidently incompatible with liberty. It will be wrong to carry the impression that liberty, in the positive sense, means merely the absence of oppressive or unequal restrictions. It has another dimension. There must be the presence of opportunity, that is, the opportunity to achieve the fullest development of one's personality and to secure the means of happiness. According to Green, as we have noted in section 11.2, the positive aspect of liberty implies "the positive power of doing or enjoying something that is worth doing or enjoying". The extent of liberty enjoyed by the citizen of a country is determined by the nature and scope of the rights guaranteed to them. Rights are not created but recognised by the state. The nature of every state is known by the rights it maintains. Therefore, liberty is a positive social condition maintained by the state for the good of its citizens. The various forms of freedom are inseparable from the rights. Eager maintenance of rights is a guarantee for liberty. Hence, liberty means the right to do as one wishes, within the limits laid down by the state.

Man's struggle to protect his liberty is not new to our times. The liberties which we are enjoying today are the results of the constant struggle waged by our ancestors in different parts of the world over a long period. The democratisation of institutions also strengthened the demand for the widening of the concept of liberty. The demands for more participation in the governance of the country everywhere opened up new avenues of liberty.

11.3 KINDS OF LIBERTY

The term liberty has been used in a variety of senses with a liberal and extended meaning. Liberty is plural, and has many forms. In order to understand the significance of liberty it is essential for us to know its different forms.

11.3.1 NATURAL LIBERTY

Natural liberty is identified with unlimited rights with which a man can do whatever he likes. This natural liberty is supposed to have been enjoyed by man prior to the establishment of a Civil Society with the establishment of the state, all kinds of rules came into existence and the earlier absolute freedom to do whatever one liked, disappeared. But it is argued that this kind of liberty is impossible. It is licence rather than liberty. True liberty can be enjoyed only in the civilised state. The doctrine of natural liberty is closely associated with the idea of the law of nature. John Locke emphasised the connection between natural law and freedom. In Rousseau's state of nature, all men were equal. Natural equality became the essential principle of natural law and it conferred upon man certain inalienable rights. It is wrong to hold that natural right confers the right to absolute freedom.

11.3.2 CIVIL LIBERTY

Freedom in isolation is meaningless. The freedom enjoyed by man in society is called civil liberty. Since society regulates the relations between individuals, it also maintains certain rules for the enjoyment of freedom. This refers to those rights which the individuals enjoy within certain limitations in a civil society. The civil liberty contains rights and privileges which the state creates and enforces. Hence the civil liberty is the personal liberty of the individuals. It is both positive and negative in character. The rights granted by the state are the positive conditions for the enjoyment of the liberty, whereas the limitation imposed on rights is the negative condition. Civil liberty means liberty to free action and immunity from interference. Every state maintains certain rights whose essence can be called the liberty enjoyed by the people. Keeping in view the interests of the community at large, the conflicting claims of the liberty of the individuals are reconciled by the state. The freedom of person, freedom of movement, equality before law, security of private property, freedoms that the state creates and enforces. These are invaluable freedoms which every individual should possess. Civil liberty is indispensable for the enjoyment of other kinds of liberty.

11.3.3 POLITICAL LIBERTY

Political liberty is considered as "the power to be active in the affairs of the state" It is the liberty of the free citizens to participate in the discussion and direction of the common affairs of the state. It is also called "constitutional liberty" or the liberty to choose one's own government. The importance of political liberty in a participatory democracy is well known. It helps the citizens in sharing political power through political rights. Prof. Laski says, that two conditions are essential. For political liberty to be real. First there should be adequate facilities for all, and each one should have equal access to education. Secondly, there must be a provision for the presence of honest and free press. The right of the citizens to elect their representatives, the right to be elected, the right to hold any public office, the right of information and the right to criticise the government are some of the rights through which citizens enjoy political liberty. The degree of political liberty enjoyed by the citizens depends upon the sanction of the above right in state.

11.3.4 ECONOMIC LIBERTY

Economic liberty is referred to as "security and the opportunity to find reasonable significance in earning of one's daily bread". It is generally believed that political liberty is meaningless without economic liberty. Men must be free from the constant fear of unemployment and insufficiency. It is the freedom from want and freedom from fear. Economic liberty guarantees sufficiency for all, instead of creating superfluity for the few. Economic liberty implies democracy in industry. This means that the workers should have certain economic rights like right to work, right to reasonable hours of work, the right to minimum wage, the right to form trade unions etc. Workers in industry must have a positive control in it. In the absence of positive control there is no spontaneity. Initiative is frustrated in the workers.

11.3.5 NATIONAL LIBERTY

National liberty refers to the independence enjoyed by a nation. National Liberty is synonymous with national independence. A nation is said to be free when it is internally independent and subject to no foreign courts. National liberty exists where the community is independent and sovereign. Till 15 August 1947, India did not enjoy national liberty since she was ruled by the British. Now India is an independent sovereign nation free to determine her own government. National liberty is the foundation of civil, political and economic liberties. When the nation itself does not enjoy liberty, it is not possible for its citizens to enjoy any kind of liberty.

11.4 LAW AND LIBERTY

Liberty is created and maintained by the state through its system of laws. It is said that liberty and the authority of the state are antagonistic. This argument was supported by the Individualists, the Anarchists and the Syndicalists. They asserted that liberty and law cannot be reconciled because the more there is of the one the less there will be of the other. The relationship between law and liberty has always been controversial. Originally law and liberty were regarded as antithetical to each other. This view asserts that law hinders liberty. It is argued that the sovereign power of the state embraces every phase of human life and at every step one is required to obey the laws. Man's liberty is thus restricted and his initiative crushed. This approach regarded the state as a necessary evil to be tolerated in view of the imperfection of human beings. Apparently, there seems to be a fundamental contradiction between sovereignty and liberty. But liberty without restraint cannot exist. Unrestricted liberty is licence and such a kind of liberty cannot exist anywhere. There must be some authority to guarantee the liberty to the weak and protect them from oppression. True liberty cannot be realised unless there are opportunities for all to realise their rights equally. The state provides equal opportunities for all to realise their individual selves. Hence the laws of the state regulate liberty. The laws do not curtail liberty but promote and maintain it. Laws are not the negation of liberty but they are the medium of liberty. Laws enacted by the state restrict the hours of work, regulate the liberty of both the workers and employers. With the evolution of democratic ideals it came to be recognised that liberty and law are not contradictory, but complementary. It was realised that liberty will have to be restricted for the sake of liberty itself. But it is wrong to claim that every prohibition issued by the state is justified and enhances liberty. If the restriction imposed by law goes beyond what is necessary, it becomes an invasion on the liberty of man. There can be no freedom in obeying a law, which frustrates the citizen's impulse to secure the maximum development of physical, intellectual and moral faculties. And at the same time, each individual owes responsibility to his society in proportion to the claims he makes, on the liberty of his fellow men. This demands its regulation to avoid conflicts in society. The correct view on the relationship between law and liberty may be said to be some where between the two arguments discussed above. While all laws cannot be said to be conducive to liberty, it is also true that there can be no liberty without law. Law, if it is not unjust, defines and upholds liberty. Positive law secures the liberty of the individual against encroachments by his fellow men. Constitutional law defines and restricts the powers of the government and provides a legal guarantee for the rights of the citizens. Law also maintains those positive conditions which promote the citizen's welfare. Wisely organised and directed state action increases, instead of, diminishing the liberty of the action of the individuals. Hence law and liberty are not contradictory but complementary.

Equality, a fundamental premise of democracy, is a classic ingredient of our modern system of values. Like liberty it also forms the core of democracy. The one is inextricably linked with the other. Equality, as a concept, is very attractive seen in the context of International society or in the framework of national society. No concept has been more revolutionary than the concept of equality. The popular meaning of equality is that all men are equal and should be certified to identity, treatment and income. Both in the western and Indian political thought, the concept of equality has changed with time and circumstances. This evolution in the thinking of equality gave birth to the idea of the welfare state. The concept of equality presupposes the existence of inequalities. Though, theoretically, all men are equal, in reality men are unequal in power, ability, achievement or excellence. There exists, a certain measure of inequality in all social orders despite a high passion for equality. Men are equal in having human nature, even though they have different outlook in respect of natural instincts. Absolute equality, however desirable is an impossible ideal. In spite of the natural inequities which are inevitable, we cannot be indifferent to the man-made differences created by unequal opportunities in the present society.

Equality is a condition of liberty. It means a certain levelling process. Equality means 'the absence of special privileges. It also means that adequate opportunities are laid open to all. All artificial disabilities should be removed. It is the duty of the state to arrange the social forces

in such a way that every one should get his due in every walk of life. In the political sphere the will of an individual should be equal to that of another. Equality calls for equal distribution of rights to all citizens.

Harold J. Laski believes that equality is a necessary guarantee of liberty. For him, equality means that "no man shall be so placed in society that he can overreach his neighbour to the extent which constitutes a denial of the latter's citizenship". The general concept of freedom is inseparably tied up with the concept of equality. Without the right to equality all other rights are reduced to nothing. The growth of social and democratic institutions further created an awakening in men not only to demand the right to equality but also written guarantees for its implementation.

11.6 KINDS OF EQUALITY

The Concepts of equality has several dimensions. In this section, we will examine some of the important dimensions viz, legal Equality, Political Equality and Economic Equality.

11.6.1 LEGAL EQUALITY

Legal equality refers to the basic equality which is recognised by law. It refers to the legal capacity of each one to develop himself and denies inequality based on race, religion, colour, wealth, strength etc. This means that equality before law has come to be regarded as the hallmark of democratic policy. The implication is that no one is above law. Equality makes every one equal in the eyes of law. At the same time every one is entitled to equal protection by the laws.

11.6.2 POLITICAL EQUALITY

Political equality assumes that all citizens should have the same political rights. They should have equal voice in the government. This implies democracy and adult suffrage. But political equality is never real unless it is accompanied by economic equality. Glaring economic inequalities are not conducive to the proper working of democracy.

11.6.3 ECONOMIC EQUALITY

Economic equality implies the elimination of excessive inequalities in the possession of material resources. It does not mean absolute economic equality. Absolute economic equality is not practicable as wants of the individuals differ as well as the capacity to satisfy them. Economic equality means that every one should have ample opportunities of getting a reasonable start in life and to develop his faculties to the maximum or of being his best self. In its broadest sense, economic equality implies the absence of exploitation of man by man or of one class by another.

11.7 LIBERTY AND EQUALITY

Opinion is divided among political philosophers on the relationship between liberty and equality. De Toqueville and Lord Acton maintain that liberty and equality are antagonistic to one another. These Writers hold the view that equality when extended will result in the curtailment of liberty. This is true if liberty is understood as unrestrained freedom for every individual. But wherever and whenever such freedom existed, it resulted in the degeneration of social order, as wealth and power concentrated in the hands of the few to the disadvantage of the many. Inequalities of wealth will deny the blessings of equality to many. State should provide adequate opportunities to all for the development of their personalities. Those who are wealthy, control the government, and use their authority to perpetuate the inequalities. Equality aims at putting an end to the glaring contrasts so that all the people can enjoy freedom. Without equality, liberty is a mere mockery. Civil liberty can only be secured when all are equal before the eyes of law. Political liberty recognises equal political status to all.

Liberty and equality are complementary because without equality there can be no liberty. Absolute equality is not possible. But equality means that every one should be given adequate social and economic opportunities for one's own development. Equality and liberty have to march hand in hand, because liberty without equality will degenerate into licence. Together they promote the development of human personalities. Without equality, especially economic equality 'liberty will become illusory and the very foundation of democracy will be in peril. Democracy means equality, and liberty to its maximum can only be secured in a society of equals.

11.8 SUM UP

Ever since the evolution of democratic structures the terms Liberty and Equality constitute the core of any political issue or debate. It is clear that both these concepts have not only different meanings to different thinkers, depending upon their philosophy of life, but they also have many dimensions - legal, political, economic, natural, national etc. Further, because of the close affinity of these concepts, especially at the operational level, the relationship between them has often led to debate on the contradictory or complementary nature of this relationship.

Author : Dr. M.S. Rao

11.9 REFERENCES

1. Appadorai : Substance of Politics (Chapter 7)
2. Laski H. J. : Grammar of Politics
(Both the Chapters on Liberty and Equality)
3. Concept of Equality : A video lesson by Prof. Manoranjan Mohanty.

11.10 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Write a note on different kinds of Liberty clearly distinguishing each from the other.
2. Bring out the relationship between law and liberty so as to examine the contradiction or complementary nature of this relationship.
3. 'Equality is a condition of Liberty' critically examine this statement.

II. Answer in about 10 lines.

1. Distinguish political equality from economic equality.
2. Bring out the relationship between liberty and equality (briefly).

UNIT-12: THE INDIVIDUALISTIC, THE AUTHORITARIAN AND THE SOCIALISTIC VIEWS OF FREEDOM

Contents

- 12.0 Objectives
- 12.1 Introduction
- 12.2 Importance of Freedom
- 12.3 Meaning and Scope of Freedom
- 12.4 The Individualistic View of Freedom
- 12.5 The Authoritarian View of Freedom
- 12.6 The Socialistic View of Freedom
- 12.7 Sum Up
- 12.8 Suggested Readings
- 12.9 Model Questions

12.0 OBJECTIVES

After going through this unit you will be able to :

- * recognise the importance of Freedom
- * explain the Meaning and scope of Freedom and
- * critically examine different views of Freedom.

12.1 INTRODUCTION

This unit is intended to elucidate the meaning of freedom and to examine the individualistic, authoritarian and social stic views of freedom

12.2 IMPORTANCE OF FREEDOM

Before we proceed to explain the meaning of freedom, let us make an attempt to understand its importance. Freedom or liberty is a key concept in political theory. Its significance may be understood from the point of view of the individual and the democratic state. Man who is described as a social animal, is also a freedom loving animal. Freedom is essential, a necessary condition for the development of individual personality. In the absence of freedom the full development of the rational faculties of man is not possible. Freedom is essential for the proper operation of rationality in man. A man without freedom is no better than a slave. If truth and reason are to prevail, man must be free to say what he thinks. Many battles have been fought throughout history in the name of freedom. The major revolutions in modern history have proclaimed liberty as one of their aims. Thus, the Declaration of the Rights of Man, proclaimed at the time of the French Revolution in 1789, referred to liberty, equality and fraternity. Most of the modern constitutions also contain certain fundamental freedoms. Even a brief reference to the ends of the modern state reveal that liberty is one of them. The other ends are security, justice and welfare.

Freedom is regarded as one of the bases of the democratic state. Democracy has no meaning in the absence of certain freedoms such as freedoms of speech, press, religion, assembly, petition and freedom from arbitrary arrest. These are basic freedoms without which an individual cannot develop his personality fully. Freedom in a democracy also includes certain rights such as the rights to vote, right to contest in the elections, and the right to criticise the government.

12.3 MEANING OF FREEDOM OR LIBERTY

The words, freedom and liberty are generally synonyms. As stated before the English word liberty is derived from the Latin word *liber* which means 'free'. But the term liberty is not easy to define. It is a term of many meanings. It has two aspects-negative and positive. Negative liberty or freedom means freedom to do as one pleases. Thus the negative concept of liberty stresses simple absence of restraint. However, this kind of freedom leads to licence. It also implies freedom to do even undesirable things. Unlimited freedom leads to anarchy and chaos in a society. In such a society all people are not in a position to enjoy equal freedom. If liberty is interpreted as absence of all restraints little freedom exists in society. Therefore, liberty is not the absence of all restraints. It is the presence of reasonable and just restraints. It should be viewed from the point of view of society as a whole.

Writers like H.J.Laski define liberty in its positive aspect. Positive definitions emphasize some content or purpose in liberty. In the words of H.J.Laski, liberty is "the eager maintenance of that atmosphere in which men have the opportunity to be their best selves" It implies the presence of opportunity to achieve the fullest development of one's personality. These opportunities are in the form of rights. Therefore, according to Laski, liberty is the product of rights. Liberty is possible if every one is guaranteed equal and ample opportunities to develop his personality.

Scope of Liberty : The scope of liberty includes various kinds of liberty. Natural liberty, civil liberty, political liberty, economic liberty, national liberty. A brief elucidation of these concepts is necessary to understand the scope of liberty

Natural Liberty : It implies freedom from interference to think and act as one wants or choose. This type of Freedom is not possible in any organized social life. Therefore, it is not real freedom; it is merely licence.

Civil Liberty : Civil liberty is the liberty enjoyed by an individual as a member of the civil society. It consists of the rights and privileges created and protected by the state. These rights include freedom of speech and expression, personal security, freedom of religion, etc. These rights are defined and protected by law. These rights apply equally and impartially to all. Civil liberty implies a right of protection against encroachment by government or by private persons or groups.

Political Liberty : According to Laski, political liberty means "the power to be active in the affairs of the state". It refers to the political rights the state confers upon its citizens. These rights include the right to vote, the right to contest election, the right to hold public office and the right to criticise the government. Gilchrist considers that political liberty enables the citizens to have a share in the administration of the state. According to Gettell, political liberty depends upon the location of sovereignty and the organization of government in each state.

Economic Liberty : An individual enjoys economic liberty in his capacity as a worker, It refers to the individuals right to enjoy some share in the determination of his wages and the conditions of his work. Thus it implies democracy in industry. To Laski, economic liberty implies security and the opportunity to find reasonable significance in the earning of one's daily bread'. Under the impact of Marxism, economic liberty is elevated to the first position.

National Liberty : National liberty means simply independence or the freedom of a people from the control of another state. India secured her national liberty in 1947. National liberty is evidently external sovereignty. It is the foundation of all other liberties mentioned above.

We shall now pass on to examine the individualistic, authoritarian and the socialistic views of freedom.

12.4 THE INDIVIDUALISTIC VIEW OF FREEDOM

The individualistic writers champion the cause of maximum freedom for the individual. They regard the state as a necessary evil. They therefore, think that the individual can enjoy maximum freedom when the state imposes minimum restraints on the actions of the individual. This negative concept of liberty is a marked feature of the writings of Jeremy Bentham, James Mill, J.S. Mill, Mendry Sidgwick, Herbert Spencer, and the classical and neoclassical economists.

The individualistic view of freedom is based on the principle that every one knows his own interest best. The state should not decide the interests and ends of the individual. It should not intervene to promote what are considered to be a person's best interests. They argue that unrestricted freedom is necessary for advancement of progress. A free-market society's their ideal.

In the eighteenth and nineteenth centuries the demand for unrestricted freedom took the form of *laissez-faire* which means 'leave alone'. The exponents of *laissez-faire* individualism understood liberty as the freedom of trade, freedom of enterprise, freedom of contract, etc. The state was viewed as a negative state. Its only duty was to protect the person and property of the individual against the encroachment of other individuals.

One important consequence of the negative concept of liberty is the rise of capitalist system in Europe. Towards the end of the 19th century, the capitalist system based on negative freedom proved to be dangerous. Under this system only the capitalist class enjoyed freedom. It brought about miserable conditions for workers and consumers. It resulted in the appalling inequalities of wealth, power and injustice in society. This led to a rethinking of the meaning of liberty. The positive liberals, the socialists and the humanists demanded a new definition of liberty. As a result the negative view of liberty gave way to a positive view of liberty.

The first signs of transition from negative to positive liberty can be seen in J.S. Mill's ideas on liberty. Mill, in his essay *On Liberty*, draws a distinction between self-regarding and other regarding actions of the individual. Mill makes this remark that where action affect only himself, the individual is sovereign. This rules out paternalism. Intervention is legitimate only when an individual's actions affect the interests of another. Mill also pleads for the limitation of the right of inheritance and on a state provision of education.

T.H. Green argues that the state should play a positive role in creating favourable conditions under which men could exercise their moral freedom. H.J. Laski also has given a position concept of freedom. He justifies the intervention of the state in the economic liberty of the few rich in the interests of the welfare of all people. He argues that the state should maintain certain favourable conditions in the form of rights which enable all the people to enjoy equal freedom.

The individualistic view of negative liberty as the absence of restraints is wrong. Unregulated liberty is no liberty at all. Liberty to be effective, must be regulated. Regulation of liberty implies recognition of the authority of the state over the individual. It is wrong to think that all laws passed by the state restrict freedom. An oppressive law is no doubt, bad and restricts freedom. But state passes many laws which aim at the promotion of the general interest of society and protection of the weak against the strong. Therefore, the state is not a necessary evil, but a positive good.

Isaiah Berlin, a contemporary writer, is in favour of reviving the concept of negative liberty. In his "Two concepts of Liberty" Berlin cleverly defines the concepts of negative and positive liberty. By negative liberty, he meant the area of life within which one is free to do what he is able to do without interference from other persons. These include certain areas of life, such as speech, religion, press and assembly. According to Berlin positive liberty refers to the possibility of individuals controlling their own destiny, to their ability to choose this or that option. He says that the state can secure negative liberty to the individual and positive liberty does not come within the purview of the state. His concept of liberty is criticised as mechanical and being appropriate only to a market society. As we have seen, positive liberty means governmental activity to provide the conditions for the full development of the individual.

12.5 THE AUTHORITARIAN VIEW OF FREEDOM

We shall now see how the advocates of authoritarianism view the freedom of the individual. Before we proceed further let us understand the meaning of authoritarianism. The word authoritarianism means concentration of all authority and power in the hands of an individual or a few persons. Such a rule is not a responsible government. Examples of authoritarian states abound in history. France under Louis XIV, Portugal under Salazar, Fascist Italy, Nazi Germany and some communist states are examples of authoritarian states. When authoritarian states become totalitarian (e.g. Nazi, Fascist and communist dictatorships) the state is everything and the individual as such amounts to nothing. Thus authoritarianism, by its very nature, is opposed to individual liberty.

If we examine the views of some authoritarian thinkers about liberty it becomes quite clear that authoritarianism is inimical to individual liberty. For example, according to Hobbes, the sovereign is absolute and he is the only source of individual rights and liberty. Individual's liberty covers those areas of life which are permitted by the sovereign. But the sovereign can limit the liberty of the subject at any time, similarly Rousseau argues that individual liberty consists in obedience to the commands of the general will which has unlimited authority. This is an authoritarian aspect of Rousseau's philosophy.

The idealist thinker such as Kant, Hegel and Green have expressed similar views of freedom. In the opinion of Kant, a man is truly free when he obeys the precepts of moral law. T.H. Green elaborates this idea. He says that a man is free only when he does something worth doing. Hegel carries this idea still further. He declares that man is truly free only when he subordinates himself to the will of the state and when he obeys the moral code. The State tells us what the moral code is. Reason is embodied in the state which is national. In obeying the laws of the state, man is acting in accordance with reason, when man acts in accordance with reason, he is free.

The authoritarian fascist dictators like Mussolini and Hitler were greatly influenced by the idealist theory. The fascists did not recognise individual liberty as sacred. They said that liberty does not connote a right but a duty. The concept of a bill of Rights does not find a place in fascist philosophy. In the opinion of the advocates of authoritarianism, true liberty means subjection to law. Thus, the authoritarian view of liberty makes the individual subordinate to the authority of the state. It is anti-democratic and a wrong conception of freedom.

12.6 THE SOCIALIST VIEW OF FREEDOM

The adverse effects of modern capitalism led to the rise of socialism. Karl Marx is known as the father of Scientific Socialism. Socialist ideas existed prior to Marx. But the greatness of Marx lay in the fact that he presented these ideas in a systematic manner. Therefore, to understand the socialist view of freedom, it is essential to understand the views of Marx on freedom.

The Socialist or Marxist view of freedom is different from the individualistic or authoritarian view of freedom. According to Marx and Engel, an individual cannot enjoy real freedom in a bourgeois society. In such a society, man's liberty is not founded upon the relations between man and man, but rather upon the separation of man from man. In a bourgeois society the few rich enjoy freedom which is denied to the majority of the poor. Consequently man finds himself alienated from society, people alienated from society cannot be free individuals. Therefore, the real problem for Marx is to unite the individual with a community based on the freedom of all rather than on the dominance of a few.

According to Marx, the alienation of man is caused by the nature of the capitalist system. The capitalist system is characterised by private ownership of the means of production by a few people, competitive market economy, exploitation of the workers by the producer and so on. The capitalist system with all its defects dehumanises man. As long as economic inequalities exist, exploitation of man by man continues. In such a society marked by inequalities, man

cannot enjoy real freedom and develop his faculties to the fullest extent possible. Therefore, Marx opines that real freedom is possible when exploitation ceases altogether. It implies that freedom for all is possible only when the oppressed class is free from economic exploitation. Thus economic equality is an essential condition for the enjoyment of true freedom by all people.

The transformation of a capitalist bourgeois society into a free socialist society, is brought about by means of socialist revolution. A society enables everybody to satisfy the basic needs of life-food, clothing and shelter, It also provides opportunity to every individual to cultivate his mind and develop his personality. Thus socialism enables society to restore human values and inaugurate a new era of freedom.

In a nutshell, the socialist view of freedom is opposed to both individualist and authoritarian view of freedom. According to the socialists, people cannot enjoy real freedom in a capitalist society. Private ownership of means of production deprives majority of the people of their freedom. The capitalist system alienates man from his work and the community.

The over-turning of the capitalist system is possible through socialist revolution. After the revolution, socialist society is established. A socialist society is a free society. It enables the individual to satisfy his material needs and realise other higher values of human life. Real freedom is possible in free society which is a socialist society. Freedom, according to the socialists, is created for men by external conditions. It may be pointed out here that the socialists have over emphasized the economic aspect of liberty and they have given little importance to political and other aspects of liberty.

12.7 SUM UP

Liberty is an important political value that has been desired by people in all ages. It is essential for the development of individual personality. It is one of the essential conditions for the successful functioning of democracy. Liberty does not mean freedom to do what one wants to do. Such freedom is not possible in any civilized society. It implies the enjoyment of certain rights which are essential for the full development of individual personality. It also implies the enjoyment of such rights by all people in society. The scope of liberty includes civil, political and economic liberty.

The individualists view liberty as the absence of restraints. Their view of liberty led to the rise of capitalism with all its evils. The authoritarians view liberty as subjection to the absolute authority of the state. As opposed to these two views the socialists argue that true liberty is possible only in a socialist society which is free.

Author : Mr. S. POLINAIDU

12.8 SUGGESTED READINGS

1. R. C. Gettel : Introduction to Political Science

12.9 MODEL QUESTIONS

I. Answer in about 30 lines.

1. What do you understand by liberty? Explain the individualistic view of liberty.
2. Discuss the socialistic view of liberty.
3. Point out the differences between the individualistic and socialistic views of liberty.

II. Answer in about 10 lines.

1. Meaning and scope of liberty.
2. Authoritarian view of liberty.
3. Marx's views on liberty.

UNIT-13 : RIGHTS

Contents

- 13.0 Objectives
- 13.1 Introduction
- 13.2 Meaning of Rights
- 13.3 Liberal Theory of Rights
- 13.4 Marxist Theory of Rights
- 13.5 Kinds of Rights
- 13.6 Duties
- 13.7 Sum up
- 13.8 Suggested Readings
- 13.9 Model Questions

13.0 OBJECTIVES

After going through this unit you will be able to :

- * describe the meaning of Rights,
- * examine different theories of Rights,
- * list out the kinds of Rights and
- * analyse the relationship between Rights and Duties.

13.1 INTRODUCTION

Rights may be described as socially recognised conditions. They are inherent in individuals. All doctrines of freedom assume the existence of rights. In this unit we shall study the meaning and kinds of rights.

13.2 MEANING OF RIGHTS

Every state guarantees certain rights for its citizens. Rights may be described as the socially recognised conditions without which no individual can live a life of his own. The organised character of society provides the conditions in which men are able to shape their own lives. In this sense rights may be regarded as inherent in the individual and prior to and independent of the state's recognition. All doctrines of freedom assume the existence of rights. In the words of Laski every "State is known by the rights that it maintains". Rights indicate the level of progress and prosperity attained by a particular state. Rights also indicate what a society considers important and worthy of being enforced. As a matter of fact rights are conditions for the maintenance of liberty in any state. Liberty has no meaning unless it is expressed in rights.

There are certain bare necessities without which man cannot live a life of his own. They are his primary desires. Nature has given certain powers to every individual to satisfy his desires. The social nature of man aiming at a common good demands that each man should exercise his powers to satisfy his desires rationally. This means that one should provide for others the same condition of life which one would like to have oneself. One should allow to others what one desires for oneself.

Rights are meaningless outside the society. If there is no society there can be no rights. Robinson Crusoe had no rights in his lonely island. Limit to freedom arises only when there are others to exercise similar freedom. Thus rights are socially recognised to make life socially harmonious.

The concept of rights has developed over a period of three hundred years. The rights were originally conceived as a gift of nature, later viewed as a concession by the state and society. Hugo Grotius provided the moral base for a theory of rights. He defined right as "a moral quality of a person making it possible to have or to do some thing lawfully". Grotius was the first political philosopher who systematically expounded the idea of natural rights based on the natural law. The origin of the natural theory of rights can be traced back to ancient Greeks. In ancient Greece, the Stoics preached the doctrine of natural equality of mankind. During the middle ages, natural theory of rights was given a Biblical complexion and the law of nature became the law of God. The Social Contractualists treated the concept of natural rights as a favourite theory. They tried to establish that the individuals had certain rights even before the establishment of the state., John Locke included right to life, liberty and property as natural rights and wanted that the state should protect these natural rights. The civil society existed for the purpose of preserving these rights and in case the state violated any of the natural rights of man, people would have not only the right but the responsibility to revolt.

13.3 THE LIBERAL THEORY OF RIGHTS

The idea of natural rights and inalienable rights of the individual is one of the Central Themes of the Liberal doctrine: It was realised traditionally that the rights of man cannot be presumed without a government. Consequently the liberals found a compromise in constitutionalism, the state with written and rigid balances. The rights of the citizens were elaborated in the constitution. The government was expected to maintain law and order without abridging his main rights. The primary duty of the state was to ensure man's freedom not only against encroachments of the sovereign but also of other organisations claiming the individual's allegiance. The liberals emphasised more on civil liberties. Freedom of press, speech, conscience, assembly, organisation, which modern democracies have were not there before the days of liberalism. The American Bill of Rights contains the best enunciation of the liberal point of view. However, the modern liberals do not regard governmental interference as the only serious threat to the rights of men. The influence of socialist ideas, has transformed the nature of liberalism and the concept of rights.

13.4 MARXIST THEORY OF RIGHTS

The Marxist theory of rights stems from Marxist fundamental theory of the state and law. For Marx, law as well as state is a historical phenomenon. State is a superstructure upon the economic basis of society. Every state seeks to sustain some stable relations of production in order to live as a state. Law which emanates from the state does not seek general interest but the interest of the dominant class in the society. The laws of the state work to the advantage of the propertied class. In a feudal society law seeks to protect the privileges of the owners of the land. In a capitalist society the law is determined by the needs and demands of the capitalist class. The Marxist conception of classes is based on the assumption of inequality., In the capitalist society classes are unequal and they do not enjoy the same rights and duties. In a society divided into classes only the privileged can enjoy the rights and the others are denied rights. Contrary to the popular belief, Marx supported the doctrine of the rights of man. He viewed that, under the social system being what it was, only property owning -classes could enjoy rights. The opponents of Marx do not accept this view point. They feel that even in the Marxian classless society; there would be diversity of functions and as such difference in the rights and duties. Marx did not accept the claims of individuals against the proletariat state. Marxian concept of individual rights is silent about the rights of the individual against the state.

13.5 KINDS OF RIGHTS

Rights are of different kinds. They are broadly divided into moral and legal rights. A **moral right** is one based on the ethical code of the morality of the people. Moral rights are the claims based on the conscience of the community. These rights have the support of the good sense of the society. For example, a teacher has a moral right to be respected by his students. There is no coercive power to enforce them. They are like pious principles whose enforcement depends upon the good sense of the community.

A legal right :

A **legal right** is one recognised and maintained by the laws of the state. Legal rights are enforceable by a citizen in the court of law both against the government and other citizens. They are uniform and open to all without any discrimination. Legal rights are further divided into civil and political rights. Civil rights provide for the fulfilment of elementary conditions of social life. These rights relate to the person and the property of the individuals. This category includes a number of rights like those relating to life, personal liberty, thought, expression, property, and religion. Among the civil rights, right to life is regarded as most important, since enjoyment of all other rights depend upon it. These civil rights are regarded as essential to the free and progressive life of man. Their enjoyment is universally guaranteed.

Political rights:

Political rights relate to man's participation in the affairs of the state. These rights are enjoyed not in a personal or private capacity but in his capacity as a citizen. Political rights are the means by which an adult citizen is entitled by the constitution of the state to participate in the governance of his country. As such, this category includes the most important right to vote. It is through the exercise of these political rights that democracy operates and it is only the democratic constitution which confer these rights on the people. It has become very common nowadays to speak about fundamental rights. In the seventeenth and eighteenth centuries, political thinkers put forward the doctrine of natural rights. Very few people accept the theory of natural rights today in its traditional form. However, the idea that man has certain inherent rights irrespective of whether or not they are recognised by the law of the state and protected by the courts is generally accepted. The tendency in a modern democratic state is to incorporate fundamental right in its constitution so as to ensure their fuller enjoyment by all the citizens. This is done in order to draw fundamental rights from political controversy and to place them beyond the reach of majorities and officials. Thus fundamental rights are given constitutional sanctity. These rights cannot be violated either by the legislature or by the executive. Whenever violations occur it is the duty of the courts to intervene and ensure the due observance of fundamental rights. Judiciary is empowered to act as the guardian of the constitution.

All civilised states do not maintain an identical list of rights. The number in content of rights available to the people varies from time to time and from place to place. The variation between one state and another in this regard is quite considerable. We will discuss some of the specific rights recognised and maintained in most civilised states.

The Right to Life :

Life is citizen's most fundamental possession. Right to life is the most fundamental of rights. It means a claim to live so that one's existence does not jeopardise the existence of others. It also means the right to defend oneself against attack. This right is based on the instinct of self preservation. Social life would be impossible if an individual's life is always at the mercy of other citizens or the government. Therefore every state makes provision for the personal safety of its members. No government can deprive a citizen of his life unless he is proved to be guilty of a serious crime like murder. In fact, capital punishment has been abolished in some states. The modern idea of punishment is neither retributive nor deterrent in character, but that it should be reformatory. The right to live also demands punishment, as on those who attempt to

commit suicide, that is take away their right to live. But the right to life is not absolute. As the government guarantees to its citizens the security of life, the citizens too owe a duty to the state. It is the sacred duty of every citizen to protect and defend his country during the times of war or national emergency, sacrificing even life, if necessary.

The Right to personal liberty :

Life is meaningless if a man has no right to exercise his faculties. If the right to life is the basis of society, the right to liberty is the essence of human existence. Every citizen should possess the right to movement, the right to act as he chooses. The state cannot limit these rights unless it is demanded for the general good of society. A citizen must be in a position to plan his life and career to his satisfaction. He must be permitted to exercise his inner faculties without hindrance. There should not be any kind of interference with the style of living of the citizens. Personal liberty also implies freedom from arbitrary arrest or detention. But this right also is not an absolute one. Reasonable restrictions may be imposed by the government according to the exigencies of circumstances. During a period of emergency, their extraordinary powers are to be exercised for extraordinary purposes and should not be misused in times of peace.

The Right to freedom of thought and expression :

Freedom of thought and expression has become one of the highly valued rights of man. This includes the freedom of the press, as well as, the freedom of speech. Both freedom of the press and the freedom of speech are closely connected. Freedom of thought will lose all its meaning and significance if it is not accompanied by freedom of speech or expression. Thought is always free but articulation of thought is possible when the state provides the necessary conditions.

The interests of social order and respect for the rights for others, require restraints on the liberty of expression. The restrictions are not intended to curtail individual liberty. They are imposed to ensure liberty of others and safeguard the stability of the state. Freedom of speech includes the right to discuss the policies and actions of the Government and offer constructive criticism. Freedom of speech implies the right to free press. The people should also be free to write and publish what they are free to say. The press plays a vital role as the watchdog of democracy and sentinel of the rights of citizens. The press forms and educates public opinion. It is essential for the success of democracy that free discussion and free criticism should flow from the press to help in shaping a genuine and responsible public opinion. This right is also not an absolute one. The right carries with it the corresponding obligation of respecting the feelings of others.

The Right to work :

The right to work as a fundamental right has occupied a place of pride in modern political thinking. The right to life must be followed by the right to work. This right implies that a man must be free to live on the reward of his labour. It is necessary that society should provide him with facilities to perform his functions and earn his living in order to maintain his life. If the society fails to provide such an opportunity it deprives him of all those means which make possible the realisation of his personality. The right to work also means the right to an adequate wage for civilised living. The right to adequate wage means the right to reasonable hours of labour. Unfortunately the right to work has not received legal recognition except in socialist states like USSR. In India, the right to work does not find a place in the chapter on Fundamental Rights. But it is included among the directive principles of state policy. This means that the state has accepted the right to work as its moral responsibility.

The right to property :

Property is regarded as essential to man's existence and provides an incentive for effort. It is often claimed that every man should be free to use and enjoy his possession both movable and immovable. In recent times the right to property is being widely questioned. Various arguments are advanced for its abolition and retention. Those who favour its retention argue that it is a reward for ability and it is necessary in some form for the existence of man. They argue that

it has an ethical basis and it is essential for the realisation of the moral end of man. It is also maintained that the man of property is protected from fear of starvation and he can find adequate leisure. Those who advocate its abolition argue that equality is impossible if the right to property is allowed to continue. In turn inequality is the root cause of all our social economic and political ills. Excepting USSR and some socialist countries, almost all states recognise the right to property. But at the same time we must keep in our mind that the right to property is conditioned and limited by considerations of social justice and public welfare. It is generally argued that the state can claim a part of the individual's property in the form of taxes. Again the state can confiscate a part or the whole of an individual's property by way of punishment. In most states, the law provides for the acquisition of private property either with or without compensation.

Right to Religion and Conscience :

In every modern state with certain exceptions every citizen has the right to worship and pursue any religion or faith. The State should be neutral between different religions and should leave religion to individual conscience. Religion is an individual's private affair and the state has no right to prescribe his religion. Every citizen is assured that he is free to profess, practice and propagate his religion and further assured that the state will treat the followers of all religions as equals. There can be no discrimination against any citizen on account of his religion. But the freedom of religion does not give the individual a right to refuse to obey the laws of the state because they conflict with his religious faith. The right to religious faith is not admitted by all the states. Some states permit only a certain type of religious faith and others do not permit unrestricted worship.

Political Rights :

In addition to the civil rights, a number of political rights are also recognised in modern states. The rights give an opportunity for the citizens to share in the legal expression and administration of the sovereign power of the state. The functioning of democracy depends on how citizens exercise the political right. These rights are available only to citizens with certain qualifications.

The primary political right is the right to vote. This right is the product of democracy. Every adult citizen has the right to vote at the time of election. But the right is not granted automatically for every citizen. Aliens, bankrupts, paupers, certain criminals and minors are denied this right. Some states deprive their women population of this right. It is a basic principle in democracy that the right to vote should be granted to every adult citizen without any discrimination as to caste, colour, creed, sex and wealth. Universal adult franchise has become a common feature of democracy in the contemporary world.

The right to be elected or to represent the people is another important political right. The right to seek election to political office follows logically from the right to vote. In view of the responsibilities of the representatives, it is necessary that they should be chosen with regard to their experience of public affairs. Every state now prescribes certain minimum qualifications which the representatives ought to possess. However there is no justification for any disqualification based on sex, religion, economic status etc.,

Right to represent is the right to hold elective office such as those of membership of panchayats, membership of parliament etc. The citizen also has the right to hold other types of public offices which a person can secure through a process of selection on the basis of prescribed qualifications. Citizens should not be discriminated for public employment on grounds of religion, caste, race, sex etc., This is the gift of democracy which gives equal right to all the citizens.

Democracy is a government by criticism. Though freedom of speech is a civil right it is a political right in so far as it implies and includes the right to criticise those who exercise political power. This right places in the hands of citizens the power to ensure that the rulers do not become inefficient, corrupt, indifferent and callous to public opinion. The citizen has not only

the right to support his government but also the right to oppose it. This right to criticism is allowed only in democratic countries.

The right to petition entitles every citizen to send petition either individually or collectively to the competent authority for the redress of grievances. This is an old right which people had been enjoying in all the countries.

13.6 DUTIES

Rights are organically bound up with duties. Both rights and duties go together. They are correlated like the two sides of a coin. Rights prescribe the rules of behaviour in a society. While doing so, each right is followed by an obligation to do or not to do when he is under an obligation to do or not to do something. It is something we owe to others as social beings. My right of living involves my duty to my fellowmen to allow them the same conditions of life. Every right has a corresponding obligation or duty. Before the advent of democratic governments emphasis was only laid on the rights of man. With the democratic principle becoming popular everywhere the emphasis is not merely on the rights. But also on the duties of citizens.

Like rights, duties are of two kinds moral and legal. The citizen has a general legal duty to obey the laws of the state. This is necessary in the interest of general welfare and the maintenance of peace and order in society. The duties which are enforced on citizens by the laws of the state and are enforceable in courts, are known as legal duties. Failure to perform legal duties is punishable.

A moral duty is that which is enjoyed upon the people on moral grounds. The sanction behind the moral duty is moral opinion of the community. The breach of a moral duty is not punishable.

Duties may further be divided into negative and positive duties. When a citizen exercises his right in such a way as to maximise social progress and welfare he performs a positive duty. Obedience to the laws of the state, defence of the country are some of the positive duties. When a citizen does not do a thing which the law prohibits, he performs a negative duty. A negative duty implies obedience to prohibitions prescribed by the laws of the state.

It is the fundamental duty of every citizen to owe his allegiance to the state to which he belongs. This implies the duty of defending the state in case of war, and service and loyalty to the state to maintain its integrity. In every state, it is the supreme duty of every citizen to obey the laws. Laws are made for the welfare of the community and those who respect and obey laws have the good of the community at heart. Another legal duty of a citizen is to honestly pay the necessary taxes to the state. There are some duties which seem to lie on the border line between legal and moral duties. An example is the citizen's duty to help the police and the armed forces in the maintenance of law and order. This is clearly a duty of the citizen but it is not always possible to enforce this duty. More clearly moral in character are the duties that a citizen owes to his family, his village, his town etc. The constitution of most western countries give a prominent place to the rights of the citizens but make no mention of his duties. The Soviet Union and other socialist countries have incorporated the duties in their constitutions.

13.7 SUM UP

Day by day, the importance of the rights of citizen is on the increase. In fact, the inclusion of a chapter on fundamental rights has become a must for every constitution. The necessity of enumerating the rights of citizens has been realised everywhere. The United Nations Organisation took up the work of listing of Human Rights and approved the Universal Declaration of Human Rights in 1948. South Africa is resisting the move of the world body for the abolition of the policy of apartheid. The world public opinion has crystallised against apartheid and pressure is being built up to change the policy of apartheid in south Africa. Besides the UNO, a number of voluntary agencies throughout the world are involved in the propagation of the implementation of fundamental rights.

Author : Dr. M.S. Rao

13.8 SUGGESTED READINGS

1. A.C. Kapoor : Principles of political Science

13.9 MODEL QUESTIONS

I. Answer in about 30 lines

1. 'Rights are the socially recognised conditions' Discuss.
2. Explain briefly the different kinds of rights.
3. 'Rights are organically bound up with duties' Explain.

