

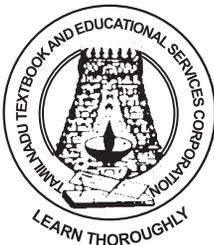
POLITICAL SCIENCE

HIGHER SECONDARY – FIRST YEAR

Untouchability is a sin

Untouchability is a crime

Untouchability is inhuman



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ABOUT THE BOOK

The text book on Political Science for the 11th Standard of the Higher Secondary Course has been prepared at the instance of the Director and Joint Director (P) of the Directorate of School Education, Government of Tamilnadu.

They spelt out clearly the objectives of the present exercise in evolving a new curriculum and framing of a new syllabus for H.S.Course to be followed from the 2004 academic year. They gave the experts and educationists whom they met for this purpose with certain valuable feedbacks and inputs.

The first and foremost objective was that the text book produced shall provide information and knowledge commensurate to the course of study. Another important objectives was that the standard of the book should be such as to cater to the needs of those who wanted to prepare for competitive examinations and desired to pursue higher studies in the subject. Having these objectives in view only this book has been prepared.

The text book for the 11th standard is in the nature of introducing the subject to the students. It mainly deals with the basic concepts, doctrines and theories concerning the institutions and organisations, which form the subject matter of Political Science. The text book for the 12th Standard will deal with the aspects like the structure, organisation and functions of state institutions including their objectives, usefulness and the benefits that accrued to the public.Eg.government, courts.local bodies, political parties etc.,

Utmost care has been taken to avoid factual mistakes and print errors. In spite of it, if there are a few of them, they may be condoned.

The Chairperson takes full responsibility for the lapses and reasonable omissions. He congratulates the Members of the Committee for their invaluable help and assistance in the unenviable task of bringing out this text book.

The Chairperson and the Members of the Syllabus Committee express their thanks and gratitude to the authorities of the Directorate for having provided the opportunity and associated them with the task of writing the book. Suggestions for improvement are solicited.

Chairperson and Members

Syllabus Committee

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Chapter - 1

FOUNDATIONS OF POLITICAL SCIENCE

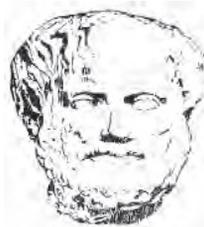
1.1 MEANING AND SCOPE OF POLITICAL SCIENCE

Jean Bodin (1530 – 1596) a French political philosopher coined the term “Political Science”. Political science is a branch of social science. The study of Political science is of great significance and importance in the present day “Global village”.

Political Science is the study of the state. According to **Garner** Political science begins and ends with the state. It may be defined as the study of man in the process of governing himself.

According to **Catlin**, politics means either activities of political life or the study of those activities, which are generally treated as activities of the various organs of government.

According to **R.N. Gilchrist**, political science deals with general problems of the state and government. The great Greek political philosopher, **Aristotle** (384 – 322 B.C.) was the first thinker to use the term ‘politics’. The term “Politics” is derived from the Greek word ‘Polis’ which means city – state.



Aristotle (B.C. 384 - 322)

Polis or city – state was a small independent self – contained political society. Greeks did not make any distinction between politics and society. These Greek city – states of ancient times provide an ideal point for the beginning of a systematic study of political science.

Unlike, the ancient Greeks, we live in a large territorial states today. Greek meaning of the state can be extended to the study of the modern state. In the words of the French scholar, **Paul Janet**, political science is that part of social science which treats the foundations of the state and principles of government.

Scope of political science :

The term ‘scope’ refers to the subject matter or the boundaries of political science. The international Political Science Association at its Paris conference in 1984 discussed, the scope of the subject political science and marked out the subject matter as follows :

I. Political Theory :

- 1. Political theory
- 2. Political ideas

II. Political Institutions :

- 1. Constitution
- 2. National government
- 3. Regional and local government.
- 4. Public administration.
- 5. Economic and social functions of government.
- 6. Comparative political institutions.

III. Political Parties :

- 1. Political parties.
- 2. Groups and associations
- 3. Participation of the citizen in the government and administration.
- 4. Public opinion.

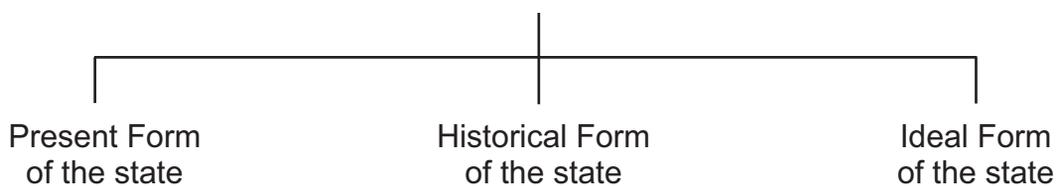
IV. International Relations :

- 1. International politics.
- 2. International organisation and administration
- 3. International law.

Broadly speaking, the scope of political science may be divided into **three** parts:

- 1) Scope of political science concerning the **state**.
- 2) Scope of political science with reference to **human rights**.
- 3) Scope of political science in relation to **government**.

1. Scope of political science concerning the state :



In political science, we study the present form of the state its aims and objectives and the means adopted by the state to achieve its objectives. This aspect of the study of political science has been termed by **Gettell** as the analytical study of the state.

The present form of the state is the result of its historical development. Political science makes a historical analysis of the origin of the state and the theories of the state.

The study of political science has to predict the future of the state that is how it ought to be. According to **Gettell** political science is a historical investigation of what the state has been, an analytical study of what the state is and a politico – ethical discussion of what the state should be.

2. Scope of political science with reference to human rights:

The citizens have their civil, political and economic rights. These rights have to be preserved and protected by the State for the welfare of its citizens.

3. Scope of political science in relation to government :

Stephen Leacock said that, political science deals with government. A state cannot exist without government. Government is the working agency of the state. The different forms of government, various organs of government, political parties, local self - government, judiciary, and internationalism are covered by the political science.

1.2 POLITICAL SCIENCE AS ART OR SCIENCE:

Aristotle, the father of political science considered political Science as the master of all sciences. Writers like **Laski, Burke** and **Maitland** used the title politics instead of political science. Some other Writers like **Godwin, Vico, Hume, Bodin, Hobbes, Montesquieu** used the title political science



Thomas Hobbes (A.D. 1588 - 1679)

Professor **Maitland** once wrote, “When I see a good set of examination questions headed by the words “Political Science”, I regret not the questions but the title. Buckle observed in the present state of knowledge, politics far from being a science is one of the most backward of all arts”. There is a great deal of controversy over the question whether political science is a science or art. Science means a body of systematized knowledge arranged on certain principles.

Art is a systematic knowledge to the solution of problems of human life. Physical science like physics, chemistry etc., follow the scientific method while studying physical phenomena. For example, law of gravity. If you throw a ball upwards, it will come down due to law of gravitation. Similarly, two parts of hydrogen and one part of oxygen constitute water. If you do it anywhere any number of times the result will be the same, correct and exact.

Social sciences like history, sociology, political science, economics also follow the scientific method while studying social phenomena. Laboratory tests are not possible in social sciences.

The basic difference lies in the fact that physical sciences study about matter whereas social sciences study about human beings. Hence the results obtained in physical sciences are precise, perfect and exact at all times. That is not possible in social sciences. This does not mean that political science claim to be a science can be denied.

It is true that political science cannot be an exact science, since its laws and conclusions cannot be expressed in precise terms and it cannot predict political events accurately. Besides social and political relationships are constantly changing and what may be true of them today may not be true in the future. Hence political science can be called both a science and an art.

1.3 THE TWO FACES OF POLITICAL SCIENCE:

Conflict and co-operation are the two faces of political science. As a matter of fact, they are two sides of the same coin. Conflicts are not desirable but unavoidable and inevitable in human society. Conflicts may arise due to many factors like social, economic, cultural and psychological. Whatever may be the degree or stage of conflict, solution has to be found out to solve it.

The state is the final authority in society. It finds solution in the form of integration. State enacts laws, rules and procedures for society. The state can also use force through police, the army and the prisons. But it should be used as a last resort. To be precise force should be used as the very, very last resort. Education plays a major role in the process of integration. The newspapers, the radio, the television and internet are important. Welfare of the people is the aim of every state. With the advancement of science and technology, a new set of conflicts are not ruled out.

It is the responsibility of the state to solve the conflicts paving way for the welfare of the people. And of course, there is no denying the fact that, that is the aim of the state.

1.4 NORMATIVE / EMPIRICAL STUDIES:

There are two types of political theories:

1. Normative or prescriptive
2. Empirical or descriptive

Normative or prescriptive theory is based on postulates, ideals, assumptions or values. It concerns itself on what ought to be. It focuses the attention on:

1. Good order of the society.
2. Ends of the state.



Jean Jacques Rousseau(A.D. 1712-1778)

The works of **Plato's Republic**, **Rousseau's Social Contract** are the examples of normative type. To say that, India should not adopt presidential system of government is to make normative. This statement can be accepted or rejected but it cannot be proved or disproved.

Empirical or descriptive is based on state structure, political process etc, a system requiring knowledge of a subject by actual experience. **Max Weber** in his book "Bureaucracy".

Graham Wallas in his book "Human Nature in Politics" and **Arthur Bentley** in his book "Process of Government" gave an empirical dimension to the study of politics. To say that one political party has more electoral support than the other is to make an empirical statement. This statement is based on facts and facts are verifiable.

1.5 BEHAVIOURALIST MOVEMENT:

Behaviouralist movement came into existence after the end of World War II (1939 – 45). The behaviouralists made significant contributions to political science during the period. Writers like **Gabriel A.Almond**, **Robert A.Dahl** and **David Easton** are some of them.

According to **Robert A.Dahl** behavioralism is "a protest movement within political science associated with a number of political scientists mainly Americans" who shared "a strong sense of dissatisfaction with the achievements of conventional political science, particularly through historical, philosophical and the descriptive institutional approach" and a belief that additional methods and approaches either existed or could be developed that would help political science with empirical propositions and theories of a systematic sort, tested by closer, more direct and more vigorously controlled observations of political events.

Merits of Behavioural Methods:

1. It may assist the student of political science to compare and contrast institutions of one culture with those of another.
2. Behaviouralism is dynamic in nature and can attempt to relate changes in the social order as they occurred to changes in political orders.
3. Models can be used in relation to a theory and hypothesis of how the world is likely to behave.
4. Field investigations, survey of attitudes and testing of hypothesis may throw new lights upon the old political and social problems.

Demerits:

1. The behavioural approach is possible for micro level studies only. Through behavioural approach they cannot discuss questions like “what is justice?” or ‘what is liberty?’
2. The ideas generated by behaviouralist are not new and they just introduced only alternative terms in political science.
3. By following inter-disciplinary approach, the content of politics has been considerably reduced.

POST – BEHAVIOURALISM:

In the late 1960's the behavioural movement lost its original attraction and the momentum of the early years, and soon a reaction started which culminated in a new movement called post behaviouralism.

The post-behaviouralists did not reject the scientific method of the behaviourists. Their against behaviouralism was that because it had ignored current social problems, it was relevant to contemporary social reality. Political science, they insisted, should be relevant to life and its problems.

It should seek to solve the problem of life and thereby enhance human welfare. Post-behaviouralism emphasizes that in political research the substance is more important than the technique. It is more important to be relevant and meaningful for present day urgent problems.

David Easton an authority on post behaviouralism impressed the need for ‘relevance and action’. Post behaviouralism is action oriented and future oriented.

1.6 POLITICAL SCIENCE AND OTHER SOCIAL AND HUMAN SCIENCES:

Social science are those sciences, which discuss about the things connected with the affairs of individuals living in society, political science, economics, history, geography are some of the important social sciences.

Political science is immensely benefited from other social sciences. It is essentially connected and related to other social sciences. As a matter of fact, all social sciences are interrelated and interdependent.

Political Science and History:

There is closed and intimate relationship between political science and history. The relationship between political science and history is beautifully explained by **John Seeley**.

“History without political science has no fruit and political science without history has no root”.

To quote the same author again,

“Politics is vulgar when not liberalized by history and history fades into mere literature when it loses sight of its relation to politics”.

According to **Freeman**,

“History is past politics and politics is present history “. They are complementary to each other. **Montesquieu and Bryce** made use of historical materials to study political science.

Lord Bryce claims that,

political science stands midway between history and politics, between the past and the present.

It has drawn its materials from the one; it has to apply them to the other.

History deals with past events, movements revolutions, national struggles etc. and gives information about the origin and development of political institutions and thought. When various issues, concepts and terms, ideologies, are discussed in political science, their historical development is also taken into consideration.

Political Science and Economics:

Political science and economics are very closely related. In the past, economics had been regarded as a branch of political science. **Adam smith** the father of economics in his book “An Enquiry Into the Nature and Courses of Wealth of Nations” also considered economics as an important branch of political science. It was called political economy.

Now the two social sciences namely political science and economics have their individuality and identification. Economics is a social science dealing with the production, distribution, exchange and consumption of wealth in the society. All economic activity is carried on within the state on conditions and stipulations laid down by the state.

Political science and economics are concerned with such matters, as formulation of five year plans, the socialistic pattern of society economic and welfare activities of government.

The political conditions of a country are greatly affected by its economic conditions. Healthy economy depends on a strong, effective and efficient administration of a country.

Political Science and Geography:

Political science is also related to geography. Geo means earth and graphy means description and geography is the description of the earth. Geography is the study of the earth's surface, physical features, natural and political divisions, climatic conditions, population, etc.

It helps us to understand the impact and influence of geographical conditions of the political institutions of a country. Political geography is known as geopolitics, a new branch of study in modern times. **Montesquieu** stressed the influence of physical environments on the forms of government and liberty of the people. As territory is an essential element of a state, geo - political factors influence political environment. According to **Rousseau**, there is a link between the climatic conditions and form of government. Warm climates are conducive to despots, cold climates to barbarism and moderate climate to a good polity.

Political Science and Sociology:

Sociology is the root of all social sciences. **Auguste Comte** is the father of sociology. Sociology is the study of Society. Political science and sociology are inter-related Political scientists and sociologists contribute mutually for the benefit of whole society.

For example, the institution of marriage and related problems after that, namely divorce are within the domain of sociology. How to solve these problems in a harmonious way for better standard of life is within the competence of political science.

What was once a sub-field of sociology has now taken the form of "political sociology" which is now a legitimate subfield of political science.

Chapter – 2

THE STATE AND ITS ELEMENTS

2.1 Definition :

The state is the most universal and most powerful of all social institutions. The state is a natural institution. Aristotle said man is a social animal and by nature he is a political being. To him, to live in the state and to be a man were indistinguishable.

The modern term “state” is derived from the word “status”. It was **Niccolo Machiavelli** (1469 – 1527) who first used the term “state” in his writings. His important work is titled as “Prince”.

The state is the highest form of human association. It is necessary because it comes into existence out of the basic needs of life. It continues to remain for the sake of good life.

The aims, desires and aspirations of human beings are translated into action through the state. Though the state is a necessary institution, no two writers agree on its definition.

To **Woodrow Wilson**, “State is a people organised for law within a definite territory.”

Aristotle defined the state as a “union of families and villages having for its end a perfect and self – sufficient life by which it meant a happy and honourable life”.

To **Holland**, the state is “a numerous assemblage of human beings generally occupying a certain territory amongst whom the will of the majority or class is made to prevail against any of their number who oppose it.”

Burgess defines the state as “a particular portion of mankind viewed as an organised unit.”

According to **Sidgwick**. “State is a combination or association of persons in the form of government and governed and united together into a politically organised people of a definite territory.”

According to **Garner**, “State is a community of people occupying a definite form of territory free of external control and possessing an organised government to which people show habitual obedience.”

Prof. Laski defines “state as a territorial society divided into government and subjects whose relationships are determined by the exercise of supreme coercive power.”

2.2. Elements :

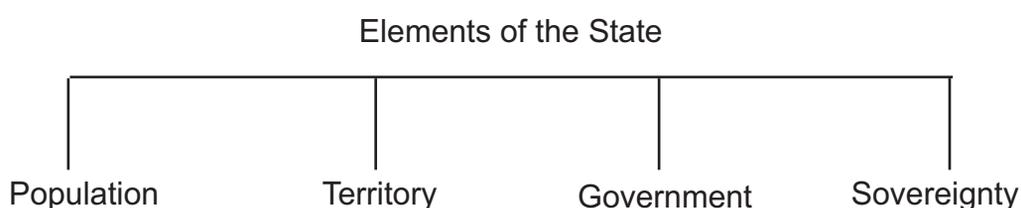
From the above definitions, it is clear that the following are the elements of the state :-

Physical bases of the State

1. Population
2. Territory

Political bases of the State

1. Government
2. Sovereignty



Population :

It is the people who make the state. Population is essential for the state. Greek thinkers were of the view that the population should neither be too big nor too small. According to Plato the ideal number would be 5040.

According to **Aristotle**, the number should be neither too large nor too small. It should be large enough to be self – sufficing and small enough to be well governed. **Rousseau** determined 10,000 to be an ideal number for a state. Greek thinkers like **Plato** and **Aristotle** thinking on the number was based on small city – states like Athens and Sparta. Modern states vary in population. India has a population of 102,70,15,247 people according to 2001 census.

Territory :

There can be no state without a fixed territory. People need territory to live and organize themselves socially and politically. It may be remembered that the territory of the state includes land, water and air – space.

The modern states differ in their sizes. Territory is necessary for citizenship. As in the case of population, no definite size with regard to extent of area of the state can be fixed. There are small and big states.

In the words of **Prof. Elliott** “Territorial sovereignty or the superiority of state overall within its boundaries and complete freedom from external control has been a fundamental principle of the modern state life”.