II. Answer in about 10 lines

1. What is the liberal conception of Rights .
2. State the political rights that are recognised by a modern state.
3. What are the different kinds of duties? Explain their importance.

BRAOU

UNIT-14 : JUSTICE

Contents

- 14.0 Objectives
- 14.1 Introduction
- 14.2 Meaning of Justice
- 14.3 Legal Justice
- 14.4 Political Justice
- 14.5 Economic Justice
- 14.6 Social Justice
- 14.7 Sum Up
- 14.8 Suggested Readings
- 14.9 Model Questions

14.0 OBJECTIVES

After going through this unit you will be able to:

- * explain the meaning of justice,
- * describe types of justice like legal, political, economic and social justice; and
- * analyse the significance of justice

14.1 INTRODUCTION

One of the most commonly used concepts in political science is justice. The concept of justice is dynamic. The term justice is assigned different meanings by different people at different times and different places. In this not an attempt is made to explain the meaning and significance of justice.

14.2 MEANING OF JUSTICE

One of the most commonly used concepts in political science is justice. The concept of justice is dynamic. As such, its implications may change with the passage of time. What was justice in the past may be injustice at present and vice versa. It is very difficult to define justice. The term justice is assigned different meanings by different people at different times and different places. Further there is a difficulty in reconciling the abstract notions of justice. Every society maintains certain notions about the ideas of law, rights, liberty, and equality. The reconciliation of the notions of these ideals can be understood as justice. Justice can be described as a synthesiser of the values in a society. Justice has much significance in the realm of political theory. Among the objectives of the State and government, justice has been given a high place at all times.

The earliest conception of justice is found in Greek thought. Justice then was equated with harmony or proportion. The theory of the state in the Republic of Plato culminates in the conception of justice. Justice was regarded as fulfilling the duties of one's station and not to meddle with the duties of another's station. Justice in an individual means that reason, spirit and appetite are kept within their proper limits. The Roman lawyers conceived justice as positive law conforming to the higher law. St. Augustine viewed justice as absence of strife and conflict, and building up of the right relationship between men and God.

St. Thomas Aquinas tried to divide human justice into distributive and cumulative justice. His idea of justice represents the first step towards the secularisation of the idea of justice. The complete secularisation of the idea of justice could be accomplished only after the liberating effect of Renaissance. The natural law school considered justice as the natural reason of man and opposed all considerations of the supernatural.

The problem of justice arises when there is a conflict among equivalent moral values. Justice presupposes the existence of a conflict; and it is called upon to harmonise them. In the community of saints and angels, justice is inapplicable and unnecessary. Whenever, and wherever, there is disharmony justice enters to systematise the conflicting ideas. Justice cannot serve as a basis of criticism and an appreciation of the law because it is one of the elements of it.

14.3 LEGAL JUSTICE

In common parlance, justice means the enforcement of positive law. The enforcement of law is done by the judicial and quasi-judicial bodies. The courts interpret the law and apply it to specific cases. For this reason, the idea of justice is very close to law and both seem interchangeable. This kind of view is maintained by the advocates of the analytical school like John Austin. They advocate that the law has to function on the one hand as an instrument of justice and, on the other, as an instrument to suppress mischief. Law is viewed as an instrument for satisfying social needs. Law is based on the idea of justice. Laws cannot be made in the vacuum. They represent social, political and ethical values accepted by society.

The true nature of the law is not its coercive power, but the social and moral force projected by it as an instrument of common well-being. The value of law lies in its inherent quality of justice. In an ideal situation law should have both validity and value. So justice is the main purpose of law.

This does not mean that judicial bodies pay no respect to the abstract principles of natural justice. Courts apply the principles of natural justice in order to ensure that the laws of the state are enforced for the good of the community. The Supreme Court of India gave a judgement in recent years that it will treat even an ordinary letter addressed to it by the persons in distress as a writ petition. In this sense, the idea of justice requires a happy synthesis of the principles of natural justice and the premises of positive law. Here justice, like the law of the state, becomes a positive concept. We may say that what the people in general mean by justice belongs to this variety. Disputes are taken by the people to a court of competent jurisdiction. The hearing in the court is open, free and fair. The interpretation of the judge is considered as being an embodiment of justice. But the theory of positive justice is not free from certain inherent weaknesses. It lays much emphasis on the sanctity of a verdict given by a court. It ignores the role of social, economic and political forces that remain at work in every society. It is difficult to understand the role of non-judicial elements in the administration of public justice.

14.4 POLITICAL JUSTICE

The most important dimension of positive justice is political justice. Political justice aims at a free and fair participation of people in their political life. Thus political justice involves the guarantee of universal adult franchise and absence of discrimination in matters of recruitment to public services. Organisation of society in political and economic directions and the policy to be adopted by the government should be decided by the people themselves. Preservation of the political rights of the individuals is the essence of political justice. It requires that the state must protect and preserve certain valuable rights of the individual so that he may develop his personality and contribute his share to the welfare of the political community. In a polity where political rights vary from person to person or class to class, a sense of political frustration cannot be avoided. Political justice does not mean absolute political equality. The idea of political justice and equality is nicely summed up in article 1 of Universal Declaration of Human Rights of 1948: "All human beings are born free and equal in dignity and rights. They are endowed

with reason and conscience and should act towards one another in a spirit of brotherhood". "The Indian constitution is a good example of the system of social, economic and political justice.

The idea of political justice desires a liberal democratic order in which the rights of the individuals are well protected. In a wider perspective it falls under the category of social justice. Positive justice involves the broad dimensions of social, economic and political aspects without strict boundary lines between them. The result is that the task of the modern state as has become increasingly complex. No major decision can be taken without a careful evaluation of the conflicting values and interests.

14.5 ECONOMIC JUSTICE

Economic justice should be treated as corollary to social justice. Both social justice and economic justice are closely related. The discussion of one covers much of what come within the fold of the discussion of the other. Economic justice means absence of discrimination between man and man on the basis of economic values. In positive terms, it means adequate payments for work without any discrimination on some artificial grounds. It also enjoins freedom for all in the spheres of production and distribution, subject to the conditions of general welfare. The state of national economy has to be shaped in such a way that the benefits are made more and more available to the common man.

Economic justice is an important concept of the modern age of science and industrialisation. Planning has become the chief mode of bringing about the state of general welfare. Economic justice enjoins upon the state to revise the meaning of the term in such a way as to avoid the areas of conflict between the demands of a developing society and traditional norm of law and justice. There is every possibility of encroachment on the rights of individual with the advent of planning programmes. The traditional vested interests try in their nerve to contain the activity of the state in the name of their fundamental freedoms as enshrined in the constitution of the land. It is also possible that an enthusiastic government may encroach on the fundamental freedoms of the individual in the name of ushering in an egalitarian society. Under these circumstance economic justice calls for the imposition of suitable restraints on the authority of the state. Economic justice is a matter of acute controversy between the liberal and Marxist thinkers. The communist desire the abolition of a private property for the sake of economic justice, liberals differ in their opinions about private property. Very often the ideas of "regulatory legislation" or reasonable restriction are advocated for the purpose of achieving economic justice.

14.6 SOCIAL JUSTICE

As a concept, Social Justice is relatively new. It has come into wide use in the twentieth century even though its roots can be traced back into history. Liberal democracy guarantees freedom to all. But the benefits of freedom do not percolate to the masses who really lack economic resources. The concept of social justice draws attention to this weakness of liberal democracy and calls for a social order in which everyone is treated with justice and fairness.

Social justice involves the creation of a social order just and fair to all. With the penetration of democracy into social, economic and political spheres, the meaning of justice has expanded to cover all walks of human lives. An awareness has developed among the people that to meet the ends of social justice certain reasonable restrictions should be imposed on the rights of an individual in the greater interests of the community. The well being of the society is dependent upon the co-ordination and reconciliation between the rights of the individual and the interests of the community. It is also argued that whenever there is a conflict between the two the interest of the community should prevail. Social justice is a balance between individual rights and social control. An individual is expected to sacrifice certain of his rights for the sake of general interest. The term social justice has a very wide meaning covering everything pertaining to the norms of general interest. Justice not only aims at the equality of all before the law but it also aims at eradicating all the social evils. It must also aim at the liquidation of vested interests obstructing the common good. The vested interests always try to maintain a status quo to their

advantage. In developing countries, the idea of social justice relates mainly to the downtrodden and weaker sections of the society. It stands for special protection for the weaker and backward sections of the community.

Social justice is basically an egalitarian concept. It can be said that equality is the foundation of social justice. However an important distinction can be made between the two. A major dimension of equality is to be seen in the principle of equality before law and there should be no discrimination for or against anyone. But in practice it has been found necessary to depart from a strict adherence to this principle in at least two ways. One is proportionate equality and the other is protective discrimination.

14.7 SUM UP

Justice has to harmonise the needs of all and functions with the needs. The reward that an individual gets from the community has to be proportionate not only to his needs but also to the value of the function he performs. The basic needs of citizens are the same but the functions performed by them are not the same. A technical expert is paid more than his subordinate workers. Thus a technical expert is paid a higher wage than his subordinate though his needs are similar. The principle of proportionate equality is recognised in Soviet Russia. The scientists, and artists get higher incomes than industrial or farm labour.

In India the concept of protective discrimination is followed. This involves discrimination in favour of the weaker sections of the society. This discrimination takes the form of special concessions such as reservation of seats and jobs and the provision of monetary help. The purpose is to gradually raise them to a level where they can compete more or less on equal terms with other sections of the society. This protective discrimination is not a violation of the principle of equality; rather it is an attempt to make competition more equal among unequal competitors than it otherwise would be. It is an attempt to meet the needs of social justice and not opposed but complementary to each other.

It is generally believed that social and economic inequalities are the products of social forces rather than of nature. They can be reduced considerably even if they cannot be completely eradicated. There is a persistent effort by the poor and under privileged to resist and struggle against injustice in the society. As a result we see the growing acceptance of the principle of social justice in contemporary states. Our country is a typical example of a developing country where the state is fully committed to the goal of social justice. The ideal of social justice is enshrined in the preamble to the Indian constitution. "Justice-Social economic and political" has been declared as one of the main goals to the Indian political system, the others being liberty, equality and fraternity. The goal of social justice has been spelt out in greater detail in the chapters on fundamental rights. The economic dimension of social justice is projected in the directive principles of state policy. But there is also a feeling among many that attempts made to achieve social justice in India have not met with complete success. The actual achievements of legislative measures and economic planning have not been commensurate with the expectations aroused. Even then there is justification for saying that there has been some progress in this regard. The important thing is that the direction of social change in India is clearly marked. What is needed is the will to move firmly towards the goal.

Justice is essentially a normative concept and it is difficult to lay down its meaning precisely. But it is worthwhile to say that justice is the connecting bond of all important political values. It is integrally connected with the norms of equality and liberty.

Author: Dr. M. S. RAO

14.8 SUGGESTED READINGS

1. Amal Ray and Mohit Bhattacharya : Political Theory and Institutions
2. A.C. Kapoor : Principles of Political Science.

14.9 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Explain the concept of justice.
2. Describe different types of justice

II. Answer in about 10 lines.

1. Legal justice ignore the role of social, economic and political forces at work in every society. – Discuss.
2. Explain economic justice

BRAOU

BLOCK IV FORMS OF GOVERNMENT

UNIT-15 : CONSTITUTION - TYPES - AMENDING PROCEDURES

Contents

- 15.0 Objectives
- 15.1 Introduction
- 15.2 Rise of Constitutionalism
- 15.3 Classification of Constitution
 - 15.3.1 Meaning and Definition of Constitution
 - 15.3.2 Necessity of a Constitution
 - 15.3.3 Characteristics of a Constitution
- 15.4 Types of Constitution
 - 15.4.1 Written and Unwritten Constitution
 - 15.4.2 Rigid and Flexible Constitution
- 15.5 Procedures of Amendment
 - 15.5.1 Britain
 - 15.5.2 India
 - 15.5.3 U.S.A
 - 15.5.4 Switzerland
- 15.6 Sum up
- 15.7 Suggested Readings
- 15.8 Model Questions

15.0 OBJECTIVES

After going through this unit you will be able to:

- * explain the necessity of a Constitution
- * describe different types of Constitution
- * discuss the merits and demerits of a constitution and characteristics and
- * mention the procedures of amendments of Constitution in different countries.

15.1 INTRODUCTION

This unit deals with the necessity of a constitution, its types and characteristics, stressing on the merits and demerits of written and unwritten, Flexible and Rigid Constitutions. Also mention is made about the procedures of amendment followed in some countries.

15.2 RISE OF CONSTITUTIONALISM

The concept of governing a country on the basis of a constitution, drafted by a special representation assembly is the product of democratic revolutions. The origin of constitutionalism can be traced back to the English revolution of the seventeenth century when the levelers placed two agreements before the army council in 1649. These agreements suggested for a separate

elective body to draw up foundations of Just Government. Constitutionalism found its first expression in the Philadelphia convention in the U.S.A. The delegates of the original states met to frame a constitution for the U.S.A. U.S. was the first nation to experiment with a written constitution. The American Constitution heralds the art of constitutionalism and it has been followed by many other nations. Constitutionalism provides "for a philosophy of change which is rationalised legally as well as morally and socially" Later the French revolution succeeded in giving a greater development to constitutionalism. Then onwards, the people placed an abiding faith in the political utility of the constitution in the governance of a country. Since then all the democratic countries started adopting constitutions framed by constituent assemblies for their countries. The idea of constituent assembly is complementary to a written constitution. Written constitution is intended to secure the liberty of the individual from autocratic rule. It also assures that the Government is based on the consent of the people. Constitutionalism envisages the ideals of self government. The rule must be based on the consent of the people through the elected representatives which ensures self- government. Such Government guarantees the individual liberties and safeguards the fundamental rights. These have been possible through constitutionalism. Constitutionalism demands that what concerns all must be consented by all in the matters of government. Constitutionalism has become the bedrock of democracy.

15.3 CLASSIFICATION OF CONSTITUTIONS

Ancient political thinkers have made an enquiry into the classification of states. Aristotle's classification has provided the historical basis for modern classification. In recent times Marriott classified the constitutions into (1) Unitary and federal (2) Rigid and flexible and (3) Parliamentary and Presidential. Some writers classify the constitutions into cumulative or evolved and conventional or enacted. Evolved constitution is the accumulated wisdom of the past and the results of various customs, usages, traditions and judicial decisions which have influenced its development. On the other hand the enacted constitution is the product of the deliberations of the constituent assembly or a promulgation of the command of a sovereign king or Parliament. The enacted constitution is embodied in a single document or a number of documents. In modern times constitutions are classified into written and unwritten ones on the basis of the manner in which the constitution comes into existence. Lord Bryce gave a new classification into rigid and flexible. The basis of this classification is the method of amending the constitution and its relation to ordinary law. Also constitutions have been distinguished into unitary and federal on the basis of the concentration or distribution of governmental powers between the centre and the federating units.

15.3.1 MEANING AND DEFINITION OF CONSTITUTION

Every state must have a constitution. Constitution assures an orderly functioning of the government. It is the fundamental law of a country. It lays down certain rules defining the organs of the government, their powers and their mutual relationship. It also enumerates the powers of the state, the relationship between the government and the people and also the rights and duties of the citizen. In certain countries, the constitution is well formulated in a document, and some of it lies in an established body of maxims, rules and traditions. The constitution may be in a detailed form like the one in India or it may be short and brief like those of U.S.A and U.S.S.R.

Aristotle defined the Constitution as "the arrangement of offices in a state, especially the highest of all.

K.C. Wheare defined it as "that body of rules which regulates the ends for which and the organs through which governmental power is exercised.

According to Gilchrist, it consists of "that body of rules or laws written or unwritten, which determine the organisation of government, the distribution of powers to the various organs of the government and the general principles on which these powers are to be exercised."

Strong defines it as the collection of principles according to which the powers of the government, the rights of governed and the relation between the two are adjusted.

From the above definitions it can be said that the constitution of a state determines the organisation of the government. It defines the various organs of the government, their powers and their inter- relations. A constitution is the basic law according to which the government of a state is organised and governed. Every state has a constitution which regulates its activities and its governmental system. The constitution may be in a single document or in several documents. It may be written or unwritten, partly written and partly unwritten. The proportion between the enacted and conventional part of the constitution varies from country to country. Irrespective of the government every state must have a constitution.

15.3.2 NECESSITY OF A CONSTITUTION

In the nineteenth century the notion that every state must have a constitution, took firm root in all the democratic countries. Government has to function according to certain rules and principles which are embodied in a constitution. In the absence of a constitution, anarchic conditions will ruin a country. Orderly social and political life thrives only under a constitution.

A constitution is indispensable even to a despotic state. Relations of the ruler with the people are to be regulated in any form of government and such regulation brings about harmony and peace in the society. A constitution is desired for the following reasons:-

- 1) Constitution is essential to restrict the powers of the government by a fundamental law. The constitution has to impose certain restrictions both on the ruler and the ruled.
- 2) A constitution provides the framework of a government. The branches of the government and the distribution of the sovereign power among those organs have to be clearly demarcated to avoid duplication and confusion among those organs of the government.

According to C.F. Strong, the Constitution makes three things very clear. Firstly, how the various agencies are organised; secondly, what power is to be entrusted to those agencies; thirdly, in what manner such power is to be exercised.

15.3.3 CHARACTERISTICS OF A CONSTITUTION

A good constitution must possess the following characteristics: Firstly the constitution should be definite and precise. The language used in the constitution must be simple and clear. Any ambiguity in the expression may cause conflicting interpretations and thus cause unnecessary strife and confusion. Secondly the constitution must be comprehensive. It should cover the whole range of governmental authority without any gaps, ambiguities or inclusion of irrelevant regulations. Thirdly the constitution should not be stuffed with unnecessary details. It is also remarked that a detailed constitution indicates the distrust in government. Sometimes the details may cause disputes. Detailed constitution will become obsolete due to new political, social and economic situations and demands frequent amendments. Such frequent amendments cause damage to the sanctity of the constitution. Fourthly stability and flexibility are the other two important requisites of a good constitution. Tampering with the basic principles and the structure of the constitution is bound to weaken the allegiance of the people to the constitution. At the same time the constitution should allow progressive change and growth in the absence of which constitution becomes redundant and inflexible. Lastly, the amending process of constitution should be a compromise between stability and flexibility.

15.4 TYPES OF CONSTITUTION

15.4.1 WRITTEN AND UNWRITTEN CONSTITUTION

Constitutions are classified into written and unwritten types. A written constitution is one in which most of the provisions are embodied in a single or several documents. It is the result of a deliberate effort to lay down the fundamental principles that govern the people. It may be drafted by the constituent assembly in a single document specifying the date of its commencement such as of India and the U.S.A. It may even be written in a series of documents

bearing different dates as in Australia. A written constitution should contain the following three important aspects.

- 1) Provisions concerning the fundamental, civil and political rights
- 2) Provisions outlining the organisation of government.
- 3) Provisions for the amendment of the constitution.

Written constitution grows by custom and usage, by judicial interpretation and by amendment. On the otherhand an unwritten constitution is one where the provisions have never been reduced to writing in a document or collection of documents. It is the product of a slow process of growth or historical evolution. It grows and is never made. It generally consists of a number of customs, traditions, conventions, usages, judicial decisions and formally enacted laws of fundamental nature. The best example of this evolved constitution is that of Great Britain.

Another difference between an enacted and evolved constitution is the distinction between the constitutional law and the ordinary law. The unwritten constitution of Britain does not draw a distinction between the constituent and the law making authority. The British parliament can alter both the constitution and the ordinary laws and the procedure for both is the same. It is said that distinction between the written and unwritten constitution is one of degree rather than of kind. Bryce remarked that written constitutions become "developed by interpretations, fringed with decisions and enlarged by customs" Hence this classification is not only confusing but also unscientific. Strong characterised this division as false, misleading and illusory.

Merits of a Written Constitution

- 1) A written constitution is prepared after careful deliberations. Hence it will be more clear and definite. Definiteness is a greater virtue in a written constitution than in a constitution based on usages and customs.
- 2) A written constitution cannot easily be amended. It cannot be bent and twisted easily, according to popular emotions. Written constitution can withstand the legislative despotism. The party in power will not be able to amend the constitution to suit their political ends.
- 3) A written constitution is rigid and hence will be more stable. It will not be subjected to very frequent and hasty amendments.
- 4) A written constitution protects and safeguards the individual liberties and guarantees the people's fundamental rights. It checks the arbitrary authority of the government.
- 5) Minorities in the country feel secure in a country which has a written constitution. Their interests will be safeguarded better by a written constitution.
- 6) The powers of the various organs of the government will be clearly defined in a written constitution. Hence it gives no scope for disputes and confusion between different organs of the government.
- 7) A written constitution reflects the aspirations and the interests of the people. It is the product of the wisdom of the founding fathers of the constitution.

Demerits of a written constitution

- 1) A written constitution is an attempt to compress all the ideals of a nation into a single document. As Garner said that it is something like an attempt to fit the garment to a person without taking into consideration future growth and changes.

- 2) It is difficult to amend the written constitution. It fails to keep pace with the changing conditions. In other words rigidity and conservatism take roots in the government. This may prove as a weakness of the constitution and it may cause harm to the changing national interests. This may even lead to violent revolutions.
- 3) In course of time a written constitution may become outdated and obsolete and it may not have any relevance to the times. It may prove as a stumbling block to political change and progress.
- 4) In a written constitution, the judiciary is entrusted with the task of watching whether the law conforms to the constitutional provisions or not. Judges are generally conservative and they are guided by the letter of the law rather than the spirit of it. Hence Laski says to entrust the judges with the power to override the will of the legislature is broadly to make them the decisive factor in the state."

Merits of an unwritten constitution

- 1) An unwritten constitution is easily adaptable to the changing conditions of a dynamic society. It is flexible. It is most suitable in times of crisis. It allows scope for rapid social change.
- 2) Due to the elasticity of the un-written constitution, changes based on popular opinion are possible. Hence it prevents violent agitations and people's revolt against the constitution. An unwritten constitution can adopt and adjust to the changing aspirations of the people.
- 3) An unwritten constitution avoids the danger of documenting of the constitution in a single document bearing a particular date.
- 4) Bryce says that the unwritten constitution can be stretched or bent so as to meet emergencies without breaking the frame work. When the emergency has passed, the constitution can slip back into its old form like a tree whose outer branches have been felled as to let a vehicle pass.
- 5) Unwritten constitution is more suitable to those people who have a strong sense of tradition and great conservative spirit.

Demerits of an Unwritten Constitution

- 1) An unwritten constitution is unstable and it will be in a stage of perpetual change. It may easily be amended to suit the interests of individuals and political parties. unwritten constitution becomes a tool in the hands of unscrupulous and ambitious politicians to serve their ends.
- 2) Sometimes it becomes a play thing of judicial tribunals. The judiciary has an upperhand in interpreting an unwritten constitution.
- 3) An unwritten constitution makes no distinction between constitutional and statutory law. Constitution can easily be amended like ordinary laws by the parliament. The ruling majority party in a parliamentary system may utilise the parliament for hasty changes in the constitution. Such situations may lead to conflict between the parliament and the judiciary.
- 4) An unwritten constitution is not suitable to modern democracies. It is meant for aristocratic societies.
- 5) An unwritten constitution demands a high degree of political maturity and the vigilance from the people to check the misuse of power by government. Also there is no guarantee of stability under an unwritten constitution.

15.4.2 RIGID AND FLEXIBLE CONSTITUTIONS

Since the classification into written and unwritten is not real, more realistic division into rigid and flexible constitutions was suggested by Lord Bryce. The basis of this classification is the relation the constitutional law bears to the statutory laws. If the constitutional law of a state can be framed, amended or repealed in the same way as the ordinary law the constitution is flexible. It does not matter whether the constitution is written or unwritten. In such a constitution there is no distinction between the constitution making authority and the ordinary-law making

authority. The constitutional law and the ordinary law emanates from the same source. The same procedures are adopted to amend both the constitutional law and the ordinary law. British constitution is the classical example of this type.

On the other hand, the rigid constitution shows a distinction between the constitutional law and ordinary law. They emanate from different sources. Such constitution is said to be rigid. The best example of the rigid constitution is that of the USA. Firstly the rigid constitution is always more difficult to amend than flexible constitution. The amending process may vary from country to country. Secondly the authority of the national legislature is limited by the superiority of the constitutional law. If the ordinary law is not in conformity with the constitutional law, the ordinary law becomes unconstitutional and it cannot be implemented. But under a flexible constitution the national legislature has unlimited authority to make or amend ordinary as well as constitutional laws. Thirdly a rigid constitution is always written. Lastly the courts are guardians of the constitution. The courts are endowed with the power of judicial review.

Merits of the Rigid Constitution

- 1) A rigid constitution must have a written form. Hence a written constitution would be a model of draftmanship, of linguistic elegance and clarity.
- 2) A rigid constitution is prepared with great care after prolonged discussions by men of natural wisdom. So it will be clear and comprehensive because of this the rigid constitution inspires confidence and will command the respect of the generations to come.
- 3) As the process of amendment is difficult, it ensures more stability than a flexible constitution. It will be less affected by the transient passions and prejudices. The constitution will not be a tool in the hands of political parties.
- 4) A rigid constitution safeguards legislative encroachments. It is a guarantee against hasty changes.
- 5) Modern rigid constitutions incorporate the fundamental rights. Hence it provides the necessary protection and safeguards to the fundamental liberties of the people. A rigid constitution also guarantees the rights of the minorities.
- 6) The equality of the ordinary laws depends upon the constitution. People weigh and judge ordinary legislation in terms of the provisions of the constitution. People are ready to protect and defend the constitution because it is embodied into a document.
- 7) A rigid constitution is a must for the federal state. The constitution is supreme in a federal government. Powers divided between the Centre and the states by the constitution. Through such division of powers the constitution protects the rights of the states.

Demerits of the Rigid constitution:

1. A rigid constitution cannot be easily amended to suit to the new demands. The undue delay for the required amendments may lead to loss of confidence in the constitution and ultimately may cause a violent upheaval.
2. Amendments are necessary since the framers of the constitution cannot visualise the distant future however far sighted they may be. National progress and growth may be affected on account of a rigid constitution.
3. A Rigid constitution cannot easily adjust and adapt to the changing social, political and economic conditions of the country . Hence Macaulay says that while nations move onward, their constitutions stand still. A rigid constitution is more unsuitable during emergencies.
4. Under a rigid constitution, the judiciary is empowered to watch whether the laws are in conformity with the constitution or not. The conservative attitude of the judges hinders the smooth adaptation of the constitution to the changing aspirations of the people.

Merits of the Flexible Constitution

1. The most important advantage of the flexible constitution is its elasticity and adaptability. A flexible constitution can be amended as easily as that of altering the ordinary law. A flexible constitution can easily be adjusted to the changing conditions of the society.
2. A flexible constitution allows orderly growth. It can adjust itself very easily in case of any emergency, like national Government during the II World War in England. It saves the nation from bloody revolutions.

Demerits of the Flexible constitution

1. A flexible constitution tends to become less stable than the rigid constitutions. Since the amending process is simple, the constitution may be subjected to popular whims.
2. The constitution may be altered to satisfy the whims and fancies of the majority in the legislature. Time Honoured institutions and rules may be abolished by popular frenzy.
3. A flexible constitution is not suited to people without sufficient political training. Watchfulness to detect violations of the constitution and the appreciation of the liberties are essential for the success of this type of constitution.
4. A flexible constitution may create an atmosphere of uncertainty in view of its easily amending process which may effect the continuity of progress in the country.

15.5 PROCEDURES OF AMENDMENT

A written constitution must enumerate the method of its amending procedure. The adaptability of the constitution and the protection of the individual liberty depends upon the amending process of the constitution. Moreover any constitution will grow through amendments. The easy amending process will provide greater scope for the expression of the people's will. Based upon the amending process, the constitutions are classified into rigid and flexible. Different countries follow different modes of amendment to the constitutions. Here are some examples.

15.5.1 BRITAIN

In Britain the constitution can be amended by the parliament itself. The procedure adopted for the constitutional amendment is similar to that of enactment or amendment of ordinary laws. No rigid or special procedure for the constitutional amendment is suggested in Britain. Distinction is not made between the constitutional law and ordinary law. The enacting and amending process is the same for both. Hence the British constitution is flexible.

15.5.2 INDIA

Article 368 of the Indian constitution deals with the power of parliament to amend the constitution and also the amending of the procedure. The amendments to the constitution are to be initiated by the parliament. The States have not rights to initiate any amendment. Indian Constitution is partly rigid and partly flexible. No uniform method of amending the constitution has been suggested here. There are three methods through which Indian constitution can be amended. (i) Regarding matters like the creation of the new states, boundary adjustment of the states, creation or abolition of the second chamber for the provinces, new qualifications for Indian Citizen-ship etc., a bill passed by both the houses of parliament by a supreme majority will bring the necessary constitutional amendment. (ii) For constitutional amendment in matters of presidential election, distribution of power between the Centre and the State, provisions relating to Supreme and High courts, representation of States in parliament and amendment of the constitution, a bill should be passed by both houses of parliament by 2/3 rds majority of the members present, and voting, and by a simple majority of total membership of the house. Such amendment should also be ratified by not less than 1/2 of the total States. (iii) Other matters can be amended by the parliament by passing a bill by 2/3rds majority of the members present and by a majority of the total membership. It should be approved by both the houses of parliament. The Concurrence of the states is not required in this matter.

15.5.3 U.S.A.

In the U.S.A. the procedure for amendment is rigid and complex. There are two methods of bringing about the constitutional amendments. (i) Amendments may be proposed by 2/3 rds majority in each house of the congress and such amendments are to be ratified by 3/4 th of the total members of the States. State legislatures or special conventions held in the state legislatures or special conventions held in the states for this purpose have to ratify the amendments. The mode of ratification will be determined by the congress. (ii) The states may propose an amendment. According to this method, 2/3 rds of the state legislatures apply to the congress for such an amendment. On such a request the congress calls a constitutional convention which proposes the amendment on the basis of the state recommendation. Such amendment is to be ratified by 3/4th of all the states by either their legislatures or by specially convened conventions. Usually the former is followed in amending the American Constitution.

15.5.4 SWITZERLAND

There are two methods of amendment for the Swiss Constitution. The Swiss Constitution can either be revised totally or amended partially. The methods are (1) Proposal by the Federal Assembly (2) Proposal by the people. Under the direct democracy of Switzerland the Constitutional amendments become operative only after ratification by referendum.

In the case of proposal by the Federal Assembly, a bill seeking an amendment is to be introduced in the Federal Assembly in the ordinary law making procedure. When the bills for amendment are approved by the Assembly, they will be submitted for referendum. If the people accept under the compulsory referendum, the amendment becomes operative.

When the people desire a revision of the constitution, 50,000 voters can submit a petition to the Federal Assembly to that effect. The Federal Assembly submits the proposal to the referendum. If the majority of voters in majority of cantons approve it, the Federal Assembly is dissolved and new elections will be held. The new Assembly revises the constitution and the revised constitution will be placed before the people for ratification through referendum. On the other hand if the people want only a partial revision of the constitution, 50,000 voters can submit an application to the Federal Assembly in the regard. When their proposal is in general terms it is called unformulative initiatives. If it is in specific form, it is known as formulative initiative. When the federal Assembly agrees for the unformulative initiative, it formulates an amendment as suggested in the petition and it will be submitted for the popular vote. When the formulative initiative is submitted to the Federal Assembly, it will be submitted to the referendum to bring the desired amendment to the constitution. Thus it is evident that in Switzerland, the power to amend the constitution ultimately rests with the people.

15.6 SUM UP

Constitution is essential for the orderly governance of the country. It is the fundamental law of the country which defines the jurisdiction of the different organs of the government and their mutual relationship. A good constitution should be definite, precise and comprehensive, and avoiding any ambiguity which cause conflict in interpretation. Constitutions are classified into written and unwritten, flexible and rigid. Great Britain only possesses unwritten constitution which is the product of slow process of growth and historical evolution consisting of customs, tradition, conventions, usages and judicial decisions. A written constitution is one in which most of the provisions are embodied in a single or several documents. A Constitution is flexible if the constitutional law and the ordinary law are made or amended in the same process. Otherwise it becomes rigid where a distinction is made between the constitutional law and the ordinary law and special, specific procedures are adopted to amend the rigid constitution.

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15.7 SUGGESTED READINGS

1. Dicey : The law of Constitution

15.8 MODEL QUESTIONS

I. Answer in about 30 lines.

1. The Classification of constitution into written and unwritten is one of degree rather than of kind-Explain.
2. Discuss the merits and demerits of the rigid and flexible constitutions.

II. Answer in about 10 lines.

1. Define constitutionalism. What are the factors that contribute to the development of a constitution?
2. Describe the procedures of amendments with reference to the constitutions of U.S.A. U.K. and India.

BRAOU

UNIT-16 : FORMS OF GOVERNMENTS - MONARCHICAL - ARISTOCRATIC AND DEMOCRATIC

Contents

- 16.0 Objectives
- 16.1 Introduction
- 16.2 Classification of Governments
 - 16.2.1 Monarchy - Merits and Demerits
 - 16.2.2 Aristocracy - Merits and Demerits
 - 16.2.3 Genesis of Democracy
 - 16.2.4 Theories of Democracy
 - 16.2.5 Democracy - Merits and Demerits
- 16.3 Sum up
- 16.4 Suggested Readings
- 16.5 Model Questions

16.0 OBJECTIVES

After going through this unit you will be in a position to

- * discuss the forms of governments
- * explain the features of monarchy, aristocracy and democracy
- * enumerate the merits and demerits of each form of government.

16.1 INTRODUCTION

In this unit you will read about the different forms of governments like monarchical, aristocratic and democratic. You will examine the merits and demerits of above forms of governments. The theories of democracy have also been explained.

16.2 CLASSIFICATION OF GOVERNMENTS

The purpose of the state is the well being of its people. The state achieves its goals through the government. The government is the instrument of the state through which the aims of the state are realised. The state formulates, expresses and achieves its objectives through the organs of the government. Though the state is the same, the governments vary from country to country. The exercise of the authority of the state through the government raises certain fundamental questions. (1) In whose hands is the legal authority of the state vested? (2) To what extent is the authority actually used? (3) What are the instruments employed for the use of the authority? (4) The rules and procedures employed by those organs or agencies in performing the functions while exercising that authority. There are wide differences among the writers concerning the answers to these basic questions. However the organisation of one state differs from another. Governments are classified in different ways from different points of view.

Aristotle's Classification

The classification of the governments was made by Plato and Aristotle. Aristotle based his classification on two principles. (1) the number of persons who exercise supreme power (2) the ends they seek to serve. If the supreme power is vested in one individual, the government is monarchic. If such power is vested in the hands of a few, it is called aristocracy. If such power resides in a large proportion of the population, it is known as Polity. Monarchy, Aristocracy and Polity are the normal forms of government. Aristotle has drawn a distinction between normal and perverted forms of government based on the ends which the ruler sought to serve. A normal government functions on law and justice. The rules promote the good of the community as a whole while administering the state. According to Aristotle in a perverted form of Government, power is exercised by selfish persons for their own benefits. Tyranny, oligarchy and democracy are the perverted forms. Tyranny was the degenerated form of monarchy, oligarchy the degenerated form of aristocracy and democracy, the degenerated form of polity. Under the perverted system the tyranny places authority in the hands of the king who exercises authority arbitrarily without any concern for the welfare of the people. Oligarchy is the form of government in which the wealthy few ruled for their selfish ends and privileges. Democracy is the rule of the mob. The noteworthy feature of his classification is that he regarded democracy as mob rule. Presently, we consider democracy as the best form of government and in modern times mobocracy is considered as a degenerated form of democracy.

Aristotle's Cycle of Political Change

Aristotle suggested that these forms of government are cycle. The forms of government revolves like a wheel starting from the monarchic government. The people revolt and overthrow the tyrannical kind and replace it by a government of the few talented persons motivated by the common good. In course of time, the best few also degenerate and lapse into oligarchy. People again revolt against such rule and establish a polity in which power is vested in the people. Polity also degenerates into rule by the mob and thus causing horrible confusion devoid of any stability. At this juncture a powerful warrior-statesman comes to the fore-front and takes the reins of the government with the consent of the people. Thus revolves Aristotle's cycle of political change. The cycle of political change is evident in the history of both the Greek-city states and also elsewhere in the recent times. Political anarchy in many of the Asian, African and Middle-East countries ushered in military dictatorship through coup d'etats giving power to a single individual. But Aristotle's classification has been criticised on the ground that it is not based on any scientific principle. His division is mechanical, emphasizing on quantity rather than quality. But Burgess remarked that the classification is spiritual rather than numerical. However this classification failed totally to suggest the modern forms of Government. Aristotle's conception of democracy is totally untenable in modern times.

Other Classifications

Some modern writers laid emphasis on ethical basis of the state. Montesquieu classified the governments into Republican, Monarchical and Despotic Governments. In a republican form of government people possess the sovereign power. Though governed by certain laws, monarchy is a rule by a single individual. Despotic government is a rule by a single individual without any regard to the laws. The will of the despot is the law. Rousseau classified the governments into Monarchic, Aristocratic and Democratic. He further subdivided aristocracies into natural, elective and hereditary. He considered the elective aristocracy as an ideal form, while hereditary is the worst form. He also conceived the mixed forms of government. Bluntschli while accepting Aristotle's classification added one more form of government-Theocracy. Supreme power is attributed to God under the theocratic form of government. The men who exercise the authority are deputies of God. Bluntschli himself suggested idolocracy as the perverted form of theocracy. Bluntschli's classification of theocracy is untenable since modern political science separates religion from politics.

Political scientist Sir Marriot classified governments into three forms. Aristotle's classification, he considers untenable for modern times. The basis of his classification is the distribution of powers of government and accordingly he classified them into unitary and federal. In a unitary system, powers are centralised and the provinces enjoy the delegated powers only. On the other hand, there will be two levels of Governments in a federation. The powers are divided between the centre and the provincial governments. Both enjoy original powers granted by the constitution. Provinces are governments in their spheres of activity. Marriot also classified the Governments into rigid and flexible. He further classified the governments on the basis of relationship between the legislature and executive. If the executive is subordinate to the legislature it is parliamentary or cabinet system. On the other hand if the executive is superior to the legislature the form of government is despotic. If the executive is coordinate in power with the legislature, the system of government is presidential.

Stephen Leacock gave the modern classification of government. He excluded the historical forms of government and confined himself to the actually existing types of government. Basically he divided the governments between despotic and democratic. Sovereign power is concentrated in the hands of a single individual in a despotic rule. In a democracy, sovereign power is vested in the hands of the majority of the people. The power of the head of the state i.e. King is limited in a limited monarchy. The executive head of the state is elected for a period by the people in a Republic Government. These two forms may adopt either unitary or federal structure. Again in a unitary or federal form, government may follow either parliamentary or presidential system of government. Under parliamentary system, the executive is responsible to the legislature. The executive is relatively more independent from legislature in a presidential system of government.

It is extremely difficult to have a classification of governments which will be valid for all times. The classification depends upon historical, geographical, social, economical and psychological factors. The idea of classifying the governments on the basis of the number of persons exercising authority is not very relevant today. It is not easy to distinguish the rule of the few from the rule of the many in actual practice. Similarly democratic governments will differ in many ways, one from the other England, U.S.A. and India. Hence the traditional classification of governments is not very much relevant in the present context. In theory, Britain is a limited constitutional monarchy and in actual practice a model representative democracy. The unitary tendencies in the working of the American and Canadian constitutions cannot be over looked which are at variance with the actual constitutions. Similarly though India is a federation in form, the centralised authority of the Union government reveals the unitary trends in the actual working of the constitution. Hence it is evident that no two forms of the government are identical. The variation between the form of the government and the working of it is also very marked in modern times. The concept of socialism has influenced the classification of the governments. But the emergence of the concept of the welfare state is going to influence in a big way the future classification of governments. Mac Iver commented that every state is charged with the double task of maintaining "an established code of living and of adjusting this order to the new conditions and emergency". In view of the historical importance of the monarchical and aristocratic forms of Government, a brief account of them is given below.

16.2.1 MONARCHY- MERITS AND DEMERITS

Monarchy is the oldest type of Government known to mankind. It was most suitable to the primitive society where the people were not capable of governing themselves. The source of political authority was the ruler. All laws were his commands. His authority was supreme and unqualified. The Monarch combined in him the functions of the law maker, the executive, the judiciary and the military authority. Monarch was elective and later it became a hereditary institution. The early Roman kings were elected. The medieval kings were both hereditary and elective. At present all the existing monarchies are hereditary. The king comes into office through the principle of primogeniture and holds office for life. Absolute monarchies flourished both in the East and West till recent times. Japan was the best example in the East; while Russian monarchy till the revolution in 1917, and Germany before the adoption of the Weimar constitution of 1919, were the examples in the West. Monarchy has been classified on the basis

of the sources from which the monarch derives his office-hereditary and elective. They are also divided into absolute or despotic and limited or constitutional on the basis of their character. Absolute monarch acts as the real head of the state. He governs as well as reigns. Laws are made, interpreted and executed by the king. The constitutional monarch only reigns, but does not govern. The real powers are exercised by his ministers who are responsible to the elected representatives. Under absolute monarchy there is no distinction between the state and the Government. Louis XIV of France, who said 'I am the State', was the best example of absolute monarchy. The despotic kings claimed the divine right to rule the people as the viceregent of God on earth. He was not accountable to his subjects, but to God alone. The theory of divine right of the kings reigned supreme in Europe upto the sixteenth century. The Roman Caesars and the emperors of the Holy Roman empire were also despotic. But a distinction has to be made between the monarchies of India and Europe. In Ancient India kings were not despotic and they never considered themselves above law or Dharma. Upholding the Dharma and protecting the people were considered as the duties of the king. The concept of state absolutism never appealed to the Indian rulers.

Absolute monarchy has several advantages, It is considered as the best form of government till the end of the seventeenth century. It is known for its simplicity of organisation and the unity of command. It was able to act more quickly and vigorously. It promoted a certain continuity of policy. The monarch had a free hand in the selection of the officials. Disobedience in any form resulted in capital punishments. Monarchs were able to act more impartially due to the permanence of office. There were many instances when the monarchs identified themselves with the people and their causes. A monarch was considered as a useful antidote to chaos and disorder. Since all the powers are combined, a monarch was able to keep a greater uniformity of purpose in the State. The policies of the monarch were more stable and consistent than the policies of the modern legislatures. Monarch had the advantage of securing the best advice and act upon it with confidence unlike the modern democracies. About monarchy Garner says "No better form could be devised for disciplining uncivilised people, leading them out of barbarism and inculcating in them habits of obedience".

Absolute monarchy is a government by one individual who governs the people according to his whims and fancies. The people are considered as subjects and in most cases the well being of the people is totally neglected. Monarchy was considered as a better form of government when the ruler was intelligent and benevolent. There was no guarantee that an able and benevolent ruler must always succeed to the throne. The hereditary principle is ridiculous. Leacock states that it is as absurd as the hereditary mathematician or the hereditary post laureate. History recorded that the number of good kings is much smaller than the incompetent rulers who brought misery to the people. War of succession, indifference to public welfare, squandering of public money for personal pleasures and patronage were the basic traits associated with absolute monarchy. Even these intelligent rulers who came to throne became despotic due to uncontrolled power vested in them. Moreover even the best rule of the despot cannot be termed as a good government. Unless the people are stimulated to involve themselves and develop interest in public affairs, the rule cannot be described as good government. The despot would never involve the people and share power with them. Good government is no substitute for self-government. Patriotic spirit and social solidarity cannot be achieved under monarchy. A despot will never tolerate any spirit of liberty and awakening on the part of the people.

Limited Monarchy

Absolute monarchies gave place to limited monarchies due to the upsurge of people against despotism. The unlimited powers of the king were restricted through a constitution and thus established constitutional monarchies in countries like Britain. Under limited monarchy real authority is exercised by the Cabinet which is chosen from amongst the elected representatives. They are answerable to the legislature. Though the monarch is nominal, the king in Britain has a right to be consulted, the right to encourage and the right to warn. The king gains administrative experience due to uninterrupted tenure of office. Moreover he is able to rise above party considerations in judging the public issues. As Lowell describe it, the king exercises the "unifying, dignifying, and stabilising influence".

16.2 ARISTOCRACY

Aristocracy may be defined as government by the best. In Greek 'aristos' means the best and 'Kratos' means power. According to Greeks, aristocracy is the rule by the virtuous and intellectually superior class. The political power is exercised by a small section of the society. Aristocracy emphasises not on the number, but on the character of the persons who exercise authority. In the beginning importance was attached to the birth but later stress was given to intellect and ability. Aristocracy places no confidence in the ability of the masses. It is a government of the select few. In this form of Government some social class wields dominant power in the state. This social class is more powerful than the other classes. It enjoys some special privileges which are denied to others. The strength and the weakness of aristocracy were different from its social aspect. Aristocracy was not as widespread as monarchy. The best example was the Roman Senate. Aristocracy is extinct now. Aristocratic element can be found still in the House of Lords in Britain. In reality we can notice aristocratic traits in the best democratic governments. In democracy also the power is exercised by the few.

Kinds of Aristocracy

Rousseau divided aristocracies into natural, elective and hereditary. The general basis of this classification is wealth, birth, talent, intellect, culture and education. An aristocracy of wealth is generally called plutocracy. In recent times some writers use the term 'Aristo Democracy' to mean the government in which the best type of men wield power. The elite theory of democracy suggests the same line of thinking regarding the few wielding power even in the democratic form of government.

Merits of Aristocracy

Aristocracy emphasises on quality rather than quantity. The task of administration was entrusted to the few qualified men of knowledge and training. It attracts talent into public service. It is a form of government in which stability and efficiency are ensured. It is also argued by the defenders of hereditary aristocracy that some possess better efficiency to rule in view of their familiarity with public affairs. It is a conservative form of government and hence it avoids rash and radical political experiments. Moderation is the chief characteristic of aristocracy. Administration is left in the hands of the wise and experienced when aristocratic element is mixed with monarchy, it checks absolutism. If it is associated with democracy, it will have a sobering influence on democracy and saves it from mob-rule. Modern cabinet system may well be characterised as an aristocracy with responsibility. The aristocratic element is also preserved in the composition of the upper houses of parliament like the House of Lords in England and the Rajya Sabha in India.

Drawbacks of Aristocracy

In spite of the qualitative advantage of aristocracy over the other forms of government, it is subjected to wide criticism. The principle of hereditary aristocracy is considered ridiculous. Birth is obviously no guarantee for talent and there cannot be hereditary legislators and judges. Political virtues cannot be transferred by heredity. Moreover there is no guarantee that intellectual attainments will always be coupled with character, integrity and zeal for public service. Aristocracy has not devised any method to check the abuse of authority by the few. It may degenerate into class rule which will sustain the interests of the ruling class. In view of its class structure aristocracy will not allow any political education or awakening among the people. Since it is based on long established customs and traditions, aristocracy is conservative and rigid. It will not be dynamic so as to adopt changing social and economic requirements. It is also an expensive form of government because of its belief in grandeur and dignity. Above all, it will not suit the needs of our modern times.

16.2.3 GENESIS OF DEMOCRACY

The 14th Century saw the germination, the 17th and 18th centuries the birth struggle and the 19th century witnessed the rise and prevalence of modern democracy which has brought about radical change in the thinking of men. It recognised the fact that all human beings are of equal value. At the very outset of democracy, the great novelist Cervantes in his 'Don Quixote' scoffed at aristocracy and mocked at the futility of chivalry. In literature the domestic spirit found its natural vehicle. Fine arts like painting, music became more and more liberated. In other words democracy is a great process of loosening of bonds. Democracy as a form of government has a respect for the dignity of man. Every individual possesses equal worth irrespective of birth, status, wealth etc. As a form of government, democracy can be stated as the government by the people.

There are several factors that led to the rise of democracy. The doctrine of natural rights of the middle ages gave impetus to the idea of democracy. The utilitarian theory of greatest happiness of the greatest number regarded democracy as a panacea for all social evils and more efficient than the other forms of government. Idealists defended democracy on the ground that democracy alone makes possible the full realisation of the potentialities of human personality. Puritan revolution appealed to the people and made them conscious of their rights against royal and ecclesiastical absolutism. Locke gave a theoretical foundation for the whole structure of a just and rational political authority. Locke's theory of natural and original freedom of men and Rousseau's theory of general freedom gave the ideological foundations for the democracy as a form of government. The other sources of inspiration to democratic ideals were Thomas Paine's works, as 'Common Sense' and 'Rights of man'. The American Declaration of Independence, Magna Carta and Bill of Rights in England, Democratisation of the British Parliament, written constitutions, representative parliaments and arguments for free trade. These have been widely interpreted to vindicate the claim of ordinary men to form their own government. Protestant revolt against the dogmatic views of Christianity, Oxford movements, general political awakening, discontent against the autocracies, spread of education and the Industrial Revolution changed the way of thinking of the people which prompted the rise of modern democracy, the idealistic conception of democracy emphasised not merely physical comforts, but also the need to develop the latent intellectual and spiritual qualities of men. As J.S. Mill says that the virtue of democracy lies in that it calls into activity the intelligence and character of ordinary men. Public participation removes narrow egoism and enlarges the range of their interest and imagination.

16.2.4 THEORIES OF DEMOCRACY

1. Classical Liberal theory

There are many theories of democracy explaining the philosophy of democracy. The foremost among them was the classical liberal theory of democracy. This theory is based on democratic humanism. This classical theory believes in the common good and the political equality. It lays special emphasis on the public opinion which is reflected in the elected legislatures.

2. The Elitist theory of Democracy

The elitist theory has been propounded by the modern sociologists. The earliest exponent of the elitist theory was Plato who described the important role of the guardians in the State. The modern elitist theory has been presented by Vilfreds Pareto, G.Mosca and Robert Michels. James Burnham's book "The Managerial Revolution" and C. Wright Mill's book "The power Elites" expounded this theory more lucidly in recent times. In every political system a small minority emerges wielding prestige and extensive influence. This class occupies important positions and make all important decisions. This elite class exclusively shares power and influence among themselves. In every society, there is a minority which exercises influence due to their extraordinary qualities - administrative talent, intellectual ability, military power and moral authority. The classical theory of democracy failed to cope with the modern industrial and technological society. The elite theory will attempt to serve the needs and aspirations of the modern society by reinterpreting the old theory of democracy.

3. The Pluralist theory of Democracy

This theory is based on the principle of Pluralists contend pluralism that society is essentially pluralistic in its institutional framework as well as in its power structure. Dahl, Sartori, V. Prebush are some of the prominent exponents of pluralistic democracy. According to them, the power in a society is neither in the hands of the people as believed by classical liberal theorists nor in the hands of political elites as suggested by elitist theory. Power in modern times is decentralised and is shared by various leaders, groups and associations in society. Under this pluralistic democracy decisions are reached through Politics of consensus. All the interest groups are to be consulted in the formulation of the policy.

4. Marxist Theory of Democracy

Marxists distinguish a democratic state from a democratic government. They emphasise the need for democratic state where there is equality with total absence of exploitation. The Marxists accept the values of democracy, but they differ violently with the actual democracy in practice now. They visualise democracy as a system of values and a form of society. Their democratic ideals are justice, freedom, equality and the abolition of class structure of society. It is impossible to achieve these ideals in a society where there is exploitation. Marxist theory of democracy is a part of the Marxist philosophy. The ultimate aim of the Marxist democracy is the establishment of stateless society in which the free development of each is the condition for the free development of all. In spite of criticism against Marxian democracy, it has great value in its emphasis on the economic and social equality in society.

16.2.5 DEMOCRACY- MERITS AND DEMERITS

The great merit of democracy is the spirit of compromise and agreement. It lays stress on the fundamental dignity of man and the essential values of life. Every individual will have the freedom to experiment with his own way of life. It recognises the liberty of the individual and the authority of the individual with the authority of the state. Laws reflect the general will of the society. According to Mill democracy is superior to other forms of government for two reasons. Firstly, the rights and interests of an individual are best safeguarded since the individual is able to stand and fight for them. Secondly, the energies of the people are channelised to attain a higher level of general prosperity. He also pointed out that democracy promotes a better and higher form of national character than any other system of government. The importance of each individual is fully recognised. Right to criticism is guaranteed and it contributes to the improvement of the administration. The individual is the pivot of the democracies structure unlike in the dictatorship. Every individual is ensured with the freedom of thought and expression and other basic rights which are essential for the development of the individual's personality. All people are equal before the law. The rulers in democracy are both responsible and respectful to the people. Any arbitrary exercise of authority by the elected representatives will not be tolerated by the people. People can change government through general elections if the elected government fails to reflect the public aspirations and wishes. Another great merit of democracy is that it trains people in the art of self-government. People learn to solve their own problems in a democracy. Democracy is not only 'of the people, and' for the people' but also 'by the people'. Since democracy is based on the principles of debate and consent, there is little scope for violence. Revolutions are very rare in the democratic countries. Democracies function with the help of ballot and not the bullet.

The most important criticism against the democracy is its hypothesis. Democracy wrongly assumes that all men are equal. At any stage of development, men allow wide differences in political power, moral stamina and capacity to learn by training and experience. So the critics argue that democracy is an irrational and impossible ideal because nature decrees inequality among men. But the champions of democracy have confidence in the political competence of the ordinary man to choose fit persons for public life. Democracy is criticised as a rule by incompetent men. Government by popular majority means the rule by average men who are generally unintelligent, guided more by emotions than by reason, of limited knowledge, lack of sufficient information to judge the public issues and suspicious of any superior ability in others. Since inefficient and worthless men wield power, the administration becomes inefficient and

ineffective in the democracy. Incapable men do not achieve anything worthwhile for the people. Moreover party system in democracy allows inefficient people to come to power. Party system encourages hollowness and insincerity. It carries the national divisions into local elections. It promotes a spoiled system. It also debases moral standards in public life. Competent men with character naturally stay away from the murky party politics. Since rich unscrupulous men come to power, they encourage and shield corruption. The candidates who spend large amounts in the elections to come to power, tends to reimburse themselves that amount through dishonest methods. Added to this, democracy is a very expensive type of government. Inefficient leaders take no pains to spend the public money economically. Compared to other forms of government, democratic machinery is very complex and complicated with multiple bodies and hence involves heavy expenditure in a democracy. Democratic machinery is slow-moving and involves waste of time and money. Much of the time is consumed by debates and consultations, and decisions may not be reached in time. The quality of the debates in the representative bodies is miserably low. Even the few talented men in high positions plead helplessness to make the administrative wheels move for the real welfare of the people.

Lord Bryce mentions the following serious drawbacks of democracy:-

1. The power of money to pervert administration.
2. The tendency to make politics a gainful profession.
3. Extravagance in administration.
4. The absence of the doctrine of equality and failure to appreciate the value of administrative skill.
5. The undue power of party organisation.
6. The tendency of legislators and political officials to play for votes in the passing of laws and in tolerating breaches of order.

Political virtue in democracy is mere superiority in numbers. How can any one believe that the opinion of any 60% of the people to be wiser than that of the 40%? Majority rule is merely the rule by physical power. Democracy is not interested in promoting the worth of exceptional individuals, but increasing the comforts of the ordinary individuals. Democracies are unfriendly to freedom of enquiry and to fundamental changes in the field of social organisation. Therefore democracy is considered as the most conservative of all forms of government. Democracy is unfavourable for the growth of culture and a proper cultivation of the spiritual values of life. The critics of democracy argue that there is no real connection between democracy and liberty. The average man in democracy neither desires freedom for himself nor tolerates it in another. Democracy is also considered intolerant and most hostile to fundamental change and progress. This is evident from the mob psychology or crowd behaviour in many democratic countries. Group of men often act differently from the normal ways of the individuals. Reasonable and generous men become factional, intolerant and selfish in a group conduct of mass campaigning, mass voting etc. in democracies. Pareto pointed out that behind parliaments of the so called democracies, there is always a minority that play a major part in the decision making of the government. People are made to believe that power is located in their hands. Unorganised masses are always controlled by some organised minority. Masses are carried away by election slogans, party propaganda and the irresponsible press. National interests will be subordinated to party and group interests. Hearnshaw described the leaders of the people as school masters elected by their students and are liable to be punished and dismissed by them. Long term projects cannot be taken up because of the short tenure of office. Communists condemn modern democracies on the ground that in the capitalistic democracies the state machinery is being utilised for the selfish interests of the rich. Socialists attack democracy on the ground that it allows private prosperity.

16.3 SUM UP

State functions through the government. Political philosophers from Plato and Aristotle down to the modern thinkers have classified the governments into several forms. Governments are Monarchical or Aristocratic or Democratic. The basis for such classification is the number of people who exercise the real power and ends for which they strive. Monarchy and aristocracy are the traditional forms of government which are no longer relevant in the modern concepts. Democracy as the form of government by the people gained popularity. Several theories of democracy are vague like classical theory, liberal-theory, the elitist theory, pluralist theory and the Marxist theory. Democracy recognises the dignity and the liberty of the individual. It advocates the method of resolving the differences and disputes through peaceful discussion and debate. However democracy may degenerate into a rule by the incompetent men where the mere number has the upper hand. Men of merit refrain from shouldering the responsibility due to the perils of electioneering, party manipulations and mob behaviour.

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16.4 SUGGESTED READINGS

E.D. Burns - Democracy : its defects and advantages.

16.5 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Explain the origin, nature and distinguishing feature of democracy.
2. Discuss the merits and demerits of modern democracy.

II. Answer in about 10 lines.

1. Classify the different types of governments.
2. Give the merits and defects of monarchy.
3. What is the Marxist view of democracy?

UNIT-17: MODERN FORMS OF GOVERNMENT TOTALITARIAN AND AUTHORITARIAN

Contents

- 17.0 Objectives
- 17.1 Introduction
- 17.2 Meaning and Nature of totalitarianism and Authoritarianism
 - 17.2.1 Characteristics of Totalitarianism
 - 17.2.2 Fascism
 - 17.2.3 Nazism
 - 17.2.4 Totalitarianism in Russia
- 17.3 Comparative Study
- 17.4 Sum Up
- 17.5 Suggested Readings
- 17.6 Model Questions

17.0 OBJECTIVES

After going through this unit you will be able to:

- * explain the meaning and nature of totalitarianism
- * enlist the characteristics of totalitarianism and
- * make an analysis of different totalitarian systems.

17.1 INTRODUCTION

In this lesson you will study the meaning and characteristics of totalitarianism. You will also make a comparative study of different totalitarian systems.

17.2 MEANING AND NATURE OF TOTALITARIANISM AND AUTHORITARIANISM

Totalitarianism is a concept of a state and a new theory of civic life opposed to the democratic liberal view of the state. Democratic liberalism considers the individual as the end and the state as only a means and the authority and the power of the state are limited. Totalitarianism reverses the relationship between the state and the individual. The state is absolute. The individual is only a means to the glory and the greatness of the state. Totalitarianism claims jurisdiction over the entire life of a man. No part of the human life is outside the detailed supervision and control of the state. The individual's life is not his own and it is a trust given to him by the state. According to totalitarianism a man finds the real fulfilment of his life in devotion and sacrifice to the state. This theory accepts the alleged Hegelian concept of the state and its relation to the individual.

The Greek city states were totalitarian in the good sense of the term. The states performed multisided functions. The state and society were synonymous and there was deep attachment of the Greeks to their city-states. In modern times Louis XIV was said to have declared that he was the state. Philosophically, Hegel elevated the state to a mystical height and he considered the state as a God on earth. Modern totalitarianism declares that state is an infallible institution. It embraces all the activities of the individual and subordinates them to national ends. It promotes

state worship. It believes that an individual can attain significance only by his service to the state. Every individual's life belongs not to him, but to the state and to the state alone.

This totalitarian concept implies an unlimited state which covers the whole life of the individual. Every sphere of human activity is subjected to regulation and control of the state. Individuals are subordinate to national ends and they have no freedom to shape their lives. This is in total contrast to the pluralistic concept of the state. Social nature of man demands a number of associations for the satisfaction of its varied aspects. These associations should be independent of the state's influence or control. On the other hand totalitarianism controls every aspect of human life including religion, morality, culture, education and economics. The distinction between the state and society is totally rejected. In contrast to democracy, basic freedom is denied to the people. Totalitarianism considers the individual freedom as unnecessary fetish. It also believes in controlling the factors which shape the character of the individual like the school, radio, press, church etc. The object is the creation of the mentality of subservience to the state in all the citizens. It refuses to encourage the development of the unique personality of the individual. Ruthless force is used to crush all opposition. It believes not only in one pattern and creed, but also believes in a single party. The dictator rules and obtains the popular support and consent through that single party. It may be even said to be the Dictatorship of the party rather than that of an individual. The role of opposition parties in the legislature is regarded as stupid, slow moving and incapable of achieving any results. The essence of totalitarianism lies in the absence of parliamentary opposition. The control of the economic life of the community is total. Totalitarianism can be characterised as intensely nationalistic. It glorifies war and encourages the spirit of militarism in the people. Thus aggressive nationalism and militarism are the essential characteristics of a totalitarian state.

Totalitarianism assumes different forms in different countries. It assumed the form of Fascism in Italy, Nazism in Germany and Communism in Russia. Even in Anglo-Saxon countries, the state authority is on the increase and this new type of authoritarianism in the West is characterised as democratic totalitarianism. Authoritarianism is not a full-fledged theory, but it arose from the practical movements and situations. Theory has followed facts instead of preceding them. As a principle of political organisation authoritarianism has many tendencies of totalitarianism and even dictatorship in certain cases. Totalitarianism is authoritative. But authoritarianism differs from totalitarianism. Totalitarianism is that dictatorship of an individual or a single party where as authoritarianism consists in exercising unilateral authority even by the constitutionally elected leader. The organs of the government become subservient to the will of the authoritarian ruler. Glorified by power and influence the leader dominates the party and the cult of personality is created. At times, the President under a presidential system can be taken as authoritarian. Franco of Spain, Zia-ul-Huq of Pakistan and Ershad of Bangladesh can be considered as the authoritarian rulers in their respective countries.

17.2.1 CHARACTERISTICS OF TOTALITARIANISM

1) The totalitarian state is dictatorial in character. It is opposed to liberal democracy and to parliamentary system. Supreme authority devolves in the hands of one individual or in one party. Russian dictatorship is the dictatorship of a party while the Italian and German dictatorships were the dictatorship of an individual. Ideologically the Russian model is a dictatorship of the left while the Italian and the German dictatorships were dictatorships of the right. In Fascist Italy and Nazi Germany there was total submission to the leader. Parliaments are looked down as mere talking shops. They are incapable of achieving anything worthwhile and they are utterly helpless at times of war, Democracy is considered as a decaying corpse.

2) The totalitarian state does not believe in individual liberty. Individual liberty is considered as a bourgeois concept by the communists. Fascism and Nazism also do not believe in the value and utility of the common man. Totalitarianism does not tolerate any opposition and it is only a government by a single party. It allows criticism within the party to the extent of suggesting ways to make the existing machine work better, but do not allow the overthrow of the existing totalitarian system. It allows no liberty of thought, speech, writing and association. Censorship

is a part of the system. Press, radio, publication, theatre, music and even art is regulated and controlled by the state. Strikes, in any form or in any sphere, are forbidden. The educational institutions are used for political propaganda purposes. The army, civil service, judiciary and universities are purged of anti-national elements. Intellectuals are under watch and there are instances of killing them in the event of any adverse criticism by them. Concentration camps are maintained to eradicate political opponents. Totalitarian state carries on intensive propaganda and use all psychological means to appeal the mob. Marches, uniforms and rhetoric are being used to rouse the people. They believe that the end justifies the means. The press has to support the government solidly. The concentration that there should be only one public opinion and the nation is to think unitedly under the impact of propaganda is that of Dr. Gebbelles. The constant theme of propaganda is the preparation for war. Listening to enemy propaganda is a great crime.

3) The totalitarian state does not believe in reason. It glorifies instincts and impulses. The theory of the state developed in totalitarian countries is anti-intellectual. Instinct and will were given precedence over reason and this was evident under Fascism and Nazism.

4) Totalitarianism glorifies the nation and emphasizes the power of the state. Narrow nationalism, chauvinism, aggressive warfare and imperialistic expansion are the attributes of totalitarian Fascism and Nazism. Russian communism has acquired nationalistic and militaristic characteristic in which force and violence are extolled. International peace is considered as coward's dream. Totalitarianism encourages and exploits the nationalistic sentiments distort international contexts to their advantage and prepares the people for war with other countries. Communism and fascism differ widely in their understanding of internationalism. Italy and Germany attempted expansion for raw materials, for the sale of their goods and also because of their lust for power. Mussolini said that imperialism is the eternal and immutable law of life. Both Hitler and Mussolini preached the necessity of war, publicly stating that war was necessary for the development of many qualities.

5) Totalitarianism does not believe in liberalism and humanitarianism. Germany built up strong racial prejudices and hatreds and propagated the superiority of the Nordic race. It attempted to safeguard the purity of their race and language. The totalitarian state is exclusive and tries to make itself self-sufficient. Their object is to make themselves as little dependent as possible upon other countries. But they enter into foreign trade and commerce to find markets for their finished goods.

6) The totalitarian state is antagonistic to religion. Fascism and Nazism made religion an instrument for the establishment of totalitarianism, while communism banned religion. Religion was looked down upon and an attempt was made to substitute their leader and doctrine, for religion.

7) Totalitarianism is a mass movement. Well organised and well disciplined members of the party with practical national objective, succeed, in coming to power. They also achieve the mass support through the instruments of mob psychology techniques, practice of direct action and terrorism. Promises of plenty, passion of hatred and opportunity to conquer far-off lands catch the imagination of the people and totalitarianism gets complete popular support.

8) The elite in the totalitarian authority is a highly disciplined and coherent body. They are bound together by its doctrine through the institution of the party. The party acquires a monopoly of power and does not allow the existence of any other party. Though totalitarianism maintains the parliamentary institutions for propaganda purposes, their powers are nominal. Constitutional opposition, rule of law, independent judiciary, free elections, right to criticise and publication have no place in the totalitarian system.

17.2.2 FASCISM

Totalitarianism in Italy and Germany is directly traceable to the Versailles Treaty and to the later events including the rise of communism in Europe after World war I. The term

Fascism is derived from the word "Fascie" which means a bundle of rods symbolizing discipline, unity and strength. The Fascist party was formed in 1915 at Milan in Italy and a series of events led to its phenomenal rise, to power by 1922. Fascism brought about a total change in Italy and made the country a first-rate power through a strong and centralised government. Fascism repudiated the ideals and methods of democracy, liberalism and socialism. Liberalism and democracy pay attention to the interests of the individual, socialism looks after the interests of an economic class and for Fascism, society is the end. Individual was the means or the means or the instrument for the ends of Fascism. According to it, the civil life begins with the state. All are in the state and no one outside the state. Duties towards the state are more important than the rights of the individual. It repudiates pacifism and glorifies war.

Fascism was more empirical and practical than any other political system. Fascism had no political theory. Mussolini declared that his programme was action, not talk and it was based on reality. He wanted to come out of the cloud of discussion and theory. In spite of his emphasis on realism, Fascism had certain theoretical assumptions which are formulated into a doctrine. It aimed at a fundamental reorganisation of the Italian life to restore the strength and glory of Italian Government authority. To achieve this objective, Fascism combined realism and mysticism. The methods which were adopted to achieve the end were flexible and they were not based on any reasoning. It considered the state as a spiritual entity for which and by which its members exist. State had a personality and a will of its own and it had a life more continuous, permanent and important than the lives of its members. This conception of state brought in a new relationship of the state to the individuals. By society, Fascists meant a nation, and a nation to them was the state. The true end of the state was to make the nation strong and not to look after the happiness of the individuals. Individual had no personality apart from the nation. Fascism denied the individual in the name of the state. Hence it did not concede liberty, equality and other rights to the people. Fascists substituted duty, discipline, and sacrifice for liberty, equality and fraternity. It also repudiated the concept of popular sovereignty, which is the corner stone of democratic system. According to Fascism, the real will of the state was different from the popular will. Popular sovereignty was a fictitious creation and democracy attempts to give power to the masses who have no knowledge to exercise sound judgement. As a result of this view, Fascism accepted the principle of government by an aristocracy or an elite in contrast to government by the people. This doctrine attempted to divide the people into two classes. One class was comprised of persons with patriotism, sense of duty and moral sense, who framed laws to be obeyed by the rest of the community. Masses have no capacity to guide and govern the country. Fascism openly advocated violence as a means to achieve political aim. According to Fascists, whenever violence was inspired by lofty nationalistic motives, it must be regarded as normal and useful whether applied in accordance with laws and usages or not. Mussolini considered violence as sacred and necessary. A man who was not a ruthless despot was not fit to be the head of the state. The essential qualification of a political leader was not the ability to win popular favour, but ability to inspire respect and exact obedience. Fascism was also an enemy of internationalism and peace. Italian expansion was considered as a matter of life and death by the Fascist. Fascists considered all economic questions from the stand point of national interests. They rejected both laissez-faire and socialist approach to economic problems. Private ownership of property was allowed. They held that the existence of both the labour and capitalistic classes is indispensable for economic advancement and also attempted to protect the interests of both. It insisted on the ultimate right of the state to control every aspect of the economic and social life of the community. Industry was controlled by the state through the corporations. Strikes and lock-outs were forbidden by law. The most important contribution of Fascism to the economic field was the corporative state. Medieval guild and syndicalist ideas were blended into the fascist corporate state. Fascism tried to bring together the interests of the workers, of the employers and of the consumer public into a common whole. The corporate state suggested the idea of planning based on collectivism though production rested upon private enterprise. Trade unions and associations of employees were replaced by corporations which depended upon the state. The welfare and the interests of the workers were guaranteed under this system which was described by C.E.M. Joad as the Manga Carta of labour. Fascists considered war as an ideal, because war alone brings upto their highest tension, all human energies to meet it. Italy withdrew from the League of Nations in 1937. A Fascist nation will never enter into

multilateral agreements, They prefer bilateral agreements, particularly with the states they wish to control and conquer. In this regard, Fascist policy resembled the policy of communist states.

Fascism gave to the Italians an efficient administration, internal peace and security, improved national finance, harmonious relations between the labour and capital and honour and prestige abroad. It created new vigour and unity in the Italian race. Undoubtedly the achievements of Mussolini brought credit to the dictators. However, the critics of Fascism focus the attention on the evil consequences of the Fascist methods. Force has never produced permanent and abiding results. As one remarked, Fascist state was like an engine built for speed and aggressiveness but not for long service. Coker remarked that the highly cultured life of a nation destroys the possibility of great learning, literature and art. Fascism succeeded under certain circumstances, but it cannot be described as a normal form of government for all people, for a long time.

17.23 NAZISM

Nazism accepted authoritarianism wholeheartedly. It violently opposed every form of democracy and the parliamentary system of government. The National Socialists of Germany were thoroughgoing authoritarians like the Fascists of Italy. Both advocated the supreme authority of the leader of the party over all the branches of government. Nazis prohibited all opposition parties. They denied the fact that the people are the source of all authority. The authority shall be exercised from above downwards and responsibility from below upwards. Hence Nazis argued that the government must not hesitate to use force against any subject who rebels against the authority of the state. Hitler argued that force, to be successful, must be used ruthlessly, relentlessly and persistently. Though authoritarian, both Fascism and Nazism adopted certain democratic principles to achieve their goals. Both pleaded for the rule by the talented. Both attempted and succeeded in securing popular support for their ideas and policies. Though authoritarian, both were mass movements.

The various governments which came to power under the Weimar constitution failed to tackle the numerous problems of the people. The weak policy of the social democrats led to the rise of the Nazis to power in Germany. The humiliating terms of the treaty of Versailles, deprivation of her colonies, high reparation to pay, widespread unemployment and political chaos led to restless nationalistic movement throughout Germany. At this psychological moment, Adolf Hitler appeared on the German scene as a saviour of the nation. The National Socialist Party under the leadership of Hitler, rose to power by means of the violent acts, storm troops and propaganda. Nazism is not a well worked out theory of state. Hitler drew his inspiration from the writings of German idealists like Kant, Fichte and Hegel and the Italian Mussolini. The Nazi party was the connecting link between the "volk" and the state. It organised people into a military group and enabled them to work together under one leader. The state helped in this process and hence state was the party and the party was the state. No other political party was tolerated because it meant the weakening of the state and frittering away of its energies. Hitler had a contempt for parliamentary democracy and democratic institutions.

Nazies conceived the party in terms of leadership and hierarchy. The hierarchy was not the one which worked from bottom upwards but in the reverse direction. Nazies believed that some are born to lead and others to follow. Hitler was the head of the state, of the government and of the army. His word was law. Party men occupied all important positions and the party invaded every sphere of life. Nazi agents were found everywhere and there was complete regimentation in accordance with German traditions. There was strict censorship and imprisonment without trial. Concentration camps were not considered disgraceful but as ornaments. According to Nazis, the characteristic feature of the state was vigour and force but not justice or morality. Nazism preached and practised the gospel of force. Hitler said that one who would live must fight. Hitler gathered all Germans under one flag with an object of undoing of the injustice of the Versailles treaty. Soon the Nazi nationalist movement developed into Pan-Germanic movement to annex neighbouring territories, causing a menace to world peace. The myth of the Aryan superiority was invented and drastic steps were taken to exterminate the non-Nordic people from the German soil. Blatant lies and anti-propaganda were carried against

the Jews and the Nazis practised cruelty unthinkable in the twentieth century. Non-Nordic man was considered sub-human. Hitler was considered the high priest of the new German paganism and it was propagated that Hitler was greater and more powerful than Christ. It was preached that fathers must fight on the battle field in order to secure a better future for their sons. There was no higher privilege for a woman than that of sending her children to war. In carrying out the Nazi programme and working out the Nazi theory, the powerful personality of Hitler, ruthless organisation and vigorous propaganda played important roles. Hitler looked upon himself as an instrument of world destiny. He exercised mass hypnotism through his misguided oratory. As a master of the art of propaganda, Hitler stressed the significance of the propaganda in his book "Mein Kampf". Goebbels described the art of propaganda an art of simplification, and propaganda had nothing to do with truth. Regarding the political and economic theory of Nazis, the same emphasis of fascism was placed on national unity and solidarity. It rejected both capitalism and socialism and saw no conflict between capital and labour. Big industries, commerce, banks, insurance and public utilities were controlled by the state. There was conservation of food resources for war purposes and the slogan was "Guns for Butter". The Nazis said that it was the duty of the state to provide employment and subsistence wages to all those who were willing to work. Nazism used socialistic methods and socialistic institutions not to establish socialism and social justice, but to build up a military state on a totalitarian basis. Economic considerations were subordinated to military expediency. Irrationalism and militarism brought the destruction of Germany, in World War II.

17.2.4 TOTALITARIANISM IN RUSSIA

Russian totalitarianism is different from the Italian and German patterns. It has a definite intellectual basis, and a theory of communism has been worked out in a doctrinaire form. Tsarist Russia had an autocratic rule and liberal movements were suppressed. The fall of Russia in World War I gave rise to the Bolshevik party in Russia under the leadership of Lenin. Communism succeeded in Russia because of the weakness of the state, the backwardness of industry, the absence of democratic tradition and the leadership of Lenin and Trotsky. Bolsheviks also rallied under the banner of nationalism when the Russian security was threatened. Industries were nationalised. Private trade was banned. Russia has made great progress in the communist direction through the Gosplan. The bourgeoisie and rich peasants were exterminated through violent means. There was wanton cruelty, and terrorism was employed in the pursuit of the communist ideology. No other party was allowed to come into existence except the communist party. Democratic freedom was not given to the people and any criticism was ruthlessly suppressed in the name of the working class. The leadership was highly centralised and all important decisions were taken by the party bosses. There were purges to eliminate any dissenting voice. Liquidation and hardlabour camps were used to silence opposition Lenin advocated that during the transition from capitalism to communism-suppression was still necessary. Modern liberal democracy and democratic institutions are repulsive to the communist doctrine. Critics of Soviet communism claim that Russian system is neither socialism nor communism but "Stalinism" which was known for its military authority. Distribution according to needs is only a far cry. There are wide disparities in matters of reward and treatment inspite of its profession of classless society. Instead of signs of withering a way of the state, state has become more authoritarian and is getting strengthend. Members of the party are subjected to severe discipline. Members of the inner circle of the party form into a class themselves having certain special privileges. Present Russia has abandoned the idea of world revolution. Russia is developing into a nationalist and militarist country. Inspite of these totalitarian characteristics, Russia has made great progress in the fields of industrialisation, technological advancement, social security, education and employment. Whatever may be the achievements of communism, we cannot overlook the fact that they were born out of cruelty and suffering.

17.3 COMPARATIVE STUDY

Totalitarianism undertakes to organise and direct every phase of economic and social life to the exclusion of any area of voluntary choice. It is to be noted that totalitarianism destroys a great number of organisations that had long existed and served as centres of social and economic

activities. The leadership principle means personal power or the power of clique and the party organisations are subjected to regimentation and manipulation. Individuals become powerless and helpless in the hands of those organisations which they created for the protection of their interests. The people are considered as masses and they are totally subjected to propagandistic agencies. Totalitarian control is extended to the press, to education and even to art and music. In regard to economic organisation there is a marked difference between Italian Fascism and German Nazism, Fascism followed the idea of corporate state, while for Nazism, the labour front was a wing of the party. Italian system was one of self regulation by association in which employers and employees are equal partners. German system was a direct regulation of industry by the government. In reality, the economy was brought under political control in both the systems. Nazism like Fascism believed in the executive eminence of power and responsibility, reducing the legislatures to the subordinate position. Nazi party combined an old concept of nationalism with the idea of non-proletarian socialism emphasising the idea of united VOLK. The German socialist party made Germans a closed society by preaching the idea of practice while the communists emphasize the common interest of the workers in all the countries. The Fascist doctrine of corporativism appeared to be an alternative to communism while Nazism preached exclusiveness with hatred towards other nations. Both national socialism and communism denounced the Parliamentary democracy and substitute it with political dictatorship. Both accept purge as a political solution and that there should be only a single political party. Both refused to draw a distinction between areas of private judgement and of public control. Educational institutions are used as agencies for indoctrination by all the totalitarian systems. Totalitarian systems are fanatical and demand a surrender of critical judgement to blind faith. In spite of similarities between them communism was on a far higher level both morally and intellectually than Nazism. Hitler was a nihilist while Stalin though brutal, transformed Russia into a modern state.

17.4 SUM UP

Totalitarianism is an antithesis of democratic liberalism. From the past to the present day, totalitarianism has been coming to the forefront in some form or the other. Fascism, Nazism and Communism are some of the forms of totalitarianism. Classification of the state, resort to violence, suppression of the individual and subordination of all institutions to the domineering leader or party and denial of basic freedom are the features of totalitarianism. Preparation for war and virulent propaganda, intense nationalistic fervour, are some of its means for reaching the pinnacle of power. The powerful drives for the emergence of totalitarianism were the desire to make the nation economically strong and politically imperialistic. Fascism in Italy, and Nazism in Germany, brought ruin to their nations ultimately, while communism moulded their nations into powerful, modern and influential blocs.

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17.5 SUGGESTED READINGS

1. Barnes : Fascism
2. Gilchrist : Principles of political science.

17.6 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Describe the salient features of totalitarianism
2. Bring out the distinctions between various forms of totalitarianism.

II. Answer in about 10 lines.

1. Explain the main characteristics of Communism, as a totalitarian system.
2. Mention the main features of Fascism.

UNIT-18 : MODERN FORMS OF GOVERNMENT: DEMOCRACY

Contents

- 18.0 Objectives
- 18.1 Introduction
- 18.2 Definition and Meaning
- 18.3 Types of Democracy - Direct and Indirect
- 18.4 Essentials for the Successful working of Democracy
- 18.5 Direct Democracy
 - 18.5.1 Referendum
 - 18.5.2 The Initiative
 - 18.5.3 Recall
- 18.6 Sum Up
- 18.7 Suggested Readings
- 18.8 Model Questions

18.0 OBJECTIVES

After going through this unit you will be able to:

- * define the Democracy
- * explain the meaning of the concepts of direct and indirect democracies.
- * list out the essential conditions and institutional requirements for the successful working of Democracy.
- * discuss the methods of direct democracies.

18.1 INTRODUCTION

In this unit you will study the essential conditions for democracy and direct democratic methods.

18.2 DEFINITION AND MEANING

The 19th Century saw the rise of democracy which ushered in social and political changes. Democratic idea has its roots in the past. The democratic idea is stressed by all religions. With the progressive decay of feudalism, modern democracy made its headway. When an American or an Englishman talks about democracy, he does not mean the same thing as a Russian or a Chinese does. The former thinks of democracy in terms of free elections, free press, freedom of association and speech, right to oppose governments etc. While the Russian view of democracy is totally different. The communists regard the Western democracy as capitalistic and the Western democracies as carried out in the interests of a few by exploiting the majority. The meaning of democracy was never static. It has grown with centuries. Democracy is a multi-faceted concept which includes political ideals, economic and social forces, ethical principles, a form of government and also a way of life.

Democracy is derived from a Greek word Demokratia which means people's power. Herodotus in the 5th century B.C. understood democracy to mean the "multitude's rule"

or society where there is 'equality of right' and the holders of political office are accountable for what they do. Lord Bryce defined democracy as that form of government in which the ruling power of a state is legally vested, not in any particular class or classes, but in the members of community as a whole. J.S.Mill described democracy as a form of government in which the people exercise the governing power through deputies periodically elected by them. According to Seeley, democracy is a 'government in which everyone has a share'. Meriam stressed the importance of people's welfare in explaining the meaning and significance of democracy. Mac Iver attached more importance to "Who shall govern" and broadly "to what ends"? than the significance of majority or otherwise. Communists draw a line of distinction between the democratic state and democratic government. Marx referred to democracy as an association in which the free development of each, is the condition for the free development of all.

Democracy puts emphasis on means, as the ends are determined by means. Discussion and consent are the means by which controversial issues are settled. It lays emphasis on the basic equality of human beings, equality in the eyes of law and equal rights irrespective of caste, creed, colour, sex etc. Democracy must be regarded as both a social ideal and a political method. While fascism puts emphasis on nation, state, race and empire and communism on class, democracy puts emphasis on individual as a pivot of the whole social and political order. Democracy puts more emphasis on society than on the state. Democracy is not only a form of government, but also a way of life. The importance and the dignity of the human personality is recognised. Every individual is free to think and act dependently. Basic freedoms are guaranteed. Democratic principles foster justice, equality of opportunity, and social welfare. The core of democracy is discussion and an enterprise of mutual education. In a democracy the individual enjoys freedoms not only in the political field, but also in all other spheres of human activity. Democracy is a government by consent. Government machinery has to move according to the aspirations of the people. It has to be responsive to public opinion. It has to shape its policies and programmes to suit the needs of the people in the light of the public reaction and criticism. Democracy also stands for certain principles in the international sphere. It suggests inter-state relations on the basis of tolerance, justice and reason. It opposes aggressive nationalism, expansionism, racialism and war.

18.3 TYPES OF DEMOCRACY

Direct and Indirect Democracy: As a form of government, there are two types of democracy-direct and indirect. In a direct democracy the people express their will directly on public affairs as in Switzerland. Direct democracy assumes the form of the referendum and the initiative. But the prevailing system is indirect or representative democracy. The will of the people is formulated and expressed through their elected representatives in this system. These representatives are periodically elected by the people. As Mill explains it, the people exercise the governing power through deputies periodically elected by them. The political parties contest the elections and the people elect the candidates of these parties based on their previous performance and actions. The elected bodies are both responsible and responsive to the people in an effective representative democracy. Representative democracy achieves the general harmony between the government and the governed by reconciling authority and political freedom. The principles of representative democracy are (1) equal right to all adults to vote and to stand for election (2) Periodical elections (3) equal eligibility of all to hold executive and judicial office (4) freedom of speech, movement and association (5) absence of any privileged class, and (6) strong and effective public opinion.

18.4 ESSENTIALS FOR THE SUCCESSFUL WORKING OF DEMOCRACY

It is generally agreed in modern times that democracy is a better form of government than all the other forms. At the same time it is also regarded as the most difficult form of government. In many countries in the world democratic form of government is not as successful as it is hoped to be. Democracies are replaced by other forms of government such as in Pakistan, Burma, Bangladesh. A Careful study of this situation reveals that democracy require certain essential conditions for its successful working. The following are some of the important conditions:

1. Honesty, integrity and character : There must be honesty, integrity and character on the part of the people, the leaders and the rank and the file of the political parties. They should stand for justice and not for themselves. These characteristics on the part of the people result in electing honest representatives who in turn will be responsible to the electorate. Dishonesty on the part of the leaders makes the people disinterested in the working of the government.

2. Ardent Desire for Democracy and Vigilance : The genuine thirst for the success of democracy as a way of life is an essential condition for its survival. The belief in liberty and equality creates a strong foundation for democracy. The desire and faith in democracy will prepare the people for great sacrifices in the face of any threat to the cherished ideals of democracy in a country. The active participation of the people in the affairs of the government enhances the democratic spirit and temper of the people. If the people are indifferent, autocracy or dictatorship may rise its head. It is evident that democracy has succeeded in Western Europe, North America and in some newly independent countries of Asia and Africa where the has middle class a tradition of substained interest in civil liberties and democratic values.

3. Tolerance, Sympathy and Understanding : Democracy will thrive in an atmosphere of natural understanding. People should settle their issues through peaceful discussion and debate. Violence has no place in democratic traditions. There is a great need for sympathy for one another. Sympathy and understanding is sure to build up the required tolerance for the smooth working of democracy. Issues are to be settled through ballot, but not through brickbats and bullets. Coercion in any form will vitiate the democratic atmosphere. The democratic government should seek the maximum voluntary cooperation of the people.

4. Intelligent, Educated and well-Informed Electorate : The people should have high level intelligence and sound education. The electorate must be educated and well informed as they are the masters of their own destiny in a democracy. Educated people will be fully aware of their rights and obligations. An enlightened electorate can choose the leaders intelligently. Ignorance and illiteracy are the worst enemies of democracy. If people lack normal reasonableness, democracy becomes mob rule and leads to dictatorship. Well intentioned fools are worse than intelligent villains.