India has an area of 32,87,263 sq. km. Approximately India occupies 2.4% of the global area.

Government :

Government is the third element of the state. There can be no state without government. Government is the working agency of the state. It is the political organisation of the state.

Prof. Appadorai defined government as the agency through which the will of the State is formulated, expressed and realized.

According to **C.F. Strong**, in order to make and enforce laws the state must have a supreme authority. This is called the government.

Sovereignty :

The fourth essential element of the state is sovereignty. The word 'sovereignty' means supreme and final legal authority above and beyond which no legal power exists.

The concept of "sovereignty" was developed in conjunction with the rise of the modern state. The term Sovereignty is derived from the Latin word *superanus* which means supreme. The father of modern theory of sovereignty was Jean Bodin (1530 – 1597) a French political thinker.

Sovereignty has two aspects :

- 1) Internal sovereignty
- 2) External sovereignty

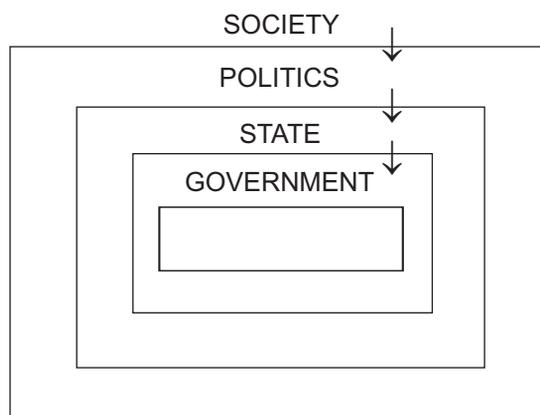
Internal sovereignty means that the State is supreme over all its citizens, and associations.

External sovereignty means that the state is independent and free from foreign or outside control.

According to **Harold J. Laski**, "It is by possession of sovereignty that the state is distinguished from all other forms of human association.

The diagram given below shows that the society is the outer most and the government is the inner most.

Chart showing the outermost and the innermost of the State



2.3 State and Society:

The society consists of a large number of individuals, families, groups and institutions. The early political thinkers considered both state and society as one. State is a part of society but is not a form of society.

Differences between state and society :

Following are the differences between state and society.

Sl.No.	State	Society
1.	State came into existence after the origin of the society.	Society is prior to the state.
2.	The scope of the state is limited.	The scope of society is much wider.
3.	State has fixed territory.	Society has no fixed territory.
4.	State is a political organisation.	Society is a social organisation.
5.	The state has power to enforce laws.	Society has no power to enforce laws.

Prof. Earnest Barker in his book entitled “Principles of Social and Political Theory” clearly brings out the difference between state and society under three headings. They are,

1. Purpose or function
2. Organisation and structure
3. Method

From the point of view of purpose the state is a legal association, which acts for the single purpose of making and enforcing a permanent system of law and order.

But society comprising of a plurality of associations, acts for a variety of purposes other than legal.

These purposes are

1. Intellectual
2. Moral
3. Religious
4. Economic
5. Aesthetic and
6. Recreational

The membership of the state and society are the same. But they differ as regards purpose. The state exists for one great but single, purpose; society exists for a number of purposes some great and some small, but all in their aggregate deep as well as broad.

From the point of view of organisation the state is a single organisation – legal, whereas society comprises within itself many organisations.

As regards method as pointed out before the state employs the method of coercion or compulsion, society employs method of voluntary action.

The purposes for which society exists makes the persuasive methods necessary and the multiplicity of its organisation give ample opportunity to the members to relinquish one association and join another in case coercion is ever attempted.

2.4 State and Nation:

The word “nation” is derived from the Latin word “natio” which means birth or race. The terms nation and state are used as synonym.

According to **Leacock**, a nation is a body of people united by common descent and language.

But the modern writers do not emphasise the racial aspects so much as the psychological and spiritual. It has acquired a political meaning in the recent times.

People who share common ideas and naturally linked together by some affinities and united are now called a nation. In the case of state feeling of oneness is not necessary as in the case of the four elements constituting the State.

Thus the distinction between the state and nation is clear. See the table below.

S.No	State	Nation
1.	Existed not only at present but also in the ancient period	Modern phenomenon.
2.	It is legal political	It is racial cultural.
3.	People organised for law within a definite territory.	People psychologically joined together with common will to live together.
4.	A state must be sovereign.	People continue as a nation even if they do not remain sovereign.
5.	Inhabited by heterogeneous groups of people.	Inhabited by homogeneous groups of people.

Since the Second World War (1939-1945) the theory of 'one nation, one state' has become the practical politics with all nations and new nation states have been created after the Second World War. After 1947 India became the nation state.

If a nation with self - government becomes independent, a nation state comes into existence.

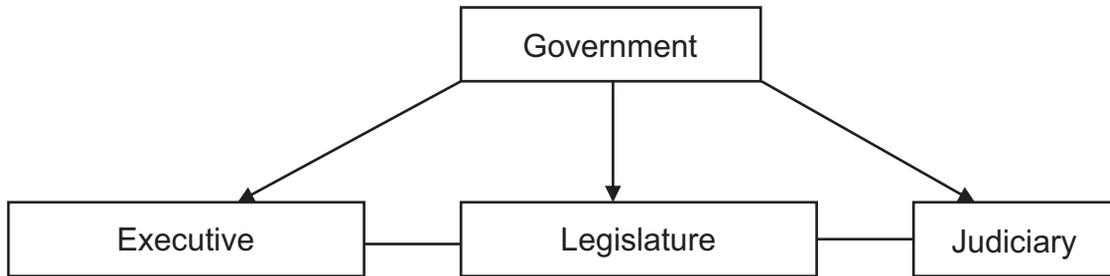
2.5 State and Government:

Government is often used with the 'state' as synonym. But both the government and the state are two different entities. There are differences between the state and the government.

They are explained in the table given below.

S.No	State	Government
1.	State consists of population, territory, government and sovereignty.	Government is part of the state.
2.	State possesses original powers.	Powers of the government are derived from the state.
3.	State is permanent and continues forever.	Government is temporary. It may come and go.
4.	State is abstract and invisible.	Government is concrete and is visible.

Branches of Government



Functions of Government

Make laws	Veto legislation Recommend legislation	Review legislative acts
Confirm executive appointments Override executive veto	Enforce laws	Review executive acts Issues injunctions
Impeach Create or eliminate courts	Grand pardons Nominate judges	Interpret laws

Executive

Legislature

Judiciary

2.5.1 Executive:

It is one of the three branches of government as given above.

State functions through the executive, namely the government. It is the duty of the executive to execute or enforce the laws passed by the legislature.

The executive who exercises real power is the real executive. The executive who has nominal power is the nominal executive.

The President of India is the nominal executive. The union council of ministers led by the Prime Minister of India is the real executive.

Parliamentary executive is chosen from the legislature and is responsible to the legislature. The executive in India is parliamentary in its character.

Powers and functions of executive are :

1. Enforcing law.
2. Maintaining peace and order.

3. Repelling aggression.
4. Building friendly relations with other states.
5. When necessary to wage war to protect the country.
6. Making appointments to higher posts.
7. Raising money and spending them.
8. Convening the sessions of the legislature and conducting business.
9. Issues ordinances whenever the legislature is not in session.
10. Implement schemes and projects to improve the social and economic conditions of the people.
11. Power to grant pardon, reprieve or remission of punishment.

2.5.2 Legislature :

The legislature is the law making branch. The legislature has an important role in the amendment of the constitution. The legislature is a deliberative body where matters of social, economic and political concerns are discussed, debated and decided.

The British parliament is said to be “the mother of parliaments”. It is the oldest legislature in the world.

According to **Prof. Laski**, law- making is not the only function of the legislature but its real function is to watch the process of administration to safeguard the liberties of private citizens. The legislature of the union is called the parliament in India. It consists of two chambers.

1. The House of the People or the Lok Sabha as the Lower House.
2. The Council of State or the Rajya Sabha as the Upper House

The functions of legislature are

- a) Enact laws
- b) Oversee administration
- c) Pass the budget
- d) Hear public grievancees.
- e) Discuss subjects like
 - 1) Development plans
 - 2) National policies
 - 3) International relations.

2.5.3 Judiciary:

Judiciary is the third important organ of the government machinery. Its main function is to interpret laws and administer justice.

Lord Bryce has said that there is no better test of excellence of government than the efficiency of its judicial system. The welfare of citizens depends to a larger extent upon the judiciary.

Judiciary is one of the pillars of democracy. Its interpretation ensures justice, equality and liberty to all its citizens. An independent and impartial judiciary is an essential feature of a democratic setup.

The Supreme Court of India consists of a Chief Justice and other judges. The Supreme Court has its permanent seat in Delhi.

According to **Justice Hughes**, “we are under a constitution, but the constitution is what the judges say it is”.

Functions of Judiciary:

1. Administration of justice.
2. To determine what is law and what is the scope and meaning of it.
3. To give advisory opinion on matters referred to it.
4. To issue orders or writs for the purposes of preventing violation of rights and laws.
5. To act as guardian of the constitution.

Chapter – 3

THE CONCEPT OF SOVEREIGNTY

3.1 INTRODUCTION

Sovereignty is an essential element of the state. State cannot exist without sovereignty. State is regarded superior to other associations only because of sovereignty. In fact modern theory of state got its proper shape and perfection only when the concept of sovereignty was introduced in it.

When we try to search for the origin of this concept we find that the term sovereignty is the product of modern political thinking but the idea goes back to the time of **Aristotle** who referred to it as the “supreme power” of the state.

In middle ages Roman jurist and civilians were also familiar to this idea. But it was **Jean Bodin** who developed for the first time the theory of sovereignty systematically in his book “Six Books on the Republic”.

3.2 MEANING, NATURE AND DEFINITIONS:

The term sovereignty is derived from the Latin word ‘**Superanus**’ meaning supreme. It is basically a legal concept. It denotes supremacy of state. To understand the term sovereignty, it is desirable to look into some definitions of the term given by some political thinkers.

Jean Bodin defined sovereignty as “absolute and perpetual power of commanding in a state. It is supreme power over citizens and subjects unrestrained by law”.

Pollock says that “Sovereignty is that power which is neither temporary nor delegated nor subject to particular rules, which it cannot alter, nor answerable to any other power on the earth.”

Burgers described sovereignty as “original absolute unlimited power over the undivided subjects and over all associations of subjects. It is the underived and independent power to command and compel obedience.”

D.F. Russell defines sovereignty as “the strongest power and supreme authority within a state, which is unlimited by law or anything else.”

According to **Laski** sovereign is “legally supreme over any individual or group. It possesses supreme coercive power.”

The above definitions may differ from each other but one thing is very clear and there is no doubt about the superior authority of sovereignty.

The basic idea is that the sovereignty is able to declare law, issue commands and take political decisions, which are binding on individuals and associations within his jurisdiction.

There are two aspects of sovereignty

- a) Internal sovereignty
- b) External sovereignty

Internal sovereignty means that the sovereign is the supreme authority over the individual and associations, within its territory. External sovereignty means that the sovereign is an independent entity, free from alien rule or control, in its conduct with other states and international organization.

Modern state claims supremacy in internal matter and freedom from the control of external governments on the basis of the attribute of the sovereignty. Sovereignty has the following characteristics:

1. Sovereignty is absolute from the legal point of view.
2. Sovereignty is permanent. It lasts as long as the state. Change in government does not end sovereignty but only transfers it to the next bearer.
3. Sovereignty of the state is universal. It extends to all within its territory.
4. Sovereignty is inalienable. Sovereignty of the state cannot be given away without destroying the state.
5. Sovereignty cannot be divided between or shared by a plurality. To Gettell – “If sovereignty is not absolute no state exists; if sovereignty is divided more than one state exists; but with the emergence of the concept of federalism, the idea of dual sovereignty was provided by Tocqueville, Wheaton and Halleck.
6. Sovereignty is exclusive. State alone has the sovereign authority and legitimate power to make citizens obey its dictates. It is again important to note that all these characteristics of sovereignty are peculiar to the legal notion of sovereignty. They are best represented by an absolute monarchy.

In the actual working of the state – especially in the case of democratic, federal, pluralist and constitutional government – it becomes extremely difficult to discover the seat or real character of sovereignty.

3.3 Kinds of Sovereignty:

Sovereignty can be classified into different kinds. This classification is based on the location of sovereignty.

Titular Sovereignty:

By titular sovereignty we mean sovereignty by the title only. It refers to the sovereign powers of the king or monarch who has ceased to exercise any real authority.

In theory he may still possess all the powers but in practice sovereign power is enjoyed by some other person or body of persons. Titular sovereign is only a symbol of authority, a legacy of past. Britain presents a good example of titular sovereign. The king is the titular head and he does not enjoy any real powers. Actual powers are enjoyed by council of ministers and parliament. In India president is a titular sovereign and the cabinet is a real sovereign.

3.3.1 De Facto and De Jure Sovereignty:

De facto sovereignty indicates to a sovereign who without legal support or constitutional support enjoys sovereign power. De jure sovereign is recognized by law or the constitution, but not in position to practice its power.

In case of revolutions, that is a successful overthrow of the existing regime in a state there may be de facto and de jure sovereigns. For example when Mussolini came to power in Italy in 1922, de facto sovereignty passed into his hands although Victor Emmanuel was the de jure sovereign.

The military dictatorship of the present world, established after a coup d'état also represents de facto sovereignty until it evolves suitable means to legitimize its authority.

Usually de facto and de jure sovereign stay together for a very short period and the de facto sovereign tries to become De Jure sovereign. The de facto and de jure sovereigns should ultimately coincide; otherwise there is danger of conflict between them. New laws are made in order to give him definite status to the de facto sovereign to give it legal support.

3.3.2 Legal and Political Sovereignty:

Distinction is some times drawn between legal and political sovereignty. The sovereign is supposed to be absolute and omnipotent. It functions according to its own will. Law is simply the will of sovereign.

There is none to question its validity. Legal sovereign grants rights to its citizens and there can be no rights against him. It means rights of citizens depend on the will of legal sovereign and any time he can take away. Legal sovereign has following characteristics-

1. The legal sovereignty is always definite and determinate .
2. Legal sovereignty may reside either in one person or in a body of persons.
3. It is definitely organized, precise and known to law.
4. Rights of citizen are gift of legal sovereign.
5. The will of state is expressed by the legal sovereign only.
6. Legal sovereignty is absolute. It cannot be questioned.

In Britain King in Parliament is the legal sovereign. In U.S the legal sovereign consists of the constitutional authorities that have the power to amend constitution.

But behind the legal sovereignty there is another power, which is unknown to law. It is political sovereignty. In practice absolute and unlimited authority of the legal sovereignty does not exist anywhere. Even a dictator cannot act independently and exclusively. The will of legal sovereignty is actually sharpened by many influences, which are unknown to law. All these influences are the real power behind the legal sovereign; and this is called political sovereignty. As **Professor Gilchrist** says- "The political sovereign is the sum total of the influences in the state which lie behind the law." The political sovereignty is not known to law. In modern representative democracies the political sovereignty is very often identified with either the whole mass of the people or with electorate or with public opinion. The legal sovereign cannot act against the will of political sovereign.

Dicey says that "body is politically sovereign which the lawyers recognize there is another sovereign to whom the legal sovereign bow- that body is political sovereignty; that which is ultimately obeyed by the citizens of the state."

A lot of confusion arises when we attempt the exact definition of political sovereignty. It is a vague and indeterminate and cannot be located with exactness. It is suggested by some writers that there is no justification for making a distinction between legal and political sovereignty, as that involves the division of sovereignty, which is not possible.

3.3.3 Popular Sovereignty:

When the sovereignty resides in the people of the state it is called as popular sovereignty. This theory was expounded by

Rousseau, which later became the slogan of French Revolution.

The doctrine of popular sovereignty regards people as the supreme authority. It is people who decide right or wrong. People are not bound by any natural or divine law.

Government exists only as a tool for the good of the people. It should be held directly responsible to the people. It can exercise authority only on the basis of the law of land.

Will of the people should not be ignored Popular sovereignty is the basis of modern democratic system.

3.4 AUSTIN'S THEORY OF SOVEREIGNTY (MONISTIC VIEW):

In the 19th century the theory of sovereignty as a legal concept was perfected by Austin, an English Jurist. He is regarded as a greatest exponent of Monistic Theory. In his book 'Province of Jurisprudence Determined (1832) Austin observed'

“If a determinate human superior, not in the habit of obedience to a like superior, receives habitual obedience from the bulk of a given society, that determinate superior is sovereign in that society and that society (including superior) is a society political and independent.” To **Austin** in every state there exists an authority to whom a large mass of citizen show compliance. This authority is absolute, unlimited and indivisible.

Austin’s theory of sovereignty depends mainly upon his view on nature of law. According to **Austin** “Law is a command given by a superior to inferior” the main tenets of **Austin’s** theory of sovereignty are as follows-

3.4.1 Sovereign power is essential in every political society.

3.4.2 Sovereignty is a person or body of persons. It is not necessary that sovereign should be a single person. Sovereignty may reside in many persons also. Austin explains that a “Sovereign is not necessarily a single person, in the modern western world he is rarely so; but he must have so much of the attributes of a single person as to be a determinate.”

To Austin state is a legal order, in which there is a supreme authority, which is source of all powers. Sovereignty is concerned with man, and every state must have human superior who can issue commands and create laws. Human laws are the proper subjects of state activity.

3.4.3 Sovereign power is indivisible. Division of sovereignty leads to its destruction. It cannot be divided.

3.4.4 The command of sovereignty is superior to over all individuals and associations. Sovereign is not bound to obey anyone’s order. His will is supreme. There is no question of right or wrong, just or unjust, all his commands are to be obeyed.