5. Free, Frank and Fearless Press : Democracy needs free, and informed discussions of governmental affairs. People must have not only the right to elect their representatives, but also the opportunity to understand and criticize the policies of the elected bodies. Hence democracy requires a system of general education and intelligent, impartial and independent press. Free and frank press safeguards democracy. The press passes on the necessary information, regarding the activities of the governments and on the basis of information the public form their own opinion and criticise the government. It makes the people enlightened and enables them to understand the issues and involve them in the governance of the country. People value the press reactions to government policies. The press develops the potentialities of the people for free and effective thinking on public affairs. The press creates sound and healthy public opinion.

6. Good Leadership : Good leadership is another important condition for the successful working of democracy. The leader should possess a balanced mind and should be able to judge the issues in their true nature without any factional outlook. Poor leadership in many of the Asian and African countries is responsible for the downfall of democracy and for the rise of authoritarian governments. Great leaders like Abraham Lincoln, Woodrow Wilson, Jawaharlal Nehru, Jayaprakash Narayan and such others helped in strengthening the democratic structure. Good leadership respects the opinions and the rights of the minorities.

7. Public Opinion : The germ-plasm of democracy is the strong and vigorous public opinion. If it is lacking, the foundation democracy will be built on sand. According to Coker, success of democracy is "dependent upon the existence of civic sense and an imaginative sympathy among the people". As Moutés Qutih states the tyranny of the prince would hardly bring a state to ruin quicker than would indifference on the part of the public to a common welfare in a Republic.

8. Equal Opportunity and Reasonable Standard of Living: Robert A Dahl described democracy as a system in which opportunities are widely shared by the people. Both the advocates and opponents of democracy generally agree that the essence of democracy is equality. The democratic doctrine tends to lay great stress upon human equality. Democratic government is a contrivance of human wisdom to serve certain qualities, but does not differ significantly in the fitness of people to participate in civic affairs. Democracy can thrive only when the people in country have a reasonable standard of living. Political independence without economic freedom is a myth. Poverty is a great obstacle to democracy. Poor people are bound to be indifferent to the problems of the country and thus pave the way for the rich to capture power. Lack of opportunities and poverty will keep the people backward and timid.

9. Good Constitution : A good constitution embodying the democratic principles ensures the success of democracy. Since the power is vested in the hands of the people, the democratic constitution should enshrine the following features: a) Adult Franchise b) Popular democratic controls over the public administration c) Willingness to adhere to the rules of the democratic process. d) Freedom of speech, of association and safeguards against arbitrary imprisonment. e) Rule of law. f) Adequate sources of information through modern media which should be independent and impartial. g) Guarantee of the right to peaceful protest.

10. Institutional Requirements : Democracy will function more effectively through certain institutions. The following institutional requirements promote more effective functioning of democracy:

a) Written Constitution A written constitution forms the basis for the exercise of power by the various organs of the government. A well drafted constitution will minimise the conflict between the organs of the government and also curtail the arbitrary exercise of power by any agency. In the absence of a written constitution, well established customs and traditions will serve the purpose of a constitution as in the case of Britain.

b) Judiciary An independent, impartial and learned judiciary is another requirement of democracy. Democratic government upholds the rule of law. All institutions in the country will come under the purview of law. Any arbitrary exercise of power will be checked by the judiciary. Independent judiciary will protect the liberties of the people. It resolves disputes between the centre and the federating units in a federal structure. Justice is ensured to the people by an independent judiciary.

c) Political Parties No representative government can function without political parties. Political parties should be well organised on the basis of socio-economic programmes. All the parties should have implicit faith in democratic principles. Such parties can guide and train the people in democratic traditions. The level of political awareness of the people depends upon the role played by the political parties in a democracy. Political parties offer different ideologies for the people to choose from.

d) An effective opposition The role played by the parties opposed to the ruling party determines the effectiveness of the government. The opposition checks any irresponsibility or authoritarian tendencies or misuse of power on the part of the party in power. In a two party system the opposition will be more responsible and effective than the multiple party system. People also will have the option to choose the other party in case the government fails to fulfill its promises to the people.

e) Local Self-Governing Bodies In an effective democracy, the people can express themselves through local self-governing bodies. These bodies functioning on democratic lines will provide ample scope for training to the people in the art of self-government. They act as training centres for the future leadership. These bodies bring the administration closer to the people. There will be greater scope for the attention to the problems of the area concerned. Public accountability is more under the local self-governing bodies.

f) Effectiveness of the Media

Democracy will succeed if the people are informed, alert and vigilant. It is the media which can keep the public informed of the day to day functions of the government. Also, they are in a position to bring to the notice of the public, the burning issue and the conflicting interests. Thus, they enlighten the public and keep them abreast of the present political trends. News papers, magazines, radio and television have become so intimate with the public that they can mould the public opinion in conformity with their ideologies. They are also the conveyor belt to carry back to the authorities concerned, the opinions and aspirations of the public. In short, they can be used as referendum to find out the pulse of the public. Wherever the media is free and frank, the interests and the liberties of the people are assured. As the voice of the people, the media can serve as a check over the hasty, ill- conceived and irresponsible conduct of a government. Such a political weapon can be captured by corrupt influences to serve the selfish purposes of the select few like fascist political parties and exploiting capitalist sectors. Therefore in a democracy, in the interest of the people the media should be made subservient to their concerns. For this, as in advanced countries, the people must be able to express their resentment and check the media, the moment they go astray of their recognised norms and ethics.

18.5 DIRECT DEMOCRACY

representative democracy is subject to criticism. Excessive party politics hamper the general welfare of the people. Due to the phenomenon of delegated legislation, the legislatures are slowly becoming ineffective. Even the legislative power is going into the hands of the executive and the corruptive influence is mounting due to the party considerations in deciding the national issues. Thus it is advocated that the people should have a direct role in the enactment of the laws and also the power to recall the officers of the government in case they fail to discharge their responsibilities and obligations. The whole body of qualified citizens will have a share in the process of legislation in a direct democracy. The people express their will directly on public affairs. This direct democracy was known to ancient Greeks and Romans. At Athens, all the citizens used to meet and vote in an assembly on matters placed before them by a small body called the 'Council of Four Hundred'. In Rome, the people met in their law making body 'Comitia' to decide the policies of the state. A similar system is in vogue in the law making process in Switzerland.

Such direct democracy can exist only in small states with limited population. Direct democracy in the form of referendum and the popular initiative has been familiar in Switzerland and the United States. In Switzerland, direct democracy has a natural growth. Direct democracy is based on Rousseau's theory of General Will. Referendum and initiative are the distinct characteristics of Swiss democracy. Referendum and initiative are used to express the will of the people in some states in USA and Australia. The constitution of USSR also provide for referendum on legislative matters on the initiative of the presidium or on the demand of the union republics. Referendum means "must be referred". It is a process through which the verdict of people is sought on a proposed law or constitutional amendment on which the legislature has already expressed its opinion. When the approved measure of the legislature secures the required majority of the people it becomes law. The proposal is dropped when it is rejected through referendum. The referendum is of two kinds. (1) optional or facultative. (2) compulsory or obligatory. After the passing of the law, it is submitted to the people for their acceptance or rejection on a petition by a specified number of citizens. This is called optional referendum. In Switzerland a petition by 30,000 citizens is required for optional referendum. In compulsory referendum specified type of laws must necessarily be referred to the people for their consent or rejection. In Switzerland and Australia, all constitutional amendments are to be subjected to compulsory referendum. In Switzerland some ordinary laws are also compulsorily referred to the people.

18.5.1 REFERENDUM

Arguments in favour of Referendum

- 1. Barometer of public opinion :** Referendum makes the sovereignty a reality. Real and genuine public opinion cannot be obtained in a representative system. In modern times the public mind is mostly expressed by press, platform, party propaganda and by other agencies. Referendum gives the real effective opportunity to the people to reveal their views on public issues with independent judgement. Referendum is a correct barometer of public opinion.
- 2. Minimises the importance of political parties :** The referendum minimises the exaggerated importance of political parties. The distorting influence of the party spirit can be reduced. The baneful role of politicians can be checked to a great extent. It is also a check on the vagaries of the legislature. The bill opposed to the popular will cannot be enacted. In short, the referendum puts the veto power in the hands of the people.
- 3. Interest in public affairs :** The people are stimulated to take greater interest in public affairs. A law which is directly approved by the people is sure to carry greater weight and authority. The people have to apply their minds in understanding the issues and to participate intelligently in the referendum. Hence the people will take greater continuous interest in public affairs even after the elections. Since the people are involved in decision making, people become more law-abiding and patriotic.
- 4. Reduces the high handedness of the majority party :** Referendum checks the manoeuvres of the majority and reduces the spirit of sectionalism. Under referendum the legislature is put to test as to what extent it is reflecting the public opinion. It helps to promote closer healthy contacts between the voters and their representatives. The representatives under this system know well that their decisions will be reversed if they do not reflect the public wishes.
- 5. Checks unwarranted and hasty Legislation :** Direct participation under referendum will bring about a greater sense of responsibility on the part of the people. Public opinion is slow to change. Hence the laws approved by the conservative will of the people will not be subject to radical changes, disturbing peace and tranquility in the society.
- 6. Resolves the conflicts between the two House of the Legislature :** Referendum is the best means to resolve the conflict between the two houses of the legislature. The two houses naturally accept the verdict of the people.

Arguments against Referendum

The critics contend that the advantages of direct legislation have not been realised anywhere except in Switzerland. Dr. Finer felt that direct legislation has done little good. Referendum is not the remedy for the defects of the representative system of government. The following are the arguments against referendum.

- 1. Undermines the prestige of the legislature :** The chief drawback of the referendum is that it undermines the position and prestige of the legislative assemblies since almost every measure of the legislature goes to the people for their approval. This bound to affect the quality of membership of the legislature. The members may show little interest in the discharge of their duties. The legislature cannot command the full respect of the people when their decisions are likely to be reversed by the people.
- 2. People lack special knowledge :** Modern legislation needs expert knowledge. Average people are not qualified to pass judgement intelligently on various legislations of public importance. The electorate is usually indifferent. They have neither the desire nor the leisure to acquire the required knowledge to critically examine the legislations passed by the legislature. Voters are liable to be caught by phrases and popular frenzy. Moreover there is no scope for amendments in the referendum. People have to accept or reject the legislation as a whole.

3. Small percentage of votes cast at referendum : Another important criticism levelled against the referendum is that only small number of voters participate at the referendum. Such limited participation will not reflect the public opinion in general. The abstention of the voters at a referendum reveals the indifference of the voters towards civic responsibility. It also rises grave doubts about the fitness of the people to judge the issues intelligently.

4. Election fatigue : In direct legislation the people are asked to exercise their votes very frequently. Voters develop electoral fatigue and tend to abstain from voting. It becomes difficult to gauge the public opinion in the absence of effective and large participation of voters at the referendum. In such a situation minority opinion of the citizens may gain upper hand. Generally the opponents of the measure may go to the polls in larger proportions than its supporters.

5. Unnecessary delay : The referendum may some times cause unnecessary delay in passing legislation of vital national interest. Frequent approach to the people for decisions prevents prompt measures to be taken in the event of any emergency. The lengthy process of referendum inevitably tends to delay.

18.5.2 THE INITIATIVE

The advocates of direct democracy believe that referendum alone does not remove the defects of representative system. They argue for inherent right of the citizens to propose legislation. When such proposal is ratified by the voters, it must become law. Such a method of popular legislation is called the initiative. The voters can force the legislature to adopt measures which are considered essential by the people. There is a difference between petition and the initiative. A petition is a submission made to the legislature on which the legislature may or may not act. The initiative is the right of the people to propose legislation. It is binding on the legislature. If the legislature disapproves it, the popular vote makes it a law at a referendum. The initiative is of two kinds (1) Formulative (2) Unformulative. The people's suggestion set in proper legislative bill is called formulative initiative. When the initiative is unformulative, the legislature has to draft the suggested measure properly into a well drafted bill and pass it as law subject to the ratification of the people. In Switzerland the initiative for constitutional amendment should come through a petition of 50,000 citizens. There is no federal initiative for ordinary laws. In U.S.A. the initiative for constitutional amendment is allowed in fourteen states and for ordinary laws in nineteen states.

The initiative reflects the idea of popular sovereignty. The referendum gives only the negative right to the people, while the initiative gives them positive right in framing laws. Representatives may disregard public opinion sometimes and may generally tend to think in terms of interests and considerations. In such a situation, through initiative people can introduce measures of public interests in the legislature. Hence initiative has great value and significance in a direct democracy. There will be greater obedience of the people to the laws since those laws are originated from them and again approved by them through referendum. The initiative adds to the stature and stability of the government. Above all the initiative leaves no scope for violent upheavals, as the people have a direct say in the matter of legislation.

Drawbacks

Initiative reduces the authority of the legislature. The drafting of the bills requires specialised skill and it requires experience. Average men lack this expertise to draft formulative initiative. Hence the initiated bills are "very often crude in conception, unskilled in form, marred by obscurities and omissions". The vague language in the bills is liable to many interpretations. The theoretical advantage of the initiated bill is not practically demonstrated by various initiatives moved in Switzerland.

18.5.3 RECALL

Recall is another channel of direct democracy. It provides scope to recall those representatives back from office who have failed to discharge their duties in accordance with the wishes of the people. Recall makes the public officials accountable to the public and brings them under the

public vigilance. It prevents corruption in public life. It improves the efficiency and the honesty of the public officials. However recall has certain drawbacks. It kills the initiative of the officials and makes them timid. The threat of recall prevents them from undertaking the long range projects of national importance. Then people with individuality and originality may turn away from public service.

The mechanism of direct legislation is a difficult idea as revealed by experience. Its success in Switzerland is due to the historical antecedents of the Swiss people, small size of the country, practice of self-government in their small communities, social equality and the sense of public duty on the part of the enlightened electorate. Independence of judgement on the part of the people in deciding the public issues is another essential condition for the success of direct democracy. Issues are to be judged above political and party considerations. Absence of passion and presence of intelligence are the causes for the success of Swiss democracy. The people are cautious in expressing their views on public issues because of these reasons direct democracy is able to function effectively as a model democracy like Switzerland.

18.6 SUM UP

Democracy is a form of Government in which the ultimate power lies with the people. It is the only government by the people since there is no distinction between the rulers and the ruled. Individual liberty, fundamental rights and equality are the bases of democracy. It is a way of life in the sense that it inculcates the spirit of independence, tolerance and understanding. Successful democracy demands certain essential pre-requisites like honesty, character and vigilance on the part of the people, intelligence, integrity, and leadership qualities among the representatives. Equally important are institutional requirements like well drafted constitution, ideologically based political parties, free and frank press and an independent judiciary. Democracy may be direct, or indirect. Direct democracy can be found in Switzerland in modern times. Referendum, initiative and recall are the methods of direct democracy. Referendum and initiative involve the people in the framing of the laws. Recall makes the leaders responsible and accountable to the people. Modern states being vast national states, indirect democracy has become more common.

Author: Mr. P.L.P. RAJU

18.7 SUGGESTED READINGS

Herman Finer : Theory and Practice of Modern Government.

18.8 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Explain the meaning and significance of democracy.
2. State the essential conditions for the successful working of a democracy.

II. Answer in 10 lines.

1. Describe the role of press in a democracy.
2. Mention the significance of the political parties in a democracy.

UNIT-19 : PARLIAMENTARY AND PRESIDENTIAL FORMS OF GOVERNMENTS

Contents

- 19.0 Objectives
- 19.1 Introduction
- 19.2 Parliamentary Form of Government
 - 19.2.1 Merits of the Parliamentary System
 - 19.2.2 Demerits of the Parliamentary system
- 19.3 Presidential Form of Government
 - 19.3.1 Merits of Presidential Form of Government
 - 19.3.2 Demerits of Presidential Form of Government
- 19.4 Plural Executive
- 19.5 Sum Up
- 19.6 Suggested Readings
- 19.7 Model Questions

19.0 OBJECTIVES

To discuss the meaning and characteristics of parliamentary and presidential Forms of government.

After going through this unit you will be able to:

- * identify the parliamentary and presidential forms of government.
- * distinguish parliamentary and presidential forms
- * list out the relative merits and demerits of both forms of government
- * identify the plural executive

9.1 INTRODUCTION

Modern governments are classified into parliamentary and presidential governments on the basis of the character of the relation between the executive and the legislature.

In this unit you shall read about the parliamentary and presidential forms of government and about their characteristic features. You will also examine the merits and demerits of both the governments. The plural executive has also been mentioned.

19.2 PARLIAMENTARY FORM OF GOVERNMENT

Modern democratic governments admit a classification into Parliamentary and Presidential governments. This classification is made on the basis of the character or the relation between the executive and the legislature. Under the Parliamentary or the Cabinet system, the legislative and executive organs are united and coordinated under the direction of the same person or an agency. Under this system the cabinet is responsible to the legislature for its policies and actions. The tenure of the real executive under the parliamentary system depends upon the will of the legislature. Due to this characteristic, the executive in the cabinet system is also called parliamentary. The national head may be a hereditary ruler as in England or a President elected for a fixed term as in India. The real executive is the cabinet. A clear distinction is

made between the nominal and the real executive in a Parliamentary system. This distinction between the nominal and real executive is an essential feature of this system. The head of the state is only a titular head. He possesses all the powers which are conferred by the constitution, but in practice he exercises none of them. The real executive powers vest with the cabinet. The cabinet ministers are the real functionaries who run the government. In a Presidential system, the President is the only one executive. He has real powers and he is elected for a fixed tenure. He is not responsible to the legislature. Since the Presidency is independent of legislature, the executive in the presidential form of government is called non-parliamentary. The responsibility of the real executive to the legislature, that is, the ministerial responsibility constitutes the essential difference between the parliamentary and the presidential systems. The presidential system repudiates the executive responsibility to the legislature based on the theory of separation of powers.

The executive and the legislature are brought into a close contact in the Parliamentary system. The members of the cabinet are usually drawn from the legislature. The members of the cabinet are generally the influential leaders of the majority party in the legislature. They initiate and pilot the important legislative measures in the legislature. They defend their policies and reply to the criticism levelled by the opposition. They actively involve themselves in the debates of the house and also participate in the voting. The cabinet prepares the budget and places it before the legislature for its sanction. The executive cannot spend the amount without parliamentary sanction. The Parliament can remove the cabinet by passing a vote of no-confidence or by withholding demand for supplies or even by refusing an important measure introduced by a minister in the legislature. Thus it is evident that the term of the executive is dependant upon the will of the legislature. The cabinet is collectively responsible for carrying out the various laws of the parliament. Each minister is individually accountable for his department to the parliament. As Bagehot puts it, the cabinet in a parliament system "is a hyphen that joins, a buckle that fastens the executive and the legislature together".

The cabinet meets under the chairmanship of the Prime Minister and decides upon the major policies of the government. Thus the cabinet is the supreme directing authority. Sir John Marriot rightly described the cabinet as "pivot round which the whole political machinery revolves". The Prime Minister is the key stone of the cabinet arch. He is considered as the captain of the team which plays a vital role in the administration of the country. The Prime Minister has to perform four important duties. (1) He is the head of the country. (2) He is the leader of the legislature of the country. (3) He is an agency through which the head of the state communicates with the cabinet, with the legislature and ultimately with the country. (4) He is the head of the party and is responsible for the harmonious relations between his party and the electorate which voted his party to power.

1. Nominal and real executives : It is obvious that in a Cabinet Government a clear distinction is made between the titular head of the state who is a hereditary monarch like the Queen of Great Britain holding office for life or an elected President chosen by the people for a fixed term either directly or indirectly like the President of India. The real head of the government is the Prime Minister. Legally, ministers hold office at the pleasure of the President. President summons, dissolves and prorogues the parliament. Laws made by the parliament can be enforced only with his consent. Though the constitution vests supreme executive powers in the president, he will not wield real powers. His powers are nominal and he exercises powers on the recommendation of the Council of Ministers who are responsible to the legislature.

2. Party system : Cabinet government means party government. Political parties provide the political homogeneity in parliamentary system. The strength of the party determines the stability of the government. This political stability can successfully be achieved under the two-party system. The classic example of a two party system is Britain where the two parties have evolved with distinct political programmes. Multiple party system leads to political instability. France had forty two governments in between the two world wars. Unstable governments cannot undertake long term policies. The Cabinet system works very well when all the members of the cabinet belong to a single party. Coalition governments are generally short-lived.

3. Importance of the Prime Minister : The supremacy of the Prime Minister is very essential in the cabinet system. He is the undisputed leader of the majority party in the legislature. He achieves unity. He is closely associated with the ministers as well as with the parliamentary group of his party. The Prime Minister supervises and coordinates the work of the ministry. His intelligence and sense of purpose bring image and popularity to the government. The entire cabinet system revolves round the Prime Minister who is vital to the formation, life and death of the government.

4. Individual and Collective Responsibility : In a parliamentary system the ministers are answerable to the legislature. Each minister is responsible for his department and also to the legislature for the successful implementation of the various programmes of the government. This is called individual responsibility. Each minister has to share collective responsibility also. All the ministers sink or swim together. This responsibility is made effective by the condition that all the ministers must be the members of either house of the parliament. This brings about harmony and cooperation between the legislature and the executive in a cabinet system.

5. Moderation among political parties : This cabinet system requires a certain degree of moderation among political parties. Democratic values insist on the methods of peaceful persuasion and response to rational arguments. In a parliamentary system both the majority party and the opposition party should observe the democratic rules in the deliberations of the house. The majority party should be able to appreciate the genuine opposition view-point for honest and effective administration. Similarly, the opposition should be responsible in opposing the policies of the government and in exposing the misdeeds of the government. When the political parties become intolerant of one another, conduct themselves disorderly in the house or remain indifferent to the public issues, parliamentary system is bound to be ineffective.

6. Right to recommend dissolution : Right of dissolution of the house is of primary importance to the smooth working of parliamentary system. This is of immense value in those countries where there is multiple party system. If this right to dissolution of legislature before the expiry of its term is judiciously used, it helps to solve the dead-locks between the legislature and the executive and among the members of the cabinet. It is also the recognition of the people as the ultimate source of political authority. This proved very successful in Britain, in recent times. The French people's mandate gives stability and strength to the Cabinet which can pursue its line of thought more effectively. Moreover this right to recommend dissolution of the house checks the parliamentary absolutism. But this right must be used by the Prime Minister only in extreme situations when all other methods fail to resolve the national conflicts and deadlocks threatening the unity and the stability of the country.

7. Principle of Secrecy : The cabinet functions in secrecy. The ministers will be administered with an oath of secrecy at the time of assuming office by the head of the state. The proceedings of the Cabinet meetings cannot be disclosed by any minister. The cabinet is collectively responsible for its decisions. This secrecy is essential for mature, rational and independent discussions of ministers in the cabinet meetings. Publicity may cause undesirable consequences in matters like Budget proposals, national security and international relations. The publication of cabinet discussions may sometimes affect the unity in the ruling party. It gives unnecessary handle to the opposition party to highlight the dissensions among the cabinet beyond proportions and thus attempt to create confusion regarding the stability of the government.

19.2.1 MERITS OF THE PARLIAMENTARY SYSTEM

1. Harmony between the legislature and the executive : Cabinet system is the only form of government in which harmonious cooperation between the legislature and the executive is achieved. It is mainly due to the interdependency of the legislature and executive organs of the government in a parliamentary system. Ministers as the heads of the various administrative departments are the members of the majority party in the legislature. They provide the necessary leadership in the framing of the various policies.

In a presidential system there is a possibility that the president belongs to one party while a different political party controls the legislature. On the contrary there is no such possibility in the cabinet system and hence there is no scope for the law making and the law enforcing authorities to work at cross purposes. As Garner puts it no other systems is so well adopted to secure prompt, expeditious and efficient governmental action.

2. Constant touch with opposition : In a Cabinet system, the ministers attend the legislature. As they are in close touch with the members of the ruling party as well as with the opposition, the ministers can feel the pulse of the legislature and also the trends of the public opinion. They can obtain responsible criticism on the floor of the house. The members can immediately draw the immediate problems of the people to the notice of the government and also can secure immediate redressal. This contact between the ruling and the opposition parties yields quick decision and prompt action since the government can feel secure about the support of the people as reflected in the deliberations of the house. The parliamentary system provides for periodic assessment of the action of the government. Hence this system recognizes the ultimate sovereignty of the people.

3. Responsibility: This system makes the cabinet responsible for its actions to the elected representatives of the people. The various wrong deeds of the government can be exposed and responsibility can be fixed immediately in the legislature. The legislature can take the executive to task and the guilty can be exposed to the people through the house. The opposition will be very alert in the house and takes every opportunity to expose the government. A sensible government cannot afford to neglect the opposition views. The opposition uses the house as the platform, the newspapers and the people, as its audience.

4. Flexible and Elastic : The other merit of the cabinet system is its flexibility and elasticity. Bagehot felt that a parliament can choose a more suitable person to help the nation to tide over a crisis. Cabinet system is more useful during periods of emergency. In Britain, during the war, Chamberlain was found unequal to the task and he was replaced by Churchill. In a crisis, the sovereign authority of the people cannot assert itself in a presidential system, since everything is 'rigid' specified and stated. On the other hand, parliamentary system is flexible and can be adopted easily to the changing situation of the country.

5. Scope for Talent : This system enables men of worth and proven capacity to play vital roles in the national life. Such talented men can guide the destiny of the nation. The recognised leaders of the political parties have proven their qualities to become the national leaders. The scouting and the testing ground for talent is the parliament. Talent can be spotted from among the members of the various parties in the house. Moreover, the parliament act as training ground for the future parliamentarians and statesmen. The House of Commons has brought out the better talented leaders than any other parliament in the world.

6. Educative Value : It is regarded that the cabinet system has a greater educative value than the presidential system. The Cabinet system functions through well organised political parties. These parties place various alternative political programmes before the people during the elections. Important national issues will be discussed threadbare during the election campaign. This election process makes the people politically conscious and vigilant of their democratic rights. After the elections, the enlightened discussions in the parliament will be reported to the people through modern media and this gives ample scope for political education.

19.2.2 DEMERITS OF PARLIAMENTARY SYSTEM

1. Party system : The advantages of the cabinet system are counter balanced by certain serious disadvantages. The most important among them is the intensification of the party spirit. Political power is monopolised by the majority party. It ultimately leads to the cabinet dictatorship. This system endows immense authority in the Prime Minister. Since the cabinet system is a majority party rule, the nation is deprived of the services of the talented persons from the minority party. The opposition party is supposed to oppose only the wrong measures and the misdeeds of the government. But in reality as Bryce commented, the opposition indiscriminately opposes most

of the government measures and criticises most of their acts. Both the ruling and the opposition parties try only to gain popularity. Hence they both subordinate the national interests to those of the party. In a cabinet system, men come to power and maintain it through partisanship. Party spirit dominates the administration in a cabinet system. Some critics point out that cabinet system may degenerate into Party government.

2. Unstable Government : The Cabinet system of government is said to be unstable since its tenure depends upon the mood of the legislature. There is always the fear of an abrupt termination of the government. Hence cabinet cannot undertake long term planning. Government changes very rapidly under the multiple party system. In such a situation, consistent and farsighted policies cannot be adopted by the party in power. But governments are relatively more stable under the bi-party system like in Britain.

3. Violation of the principle of separation of powers : The cabinet system violates the theory of separation of powers. The combination of both legislative and executive powers in the hands of the same agency leads to tyranny. This is evident in the growing powers of the cabinet. Though there is an advantage of harmony between the legislature and the executive organs of the government, it has a serious drawback. The ministers are distracted from the executive duties in view of their legislative functions. The legislature also will be tempted to interfere in the executive work beyond the necessity.

4. Government by amateurs : Cabinet government is characterised as the government by amateurs. The minister as the head of the executive department may not be familiar even with the rudiments of administration. The ministers are selected by the Prime Minister on the basis of political considerations. Hence sometimes incompetent men assume offices. Sometimes talented persons are appointed to inappropriate departments. A major part of the time of the minister is devoted to parliamentary work, cabinet meeting, social contacts and public relations. Frequent changes of portfolios leave little scope for the ministers to acquire any administrative talent. Hence critics argue that the cabinet system is a government by the inefficient and incompetent men.

5. Lacks promptness and vigour : Cabinet government is considered most unsuitable in times of national crisis. Immediate action is impossible in times of emergency. It lacks promptness in action. Discussion in the cabinet and almost endless debates in the legislature take away the vigour and promptness of the administration. In spite of this criticism the cabinet system provided its efficacy even in times of emergencies in England. In modern times, cabinets are becoming too large for prompt decision. The ministers are not finding sufficient time to spare for serious thought on important issues. Much time is consumed by routine administrative work. The ministers are forced to rely immensely on the administrative services. Hence as Ramsay Muir said, bureaucracy is thriving under the cloak of ministerial responsibility. This situation needs correction in a welfare state. There should be greater accountability of the public officials to democratic agencies for his officials conduct.

19.3 PRESIDENTIAL FORM OF GOVERNMENT

In this form of government the executive is constitutionally independent of the legislature. Its tenure is fixed and it is not accountable to the legislature. The legislature and the executive are two distinct departments of government. The executive is not created by the legislature. The chief executive who is the President is the real executive. The secretaries of the various departments are appointed by the President. They are not the members of the legislature and they are subordinate to the President and are answerable to the President alone. The President and his secretaries neither attend the Congress nor initiate and pilot the legislation. The advice of the Cabinet under the Presidential system is not binding on the President unlike in the Parliamentary system. The President exercise his powers independent of the legislature. He will not depend on the legislature such as the Congress in U.S.A. for his continuance in office. The following can be mentioned as the chief characteristic of the Presidential form of government.

1. The chief executive is not merely the nominal head, but he is the real executive wielding all the powers conferred by the constitution. There is no distinction between the real and the titular executive.
2. The chief executive is elected for a fixed term. He cannot be removed from office except by impeachment.
3. The Secretaries are appointed by the President and are removed by him. They are the subordinates of the President and are independent of the legislature. A member of legislature cannot hold any executive office and vice-versa. There is complete separation of powers between the three branches of government.
4. The executive cannot dissolve the legislature in case of disagreement with it. The legislature would continue for its full term.
5. The President is the elected representative of the people. He is directly answerable to the people for his action as the chief executive.

19.3.1 MERITS OF PRESIDENTIAL SYSTEM

The advantage of the Presidential system generally correspond to the defects of the Cabinet type. However the following important advantages may be mentioned:

1. **Attention to the administration :** In the Presidential system the ministers or secretaries need not attend the legislature. They will have more time to spend for departmental duties. They can devote their full energy and attention to the administration of their departments. They have neither the problem of nursing their constituencies nor looking forward to their success in the next elections. Hence they can pursue the policies of the government without any fear or favour, unaffected by political considerations. Moreover the party spirit or considerations is less since the executive is not responsible to the legislature. The adverse vote in the legislature will not bring any crisis to the government unlike the parliamentary system. The theory of checks and balances also provide for more effectiveness in the administration.
2. **Government of talent :** The President need not be guided by political or party consideration in the appointment of the Secretaries who head the various administrative departments of the government. He can often appoint them on the basis of their expert knowledge in various fields. He may even appoint persons not belonging to his party. Democrat President John F. Kennedy requested Republican Mac Namara to continue in his Cabinet also. Under the Presidential system, the secretaries can plan their policies and pursue them vigorously in view of the definiteness of their term. They are accountable only to the President. This enables great continuity of policy.
3. **Suitability under diverse interests and culture :** It is argued that this system is the best suited for countries with diverse interests. Cabinet system may not prove helpful under those conditions. The multiple party system is the outcome of the different political and economic interests, habits, languages, religion and cultures. Cabinet governments are bound to be weak and unstable in such countries. The complexion of the legislature changes very often and cabinet system fails under those conditions. Presidential system offers stability of government and helps to promote national unity. Precisely for this reason, there are certain sections in India who are toying with the idea of presidential system for India.
4. **Retains the representative character :** Another great advantage of the presidential system is that though it is not responsible to the legislature, it retains the representative character because the President is elected by the people. Being an elected representative, he is ultimately responsible to the people, though not to the legislature. Irresponsible and autocratic conduct will surely bring ruin to himself as well as to his party at the next polls as evident in the case of Nixon in the U.S.A. In view of the fixed tenure of the President, there is greater continuity of policy and firmness in administration.

5. Prompt decisions and vigour in action : The President is not only the head of the state but also the chief executive. The entire executive authority rests with him. There is no scope for divided policy and action. Quick decision and prompt action are the advantages of this system. The President acts more effectively in foreign and defence matters. Woodrow Wilson and Franklin Roosevelt of U.S.A. proved the effectiveness of the Presidency in the two world wars. The President is the head of the nation while the Prime Minister in the Cabinet system is merely the leader of the majority party in the legislature. Hence the President carries greater dignity and authority. Though political parties are essential for the Presidential type also, legislature is less dominated by party spirit unlike in the cabinet system. The lack of regular political tangle in the legislature also increases the stature of the President who acts in the best national interests and the future of the nation.

19.3.2 DEMERITS OF THE PRESIDENTIAL SYSTEM

The defects of the Presidential system are the reverse of the advantages in the Parliamentary form. Critics of this system argue that the demerits of this system outweigh its merits. The following are the notable disadvantages of the Presidential system.

1. Rigid and unnatural division of the government : This system divides the government into water-tight compartments based on the theory of separation of powers. Such a rigid division affects the coordination among the organs of the government. It also creates undesirable friction between the legislature and the executive affecting the efficiency of the administration. Coordination and collaboration become almost impossible when the executive head belongs to one party and the legislative majority to another. Bryce says that the separation of powers has turned out in practice to be the forcible disjunction of things naturally connected.

2. Disharmony on legislative matters : Under the Presidential system the executive has no initiative in matters of legislation. Hence there is no coherence and coordination between the legislature and executive wings of the government. The theory of checks and balances is the negation of the theory of separation of powers. It is harmful to the efficiency of the administration. Dead locks between the legislature and the executive become inevitable under the Presidential system. Moreover it is very difficult to locate the responsibility for the misdeeds of the government under the system based on the principle of checks and balance. The President and the legislature may attempt to blame each other for the misdeeds especially when the president's party has no majority in the house. Besides that, the existence of multiple committees of the house leads to delay, confusion and working at cross-purposes. Presidential system depends on the cooperation of the Congress for following an effective foreign policy. Executive commitments may be turned down by the Congress Hence there are inconsistencies in the American foreign policy.

3. Autocratic and irresponsible : The critics of the Presidential system regard it autocratic, irresponsible and dangerous. The President is not subjected to the control of the elected representatives of the people. He is not accountable for his actions since the legislature has no constitutional check over the President.

4. Rigidity : This system is criticised for its rigidity. The Presidential system is inelastic. The government must be carried according to constitutional provisions even under extraordinary situations like war. Presidential election had to be conducted in U.S.A. even during World War II, while the elections were postponed in Britain by an act of the Parliament. Such postponement of election need an amendment to the rigid constitution of the U.S.A. On the other hand, cabinet system is elastic and flexible and it can be adjusted to any contingency.

19.4 PLURAL EXECUTIVE

The Swiss Executive is neither Presidential nor Parliamentary. But it combines some features of both. The members of the Swiss Executive attend the legislature, participate in discussions and also steer the bills through the legislature. But they do not participate in the

voting. The executive provides the necessary leadership and guidance to the legislature as in the case of cabinet type. But it has some similarities with the Presidential system. The members of the executive are not the members of the legislature. After the election to executive, they resign their membership of the legislature. Unlike the Cabinet system they do not resign if any measure introduced by them is defeated in the legislature. It continues in office till the expiry of its full term. It cannot be recommended for the dissolution of the lower house as in the case of Parliamentary system. Another distinctive feature is that the Swiss executives belong to different parties, and they are not chosen to the executive on the basis of party affiliations. Moreover, the executive is plural in character. All the members of the executive are equal. There is no collective responsibility of the cabinet. Hence this Swiss system works as a type by itself in Switzerland with the advantages of both Parliamentary and Presidential systems of government.

19.5 SUM UP

Government may be either parliamentary or presidential. Under parliamentary or cabinet system legislature and executive organs function in coordination. The Prime Minister as the leader of the majority party in the legislature is vital to the formation, and life of the legislature and the executive. The Cabinet is individually and collectively responsible to the legislature. Cabinet is formed from, and is responsible to the legislature. Under the presidential system the President wields all powers and is independent of the legislature and his tenure is fixed by the constitution. Parliamentary system ensures harmony between the Legislature and Executive. The parliamentary system provides scope to spot the talented leaders for shouldering greater political responsibilities. The Presidential system is more representative because the President is directly elected by the people and is responsible to the people. It is conducive for prompt and vigorous action. Swiss plural executive of Switzerland has the advantages of both parliamentary and presidential systems.

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19.6 SUGGESTED READINGS

J.P. Suda - Elements of Political Science

19.7 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Compare and contrast the Parliamentary and Presidential systems.
2. Explain how the plural executive of Switzerland is a combination of the merits of the both Parliamentary and Presidential forms.

II. Answer in about 10 lines.

1. What is the role of Prime Minister in a Cabinet form of Government?
2. Describe the main features of the Presidential form of Government.

UNIT-20 : UNITARY AND FEDERAL GOVERNMENTS

Contents

- 20.0 Objectives
- 20.1 Introduction
- 20.2 Unitary and Federal Governments
- 20.3 Methods of Evolution
- 20.4 Federation and Confederation
- 20.5 Merits and Demerits of Unitary Government
- 20.6 Future of Federalism
- 20.7 Sum up
- 20.8 Suggested Readings
- 20.9 Model Questions

20.0 OBJECTIVES

After going through this unit you will be able to:

- * explain the characteristic features of Federal and Unitary Governments.
- * describe the evolution of federalism
- * distinguish federation from confederation
- * evaluate the merits and demerits of federal and unitary forms of government, and
- * indicate the future of federalism.

20.1 INTRODUCTION

In this unit you will read about the unitary and federal governments, their features, merits and demerits. Modern governments are classified into Unitary and Federal on the basis of concentration or distribution of powers and on the relationship between central and local authorities.

20.2 UNITARY AND FEDERAL GOVERNMENTS

Modern governments are classified into unitary and federal on the basis of concentration or distribution of powers and on the relationship between the central and local authorities. In a unitary system, the entire governmental power is vested in a single central government by the constitution. The local authorities derive their power and authorities from that single central government. The existence of local authorities depends upon the central government. All powers are concentrated in one central government whose will and agents are totally powerful over the whole area. Britain, France, Italy, Holland and other countries in Europe and Asia have the unitary system of government. The central government may exercise all the powers by itself or it may create sub-divisions. The central government has the authority to fix the jurisdiction of the local government and also possesses the power to change them by means of ordinary legislative procedure. Such subdivisions have no original existence. The powers given to the subdivisions can be increased, diminished or withdrawn at the will of the central government. The power enjoyed by these subdivisions are at the instance of the central government, but

not by any constitutional guarantee. For example British India was divided into a number of provinces under the act of 1919. Such provinces had their own legislatures and judicial courts. But the powers exercised by them were derived from the Government of British India. The provincial governments were subject to the central government. They were not autonomous bodies. But this does not mean that the provinces or subunits did not enjoy any autonomy or real powers. The Act of 1919 authorised the provinces to legislate on provincial subjects. Britain allowed maximum autonomy to her local units though the parliament was powerful to legislate for determining the power of the local units. But in France the local governments completely depend upon the central government for their powers. It may be said that the unitary system is characterised by only one state and one government. Powers are not divided under the constitution between the central and local governments. There is only one source of power. (2) Unitary states are divided into units for administrative convenience. Certain specified powers and autonomy were given to local governments. But the creation of those units, their continuance and their powers depend upon the will of the central government which may enlarge or restrict the powers of the local government at its will. (3) The local government are the parts of the central government. They act as its agents for the purpose of local administration.

The word federation is derived from the latin word 'Foedus' which means treaty or agreement. Federation is the form of government in which the powers are distributed between the central and local authorities under the constitution. The federating units are sovereign in their allotted sphere. The local units are independent and autonomous and they are not subordinate to the central government. The central government can neither increase nor restrict the powers of the units. They derive their authority directly from the legislature. Each unit has its own district legislature, executive and judiciary, independent of the central government. There will be two exercising authority from two sources at the same time. Every citizen has to abide by the laws made by both the central and state governments. People also have to pay taxes both to the federal and local governments. People affirm their allegiance to both; the governments. Hence there is dual citizenship and dual loyalty. Some of the noted federations are the U.S.A, Switzerland, and Australia. Federal system has been adopted in India also under the new constitution of 1950.

20.3 METHODS OF EVOLUTION

A federal government comes into existence through centripetal or centrifugal forces. Sovereign and independent states may feel insecure due to the threat of a foreign aggression or due to economic insufficiency and voluntarily agree to units into a union as a result of the centripetal forces. Federalism has been created by the coming together of a number of small sovereign states with the object of establishing a common government for better unity and economic security as in the U.S.A., Switzerland. Such a federation comes into existence as a result of a treaty or agreement between independent states. Sovereign states surrender their sovereignty and agree to become the units in a federation under a Central government. These units are known by different names like cantons in Switzerland, states in U.S.A and provinces in India, as a result of the agreement, two levels of governments come into existence, central and regional governments. The central government is entrusted with those powers which concern the nation as a whole. Other matters of local interest are left to the jurisdiction of the regional governments. The powers are distributed between the centre and the regional governments on the basis of the constitution. But governments are equal and independent. They cannot encroach upon the jurisdiction of each other. Alternation of powers can be made only through a constitutional amendment. Sovereignty lies with the state, but not either with the centre or with regional governments. American federation came into existence in this way after the American War of Independence. A federation may come into existence due to centrifugal forces also. An unitary state may choose to divide its powers and thus create the regional governments and share powers with them and thus form the federation with two levels of government. The central government retains those subjects of national importance and transfers the other subjects to the units. Indian federation was thus formed under the Act of 1935 breaking up a unitary state into autonomous units. Hence it is evident that in a federal government powers are divided and distributed between the central government and the regional governments by the constitution.

Equality of status of the centre and the federating units is the essence of a federation. But it does not mean equality of power. The distribution of powers in a federation depends upon many factors.

In some federations, more powers are given to the centre like in India and in some, federating units enjoy greater powers like in U.S.A. But the federal principle as Prof. Wheare states it is "the method of dividing powers so that the general and regional governments are each within a sphere, co-ordinate and independent."

20.4 FEDERATION AND CONFEDERATION

The terms, federation and confederation are used with same meaning sometimes for example the Swiss constitution of 1874 is titled as Swiss Confederation. A confederation is an association of sovereign states formed for specific objectives. A central authority is established for achieving the common objectives under a confederation, but there is a fundamental difference between a federation and a confederation. The most significant difference is that the states which enter into a confederation retain their sovereignty and independence while the states entering into a federation, lose their sovereignty. A federation is created by a constitution based upon the consent of the people. On the other hand, confederation is the result of an agreement reached by sovereign states. In other words, a confederation is based upon the consent of a member states. Federation is permanent union and the right to withdraw from the union is considered illegal and irrational, while the confederating states may withdraw from the confederation at their will. In a federation, the units cannot modify the central government without a constitutional amendment, while the member-states in a confederation may widen or narrow the powers of the central authority. An armed conflict between the units in a federation is considered as a civil war and hostilities among the confederating units is an international war. A federation deals with the citizens of a federal state. But in a confederation, the central authority deals with member governments. Hence confederation is a union of states, but not of the people. In a confederation, every member-state has its own system and machinery of government. Every state has its own law and its own citizenship. Each state remains an international entity. Federation is permanent while a confederation is temporary. A federation creates one single sovereign authority, but in confederation there are many sovereign authorities as there are the members of sovereign countries which joint it.