3.4.5 Austin’s theory says that the obedience to sovereign must be habitual. It means that obedience should be continuous. He also includes that it is not necessary that obedience should come from whole society. It is sufficient, if it comes from the lay majority of people. Obedience should come from bulk of the society otherwise there is no sovereign.

In brief we can say that sovereignty according to **Austin** is supreme, indivisible and unquestionable.

Like all other theories of sovereignty Austin’s theory is also not free from criticism. The first criticism is regarding sovereignty residing in a determinate superior. Even sovereign’s acts are shaped by so many other influences, such as morals, values and customs of the society.

Sir Henry Maine gives the example of Maharaja Ranjit Singh. He pointed out that the Maharaja “could have commanded anything. The smallest disobedience to

his command would have been followed by death or mutilation.” In spite of this, the Maharaja never “once in all his life issued a command which **Austin** could call a law. The rules which regulated the life of his subjects were derived from their immemorial usage.”

Secondly Austin says that the sovereign is possessed of unlimited powers, which is again not acceptable. It is possible only in theory not in practice. **Laski** points out that “no sovereign has anywhere possessed unlimited power and attempt to exert it has always resulted in the establishment of safeguards.”

Thirdly Austin says that sovereign is indivisible. All powers must be centered in the hands of one person or a body of persons called sovereign. But this has been also disproved by federal system of governments. It is characteristic of federal state that power must be divided between the federal government and its units.

Austin’s theory is criticized further on the grounds of his definition of law. Austin defines law as “command given by a superior to inferior”. This is also not true. No sovereign can ignore the existence of customary law, which has grown through usage in every country.

It seems to be that Austin’s theory of sovereignty may not be accepted as valid for political philosophy. His legal theory of sovereignty narrows down “the meaning of vital terms.” It should, however be admitted that as an analysis of strictly legal nature of sovereignty. Austin’s theory is clear and logical.

3.5 PLURALIST THEORY OF SOVEREIGNTY:

The pluralist theory of sovereignty was a reaction to monistic or legal theory of sovereignty. To monistic theory state is supreme association and all other associations are the creation of state and their existence depends on the will of the sovereign power.

The pluralist theory rejects this and tries to establish that there is no single source of authority that is all competent and comprehensive.

Laski says that sovereignty is neither absolute nor a unity. It is pluralist, constitutional and responsible. State has no superior claim to an individual’s allegiance. It can justify itself as a public service corporation. State exists to coordinate functions of human association in the best public interest.

Another exponent of pluralist theory Robert M. MacIver propounds that state is one of the several human associations, although it exercises unique functions. Important feature of the state is supremacy of law.

Pluralists believe that state enjoys a privileged position because of its wider jurisdiction, which covers all the individuals and associations within its boundary. This does not mean that it is superior to other associations. It is also true that state has power to punish those who defy its command but that does not mean that it is absolute. The state must justify the exercise of its special powers. Pluralist sovereignty is divided and limited.

The pluralist demand that the same must justify its claim to allegiance on moral grounds. Actually to them the management and control of society must be shared by various associations in proportion to their contribution to the common good. This theory stands for the decentralization of authority.

The pluralist also rejects the distinction between state and government. They insist on a realistic political science and consider the distinction between two as artificial.

The pluralists are not against the state but would discard sovereign state with its absolute and indivisible power.

3.5.1 The chief tenets of pluralist theory of sovereignty are as follows.

- a) Pluralist sovereignty deals with political aspect of sovereignty.
- b) State is one of the several human associations catering to various interests of the individuals.
- c) State is arbiter over conflicting interests of different associations.
- d) State should compete with other human associations to claim superior authority.
- e) State was not absolute or supreme legally.
- f) State is not the only source of legislation or law.
- g) Law is very antithesis of command.
- h) The state is both the child and parent of law.
- i) The root of obedience of law isn't coercion but the will to obey.
- j) State and government are not different.

The pluralist theory of sovereignty is also not free from criticism. Critics maintain that without establishment of a classless society, sovereignty can neither be divided nor be limited. In order to limit the sovereignty of the state there must be a classless society.

The demands for freedom from different associations also are criticized. Division of sovereignty among different associations is not only impossible but also improper. The pluralist view will lead to political anarchy and social instability.

The pluralist limits the sovereignty in order to maintain independence of individuals and other associations, however in order to maintain the rights of the individuals and associations, the state must have sovereign power. The interest of individuals and associations, will conflict and the state will be helpless if it does not possess sovereign power.

In spite of all these criticism it cannot be denied that the pluralist theory of sovereignty protested the rigid and dogmatic legalism of the Austin's theory of

sovereignty. It supports humanist and democratic ideas. It challenged the concept of unlimited sovereignty.

This theory also pointed out the importance of other associations. Only state is not important but in a society there are also many other associations, which play important role in its development. At last we can say that the greatest contribution of this theory is that it gave state a human face, and checked it from being a threat to the liberty.

Questions

Part – A

1. Sovereignty is derived from the
 - a) Latin word
 - b) French word
 - c) Greek word
 - d) English word
2. There are two aspects of sovereignty. True / False
3. Austin's theory of sovereignty is also known as _____ theory of sovereignty

Part – B

1. Define sovereignty.
2. Explain titular sovereignty.

Part – C

1. What are the characteristics of sovereignty?
2. Distinguish between Defacto and Dejure sovereignty?

Part – D

1. Discuss Austin's theory of sovereignty.
2. Describe the pluralist theory of sovereignty.

Chapter – 4

CLASSIFICATION OF CONSTITUTION

4.1 INTRODUCTION:

Every state must have a constitution. Without a constitution it is difficult to govern a state. History tells that since the origin of the state there had been some kinds of rules and regulations in some form to maintain the order and harmony in the state.

In every state be it a democratic or despotic it is essential that such rules must be accepted which would decide the role and organization of political institutions in order to save the society from anarchy. In modern states these rules find expression in the form of a constitution.

4.2 MEANING AND DEFINITION OF CONSTITUTION:

A constitution is a basic design, which deals with the structure and powers of the government. It also includes rights and duties of citizens. Very often 'constitution' is understood as a document which has been written and accepted at a particular time, but this is not the true meaning of constitution, constitution may be written or may be unwritten.

Sometimes it is found in an established body of rules, maxims, traditions and practices in accordance with which its government is organized and its powers are exercised. Many political thinkers have tried to define the term 'constitution'.

For **Aristotle** "constitution is the way in which, citizens who are the component parts of the state are arranged in relation to one another".

According to **Woolsey**, a constitution is "the collection of principles according to which the powers of the government rights of the governed and relations between the two are adjusted."

Bryce defines it as "the aggregate of laws and customs under which the life of state goes on the complex totality of laws embodying the principles and rules whereby the community is organized, governed and held together".

Herman Finer says, - "The state is a human grouping in which rules a certain power relationship between its individuals and associated constituents. This power relationship is embodied in political institutions. The system of fundamental political institutions is the constitution the autobiography of the power relationship."

A constitution is according to legal dictionary definition "is a frame of political society organized through and by law".

Boucier defines a constitution as "the fundamental law of a state directing the principles upon which the government is founded and regulating the exercise of the sovereign powers, directly to what bodies of persons these powers shall be confined and the manner of their exercise.

George Cornewell Lewis describes the constitution as “ the arrangement and distribution of sovereign power in the community or the form of the government”.

Charles Baregeaud says – “A constitution is the fundamental law according to which the relations of individuals or moral persons to the community are determined.

It may be a written instrument, a precise text or series of text enacted at a given time by a sovereign power or it may be the more or less definite results of a series of legislative acts, ordinances, judicial decisions, precedents and customs of diverse origin and of unequal value and importance”.

Sir James Macintosh says “By the constitution of a state, I mean the body of those written or unwritten fundamental laws which regulate the most important rights of the higher magistrates and most essential privileges of the subjects.

According to **Leacock** - “constitution is the form of government”. **Austin** has defined constitution saying, “that it fixes the structure of supreme government.”On the basis of above definitions we can say that a constitution is

- The fundamental law of the land
- May be written or unwritten
- Deals with the composition and power of the government.
- Deals with the rights of citizens.
- Deals with the relationship between the government and governed.
- It is supreme law that must be followed?

4.3 NEED FOR A CONSTITUTION:

Since the days of American revolution (1776) the idea of a constitution as a necessary and fundamental document was firmly rooted in every state. Today constitution has become the bedrock of democracy. A constitution is needed for a variety of reasons -

1. To curb the powers of the government by fundamental law.
2. To protect the rights of individuals
3. To establish the principle of ‘rule of law’.
4. To save the state from anarchy.
5. To define the operation of the sovereign power of the state.
6. To limit the vagaries of present and future generations.

As **Jellinek** has rightly remarked - “a constitution is a necessity and every state must and does in fact possess one. A constitution is necessary even in the case of despotism. A state without a constitution is not a state but a regime of anarchy.

4.4 CONTENTS OF THE CONSTITUTION:

A constitution must have the following provisions in it

1. Organization and form of administration of the state
2. Functions of different organs of the government their powers and mutual relations.
3. Mention of fundamental rights of the citizens
4. The relation of the government with the people.
5. The procedure of the amendment of the constitution

Among all the above three are most important. Burgess calls them as the constitution of liberty, constitution of government and the constitution of sovereignty.

4.5 NEED FOR FUNDAMENTAL RIGHTS.

The provision of fundamental rights in constitution is considered essential for it imposes definite limitations on the powers of the government. It is a declaration that no government can tamper with these rights of individuals. It establishes a limited and free government.

Fundamental rights are the lifelines of democracy. Almost all the written constitution of the world contains fundamental rights. In the constitution of India part III (Arts 12- 32) fundamental rights are included. The state cannot make a law, which takes away, or abridges any of the rights of the citizens guaranteed in Part III of the constitution. If it passes such law, it may be declared unconstitutional by the courts. The people of the United States of America attach a great sanctity to the rights. But fundamental rights are not absolute.

They are subjected to limitations in order to secure or promote the greater interests of the community or the state. If there is no binding on fundamental rights it may lead to anarchy. Restrictions are necessary. Many constitutions provide for such restrictions.

4.6 CONSTITUTION OF GOVERNMENT :

Second essential content of a constitution is composition and powers of government. The main objective of the constitution is to provide outlines for the structures and powers of the government. A great portion of constitution is devoted to serve this particular purpose. How should the government be organized? How should it work? These questions are answered in the constitution. In wider sense the organization of government includes-

1. Division of powers amongst various departments.
2. Organisation of particular agencies through which state manifests itself.

3. The extent and duration of their authority
4. The modes of appointment or election of public functionaries.
5. The constitution of the electorate.

Some constitutions give a detailed and specific description of composition and powers of the government and there are some constitutions, which are very general and short in displaying government.

The constitution of USA adequately provides for the separation of powers among the executive legislative and judicial departments and the organization powers. It also contains statement regarding their jurisdiction and powers. It also includes list of prohibitions both for central and state government.

According to **Bryce** the constitution of America-“ranks above any other written constitution for the intrinsic excellence of its scheme, its adaptation to circumstances of the people, the simplicity the brevity and precision of its language and its judicious mixture of definiteness in principle with elasticity in details”.

The constitution of India is also an excellent and remarkable specimen. The Constitution Assembly has taken utmost care that nothing should be left unwritten which may create confusion and problem in future. Our constitution is bulkiest in the world. It was because of the complex diversity of culture, language and religions.

The French constitution of 1857 provided only that the Deputies shall be elected by universal suffrage. It contained no provisions regarding the composition, the method of election, the term of office and organization on the powers of chamber of deputies. It was also silent on the organization of judiciary.

Such constitutions are examples of general and brief presentation to government which are not good and which will not long. They lead to failure.

4.7 AMENDMENT OF CONSTITUTION:

It indicates towards the procedure of amendment of the constitution. A written constitution must have procedure for amending the constitution and it is regarded as an essential part of every written constitution.

The method of amendment only guarantees application and sanctity of the constitution. It is upon the method of amendments that guarantees of individual liberty and the adaptability of the constitution depends.

The method of amendment may be simple or may be a complex and difficult procedure. It is simple and enables the political sovereign to express its will, there can be no conflict between the actual conditions and legal organization. But an easy method of amendment may lead to instability. If the constitution is having difficult method of amendment it may result in one of the two things.

First there may grow up extra legal institution fully supported by public opinion.

Secondly, if such extra-legal institutions are not allowed to grow, the consequence may be a revolt.

The method of amendment must be such which should neither give instability nor generate revolution.

As **Jennings** says “A constitution has to work not only in the environment in which it was drafted but also centuries later. It must therefore be capable of adoption to new conditions as they rise.”

All the above-discussed contents are essential for a written as well as unwritten constitution. The difference is that in a written constitution they find more clear and definite place whereas in unwritten constitution they are little vague.

4.8 ESSENTIALS OR REQUISITES OF A GOOD CONSTITUTION:

Whether a constitution is suitable or unsuitable for a particular country, depends upon the circumstance, which prevail there. It is possible that a particular type of constitution may prove useful for a particular country, but for another country it may not prove useful.

For example a federal constitution is suitable for India, but it is not suitable for Nepal, Myanmar and Pakistan. It depends on the social and economic set up of the country. Every state has a right to decide and frame its own constitution.

A good constitution must have the following qualities.

1. Clarity or Definiteness:

Every clause of the constitution should be written in simple language. It should express its meaning clearly without leaving any scope for confusion.

2. Brevity:

The constitutions should not be lengthy. It should contain only important things and unimportant things should be left out. But the brevity should not lead to gap in constitution having some issues unexplained.

3. Comprehensiveness:

The constitution should be applicable to the whole country. If it is a federation then it must say the structure and power of the center and provincial government.

4. Flexibility:

The constitution should not be too rigid to hinder the process of amendment when needed.

5. Declaration of rights:

A good constitution must contain the fundamental rights of the people. In the constitution of countries like India, Russia, China, America and Japan such declaration have been made.

6. Independence of Judiciary:

Independence of judiciary is another quality of a good constitution. The judiciary should function freely and act as the guardian of the fundamental rights of the people without favour or fear.

7. Directive Principles of State Policy:

In a good constitution mention must be made of the Directive Principles of the State Policy because, it helps the establishment of a welfare state. These principles also serve as a boon for the government.

Most of the qualities mentioned above are available in the constitution of India.

4.9 ARISTOTLE'S CLASSIFICATION OF CONSTITUTIONS:

The classification of the constitutions is not a modern idea. There are different bases on which the constitutions are classified. Aristotle for the first time adopted a scientific method to classify the constitution.

His classification is based on the study of 158 constitutions of the ancient world. He has classified the constitution on the basis of location of sovereign power and end or purpose towards which the power was directed.

States which seek the good life of all are true or normal states. Those which deviate from that end are perverted states. His classification is illustrated by the following table.

Table

Aristotle's Classification of constitutions

Rule/Form of Constitution	Pure Form seeking the common welfare	Perverted form common welfare ignored
Rule by one	Monarchy	Tyranny
Rule by few	Aristocracy	Oligarchy
Rule by many	Polity	Democracy

From the table one can understand Aristotle's classification of constitution was mainly based on location of sovereign power and end of the state.

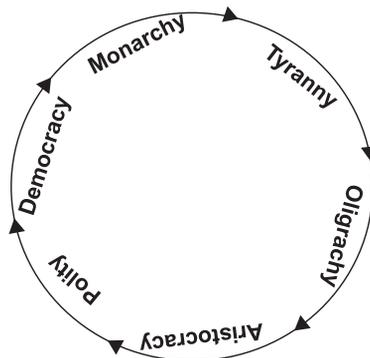
Monarchy is the government by one in the interest of common welfare. When it degenerates into selfish rule of monarch it becomes tyranny. When few people rule for common good it is aristocracy.

But when they rule in their self-interest, ignoring the common good, aristocracy is perverted into oligarchy. Policy is the government by many when it is just and works for the welfare of all. But when they rule for their own class interest, it becomes democracy or ochlocracy.

Aristotle also referred to the cycle according to which the government changes. When monarchy became perverted, it degenerated into tyranny, which was replaced by aristocracy.

Aristocracy also degenerated into oligarchy, which was replaced by polity degenerated into democracy, which was set aside by monarchy. In this way the government continued.

We can understand this from the following figure.



Though the classification given by Aristotle is more realistic and scientific, it does not provide a clear picture. Critics point out that **Aristotle's** classification is not sound because it does not rest upon any scientific principle by which government can be distinguished from one another.

It is arithmetical rather than organic, quantitative rather than qualitative in character. Aristotle gave a wrong meaning to the term democracy.

Sir John Seely criticized it on the ground that it was not applicable to the modern governments. He pointed out that Aristotle knew only city-states and they were not like the "country-states" of modern times.

In Aristotle's classifications there is not place for limited monarchy, a presidential form of government, a parliamentary form of government, a unitary government and federal government. There is no guarantee that governments change in order indicated by Aristotle.

After Aristotle several other political thinkers have tried to classify the constitution. Among them the most scientific and acceptable to modern states is that of **Leacock**.

Modern constitutions are classified in the following manner

1. Evolved and enacted constitutions.
2. Written and unwritten constitutions.
3. Rigid and flexible constitutions.

4.10 EVOLVED AND ENACTED CONSTITUTIONS:

An evolved constitution is the result of the growth of rules, which have been developed with the time, added one by one as and when the need was felt.

It is the product of accumulated material, which has moulded and shaped the political institution of the country. Such a constitution is not made, it grows with its roots in the past, it is nothing but, a collection and continuation of customs, usages, traditions, principles and judicial decisions.