Federal system is characterised by the following features.

1. Distribution of Powers : In a unitary system the entire area of the state forms one single unit. There will be only one integrated authority. The country may be divided into sub-units for administrative convenience, but their powers are granted by the central government. But in a federation, the units retain their individuality and the powers are divided by an agreement as incorporated in the constitution. The constitution defines the jurisdiction of the central and state governments which are independent within their sphere of authority. Equality of status for the units is ensured in a federation. Conflicts between the centre and the state governments and between one state and the other are resolved by an impartial federal court. There will be two sets of laws to be followed by the citizens as there are two levels of governments in a federation. There are two ways of distributing the powers. The constitution may enumerate the powers given to the union leaving the rest of the powers to the federating units. The residuary powers belong to the state. The other method is to restrict the powers of the federating units by specially mentioning them in the constitution and leave the residuary powers to the union government. The first method is intended to preserve the rights of the units as in U.S.A. The second method is followed to make the centre strong in relation to the unit as in Canada. In India, neither of the two methods are followed. The powers of both the central and state governments have been positively mentioned in the union and state lists in the constitution. Residuary powers are given to the centre. Generally the affairs which concern the country as a whole and require uniformity of regulation and administration throughout the country, such as are entrusted to the central government, defence, foreign affairs currency etc. Subjects which

require differential treatment due to varying conditions in different units in the country are entrusted to the care of the state government such as education, law and order, health and agriculture etc.

2) A Written Constitution : A federal government must necessarily have a written constitution. It defines the relation between the central government and the federating units. Prof. Wheare argues that if the government is to be federal, its constitution must be supreme and its distribution of powers is binding on the central and regional governments. The confidence of federating units depends upon specially written provisions of the constitution safeguarding their rights.

3) A rigid constitution : A federal constitution should be such that the centre or the legislature of the units cannot easily alter it under their ordinary lawmaking procedure. It affects the equality of status if the power to amend the constitution is exclusively given either to the centre or to the units such exclusive power to any one party in a federation, results in an invasion of the jurisdiction of one over the other. Hence the constitution in a federation, should be rigid. Rigidity of a federal constitution is essential to prevent hasty and ill-digested legislation affecting the balance in a federation. In a federation, the constitution amending process must be different from ordinary law making procedure. It must be distinct and all the parties in a federation should be involved in the amending process.

4) Federal judiciary : There is a paramount need for supreme judiciary with an authority to interpret the constitution. It decides disputes of jurisdiction between the central and the regional governments or between one regional government and another. It also ensures that different governments do not encroach upon the jurisdiction of other and confine to themselves their own authority. Independent and impartial judiciary alone can act as the guardian of the constitution. It interprets the constitution and holds the supremacy of the constitution. It declares invalid any law made by the centre or the state governments if it is contrary to the constitution. The independence of the judiciary is to be safeguarded by the constitution.

5) Desire to have a union : The desire to have a union and to work under a single independent government to achieve certain accepted objectives is the basis of a federation. The federating units must be bound by a sense of oneness and they must desire union rather than unity. Along with national unity, the units should maintain their individuality and autonomy. As Prof. Wheare has described, the group of states or committees must desire to be united, but not to be unitary. Similarity of social institutions, especially, political institutions produce the desire for union. Such political similarity leads to the adoption of the same form of government by all the units. Federalism can thrive more effectively under the democratic values and institutions like free election party system, freedom of expression, existence of opposition etc.

6) Feeling of homogeneity : Feeling of homogeneity is another cardinal basis of federalism. Common race, language, religion, nationality and above all political institutions create a feeling of identity of political interests. Effective leadership also may create an atmosphere for sound federalism as in the case of the U.S.A.

7) Geographical contiguity : The units of a federation must be geographically contiguous and they should not be separated from each other by distant spaces. The geographical closeness enhances the desire for union as the people are linked by the needs of common defence, and common political and economic aspirations. National unity is difficult to achieve when the people are too far apart. Pakistan failed to keep the eastern wing due to the lack of this geographical contiguity. Extreme divergencies and dissimilarities also make the working of federal system very difficult.

8) Equal in size: The working of the federal system will be greatly influenced by the size of its units. Wide differences in the size and population may create an impression that the units are not co-equal and larger units also may try to dominate the smaller ones. The domination may create suspicion and distrust among the units. Natural wealth also may not be equally available to all units in case of vast differences in their size. Though perfect equality in size may not be possible in the present times, the framers of the federation should see that no unit

shall be too large and none too small to protect the interest of all the areas in a federation. Equal representation to all the units in the central Legislature may promote harmony among the units.

9) **Adequate economic resources** The federating units should possess adequate economic resources to support both the central and regional governments. The regional governments should be left with adequate economic resources to carry out their own projects or else they will be financially dependent on the central government. Sometimes the federal units may feel that they are neglected in the allocation of resources and this may cause strains in a federal system. Uneven and disproportionate allocation of resources create frequent frictions and misunderstanding between the centre and the states in India.

20.5 MERITS AND DEMERITS OF UNITARY GOVERNMENT

The various advantages and disadvantages of the unitary system of government flow from the concentration of all powers at one centre. It achieves the uniformity of law, policy and administration throughout the country. Such a uniformity can help to bring about a unified and integrated governmental machinery. It creates a strong and stable government. The strength of the unitary state is best noticeable in foreign policy and national defence where uniform enforcement is highly desirable and essential. In a unitary state there is no conflict of authority and responsibility, no overlapping and duplication of functions and hence it can act very effectively in the fields of defence and foreign affairs. It exhibits promptness of decision and firmness of action. Administration under the unitary system can check more effectively the fissiparous tendencies and centrifugal forces and thus save the country from disruption. It has also the advantage of being simple in organisation and less expensive than the federal state. There is no duplication of political institution and governmental departments and services. The unitary system is not only simple, but also flexible. This system has been able to modify and adjust to the changing situation and the needs of the country. It has an undivided authority to restructure the internal organisation or distribution of powers among the units as the situation demands. A unitary system is the most suitable for a small country with a homogenous population as in the case of England.

The centralisation of authority in unitary system leads to certain grave disadvantages also. The most important defect of this system is the absence of strong provincial and regional institutions. Sound legislation is not possible in the absence of the knowledge of local needs and conditions. Local administration suffers from the delay in obtaining the necessary permission from the central authority. Looking after the provincial affairs places an additional burden on the central government and thus resulting in red tapism and bureaucratic administration. The other notable defect of the system is that it tends to suppress local initiative and discourages interest in local affairs. In modern times, the central governments have to tackle many national and international problems. They have neither the initiative nor the time to attend to the local problems. As such the development and the progress in the areas will suffer. To overcome this defect, the unitary system is recently adopting the decentralisation in the actual exercise of governmental power or conferring powers on local governments.

20.6 FUTURE OF FEDERALISM

The merits and defects of the federal system also flow from its chief characteristic, that is, distribution of the powers between the centre and the state governments. Federalism leaves the federating units free to legislate and administer as per their needs. It brings the people together under a common government whose political and economic interests are similar. It affords opportunity to small and weak states to unite into a powerful state without losing their independence and separate identity. Small independent states can be welded into the federal structure which brings them the advantage of union and also enjoy political autonomy. It is very valuable to big states with vast population with racial, cultural, linguistic and other diversities such as in India. It accomplishes unity in diversity. It provides an equilibrium between the centripetal and centrifugal forces. Federalism represents a kind of compromise between the

opposed principles of centralism and local autonomy. Hence Dicey described federalism as a political contrivance intended to reconcile national unity with the maintenance of state rights. Federalism makes for a uniformity of policy, legislation and administration when necessary, as well as providing diversity if needed. It also provides scope for political, social and economic experiments by the units. Moreover the right of the federating units to legislate upon and administer the affairs of the area, independent of the central authority, stimulates the interest of the people in the public affairs. Local independence generates the power of initiative on the part of the people in their concerned matters. It relieves the pressure of work on the central government and this enables the centre to devote its full attention to the national problems. Due to the decentralisation of power, federalism generates the sense of liberty in the people to train them in the art of self-government. Federalism prevents the rise of despotism, usurping the rights of the people. Abuse of power by the central authority can be checked by the vigilant federating units. Above all federal governments provide an excellent school for political education since federalism is generally based on democratic principles and values.

Federalism has certain disadvantages also. It is very difficult for the constitution framing authority to determine the manner in which the governmental power is to be distributed in a federal form of government. Though the distribution of powers may be satisfactory at the inception, changed conditions in course of time may demand alterations in the distribution of powers. This may lead to conflict regarding the jurisdiction of the governments. Federalism demands the supremacy of the constitution and the rigid distribution of powers. Any important change in the constitution has to be made with the consent of the governments concerned. It becomes difficult to get the desired amendments to the constitution since the amending process is cumbersome and difficult. Federalism is found to be weak in foreign affairs. The units of the union may place impediments in the way of the national government in executing the international treaties or obligations. When internal differences are carried into foreign relations, the national government loses its international image and prestige. Similarly, in the case of war, federal government may be found lacking firmness of action as the situation warrants. In the case of internal administration also, the federation is weak due to the division of powers. Uniformity of legislation and administration is impossible. Differences in the interests, may cause conflict with the central government or among the units. The various states may form into groups and defeat the purposes of the national government at the centre especially when different political parties come to power at the centre and the units. The complexity of the federal system, the duplication of governmental organisation and heavy costs of administration make this system costly and expensive. Moreover it involves waste of time and energy to secure the consent of the units and coordination among them. Lastly regional loyalties, conflict of economic interests, clash of political ideologies may lead to the danger of secession.

There are conflicting views on the future of federalism. According to some writers federalism is merely a transitional stage which ultimately gives way to the unitary system. They argue that there are certain inherent weaknesses like division of powers and divided allegiance in the federal system. The federal system is not very conducive to the fast development of a new country and as such they desire centralism. This tendency towards the unitary system was evident in many countries in the recent past, making the central government strong at the expense of the component units. On the other hand writers like Sidgwick felt that federalism has a bright future and it would be extended to many areas in the world. Newly independent African and Middle East states are going in for federations. Large countries like Russia, China and India have adopted federalism and the results are very encouraging. Unitary system is unthinkable for such vast countries with divergent problems and interests. Laski felt that federalism is the only adequate basis for the organisation of the state and society. Many statesmen of the world feel that the principle of federalism is the only remedy for all the international problems. World federalism is the only hope in the nuclear age.

Federalism paves the way for the adjustments of inter-state disputes reconciling the local autonomy with national unity. But federalism has to adopt and modify itself to the present needs and demands of the modern and rapidly changing situations. The concept of cooperative federation is gaining ground in recent times. It suggests that no developing society can advocate

a rigid division of power in the present context and support the federalism of the 18th century. As the economic planning tends towards unified authority, the urge for autonomy and freedom demands a happy blending of federal and unitary systems.

20.7 SUM UP

Modern governments are of two types-unitary and federal. If the powers are concentrated in a single central government, the system is said to be unitary. If the powers are distributed between the centre and the federating units, it is called federal. Federation may be formed by the independent states coming together under a common rule under a single central government or a centralised government creating the provincial governments and entrusting them with independent powers. In a confederation the states retain the sovereignty and independence while the federating units lose their sovereignty in a federation. Unitary government is suitable for a small state. But a vast country with diverse interests requires a federal system. Federalism is a political contrivance intended to reconcile the national unity with the maintenance of state rights. Unitary system is a simple and less expensive form which is made for the uniformity of law, policy and administration throughout the country. The future of federalism is promising because of the fact that modern states are variagated and also because political thinking is bending towards the formation a world federation.

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20.8 SUGGESTED READINGS

Ryce J.B. : Modern Governments..

20.9 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Discuss the main features of the unitary and federal forms of government.
2. Build up a case for federalism and indicate its future.

II. Answer in about 10 lines.

1. Bring out the essential characteristics of federation.
2. Distinguish between federation and confederation.

BLOCK V : ORGANS OF GOVERNMENT

UNIT-21: THE THEORY OF SEPARATION OF POWERS

Contents

- 21.0 Objectives
- 21.1 Introduction
- 21.2 Montesquieu's Contribution to the Theory
- 21.3 Application of Theory to the British and American Constitutions
- 21.4 Critical Evaluation
- 21.5 Sum up
- 21.6 Suggested Readings
- 21.7 Model questions

21.0 OBJECTIVES

After going through this unit you will be able to:

- * trace back the theory of separation of powers prior to Montesquieu.
- * explain Montesquieu's theory.
- * discuss the application of the theory to the Modern governments.
- * critically examine the relevance of the theory.

21.1 INTRODUCTION

In this unit you will study the main characteristics of the theory of separation of powers, the relevance of the theory in the modern constitutions and the drawbacks of the theory.

Government is the agency or the machinery through which the will of the State is formulated, expressed and realised. The organization of this government could be seen either territorially, that is, government at the national, provincial or regional and local levels; or functionally, that is, government acting through its legislative, judicial and executive organs. The theory of the separation of powers belongs to the functional distribution of powers. It seeks to answer the question as to what extent these powers should be combined in the same person or body of persons, or entrusted to these separate agencies which are coordinate and mutually independent.

The origins of this theory could be traced to the writings of Aristotle, the father of western political thought, who distinguished between the deliberative, executive and the judicial powers. But Aristotle did not go into details. He confined himself to a description of their personnel, organization and functions without suggesting their separation.

Bodin (1530–1596), one of the earliest thinkers of the modern period who emphasized the importance of separating executive and judicial powers. He insists that the Prince should not administer justice to himself, but should delegate this power to an independent tribunal. Otherwise, it will lead to the indiscriminate mixture of justice and mercy, of strict adherence to law and arbitrary departure from it.

John Locke (1632-1704), in his "Two Treatises of Civil Government", also dealt with the separation of powers. He distinguished them as legislative, executive and federative, the federative power related to the conduct of foreign affairs.

21.2 MONTESQUIEU'S CONTRIBUTION TO THE THEORY

The theory of separation of powers as a fundamental principle in politics was clearly formulated for the first time by Montesquieu, (1689-1755) the celebrated French writer, in his famous work 'The Spirit of Laws' in 1748. In propounding this theory, he was very much influenced by the conditions that existed in France and England during the 18th century. During that period Louis XIV, the ruler of France (1661-1715), enjoyed the absolute powers of the state after combining in himself legislative, judicial and executive. The people had no liberty under such an oppressive and despotic government. It was at this juncture that Montesquieu happened to visit England and was impressed by the liberty that was being enjoyed by the people there. Then he sought to find the causes of the liberty of the people in the United Kingdom and attributed it to the adherence to the principle of separation of powers. He felt that the fundamental principles of the English system of government was its clearcut distinction between the legislative, executive and judicial organs of the state. Though the separation of departments which Montesquieu extolled did not actually exist in England, and became even less distinct latter on, there was no doubt that it had provided him the necessary stimulus to promulgate the theory of separation of powers.

Montesquieu realised that it was in the nature of authority to abuse itself and that unless clear limitations were laid down, arbitrary rule would be inevitable. According to him, moderation in exercise of governmental authority was the essential requisite of a good government. In order to realise such moderation, he felt that, each power should be exercised by a different organ of government and among the various organs of government there should be a system of checks and balances so that one organ might not become all powerful. In his own words, "when the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty, because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, and execute them in a tyrannical manner. Again, there is no liberty if the judicial power is not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would be then, the legislator. Were it joined to the executive power, the judge might behave with violence and oppression. There would be an end of everything, were the same man or the body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the cases of individuals".

Thus in this way Montesquieu endeavours to establish that whoever has unrestrained power will abuse it. According to him, individual liberty will be endangered when the two organs of government are combined. If the legislative and executive powers are combined, there can be no liberty because the same agency acts as the maker and executor of laws. If the legislative and judicial functions are combined, the liberty of the people is jeopardised because the law makers will also become the interpreters and administrators of law. If the executive and the judicial organs are combined, the same agency is the prosecutor and interpreter of law with the result, liberty will be destroyed. If all the three powers are concentrated in a single hand, there would be 'an end of everything'.

There has been some controversy among the scholars of political science whether Montesquieu, the author of the theory, contemplated an absolute or only a limited separation of the three powers. The fact is that he did not mean that the three departments ought to have no control over the acts of each other. In his own words, "where the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of a free constitution are subverted".

Rightly interpreted, therefore, the theory of the separation of powers, merely means that a different body of person is to administer each of the three departments of government and that no one of them is to have a controlling power over either of the others. Such separation is necessary for the purpose of preserving the liberty of the individual and for avoiding tyranny.

21.3 APPLICATION OF THE THEORY TO THE BRITISH AND AMERICAN CONSTITUTIONS

The theory of separation of powers, as advocated by Montesquieu, exercised much influence and could be found in some form or the other in various constitutions enacted by the modern states. But in reality the absolute implementation of the principles is not feasible and as such there is not a single instance in which the three departments or powers have been kept totally separate and distinct. Instead, we can find some union and some separation in different constitutions.

Britain: In Britain where the parliamentary type of government is in vogue the system is based not on separation but fusion of power. The Cabinet, that is the executive wing of the government is chosen from the legislature that is Parliament, the ministers could participate in the proceedings of the parliament, initiate laws and have the power to issue statutory orders. The cabinet is empowered to recommend the dissolution of the House of Commons before the expiry of its normal term of five years. It can also recommend the creation of Peers in the House of Lords. On the other hand, the parliament, the legislative wing of the government has the power to terminate the term of the cabinet whenever it loses the confidence in it.

Further, the executive appoints the judges who could be removed by the crown on the basis of an 'address' presented by the legislature, that is parliament. The House of Lords, the second chamber of the British parliament is also the final court of appeal in the United Kingdom.

Yet there is some kind of separation of powers even in the British Constitution. The legislative power is vested in the parliament while the executive power is vested in the crown, and parliament never attempts to deprive it of any of its executive powers, nor takes to itself the function of administration. Likewise judiciary has been evolved as a distinct and independent branch of the government. Judges are appointed by the executive but are not liable to be dismissed by the same. Their salaries and emoluments are directly met by the Consolidated Fund and hence they are not subjected to the approval of the parliament.

U.S.A.: The doctrine of separation of powers had a profound influence upon the framers of the American Constitution, in whose hands the theory of checks and balances was designed. It is due to this that the three organs of the American Government, though separated, are connected with each other by the system of checks and balances.

The principle of separation of powers is clearly evident in the language of the American Constitution. While Article I of the American Constitution says that all legislative power is vested in the Congress, Article II made it clear that all executive power shall be vested in a President. According to Article III, the judicial power shall be vested in a Supreme Court and in such other inferior courts as Congress from time to time may ordain and establish. The Congress and the President are directly elected by the people for fixed terms. The President and his Cabinet colleagues do not sit in the Congress, nor initiate laws; and the Congress cannot be dissolved by the President before the expiry of its term. Further, the term of the judges is made independent of the executive.

There are a number of checks between the legislative, executive and the judicial organs of the state. The executive authority is with the President checked by the Congress and the Supreme Court. For example, all appointments of the chief officials and the treaties made by the President are subjected to senatorial confirmation. If the President is found guilty of misbehaviour, or violation of the constitution, he can be removed by the congress through the process of impeachment. Executive orders given by the President can be subjected to the power of judicial review. The president taking the oath of office in the presence of the Chief Justice to defend and protect the Constitution reveals the great moral check on his authority.

Likewise, the legislative power is vested in the Congress but is also under the check by the President and the Supreme Court. All bills passed by the congress must be approved by the

President. In case the President rejects a bill passed by the congress, the congress may over-ride the Presidential veto only by re-adopting the bill by two thirds majority. Then the federal courts with Supreme Court at the top may declare a law, in part or full as null and void, in case it is found to be against the constitution or the due process of law. Lastly, the supreme court is also under the checks of the President and the Congress. The judges are appointed by the President with the approval of the Senate. The Chief Justice taking the oath of his office in the presence of the President speaks of the great moral check on him. The congress is empowered to enact a bill to increase the strength of the judges or confer more jurisdiction on the court. In case of gross misbehaviour or violation of the constitution, a judge may be removed by the congress through the process of impeachment.

Thus even in the U.S.A. the principle of separation of powers is not found in its absolute form. A complete separation of the legislative, the executive and the judicial organs is not feasible in any modern constitution. Hence the separation of powers which is essential for ensuring liberty must be reconciled with the need for their mutual cooperation to ensure an efficient government.

21.4 CRITICAL EVALUATION

The main importance of the theory of separation of powers lies in the fact that for the first time Montesquieu made it clear that unless the power of the state is differentiated, the liberty of the people could not be ensured. It has emphasized the importance of an independent judiciary as the custodian of personal liberty. It laid down the cardinal principle that government should act according to certain well established rules or laws. Arbitrary and oppressive rule is a negation of good government. The theory admonishes the executive and the administrative wings of the government not to interfere with the processes of law and justice, so as to ensure the liberty of the individuals in the society.

In spite of the importance of the theory of separation of powers, it suffered from many short comings:

- 1) According to the theory of separation of powers, the three organs of the government must be kept separate so as to ensure the liberty of the individuals. But in reality the government is an organic whole whose three organs are integrally connected and in the interest of responsibility and efficiency they cannot be separated.
- 2) Legislative and the executive organs of the government cannot be separated as conceived by the theory of separation of powers. The law that the executive carries out the laws enacted by the legislature is true. But in making the legislation, the legislature must be directed and guided by the executive because it is the executive which supplies the necessary data and the information which forms the basis of legislation.
- 3) Historically, Montesquieu's doctrine of the separation of powers was based upon a misunderstanding and misinterpretation of the British system of government. Though the concept of cabinet responsibility was not fully developed as it is today, it was not entirely absent in the eighteenth century. When Montesquieu paid a visit to England, the ministers, though nominally subordinate to the king, knew that their tenure of office depended upon retaining the confidence of the Parliament. Thus, Montesquieu's version of the separation of powers was "not merely an anachronism" when he wrote but also impracticable even today.
- 4) Montesquieu felt that the separation of powers ensured the liberty of the individuals in the society. But in reality individual liberty can be protected even when there is no separation of powers as we find in Britain where the fusion of powers is the main theme of the parliamentary government. Real liberty depends upon political culture, institutions and a well-informed and vigilant electorate.

- 5) The theory also wrongly advocates that all the three organs of the state are equal. But in reality with the growth of democracy the responsibilities of the executive have become much more than those of the legislative and the judiciary.
- 6) Though the doctrine of the separation of powers contains valuable political principles, no government can be organized on the basis of complete separation of legislative, executive and judicial functions. In all modern states these departments are more or less related and inter dependent, and each exercises powers which belong to the others. For example, legislatures not only create laws that the courts apply, but in acting as courts of impeachment as in U.S.A. or as courts of final appeal as in U.K., they exercise powers that are properly judicial. Further, the enjoyment of the delegated legislation by the executive is a clear indication of the encroachment of the executive over the legislative functions of the state.
- 7) The separation of powers would also create frequent deadlocks as each department acting in defence of its own powers "would never lend its aid to the other and the consequent loss in efficiency would outweigh all the possible advantages arising from independence".

21.5 SUM UP

Thus the theory of separation of powers and of checks and balances in an extreme form is dangerous to a good government. Extreme separation of powers prevents unity and coordination necessary to administer the legally expressed will of the state. Extreme checks and balances create friction and deadlock that prevent a smooth and efficient government. The theory is valuable in the general sense that powers properly belonging to one organ ought not to be directly and completely administered by either of the other organs. Further, no organ should possess, directly or indirectly, an overriding influence over the others in the administration of their authority.

The theory of the separation of powers mainly deals with the functional distribution of the powers between the three organs of the government—legislative, executive and judiciary. According to it, if these three powers are concentrated in one individual or a group of individuals, it will lead to arbitrary rule. Hence, to ensure liberty to the individuals, these three powers must be vested in three separate branches of the government.

This theory was referred by Aristotle, Bodin and later by Locke. But it was Montesquieu, the celebrated French writer of the eighteenth century who elaborated it into a comprehensive theory. In doing so, he was very much influenced by the then existing conditions in France and the United Kingdom. Through its distribution of powers between the legislature, the executive and the judiciary, the British example inspired him to propound the theory. The arbitrary rule in France made him feel that unless the powers of the state were vested in three independent organs of the government, the liberty of the people could not be protected.

Montesquieu's theory of separation of powers exercised much influence in later times. It has been adopted by different states with minor changes. In U.S.A. it was designed as the system of 'checks and balances'. Thus legislative power is vested in the congress, the executive power is kept in the hands of the President, while the judicial power rests with the Supreme Court. But at the same time there are a number of checks between the legislative, the executive and the judicial organs of the state. For example, all the important appointments and the treaties made by the President should be approved by the Senate, the upper house of the American Congress. Likewise, all the bills passed by the Congress must be signed by the President and only then they become the laws of the state. The judges are appointed by the President with the consent of the Senate. The federal courts are empowered to declare a law as null and void, if it is against the constitution. Thus in any modern government a complete separation of the legislative, the executive and the judicial organs is not feasible.

However, the theory of separation of powers has its own value. It was to the credit of Montesquieu, that he made it clear that unless the power of the state is differentiated, the

liberty of the people would not be guaranteed. The theory has emphasized the importance of an independent judiciary and the autonomy of the different organs of the government. But in spite of its importance, it has been criticised for its over emphasis on the separation of the three organs of the government. It is also pointed out that for the proper functioning of the government, it is not separation but the co-operation and coordination among the different branches of the government that is important. Thus the theory of the separation of powers cannot be applied in its absolute form; in fact it is being followed in a modified form.

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21.6 SUGGESTED READINGS

1. F.W. Garner : Political Science and Government.

21.7 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Describe Montesquieu's contribution to the theory of separation of powers.
2. Critically examine Montesquieu's concept of the theory of separation of powers.

II. Answer in about 10 lines.

1. What is meant by the theory of separation of powers? Explain its main features or characteristics.
2. In which way did the theory of separation of powers form the basis of the American Constitution.
3. What do you mean by the theory of 'Checks and Balances'? What is its place in the American political system?

UNIT-22 : METHODS OF REPRESENTATION

Contents

- 22.0 Objectives
- 22.1 Introduction
- 22.2 Origin and Growth of Representation
- 22.3 The Electorate
- 22.4 Methods of Election
- 22.5 Methods of Voting
- 22.6 Various Methods of Representation
- 22.7 Sum Up
- 22.8 Suggested Readings
- 22.9 Model Questions

22.0 OBJECTIVES

After going through this unit you will be able to:

- * trace the origin and growth of representation
- * define the Electorate
- * describe methods of election and voting
- * list out various methods of voting and
- * analyse the importance of representation in modern governments

22.1 INTRODUCTION

In this Unit you will study the various methods of representation, through which the electors (voters) elect their representatives to the legislature.

Democracy is the government run by the people who are sovereign. It is of two kinds - direct and indirect. In direct democracy all people have the opportunity to participate in the making of the laws and the administration of the government. This type of democracy is possible only in very small communities such as the ancient Greek - city states. But such a kind of democracy is not feasible in modern times. Today's nation - states are large states with enormous territory and huge population. Consequently, the practice of electing some representatives periodically to the legislative assemblies came to be developed. The responsibility of making laws and supervising the administration of the government is entrusted to these legislative assemblies. Thus *indirect* or representative democracy has come into vogue in many countries in the modern times.

22.2 ORIGIN AND GROWTH OF REPRESENTATION

It is difficult to say when exactly when the system of representation originated. The general belief is that it originated in the Middle Ages as a device used by certain monastic orders. Similarly it was applied to councils called by kings for consultation on financial matters. The representatives, thus consulted by the king, had very little power or influence, though the very fact that consultation took place, was of tremendous significance. Since, the end of the thirteenth and the beginning of the fourteenth centuries, representative bodies like the Parliament in England, Estates General in France, Cortes in Spain, Diet in Germany etc., had come to play an

important role in the national affairs of their respective countries. However, these assemblies were in no sense popular. They only represented certain elements in the society, that is, the aristocracy, the feudal lords, the clergy etc., With the end of the Middle Ages, the assemblies received a setback in the hands of absolute monarchy. The Diet, the Cortes and the Estates General were gradually reduced to non-entities. It is only the English Parliament which could retain its control over national affairs, to a large extent.

The nineteenth century witnessed the gradual extension of the right to vote. This was greatly facilitated by the improvement in material conditions and the advance in popular education. In U. K. through several enactments (Acts of 1832, 1867, 1884, 1918 and 1928) the Parliament, especially the House of Commons had come to represent the people. In other countries the representative bodies were either created or electoral reforms carried out to champion the cause of democracy. According to Garner, "Perhaps the most remarkable phenomenon in the history of democracy in the past century has been the steady evolution of the suffrage from a narrow, frequently unequal, and indirect system to one which is now virtually universal, direct and equal. One restriction after another - religious, economic, racial and sexual, has disappeared before the rolling tide of democracy, until today few barriers remain".

22.3 THE ELECTORATE

The electorate is the base of a democratic government. All persons in a state do not enjoy the right to vote. The people who are endowed with the power of voting constitute a comparatively small section of the whole population and this constitutes the electorate of that country. Certain essential qualifications are laid down for franchise, that is, the voting right. No country gives the right of voting to minors, to persons of unsound mind and aliens. In some states, the women are not allowed to vote. Some other states prescribe property or educational qualifications for this purpose. However in the most highly advanced democracies, franchise is given to all the adults. The citizens who are entrusted with the right of voting to elect their representatives are called voters or electors. The entire body of voters or electors is called the electorate. The electorate elects the representatives, who form the government.

22.4 METHODS OF ELECTIONS

There are two methods of electing representatives: direct and indirect. In a direct election, the representatives are elected directly by the voters and not through any electoral college. The members of the Lok Sabha at the Centre and of the Legislative Assemblies in the states in India and the members of the House of Commons in U.K. are elected directly by the electorate. In an indirect election, voters do not directly participate in the election of their representatives. They only choose the members of an electoral college or an intermediary body which in turn elects the final representatives. In India, the members of the Rajya Sabha at the Centre and of the Legislative Councils in the States are elected indirectly.

The supporters of direct election consider direct election as the most democratic, as the system allows the electorate to participate directly in forming the government. Further, direct election stimulates greater public interest and thus promotes the political education of the electorate. Against this system, it is argued that if the people directly participate in electing their representatives, rational voting may not be possible by the wild ploy of popular passion.

Indirect election, it is argued, offers the only escape from the drawbacks of universal suffrage. The members of an electoral college are supposed to possess superior intelligence and political knowledge than an average voter in the street. Hence there is a greater possibility under indirect election to choose the right type of candidates. Further, when representatives are indirectly elected, popular passion is avoided. But in spite of these advantages, the system of indirect election does not find much favour. It is considered to be undemocratic and politically inexpedient. As a means of political education, indirect election is supposed to be inferior to direct election. Further it is argued that since the representatives are finally elected by a relatively small group, the system in most cases helps political corruption.

22.5 METHODS OF VOTING

Now let us briefly discuss the various types of voting.

(i) **Public and Secret Voting** : The voting could be exercised either publicly or secretly. Public voting was prevalent for sometime in Prussia, Denmark, and U.S.S.R. Reputed writers like Montesquieu and J.S.Mill justified it. Montesquieu even believed that public voting was a good method of educating the public. But in practice, public voting has been found to be much defective. It is quite unsuitable, when the electorate is large. Further it embarrasses the voter and endangers his life. Thus, the voter ultimately did not have any free choice at all. Hence, to ensure free and independent voting, secret voting became the universal practice.

(ii) **Plural and Weighted Voting** : In a democracy all citizens are given the same rights and privileges. Each individual has the right to cast only one vote. But in certain states the system of plural or weighted or differential voting is prevalent. The system of plural voting means that certain persons have more than one vote. For example in Belgium, plural suffrage was introduced in 1893. Votes were given on the basis of their education, property and professional qualifications. Thus an individual holding landed property worth at least 2000 francs, would get two votes. But, the total number of votes enjoyed by an individual must not be more than three. In Prussia and Britain the plural voting was in vogue for sometime but was abandoned subsequently.

The main argument in favour of plural voting rested on the idea that better qualified persons should be given weightage for their intelligence regarding the selection of public officials. Thus it was felt that votes should be 'weighted' and 'not counted'. But the practical defect in plural voting is the difficulty in prescribing a just and equitable standard of 'weighing' the votes. For example, to take property as the criterion is to base political rights on wealth which is clearly undemocratic. Plural voting, therefore, is fast disappearing in many states. Today, 'one man one vote' is virtually a universal practice.

22.6 VARIOUS METHODS OF REPRESENTATION

There are various methods of providing representation. They are:

(i) **Geographical Representation**: Geographical or territorial representation is the form widely prevalent in most of the states. According to this principle, the whole country is divided into territorial units, called constituencies, which elect one or more representatives to the legislature. Each territorial unit or constituency consists approximately of equal population. Where only one representative is elected from a constituency, it is known as a single member constituency, where more than one representative is elected from a constituency, it is known as multimember constituency. To make the system fair and equitable, the delimitation of these constituencies is necessary after every census. Further the function of redrawing the boundaries should be vested on an independent and nonpartisan body as in India.

Territorial or geographical representation has the advantage of being simple and practicable. In this system, the voter is required simply to cast his vote for one representative in a constituency. Secondly, as the experience shows, it provides for a stable majority in the legislature and thus ensures a strong and stable government. Thirdly, since the territory of a constituency is limited, it enables the voter to know his representative intimately. Further, the representative is also able to be in touch with the problems of his constituency.

Territorial representation suffers from certain disadvantages also. It denies effective representation to the majority of voters in a constituency. Irrespective of the number of contestants, one who tops the list is elected. Further, the disparity between the votes polled by a party, and the seats won by it, grows with the number of parties. Secondly, the territorial representation makes the representative a custodian of local interests. As such the representative

takes little care to advance the broad national interest. Thirdly, when the system provides for the election of only the residents of that constituency, it restricts the list of available candidates to the voter. Consequently inferior men are often chosen to the legislatures.

Proportional Representation

The system of proportional representation is conceived as an alternative to the single-member constituency system when there is no scope for the exact representation of the various sections of the electorate. Thus through this method, we can give representation to many sections of opinions and interests in the state, in proportion to the numerical strength of their votes. There are two types of proportional representation: (i) The Hare System or the single transferable vote system (ii) The List System.

The Hare System or the single transferable vote system was formulated in 1851 by Thomas Hare, an English man and then elaborated it in his book, 'Election of Representatives'. In 1855 Andrae, a minister, introduced the scheme in Denmark and hence it also came to be known as the Andrae System.

In this system the constituencies are multi-member with at least three seats. The voter has only one effective vote, but he marks out the order of his preferences. Accordingly, if three seats are to be filled and there are six contestants, the voter is to place against the three names the numbers 1, 2, 3, to express his preferences. When the ballots are counted for the first time, only the first choices of the voters are taken into consideration. In order to be elected the candidate requires a certain quota of votes. This quota is determined in the following manner:

$$\text{Quota} = \frac{\text{Total number of Votes polled}}{\text{Number of seats} + 1} + 1$$

This formula is also called as the 'Drop Formula'. In counting the votes only the first preferences are taken into account and a candidate securing the required quota is declared elected. If, in the first counting where only the first preferences are considered, no one gets the quota, then the candidate getting the least number of votes is eliminated from the race and his votes are distributed among the other candidates who is in the second preference category. This process goes on until the requisite number of candidates are elected. There is also another way of transferring the votes. If a candidate gets any surplus votes, the excess number of votes is divided proportionately among the others in accordance with the next preference. Thus this process of transferring surplus votes to the person of next preference continues down the list until the necessary number of representatives have been elected.

This method of proportional representation was followed in U.K. in the election of members to the four University Constituencies of the House of Commons. In South Africa it is used for Senatorial elections and in certain municipalities. In India it is adopted in the election of the President, the Vice-President, members of the Rajya Sabha and the Legislative Councils of states.

Another variant of proportional representation is the List System. It is of two types (i) the bound list and (ii) the free list. Under either type, every political party prepares a list of candidates for each constituency. The voter votes for the list he likes. The seats are divided among the political parties in proportion to the number of votes each list has secured. If it is a bound list, the political party itself will determine the order in which the names of its candidates are to be presented on the ballot. The voter is not allowed to express his own preferences for the candidates listed by the party. Whereas, in the free list system, the voter is allowed to indicate his own preference among his party's candidates. In some countries like Switzerland, the voter may even write the additional names of the contestants.

The merits of proportional representation are obvious. It ensures representation in proportion to the strength in voting. Thus the various minority parties and groups secure

representation in the legislature in proportion to their voting strength. It gives the minority parties a sense of security and political contentment. It develops civic interest, because this system of preferences, implies that the voter must give some time to consider the issues involved. Further, it does not permit 'gerrymandering', which is an inevitable result of the single-member constituency system.

In spite of these merits, it also contains certain defects. This system is very complicated, and the ordinary voter is unable to understand this difficult method and procedure. In a country with a vast electorate consisting of illiterate and ignorant people, it is difficult to implement this system. The system encourages centrifugal forces. Voters and the leaders are being encouraged to think in terms of sectional interests. It hardly helps forming the general will of the nation. Since every party is ensured of representation. People with vested interests may start new parties. The system of proportional representation requires multi-member constituencies with at least three seats. Hence there is little scope for personal contact between the voters and the representative. Besides, in a democracy bye-elections are like barometers of public opinion, but proportional representation provides no such barometers.

(iii) The Second Ballot System The second ballot system also tries to give representation to minorities. When there are only two contestants in an election for a single seat, one who secures simple majority is declared elected. But when there are more than two contestants, it may happen that the successful candidate may be elected by less than an absolute majority. To remedy this specific defect, the system of second ballot is adopted.

The second ballot system involves a second election immediately after the first. In this process, if in the first election, none of the candidates in a constituency gets an absolute majority, all the candidates below the top two are eliminated from the contest. Then a second election takes place in which the contestants are only the top two candidates. The votes secured by the two candidates in the two elections are totalled individually and one who gets the majority of votes will be declared elected. This system of voting was prevalent in France and Germany for sometime but was given up subsequently.

(iv) The Alternative or Contingent Vote System The alternative or Preferential or Contingent Vote System proposes only one election. Every voter is permitted to mark his preferences for the different candidates, indicating his first, second or third choices. If a candidate gets the absolute majority at the first preferences, he will be declared elected. Contrarily, if no candidate gets an absolute majority, the candidate getting the least number of first preferences is dropped out of the contest and his votes are distributed to the other candidates according to the second choice of the voters. Then the candidate securing an absolute majority after the redistribution of votes is declared elected. Even then, if no candidate secures an absolute majority, the process of eliminating the candidates from the bottom of the poll continues, till one gets an absolute majority.

(v) Functional Representation Another type of representation is functional. It is a protest against the system of territorial or geographic representation. Territorial representation is based on the assumption that people residing in the same area share common interests. But the supporters of functional representation feel that the people who belong to the same occupation and economic interest should be given representation. Their argument is that representation should be 'functional' and as such the individual can be more accurately represented on the basis of occupational or economic interests. Thus farmers, traders, teachers or manufacturers from different occupational groups having their own economic interests to protect or to put forward. A legislature representing such different occupational groups would be a proper forum where different interests would be projected and pleaded for.

In the U.S.S.R. functional representation has found expression through the Soviet system. A representative in the Soviet Union does not represent the district from which he happens to be elected. He represents a particular interest. In Italy, Mussolini had introduced the system of functional representation and the Senate was accordingly reorganised. In preindependent

British India, the principle of functional representation was adopted to a certain extent in the constituencies for landholders, labourers, teachers, etc.

However, the system of functional representation suffers from many drawbacks. The late professor Esmein criticised it as "an illusion and a false principle which would lead to struggles, confusion and even anarchy". In practice, it is difficult to identify the occupations that should be represented in the legislature. There are innumerable occupations in the society while there is no adequate provision to represent them. Besides, functional representation is inconsistent with the principle of national sovereignty. It makes the people to consider their particular interest first and ignore the national interest. Further the existence of various vocational groups may give rise to a number of political parties which in turn may make the government unstable.

It was mainly due to all these drawbacks that functional representation has been discarded. In its place the system of territorial representation which make the voters think of the problems as common citizens is generally preferred.

(iv) Minority Representation : Though democracy implies the government of the people, in reality it represents government of the majority. Hence the necessity to provide adequate representation to the minorities in the legislature, in order to protect their interests against the assault of the majority, has been recognised by political thinkers. Minorities may be of many kinds - political, national, racial, linguistic, religious or communal. Several methods have been evolved to give representation to such types of minorities. Proportional representation, which was already discussed is one important method among these methods.

(a) The Limited Vote System : This system requires multimember constituencies, and cannot work with single-member constituencies. According to it, each voter is allowed to vote only for a limited number of candidates, that is a number less than that of the seats to be filled. For example if there are six seats in a constituency, each voter may be allowed to cast only five votes or less. In this way minority parties may be able to get at least one or two seats from each constituency.

The limited vote system has been given a fair trial several times in Italy, U.K., Portugal and Japan, for election of their members to the lower chambers. However it is not being followed at present, as it did not prove successful.

(b) The Cumulative Vote System : The constituencies under this system also are of multi-member ones. The voter has the right to cast as many votes as there are seats to be filled by the constituency. But his votes may be distributed over several candidates or concentrated on only one candidate. Hence, the voters belonging to a minority party may elect their representatives by concentrating all their votes on him. This method is also popularly known as "plumping system". It has been tried in elections to school boards in U.K. and for electing local officers in some provinces of the U.S.A.

(c) Communal Representation : Communal representation was introduced in India during the British regime. it is of two types : (i) Separate electorates where the voters of each community vote separately for candidates of their own community, for example, the Hindus vote for Hindu candidates, the Muslims for Muslim candidates, and so on (ii) the reservation of seats in a joint electorate, that is, in a joint electorate seats may be reserved for a minority based on caste or religion. For example, under articles 330 and 332 of the Indian Constitution has provided for the reservation of seats for scheduled castes and scheduled tribes in the Lok Sabha and in the Legislative Assemblies for the states.

In spite of arguments in favour of communal representation, it suffers from a number of defects. It divides a country into various communal groups, which suspect and dislike one another. People get accustomed to thinking along the communal lines ignoring the national interests. Thus fissiparous tendencies may be encouraged.

(VII) Instructed Representation : Bentham and James Mill were ardent advocates of instructed representation. According to their theory, the representative is only a delegate to whom the voters will issue instructions. Thus the representative is only a mouth-piece of the constituency that elects him. From time to time, the representative should take orders from his constituency. He should conduct himself in the legislature according to the instructions given by his electorate. Whenever he goes contrary to the wishes of his voters, he can be recalled.

As a matter of fact, the issue of instructed representation lost much of its validity because of the modern party system. Today legislators are mostly spokesmen of their party. They have to act according to the programmes and policies stipulated by their respective parties. Thus instructed representation in a new form has emerged after leaving little freedom to the representatives.

Every democracy holds elections periodically to choose its representatives. Democratic government is run not by any particular individual or a class but by elected representatives of the people. Thus the people are able to participate in the governmental machinery through their representatives. The representatives are periodically elected by those people who have the right to vote. There are several methods and procedures to elect the representatives. Even the minorities are provided with several methods to give representation to them. Thus irrespective of the dominance by the majority, even the minorities are able to enjoy their 'due share' in the governance of the country. Thus democracy does not mean merely the majority government but it should seek the welfare of all the people in the society. To fulfil that objective all these methods of representation have been formulated.