The enacted constitution is the result of the deliberate efforts of man. It is consciously made. It may be made by a constituent assembly or by the command of sovereign authority, king or parliament. The features of an enacted constitution are embodied in a document or in a series of documents.

Constitutions are now divided into written and unwritten instead of evolved and enacted.

4.11 WRITTEN CONSTITUTION:

A written constitution is normally supposed to mean a document or a collection of document in which the basic rules regarding the main organs and institutions of government are clearly laid down.

A written constitution is a deliberate creation. It is a consciously planned system. It may be created by a constituent assembly or a convention. The constitution of India was formulated and adopted by the constituent assembly.

The preamble of the constitution begins with the words,

“We the peoples of India having solemnly resolved to constitute India into a sovereign democratic Republic...”and ends with the words, “in our constituent assembly this twenty- sixth day of November 1949, do hereby adopt, enact and give to ourselves this constitution.”

The constitution of USA was drafted by a special convention of delegates, presided over by George Washington. This constitution emerged out of the Philadelphia convention on September 17, 1787, and was referred to the States for their ratification.

A written constitution may be single document having one date. Such is the case of India, Myanmar and United states. It may be in a series of documents bearing different dates. This is the case with France, Australia etc.

The French constitution under the Third Republic was fragmentary and did not consist of one single document. It was composed of three constitutional laws passed on February 24, February 26 and July 26, 1874.

Whenever there is a written constitution in a country, a distinction is made between constitutional law and ordinary laws. The constitutional law is supposed to be the will of the sovereign and it should not be altered by the ordinary legislative process.

The statutory law has to limit itself within the framework of constitutional law. If they conflict with constitutional law they are termed as ultra vires.

Merits of a Written Constitution:

1. The most important merit of a written constitution is that it is very definite. There is no uncertainty. The constitution provides all fundamental principles in written and people can refer to it as and when they want.

As the powers and organization of the various organs are well defined there is very little scope for confusion and disputes. If a dispute arises it can be referred to the judiciary.

2. A written constitution is drawn with great care and after long deliberation. It means it is the result of experience and knowledge. There is no place for the temporary emotions and hasty decision.
3. A written constitution protects the rights of the individuals. Rights are incorporated in it making them superior to the ordinary law and saving them from being changed by different government from as they wished.
4. It checks the constitution from being twisted and turned according to popular whims and emotions this giving a guarantee of stability.
5. A written constitution is stable and guides through difficult situations. It is more suitable for emergency periods.
6. For a federal government written constitution is more suitable because there is provision for the central and state power separately.

Demerits of a written constitution:

1. Generally, written constitutions are difficult to amend, thus introducing rigidity and conservatism.
2. In a written constitution judiciary is quite conservative an interpretations are merely to see whether a law conforms to the constitution or not. This might strangle a nation, which needs to change according to the times.
3. It tries to encompass all rules and ideals of a nation, which may not be suitable for all the ages. Thus the future growth may be neglected.
4. It sometimes becomes too exhaustive leading to legal jugglery.

4.12 UNWRITTEN CONSTITUTION:

An unwritten constitution reflects the evolutionary nature of free documentation of the rules and regulations. First they are practiced and by a continuous practice, they become part of the constitution. The constitution of Britain is the best example of an unwritten constitution. An unwritten constitution is the result of long process and natural growth of political constitutions of the country. There is no single document or documents, which contain it, though many sources may be found which describe it.

There may be some written documents but their proportion is much smaller than the unwritten elements.

Merits of an Unwritten Constitution:

1. They are quite easily adaptable to changing circumstances. Law can be added as and when required. There is no limitation of any pre-documented constitutional law. Thus they are progressive.
2. They are flexible and people can bring about changes without undertaking revolutions. As these constitutions evolve themselves with the changing time, public opinion finds suitable place in constitution and it terminates possibility of revolution.
3. Unwritten constitution can undergo changes, without basic framework being sidelined. This is useful especially in case of unforeseen situations.
4. Historically they seem to stand the test of times and keep up the traditions of a nation state as it is said about the British constitution that it has unbroken history. It's a continuous process of development.

Demerits of an unwritten constitution:

1. The serious defect of an unwritten constitution is that it is vague and indefinite. Common man may not understand the constitutional system of the country. He cannot refer to any document in which he can find all that he requires to understand the structure of the government of his country. An unwritten constitution requires a very high degree of political consciousness among the people to understand its spirit, and ordinarily that is not easy to find.
2. Some times unwritten constitutions are quite unstable.
3. The judiciary may play more role than is warranted. It becomes the playthings of judicial tribunals. The judiciary can interpret the unwritten laws as it suited to its desire and will.
4. It is also contended that an unwritten constitution is not suited to democracies. The masses need a well-defined document under which they have to live. They may be suited for aristocratic societies but not for democracies.

4.13 FLEXIBLE AND RIGID CONSTITUTION:

Bryce has suggested that the classification of the constitution should be based on the method of amendment to the constitution and its relation to the ordinary or statutory law. Under this scheme there are two types of constitution.-flexible and rigid.

4.14 FLEXIBLE CONSTITUTION:

In a flexible constitution there is no distinction between ordinary law and constitutional law. Both are enacted in the same way and their source is also the same. A constitution may be written or largely based on conventions.

They are amended in the same way. No special procedure is required for amending the ordinary or constitutional law. The constitution of Britain is a classic example of a flexible constitution. Parliament in Britain is sovereign.

- There is no law which parliament cannot make.
- There is no law which parliament cannot unmake and there is no law in the English constitution no marked or clear distinction between laws, which are fundamental or constitutional, and laws, which are not.

In Britain constitutional changes can be made by following the same way as an ordinary law is enacted. The courts have no authority of review. They cannot nullify any enactment of parliament.

Merits of a flexible constitution:

1. A flexible constitution can be amended with the same ease and facility with which ordinary laws are altered. It makes possible the adjustment of the constitution to the new and the changing needs of the society.
2. A flexible constitution can easily adopt the needs of people with the change of time because of its elasticity. When the demands of people are fulfilled by the constitution there is hardly any change of revolution. It is the flexible character of the British constitution, which has saved Britain on so many occasions from the danger of revolution. The transfer from a monarchy to a parliamentary system also was free from violence. Whereas France, which is very close to Britain experienced a revolution and so far five constitutions have been enacted because of revolutions and odd circumstances.
3. A flexible constitution is very useful for developing a country, because it is a great expression of its development. It does not hinder progress due to its adaptability. At the same time it protects the basic principles of the constitution. A flexible constitution is based on the sound assumption of some socio-political change and premise that there cannot be a perfect constitution for all times, to tackle the socio-political changes.

4. Flexible constitution is moulded by the conventions of national life. It represents the historical continuity of the nation's life and incorporates within it the changes as and when the need arises. A flexible constitution can, thus, claim to feel the pulse of public opinion. It represents the minds of people. Judge Cooley had said that "of all the constitutions, which may come into existence for the government of the people, the most excellent is obviously that which is the natural out growth of the national life, and which having grown and expanded as the nation has matured, is likely at any particular time to express the prevailing sentiment regarding government and the accepted principles of civil and political liberty."

Demerits of a flexible constitution:

1. Due to its flexible nature the constitution keeps on changing. The constitution may be changed just to satisfy the people who are in majority ignoring the welfare of minority. It fails to provide a stable system in administration, which results in the poor performance of the government.
2. When the procedure of amendment is simple and easy, it is liable to be seriously affected by ever changing popular passion. And popular passions are guided by emotions, not by reasons. Decisions, which are based on emotions, not by reasons. Decisions, which are based on emotions, may disturb the harmony and balance of a nation. It may divide the society and there may be a possible threat to the integration of the nation itself.

Flexible constitution is not suitable for a federal system, because the rights of constituent units are not guaranteed due to flexible nature of the constitution. There are two possibilities if a federation is having flexible constitution.

1. The units may lose their independence and freedom and centre may become more powerful, which is against the spirit of federal system.
2. The units may act very independently without respecting the constitution, as it is not stable.

As the constitution can be changed by following a simple procedure, there is no guarantee that fundamental rights will not be disturbed. Any government can very easily change the provision of fundamental rights or even may delete it from the constitution.

4.15 RIGID CONSTITUTION:

Rigid constitutions are those, which require a special procedure for the amendment. The constitutions of USA, Australia and Switzerland are the example of a rigid constitution.

The rigid constitution is above the ordinary law and can be changed by a procedure, which is different from the procedure of ordinary law, thus making it difficult to change.

The objective is to emphasize that the constitutional law embodies the will of the sovereign, and it should be treated as sacred document.

American constitution is the best example of a rigid constitution. The American congress cannot make any law contrary to the constitution.

The American Supreme Court acts as the guardian of the constitution and it has right to declare any law of the congress null and void. The constitution of India is neither so flexible as the British constitution not so rigid as the American constitution.

But it is midway, which means more rigid than British constitution and less rigid than American constitution. A rigid constitution is always written.

Merits of a Rigid Constitution:

1. A rigid constitution possesses the qualities of stability and performance. 'A rigid constitutions is essentially a written constitution which is the creation of experienced and learned people. Thus it is the symbol of national efficiency. People regard it as a sacred document and they are ready to work according to its provisions'.
2. A rigid constitution safeguards legislative encroachment, Constitution should not be a plaything in the hands of legislatures.
3. A rigid constitution safeguards fundamental rights effectively. Fundamental rights are part of constitution. No legislature can tamper them, because they are superior to ordinary law.
4. A rigid constitution protects the rights of minority. Minorities cannot be expected to agree to their rights being imperiled by a majority action. If the majority ventures it, the judges perform their function of guardianship.
5. A rigid constitution is free from dangers of temporary popular passion. Because of complex amendment procedure the constitution may not be swept away by the emotions of the people which in most of the cases are not based on wisdom and reasoning.
6. A federal set up of government essentially needs a rigid constitution for the safty of the rights of the units as well as for the strength and integration of the federation. Under rigid constitution units of a federation feel secure and at the same time there is a check on their activities also in order to stop them from violating each other's jurisdictions.

Demerits of a Rigid Constitution:

1. Sometimes changes in the constitution become inevitable but a rigid constitution cannot be amended easily.

2. The framers of constitution is not hardly foresee the future. A rigid constitution is not suitable for a progressive nation where changes take place frequently.
3. Under the rigid constitution, the main concern of the judiciary is to see whether the law conforms to the provisions of the constitution or not.

Whetever merits and demerits a rigid constitution has the fact is that modern tendency is to have a written and a rigid constitution.

The future seems to be rigid constitution having some elements of flexibility in it. As the constitution of India is having elements of flexible constitution and as well as a rigid constitution, this may provide an ideal path for the coming generations.

Questions

Part – A

I. Fill in the blanks:

All modern federation have a _____ constitution

II. True or False:

Brevity is essential for a good constitution

III. Match the following:

- | | |
|-----------------|-----------|
| a) Rule by one | Democracy |
| b) Rule by few | Oligarchy |
| c) Rule by many | Tyranny |

Part – B

1. Define constitution.
2. What are the contents of a constitution?

Part – C

1. Explain Aristotle's classification of constitution.
2. What are the merits and demerits of a written constitution?

Part – D

Describe the merits and demerits of flexible and rigid constitutions.

Chapter – 5

LAW, JUSTICE, LIBERTY, EQUALITY

This chapter has four parts each dealing with law, Liberty, Justice and Equality. The concern of the modern state is to promote the welfare of the people by controlling and regulating their activities. Modern state is also called as welfare state.

To ensure control and regulation to the activities of the People, the state sets out to provide a number of laws. The state also ensures that the people are conferred with liberty, to make them with the availability of opportunities, whereby they can seek their best possible development of their personalities.

The subject of equality is accompanied by the principle of liberty on one hand and of justice on the other. Justice implies the fulfillment of the legitimate expectations of an individual under the existing laws and ensuring him the benefits promised therein and to afford him protection against any violation of his rights or against any infringement on his rights.

5.1. MEANING OF LAW :

In the most widely understood sense, the term 'law' refers to a body of rules enforced by the courts. There are as many social laws and physical sciences laws, which are connected with the behaviour of man in a society.

Students of political science are not concerned with physical laws or social laws but with political laws or positive laws.

These positive laws command the individuals to do certain things and not to do certain things. If this is violated, it will be punishable. Thus, the concerns of political or positive laws are control and regulation, as said earlier. The study of law is called jurisprudence.

DEFINITIONS OF LAW :

“Without law, there is no order, and without order men are lost, not knowing where they go, not knowing what they do” – Mac. Iver. “Law is the system of rights and obligations which the state enforces” – T.H. Green. “Law is any general rule which desires to do or abstain from doing a class of acts, and for the disobedience of which some penalty may reasonably be expected by the person disobeying” – Sidgwick.

5.2 SOURCES OF LAW :

Sources of law indicate those factors that might have attributed for the origin and evolution of law. In the words of Mac Iver, “the state is both the child and the parent of law.” Of the three organs of the government, namely, the legislature, executive and the judiciary, legislature is the organ empowered to make laws, while the executive

and judiciary branches implement and interpret the laws respectively in the context of a fully developed state. Apart from legislature, there are other sources of law as well. They are,

1. Custom or Usages :

By custom, it is meant that a practice followed repeatedly by people generation after generation. It is formed in much the same way as a path formed across a field. They were the laws known in early states. As long as social relationships were simple, and common interests few, all knew and followed the accepted customs, which were handed down through oral tradition by the elder members of the group.

To the sanction resulting from immemorial custom was often added religious authority, since law and religion were not distinguished, and all rules were supposed to have a supernatural sanction.

Many of the customs grew out of religious practices, and superstitious fear of angering the Gods or of arousing evil spirits gave powerful support to all early rules.

2. Judicial Decisions :

These are also called adjudication. Under changing conditions, such as resulted from new environment, new methods of life, or contact with other people, several difficulties arose. Numerous controversies led to doubt as to the relative validity of conflicting customs and many cases arose concerning for which custom furnished no rule.

The evils of uncertain public opinion and the injustice of the strong, when customary rules were absent, led to an additional source of law, namely adjudication, or judicial decision. The decisions of the Roman Praetor and of the English Chancellor were examples of laws thus created.

3. Scientific Commentaries :

The writings of great jurists have sometimes contained legal principles, which have been incorporated into law. Lawyers and judges attach importance to their carefully considered opinions.

Unlike judges whose decisions apply to particular cases, the commentators deal with abstract principles; and what the law makers and courts deal with in legal science in a piecemeal fashion, legal science views as a complete system capable of scientific treatment.

The influence exercised by the jurists in Rome, and by Coke, Blackstone in England and Kent in America are modern times examples.

4. Legislature :

This is the direct source of law at present, and the most important one. Legislatures are regarded as “law making factories.”

New laws are framed, the old ones amended and the existing laws abolished. In spite of the decrease in the influences of other sources of law, the legislator bears in mind the customs, religious practices, judicial decisions etc.

5. Equity :

Equity means fairness or justice. It is also one kind of judge made law. It is a non – conventional method of adopting old laws to new conditions. It supplements the existing law and makes an addition to it. Sometimes the courts maybe confronted with the disputes about which the law is silent. Under those circumstances, the courts decide the dispute taking recourse to equity.

Obviously, as a source of law, equity arises from the fact that as time passes and new conditions of life develop, positive law becomes unsuitable either the old should be changed or adapted by some informal method. Thus equity enters to fill the void. In the absence of a positive law, judges decide the cases on general principles of fairness, reasonableness, common sense and natural justice. The principles of equity thus supplement the premises of law, where they are subject to specific terms by the state.

6. Religion :

Allied to the source of custom is that of religion. It finds sanctions in the religious scriptures of the people. Since times immemorial, people have reposed their faith in the power of some supernatural agencies and tried to lay down rules for the regulation of their behaviour. The words of priests and the contents in holy books also provided some sources to law making.

5.3 KINDS OF LAW :

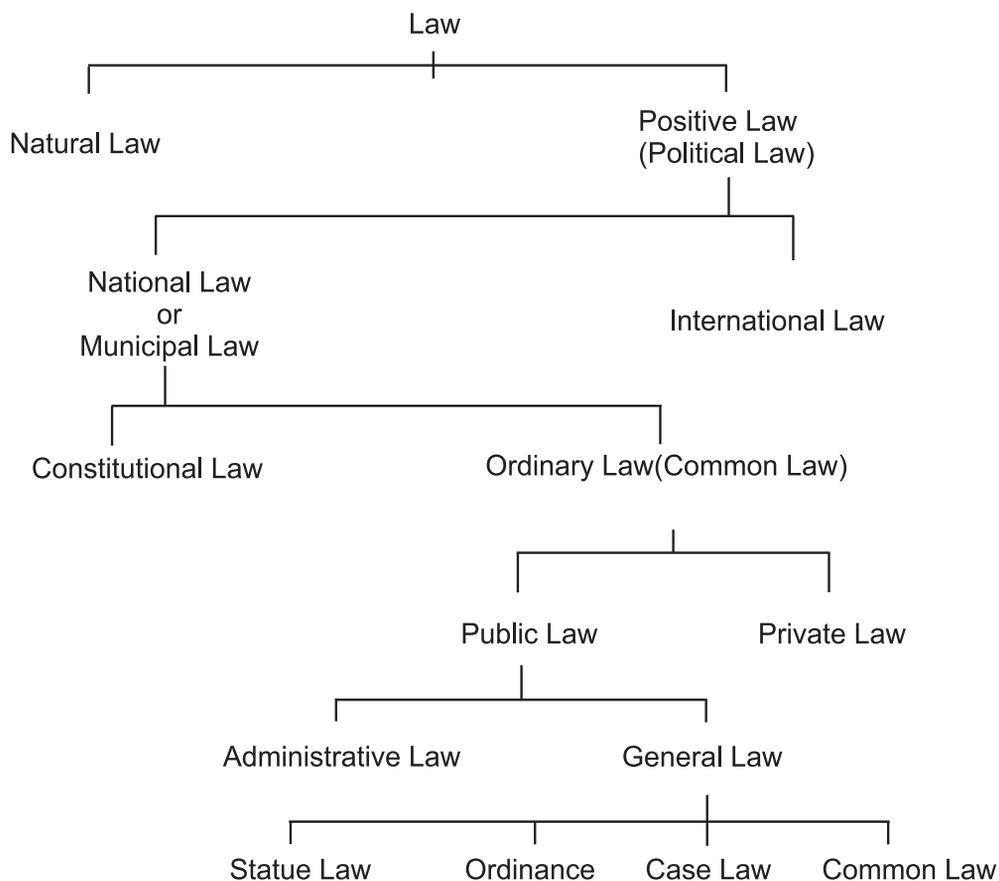
Given below is a classification of law by Mac Iver. The Meaning of the above types of law is as follows.