22.7 SUM UP

Electing representatives periodically to the legislature is the main characteristic of representative democracy, which is in vogue in many countries today. Prior to the twentieth century, the right to participate in the election of the representatives was confined to a few sections of the people in the society. But in the twentieth century, the right to vote has been extended to include all citizens without any distinction of caste, class, sex or religion. The citizens who are empowered with the right to elect their representatives are called 'Voters' or 'electors'. The entire body of voters is called the Electorate. The Electors or the Voters elect their representatives either directly or indirectly, that is, through an electoral college. The voter exercises his vote either publicly or through secret ballot. It is by casting his vote that the voter elects his representative to the legislature.

Representation is the basis of representative democracy. It has different forms. It may be territorial (geographic), proportional or functional. Even the minorities - political, national, racial, linguistic, religious or communal - are provided with opportunities for representation to them. Minority representation includes the limited vote system, the cumulative vote system or communal vote system. Sometimes, the representation may be instructed representation which implies the representative should from time to time carry the instructions given by the voters of his constituency. It is through all these methods and procedures, that the voters elect their representatives who in turn form the government for the welfare of the people in the society. Representation forms the basis of democracy and the nature of democracy depends upon the nature of representation that the government provides.

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22.8 SUGGESTED READINGS

Substance of politics : Appa Dorai

22.9 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Write an essay on various methods of representation generally pursued by the democratic government today.
2. What is the meaning of proportional representation? Critically examine its merits and demerits
3. What are the various types of minority representation? Critically analyse their merits and demerits.

II. Answer in about 10 lines.

1. The Electorate
2. Geographical Representation
3. Functional Representation

BRAOU

UNIT-23 : UNICAMERALISM AND BICAMERALISM

Contents

- 23.0 Objectives
- 23.1 Introduction
- 23.2 Meaning of Unicameral and Bicameral Legislatures
- 23.3 Historical Development of the Bicameral System
- 23.4 Merits of the Unicameral Legislature
- 23.5 Defects of the Unicameral Legislature
- 23.6 Advantages of Bicameral Systems
- 23.7 Defects of the Bicameral Legislature
- 23.8 Recent Attempts to Curtail the Powers of Upper Chambers
- 23.9 Relations Between the Two Chambers
- 23.10 Sum Up
- 23.11 Suggested Reading
- 23.12 Model Questions

23.0 OBJECTIVES

After going through this Unit you will be able to:

- * explain the meaning of unicameral and bicameral legislature
- * trace the historical development of the bicameral system.
- * list out the merits and demerits of the unicameral legislature and bicameral legislature; and
- * analyse the relations between the two chambers.

23.1 INTRODUCTION

In this Unit you will identify the main differences between the Unicameral and Bicameral Legislature. Further, it also reveals the advantages and the defects that are associated with the respective systems of legislature.

23.2 MEANING OF UNICAMERAL AND BICAMERAL LEGISLATURES

The concepts of 'unicameralism' and 'bicameralism' are related to the organization of the legislature. If there is only one legislative assembly, then the system is called unicameral legislature. If the legislature consists of two houses or chambers, then it is called bicameral legislature. The system of unicameral legislature is prevalent in New Zealand, Denmark, Sweden, Greece, Turkey, Yugoslavia, Bulgaria, some Canadian provinces, some Swiss Cantons and some Indian states while bicameral legislature is in vogue in U.K., U.S.A., U.S.S.R., France, Switzerland, Australia, Canada and India.

The two houses or chambers in the bicameral legislature are called the Upper House and the Lower House. The Lower House is composed of the representatives directly elected by the people. It is usually the more powerful chamber of the two. It has the sole power to sanction the expenditure of the government or the levying of taxes. Further, in countries where parliamentary type of government is pursued, it exercises control over the actions and policies

of the ministers. Upper chambers commonly rest upon some basis other than that of direct popular election. Thus, some have a hereditary membership (the House of Lords in U.K.); some are nominated for life (the Senate of Canada and that of Italy before and during fascism); some are elected indirectly (the Senates of Ireland and of the Fifth French Republic and the United States' Senate prior to the adoption of the Seventeenth Amendment in 1913); while a few others are elected directly by the people (the Senate of Australia and that of U.S.A. after 1913). Further, the members of Upper houses are usually required to be older than representatives elected to the popular chambers (Lower Houses). In some countries (Canada) they must even own a minimum amount of property or they should belong to one of several specified functional categories, such as administrative officials, scholars, scientists, noted literary figures or large tax payers. In India the President nominates twelve members to the Rajya Sabha or the Upper House from those having special knowledge or practical experience in literature, science, art and social service.

23.3 HISTORICAL DEVELOPMENT OF THE BICAMERAL SYSTEM

The British Parliament, popularly called 'the mother of Parliaments' could be taken as the predecessor for the development of the 'bicameral legislature' in the modern times. However, the bicameral system in Britain was not planned but it arose as a product of historical evolution.

Traditionally, in England, there used to be a Council of Wisemen or Great Council, whose consent was necessary for the King levy new taxes. It was from this Great Council that the British Parliament was evolved in later times. In the initial stages, the Great Council used to be assembled as one single body. But in course of time it got separated into three groups representing the three classes or 'estates', into which society was divided. These were nobles, clergy and commons. Gradually, however, a new alignment took place. Having many interests in common and being accustomed to work together in the Great Council, the higher nobles and clergy came together as one body, the House of Lords. The lesser clergy, who felt their position awkward, stopped attending 'parliament'. The lesser barons found their interests identical with the knights and burgesses and formed the House of Commons. The members of the House of Lords attended in response to individual summons. Thus they represented the feudal principle of the representation of classes. The members of House of Commons attended in a representative capacity. Thus they paved the way for the modern principle of representation of localities. However, it was difficult to identify how and when exactly this arrangement took place. It was accidental and the result of social and economic circumstances prevailing in England during that time. By the end of the reign of Edward III, this bicameral organization seems to have been fully established. From then, the distinction between the two Houses became political.

The next country that adopted the bicameral legislature was the U.S.A. There was a little difference of opinion among the members of the Philadelphia Convention for creating a national legislature consisting of two houses the Senate and the House of Representatives. The main reason for this was the spirit of compromise, without which perhaps the Union would not have been a reality. The hitherto sovereign and independent states would not agree to join the federation unless their old status was preserved in one branch of the legislature, where they could be represented as constituent political units. On the other hand, the larger states would not agree to the new constitution, unless they were given appropriate representation in proportion to their numerical strength. Besides, there were also some economic reasons which compelled the framers of the American Constitution to pursue a bicameral legislature. The North, the more densely populated part of the country, was commercial in interest, while the South, the sparsely populated part, was agricultural. That was because the propertied class felt that the creation of Senate, would act as an effective check on the possible exploitation of the propertied classes by those less favourably situated. Further, the Fathers of the American Constitution had also entertained the fear of the majority rule. Hence they desired to set up the Senate as a conservative check on the turbulence of democracy.

But the creation of the bicameral legislature in the United States did not set a stage for its universal application. During the eighteenth and early part of the nineteenth centuries,

single-chambered (Unicameral) assemblies were looked upon with more favour than the bicameral system. In America, the unicameral system had an influential advocate in Benjamin Franklin. It was largely through his influence that the legislature of Pennsylvania under its first constitution was constructed on the unicameral principle. In England, at the same time, a unicameral parliament was advocated by Bentham. In France, at the time of the Revolution, the unicameral idea had many supporters and as such a single chamber legislature was provided for in the constitution of 1791 and 1793.

But soon the actual experience went against unicameralism. Hence countries which originally favoured a single chamber, ultimately in the light of their experience, chose to have two chambers. Unicameralism, unlike bicameralism could not strike deep roots. In France, two chambers were created in 1795 and were continued until 1848, when the single chamber system was again reverted to, though only for a brief interval. In the state of Pennsylvania also the one chamber system continued until 1800, when it was replaced by two chambers. Other countries, notably Spain, Portugal, Naples, Mexico and many others, all abandoned it, after trial, for the double-chambered system. In a few countries like Norway and Israel, the legislature even now is organised as a unicameral body.

The chief argument advanced in favour of the unicameral system was that it secured 'unity' instead of 'duality' in the organisation of the legislative branch of the government. Two or three chambers, it was argued, meant two or three sovereignties. Further, it was pointed out that in a democracy, a truly representative popularly elected body should not be subjected to checks and delays interposed by an upper chamber, elected or appointed. Deadlocks frequently occurred between the two chambers, especially where the upper chamber was aristocratic or conservative in composition. The division of legislative responsibility encouraged each house to blame the other for failures and delays.

23.4 MERITS OF UNICAMERAL LEGISLATURE

1. It is less expensive
2. It permits speedy action
3. Since there is only one chamber, it reduces duplication and confusion of responsibility within the legislative process
4. There is no hindrance to progressive legislation. It avoids obstruction of the will of the people as found in its most representative body.
5. A single-chambered body is more effective as a different to the growth of the power of the executive than a two-house legislature. A strong unicameral assembly is a better counter balance to the executive than a legislature composed of two comparatively weak chambers.

23.5 DEFECTS OF THE UNICAMERAL LEGISLATURE

1. Legislation may become hasty. In the name of progressive ideas, thoughtless and harmful measures may be introduced.
2. If a single chamber is kept in charge of legislation, there may not be the necessary moderation and giving a second thought to controversial legislative measures is not possible.
3. Tyranny of a single chamber is possible particularly when it is under the control of a single party having an overwhelming majority.
4. If there is only one chamber in legislature, there is every possibility that it will be exposed to the influence of the moment. It may be swayed by emotion, by passion or by influence of oratory. It is liable to a sudden excess of extravagance or of retrenchment.

23.6 ADVANTAGES OF THE BICAMERAL SYSTEM

1. Check on hasty legislation : Bicameral legislature serves as a check upon hasty, rash and ill-considered legislation. Usually the members of the upper house are superior to those of the lower one in age and experience. Hence the former can exercise a healthy check on the hasty impulses of the lower house. The members of the upper house are relatively conservative and their term is longer than that of the members of the lower house. The conservative outlook of the upper house is bound to act as a corrective measure on the radical outlook of the lower house. Further, bicameral legislature interposes delay between the introduction and final adoption of a measure and thus permits time for reflection and deliberation.

The members of the upper house, relatively speaking, have greater freedom of expression than those of the lower house, particularly, if the membership is by heredity or by nomination.

2. Prevents despotism of a single chamber : Bicameral legislature protects the individual against the despotism of a single chamber. The existence of a second chamber is thus a guarantee of liberty as well as, to some extent, a safeguard against tyranny. It is generally felt that there is a natural propensity on the part of legislative bodies to accumulate power into their hands, to absorb the powers of the executive and the judiciary, in short, to draw into their grasp the whole government of the state. Under such circumstances, the only effective barrier against this kind of oppressive tendency is to separate its operations against each other. That is why Lord Acton felt that the second chamber is "the essential security of freedom"

3. Representation of different interests : Bicameralism provides a convenient means of giving representation to different groups and interests, that is, minorities and vocational and professional interests. For example, in India, the President is empowered to nominate twelve persons, who are distinguished in science, literature, art and social services, from any field as members of the Rajya Sabha. A similar provision is made for nomination to the Legislative Councils, wherever they exist, in the states.

4. To relieve pressure on lower house : The Upper House can increase the efficiency of the government by lightening the burden of the lower house. In modern times, with the growing function of the state, legislation became numerous, complex and specialised. Consequently, there is so much rush of work that one chamber cannot have sufficient time to devote and to fully deliberate upon all measures. Each and every bill cannot be fully and leisurely discussed, as the rules of procedure impose a time restriction. Hence, the second chambers can conveniently give relief to the overburdened lower chambers.

5. Indispensable for Federation : Second chambers are indispensable for the States having a federal form of government because they will dispel the fears of the smaller and weaker nations that the prosperous and powerful units may dominate and take unfair advantages of the federation. Each chamber in a federation is useful in its own way. The lower house is elected on the basis of population and thus is a representative chamber of the people as a whole. Whereas the upper house represents the federated units and in several states the units are given equal representation in the upper chamber. Equality of representation is claimed to prevent the domination of the legislature by the bigger and more prosperous units. Thus bicameralism secures the spirit of compromise among different interests, as it did in the U.S.A., in the absence of which national unity would not have been possible.

23.7 DEFECTS OF THE BICAMERAL LEGISLATURE

1. A second chamber is superfluous: Many modern writers like Laski are against bicameralism. In their opinion, second chambers cannot serve as a check on the lower house. Since the latter represents the people, no power can check the will of the people, in a democracy. Further, it is argued that if a second chamber agrees with the lower house it is superfluous and if it disagrees, it is pernicious, because it may prevent popular representatives from carrying out the wishes of the people.

2. **It is expensive :** Bicameral system incurring a lot of expenditure in the form of salaries to the members and the maintenance of extra clerks and other employees, is a burden on the state economy.

3. **Divided responsibility :** The bicameral system, in contrast with the unicameral system is complicated and responsibility is divided. Division of responsibility means inaction and there by paralysing the will of the people. There is duplication of efforts as both chambers seek to perform the same kind of functions independently. Further, when both the chambers are popularly elected and possess equal powers, discord and division is inevitable.

4. **It becomes the home of vested interests :** Second chambers usually contain representatives of propertied classes and other vested interests. So they oppose all progressive measures. For example, in India before 1947, the Council of State, always supported all government measures against public opposition.

5. **A chamber without justification :** In most of the countries, the second chamber has continued to exist in a weak and crippled form. That is why it is unable to check any radical and hasty legislation by the lower house. In such a case, it is only an unnecessary burden and a superfluous and costly luxury, whose abolition will contribute to the good of the state.,

6. **Second chamber is reactionary and anti-democratic :** In many countries second chambers have proved citadels of reaction, retarding the forces of progress. Further, they are not elected directly by the people. Hence they cannot represent the interests of the people. They cannot understand the people or sympathise with them or think in terms of people's welfare. Such members can hardly do justice to the people. Their reactionary attitude in the upper house goes against all efforts to introduce liberal ideas and far-reaching reforms.

23.8 RECENT ATTEMPTS TO CURTAIL THE POWERS OF UPPER CHAMBERS

In recent times, there has been a tendency to curtail the powers of upper chambers and to reduce them to the role of mere revising and delaying bodies. This movement began with the British Parliament Act of 1911, which virtually took away from the House of Lords its power to defeat bills passed by the House of Commons. In consequence of this Act the upper chamber retains only the power to oppose legislation proposed by the lower house and to delay its enactment. But ultimately the later may override the House of Lords and make its will prevail. Thus, to a large extent, it may be said that the British Parliament is the House of Commons. In the same way, many a new constitution which have been drafted after the First World War, provide that the lower chambers may by an extraordinary majority override the upper chamber and make their own will prevail in respect to legislation, which they insist upon. In other words, the lower chambers are being vested with the superior powers over the upper house and thus making the later subservient to the commands of the lower house.

23.9 RELATIONS BETWEEN THE TWO CHAMBERS

In the states, where bicameralism is pursued as the basis of the organization of the legislature, there is a necessity to maintain cordial relations between the two chambers. They should cooperate with each other and set up healthy relationship. Otherwise, a constitutional crisis will take place in making the legislation. Infact, bicameralism presumes that the upper house should check hasty legislation without encroaching or competing with the powers of the lower house. Hence upper house should not be a replica of the lower.

In recent times, the possibility of upper chambers to enter into conflict with the lower house is almost lessened, as they have been curtailed of their powers, which they once enjoyed. The upper house should realise that the lower house is a popular chamber destined to play a more important part than itself in a democratic state. In view of these things of the following factors must be remembered in constituting the two chambers.

1. Different principles of organization : The two chambers must be organized differently. Or else, it will lead to duplication. Regarding the qualification of the members, method of election and tenure of office, there should be difference between the two houses.

2. Difference in powers and functions : If both the chambers are endowed with the same powers and functions, deadlocks are bound to be frequent. The lower chamber must be relatively vested with wider powers. Especially, in fiscal matters, it should have the upper hand.

3. Upper house should not be an impediment : In discharging its duties the upper house should not encroach or obstruct the powers and functions of the lower house. It must understand the significance of applying brakes at the right time, when the lower house goes too fast.

In spite of these measures, at times there is a possibility of deadlocks arising between the two chambers. In such case, the deadlocks could be avoided by following the rules and regulations incorporated in the constitution, by the spirit of tolerance and understanding or by going according to certain set conventions. Generally the upper houses cannot assert themselves in financial matters and give rise to a deadlock as they cannot introduce money bills or have any real control over the purse. Even if there is any conflict between the two chambers on non-financial issues, this could be resolved either through joint sessions of the two houses (India) or the lower house alone may be empowered to pass legislation according to a special procedure (U.K.) or through a special machinery conceived for this purpose (Ex :- Conference Committee in U.S.A.). Thus the scope for deadlocks is minimised.

In spite of the various defects, bicameralism has been generally acclaimed as the well established and essential feature of a representative democracy. If the upper chamber is contented to act as the house of review and reconsideration, it will pave the way for the enactment of an effective legislation which is essential for any government to fulfil its obligation. Further, bicameralism provides the necessary means to protect the interests of different sections of people and political entities. That is why most of the nations in the modern period are preferring bicameralism to unicameralism as the basis of their legislatures.

23.10 SUM UP

" Unicameralism" and " Bicameralism" deal with the organization of the legislature. Unicameral legislature consists of one single house while bicameral legislature contains two chambers. Bicameral legislature has its origin in U.K. and U.S.A. Later it was adopted by a number of states in the modern period. While unicameralism is based on popular sovereignty, bicameralism gives much importance to caution and provides a check on hasty legislation. Further, as against unicameralism, bicameral legislature curbs the despotism of the popular chamber and accommodates the interests of different groups and political entities. It also relieves the burden on the lower house. The bicameral legislature is best suited to federations because the upper house will safeguard the interests of the provinces while the lower house will represent the interests of the people. On the other hand, the critics attributed duplication, over expenditure and reactionary and anti-democratic features to bicameralism. They feel that the upper chamber is superfluous and has no justification for its existence. It makes the legislation complicated and confused. They even apprehend that there is a possibility of friction and deadlock between the two houses. But in spite of these valid criticisms, the upper chamber is still continued in many states after taking certain measures like different principles of organisation to the lower and the upper houses and making the lower house relatively more powerful. Even then, if deadlocks were to take place, special arrangements like joint sessions or conference committees are provided to resolve the conflict between the lower and the upper chambers.

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23.11 SUGGESTED READINGS

A.C. Kapoor - Principles of Political Science.

23.12 MODEL QUESTIONS

I. Answer in about 30 lines each.

1. What is meant by 'unicameral legislature'? In which way is unicameral legislature preferable to bicameral legislature.
2. Examine critically the advantages of the bicameral system

II. Answer in about 10 lines.

1. 'Bicameralism in Britain is the result of historical accident' Explain.
2. What are the various attempts that were made to curtail the powers of upper chambers in recent times?
3. What measures do you suggest to resolve the deadlocks between the upper and lower chambers in a democratic country?

BRAOU

Unit-24 : LEGISLATURE - FUNCTIONS

Contents

- 24.0 Objectives
- 24.1 Introduction
- 24.2 Importance and the role of legislature in modern governments
- 24.3 Powers and functions of the legislature
 - 24.3.1 Law-making
 - 24.3.2 Financial Control
 - 24.3.3 Constituent functions
 - 24.3.4 Electoral Functions
 - 24.3.5 Administrative Control
 - 24.3.6 Judicial Functions
 - 24.3.7 Ventilation of Grievances
 - 24.3.8 Miscellaneous Functions
- 24.4 Committee system
- 24.5 Causes for the Decline of legislature
- 24.6 Sum up
- 24.7 Suggested Readings
- 24.8 Model Questions

24.0 OBJECTIVES

After going through this unit you will be able to:

- * explain the importance and the role of legislature in modern governments,
- * enlist the powers and functions of the legislature,
- * discuss the role played by different committees in the legislature, and
- * describe the causes for the decline of legislature.

24.1 INTRODUCTION

In this unit we shall discuss the importance, the powers and the functions of the legislature in modern governments.

The functions of a modern government may be broadly classified into three-legislative, executive and judicial. The legislative function mainly deals with the making of laws. The executive function is concerned with the execution or administration of these laws. The judicial function is related to the interpretation of these laws and to punish law-breakers.

Corresponding to these functions there are three distinct organs of government-the legislature, the executive and the judiciary, each charged with the duty of carrying out one of these functions. The legislature makes laws. The executive enforces these laws, and sees that all people obey these laws. The judiciary interprets the laws and awards suitable punishments to the law-breakers.

24.2 IMPORTANCE AND THE ROLE OF LEGISLATURE IN MODERN GOVERNMENTS

Among the three branches, the legislature occupies a superior place. It formulates the will of the state, and the laws that it makes constitute the concrete expression of the sovereignty of the people. It provides a basis for the working of the executive and the judicial branches of the government. Unless the laws are made, the question of enforcing them or interpreting them does not arise. Thus the legislature could be considered as the most vital branch of the government.

Interestingly, law making was not the original function of the legislature. The earliest known legislature was the assembly in England. It used to be a council of wise men, whose consent was necessary to levy new taxes. In those days, law making was not an important function of government. Law was viewed as divine in origin, or as existing in longstanding customs and traditions. The kings were supposed to interpret the laws and apply them. All the functions of the government were concentrated in the king. Whenever the king was in need of money, he used to call the assembly and get his needs fulfilled. It was this assembly which gradually developed into the Great Council of the Kingdom, which finally developed into the first national legislature.

It was during the middle of the thirteenth century that the seeds of the representative legislature were sown in England. The king felt the necessity of providing representation to various classes in society to sanction him more money. This ultimately paved the way for the formation of House of Lords and House of Commons within the British legislature, that is, the Parliament. The House of Lords was composed of noblemen and the clergy, and thus represented the feudal interests. The House of Commons consists of the representatives of localities. The system of two houses of the legislature was evolved due to the economic and social circumstances and interests.

The term 'legislature' seems to imply the law making function of the body. But it was not its original or earliest function. The original function of the legislature was only to sanction money required by the government. The law making power was a matter of subsequent development. At first the meetings of these bodies were irregular and of short duration. But in course of time, the British Parliament was able to acquire the power not only of sanctioning the money required by the King, but also the power to sanction expenditure. This type of control over financial matters, gave the Parliament a lever which it used to strengthen its own position. Parliament demanded new laws to enhance its position, which were granted by the king in the form of statutes. Later, the Parliament itself formulated the statutes and presented them to the king for his assent. In later times, the king lost even his power to veto the laws enacted by the Parliament. As a result of this development, both the taxing power and the law making power passed into the hands of the national legislatures. Thus by nineteenth century, the British Parliament assumed sovereignty and became the central organ of the government in England. The position which the British Parliament has acquired through historical evolution, the legislatures in other countries have acquired through their written constitutions. Historical circumstances and the constitutional frameworks, that these countries have pursued, have led to a difference in the emphasis on certain functions of the legislatures in different countries. But in spite of the minor differences, the legislatures in different countries are able to enjoy a similar type of superior position in their respective governmental systems.

24.3 POWERS AND FUNCTIONS OF THE LEGISLATURE

The powers and functions of the legislature differ from state to state. They entirely depend upon the form of government. In Parliamentary democracies like Britain and India, the legislature has very wide powers and it is superior to the executive. The executive is responsible to the legislature for all its acts and ministers remain in office as long as they can retain its confidence. Further, the Parliament in Britain enjoys sovereign powers and as such it combines

the constitutional and the legislative powers in itself. It is competent to make and alter the constitution and at the same time make ordinary legislation.

On the other hand, in a presidential form of government as found in the U.S.A., the powers of the legislature are co-extensive with those of the executive, and the executive is not responsible to the legislature. In an autocracy or dictatorship, the powers of the legislature cannot be real, and it cannot act as a check on the powers of the ruler. At the most, the legislature is a consultative body.

Thus the functions of the legislature differ from one state to another on the basis of the nature of the government. However, the main functions of the legislature in a democratic form of government may be classified as follows:

24.3.1 LAW-MAKING

The foremost function of the legislature is to pass laws for the good governance of the country. In modern times legislation is the most important source of law. All new proposals are submitted to the legislature in the form of bills. If the legislature approves them, they are passed into laws. As the governments in modern times are based on the concept of the welfare state, the functions and activities of the state have enormously increased. Scientific and technological advances that took place in the society demand corresponding social adjustments. Hence, the legislature must be able to make those laws which are adoptable with the changing conditions of society and in harmony with the new social environments. Further, those laws which have become obsolete must be repealed and new ones substituted in their place. Thus making of laws, amending them and repealing them, when they become out of date, are the vital functions of the legislature.

Under a cabinet form of government, the executive will directly participate in the making of laws. Though the final authority to pass laws rests with the legislature, the public bills originate from the cabinet. But in a presidential system, the executive may not be able to participate directly in the legislative process, though it may exert its influence either through the presidential messages or through the members of Congress who belong to the President's party.

In U.K. the parliament is entrusted with absolute powers. Its legislative power is not limited by any power or authority. It is said that it can do everything except "changing a man into a woman and a woman into a man". But the legislatures of other countries do not enjoy such kinds of unlimited powers. Their powers are limited by the written constitutions. Hence they have to make legislation within the jurisdiction stipulated by the constitution. For example, in India the parliament can make a law on subjects in the Union List. But it cannot legislate on matters related to the State List, except under special circumstances permitted by the constitution.

24.3.2 FINANCIAL CONTROL

Another important function of the legislature is its financial control over the government. It discusses and approves the budget of the government. In simple terms, a budget is the nation's annual statement of accounts which contains both the estimates of financial expenditure and anticipated revenues. Thus a democratic government cannot raise or spend money without the consent of the legislature. Questions of finance are freely discussed by members of the legislature. Government can act in the financial sphere only with the approval of the legislature. All items of expenditure to be incurred in different departments are submitted to the legislature for its approval. It is also the final authority to determine the way in which the revenues of the government are to be raised. Taxes are levied by the government with its approval. Thus it controls the purse of the government.

It is through financial control that the legislature is able to exercise supervision and control over the policy of the government and its administration. Further, it is on the basis of this power, that the legislature is able to regulate the domestic as well as the foreign policies of the government.

24.3.3 CONSTITUENT FUNCTIONS

Legislatures have also constituent functions to perform. In many states, the legislature can amend the constitution of the state. In U.K. the parliament possesses this power, but in some other countries, the legislature enjoys such a constituent power under a number of procedural restrictions. In the U.S.A., two thirds of the Congress or a national convention called by the Congress at the request of the legislatures of two-thirds of the states can propose to amend the constitution.

In India, either house of parliament can make a proposal for amending the constitution. But this must be passed by each house by a majority of its membership and by a two-thirds majority of the members present and voting. In certain cases, such proposals must also be ratified by one-half of the state legislatures.

24.3.4 ELECTORAL FUNCTIONS

In many countries, the legislatures not only elect their own officers, but they may also elect the members of executive. In countries with a parliamentary type of government, members of the legislature, particularly of the popular house, elect the leader who becomes the Prime Minister, and he forms his Cabinet. The titular head in such countries is usually elected by the members of the legislature. In India, the Lok Sabha elects the Prime Minister while the elected members of both Houses of the Parliament form a part of electoral college for the election of the President. In the U.S.A., the election of the President and the Vice-President is normally made on the basis of direct popular election, but if the decision is not arrived at by absolute majority, then the President's election will be decided by the House of Representatives (lower house) and that of the Vice-President by the Senate (upper house). In U.S.S.R. and Switzerland the members of the executive are elected by the members of the legislature.

24.3.5 ADMINISTRATIVE CONTROL

One of the most important functions of the legislature is to exercise administrative control. The executive in a democracy cannot act arbitrarily, rather it has to function according to the wishes of the legislature. Thus the legislature exercises a healthy and effective control over the executive. This is particularly true in a parliamentary type of government where the executive will continue in power so long as it enjoys the confidence of the legislature. Whenever the executive loses the confidence of the legislature, automatically it has to resign from its office immediately. By asking questions and supplementary questions and by moving motions of adjournment, the legislature will cross-examine the ministers on the floor of the house. In such cases, the executive must be able to explain and justify all its policies.

Even in a Presidential type of government as in the U.S.A., the will of the legislature must be respected. For this purpose the Senate, the Upper House of the Congress, is vested with certain administrative powers. Through these powers the Senate is able to exercise a real check on the American President. The Senate shares with the President the power of making all federal appointments. Further, all treaties negotiated and concluded by the President are subjected to the approval of the Senate. The Senate has also the power of investigation into various administrative scandals and cases of corruption which enables the legislature to supervise and control administration in great detail. The congress is also empowered to impeach the President on the basis of charges of corruption. Thus through all these means the legislatures in the modern governments are able to exercise effective administrative control over the executives.

24.3.6 JUDICIAL FUNCTIONS

The legislature in every country is also entrusted with certain judicial functions. In the bicameral system, generally the upper house performs these functions. In, U.K. the House of Lords functions as the highest court of appeal. In U.S.A., the senate sits as a court of impeachment for the trial of the president and the vice-President, while the charges of impeachment are initiated by the House of Representatives. In India, either the Lok Sabha or

the Rajya Sabha can bring charges against the president for impeachment. When the Lok Sabha frames the charges, the Rajya Sabha investigates them, and when the latter prefers charges, the former investigates them.

24.3.7 VENTILATION OF GRIEVANCES

Another important function of the legislature is to ventilate the grievances of the people and to scrutinise the acts of administration with that objective. Parliament is regarded as 'the nation's Committee of Grievances and its Congress of Opinions'. Thus an important function of the legislator is to convey the grievances and the aspirations of the people to the policy makers. He has also to see that these grievances are rectified and the aspirations fulfilled.

24.3.8 MISCELLANEOUS FUNCTIONS

The legislatures also perform certain miscellaneous functions. The legislature is competent to appoint commissions of inquiry relating to agriculture and industry or to find out the causes of social or political unrest, violence etc. These commissions of inquiry collect information and may suggest remedial measures to the problems.

In India, the judges of the Supreme Court and of the High Court can be removed on the ground of proven misbehaviour, when a resolution to that effect is passed by two-thirds majority in each house. In Britain, judges can be removed by the joint address of both Houses of Parliament to the Crown. Judges in the United States can be removed by impeachment.

24.4 COMMITTEE SYSTEM

The work done by modern legislatures, as we have just seen, is not only varied but considerable in volume, though the time at their disposal is limited. The large size of the modern legislatures often comprising of five to six hundred members combined with the rules of procedure often makes systematic deliberations and effective decision making on matters that come before the house, difficult and time-consuming. Therefore, legislatures everywhere, both in the parliamentary and presidential forms of government, transact a good deal of their business in committees of the House.

Legislative committees are technically groups of members of the legislative body. They are charged with carrying out preparatory or investigatory work on some issue or with dealing with matters of detail under broad lines agreed upon by the whole body. Thus the committee lacks independence and is responsible to the legislature which set it up. However, though the decision of a legislative committee regarding any bill is not binding upon the legislature, in practice, a bill rejected by appropriate committee will never be enacted into law.

The practice of appointing committees to assist the legislature in its deliberations is as old as the Parliamentary system itself. In the fourteenth century, the British Parliament began the practice of selecting committees to draft the legislative acts. While the committee system is thus an old practice in Britain, in the U.S.A also where a presidential form of government exists, committees are highly effective and developed.

In India there is a well-knit committee system which is to a large extent akin to the British pattern. Parliamentary committees in India are appointed or elected by the respective houses following a motion made to that effect or are nominated by their presiding officers. These committees may be broadly classified into three groups. The are committees of general nature concerned mainly with the organisation and powers of the house, such as the committees on rules, privileges, absence of members, Business Advisory Committee etc. In the second group a committee which assist the house in its legislative functions. This category includes select committees, of either house and joint select committees of the two houses set up on adhoc basis for the consideration of important bills. In the last group are committees which act as parliament's watchdogs over the executive. The watchdog committees are the Committee of Subordinate Legislation, Committee on Government Assurances, the public

Accounts Committee, the Estimates Committee, Committee on Public Undertakings. The last three of these committees play an important role in exercising a check over government expenditure.

The main justification for committee work in legislatures everywhere is the speedy, efficient and expeditious disposal of legislative work. This is possible because of the following reasons.

1) A smaller group can meet frequently and deliberate more efficiently than a large unwieldy organisation.

The procedure of deliberation in a committee is more flexible and informal. The formal rules of procedure present in a full house are absent and the members are allowed to express their views freely and frankly without any restriction on debate.

2) A committee can work more efficiently because it is removed from the pressure of other business and prejudices of debate. The members can devote more time on the subject to arrive at a balanced judgement which would be difficult to reach in a large meeting and limited time.

3) Members with a specialised knowledge on a particular subject could be constituted as a committee by the legislature. This enables the legislature to make better use of expert knowledge in making the legislation. Further, committees can invite evidence from experts who are not members of the legislature.

4) Investigations and enquiries on a particular subject are better done by a committee than by a large house as a whole. For instance, the Committee on Government Assurances, in the Lok Sabha, takes upon itself the task of pursuing with the government the question of the implementation of the various assurances given by the ministers on the floor of the House. Given the growing volume of delegated legislation the enormous volume of estimates and expenditure, the large number of possible executive lapses in various matters and fields, the executive cannot be controlled by individual members on the floor of the House. Committees are therefore better suited to perform this watchdog role of the legislature.

5) The system of committees also provides representation to all the political parties in the legislature.

Thus, the main purpose of establishing the various committees is to ensure speedy legislation and to put a bill to a thorough examination, inviting evidence from experts, if necessary. However, committee system has some drawbacks. Since different legislative proposals are dealt with by different committees there is less scope for consistency and cohesion among the different bills sponsored by different committees and hence ultimately in the laws passed by the legislature. Secondly, committee system destroys the unity of the House as a legislature body. Often the members interest centres around the committees than in the deliberations of the House. Thirdly, committee system throws powers in the hands of the committee rather than retaining it in the legislature. Some of the committees, especially, those dealing with finance have wide powers and its members often act as a second set of ministers in the government. The power of interrogation vested in such committees is not necessarily accompanied by proper responsibility because it is largely exercised in secret. Fourthly, committees are said to be amenable to corruption, and external influences because they are composed of a small number of members and because there is less scope for public scrutiny on the activities of these committees, since there is a wide variety and volume of work before the legislatures.

24.5 CAUSES FOR THE DECLINE OF LEGISLATURES IN MODERN TIMES

Legislatures have enjoyed enormous influence and prestige during the nineteenth century. But in recent times, it is well known that their importance has considerably declined. Several factors have contributed to the steady decline in the powers and prestige of legislatures all over the world.

i) The change that took place in the relative importance of the legislature and executive in the recent past is mainly responsible for reducing the importance of the legislature. Due to the acceptance of the ideal of welfare state, the powers and functions of the executive have tremendously increased at the expense of the legislature.

ii) All over the world, legislatures are overburdened with the programmes of legislation and as such they are compelled to pass laws only in a skeleton form. The executive has to support it with detailed rules within the framework of the basic law. Thus legislative power is delegated to the executive, and this has led to the decline of legislature.

iii) The business of the government, including that of the legislature, has become so vast and complex that ordinary members of the legislature cannot adequately comprehend it or deal with it. Hence the legislature is depending upon the executive leadership to deal with such kind of varied problems that are faced by the modern governments. This has enhanced importance of the executive vis-avis the legislature.

iv) In modern times, planning has become a very important activity in the functioning of the government. Hence the legislature is compelled to give more and more powers to the executive to draft plans and to implement them.

v) The extension of the governmental activities brought the citizens into contact with administration to a greater extent than before and the task of dealing with public complaints and grievances is much more than the members of the legislature can adequately cope with. Thus the people are dealing directly with the executive to redress their grievances. As a consequence, the role of the legislature has suffered a decline.

vi) In a parliamentary type of government, the executive, which enjoys the full support of the legislature can exercise enormous powers, at times even in a dictatorial manner. This also has led to the lessening of the importance of the legislature.

The legislature occupies an important place in the organisation of the government. It represents the wishes and the demands of the people that are to be fulfilled by the state. Though, in recent times, its importance has relatively declined, it is still considered as the form where the problems of the people are discussed freely. It is here that the remedies to these problems can be sorted out. The executive should respect the views expressed by the legislature, and legislature makes the executive responsive and responsible to the wishes of the people.

24.6 SUM UP

Legislature is an important organ of the government. It is on the basis of the laws made by the legislature that the other organs of the government-executive and judiciary-perform their functions. Thus in a democratic government, it occupies a superior place when compared to the other organs of the government.

It is the legislature which is entrusted with the power of making laws, amending the constitution, controlling and supervising the administrative wing of the government. Further, it exercises financial control over the government. Without its consent no democratic government will be able to raise or spend the revenues of the state. The government expenditure is incurred only on the lines stipulated by the legislature. Through this power the legislature is able to control not only the domestic policy but also the foreign policy of the government. In a parliamentary type of government, the executive is almost subordinate to the legislature and will continue in office as long as it enjoys the confidence of the legislature. Thus the executive must be responsive and responsible to the legislature, and through it to the people. In a presidential type of government as found in U.S.A, the legislature shares the power of appointing the high officials of the state and it has to ratify the treaties concluded by the President. The legislature also enjoys the privilege of electing the members of the executive in many countries. In a parliamentary type of government the leader of the popular house acts as the Prime Minister.

The titular head in such countries, is usually elected by the members of the legislature. In U.S.A. the President and the Vice-President are directly elected by the people, but if the decision is not arrived at by absolute majority, then the President's election is decided by the House of Representatives (lower house). Further, the legislature is also empowered to remove the members of the executive if necessary. In U.S.A. and India, the President can be removed through the process of impeachment as stipulated in the constitutions. In a parliamentary system, the head of the government (Prime Minister) can be removed from office whenever he or she loses the confidence of the popular house. Thus, the legislature is entrusted with enormous powers in the modern governments.

But inspite of all these powers, it is felt that the position of the legislature is declining in recent times due to several causes. The acceptance of the concept of welfare state, delegated legislation and planning are some of the important factors contributing for the increase of the importance of the executive at the cost of the legislature. The political parties and the complex and complicated nature of the governmental activity are also contributing their share to the decline of the legislature.

Author: Mr.LDOSAGIRI RAO

24.7 SUGGESTED READINGS

A.C. Kapoor : Principles of Political Science.

24.8 MODEL QUESTIONS

I. Answer in about 30 lines

1. Describe the functions of the legislature.
2. What are the causes for the decline in the importance of the legislature? Discuss.

II. Answer in about 10 lines.

1. How did the legislature acquire the power of law making in modern times ?
2. 'Law-making is the most important function of the legislature' Discuss.
3. How do you justify the superior position of the legislature in democratic government?

UNIT-25 : EXECUTIVE

Contents

- 25.0 Objectives
- 25.1 Introduction
- 25.2 Meaning of the Term Executive
 - 25.2.1 Nominal and Real Executives
 - 25.2.2 Single and Plural Executive
- 25.3 Methods of Choosing the Chief Executive
- 25.4 Powers and Functions of the Executive
- 25.5 Meaning and Significance of Delegated Legislation
- 25.6 Increase in the Powers of Executive - Causes
- 25.7 Sum Up
- 25.8 Suggested Readings
- 25.9 Model Questions

25.0 OBJECTIVES

After going through this Unit you will be able to.

- * analyse the meaning of the term Executive and its different types,
- * explain the methods of choosing the Chief Executive,
- * describe the powers and functions of the Executive,
- * discuss the meaning and significance of Delegated Legislature, and
- * Bring out the causes for the increase in the powers of the Executive.

25.1 INTRODUCTION

In this unit we shall discuss the various types of executive and important functions entrusted to it. Causes responsible for the importance of the executive in recent times are also analysed.

The executive is the second main branch of the government. While the legislature formulates the will of the people and makes laws, the executive enforces them. In reality, the executive performs many functions, besides executing the laws. Finer felt that the executive is the "residuary legatee in the government after the other claimants like the parliaments and the law courts have taken their share". Because of its extensive powers and functions, the ordinary people tend to identify the government with the executive, though government also includes the legislature and the judiciary.

25.2 MEANING OF THE TERM 'EXECUTIVE'

The term 'executive' is used in two senses. In the broad sense, it means the whole body of ministers, of the civil service, of the police and even of the armed forces. In this wide sense, the term executive "is the aggregate or totality of all the functionaries of agencies which are concerned with the execution of the will of the state as that will has been formulated and expressed in terms of law". Secondly, it is customary to use the term in its narrow sense which refers only to the chief executive head of the state and his advisers and ministers. In this sense, the executive in India implies the President of the Indian Union and all Ministers headed by the

Prime Minister. This part is also called as the 'political executive'. Thus the political executive consists of very few persons who come to office on the support of the people through elections. They are either responsible to the legislature for their policies and actions or depend upon the legislature for support to their policies. It is the primary duty of this part of executive to formulate policy and to see that it is properly implemented. The policy implementation function is the job of the permanent civil servants who actually run the various departments of the government. The civil, service, known as the permanent executive, includes all people in administration from top to bottom and is known as administration or bureaucracy. We shall now study the various types of executive.

25.2.1 REAL AND NOMINAL EXECUTIVE

The executive is often distinguished as the nominal and the real or between the titular and the actual. The executive, which exercises real power is the real executive, whereas the executive which has nominal power, that is, power only on paper is the nominal executive. The distinction between the nominal and the real executive came into existence along with the parliamentary type of government. In this type of government there is a nominal executive, the Head of State, while the actual powers rest with the Ministers (Cabinet). Thus in U.K. where the Queen or the king is the nominal executive, the Cabinet is the real executive. The nominal or the titular executive serves as a symbol of national unity, performing certain ceremonial functions of the State. Further, the nominal executive provides stability, continuity and tradition without enjoying any real powers. The real powers are exercised by the Prime Minister and his cabinet. But in a Presidential type of government, as in the U.S.A., the real executive and the nominal executive are combined in the single office of the President.

25.2.2 SINGLE AND PLURAL EXECUTIVE

The executive may be distinguished on the basis of the number of people who exercise the executive power. A single executive is one in which ultimate executive authority is enjoyed by one single individual. But in a plural executive it is vested in two or more individuals. The American President is an example of a single executive, where all executive authority is subordinate to the President. The President of the Supreme Soviet in the USSR and the Federal Council in Switzerland are the best examples for plural executives where members of these bodies share power. In a sense the Cabinet form of government vests the executive power in a body of ministers, but the prominence of the Prime Minister prevents this system from being a plural type of executive.

In Switzerland, the executive power is vested in a commission of seven men known as the Bundesrat or the Federal Council. The Federal Council is chosen every four years by the Federal Assembly and one of its members is annually elected to serve as its chairman and is designated as President. The office of the President rotates among the members of the Federal Council on the basis of seniority. The President is in no way superior to the other members of the Federal Council. He holds an office of dignity and enjoys some precedence over his colleagues. All decisions emanate from the Federal Council as a single authority and all are equally responsible for the exercise of the executive authority of the state.

The single and the plural executives have their own advantages and disadvantages. If power is concentrated in one person, quick and effective decisions are possible, but that person may develop autocratic tendencies. On the other hand, if the power is shared by a group of individuals, there is some difficulty in achieving unity among the members. Thus plural executive cannot act vigorously and promptly, since much time may be wasted in prolonged discussions. It may not always be able to give proper direction and leadership to government. The responsibility for acts of omission and commission may not be vested in any single individual.