1. Natural law :

Natural Law is often thought to be as divine law. It is not written anywhere; it is found in the minds of men. It is abstract and not created by any human agency or authority. Natural law has its sanction in respect for or fear of some super power.

2. Positive Law :

Positive law is called as political law. It is created by human agency. It is written in nature. It is concrete and can be understood as it is sovereign power of the state. It is determinate and its violation leads to punishment.



3. National Law :

A law formulated by the sovereign authority and applicable to the people living within its territorial jurisdiction is called national law. It determines the private and public relations of the people living in a state.

4. International Law :

International law regulates the conduct and relations of various status in the world. It differs from national law both in the method of creation and enforcement.

The term “ International Law” was coined by Jeremy Bentham in 1780, to designate what had been called as the “law of nations.”

Wheaton defines international law as “the body of rules which by custom or treaty civilized states regard as binding upon themselves in their relations with one another, and whose violation gives the injured party a legal right to stress.”

It is generally accepted that, international law is merely a positive morality. Natural law or positive morality is that, the conventional law arising by the voluntary agreement among states.

The only means by which these rules can be enforced are self – help and intervention on the part of other states, which sympathises with the wronged one.

These may not always be effective for the vindication of international law, but it is the task of statesmanship to enlist might on the side of right and thus achieves the triumph of international justice.

5. Constitutional Law :

It is the basic law according to which the activities of the government in a state are conducted. It defines and explains the structure of government and the relationships between the various organs of the government.

6. Ordinary Law :

The law according to which the people in a state, are governed is called ordinary law. It includes all the municipal laws excluding the constitutional law.

It is enacted by the legislature. It is subordinate to the constitutional law.

7. Public Law :

Public law deals with relations between the individuals and the state. It covers all forms of crime. In cases involving public law, the state is a party to the case.

8. Private Law :

It deals with the relations between one individual and another. It covers matters such as libel, slander, property, marriage, inheritance etc.

9. Rule of Law :

Englishmen are ruled by the law, and by the law alone; a man with us may be punished for a breach of law, but can be punished for nothing else. – Dicey.

The concept of rule of law is one of the distinguished features of the English constitution, later an accepted creed in almost all democratic countries.

It emerged out of the struggles of centuries of Englishmen for political freedom and individual liberty. It is antithetical to “Administrative law,” which is prevalent in the continental countries like France.

Rule of law has been studied in detail in the book “introduction to the Law of the Constitution” by A.V.Dicey.

Meaning of Rule of Law :

By rule of law, it is meant that administration is run strictly in accordance with law. There is no room for exercising arbitrary powers by any authority. All are under the same law and none is over and above the law.

No man or institution is empowered to award punishment to any individual arbitrarily. All are subject to the same law irrespective of their rank or status and no discrimination is made for the purpose of administering justice. All are equal before law and all are tried in the same courts.

Basic Features :

The basic features of rules law are :

1. No special rights :

Law does not recognize any special rights or privilege for any individual or group of individuals. Law is supreme not individuals.

2. Equality before law :

Law does not make any distinction between one person and another on the basis of race, religion, sex etc. All are equal before law.

3. Predominance of legal spirit :

This is to mean that no man is punished without a proper trial. No person is deprived of his life, liberty and property except for a breach of law established in a court of law. No person is above law. All persons private citizens and government officials are subject to the same law. There is no separate law for government officials. All are tried by the same courts and the same law is applicable to all. In brief, rule of law implies absence of illegal imprisonment and illegal punishment.

Decline of the Rule of law :

The concept of rule of law as explained by Dicey is no longer found in England today. Due to the growth of delegated legislation, advent of administrative tribunals, changed socio – economic circumstances, the emergence of welfare state and the immunities enjoyed by various categories of people, the scope of rule of law is gradually declining.

Administrative Law :

Administrative law is a separate branch of legal discipline dealing with state authority. It directly deals with the conflicts between the state and the individual. It mainly focuses the function of modern state. It evolved from constitutional law and is thus subordinate to it.

Administrative law is defined as the body of rules, which regulate the relations of the administration or of the administrative authority towards private citizens.

Basic Features of Administrative Law :

The basic features of administrative law are

1. It deals with the composition and the powers of administrative authorities.
2. It fixes the limits of the powers of those authorities.
3. It prescribes the procedures to be followed by these authorities in exercising such powers.
4. It controls these administrative authorities through judicial and other means.

Administrative law has become important in modern times because, the administrative agencies some times fail to act in conformity to the constitutional principles and norms. Administrative law seems to put the bureaucracy within the limits.

JUSTICE :

The important elements of justice are,

1. Law
2. Liberty
3. Rights
4. Equality

This includes fraternity also, in this section relevant aspects of justice are described.

Origin of Justice :

Justice is derived from Latin “Justitia” meaning the idea of the word of joining or fitting, the idea of bond or tie. Justice is an important concept in politics, philosophy, law and ethics.

It has been analysed and defined by different philosophers in different ways. The quest for justice began with the beginning of human thinking. Justice has been understood differently in different contexts. There are many wars, struggles, revolutions and social movements, which were inspired by the idea of justice as well as other ideals like liberty and equality. Of all other ideals to understand the political civilization of a nation, we tend to focus on the degree of justice as realized in its judicial administration and social and political life, both as between the private citizens and the wielders of governmental authority.

The term justice has not remained static rather it has changed with the change of time and circumstances. It is closely associated with the religion, morality, equality, liberty, property, law, politics and economic system.

Different social systems perceive different conceptions of justice. In this lesson we shall study about the sources of justice, the relevance of justice in a society and about legal justice which is one among the different kinds of justice.

5.4 MEANING OF JUSTICE :

It is difficult to give a precise meaning of the term 'Justice'. Political thinkers and jurists had given different meanings and definitions. The reason for this is that the contents and implications of justice differ from country to country and also from time to time.

What was justice in the past is not justice in the present day. Therefore it is difficult to define justice. In the ordinary sense justice means to give an aggrieved party what is due to it and punish an individual or a group of individuals or an agency whenever an offence is committed.

This is done on the basis of the of land and in accordance with the basic principles of justice.

Aristotle's theory of justice :

There are three kinds of justice according to Aristotle. They are,

1. **Retributive justice** : This giving punishment to an individual for the crime committed by him.
2. **Compensatory justice** : This is a principle which suggests to give compensation to a victim of a crime (or a criminal).
3. **Redistributive justice** : According to this principle benefits and burdens are redistributed.

Aristotle's ideas in morals and justice are found in his book entitled "Nichomachean Ethics". There are thinkers like Adam Smith and John Rawls who had dealt with justice.

5.5 SOURCES OF JUSTICE :

sources of justice mean the sources of the idea of justice. Sir Earnest Barker has identified that there are four sources of the idea of the justice. They are

1. Religion
2. Nature
3. Economics and
4. Ethics

1. Religion as the origin of Justice : Religion has always been an important source of justice. St. Thomas Aquinas of the great Roman Church in the middle ages had maintained that the words and deeds of Jesus, church fathers and preachers formed the basis of law and consequently of justice.

The Catholic church head, the pope is regarded even today as the fountain of justice. Similar are the views of the leaders of other religions of the world. In Hinduism Manu is regarded as the ancient law giver. Thus the scriptures of all religions and the preachings of religious leaders have always the force of law and justice.

2. Law of nature : It is another source of justice. Survival of the fittest, law of the jungle and might is right are sayings which refer to how justice was rendered where there was no civilized government. Besides there is in the heart of every human being a sense of doing the right and avoiding doing the wrong. This has led to concepts like, “man is free”, ‘man should be treated equal’, and ‘man’s brotherhood’.

3. Economics is another source of justice. Man by nature and needs, to satisfy his hunger and in course of time to improve his standard of living enters into economic activities. When several men and organizations attempt to do the same, differences, conflicts and clashes take place. These lead to settlement procedures. These form the basis of justice and law.

4. Ethics : This is yet another source of justice. The underlying principle is that rendering of justice should have its bases on morals and sense of doing the right thing. No one should be punished for an offence which he has not committed or not done. But the guilty should not be left out without punishment. This kind of justice based on ethics first originated in England when there was no democracy. The king or queen in England was regarded as the “keeper of the conscience” and “fountain of justice”.

Evolution of justice :

Justice is essentially a normative concept, cutting across the domains of religion, ethics and law, though its ramifications cover social, political and economic domains. So great is the diversity of its connotations that it is not easy to abstract to one specific meaning. Generally justice is associated with judicial organisations.

5.6 JUSTICE AND SOCIETY :

Availability of equal opportunities for the development of personality to all the people in society, without any discrimination on the basis of caste, colour, sex or race. The name given to such a manifestation of justice so as to fulfill the above said purpose, is called social justice.

In India, the social stratification is visibly seen to have numerous fragmentation and inequality. The pursuit of the nation by and large in the context of a welfare state is to ensure “social justice” to every man. No one should be deprived of justice because of these differences. Social justice is essential for the enjoyment of social equality and social rights. These are dependent on economic equality and rights.

Justice can be ensured in a society only when the social system is free from exploitation of man by man, and where the privileges of the few are not built upon the miseries of the many. It is pertinent to mention the words of Daniel Webster who said “Justice is the cheapest interest of man.”

5.7 LEGAL JUSTICE :

Legal justice is categorized as one among the various kinds of justice such as natural, political, social economic, administrative, distributive, and corrective justice. Legal justice is related to the law making process and the judicial system of society. It has two specific meanings.

1. Law should be reasonable,
2. Each one should get justice according to law.

1. Law should be reasonable :

Legislature is the law making body of the state. The laws made by the legislature should be rational and reasonable. Laws should be equal of all and there should not be any unreasonable, and unjustifiable discriminations, since the sole purpose of law was the well being of the whole community, these should be equal for equals and unequal for unequals.

Often laws are made to deal with outmoded social customs. Sometimes laws are made to fight against those reactionary, inhuman religious and social practices which hinder social development. These laws are not generally accepted by conservative forces and vested interests and are opposed by them. But this does not affect the rationality of the laws. If the laws must be rational and just, the law making institutions should be rational and just. In modern times it is well accepted that the right to make laws should be vested only with the representatives of the people. This is one of the features of democracy.

In many liberal democracies, the independent and impartial judiciary is authorized to look into the justifiability of the laws made by legislatures. The judiciary is regarded as the watchdog of the constitution and the protector of rights. In such democracies often, the legislature and judiciary get into conflict with each other which may lead to a deadlock, hampering good governance, for which the legislature and judiciary exist in any democracy.

2. Each one should get justice according to law :

This implies that each one should be able to have impartial justice from the judicial system. It means equal protection of law. There are two requirements for equal protection of law. Firstly judicial process should be simple and it should not be costly. For a poor man, it is cheaper to suffer injustice than to have justice through the judicial process. This should be removed and every man should be ensured justice in the most

viable way. Secondly the other requirement of justice through the courts is that the courts should be independent and impartial.

The executive should not have control over the judiciary. The theory of separation of powers is intended to maintain the independence of the judiciary. For the impartiality of the judiciary, the pay, service conditions and the qualifications of judges should be proper, so that they may decide cases without any pulls, pressures or strains.

LIBERTY :

Meaning of Liberty :

Liberty is derived from a Latin word “Liber”, which means free or independent. Being a theme emanating from a normative theory, a precise meaning cannot be arrived by liberty. The concept of liberty occupies a very important place in civics. It has made powerful appeal to every man in every age. It is the source of many wars and revolutions. In the name of liberty war, battles, revolutions and struggles have taken place in the history of mankind. Liberty means the unrestricted freedom of the individual to do anything he likes to do. But this sort of unrestricted liberty is not possible in society.

Liberty is not a license to do anything one pleases, as this would end up in anarchy, the very extreme of liberty. Restrictions are necessary in the interest of general welfare. They are imposed in the form of laws. Law is the condition of liberty. While laws are restrictions to liberty, it is imperative that, the so imposed laws are not unjust as excessive and stringent restrictions hamper the intellectual and moral growth of the individual. Liberty has two aspects.

They are Negative aspect and Positive aspect.

5.5 DEFINITIONS OF LIBERTY :

“Liberty means the power of doing what we ought to do” – Montesquieu.

“Liberty means the absence of restraints” – Prof Seely.

The meaning of liberty finds its positive affirmation in the thought of T.H.Green who describes it as the power to do or enjoy something that is worth doing or enjoying in common with others. Liberty is the eager maintenance of that atmosphere in which men have the opportunity to be their best selves.

Liberty means the positive power of doing or enjoying – T.H. Green.

Taken together, it must be understood that, liberty exists not merely in the absence of restraints but in the presence of opportunities as well. The following definition embraces both aspects of liberty.

“Liberty is the product of Rights. It is the maximum opportunity to do desired things with a minimum of controls and regulations consonant with a well – ordered society.

5.10 KINDS OF LIBERTY :

To have an easy understanding, Liberty can be stated as “ a state of freedom especially opposed to political subjection, imprisonment, or slavery.

Writers like Mac Iver, Laski and others classified liberty in to specific varieties. They are,

1. Natural Liberty,
2. Social / Civil Liberty
3. Moral Liberty.

Social / Civil liberty if further classified into

1. Person liberty
2. Political Liberty
3. Economic Liberty
4. Domestic Liberty
5. National Liberty
6. International Liberty

1. Natural Liberty :

It implies complete freedom for a man to do what he wills. In other words, it means absence of all restraints and freedom from interferences. It may be easily understood that this kind of liberty is no liberty at all in as much as it is euphemism for the freedom of the forest. What we call liberty pertains to the realm of man’s social existence.

This kind of liberty, in the opinions of the social contractualists like Hobbes, Locke and Rousseau was engaged by men living in the “state of nature” – since where there was not state and society. This kind of liberty is not possible at present. Liberty cannot exist in the absence of state. Unlimited liberty might have been engaged only by few strong but not all.

2. Social Liberty :

Social liberty relates to man’s freedom in his life as a member of the social organization. As such, it refers to a man’s right to do what he wills in compliance with the restraints imposed on him in the general interest. Civil or social liberty consists in the rights and privileges that the society recongnizes and the state protects in the spheres of private and public life of an individual. Social liberty has the following sub categories:

(a) Personal Liberty :

Personal liberty is an important variety of social liberty. It refers to the opportunity to exercise freedom of choice in those areas of a man's life that the results of his efforts mainly affect him in that isolation by which at least he is always surrounded.

(b) Political Liberty :

It refers to the power of the people to be active in the affairs of the state. Political liberty is closely interlinked with the life of man as a citizen.

Simply stated political liberty consists in provisions for universal adult franchise, free and fair elections, freedom for the avenues that make a healthy public opinion. As a matter of fact political liberty consists in curbing as well as constituting and controlling the government.

(c) Economic Liberty :

It belongs to the individual in the capacity of a producer or a worker engaged in some gainful occupation or service. The individual should be free from the constant fear of unemployment and insufficiency.

(d) Domestic Liberty :

It is sociological concept that takes the discussion of liberty to the sphere of man's family life. It implies that all associations within the state, the miniature community of the family is the most universal and of the strongest independent vitality.

Domestic liberty consists in

1. Rendering the wife a fully responsible individual capable of holding property, suing and being sued, conducting business on her own account, and engaging full personal protection against her husband.
2. is establishing marriage as far as the law is concerned on a purely contractual basis, and leaving the sacramental aspect of marriage to the ordinance of the religion professed by the parties and
3. seeing the physical, mental and moral care of the children.

(e) National liberty :

It is synonymous with national independence. As such, it implies that no nation should be under subjection of another. National movements or wars of independence can be identified as struggles for the attainment of national liberty. So national liberty is identified with patriotism.

(f) International Liberty :

It means the world is free from controls and limitation, use of force has no value. Dispute can be settled through peaceful means. Briefly all countries in the world will be free of conflicts and wars. Peace will prevail.

In the international sphere, it implies renunciation of war, limitation on the production of armaments, abandonment of the use of force, and the pacific settlement of disputes. The ideal of international liberty is based on this pious conviction that to that extent the world frees itself from the use of force and aggression it gains and peace is given a chance to establish itself.

3. Moral Liberty :

This type of freedom is centered in the idealistic thoughts of thinkers from Plato and Aristotle in ancient times to Rousseau, Kant, Hegel, Green and Bosanquet in modern times. Moral liberty lies in man's capacity to act as per his rational self.

Every man has a personality of his own. He seeks the best possible development of his personality. At the same time he desires the same thing for others. And more than this, he pays sincere respect for the real worth and dignity of his fellow beings. It is directly connected with man's self – realization.

5.10 IMPORTANCE OF INDIVIDUAL FREEDOM :

Individual freedom means that every individual human being in the society is free to act according to his own free will. He is at the centre of the social system to which he belongs. Political thinkers and social scientists explain this 'As an attitude of mind which makes man to act according to needs and interest'. In doing it he should have freedom for adjustments. It is an essential condition for man's happiness and of the development of his personality. It regards the state as a necessary evil. It is an evil because its activities necessarily restrict the freedom of the individual. Such a restriction is necessary because mankind has not yet reached that stage of evolution where the authority of the state may be completely done away with. As the state is an evil its functions should be reduced to the minimum. The best state is one, which exists the least. The prominent exponent of individual freedom was John Stuart Mill of England.

Population consists of individuals, great men, leaders and reformers. Just how much of political development is attributable to the spirit of the time that results from general causes and how much to the conscious effort of individuals is one of the most difficult of problems and historians have held widely divergent opinions concerning it. In spite of the fact that, great men, leaders, and reformers, it is each individual composing the states is a being that wills and acts. Without the cooperation of individual, no change is possible.

The need for individual freedom, and thus the necessity to safeguard it arises. It is accepted that man can consciously modify the physical condition of the external world. When he can do so, he may also influence those psychological bonds that create nations and states ; and as the control of man over nature makes progress rapid in material civilization, so the conscious effort of man to modify his political system, makes possible the revolutions and reforms that marks the path of state development and nation building.

EQUALITY :

Equality is an important theme of normative political theory, which also is an important ideal of democracy. This lesson examines and explains the different senses in which the concept of equality is used.

The lesson also examines the relationship that exists between liberty and equality. Further it examines the measures by which equality is achieved.

5.12 DEFINITION OF EQUALITY :

Equality means, that whatever conditions are guaranteed to us, in the form of rights, shall also in the same measure be guaranteed to others, and that whatever rights are given to others shall also be given to us.

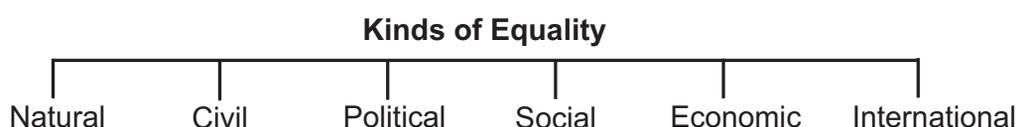
Equality like liberty is an important theme of democracy. Liberty and equality were understood to be one. Both the terms were considered to be of great importance since 19th century. Broadly speaking, equality implies a coherence of ideas that cover spheres ranging from man's search for the development of his personality in the society in which the strong and the weak live together, and both have the right of being heard.

Theory of Equality :

Men are equal on their broad relationship in society. It is true that no government can equate dwarf to a tall man, and a stout to a lean man, but social institutions can extend to each individual, the status and the dignity of a human being, Viewed thus, the idea of equality has two side – positive and negative- that may be discussed as under:

Positive aspect of Equality

In a positive sense, equality means the provision of adequate opportunities to all, without any discrimination on the basis of birth, wealth, caste, colour, creed etc. No body should be debarred form certain facility just because of his status, caste, sex and creed.



Negative aspect of equality :

It denotes, that, in its negative aspect, equality implies the absence of special privileges. There should be no artificial grounds of discrimination like those of religion, caste, colour, wealth, sex, etc, so that no talent should suffer from frustration for want of encouragement.

5. 13 KINDS OF EQUALITY :

There are different kinds of equality. They are,

Natural Equality :

Natural equality rests on the principle that nature has created every one as equal. On the contrary, in reality we can seldom find such equality, as the world is prone with more inequalities than equality. People differ greatly in their intelligence, height, colour, physical strength and mental makeup. Natural equality is meant as the provision of equal treatment and equal opportunities to all human beings, irrespective of natural differences.

Civil Equality :

It implies equality of all before law. Irrespective of their status and position, all people should be treated equal and no discrimination should be made on the basis of caste, creed, sex, place of birth etc. Equal rights should be available to all the people and no body should be denied enjoyment of any right.

Political Equality :

Political equality is best guaranteed in a democracy. All citizens should have the right to participate in all affairs of the state without any discrimination on grounds of sex, race, religion, creed etc. Everything should be open to all people.

It means the enjoyment of political rights such as right to vote, right to contest in the election, right to hold public offices etc. It enables people's political participation and the principle of universal adult franchise is a manifestation of political equality.

Social Equality :

Social equality implies that no one should be regarded as high or low on the basis of his caste, colour, race or religion and no one person should be given special privileges on any of these consideration.

It stands for equality of status and absence of social barriers. It implies the abolition of social distinctions and strives for the establishment of class less society. In reality, there is no social equality as the Indian society is divided into different castes.

Economic Equality :

It means that there should be equal opportunity to all citizens in matters of availability of consumer goods, wealth and property. Similarly every one should have the same facility for jobs, work and in industry. There should be equal wages for equal work.

International Equality :

It means the principle of equality shall be extended to all people in all the countries. The same is true of nations and states. There cannot be different treatment between states and between peoples.

5.14 OBJECTIVES OF EQUALITY :

Equality has the following objectives :

1. No individual or group of individuals is vested with special privileges that are not available to other members of the society.
2. Everyone must be provided with adequate opportunities for the development of their personalities.
3. There should be no discrimination among the people. Even if there is any discrimination, it should be based on reasonable grounds.
4. Rights must be granted to all equally and all must have equal access to opportunities leading to authority.

5.14 LIBERTY AND EQUALITY :

There is no consensus among the scholars of political science regarding the understanding of the relation between liberty and equality. They hold the view that liberty is against equality. They do not go together. They cannot exist side by side. However there can be no equality without liberty. Liberty is very essential for achieving equality.

Questions

Part – A

I. Choose and write the correct answer :

1. Which one of the following is NOT a source of law?
a) Caste b) Custom c) Legislature d) Religion
2. Who said “liberty means the absence of restraints”?
a) Bodin b) Burke c) Green d) Seely

II. Fill in the blanks :

1. Liberty is derived from a Latin word _____ .
2. Civil equality implies equality of _____ .

III. True or false :

1. Legal justice is based on law
2. Aliens do not have voting rights in any country

Part – B

1. Explain the meaning of law.
2. Describe rule of law.

Part – C

1. What are the sources of justice?
2. Define equality and describe its kinds.

Part – D

1. Describe the sources of law and explain the nature of international law
2. Define liberty and discuss the importance of individual freedom

Chapter – 6

FRANCHISE AND REPRESENTATION

6.1 THEORIES OF THE NATURE OF SUFFRAGE :

One important role player in democracy is the electorate. Electorate consists of the voting public. This voting right is also referred to as suffrage or franchise. Voting is a political right given to any eligible citizen. Who is eligible to vote? There are several theories on the voting right.

The most important theories on suffrage are,

1. The Natural Right Theory
2. The Legal Theory
3. The Ethical Theory
4. The Tribal Theory and
5. The Feudal Theory

1. The Natural Right Theory :

This theory claims that the right to vote is a natural and inherited right to every citizen. The state was created by the people deliberately and hence all the people have a natural right to take part in the affairs of the government.

2. The Legal Theory :

According to this theory, suffrage is not a natural right, but a political right granted by the law of the state. Voting is a public function.

3. The Ethical Theory:

The Ethical Theory considers the right to vote as a means of self expression of the individual in political affairs. Suffrage provides for the development of the human personality.

4. The Tribal Theory :

In early Greek and Roman States, suffrage was extended only to the citizen class. Only people who were accorded citizenship status could vote. Now a day's citizenship is essential for voting. This practice is based on the Tribal Theory.

5. The Feudal Theory :

The feudal theory claims that the right to vote depends on a particular social status. The simplest form of social status was ownership of land. Even now in some states emphasis is on property qualification. This is a legacy of the feudal theory.

“Of the above mentioned theories, the feudal theory and the legal theory limit the right to vote by imposing some restrictions. However, the modern government today tends to give widest possible extension of suffrage.

However many political thinkers consider suffrage as an office or function which is conferred by the state upon only such persons as are believed to be most capable of exercising it for the public good, and not a natural right which belongs without distinction to all citizens of the state” – (Garner). If voting is considered as a right or privilege the individual voter has an option either to exercise his right or not. In countries, like Belgium, Rumania, Argentina, voting is made compulsory. That is, all eligible citizens must exercise their vote. But this kind of compulsion is very much against democracy.

6.2 EVOLUTION OF SUFFRAGE :

The history of suffrage is quite long, and is full of revolution and sacrifices. Garner points out, “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”.

Several restrictions imposed on the right to vote, on the basis of sex, property and education have all disappeared.

- **Property or tax paying as a qualification :**

In the nineteenth century the main qualification for franchise was the possession of property or the payment of taxes. The justification for this qualification was that possession of property was a trustworthy indication that its possession was educated and therefore was competent to take part in public affairs.

In Japan until 1925, only a tax payee was given this franchise. A large portion of the population was denied the right to vote.

- **Educational qualification :**

J.S. Mill, advocated educational qualification for voting right. It is argued that people who cannot read or write cannot and should not participate in public affairs.

In some countries like Brazil and Chile, illiterates are excluded from voting. But, whether political intelligence and education go together is a question, which cannot be answered.

It is not logical to believe that ignorant masses will not be able to know what to vote for. Again, literacy cannot be equated with education.

- **Sex qualification :**

As per this qualification, only male members of the society are eligible to vote. Some societies strongly believe that politics is only a man's business and women have no role in that.

Hence even now in some states, women are denied this right to vote. However this attitude is fast changing and most of the countries now offer voting rights to women also.

- **Nationality Qualification :**

Modern states grant this right to vote only to their nationals i.e. those who are citizens of that state.

- **Age Qualification :**

Age is definitely one factor, which brings in maturity of thinking among an individual. So in no county, are children given the right to vote. However, the minimum age required for franchise varied between 18 and 21. in India, Originally 21 years of age was prescribed for franchise. But later, in 1989, it was reduced to 18.

Universal Suffrage :

There are different theories and opinion as to who should have the right to vote and who should be denied the right to vote. As democracy implies people's participation, to the wider extent possible, universal adult suffrage is advocated.

In modern times, most of the countries around the world have opted for universal adult franchise.

6.3 ARGUMENTS IN FAVOUR OF ADULT SUFFRAGE :

- a) Democracy implies popular sovereignty. Suffrage must be universal. Every individual has the right to take part in constituting and conditioning the government. It is popular sovereignty.
- b) The laws of the state affect invariably every one in the state, therefore it is natural that every body expects to have a say in the politics and laws of the government. "What touches all must be decided by all".
- c) If the suffrage is restricted to a particular class, the government thus constituted with their representatives would tend to protect only their interest, at the expense of the unrepresented sections.
- d) Universal suffrage is essential for the development of the individual. Deprivation of the right to vote to one section of the society may make that group, as inferior, and the section, which has voting right, may feel superior. Right to vote enhances the opportunity for self – expression in public affairs.

6.4 ARGUMENTS AGAINST ADULT SUFFRAGE :

Firstly, the most important demerit of universal adult suffrage is, it opens the gate for all. Those who have no knowledge of government or even who is governing them, are made to vote, to put this in simple terms, the ignorant man votes to elect the leaders.

Secondly, in countries like India, where the ratio of literacy is very low, voters are largely illiterates, who cannot even read the names of the candidates but cast their votes by identifying the symbols.

Thirdly, political parties, mostly copitalize on the parochial attitudes of the voters. They field candidates only on the basis of caste. Political leaders appeal not to the nationality of the individuals but to the sentiments of the voters. Masses tend to be carried away by these sentimental appeals.

Fourthly, the electorate being ignorant of national problems and issues choose parties which appeal to their local issues.

6.5 TYPES OF VOTE :

1. One man One vote:

Under this provision every voter is entitled for one and only one vote. The voter can cast his vote in favour of any candidate.

2. Single Transferable Vote:

In this system, which is designed for multimember constituency, the voter possesses only one vote. But he can make his priority like 1,2,3, etc, according to his requirement.

If a candidate fails to secure a majority, the votes polled for him will be reallocated according to the second choice, and then third choice, until a clear majority is obtained by a candidate. In India, election of the president, and members of Rajya Sabha are held on the single transferable vote method.

3. Plural Voting:

According to this system, several qualifications are prescribed for the right to vote such as payment of property tax and education.

A person who owns property or is a tax payer or is educated is eligible for an vote, because he possesses all of these qualifications.

At the same time, a person who is educated, possess property and is a tax payer, is entitled for three votes.

A voter is entitled for one vote for every qualification he possesses. In Belgium, this method was used earlier.

4. Open Ballot:

Under this system, the voters raise their hands to support a candidate. **Montesquieu** advocated this system because, seeing intelligent people raise their hands for a right candidates, the uneducated man would also support him.

However this method is not practical, considering the vast size of electorates. In the legislative assemblies and the parliament, when motions and bills are introduced the speaker puts it for voting. Members who support raise their hands on that basis, the speaker declares the bill passed or defeated.

5. Secret Ballot:

In this system the voter casts his vote in favour of a candidate, without the knowledge of another person. A voter can exercise his franchise without fear. In polling station, an enclosure is provided for him to mark his vote and put the ballot in the ballot box. The ballots are mixed and no body can identify the exact vote polled by any voter. This method is adopted in most of the countries in the election to their legislature. In India also Only secret ballot method is used for elections to the state legislative assemblies and parliament.

6.6 CITIZENSHIP :

The state is a political organization with an established government for the welfare of the people. In other words, welfare of the citizen. The word citizen has two different meanings.

1. One narrow meaning of the term a citizen is a resident of a city.
2. The broader meaning of the term citizen is, 'a person who resides within the territorial limits of the state'.

In Political science parlance, a citizen means, a person who belongs to and is a member of the state and who enjoys social and political rights.

6.7 CONCEPT OF CITIZENSHIP – ANCIENT CITY STATES:

In those day citizenship was not accorded to every individual living in the city state. Only those who were capable of dealing with public affairs or participate in public affairs where accorded citizenship.

Slaves for example were not considered as citizen, and so could not participate in public affairs.

Ancient political thinkers like Aristotle, advocated citizenship only to limited persons.

The practices of extending citizenship only to a limited section of the people changed over the time in modern states. All adults were considered as citizen.

Due to economic and individual developments, a person may have to work and stay in a different country. They are not citizen of that country. He is an alien. An alien is one who is living temporarily in a state but does not belong to that state.

For example, ambassadors of different countries are working and living in India. But they are not citizens of India but are aliens. The difference between a citizen and an alien is, that former enjoys political and social rights, whereas the latter does not enjoy. An alien cannot vote or contest in election in that country.

Citizenship is of two types

- One is called naturalized citizenship and
- Acquired citizenship.

A natural citizen is one who is born in that country.

An acquired citizen is one who acquires the citizenship on application fulfilling certain requirements. A person who stays in a country for 15 years is eligible to apply for citizenship.

Usually a person has to forego his citizenship of the country in which he was born. Citizenship is not just a legal issue. A good citizen should have sentimental attachment towards his country.

Most of the countries in the world are practising indirect democracy. This is also known as representative democracy. This is also known as representative democracy. In olden days there were city-states with a little population.

The administration was also simple. It was possible for the government to consult the people before making any law or taking any action. But in the course of time, the functions of the government have increased many times.

The population has also grown manifold. Hence it is not possible for the government to consult all the people before making a law or taking any action. The extension of the territory and emergence of nation-state has all led to development of indirect election.

Consequently the practice of electing periodically some representative who would work as trustees of the people came to be developed. Thus the people of a state are represented by a small group who are elected by the people.

In ancient democracies, direct popular participation in public affairs was practiced. Therefore there was no need for any representation. However when the Roman Republic expanded, popular participation could not be achieved.

The origin of representation could be traced back to the practice of Christian church in calling together representatives councils to deal with matters relating to the governance of Christendom. Similarly in Europe, kings of feudal societies developed the custom of calling representatives from the communities.

These local representatives presented complaints and petitions and bargained on grant of money. But these representatives cannot be considered as national representatives but only agents of local powers acting under special instructions or mandates.

The representatives used to represent a shire or brought, in the council of the king. The shire or borough was a closely knit community with a distinctive unity of its own. Thus the representatives did not represent a constituency but only a community. A representative to represent a nation or a constituency should rise above petty localism and represent national interest.

According to Edmund Burke, an eminent political philosopher, "A parliament is not a congress of ambassadors from different and hostile interest; which interests each must maintain as an agent and advocate, against other agents and advocates; but parliament is a deliberative assembly of one nation, with one interest, that of the whole; where no local purposes, no local prejudices, ought to guide, but the general good resulting from the general reason of the whole."

In the course of time, the shire or borough type representative gave place to a constituency. A constituency, now a days is a defined territory where the voters belonging to a different caste, community and economic status live.

Constituencies are drawn on the basis of population. Hence the boundaries of the constituencies are not fixed and permanent. They are redrawn or readjusted wherever there is a sizable increase or decrease in the population.

The practice of redrawing or readjusting the boundaries of constituencies gives rise to the modern theory of representation. It is the individual and not the communities, which has representation.

In older days, a territory consisted of groups of people who were socially united. But this social unity has undergone changes and now in a territory, people belonging to different colour, caste, religion, language and economic status live.

Though they are living together there must not be social unity as was found in the past. This transformation from social unity to social diversity has led to the problem in the theory of representation.

Now a question arises, whom does a representative represent? In other words, when a representative is elected, whose voice or opinion should he reflect in the parliament? A diversified society definitely consists of diversified opinion, and quiet normally even conflicting opinion. How can the diverse individual opinion be represented?

The problem in the theory of representation as to whose opinion a representative should reflect is partly answered by the presence of political parties. A political party is a political group representing, and advocating a particular political ideology. In democracies, political parties have become an essential feature.