However, experience shows that the single executive is far better than the plural executive, though the plural executive is successful in Switzerland. Its success there is mainly due to certain customs and traditions of the Swiss people that are not found in other countries.

25.3 METHODS OF CHOOSING THE CHIEF EXECUTIVE

Generally five different methods of choosing the chief executive are followed in practice. They are:

- (i) The hereditary principle
- (ii) Direct popular election
- (iii) Indirect election by a body of electors chosen for that purpose.
- (iv) Election by the legislature
- (v) Nomination

25.4 POWERS AND FUNCTIONS OF THE EXECUTIVE

A distinction is often made between the political and the administrative functions of the executive. The political functions deal with the determination of questions of general policy, both external and internal. The administrative function includes the mass of business details which modern government organizes in its departments, how it selects its officials and directs and supervises their work. The executive functions of the executive heads are the following :

(i) Administrative Functions : Administrative function means the execution of the laws and the administration of the government. As head of the internal administration of the state, the executive directs and supervises the execution of the laws. For this purpose he possesses the power to appoint, direct and remove his subordinates. In many states appointments made by the executive are to be ratified by one or other of the two Houses. In the United States, they require ratification by the Senate, but the President alone has the power of dismissal.

As for the power of direction it varies in extent in different countries, and in the same state, it often varies with different officials. In countries where the monarchical tradition has persisted, the power of the executive (ministry) is very great. In the U.S.A. the president's power of direction is often restricted by legislative acts. He has, however, the power to issue instructions and orders to the heads of departments. In U.K., the permanent civil service works in close contact with the ministry.

In administering the laws, the executive frequently issues ordinances for the purpose of supplementing or filling in the details of general laws. This is done in the form of decrees, orders, proclamations or rules and regulations. In some states, the executive is given an extraordinary power to issue ordinances during an emergency.

(ii) Diplomatic Functions : The diplomatic function of the executive relates to the conduct of foreign relations. It includes the right to conclude treaties and agreements with foreign states, appointing diplomatic representatives and participating in international forums like the United Nations. The power to receive foreign representatives is generally held to include the power to recognise or refuse the independence of foreign states and their governments.

Treaties and other international agreements are generally concluded by the executive along or sometimes with the assent of the legislature or one of its houses. In order to secure secrecy and promptness of decision, the legislature is kept out of the negotiations, at least in the early stages. In U.K., even today, the treaty making power is largely in the hands of executive. The executive both negotiates and concludes the treaties. In U.S.A., certain categories of international agreements, such as reciprocal trade agreements, may be concluded by the President himself, but other treaties, should be ratified by the Senate. In Switzerland, a provision has been made for a popular referendum on all treaties of more than fifteen years' duration.

(iii) Military Functions : The executive head is usually the commander-in-chief of the military forces of the state. As such he appoints and dismisses officers, disposes of the armed

forces of the state and directs campaigns. In countries with a monarchical tradition like England, the military power of the executive includes even the right to declare war. In U.S.A., the Congress alone is empowered to declare war, but the President, through his control over foreign relations, may bring about a condition of affairs that makes war inevitable. In times of war, the executive exercises enormous powers. He may establish martial law and suspend the constitutional rights of the citizens. He can expand the authority of government on the grounds of military necessity.

(iv) Legislative Functions : The legislative functions of the executive vary with the form of government that prevails in the state. In parliamentary type of government, the executive has the power to summon, open, adjourn and prorogue sessions of the legislature. But this power of the executive is restricted in a presidential type of government, where regular session of the legislature meet automatically. In a parliamentary type of government, the executive has the power to dissolve the legislature and call for fresh elections. But this power is not vested in the executive in a presidential system of government.

All bills passed by the legislature must receive the assent of the chief executive in order to become laws. The executive has the discretion either to assent or veto the bills passed by the legislature. But, this veto power has become absolute in a parliamentary type of government. For example, in India, the President can withhold his assent to a bill. But in such a case, he has to send it back to the Parliament with his message. If the Parliament passes it again either with or without amendments, the President must give his assent to it. In U.S.A., the President's veto can be negatived only by a two thirds majority of the Congress, Thus it is a potent instrument in his hands, because two-thirds majority in Congress is difficult to secure. The President can also exercise the 'pocketveto' in U.S.A.,

In most modern states the executive has the power of delegated legislation. The legislature gives only the broad outlines of laws, as it is overburdened with legislative work. The details are to be filled in by the executive according to the power delegated to it by the legislature. Delegated legislation puts wide discretionary powers in the legislative field in the hands of the executive.

(v) Financial Functions : The executive has also financial functions and it enjoys vast powers like raising revenues and spending them. The governments have to spend enormous funds on their multifarious activities. Hence their expenditure is met by taxing the people and tapping other sources of income. This is an executive function as such it is entrusted to the Finance Department or to the Treasury. The Finance Department, in turn, prepares the budget and allocates money to different departments. It also regulates and controls their expenditure through audit. Of course, all these functions of the executive, should be performed with the consent of the legislature.

(vi) Judicial Functions : Apart from the power of making judicial appointments, the executive is entrusted with the power to reprove or pardon criminals on appropriate grounds. Further, the executive is also entitled to grant amnesty to persons who have taken part in revolutionary movements. The purpose of giving the power to pardon is to enable the executive to exercise clemency where there is reasonable doubt that there has been miscarriage of justice. In U.K., this power is exercised by the Crown on the advice of the Home Secretary. In U.S.A., the President has the power to pardon before as well after conviction. In India, the President is empowered to grant pardons, reprieves or remissions of punishment.

(vii) Miscellaneous Functions : The functions enumerated above are generally considered to be the essential functions of the executive. Apart from these, the executive has to perform a number of other welfare functions such as providing educational facilities to the people, expanding transport and communication facilities, promoting commerce and trade and maintaining law and order in the state. As a matter of fact, it is not possible to circumscribe the functions of the executive in the government. Thus the importance of the executive is fast increasing and it seems likely that the immediate future will be marked by a further expansion of the powers and functions of the executive and administrative branches of the governments.

25.5 MEANING AND SIGNIFICANCE OF DELEGATED LEGISLATION

In recent years, there has been an enormous increase in the powers and functions of the executive owing to delegated legislation. Delegated legislation refers to the law-making power conferred by the legislature on the executive. Hence, it is also known as legislation by the executive. Since the exercise of this law-making is only a derivative and not the original power, it is also called as 'subordinate legislation'.

Need for Delegated Legislation : Delegated legislation becomes inevitable in the modern state, for the following reasons:

1. Excessive work of the legislatures
2. Complex and technical nature of problems
3. Need for administrative flexibility or discretion
4. Necessity to meet unforeseen contingencies.

The modern concept of 'welfare state' has enormously increased the functions of the state. The legislature is unable to make all detailed laws and rules regarding the various welfare programmes undertaken by the government. Hence it is compelled to delegate power to the executive to make laws. The legislature gives only a bare outline of laws, and the details are to be supplemented by the executive. But these details must be consistent and strictly within the broad frame-work of the laws passed by the legislature.

Advantages of Delegated Legislation : The advantages of delegated legislation could be stated as follows:

1. Delegated legislation saves the time of the legislature, without undermining its overall responsibility. Since the legislature need not go into minute details of the legislation it can concentrate on important issues of the state.
2. It is conducive to flexibility. Since the executive is entrusted with the job of supplementing the details of the laws, it will be able to fill the gaps in such a way that the laws would be capable of meeting the needs of the changing times.
3. It allows discretion to the officials to deal with exigencies of the situation by issuing the necessary rules and regulations.
4. Delegated legislation provides scope for the proper utilisation of the expert knowledge. Legislature is generally composed of laymen who have no expert knowledge to decide the minute details of the legislation. Hence, the officials, who have acquired this expert knowledge on the basis of their experience, should be allowed to fill the gaps left by the legislature.

Disadvantages of Delegated Legislation

1. Delegated legislation puts too much power into the hands of the executive which may be dangerous to the liberty of the individual.
2. Policy determination is the main responsibility of the legislature. But sometimes, even this power may be delegated to the executive, and this is objectionable.
3. Inadequate scrutiny of the rules and regulations by the legislature may lead to executive despotism. The principles of democracy state that the executive must be controlled by the legislature. But delegated legislation may pave the way to a control of the legislature by the executive.

Delegated legislation may be considered a necessary evil. It is necessary because legislature by itself may not be able to enact detailed legislation on all kinds of subjects. It is also an

evil because it gives undue importance to the executive and is open to abuse in the absence of proper safeguards and vigilance. However, delegated legislation is on the increase in scope, volume and importance in the modern governments.

25.6 INCREASE IN THE POWERS OF EXECUTIVE - CAUSES

In modern times, the importance and the scope of the executive branch have been steadily increasing. The confidence which the people had in representative legislatures in the nineteenth century is now replaced in the executive. The following factors are responsible for the rapid increase in the powers and function of the executive in the recent times:

1. The concept of Welfare state : The concept of the welfare state in modern times has given wide powers to the executive. In states wedded to the concept of social welfare, legislation pertaining to social and economic reforms has enormously strengthened the hands of the executive.

2. Delegated Legislation : Delegated Legislation has also contributed a lot to the increase in the importance of the executive. Legislature provides broad outlines of legislation and empowers the executive to make detailed by-laws, rules and regulations.

3. Legislature Overburdened : In almost every state, the legislature is so overburdened, that it is able to exercise only nominal control over the executive. Due to lack of time and expert knowledge, the legislatures are unable to discuss the minute details of administration. Thus the executive is able to enjoy enormous discretionary powers in performing its functions.

4. Political Parties : The rise of well organised political parties in all states with different political systems has also contributed to the increase of the powers of the executive. For example, in a parliamentary democracy, an executive which is able to muster the support of the majority party can assume dictatorial powers.

5. Planning : Today almost every state has resorted to planning on a massive scale. As the executive has to draft plans and implement them, it must be vested with wide powers.

Thus, in the modern governments the executive enjoy enormous powers and influence. While in the nineteenth century, people used to talk about the supremacy of the legislature, today people are in favour of an expansion of the executive power. Though, theoretically, the supremacy rests with the legislature, in effect and in practice, it is the executive which is all important.

25.7 SUM UP

The executive branch is the most important organ of government. No state can exist without the executive. The term executive can be understood in two ways, Broadly, it implies all officials, high and low, and all departments concerned with the execution of law. But in the narrow sense, the executive means only the chief executive. It is customary to use the term 'executive' only in the latter sense.

There are various types of executives. In some states the executive enjoys only nominal powers while in some states his powers are real. In some states, the executive powers rests with a single individual, while in some other states, it may be shared among different individuals. There are different methods and procedures of choosing the executive. They include the hereditary principle, direct popular election, indirect election, election by the legislature and rarely through nomination.

The powers and functions of the executive, vary from one state to another on the basis of the form of government. However, in all states, irrespective of the form of government, the executive has been entrusted with those powers which are essential for the proper functioning of the government. Thus the chief executive is mainly responsible for the execution of laws, and has

to maintain law and order, establish and maintain cordial relations with other states and prepare the budget. Further, he is also entrusted with the power to commute sentences of convicts or to grant pardon on grounds of humanitarian considerations. Due to all these functions and the delegated legislation, the importance of the executive has enormously increased. The concept of the welfare state, political parties, and planning have also contributed their share to increase and enhance the importance of the executive.

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25.8 SUGGESTED READINGS

1. A.C. Kapoor - Principles of Political Science

25.9 MODEL QUESTIONS

I. Answer in about 30 lines

- (i) What are the powers and functions of the executive in modern government?
- (ii) What is delegated legislation? Enumerate the advantages and disadvantages of the delegated legislation.

II. Answer in about 10 lines

- (i) What are the administrative functions of the executive?
- (ii) In which way is the executive encroaching upon the powers of the legislature?
- (iii) What are the various factors that contribute to the increase in the importance of the executive in modern times?

UNIT-26 : JUDICIARY - FUNCTIONS

Contents

- 26.0 Objectives
- 26.1 Introduction
- 26.2 The Meaning of the Judiciary
- 26.3 Functions of the Judiciary
- 26.4 Role of the Judiciary
- 26.5 Judiciary and Executive
- 26.6 Judiciary and Legislature
- 26.7 Sum Up
- 26.8 Suggested Readings
- 26.9 Model Questions

26.0 OBJECTIVES

After going through this unit you will be able to :

- * explain the meaning and functions of the judiciary,
- * describe the role of the judiciary, and
- * analyse the relationship between judiciary, executive and legislature.

26.1 INTRODUCTION

Judiciary is the third important organ of the government. In this unit we will study the meaning of judiciary, its functions, and its role in the modern times. The close relationships between the judiciary and the executive, the judiciary and the legislature are also analysed.

26.2 THE MEANING OF THE JUDICIARY

The third important organ of the government is the judiciary. The Judiciary interprets laws and applies them in individual cases. In ancient times the king was regarded as the fountain of justice. He combined in himself all the three functions of the government. Later it was realised that justice could not be secured if the judicial and executive functions were not separated. The necessity of separating the three departments of the government to ensure greater liberty for the people, has already been discussed in the earlier unit.

Though judiciary is the third in the order of sequence, its importance is not a secondary one. The moral character of the state is to be found in its dispensation of speedy justice. The citizens' welfare greatly depends upon the speedy and impartial justice. In the words of Lord Bryce, there is no better test of the excellence of a government than the efficiency of its judicial system.

Judiciary of a state may be defined as a body of officials whose function is to apply laws to individual cases. One of the primary objectives for which the state exists is to create and protect individual rights. But a mere declaration of rights and the safeguards in the constitution and law enactment is not enough. In addition, there must be an agency vested with authority to determine what law is, and how to protect it when it is violated. This agency is known as the judiciary. Judiciary is the guardian of the rights of the people, it protects them from all individual

and public encroachments. A citizen can challenge any act of the executive or the legislature if he doubts its legality. Adequate provision for the administration of justice is regarded as a better guarantee for the freedom of the individual. In fact the judiciary decides "the area of freedom" that the citizens can enjoy within the political system.

The judiciary primarily interprets the law. It decides the disputes between individuals or between individuals and the state in accordance with the law. When a dispute concerns the individuals and associations it is considered a civil case. In such cases, judiciary determines the true position of the disputing parties in accordance with law and gives appropriate judgements. When the government launches a case against an individual for some criminal act, it is a criminal case. In the criminal cases the judiciary decides the guilt committed by the individual and punishes him according to the law. Thus judiciary deals with two main types of disputes namely civil and criminal.

The judiciary does not act on its own. It has to be moved by the aggrieved party or the government. It does not initiate any social reform. But while interpreting the laws, the judiciary accepts or circumscribes the scope of the states policy decisions. It has both a negative and positive role to play in the state. It prevents unconstitutional and illegal actions. It "helps social evolution by interpreting traditional concepts in such a way as to make them relevant to the changing conditions of the society".

Having understood the importance of the judiciary in a state, it is necessary for us to know the requisites of the judiciary to perform its functions properly. Judiciary being a body of officials, the persons in the judiciary should be well versed in law. It is also necessary that such officials are impartial and objective while deciding cases. The judges should not be persons who fall a prey easily to any temptation or susceptible to any influence. In every country, in order to keep the judiciary independent and impartial, certain measures are adopted. The measures adopted for upholding the independence of the judiciary will be discussed in the next unit.

Organisation

The judiciary is not organised on the same lines as the legislature and executive. Courts all over the world are organised in an ascending order, one above another with a right to appeal from the lower to the higher courts. The territorial jurisdiction of a court and the authority of a judge goes on rising an ascending order, right up to the highest court in the land. Uniformity in interpretation and application of law is secured throughout the country. The function of the court of appeal is to satisfy itself that the law is being interpreted substantially in the same fashion by all the courts. The vital question regarding the interpretation of the constitution and important questions of law are resolved by the highest court of the land. The judicial decisions of the higher courts are regularly published and these constitute a major authoritative source of law.

26.3 FUNCTIONS OF THE JUDICIARY

Administration of justice is the chief function of the judiciary besides several other subsidiary functions. Judiciary is an independent agency of the state vested with the power of determining and interpreting law.

On the presentation of a dispute, the court collects all the facts relating to the dispute. In majority of cases coming before the courts, the law involved is clear and judgement are awarded accordingly. In these cases the courts follow the recognised procedure in which parties involved in the case produce evidence. Evidence may be oral or written and the judge will arrive at a decision on the basis of the evidence presented by the parties, and applies the relevant law to it. He does not go into the quality of the law but simply applies the existing law to the ascertained facts. This clarifies the meaning of the law.

In some cases, it may happen that the existing law may be ambiguous and it may be difficult to determine its exact meaning. The existing laws may be inconsistent with each other and

doubts may arise as to which law should govern a particular case. Here, the courts perform an important function of determining what the law is, and its scope and meaning. In all such cases the judges weigh the merits of the case, and decide on the basis of principles of justice, equity and commonsense. The term equity means equality, fairness or justice. "Equity is an informal method of making new law or altering an old law, depending on its intrinsic fairness or equality of treatment". Equity is intended to provide relief where the existing law affords none. While doing so, they formulate certain precedents to be applied and followed by others in similar cases. A legal principle resolved in a judgement of the court is deemed to be a controlling force in similar kind of cases which arise thereafter. A judge while interpreting the law, acts in a quasi- legislative capacity and evolves a principle of law. All such principles of law are called judge-made laws. Thus, the judiciary, not only acts as an interpreter of existing law but also acts as a law maker. In every judicial system a large volume of law is made by the judges while deciding the cases.

The judiciary acts as the interpreter of the constitution in the countries which are governed by a written constitution. While interpreting the meaning of the constitution, the judiciary may check the constitutional validity of the laws passed by the legislature and the actions of the executive. The laws which are contrary to the provisions of the constitution will be declared by the judiciary as null and void. A consequence of this function is that the judiciary acts as a guardian of the rights guaranteed to the citizens. Courts perform the function of preventing infractions of law and the violation of rights. The courts issue appropriate orders or writs to protect the rights of the individuals.

Judiciary also acts as the guardian of the federal constitution. The federal constitution delimits the jurisdiction of various branches of government. Since the powers of the government are divided between the Centre and the States, conflicts are likely to arise between various branches of the government. This necessitates the presence of an agency entrusted with the function of deciding whether the ordinary legislature has not violated the constitutional provisions. The judiciary in a federation performs the functions of balancing the various agencies in accordance with the constitution.

In some countries judiciary also performs certain advisory functions. The constitution of India confers on the President, the power to refer to the Supreme Court, any question of law or fact which in his opinion is of public importance. Some of the American states impose a duty on their judiciary to give advisory opinion on legislative proposals. Besides these, the judiciary to give advisory opinion on legislative proposals. Besides these, the judiciary may also perform a variety of miscellaneous functions. They are not of a judicial nature, in the case of determination of the ownership or rights in property pending final settlement. In such cases the courts appoint receivers or administrators to take over the property and administer it subject to its orders.

26.4 ROLE OF THE JUDICIARY

Since the end of the Second World War, the principle of social welfare is recognised as the guiding principle of the state everywhere and times have changed the entire role of democracy towards society. The most important function of a welfare state is the creation of conditions which assure social justice by removing social inequalities. The institution of private property comes in the way of every major effort for a social change. Judiciary is very often criticised as a stumbling block in achieving social justice. The function of the judiciary is to interpret the law as it is enacted. The judges are not concerned with the nature of the law. In spite of the care taken to employ free and impartial judges, the human element creeps inevitably into the judicial process. Judges are human beings and subject to human limitations. Judicial process is not purely rational, mechanical and legalistic. The personality of the judge invariably gets reflected in the interpretation of the law. When new socio- economic problems arise, judges have to realise the necessity of flexibility in the interpretation of law. If the judge takes a rigid view of the law, the new social forces feel frustrated and resort to other means for the realisation of social justice. Law must fulfil the social purpose. Social purposes are not static but changing. The judges must continually examine the avenues in interpreting the law to suit

the new social goals. Judges should not resort to narrow technical interpretation but must take into consideration a broader view of the changing socio-economic situation. The role of the judiciary has become somewhat controversial in the recent past because of its narrow outlook on socio-economic problems. At the same time the judiciary is regarded as the guardian of individual liberty and personal freedom. The developing countries have begun to look upon the judiciary as an instrument of social change. Naturally people expect the judiciary to adopt a helpful attitude for social change in interpreting the law.

26.5 JUDICIARY AND EXECUTIVE

The judiciary and the executive are two of organs of the government. The nature of their functions differs but there is a close relationship between the two because they are integral parts of the government. The decision of the judiciary can be enforced only with the active support of the executive organ of the government. The refusal of the executive to implement the judicial verdicts is generally regarded as contempt of court. In all such cases the individuals involved in the executive branch are taken to task by the judiciary.

The executive makes the appointments of judges but has no control over them once the appointments have been made. The judges at the lower level can be removed only by the orders of the higher courts. The judges of the higher courts cannot be removed except thorough impeachment by the legislature. Because of the appointing power exercised by the executive, the composition of the judiciary may be influenced by the party in power. In the recent past the executive in India in an effort to influence the judiciary, tried to meddle in the ratification of these ad hoc judges of the High Courts. The executive power of transferring the Chief Justices of the High Courts is also regarded as an effort to influence them. The often repeated plea for a committed judiciary is also viewed by many as an interference in the affairs of the judiciary. The delay caused by the executive in filling up the vacancies is also considered as a concealed threat to the independence of the judiciary. In countries where the judicial service is considered as a branch of general civil service there is an interference from the executive in the case of their career advancement from lower levels. There are certain judicial functions which are still exercised by the executive. The right of pardon, suspension and commutation of punishment is exercised generally by the Head of the State, that is, the President. The proceedings of the court martial and the enforcement of administrative law are also exercised by the executive departments. The judiciary also exercises some of the executive functions. In many states, the executive is amenable to the jurisdiction of the ordinary courts. Generally the chief executive head of the state is exempted. If the executive exceeds in any of its powers, the judiciary can nullify them. The judiciary performs the executive functions in arranging the order of the court business, the appointment of guardians and trustees, official receivers, etc.

26.6 JUDICIARY AND LEGISLATURE

The most important relationship between legislature and judiciary is that the former makes the law and the latter interprets it. The necessary funds for the judicial administration are appropriated by the legislature. Except in India and U.S.A., judicial departments are created by a legislative statute. Here they can be modified or abolished by the legislative enactments. The constitutional law in India and USA provides the machinery of the judiciary and its tenure. In England, the Upper House of the Parliament—the House of Lords—is the highest court of appeal. In certain countries the judges are appointed by their legislatures. In the states with written constitution, the judiciary is entrusted with the power of interpreting the constitution. In all those countries, judiciary can declare any act of the legislature or executive as unconstitutional. In regard to judge-made law, the judges not only interpret the law but also make it. In recent times, the Indian judiciary is being criticised severely, by the legislatures. The members of the Indian Parliament had criticised the judgement in the famous "Golaknath case" in which the Supreme Court gave a prospective ruling in regard to the power of the parliament. Both legislature and judiciary derive their jurisdiction from the same constitutional document. Hence there should not be any conflict between the judiciary and the executive. The two must be

guided by the same goals of social justice and ideals of the constitution. They must strive to function together in harmony and understanding. Both the legislature and the judiciary are bound by the constitutional philosophy.

26.7 SUM UP

There is a general criticism about the insufficiency of social purpose on the part of the judges, and their "narrow" outlook. Whatever the criticism levelled against the judiciary, it has a positive and a negative role to play. While it prevents unconstitutional action it helps in the evolution of a just social order by its progressive interpretation of the constitution.

Author : Dr. M.S. RAO.

26.8 SUGGESTED READINGS

1. A.C. Kapoor : Principles of Political Science.

26.9 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Discuss briefly the role and the functions of the judiciary in a modern state.
2. Critically examine the relationship between the judiciary and executive.
3. In what ways does the judiciary also act as a law maker?

II. Answer in about 10 lines

1. Examine the relationship between the judiciary and legislature.
2. Explain the role of judiciary as a guardian of the federal constitution.
3. Write a short note on the organisation of the judiciary.

UNIT-27: JUDICIAL REVIEW AND INDEPENDENCE OF JUDICIARY

Contents

- 27.0 Objectives
- 27.1 Introduction
- 27.2 Meaning of Judicial Review
- 27.3 Judicial Review in India
- 27.4 Estimate of Judicial Review
- 27.5 Limitations of Judicial Review
- 27.6 Independence of the Judiciary
- 27.7 Sum Up
- 27.8 Suggested Readings
- 27.9 Model Questions

27.0 OBJECTIVES

After going through this unit you will be able to:

- * elucidate the meaning and need for judicial review
- * make an estimate of the judiciary and
- * analyse the independence of the judiciary and judicial review

27.1 INTRODUCTION

In this unit you will study the role of judiciary in a welfare state and you will discuss the process of judicial review and its significance.

27.2 MEANING OF JUDICIAL REVIEW

The twentieth century has witnessed the emergence of the concept of welfare state. The state no longer confines itself to the performance of police functions only, but is undertaking welfare activities which have added to governmental functions. The modern legislatures take policy decisions which have to be executed by the executive branch of the government. As a result the administrative authorities have acquired vast discretionary powers without being subject to any statutory regulations. In recent times the administration has been performing legislative functions also when the legislative powers are delegated to it. Further, it also interprets laws through the Administrative Tribunal. But neither the central government nor the federating units can pass legislation that contravenes the provisions of the constitution. Therefore there should be a judiciary. The judiciary is entrusted with the task of judging whether the legislation has transgressed the provisions of the constitution and to declare a law *ultravires* in the event of conflict between the said law and the constitution. The judiciary has also to protect certain freedoms threatened by the majority will. Indeed, through such protection of freedom, the court prevents the democratic government from destroying itself by the excess of its own power. The judiciary also prevents the subversion of the constitution by exercising its power of judicial review.

The judicial review of administrative action implies that a court of law has the power to judge whether or not the executive acts are in conformity with the law. Every type of power has

to be exercised within certain limits which are inherent to it and which if ignored will render any action resulting from it ultra vires and unconstitutional. Thomas T. Lyons defined judicial review as the power of the courts to decide whether or not laws or procedures adopted by the government in enforcing laws are constitutional. First, it may refer to the acts of government officials to review by judges to determine whether the officers are acting under the authority of law or exceeding their powers. This type of review is available to courts in all systems of government. Secondly, judicial review covers the distribution of powers between the states and the central Government. This adjudicating powers are entrusted to the supreme court in all federal systems. John Marshall made it very clear in the U.S., in the famous Marbury V Madison Case, 1803, that it was the province of the judiciary to interpret the law and also that the judiciary must not enforce any law which it considers to be a violation of a provision of the constitution. This judicious opinion of John Marshall has become the corner stone of the doctrine of judicial review. Judicial review enables the court to review the acts of the legislative bodies. The power to interpret the constitution has increased the political importance the judges. While defending the constitution, the judiciary should not lose sight of public purpose, social utility, and personal and social development. Judicial activism believes in the shaping of the basic law through bold court initiatives and also provides moral leadership clarifying the values, the ideals of a country. It also ensures that popular action does not trespass upon rights and justice as they are enumerated in the written constitution and the natural law. Madison in his book, **The Federalist** observed that, in the first place, the government has to control the governed, and in the next place is obliged to control itself.

Judicial review is meant to ensure the recognition of the rule of law. The traditional guarantor of fundamental rights is the rule of law. The supremacy of the parliament in England stood in the way of the development of judicial review in England. The judiciary can interpret but it cannot question the legitimacy of parliamentary legislation. In America and India, judiciary has the power to refuse the enforcement of an act on the ground that it conflicts with the constitution. But according to the theory of separation of powers, there can be no judicial review of an executive act, and the state cannot be ruled in strict conformity with the theory of separation of powers. As the guardian of the law, the judiciary has to act whenever the executive ignores the law or defies it. In order to control the executive the judges have to expand the scope of judicial review. For this purpose judges have relied on the concept of jurisdiction. An abuse of power is considered as an action in excess of jurisdiction. Hence it is necessary to make the administration answerable to certain democratic agencies like the judiciary for its actions in exercising its discretionary powers.

27.3 JUDICIAL REVIEW IN INDIA

Vast and varied discretionary powers are conferred on the administration. They may vary from simple ministerial functions like the maintenance of the births and deaths register to serious matters like the detention of persons. Generally it is felt that courts have no power to interfere with the orders passed by the administration in exercising its discretionary powers. But this does not mean that they have no control over the discretionary powers of the administration. Absolute power in the hands of the administration is bound to lead to arbitrary exercise of it. Control over the discretionary powers of the administration leads to the proper enforcement of laws. Discretionary powers, conferred on the administration should be used carefully, responsibly and with a view to do justice to the public. It is accepted in all democratic countries that discretion conferred on the administration is reviewable by the courts to control the abuse of authority. In India, the courts can interfere in the following circumstances: (1) Failure to exercise discretion. (2) Excess or abuse of discretion and (3) Infringement of fundamental rights.

Failure to Exercise Discretion

The purpose of conferring discretionary powers on the authority is to ensure that the authority itself exercises the said power. Failure to exercise the power is viewed as wrong. Such a situation may arise due to any of the following reasons. (1) Sub-delegation. (2) Imposing restrictions on discretion by self-imposed rules of policy (3) Acting under dictation and (4) Non-application of mind.

In general, discretionary powers must be exercised only by the authority to which they have been entrusted, unless they have been expressly delegated to another. Discretionary powers cannot be sub-delegated to any other authority or official. Sometimes authority is delegated with the desire to expedite official business, but such delegation will be invalid if it is not legally permitted. Similarly discretionary powers must be exercised after considering individual cases. If the authority imposes restrictions on its discretion by adopting fixed rules of policy, it would amount to a failure to exercise its discretionary powers. Authority must consider each case and decide the issue. If the general rule is given, it would amount to a refusal to carry out its discretionary powers. In certain cases an authority may not exercise the discretionary power but may choose to act under the dictation of a superior authority. In such cases the power is exercised by another and it amounts to non-exercise of discretionary powers by the concerned authority and the action is illegal. However, there is a distinction between seeking advice and acting under dictation. While exercising its discretionary powers the said authority must apply its mind to the facts and circumstances of the case. In the event of non-application of mind by the authority, in exercising its discretionary powers the action is considered illegal.

Excess or Abuse of Discretion

The discretionary powers conferred on an administrator must be exercised in conformity with the law. If the mode of exercising authority is improper or unreasonable it is considered an abuse of power. There are several forms of abuse of discretion, like exercising the power for a different purpose, or using it for an improper purpose or acting in bad faith, or taking irrelevant considerations while using the discretionary authority. Abuse of discretion may be inferred from the following circumstances: (1) Exceeding jurisdiction (2) Irrelevant considerations (3) Leaving the relevant considerations (4) Mixed considerations (5) Malafide intentions (6) Improper purpose-collateral purpose (7) Colourable exercise of power (8) Disregard of the principles of natural justice (9) Unreasonableness.

An administrative authority must exercise the power within the limits of the statute failing which the action will be considered as *ultra vires*. This will be considered as exceeding jurisdiction. A power conferred by law must be exercised on the considerations relevant to the purpose for which it was given. If the authority takes into account irrelevant or extraneous considerations, the exercise of power by the authority will be *ultra vires*. However a distinction is to be made between irrelevant considerations and malafide or improper motives, like the case of *Ram Manohar Lohia Vs. State of Bihar*. Dr. Ram Manohar Lohia was detained in Bihar in 1966 to prevent him from acting in a manner prejudicial to the maintenance of law and order since the authority was empowered to detain a person to prevent subversion of public order. But the Supreme Court set aside the order of detention on the ground that the term law and order was wider than the term public order. Similarly, if the authority fails to take into account relevant considerations, the exercise of power is considered unlawful. It is however very difficult to prove that certain relevant factors have not been taken into consideration by the authority. Sometimes the relevant considerations are prescribed in the law itself. In certain peculiar situations, administrative order may be based partly on relevant considerations and partly on irrelevant considerations. Judicial pronouncements are not unanimous on these types of orders. Malafide means dishonesty, fraud or ill-will. When an administrative action is taken due to personal animosity, ill-will or vengeance, the action is declared as malafide, like the case of *C.S. Rowjee Vs State of A.P.* In this case of the petitioner alleged that particular bus routes were selected for nationalisation in Kurnool district by the Road Transport Corporation as the operators were the political opponents of the then chief minister. The Supreme Court upheld the contention and quashed the order as a result of which the then chief minister resigned from the post. The person making the allegations bears the responsibility of proving a case of malafide.

The power conferred on the authority must be exercised for the purpose specified. If it is used for a different purpose it is considered as abuse of power and the action may be questioned. Improper purpose is different from malafide exercise of power. Power used under the misapprehension that it is needed outside the purview of the law is said to be an exercise of

power for collateral purpose. Colourable exercise of power means the exercise of authority in that particular manner. But it is very difficult to draw a line between collateral purpose on the one hand and colourable exercise of power on the other. The exercise of power by the authority must be reasonable. Violation of the principle of natural justice or abuse of power makes the exercise of power **ultra vires** and void.

Infringement of Fundamental Rights

The Constitution of India confers certain fundamental rights upon citizens. The administrative authority exercises its discretionary powers in consonance with those rights. Any action against those Fundamental rights will be **ultra vires**. The Supreme Court and the High Courts are empowered to issue the following writs. (1) Habeas Corpus (2) Mandamus (3) Prohibition (4) Certiorari and (5) Quo Warranto. Article 32 confers a fundamental right to move the Supreme court by appropriate proceedings for the enforcement of fundamental rights in Part III of the Constitution of India.

Habeas Corpus Writ : The Writ of Habeas Corpus brings liberty to any one held in illegal detention. The Latin phrase "Habeas Corpus" means 'have the body'. The object of this writ is the release from restraint of a person in illegal detention. Under this writ the court directs the person or authority who has detained the person to bring the prisoner bodily before the court so that the court may decide the validity, jurisdiction and justification for such detention. If the court feels that there is no legal justification for the detention of the person concerned, the court will order him to be set at liberty forthwith. Habeas Corpus suffers from two disadvantages. The writ may be turned down on the ground that there exists another remedy for testing the legality of the detention. Secondly, there is no right of appeal against a refusal to admit the writ.

Mandamus : Mandamus means a command. It is an order issued by a court to a public authority asking it to perform a public duty imposed upon it by the constitution or by any other law. The petitioner must have a legal right to file this writ. To accept this writ, a legal duty must have been imposed on the authority and the duty must be statutory. A Mandamus can be issued to compel an authority to exercise his powers or to direct the exercise of the discretion in a legal, regular and proper manner. Mandamus ensures the exercise of discretion according to law. Normally a private person initiates the proceedings to Mandamus and the petitioner has to show that he possesses an interest in the performance of the duty involved. Mandamus will not be admitted if there is another legal remedy to correct the situation. Mandamus is available not only against administrative bodies, but also against judicial bodies.

Prohibition : Prohibition can be issued against judicial or quasi-judicial authority when it exceeds its jurisdiction or tries to exercise jurisdiction not vested in it. Prohibition prevents a subordinate court from usurping jurisdiction and keeping it within its boundaries. This writ can also be issued when there is a violation of the principles of natural justice or an infringement of the fundamental rights of the petitioner. A writ of prohibition can only be issued in the cases where the proceedings are pending before a judicial or quasi-judicial authority.

Certiorari : Certiorari means 'to certify'. It is an order issued by the higher court to an inferior court or to any authority exercising judicial or quasi-judicial functions to investigate and decide the legality and validity of the orders passed by it. The object of this writ is to keep inferior courts and quasi-judicial authorities within the limits of their jurisdiction. The superior courts can quash the decisions of the lower courts if they act in excess of their jurisdiction. This writ can be issued if the inferior court or tribunal fails to exercise the authority vested with it by law, or in the case of violation of fundamental rights of the petitioner, or if an order passed by an inferior court is considered malafide or unjust. Both Prohibition and Certiorari are available against a judicial or quasi-judicial body but cannot be issued against a purely administrative authority. Both intend to check the inferior courts from exceeding their authority. But they are issued at different stages of the proceedings.

Quo Warranto : Quo Warranto literally means 'What is your authority? This writ is issued against the holder of a public offices of substantive nature. This writ calls upon the person concerned to show to the court by what authority he holds the office. This writ aims at protecting the interests of the petitioner who has a claim for the office. The office must be statutory or constitutional. This writ is a discretionary remedy and the petitioner cannot claim this writ as a right. Besides these writs other remedies are also provided by different laws to aggrieved persons. They may be classified into (1) Ordinary Civil Suits (2) Appeal to Courts (3) Appeals to Tribunals (4) Special Leave of Appeal to Supreme Court and (5) High Court's Power of Superintendence.

In England the competence of the judiciary to judge the lawfulness of administrative actions has always been accepted. The parliament is a sovereign. But when it confers the authority on an administrative official it can confer only limited authority and not the unlimited authority that it possesses. So the court can always examine whether an administrative authority has acted within the bounds of the law or has transgressed those bounds. However, the court cannot rule a statute enacted by parliament to be invalid because parliament has supreme legislative authority.

In the U.S.A. the competence of the judiciary came to be examined in the case of Marbury verses Madison. In the light of the fact that the U.S.A. had a written Constitution, Chief Justice Marshall posed the question in this manner. If there is a conflict between statute and the constitution which one should be upheld by the court, the constitution or the statute? He answered that it must be constitution, because it was a higher law and all statutes must be made in accordance with it, In other words he introduced the doctrine that the court can adjudge the validity of a statute by examining whether it is in conformity with the constitution or not. The judiciary acquired thereby the competence to review legislation enacted by the legislature

Due process : is an American doctrine. It means that not only the law that is laid down by the legislature but everything which may be reasonable be followed by the enforcing machinery. The concept of this doctrine is very wide. Procedure established by law is to be understood as that law laid down by the legislature which has to be followed to the letter. In the U.S.A. the courts interpreted the clause to mean that procedure prescribed by the statute to deprive a person of his right of life, liberty and property, must be reasonable restraints. In other words the restraint must be in excess of the evil sought to be avoided and must be proportional to the evil. While the Indian Constitution was adopted, it was intended that the 'Due Process doctrine practised in the U.S.A. should not be imported to India. Hence they adopted the words 'procedure established by law'. If the statute is valid and the procedure followed is the procedure prescribed by the statute then the deprivation caused is lawful. In earlier cases such as the case of Sri A.K. Gopalan, the court understood the words 'procedure established by law' in a restricted sense. In Ramesh Thaper's case the doctrine 'procedure established by law' was diluted to a certain extent. However, in Menaka Gandhi's case, a new note has been struck. It was pointed out in that case that 'procedure was not any procedure, In order that the statute imposing restrictions on fundamental rights prescribed by Article 21 be valid, the procedure must be a very fair procedure but not an arbitrary or harsh procedure. The law imposing restrictions on the Fundamental rights must be a reasonable law. In other words, There must be a connection between the evils to be avoided and the restrictions imposed. The restriction should be proportional to the evil. As the outcome of a number of revisions, the difference between Due Process of Law and Procedure Establishing Law' has been gradually disappearing.

27.4 ESTIMATE OF JUDICIAL REVIEW

Judicial review is more conspicuous in America than in England. The American judiciary has a distinct and separate status with defined powers. It is totally separate from the legislature and the executive. The American courts have asserted themselves in a positive way on administrative decisions also. In England a vast field of administrative action lies beyond the range of review. In America the approach to judicial review is straight forward and decisive. America lays emphasis on 'Due Process of Law' while England speaks in terms of 'Principles of Natural

Justice'. The American constitutional law declares that no person should be deprived of life, liberty and property without the 'Due Process of Law'. Both American and British views agree that administrative exercise of judicial functions should be preceded by notice and hearing. But they differ on the issue as to what constitutes a judicial function.

In India, the concept of writs started with the judgement of Viscount Simon in 1943 in the case of Garabanda and other villages versus the Zamindar of Farakimidi. During the British period the administration justice was carried out by executive officials till the constitution of the High Courts. Judicial review is prominent in India after the enactment of the constitution in 1950. Indian administrative law drew its inspiration from the Principles of Law evolved in Britain and the U.S.A. It is to be noted that while the Indian Constitution, in matters of law, was modelled on the American pattern, the training of Indian judges was basically British. Articles 32, 136 and 226 of the Indian constitution are vital in Indian judicial review. Judicial review in India is conditioned by the provisions of the constitution. Britain is guided more by the parliamentary sovereignty. Though Indian review is more akin to American Review, as due Process of Law is not a constitutional provision in India, there has been a greater dependence on the principles of natural justice as in England. Article 32 empowers the issue of writs for the enforcement of fundamental rights by the Supreme and High Courts. Parliament is powerless in blocking judicial review in India and against Article 32, 136 and 226. Judicial review in India is conditioned by the court's sensitivity to the following propositions. (1) The exhaustion of alternative remedies (2) Violation of fundamental rights should be distinguished from the violation of other rights. (3) The Principle of Natural Justice cannot be ignored by administrative authorities. (4) The doctrine of *ultra vires* is the basis of review.

27.5 LIMITATIONS OF JUDICIAL REVIEW

In India the courts are generally reluctant to interfere unless an aggrieved party claims suffering due to miscarriage of justice. Indian courts do not interfere with administrative action unless it is *ultra vires* and illegal. Courts interfere with the administration only when administrative action disregards the provisions of the constitution, misuses statutory power, violates the Principles of Natural Justice, ignores mandatory procedure and acts contrary to the powers granted by the statute. Laws passed by the legislatures taking away the fundamental rights can be declared as void. In this respect the powers of the Indian judiciary are far greater than those of the British judiciary. No doubt the scope of judicial review is restricted in the field of fundamental rights due to certain constitutional amendments to our Indian constitution. In spite of its great significance and value, judicial review in the welfare state has the following defects:

1. Administrative actions affect a large number of people. Poor people, though aggrieved, cannot reach the doors of the higher judiciary. Only the rich can afford to have it invoked.
2. Though the judiciary stands for justice it has as big a machinery as the bureaucratic system. It has to be awakened into action with great effort. Hence it may not be possible for judicial review to correct administrative inertia in time.
3. Judicial review becomes difficult when the decisions of the various governmental agencies are informal, for example, when oral instructions are given.
4. There is over concentration of review proceedings at the highest level of the judiciary. This results in congestion of work and delay which may lead to superficial disposal of the reviewing work.
5. The writ as a method of review has helped the administration to find cover under technical rules and emerge free from judicial scrutiny in many a situation.
6. The Indian courts are concentrating their attention on chapter III of the constitution dealing with the fundamental rights instead of concentrating on the Doctrine of *Ultra vires*. Judicial review 'is growing like a creeper around the tree of Fundamental Rights'.

7. Though Judicial review has done great service to the cause of democracy from the constitutional point of view it has failed, to some extent, to protect the common man from the arbitrariness of administration. Hence the need has arisen for the creation of several other institutions like Lokpal and Lokayukta to serve the interests of the common man.