They get support from the people for their ideology and Programme. Political parties get support cutting across local and Personal differences. In a particular given constituency, people who are otherwise divided into several groups on the basis of caste etc, when it comes to supporting a political party or the other, shed all their other differences and lend or extend support to a political party.

In other words, political parties help people shed or forget their differences and come together in support of a political party. Though political parties reduce divisions among the people of a constituency, divisions among the people cannot be completely eliminated. Because, political parties themselves, are another source or cause for divisions among people.

They divide people on political grounds. Therefore the representation of the multifarious interest through like political parties is not quite satisfactory.

Generally, only one member is elected from a constituency. This is called single member constituency, in this case, people elect a candidate of one political party from among the candidates who belong to different political parties.

The successful candidate is one who has secured more votes than the other candidates who contested in the elections. It is not necessary that the elected candidate should have secured a majority of votes in the system.

The elected candidate represents the opinion of the people who have voted for him only. Therefore a question arises whether representation should be based on geographical basis.

6.9 GEOGRAPHICAL REPRESENTATION:

This method is followed in most of the countries as it is the simplest form of representation. According to this principle, the whole country is divided into electoral districts or areas known as constituency. The electoral districts are drawn so as to contain approximately equal population, and a single member is elected from each district, by majority vote.

To make this system work effectively, the boundaries of constituency have to be redrawn and altered to keep pace with the growth and variations of the populations.

Merits of the system:

The most important merit of this system is that it is the most simple and convenient form. In this system, the voter is required to simply cast a vote for one representative in a constituency, Secondly the limited area of a constituency enables

the voter to know his area of a representative well. The representative will also strive to develop the constituency.

Thirdly, since the area is clearly defined and restricted it is economical for the representatives.

Fourthly this system is being practiced in most of the countries and has proved to be effective in securing a stable majority in the legislature and must ensure a strong and stable government.

Demerits of the System:

The system of geographical representation has a tendency to make the representative a custodian of only local interest, and in his eagerness to develop his constituency, he tends to ignore the national interest.

The elected representative will act as an agent for securing every advantage for his constituency at the cost of national interest.

Secondly, this system promotes the sons of the soil policy. That is, voters will prefer to vote for a candidate who is a resident of the constituency.

This may end in electing an inferior candidate because he happens to be a 'local man.' An able candidate may be defeated just because he belongs not to this constituency but belongs to a different place.

Thirdly, especially at times of by-election the government can easily concentrate on the constituency and influence the voters to return their candidate in the election.

Fourthly, the boundaries are to be redrawn frequently to maintain a balance of population. This provides an opportunity to the ruling party to make alteration in the constituency in its favour. This manipulation of boundaries of a constituency is called 'gerrymandering.'

To avoid this unfair manipulation, redrawing of constituency should be given to a responsible independent body.

Fifthly, under this system a relative majority is required to win a seat. That is a candidate who secures the maximum number of votes polled is declared elected. This is called 'the first to post the poll' principle.

The one who crosses the post is declared elected. The Great defect of this system is sometimes, a candidate who has secured 40 percent of the vote will get elected. Consider this Example . In a constituency 4 parties are contesting namely Party A, Party B, Party C, and Party D.

In a constituency where there are say 1000 voters, Party A gets 400 votes, Party b gets 200 votes, Party C gets 180 votes and Party D gets 220 votes. In this example, the candidate Contesting for Party A gets elected even though he has got only 40% of the votes, which is not a majority. This is only a relative majority. Even though it cannot

be accepted as really democratic, this system is followed in most of the countries, because the alternatives to this system are much more complicated, and cumbersome.

Sixthly in this single member constituency exact representative of the electorate is not ensured. Certain small minorities may go altogether unrepresented, and the legislature may not reflect the minorities in the constituency.

For example, in India, in a constituency, Hindus may be in majority and Muslims and Christians may be in minority. Normally, the Hindu candidate will win in the election.

Though Muslims, Christians and other minorities are living there, they may not get a representation. This applies to linguistic minorities also.

In India, especially which is caste oriented, schedule caste and schedule tribes may not get any representation as they are in minority.

This problem is overcome in India by reserving some constituencies exclusively for schedule caste and schedule tribes. In this, reserved constituency, only people belonging to schedule caste or schedule tribes can contest.

6.10 PROPORTIONAL REPRESENTATION:

The fundamental principle of proportional representation is, every section of the society will get representation in the parliament, in proportion to their population.

Different minorities, who otherwise will go without representation, will get representation according to their strength in numbers.

The main purpose of proportional representation is to secure a representative assembly reflecting with more or less mathematical exactness of the various divisions in the electorate.

First we have to decide what should be the basis for the proportional representation. It can be religion, language, nationality or caste. For example, if in a country, 70 percent of the population belong to religion X, another 20 percent belong to Y and yet another 10 percent belong to religion Z, the total number of seats in the legislature may be proportionally divided in to 7:2:1.

That is, 70 percent of the seats in the legislature will be filled by the candidates belonging to religion X, 20 percent of the seats will be filled by the candidates belonging to religion Y and 10 percent to the total number of seats in the legislature will be filled by the candidates belonging to religion Z.

6.11 ARGUMENTS IN FAVOUR OF PROPORTIONAL REPRESENTATION

Eminent political thinkers like **J.S.Mill** has supported proportional representation. They argue that, a legislature should represent, all the sections of the electorate and no minority should go without any representation in the legislature.

Legislature are compared to maps. One cannot draw a map of a country ignoring any part of the country. All the parts of the country should be included in the map. Similarly, all the sections of the electorate should be represented in the legislature.

The advocates of proportional representation point out that the majority principle is based on the assumption of a biparty system, where there are only two major political parties which compete in the elections. In this biparty system the majority rules and the minority remains in the opposition and criticizes the government. But, really speaking in this society there are various section with their own peculiar problems and opinions.

To make the legislature a true mirror of the nation, it is essential that all the sections are directly, and more so proportionately reflected in the legislature. Mill has observed that, "In any real equal democracy every or any section would be represented, not disproportionately but proportionately. A majority of the electorate would always have a majority of representative but a minority of the electorate would always have a minority of the representatives."

The supporters of proportional representation further argue that under this system there will not be any necessity to readjust or redraw the boundaries of the constituency to equate the number of electors of electors in the constituency on the basis of increasing population.

6.12 DEMERITS OF PROPORTIONAL REPRESENTATION:

Proportional representation is preferable to the majority principle, because, it secures representation for minorities. However, proportional representation also has some demerits. For example, it keeps the division in the society intact and never allows one section freely move with other sections. The majority will never mix with the minority and the minority will never mix with the majority.

Secondly, each minority will tend to organize itself in to a political party. These social divisions will be carried over to the political arena. Tension caused in the social divisions will directly have a bearing on the political parties.

The political parties, which should address the social division, would themselves stand strongly divided. Proportional representation will not promote integration but will only promote disintegration of society.

Thirdly, Democracy is based on the conception of national welfare and a common interest. The idea is that various sectional interests will work out an ultimate compromise. Proportional representation, by widening the area of conflict rather than, bringing a common area of agreement, spells danger for democracy.

Fourthly, it is generally believed that political parties promote national interest rather than sectional interest. Proportional representation substitutes narrow sectional interests for the national welfare.

Fifthly, proportional representation promotes, too many political parties. For example, the Indian society is divided on caste basis. If every caste starts a political outfit, it will only create more problems. Moreover, no political party will get a clear majority in the legislature. Thus, proportional representation leads to political instability.

Sixthly, the vast size of the electoral districts under the system of proportional representation involves a number of difficulties. The intimate connection of the candidate with the constituency is not possible. In India, the systems of proportional representation are followed for the election to the Rajya Sabha, the second chamber of the Indian parliament. The members of the Rajya Sabha are elected by the members of the State Legislative Assembly through proportional representation.

For example, the state of Tamil Nadu has 18 representatives in the Rajya Sabha. They are elected by the members of the Tamil Nadu State Legislature.

As per figures available in December 2003, the AIADMK, which holds majority in the Assembly, has 9; the DMK has 7 and the Indian National Congress has two members in the Rajya Sabha in proportion to their strength in the Assembly. A party, which has more membership in the legislature, will have proportionately more number of seats in the Rajya Sabha.

6.13 FUNCTIONAL REPRESENTATION:

This is another method of representation. Advocates of functional representation argue that in the legislature, it is not the territorial communities that are to be represented but only various interests in the society that are to be represented.

The representation should be occupational or for economic interests. Generally an urban constituency consists of various economic interests, like tradesman, employees, laborers, etc, a rural constituency consists of agriculturists, farm labourers, and small time tradesman.

If the interests of these people are to be represented in the assembly, it should be based on functional or occupational feature.

6.14 MERITS OF FUNCTIONAL REPRESENTATION:

Under this system, the legislature would be composed of the representatives of organized interests and not of the people residing in a particular geographical area. Cole, an eminent political theorist, argues that, a real democracy must contain. "as many specially elected groups of representatives as there are distinct and essential groups of functions."

The guild socialists of British had developed the principles of occupational representation in great details. Interestingly, dictators like Mussolini and non-democrats had experimented with this type. Mussolini developed a corporative chamber, with representatives of various economic groups.

6.15 DEMERITS OF FUNCTIONAL REPRESENTATION:

This system of representation is also criticized for the following reasons. Firstly, occupational or functional representatives, will be interested only in protecting functional interest and will be more familiar with professional problems but they are not trained in dealing with problems of general nature.

The interests are divided and there is no unified national interest. The representatives do not represent the nation but only the occupation.

Secondly, like proportional representation, functional representation also leads to multi parties. As the number of functions or occupation increases multiple parties will also emerge, each representing one occupation.

Thirdly, two opposing functional groups may paralyze the government. For example, agriculturists and industrialists. If any project of the government is going to affect one occupational group, to the advantage of another occupational group, there will be a deadlock as no occupational group would be willing to sacrifice its interests. Thus conflicting interest would only end up in deadlock. Fourthly, the types of occupation in a society are too numerous that is practically impossible to find representative for each and every occupation.

By way of conclusion, it can be said that democracy lives by integration and not by disintegration. As functional representation encourages disruptive forces, it is against the spirit of democracy. At the same time we should also admit that various interests in the society need to be represented in some way.

An alternate to this is creation of several advisory bodies representing several occupational or other interests and when a legislation is considered with a specific group, these advisory bodies can be consulted. For example, a board consisting of employers or employees.

6.16 MINORITY REPRESENTATION :

The word minority is used in more than one sense. In the legislature, the majority becomes the ruling party and the minority party becomes opposition. Apart from this political minority, there are several other minorities like, linguistic, racial and communal.

Thus, in India, Hindus are in majority and Christians, Anglo – Indians and Muslims are in minority. This is religious or communal minority. In Tamilnadu, Tamils are in majority and Telugu people are in minority. This is linguistic minority.

The political minority should be represented in the national legislature. They along with the majority should participate in the law making process.

One way of securing representation for minorities is adopting proportional representation.

Another method is communal representation. Under this system special arrangements are made for minority representation. There may be separate electorates for separate communities. Such a provision was made during the British rule in India.

It provided for representation for each community. The Hindu voted for Hindu and the Muslim voted for Muslim candidates. This was popularly known as communal representation. Another method of communal representation is to provide for reservation of seats. Even though, this communal reservation was not followed in the independent India, the Indian constitution does provide for reservation of seats for scheduled castes and scheduled tribes in the legislatures and in the Lok Sabha. Tamil Nadu Panchayat Act, also provide for reservation of seats for s.cs' and s.ts' in the local bodies.

It is true, in a democracy, wider participation should be allowed. No section of the society should go without representation. However, as provided and in dealing with proportional representation, reservation of any kind will only promote division among the society. Any system of minority representation only divides people into hostile camps.

It also develops hatred among minority and majority against each other. Consequently, democracy, which implies the existence of common will suffer most under a system of minority representation.

Minority representation does not provide the answer to the basic problem of democracy. The problem is how can every group be given an opportunity to participate or influence the process of legislation. The answer lies in creating avenues for the minority to express themselves.

Questions

Part – A

I. Choose and write the correct answer :

- Which one of the following is a qualification for franchise ?
 - Age
 - Education
 - Marriage
 - Property
- Which one of the following is the minimum age Qualification for voters in India?
 - 18
 - 21
 - 25
 - 30

II. Fill in the blanks :

- Proportional representation secures representation to _____
- Montesquie advocated _____ ballot system.

III. True / False :

- Women in India are met eligible to vote.
- The prime minister of India is elected directly by the people of India.

Part – B

- Explain geographical representation
- What is universal suffrage?

Part – C

- Discuss the demerits by proportional representation.
- What are the various theories of voting rights

Part – D

- What are arguments for and against adult suffrage?
- Write an essay on the concept of the citizenship and right to vote

Chapter – 7

THE DEMOCRACY

7.1 MEANING AND DEFINITION :

In the dictionary definition, democracy “is government by the people in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system.”

In the words of Abraham Lincoln, democracy is a government “of the people, by the people, and for the people.” There is no clear – cut, universal definition of democracy. Most definitions of democracy focus on qualities, procedures, and institutions.

There are many types of democracy and their varied practices produce similarly varied effects. Following are the varied definition of democracy.

“Democracy comes from the Greek words **demos** meaning ‘People’ and **kratos** meaning ‘authority’ or ‘power.’”

“...government which is conducted with the freely given consent of the people.”

“...a system of government in which supreme authority lies with the people.”

“Rule by the people in a country directly or by representation.”

“The form of government in which political control is exercised by all the people, either directly or through their elected representatives.”

The word ‘democracy’ itself means ‘rule by the people.’ “A democracy is a system where people can change their rulers in a peaceful manner and the government is given the right to rule because the people say it may.

7.2. HISTORY OF DEMOCRACY :

The history of democracy is not a slow steady advance, in the view of political scientist **Samuel P. Huntington**, but a succession of waves that have advanced, receded, then rolled in and crested again. Huntington identifies three historical or “long waves” of democracy.

The first began in the early 19th century with the extension of the right to vote to a large proportion of the male population in the United States, and continued until the 1920s. During this period, some 29 democracies came into being.

The flow, or reversal, of the first wave began in 1922 with the accession of Mussolini to power in Italy and lasted until 1942, when the number of the world’s democracies had been reduced to 12.

A second wave began with the triumph of the Allies in World War II, in 1945 when the number of democracies had risen to 36. The flow of the second wave between 1962 and the mid – 1970s brought it back down to 30.

Since 1974, however, democracy's third wave has approximately led to the emergence of democracies to double.

Huntington writes, "Economic development makes democracy possible; political leadership makes it real."

Huntington is of the view that the ebbing of democracy's third wave is always possible, he concludes, possibly followed by a fourth wave sometime in the 21st century.

Democracies fall into two categories,

7.3 DIRECT DEMOCRACY :

In a direct democracy, all citizens, without the intermediary of elected or appointed officials, can participate in making public decisions. Such a system is clearly only practical with relatively small numbers of people in a community organization to tribal council, for example, or the local unit of a labor union, where members can meet in a single room to discuss issues and arrive at decisions by consensus or majority vote.

Ancient Athens, the world's first democracy, managed to practice direct democracy with an assembly of as many as 5,000 to 6,000 persons. In Switzerland direct democracy is followed even at the national level.

7.4. INDIRECT DEMOCRACY :

Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections that shall be held by universal and equal suffrage and shall be held by secret vote or the equivalent free voting procedures.

India is the best example of a representative democracy. Voting is one of the mechanisms that guides a democratic state and keeps its leaders on track, and it serves to let the leadership know how they have performed.

During elections, citizens vote for the candidate for their choice. Elected leaders represent "the people" and govern for a set period of office. Representatives are chosen through elections based on the constituency or proportional representation systems, or on a combination of the two.

7.5 CONSTITUTIONAL DEMOCRACIES :

Democracies are based on a written constitution or a supreme law that serves to guide legislators and the laws they make.

Written constitutions serve as a guarantee to citizens that the government is required to act in a certain way and uphold certain rights. The strength of a real democracy depends on certain fundamental rights and freedoms.

These rights and freedoms must be protected to make sure that a democracy will succeed. In many countries these rights are found in and protected by a constitution. The constitution also sets out the structures and other laws.

It is normally protected from amendment by the whim of a particular government by having a special majority required before any clause can be changed or through submitting any changes to voters through a referendum.

7.6 PREREQUISITES OF DEMOCRACY :

With an upsurge in the number of democracies holding free and fair elections and declaring themselves democratic states, some theorists have developed a set of minimum requirements.

Elections on their own do not make a country democratic. The following list of minimum requirements has been extracted by a study of democracies and by reading various theories of democracy.

It provides both a good overview of what democracy means and a standard against which to test whether or not a country is democratic.

1. Control over government decisions about policy constitutionally vested in elected representatives.
2. Elected representatives chosen in frequent and fair elections.
3. Elected representatives exercise their constitutional powers.
4. All adults have the right to vote in elections.
5. All adults have the right to run for public office.
6. Citizens have the right to express themselves on political matters, defined broadly, without the risk of state punishment.
7. Citizens have the right to seek out alternative sources of information, such as the news media, and such sources are protected by law.
8. Citizens have the right to form independent associations and organizations, including independent political parties and interest groups.

9. Government is autonomous and able to act independently from outside constraints (such as those imposed by alliances and blocs).

If any of those conditions is not present, political scientists argue that the country is not truly a democracy.

Criticism of Government :

Educating citizens about the democracy in which they live means that educators will provide them with some of the tools to analyse their circumstances.

In some instances this may provoke a strong critique of the government, the powers it has, the way it functions, and whether or not it appears to be fulfilling promises made at election time.