27.6 INDEPENDENCE OF THE JUDICIARY

In modern times the functions of the judiciary are multifarious. The citizens can secure justice only when the laws are applied by an upright, honest and impartial authority. Hence the judges should be men of intellect, integrity, independence of judgement and legal acumen. As Garner said, the purpose of the judiciary is best served only when the freedom of decision is safe-guarded. The most important traits of the judiciary, namely independence and impartiality, go together. Judges should exercise unfettered discretion in the administration of justice. The maintenance of impartiality and independence is the basic requirement for the maintenance of the Rule of Law for ensuring the liberty of the people. The courts are entrusted with the task of seeing that no branch of the government exceeds its powers and that no majority destroys the freedom of the minority. The judiciary must not only interpret and enforce the valid laws of the legislature but should also watch whether the legislature and the executive are confining themselves to their respective jurisdictions. It should also enforce the fundamental law of the land, that is the constitution and declare the law as invalid if it is contrary to the constitutional law. In doing so the judges must create confidence among the people in the purity, fairness and impartiality of the administration of justice. The tendency in modern times is to interfere in the administration of justice. To ensure the independence of the judiciary and to enable it to act fearlessly, the following factors are important.

1. **Mode of appointment of judges.** It is highly essential that the judges with the highest personal integrity and ability should be appointed. Political considerations should not have any place in the appointments. The three methods of appointing judges are (1) Election by the Legislature (2) Election by the people and (3) appointment by the executive. The practice of appointment by the legislature is not followed at present since it violates the principle of separation of powers and may lead to the election of party candidates. The system of popular election of judges is in vogue in some cantons of Switzerland, in some states in the U.S.A. and in the lower courts in the Soviet Union. Laski feels that of all the methods of selection, the election of judges by the people is the worst. It is difficult for the elected judges to maintain honesty, impartiality and dignity. Judges may succumb to popular passion and party pressures and the independence of the judiciary becomes almost impossible. The most common method for the appointment of judges is nomination by the executive. Judges chosen by the executive are likely to be more independent of popular influence and political considerations. Many countries follow the practice of selecting the judicial officers from among practicing lawyers. The mode of appointing judges is prescribed in the Indian Constitution itself and recruitment to subordinate courts is through competitive examinations.

2. **Removal of the Judges :** In all states provision is made for the removal of corrupt and inefficient judges from office. But the process is difficult and does not obviate the abuse of power. There should be security of tenure. The process of the removal should involve careful consideration and it should pass through the hands of more than one person or agency. In Great Britain a judge can be removed by the crown on a joint address by Parliament for corruption and moral turpitude. In the U.S.A. the judges of the Supreme Court can be removed only by impeachment. In India judges can be removed from office by an order of the President after an address by each House of the Parliament supported by a majority of the total membership of that House and a majority of not less than 2/3 of the members of the House present. The difficult process of removal ensures security of tenure and consequently the independence of the judiciary.

3. **Tenure :** The fixed tenure is also important in securing the independence of the judiciary. The common system of the tenure is retirement at a fixed age. Short tenure and popular election of judges tend to rob the judiciary of its independence. A long tenure ensures freedom and impartiality. Tenure based on good behaviour is regarded as the best expedient which can be devised in any government to secure a steady, upright and impartial administration of the

laws. A long judicial career helps the judge to acquire a complete knowledge of the nature and operation of laws and the social and economic changes in a dynamic society.

4. Qualifications of the Judges : The persons who are appointed as judges must be legal luminaries, learned and skilled in their profession. An incompetent judge brings discredit to the judiciary. Equally important for the judge is the reputation for impartiality and independent views. He should avoid politics scrupulously. Men from the bar possess many of these qualities since they have spent their lives in the legal profession and acquire the knowledge of interpreting laws. Qualified judges inspire the confidence of the public.

5. Salary and service conditions : A fixed and adequate salary would be conducive to the independence of the judiciary. The adequacy of the salary would promote courage and firmness in the dispensation of justice on the part of the judge. The salary should fit the status of a judge. Low paid judges are susceptible to corruption. The salary and other service conditions should not be altered to their disadvantage during their tenure of office. In India the salaries of the judges are specified in the constitution. Apart from the salary better conditions of service of the judges also contribute to the independence of the judiciary. Postings and transfers must not be subjected to the vagaries of the executive. There should exist specific provisions for adequate pension after retirement, handsome allowances and other social security measures which will guarantee the independence of the judiciary.

6. Separation of judicial functions : Above all, the separation of the judicial and executive functions is highly essential for the independence of the judiciary. Dispensation of justice is impossible in the event of executive and judicial functions being combine. If the prosecutor sits as a judge there will be an abuse of judicial authority. Directive Principles of State policy, enshrined in the Indian Constitution enjoin the clear separation of the executive with the judiciary in order to ensure an independent and impartial judiciary.

The Indian judiciary is an independent one as the American Judiciary. The independence of the American judiciary is safeguarded by three main factors.

1. Appointment : The judges are appointed by the President and the appointment has to be ratified by the Senate. The procedure of appointment involves all the three organs of the government thereby enhancing the power and prestige of the judiciary.

2. Impeachment : The judges can only be removed through impeachment by the legislative organ of the government thereby making the judges accountable.

3. Life Tenure : American judges enjoy a life tenure and so can be free and fearless throughout the tenure without any feeling of insecurity. The Indian Constitution similarly attempts to create an independent judiciary. The President appoints the judges, but he does not seek the approval of the parliament. Therefore there is no involvement of the legislative organ in the matter of appointment except in the case of removal by impeachment. Our judges do not have a life tenure and they have to retire from service at a prescribed age. This really makes a difference and to a large extent tells upon the independence of the judges. Comparatively low salaries of the judges also add to the restriction of their independence. Those who wish for a future career after retirement may not act strictly and independently. Moreover, political pressures of various forms on the judges prevent them from being fully impartial and independent.

27.7 SUM UP

In a welfare state the judiciary plays an important role. An independent and impartial judiciary is essential to check the violation of laws and the errors of omission and commission by the executive authority. Judicial review controls the abuse of authority with regard to discretionary powers in the following circumstances (1) Failure to exercise in its discretion (2) Excess of discretionary powers and (3) Infringement of fundamental rights. Common people can obtain justice from the court through writs like the Habeas Corpus, the Mandamus, Prohibition, the Certiorari and the Quo Warranto. The effective functioning of the judiciary depends upon

the independence and impartiality of the judges which can be assured by providing them security of tenure, adequate salaries and better conditions of service. However approach to the judiciary is expensive and difficult for the common man.

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27.8 SUGGESTED READINGS

1. Marrot Jar : Mechanism of Modern State
 2. F.W. Garner : Political Science and Government
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27.9 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Discuss the meaning and importance of judicial review in the modern welfare state.
2. Explain how the various writs safeguard the fundamental rights.
3. How is the independence of the judiciary secured in modern welfare states?

II. Answer in about 10 lines.

1. Prove the necessity of the independence of the judiciary.
2. Explain the American doctrine of Due Process of Law.
3. Write a short note on judiciary in India.

BRAOU

UNIT-28 : POLITICAL PARTIES

Contents

- 28.0 Objectives
- 28.1 Introduction
- 28.2 Political Parties - Definition
- 28.3 Functions of Political Parties
- 28.4 Different Types of Party Systems
 - 28.4.1 Multi-Party System
 - 28.4.2 Two Party System
 - 28.4.3 Uni-Party System
 - 28.4.4 One Dominant Party System
- 28.5 Pressure Groups
- 28.6 Sum Up
- 28.7 Suggested Readings
- 28.8 Model Questions

28.0 OBJECTIVES

After going through this unit you will be able to.

- * define political parties
- * describe the functions of the political parties
- * explain the types of party systems
- * discuss about pressure groups

28.1 INTRODUCTION

Political parties are regarded as integral parts of the modern democratic world. In this unit you will read about the definition and functions of political parties and types of party systems.

28.2 POLITICAL PARTIES - DEFINITION

Political Party is regarded as an essential and integral part of the modern democratic system. Political party is a product of the modern political system. The origin of political parties can be traced to the recent past. Historically, factions are the forerunners of political parties in the west. Democratisation- process has legitimised the factions into political parties. Thus political parties have acquired a new character. Parties became mass organisations linking together a large body of citizens with their representatives in the legislative bodies.

The party system has a considerable impact on the working of the government. The success of democracy depends upon the existence of a well organised party system. As a matter of fact political parties have become indispensable for the working of democratic forms of government. Political parties supply the motive power for the administrative machinery. The party system is an extra- constitutional growth in democratic countries. Parties have become inevitable and provide the dynamics of political process. England, the Mother of Parliaments, is also the place where the party system originated but curiously parties are still unrecognised by law. The notion of

party has been with us since collective deliberation became institutionalised. The emergence of political parties has accompanied the growth of modern electorates. The expansion of franchise had its impact on the necessity of party organisations.

Political parties are regarded as natural as they find their justification in human nature. As is well known, human beings think, but differently. Man is a social animal, and so it is natural for men who think alike to join together. These two contradictory tendencies of human nature have given rise to political parties.

By a political party we mean an organised group of citizens who profess to share the same political views, and acting as a political unit seek to obtain the control of the government. MacIver defines a political party as "an association organised in support of some principle or policy by which constitutional means endeavours to make the determination of government". The Chief aim of a party is to make its own opinion and policy prevail. To do so it is necessary to control the legislature in the state by securing a majority in it. To contest elections and to win as many seats as possible becomes the principal activity of political parties. Parties are organised to contest elections. The following four characteristic features are necessary to constitute a political party:-

1. There must be a certain measure of agreement on fundamental principles which can bind the people together as a unit even though the members may differ on details;
2. The party has to be organised so that at the proper time it can fight the elections and win a majority of seats in order to control power;
3. A party must seek to carry out its policy by constitutional means only;
4. All parties must aim at promoting national interest as distinguished from sectarian and communal interests.

Modern writers emphasise "organisation" as the most important aspect of a political party. Besides organisation, parties must have some ideals and material purposes to carry out if they secure power. No party, if it wants to come to power, can remain just on the ideological plane. It must try to capture and retain power by means of patronage. It is true that parties, while they are in opposition try to be more emphatic about principles and ideologies than while they are in power.

28.3 FUNCTIONS OF POLITICAL PARTIES

Political parties perform certain functions in the political system. Political parties act as vital links between an omnipotent government on the one side and a mass of people on the other. They stand as buffer between the citizen and the government. Political parties assist in the formulation and expression of the general will by organising and winning elections. In the modern state, the electorate is so large, and interests are so varied that some voluntary associations are necessary to organise them for arriving at a decision. The political parties perform this function.

The members of a party discuss their common ideas among themselves, formulate their programme or policy and defend that programme in discussion against other parties. Each party thus tries to secure for it a majority vote of the electorate so that it can translate its programme into legislation. The political parties thus serve as brokers of ideas by selecting some issues facing the electorate in some order of priority and focus attention on these in the election campaign.

The primary function of the political parties is to organise public opinion. Political parties are the chief mechanism of informing and influencing the electorate, educating and activating them and allowing public opinion to be made known through a choice of candidates on the

policy, organisation and mobilization of the electorate is an important function of these Parties. Candidates are selected; and election campaigns are conducted by them. They provide the main source of political leadership in most of the countries. They arrange for the training of such leaders through various means like study circles, practical work in society agitational experience and so on.

Political parties shoulder the responsibility of government if they get the support of majority of seats in the legislature. Those who could not secure majority also have a role to play as opposition. The parties are always watchful of the situation and remain ever vigilant; for in the game of politics, opportunities to secure power must not be allowed to be misused. Political parties act as a link between the people and the government. Between the elections the parties keep the people informed and active. Political parties very often become the chief force for modernisation and the chief agency for political education and socialisation. They help in breaking down traditional behaviour and act as the binding force in communities divided by groups based on tribal affiliation, religious domination or national origin. Further party system provides a method of securing a change of government by constitutional and peaceful means.

Thus, political parties help the people to identify and articulate their interests. They adopt alternate courses of action for which the voters express their preferences. They discover, recruit and train personnel both to man the parties to provide leadership to the government.

28.4 DIFFERENT TYPES OF PARTY SYSTEMS

Political parties have become universal in this century and there are a wide variety of party systems. Though competitive elections are engaged in about a third of the population, parties exist in all but a handful of countries. In every country, over a relatively long period of time, there is a certain stability in the number of parties, their internal structures, their ideologies, even their respective sizes, alliances and types of opposition. Therefore we can describe the "party system" of any country during a given period of time. A comparative study of the various party system reveals certain marked similarities. There are different types of party systems such as one party system, two party system, and multiparty system. This classification is based on the number of parties involved in a particular country, but the classification of party system must include not only the numerical criteria but the stylistic one as well. Over half of the political systems operating today have been established in the past twenty years.

28.4.1 MULTI-PARTY SYSTEM

A multi-party system is one where there are more than two parties operating in the state. When a number of political parties more or less equally powerful exist in a state no party by itself will be in a position to win the majority of seats in the legislature. The result of such a situation is a coalition government. Most of the countries in Europe have multi-party system, the most notable example, being France particularly before 1959. Multiplicity encourages fragmentation and dissident elements tend to break away. Political responsibility remains ambiguous party system. With the different parties putting forth their own points of view and pulling the government in their own direction, the coalition government in the multi party system finds it difficult to follow any firm and consistent policy.

The chief merit of the multi-party system is the greater flexibility and representation of interests. The complexity of social structure requires many parties to represent diverse sections. Under the multi-party system the elector has a wide choice of selection. But the multi-party system has its own defects. No party can be expected to have an absolute majority of its own. Under such circumstances the government is always formed as a result of bargain, compromises and agreements. There is less unity in policy of the government since it is determined by a compromise between party leaders. Whatever be the merits of multi-party system it is impracticable as an operative ideal.

28.4.2 TWO PARTY SYSTEM

Where the political scene of the country is dominated by two parties it is called two party system. There may exist many minor parties but their influence is minimal and ineffective. In such cases political power, alternates between two major political parties. The two party system originated in England in the seventeenth century and two hundred years thereafter only two parties function. A strong and a well established two. Party system is regarded as an ideal party system for the parliamentary form of government. The main advantage of the two party system is that it ensures stable cabinets. All the ministers are selected from one party which has a stable majority in the legislature. This political homogeneity makes them a well organised and a responsible team of workers. The distinguishing mark of the British two-party system is the political discipline and the coherence provided by it. Though the two party system is in operation in the U.S.A. it has its own peculiar character. The two party of system in the USA lacks ideological orientation. There is a fare amount of consensus on constitutional as well as socio-economic issues. The parties in U.S.A. do not offer clear alternative electoral programmes. At the same time the American electoral system does not favour the development of a third party.

The two-party system is praised for providing stability and compromise since each party seeks the widest possible support. It secures a representative government in the real sense. It provides the only method by which at the time of election the electors directly choose the government. The electors choose between the programmes and decide about the party which is to come to power. Two parties thus bring the electorate to a point where they are faced by a simple alternative. The two party system is successful only if the political culture is one in which both the parties are prepared to accept each other as an alternative government and not committed to fixed ideological positions. But it is wrong to imagine that on any issue there can be only two opinions as represented by two political parties. This restricts the choice of the electors too. On many issues there can be several opinions which can not be reflected under a two-party system. The two-party system can lead to a very strong executive. Supported by a majority in the legislature the cabinet can establish a dictatorship.

28.4.3 UNI-PARTY SYSTEMS

In this system there is only one party which is the party in power, which either dominates all other groups trying to absorb political opposition, or suppresses all opposition groups. All the authority of the government will be concentrated in a single integrated political party. Among the one party system there are variations. There are some countries which recognise only one party. No other party is allowed to operate. In the USSR, China, and Yugoslavia only one party is recognised by the state.

The expression one party system seems to have been invited by the Fascist thinkers and has been in common usage since the early part of this century. Both fascists and communist thinkers advocate the one party system. But there is a difference between the two. The role of one party system varies not only according to its importance within the state but also according to its character. A very significant difference is found in respect of fascist and communist parties.

Sometimes a one party system emerges when a party absorbs or restricts the functioning of other opposition parties. In countries like Egypt, Burma, and Kenya a composite party dominates over the rest. They are not totalitarian dictatorships but tend to become authoritarian.

There is also another variant of one party system where a party continues to dominate the political life of the state continuously for a long period. Other parties also function with full freedom to contest elections, propagate their ideas, and even form the governments at the local level. The best example can be the Congress party in India.

28.4.4 ONE DOMINANT PARTY SYSTEM

The party system prevailing in India is less simple and different than either a conventional bi-party or multiparty systems. This system is called one dominant party system. Under this system one party, among many continues to dominate the political life, continuously for years or decades. Other parties are allowed full freedom to operate and propagate their views and also to contest the elections. But these parties remain so weak or disorganised that only one party continues to rule over years. In India parties are many but the dominance of the Congress Party was never challenged successfully but for a brief period of the Janata experiment. Hence, the Indian party system is somewhat an uncommon variety of a multiparty system. The unique feature of the Congress Party in India is that it is a virtual coalition of different view points so that it contained the opposition within itself. With its sustained dominance it has contained all democratic devices and institutions, at least at the national level.

28.5 PRESSURE GROUPS

Besides political parties, a new form of group activity emerged in modern times in every democratic state. This activity is a part of the political process. Pressure groups have emerged recently with the sole aim of influencing the policy of the government. Pressure groups aim at influencing the decision-making process of a political society. Those groups which seek to influence the decision making processes in a state through pressure are called pressure groups. The pressure used by these groups may be either economic, social, or political. The main function of these pressure groups is to express the interest of a particular group adequately, to communicate the demands to the government and bring pressure to get their demands satisfied. Whatever is necessary for the attainment of this purpose is done by these groups. The pressure that a pressure group can exercise depends on the level of the pressure group and also the means used by them to influence policy makers. The pressure groups operate in close proximity to the seats of power. In most of the capital cities in democracies, pressure groups work through their liaison officers who are given wide freedom of operation in order to influence persons associated with power. The methods used by these groups very often is not open, sometimes they violate the norms of propriety and morality as well. These pressure groups like political parties are an extra constitutional growth. In the U.S.A. pressure groups operate to the maximum. In India the pressure groups have not yet developed to that extent.

28.6 SUM UP

Political parties may be regarded as essential to the continued functioning of political society and also as expressing the demands of particular interests. They emerged along with the expansion of suffrage, and development of parliamentary institutions. The democratisation-process made the parties as integral parts of political society. In the beginning the competition among political parties was sharp. Gradually a tendency has grown to reduce the importance of the parties in decision and policy making. Bi partisanship in foreign policy has become common everywhere. Parties are no longer as cleanly tied to their supporting interests as they were once. Trade union organisations are reducing their political involvement and specialising as pressure group. The political parties have now specialised as a purely vote getting and elite selection agency. The advertising agencies and other modern techniques have entered into the election arena. Now a-days parties are depending more on donations from big corporations than small sums from mass membership. As a result of these tendencies, the political parties are losing their grip on the political process. Whatever may be the role of political parties in modern democracies one thing is certain, that they have come to stay permanently. They have contributed greatly in strengthening the democratic process in the world.

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28.7 SUGGESTED READINGS

A.C. Kapoor : Principles of Political Science.

28.7 MODEL QUESTIONS

I. Answer in about 30 lines.

1. What is a political party? Examine its characteristics.
2. State the different functions performed by the political parties in modern democracies.
3. Discuss the classification of party systems. How would you classify the Indian party system.

II. Answer in about 10 lines.

1. What is a pressure group? Examine its functions.
2. Are political parties indispensable in a democracy?
3. Mention the merits and demerits of a two party system.

BRAOU

UNIT-29: POPULAR CONTROL - METHODS OF CONTROL - PUBLIC OPINION - ROLE OF MASS MEDIA

Contents

- 29.0 Objectives
- 29.1 Introduction
- 29.2 The Significance of Popular Control
- 29.3 Methods of Popular Control
- 29.4 Significance of public Opinion
 - 29.4.1 Meaning of Public Opinion
 - 29.4.2 Pre-requisites of Public Opinion
 - 29.4.3 Organs of Public Opinion
- 29.5 Mass Media
 - 29.5.1 News Papers
 - 29.5.2 Cinema, Radio and Television
 - 29.5.3 Role of Mass Media in Modern Governments
- 29.6 Sum Up
- 29.7 Suggested Readings
- 29.8 Model Questions

29.0 OBJECTIVES

After going through this unit you will be able to:

- * explain the significance and methods of popular control
- * describe the significance and meaning of public opinion and mass media and
- * discuss the role of mass media in modern governments.

29.1 INTRODUCTION

In this unit you will study the significance and methods of popular control and the role of mass media in modern governments.

29.2 THE SIGNIFICANCE OF POPULAR CONTROL

The idea of popular control figures prominently in democratic systems. In fact, democracy is defined as popular control. Popular control of policy making is the essence of modern representative democracy.

Popular control is the logical corollary of democratic principle of popular sovereignty. In a democracy the people are the ultimate source of all authority and power. Authority to make binding decisions in a democracy belongs to the body of citizens. However, this power to make decisions is not directly exercised by the people themselves. It is vested in the elected representatives. If there is no control over them the popular will may be easily ignored. Popular control makes democracy responsible and responsive to the popular will. It keeps democracy

alive and makes it real and effective. It also makes the people in power to keep themselves in touch with public opinion on major issues of the day. It enables the government to convert popular will into political action.

It may be noted here that popular control of government has little significance in authoritarian and totalitarian systems. Such systems do not provide any opportunity for the people to participate in the political process. Therefore, they negate the principle of popular control.

From the foregoing discussion it is clear that democracy and popular control are synonymous. Since popular control is possible in a democracy, it is referred to as popular government, self-government and rule of the people.

29.3 METHODS OF POPULAR CONTROL

Now let us proceed to examine the various methods through which popular control is enforced. In a real democratic system a number of devices are available to the people to enforce accountability of the government. These include: (1) elections, (2) initiative, (3) referendum, (4) recall, (5) Plebiscite, (6) pressure groups and (7) Public opinion. In the pages that follow we shall see how effective these devices are, as methods of popular control.

1. Elections : Periodical elections are an essential feature of modern representative democracy. Elections are held to elect the legislators and chief-executives. The important function of elections is political choice and political control. By means of elections the voters bring the governments under popular control and make them sensitive to public opinion. The ballot is the ultimate weapon in the hands of the voter. Any government whose record is not clean and is insensitive to public opinion can be voted out of power at the time of elections. Thus elections serve the purpose of popular control.

2. Initiative : Initiative is a device which enables voters to initiate a law or constitutional amendment directly. Under this system a certain group of voters can propose a particular bill or constitutional amendment. Such a proposal becomes law if it is subsequently approved by the legislature. Sometimes it also requires the endorsement of the majority of the voters. In Switzerland the device is used for both ordinary legislation and constitutional amendments. In U.S.A., some states use it for ordinary legislation. It allows people to secure legislation on important matters overlooked by the legislature. In this method the initiative comes from the people themselves.

3. Referendum : The referendum is a device which permits the voters to approve or disapprove a law or constitutional amendment proposed by the legislature. Thus it allows people to decide certain issues for themselves. A proposed bill or constitutional amendment becomes law if it is approved by the required majority. Referendum may be compulsory or optional. Under the former type it is obligatory for the legislature to refer a proposal or bill to the people whereas in the latter case the legislature may refer it to the voters if it wishes.

In Switzerland, referendum is used for both ordinary legislative matters and constitutional issues. Many states such as Australia, Austria, New Zealand, Italy, Denmark, Ireland and Japan used referendum to decide all changes in the constitution.

Referendum has several advantages. It provides a safeguard against a legislature passing laws contrary to the wishes of the people. It enables the people to play some direct part in decision-making. However, it may be noted that the average voter cannot have an intelligent opinion on many important constitutional issues and technical matters. This is a drawback of the system of referendum.

4. Recall : Recall is a device to call back an elected member of the legislature if his performance is found to be unsatisfactory. The vote of recall can be initiated on the demand of a substantial percentage of the voters. It implies that a representative remains in his position as long as he enjoys the confidence of the majority. If he loses their support he has to quit his office.

Recall is an ideal method of effecting a synthesis between direct and indirect democracy. The right of recall is used in Switzerland. It was included as Article 78 in the Soviet Constitution of 1921. However, the right of recall needs to be used with care. It tends to submit the legislature to corrupt attacks. Misinformed people or people in a state of emotion may misuse this power.

5. Plebiscite : The literal meaning of plebiscite is "decree of the people". It is a device by which a certain issue is put to popular vote. It is thus an important means for securing an expression of popular opinion on any question for the purpose of political decision making. It provides guidance to the government in its policy matters. Plebiscite was used in France in 1946 and 1958 to decide important constitutional issues. In India it was used to decide the issue of Goa's merger with Maharashtra. However this is a method is used only to elicit people's approval of extremely important political issues.

6. Pressure Groups : In modern democratic system a number of pressure groups operate. These groups such as labour groups and business exist for the benefit of their members and to promote their interests. They seek to influence the decision-making process in their favour through pressure. The pressure exerted by them may be economic, social or political. They persuade administrators or legislators to support their aims. One of the important functions of pressure groups is to act as watchdogs over public policy and administration in between elections. They also act as a check on political extremism. Thus interest groups constitute an important means of popular control.

7. Public Opinion : Public opinion in a democracy acts as an important means, of popular control. This aspect of popular control we shall consider in greater detail in the following pages. It suffices here to point out that public opinion governs the actions and policies of a government.

29.4 SIGNIFICANCE OF PUBLIC OPINION

The concept of public opinion is associated with democracy. With the spread of democracy the importance of public opinion has increased. A democratic government derives its authority from the people. It is not an end in itself; but a means to an end. It exists to serve the needs of the people and to promote their welfare. Therefore, a democratic government must do what the people want it to do and not just what it wants to do. The governments in democratic states are supposed to reflect the desires of the community. If the governments try to remain responsive to popular will, they secure public support for their policies. In this way governments get legitimacy for their policies and actions. A government based on public opinion secures the willing obedience of the citizens to its laws.

If a government fails to heed public opinion it faces difficulties. It cannot secure the necessary public support in implementing its policies and programmes. It may even face defeat at the next election. Therefore, all governments try to have favourable public opinion for their policies. For this purpose, they try to explain their policies to the public by means of press conferences, television interviews, public speeches and press releases. Through these agencies governments also try to direct the flow of public opinion in the desired direction. They also influence the leaders and the various organs through which public opinion is expressed. All this shows that public opinion is an active force that controls the government in a democratic state.

29.4.1 MEANING OF PUBLIC OPINION

In recent years a number of political scientists have analysed thoroughly the concept of public opinion. Yet, there is no generally accepted definition for the term. In general terms we may define it as the opinions held by groups of individuals on a particular issue. According to V.O. Key, "Public Opinion consists of those opinions held by private persons which governments find it prudent to heed".

It may be noted here that public opinion need not necessarily be the opinion of all or even of the majority of the people. Unanimous opinion on any public issue is not possible in any community. Even the opinion of the majority cannot be equated with public opinion, if it is not based on accurate information and sound judgement. Sometimes, it may be the opinion of the minority, if it is judiciously arrived at on the basis of accurate information.

It should be remembered that public opinion is always defined in relation to issues. However, people do not hold opinions on every issue. They express opinions on those issues that are debatable and controversial in society. Therefore, to express public opinion issue must have two positions, pros and the cons. If there is no controversy, there is no issue. Further, there must be a collection of individuals who are concerned with or affected by the issue. The opinions of those who are affected by the issue will be taken into consideration, Besides more weight is given to expressed opinions than to non-expressed opinions. The expressed opinion must be informed rather than uninformed.

Thus public opinion represents the collectivity of individual opinions of a designated public on any controversial issue. From this one more point arises. The entire population in a state does not constitute one single public. Society consists of many publics such as students, teachers, farmers, businessmen, workers and so on. Therefore, a public is essentially a segment of society. All these 'publics' do not show equal interest in all public issues. It is sometimes said that the so called public opinion is neither public nor opinion. Prof. Gettell says that the prevailing opinions are often those of a small minority, or of an interested class, or of a few outstanding leaders. The masses are often indifferent or ignorant or misinformed. Most people accept and follow the opinions expressed by a small group of leaders. The average man cannot arrive at rational conclusions by deliberate thought. Therefore, the soundness of public opinion depends to a large extent upon the wisdom and unselfishness of political leaders. Besides, the intensity of opinion is often more important than the number of persons who accept it. The quality of intensity reflects the strength with which an opinion is held. Such firmly held opinions have also the quality of stability. However, it does not mean that opinions never change. In fact they are dynamic and change according to changes in circumstances.

29.4.2 PRE-REQUISITES OF SOUND PUBLIC OPINION

Prof. Gettell points out that the following conditions are necessary for the existence of sound and effective public opinion: (1) Population must be intelligent and interested in public affairs. (2) It should also be homogeneous and possess a community of interests., (3) There must be an essential agreement on the nature of the government to be maintained and the national ideals to be realised. (4) The means of informing and influencing public opinion should be extensive and honest.(5) There should exist freedom of opinion and of discussion. (6) The minority must willingly accept the clearly and fairly expressed opinion of the majority.

29.4.3 ORGANS OF PUBLIC OPINION

There are several agencies in society through which public opinion is formed, and expressed. These public opinion moulding agencies are both formal and informal. We shall briefly explain the various organs moulding and influencing public opinion under the following sub-headings;

1. Family : Family is the most important agent which influences opinion formation in the children. It is in the family that a child's basic attitudes get formed. Much of the individual's political personality is shaped at home during the formative years. The parents and other elder members in the family exercise great influence on the development of the child. As a result of the impact of the family, children often adopt political attitudes and preferences of the parents. However, the role of family as an agent of political socialization depends upon several factors such as its social and economic status, the degree of the education of the parents, and so on.

2. Peer groups In America some groups are known as peer groups, such as childhood play groups, friendship "cliques" and work associates. These are considered important in forming political orientations. The members of a peer group share the same status. This enables them

to have free exchange of opinions and views. Such free flow of views helps in moulding the opinions of the youth. The youth wings of various political parties also come in this category of peer groups.

3. Educational Institutions Schools, colleges and universities are important agencies which inculcate the desired values in the students. They mould to a large extent the attitude of the children. They make the student aware of the political process. They impart information, knowledge and skills relating to politics. By enlightening and educating on political problems they help the student to form his own ideas and opinions. Thus they are important as agents of public opinion.

4. Pressure Groups Pressure groups of various types operate in modern democracies. They play an important role in moulding public opinion. They both reflect and manufacture the view of the public. They are channels for the transmission of ideals from the people to the government. They provide a means by which governments can ascertain the public reaction to their policies. They activate public reaction to their policies. They activate public opinion by educating the people on all aspects of the issues involved. In this way they are important organs of public opinion.

5. Political Parties Political parties are important agencies to influence and organise public opinion. They clarify issues and provide information on current events and problems. Thus they help the voters to form their opinions clearly and enable them to be better informed as citizens. Just prior to elections, political parties carry on extensive campaigns of propaganda for the purpose of directing public opinion in favour of their policies. They use a variety of propaganda tactics to influence the electorate. Through speeches, literature, and general publicity, they try to persuade the voter that their plans are the best. By and large, political parties play an important role in forming public opinion.

6. Mass Media In modern states the real agencies of public opinion are the mass media of communications. These include the press, the cinema, the radio, the T.V. etc., Every one is subject to the influences of these agencies. They are successful in making people aware of certain issues.

7. Public Platform Public meetings provide opportunities for political leaders, scholars and other to express their views on various current problems. Before elections different political parties exploit fully the public platform. Through this agency the leaders of political parties present their view on various burning problems. Each leader of the party tries to convince the people that his party's stand is correct on them. Thus, people get the benefit of having different views and on the basis of them they form their own opinions.

At this point let us turn our attention to examine the role and importance of mass media in modern governments.

29.5 MASS MEDIA

The phrase 'mass media' means the main ways or agencies of communicating with large numbers of people. The widely used news papers, radio, the cinema, and the television are classified as mass media. In modern times these mass media of communication play an important role in moulding public opinion. Let us examine the role of each of these mass media.

29.5.1 NEWS PAPERS

One of the most important agencies in the formation of public opinion is the press. The press includes newspapers magazines, journals periodicals, etc. News papers include dailies, weeklies, bi-weeklies etc. Some dailies have wide circulation running into lakhs. So too are some regional papers and these are widely read in their respective regions. Weeklies and magazines are also read by a large number of people in India. News papers having large circulation have great potential in shaping public opinion. With the spread of literacy they have large audience also.

The news papers provide the public with news of various types about the happenings in the country and around the world. The news paper, through its news and editorial columns, presents facts, interpretation of facts and statements of opinion. Most news papers print unsigned editorials and signed political 'columns'. These are avowedly intended to influence the political opinions of their readers. Formerly the editorial opinions of the press carried a great weight. Such opinions exercised widespread influence on public opinion. At present readers are inclined to discount the editorial attitude of the press. The readers, on the other hand, form their own opinions on the basis of the information conveyed to them. Therefore, public opinion is affected by the type of news published by the colour given to the news and by the way in which it is presented. Informed public opinion will emerge if the facts presented by the news papers are accurate and impartial.

It is likely that sometimes charges are levelled against the press. Most news papers in democracies are owned and operated by private capitalists. Their main aim, like any other private business, is to make profits for their owners. The capitalists, who run chains of news papers, use them to serve their own interests and to support their views and policies. Even the editorial policy is governed by the interests of the publishers and owners. The press is also accused of omitting or distorting news that might be objectionable to its advertisers from whom it obtains its major part of revenue. All this has caused loss of confidence in the impartiality and accuracy of the news presented by the news papers. However, if the facts presented by the news papers, are accurate and impartial, the news papers perform invaluable service in moulding public opinion. The press must also be free to serve its main purpose of creating right thinking in the people about the problems. Owing to its important role in society, an independent and impartial press has been referred to as the Fourth Estate.

29.5.2. CINEMA, RADIO AND TELEVISION

According to Prof. Gettell, what is done by the press through the printed word is supplemented today by the spoken word by means of the new devices of the radio and the talking picture. To these the new-comer, T.V. may be added. Now let us examine the impact of these modern devices on public opinion.

In all the democracies motion pictures are produced by private firms. Their main aim is to entertain audiences and to make money for the producers, rather than to sell particular political points of view. However, government agencies issue "documentary" films which educate and enlighten the people on important events of the day.

Radio is another important medium of political communication. Radio makes it possible to bring the events of the day and the opinions of the leaders and public men to the attention of millions. The speeches of public men are broadcast and are listened to by a large number of people. Thus, it is a powerful agency in the developing nations in disseminating news and views among the people, especially the illiterate masses.

Television is today becoming an increasingly important agency of public opinion. It is an important medium of communication in politics and a powerful means of influencing people. Since its medium is the visual message, people gain from it a better knowledge of the issues. It brings events, issues and leaders directly before the viewers. In developed nations like the U.S.A. and the U.K. it is an important factor in elections. This is noticeable in the American presidential and the British parliamentary elections. It has helped to build up national leaders like de Gaulle, Sukarno and Castro. It has also caused the fall of some leaders. Therefore, its political importance cannot be exaggerated.

The Minor Media The minor media consists of magazines, books, pamphlets, posters, placards and billboards. These also appeal to many people. These are minor in the sense that they deal with far smaller proportions of the population. However, their influence on politics is probably greater than the size of their audience suggests.

29.5.3 THE ROLE OF MASS MEDIA IN MODERN GOVERNMENTS

At the outset, it may be noted that the role of mass media depends upon the nature and type of government. They play a far greater role in democratic systems than authoritarian systems. In democracies people enjoy freedom of thought and expression. Freedom of the press is also guaranteed. These freedoms enable the people to think freely and express their thoughts freely. Consequently, the mass media has important place and role to play. Through the mass media government policies can be criticised and controlled by the people. Their freedom is curtailed in extraordinary conditions such as national emergencies caused by war.

The role of mass media in authoritarian and totalitarian systems is very limited. All media of communication are strictly and directly controlled by the government. They are not allowed to criticise the established regime and its policies. There is no question of civil liberties and free public opinion in totalitarian states.

In the U.S.A. the radio and the T.V. are controlled by private agencies. In the U.K. they are managed by a public corporation. In some countries they are run by the government. Where these agencies are run by the government criticism of government policies through them is rare. Therefore, the importance of keeping the mass media free of government control needs no emphasis.

29.6 SUM UP

Popular control is an essential feature of modern representative democracies. The people exercise control over government through such devices as elections, referendum, recall and so on. However, their control is not continuous.

Since democracy is based on the consent of the governed, public opinion plays an active part in deciding public policies and controlling government actions, public opinion refers to the aggregate of individuals' opinions on a controversial issue which affects them. Public opinion is moulded through various organs such as family, pressure groups, political parties and mass media. The impact of mass media on public opinion is particularly great in the modern scientific and technological age.

Author: Mr. S. POLINAIDU.

29.7 SUGGESTED READINGS

Amal Ray and Abhibhattacharya - Political Theory and Institutions

29.8 MODEL QUESTIONS

I. Answer in about 30 lines.

1. Explain the significance and methods of popular control in democratic systems.
2. What do you understand by public opinion? Explain its importance and the various agencies which mould it.

II. Answer in about 10 lines.

1. Importance of public opinion in a democracy.
2. Role of mass media in modern governments.
3. The role of the press as an agent of mass media.

Dr. B.R. AMBEDKAR OPEN UNIVERSITY

UNDERGRADUATE PROGRAMME

SYLLABUS FOR THE SECOND YEAR B.A. 1989-90

POLITICAL SCIENCE

COURSE I: POLITICAL THEORY AND INSTITUTIONS

- Block I: Fundamentals**
- Unit 1 Definition and Scope of Political Science
- Unit 2 Different Approaches to the Study of Political Science - Traditional & Modern
- Unit 3 Relations with other Social Sciences.
- Block II: State and Society**
- Unit 4 Society, State and Nation
- Unit 5 Sovereignty as a Characteristic of the State - Challenges to Sovereignty - Pluralism and Internationalism.
- Unit 6 The Theories of the Origin of the State - Historical, Divine Right, Force, Matriarchal and Patriarchal Theories.
- Unit 7 The Theories of the Origin of the State - The Social Contract Theory
- Unit 8 The Theories of the Origin of the State - Indian Theories.
- Unit 9 Theories of the Functions of the State
- Block III: Basic Concepts**
- Unit 10 Law, Source of Law, The Concept of Rule of Law
- Unit 11 The Concepts of Liberty and Equality - Their Interrelationship
- Unit 12 The Individualistic, The Authoritarian and the Socialistic Views of Freedom.
- Unit 13 The Theories of Rights of the Individual - Kinds of Rights
- Unit 14 The Concept of Justice, Legal, Political, Economic and Social Justice
- Block IV: Forms of Government**
- Unit 15 Constitutions - Types - Amending Procedures
- Unit 16 Forms of Government - Monarchical, Aristocratic and Democratic
- Unit 17 Modern Forms of Government - Authoritarian and Totalitarian
- Unit 18 Modern Form of Government - Democracy: Direct and Indirect
- Unit 19 Parliamentary and Presidential Governments.
- Unit 20 Federal and Unitary Governments.
- Block V: Organs of Government**
- Unit 21 The Theory of Separation of Powers.
- Unit 22 Legislature - Methods of Representation
- Unit 23 Legislature - Unicameralism and Bicameralism
- Unit 24 Legislature - Functions
- Unit 25 Executives - Political, Administrative Functions, Delegated Legislation - Rise of the Executive
- Unit 26 Judiciary - Functions.
- Unit 27 Judicial Review and Independence of Judiciary
- Unit 28 Political Parties - Their Role
- Unit 29 Popular Control - Methods of Control - Public Opinion - Role of Mass Media

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FACULTY OF SOCIAL SCIENCES
SECOND YEAR (3YDC) EXAMINATION
MODEL QUESTION PAPER
POLITICAL SCIENCE COURSE -I
POLITICAL THEORY AND INSTITUTIONS

TIME : 3 Hours

Max. Marks 100

Section - A

I. Answer any four of the following eight questions in about 30 lines each.

1. Explain the nature and scope of Political Science.
2. What is behavioural approach? What are the characteristics of this approach?
3. State and criticise Austin's theory of Sovereignty and explain its relevance in modern times.
4. Give an account of social contract theory as perceived by Thomas Hobbes.
5. Explain the social contract theory as outlined in the Shanthi Parva.
6. Analyse the relationship of liberty and equality in a welfare state.
7. 'Law making is the most important function of the Legislature', Discuss.
8. Explain the significance of popular control in democratic system and enlist the methods of popular control.

II. Answer any five of the following 10 questions in about 15 lines each.

1. What is the role of the press as an agent of Mass Media.
2. Explain the functions of a political party.
3. Independence of Judiciary.
4. Give an estimate of Judicial Review briefly.
5. Concept of welfare State .
6. What is delegated legislation?
7. What is the role of opposition in a Legislature?
8. What are committees?
9. Proportional representation.
10. Enlist the characteristics of a presidential form of Government.

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UNDERGRADUATE COURSES II YEAR

SUBJECT : POLITICAL SCIENCE

COURSE I : POLITICAL THEORY AND INSTITUTIONS

ASSIGNMENT NO.1

N. B.

1. Do not copy the answer directly from any of the books.
 2. As far as possible try to answer the questions independently in your own words.
 3. If it is necessary to quote from any source give the correct reference.
 4. Leave sufficient margin for the comments of the evaluator.
 5. Use your own foolscap paper for writing the assignments.
 6. Completion of the assignments normally should not take more than two hours' time.
-

I. Answer the following questions in about 30 lines each.

1. Define sovereignty and explain its characteristics.
2. Compare and contrast the parliamentary and Presidential systems.
3. State and criticise the concept of Welfare State.

II. Answer the following questions in about 15 lines each.

1. Describe the salient features of Totalitarianism.
2. What is the Marxist conception of rights.
3. What are the disadvantages of a Unitary form of Government?

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UNDERGRADUATE COURSES II YEAR
SUBJECT : POLITICAL SCIENCE
COURSE I : POLITICAL THEORY AND INSTITUTIONS
ASSIGNMENT NO.2

N. B.

1. Do not copy the answer directly from any of the books.
 2. As far as possible try to answer the questions independently in your own words.
 3. If it is necessary to quote from any source give the correct reference.
 4. Leave sufficient margin for the comments of the evaluator.
 5. Use your own foolscap paper for writing the assignments.
 6. Completion of the assignments normally should not take more than two hours' time.
-

I. Answer the following questions in about 30 lines each.

1. Describe the main features of Presidential form of Government.
2. What are the merits of a written constitution in the context of a federation? Explain with illustrations.
3. Explain Traditional approaches to Political Science.

II. Answer the following questions in about 15 lines each.

1. What are the main features of fascism?
2. Classify the different types of Government.
3. Explain briefly some Indian theories of the origin of the State.

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UNDERGRADUATE COURSES II YEAR
SUBJECT : POLITICAL SCIENCE
COURSE I : POLITICAL THEORY AND INSTITUTIONS
ASSIGNMENT NO.3

N. B.

1. Do not copy the answer directly from any of the books.
 2. As far as possible try to answer the questions independently in your own words.
 3. If it is necessary to quote from any source give the correct reference.
 4. Leave sufficient margin for the comments of the evaluator.
 5. Use your own foolscap paper for writing the assignments.
 6. Completion of the assignments normally should not take more than two hours' time.
-

I. Answer the following questions in about 30 lines each

1. Discuss the role of Judiciary in a modern state.
2. Explain the significance and methods of Democracy.
3. Examine initially the advantages of the bicameral system.

II. Answer the following questions in about 15 lines each.

1. Explain briefly the different kinds of rights.
2. What are the administrative functions of an Executive?
3. Why do you need the Committee system in the Legislatures of today?

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