Educators will want to prepare themselves for dealing with this critique in a constructive manner so that learners also learn how to deal with their criticisms in a democratic and peaceful way.

Democratic Society :

Democracy is more than a set of constitutional rules and procedures that determine how a government functions. In a democracy, government is only one element coexisting in a social fabric of many and varied institutions, political parties, organizations, and associations.

This diversity is called pluralism, and it assumes that the many organized groups and institutions in a democratic society do not depend upon government for their existence, legitimacy, or authority.

The pillars of democracy :

1. Sovereignty of the people.
2. Government based upon consent of the government.
3. Majority rule.
4. Minority rights.
5. Guarantee of basic human rights.
6. Free and fair elections.
7. Equality before the law.
8. Due process of law.
9. Constitutional limits on government.
10. Social, economic, and political pluralism.

7.7 MERITS OF DEMOCRACY :

1. The participation of the individual members in the government facilitates to enlist their sympathy and co – operation to the success of the government.
2. It is an effective form to educate the public about political, economic and social affairs.
3. it is helpful to promote patriotism among the people and prevents occurrence of violent revolutions.
4. It helps to make progress and development and enables changes to take place in a peaceful manner.
5. It ensures to the people freedom of speech, conscience, assembly and action.
6. It guarantees liberty and equality, which are necessary for human development.

7.8 DEMERITS OF DEMOCRACY :

1. It sometimes leads to establish the majority view over the minority view.
2. Party leaders and political office holders in government control the citizens and the members of the party.
3. It does not encourage individuals to give their opinions.
4. It is a very expensive form of government because elections have to be conducted periodically to various office.
5. It is difficult to prevent corruption and malpractices.
6. It is also known as government by amateurs and lead to domination of masses.

7.9 DEVICES OF THE DIRECT DEMOCRACY :

As noted elsewhere democracy is of two kinds. One is direct democracy and the other is indirect democracy.

The chief direct democratic devices are :

1. Initiative
2. Referendum
3. Recall

The devices are followed by Switzerland, which practices direct democracy. They are followed in some other countries also. However, they have not been successful.

1. Initiative :

Initiative is a method, which enables the voters to bring to the notice of the government of the need to bring in legislation in any subjects on which the government has not enacted a law.

There are certain procedures prescribed and minimum requirement to be fulfilled for initiative. One of the important conditions is that a minimum of 50,000 votes should submit a bill asking the government to enact a law of the choice of the voters.

Government may or may not accept, because this proposal of the people should have the support of the majority of the voters of the nation.

2. Referendum :

Referendum is a procedure according to which laws enacted by the national parliament are referred to acceptance of the electors.

Electors may accept or reject the enactment. If the electors accepted the enactment it will become a law. Referendum is of two kinds. One is compulsory referendum and the second is optional referendum. For this also there are certain procedures to be followed.

3. Recall :

In democracies voters elect their representatives in the elections to various bodies such as legislatures, local self – government, councils and a few governing agencies.

Once elected these representative hold offices for the entire duration of the life of the body concerned. Representatives sometimes do not perform their duties and discharge their responsibilities.

If the electors are not happy, with their representative they cannot compel them to do the same. They have to wait till the next elections to remove such members from office. Therefore a demand has arisen for removing such representatives and electing new faces in their place.

This method of removing the representatives before the completion of their terms and electing new persons is called the method of “Recall”. This is practiced in some countries the Switzerland and the United States of America.

7.10 FUNDAMENTAL RIGHTS IN INDIA :

There are certain basic rights, which are fundamental and essential for the living of man. These rights promote the freedom of the individual and his well – being.

These are incorporated in the fundamental law of the country. In all modern democracies like India, United States etc., these basic rights are guaranteed to the

citizens. These fundamental rights are included in part III of the constitution of India. But they are not absolute and some reasonable restrictions are imposed on the enjoyment of the rights by the constitution itself. The fundamental rights in India are justiciable in a court of law. They are contained from article 19 to 32.

The Supreme Court and High Courts are given the power to issue writs for enforcement of the rights. The right to move the supreme court for the enforcement of the rights, is itself guaranteed as a right. However, the right to property as enshrined in the constitution removed by the 44th amendment of 1978. The following are the important fundamental rights guaranteed in the constitution.

Right to equality :

The constitution prohibits discrimination against any citizen on grounds of religion, race, caste or place of birth. It ensures public employment, and equality of opportunities for all citizens. To this, there are certain exceptions.

The state can reserve certain percentage of the jobs for the scheduled castes and tribes and backward classes in recruitment to public services and also in making promotions.

Also, the state can prescribe in certain cases residential qualifications.

Right to freedom :

Article 19 of the constitution guarantees seven freedoms :

- a. Freedom of speech and expression
- b. Freedom to assemble peacefully without arms.
- c. Freedom to form associations or unions.
- d. Freedom to move freely throughout the territory of India.
- e. Freedom to reside and settle in any part of the territory on India.
- f. Freedom to acquire, hold and dispose of property.
- g. Freedom to practice any profession or to carry on any occupation, trade or business.

Article 19 itself imposes certain reasonable restrictions on the exercise and enjoyment of the seven freedoms.

Protection of Life and Personal Liberty :

Personal liberty and the rule of law find a place in the India constitution. Article 21 guarantees that no person shall be deprived of his life or personal liberty except according to procedure established by law.

- No person can be convicted of any offence except for the violation of a law.
- No person can be given a penalty greater than what might have been inflicted under the law.
- No person will be prosecuted and punished twice for the same offence.
- No person accused of any offence will be compelled to be a witness against himself.

Right against Exploitation :

Article 23 prohibits traffic in human beings, enforced labour, and employment of children below fourteen years, in factories, mines and other dangerous employment.

Right to Freedom of Religion :

India's constitution guarantees religious freedom to all. Subject to certain reasonable restrictions like public order, morality, health etc, all persons are entitled to freedom of conscience and the right to profess, practice and propagate religion. The constitution dabs religious instruction in all educational institutions wholly maintained by the state.

Cultural and educational Rights :

The constitution safeguards the freedom of every minority community to practice its own religion and conserve its own culture, language and script.

All minorities, religious or linguistic have been given the right to establish and administer educational institutions and no discrimination can be shown in granting aid to them.

Right To Constitutional Remedies :

According to Article 32, every citizen has the right to move the Supreme Court for the enforcement of fundamental rights. The Supreme Court has the power to issue writs in the nature of habeas corpus, mandamus, prohibition, quowaranto and certiorari for the enforcement of the rights. Rights have no meaning unless they are safeguarded and enforced by the courts. According to **Dr. Ambedkar**, Article 32 is "the heart and soul of the whole constitution."

Rights and Parliament :

According to 24th Amendment the Parliament is competent to alter, abridge or take away any of the fundamental rights by passing an amendment according to the procedure laid down in Article 368.

Fundamental Rights and Directive Principles :

25th Amendment inserted a new Article 31 (c) in the constitution. According to this Article the Parliament can pass laws to implement the directive principles. Such laws are placed outside the scope of judiciary and would not be affected by Article 14, 19 and 31.

42nd Amendment has made fundamental rights subordinate to the directive principles. Thus directive principles are given precedence over the fundamental rights.

7.11 FUNDAMENTAL DUTIES :

A list of fundamental duties is included in the constitution of nearly 50 countries in the world. Constitutions of more than 30 countries have a single chapter on fundamental rights and duties; whereas **others** have rights and duties under separate chapters. The part IV A imposes ten fundamental duties on the citizens of India. These duties were incorporated in the Indian constitution by 42nd Amendment of 1976 in Article 51 A.

1. To abide by the constitution and respect its ideals and institutions, the national flag and national anthem.
2. To cherish and follow the noble ideals which inspired our national struggle for freedom.
3. To uphold and protect the sovereignty, unity and integrity of India.
4. To defend the country and render national service when called upon to do so.
5. To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and renounce practices derogatory to the dignity of women.
6. To value and preserve the rich heritage of our composite culture.
7. To develop the scientific temper, humanism and the spirit of inquiry and reform.
8. To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.
9. To safeguard public property and to abjure violence.
10. To strive toward excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement.

The main objective of the fundamental duties in our constitution is to change the attitude and thinking of the people and to bring about a peaceful social transformation in the country.

7.12 HUMAN RIGHTS AND DEMOCRACY :

The declaration of Human Rights states, “All human being 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.

On 10 December 1984, the United Nations General Assembly adopted the Universal Declaration of Human Rights, which has become a universal standard for defending and promoting human rights.

Every year on 10 December, Human Rights Day marks the adoption of the Universal Declaration.

On Human Rights Day it is celebrated around the globe that “All human beings are born with equal and inalienable rights and fundamental freedoms.” Human rights regulate the relationship between individuals and the state. Individuals must be protected against injustice, and it is the duty of the state to protect its individuals. Human rights state that all people are born free and equal in their value and rights to which they are entitled.

This basic theory forms the basis for the entire great system of legal rule created in the field of human rights.

There are three different groups of rights :

- Civil and political rights : the right to life, freedom of expression, the right to vote, personal safety and integrity.
- Economic, social and cultural rights : such as the right to an education, housing, health and work.
- Collective rights : such as the right to self – determination, peace and an acceptable environment.

The Need to Protect Human Rights :

- The need to promote substantive laws at the national level that respect human rights, e.g. protection against torture and inhuman treatment;
- The need to promote procedural safeguards for those who are arrested under national security related laws, including access to lawyers, expeditious access to the courts and independence of the judiciary;
- The need to address the concerns of special groups such as women, children, refugees / asylum – seekers, minorities and indigenous peoples;
- The need to ensure that there are checks and balances against abuses of power and that State power is not unlimited.
- The need to abide by international human rights standards.

- The need to promote the view, that human rights/ human security and national security are compatible and that they are both accommodated in international law and the international human rights framework.

Questions

Part – A

1. Choose and write the correct answer :

- In which one of the following electors participate in government indirectly?

a) Direct democracy	b) Monarchy
c) Oligarchy	d) Representative democracy
- Which one of the following is not a device of direct democracy?

a) Initiative	b) Gerrymandering
c) Referendum	d) Recall

II. Fill in the blanks :

- Democracy is defined as government of the people, by the people and for the _____
- Minority rights are secured in _____

III. True / False :

- Direct Democracy is practiced in Switzerland.
- Property is a fundamental right in India.

Part – B

- Define democracy.
- Explain dictatorship.

Part – C

- Explain the features of direct democracy
- Describe constitutional democracy

Part – D

- Discuss the merits and demerits of representative democracy.
- Write an essay on fundamental Rights and duties.

Chapter – 8

POLITICAL PARTY SYSTEM

8. 1. EVOLUTION OF POLITICAL PARTIES :

From the dawn of the civilized life, human beings have always organized themselves into groups and large formations, for a variety of collective purposes – social, cultural, economic and political. A party is an organization for collective life. Indeed organized society alone is a party. Political party system is a modern phenomenon. It is less than 200 years old.

The founding fathers of United States did not believe in the party system. They thought its influence was bad. Parties and party systems emerged in Europe, North America and Japan around the third decade of nineteenth century. Much later, it came into full force in other countries.

Political parties are indispensable for a democracy. Democracies in the contemporary world are representative in character. In representative form of government political parties educate the public and inculcate interest to take part in active politics.

8.2. DEFINITION OF PARTY SYSTEM :

A political party has been defined as an organized body of people who stand for certain principles and policies in political life of the country, by whose co – operation they seek to promote the interest of the country as a whole. According to,

(I) Edmund Burke :

“A political party is a body of men united for promoting by their joint endeavours the national interest, upon some particular principle in which they all are agreed.”

(II) Stephen Leacock :

“By a political party we mean more or less an organized group of citizens who act together as political unit”

(III) Gilchrist :

“A Political party is an organized group of citizens who professes to share the same political views“

8.3 NEED FOR POLITICAL PARTY:

Representative government and representative institutions require the existence of political parties. Parties provide link between the citizens and government, and between electorate and the representative institutions.

In a political system, parties act as the transmitter of ideas, opinions and approaches to social needs and national goals. They subscribe to certain ideals and ideology and promote certain political values. They are expected to provide political education to citizens, widen their awareness of social problems and mobilize them for political participation and election and for socio economic development.

Parties also serve the purpose of creating leadership by recruiting and training activists and providing personnel to run representative from local government to legislature, to parliament and government ministries.

Political parties are vehicles of political powers. They work for eradication of social evils like illiteracy, untouchability etc. They work for the alleviation of sufferings of the people during days of famine, drought etc. They perform the job of political mobilization and recruitment. They also perform social welfare functions for the benefit of the people.

8.4 KINDS OF PARTIES:

Political parties can be classified into four groups according to their aims, policies and the method adopted by them to achieve their goals. They are,

1. Conservatives
2. Liberals
3. Reactionaries
4. Radicals

Apart from this, there are also leftists and rightists. Parties which opt for radical changes and for the introduction of radical legislations are called leftists, and those which are desirous of slow, steady and smooth changes regarded as rightists, sometimes even within the same parties there are two wings rightists and leftists.

For example, in Communist Party of India, there are two groups namely the Communist Party of India (Leftists) and Communist Party of India (Rightists).

The other major classification of parties are based on :

1. The number of parties dominating the political scene one party, two party or multiparty.
2. The main structure and characteristics of the party-charismatic leader-oriented party, ideology-oriented party and interest oriented party.
3. The geographical area of influence and penetration. (especially in a feudal polity)- that is national party, trans- regional party, regional party and local party.
4. Four fold types of party structure suggested by **Maurice Duverger**- the caucus, the branch, the cell and the militia.

Mass party:

The mass party is 'the branch type' of party with open membership and hierarchical party structure, dominated by the central leadership. It is a permanent party, active continuously throughout the year.

Its branches, covering the entire country and different segments of populations are the main source of its strength. Delegates are elected through the branches to the party congress, which remains the highest policy making body.

Examples of mass party:

1. The British Labour party
2. German Social Democratic party
3. The Congress party of India
4. Bharathiya Janatha party

8.5 SINGLE PARTY SYSTEM:

A single party system is a system in which there will be only one political party in a country. The law of the land will not allow rivals. The Russian Revolution in the beginning of 20th century was the main cause for the emergence of single party system. Best example for this system is communist China.

Merits:

1. The government can be run efficiently without wasting time in discussion and controversies.
2. There is high national discipline.
3. There is no political rivalry.
4. Tremendous all around progress is possible

Demerits :

1. There will no difference between the party and the government.
2. Under this system, legislature may be law-making body with no chance of frank discussion and deliberation.
3. The state with a single party rule will lead to authoritarianism and totalitarianism.
4. People are ruthlessly suppressed.
5. There will be no place for dignity of human personality.
6. No change for enjoying rights by the people.

8.6 TWO PARTY SYSTEM:

The two party system is the one in which there will be two political parties one is the ruling party and the other is the opposition party, Examples of two party systems are,

1. **England** – There are two parties in England the Conservative party and Labour party.
2. **U.S.A** – The Democratic Party and the Republican Party.

Merits :

1. In a parliamentary government, the two party system provides for stable government.
2. A real representative government is possible only in a two party system.
3. Since parties are well organized, they help to mould public opinion.
4. Voters are well aware of policies and programmes of the parties of which they have to make a choice.
5. The opposition party is playing constructive role. It points out the commissions and omissions in the policies and acts of the government.

Demerits of two party:

1. It gives rise to dictatorship of the cabinet and lower the prestige of legislature.
2. There will be possibility of despotism of ruling party.
3. Representation of various interests and minorities is denied.
4. It gives rise to blind devotion and allegiance to the party and the leaders.

8.7 MULTI PARTY SYSTEM:

Cleavages in social structures and differences in nationalities and regions in a state cause the emergence of multiparty system. A multiparty system is the one in which there will be more than parties in a state. For example,

India and France are the best example of multi party system

Merits

1. The possibility of cabinet dictatorship is rule out.
2. There is greater individual freedom, and all shades of opinion can be expressed through various political parties.
3. Adequate representation to various interests in a state is accorded in multiparty system.
4. The voter has wider choice in the two party system.

Demerits.

1. There will be no stable government.
2. Multiplicity of political divisions and parties may create chaos.
3. Parties divide people into hostile groups
4. No ministry will be able to do any good work for the people. Coalition ministries will exist precariously for a short time.
5. Fraud in the buying of votes will undermine political morality.

8.8 INTEREST GROUPS:

In almost all liberal democracies, there are several organized groups representing the various interests of its citizens. They interact among themselves and with the government. The presence and role of specific interest groups augment and supplement the role and purposes of the political parties. They are the part of a wider political process.

While parties are formal, open and are recognized part of the political system competing for power the interest groups are informal, often secretive, concealed and conspirational and sometimes even unrecognized entities.

Pro.Finer refers to them as “ anonymous empire” others have called them “invisible government” and “unofficial government”

An interest group represents the social, economic and political interest of a particular segment in the polity like farmers, industrial workers, miners, business and commerce, or professional group like medical practitioners, lawyers, teachers, youth and students etc. Its members have common objectives and share certain similar values.

They try to build public opinions in their favour and often canvas support of party leader, legislature and government officials, in pursuance of their objective.

There are broadly three types of Interest groups:

1. Associational interest groups
2. Institutional interest groups
3. Ad - hoc interest groups

Associational Interest Groups:

Examples are trade unions, chamber of commerce and industry, shopkeeper’s association and lawyer organization etc.

Institutional interest groups:

Examples are service organizations like defence, police and civil service personnel, employees in educational institutions and scientific laboratories and public sector units.

Ad - hoc Interest Groups:

Set up for a specific temporary demand and transient interest, which is terminated on the attainment of its objective, like Vishal Haryana movement, settlement of water dispute between Andhra and Tamilnadu, settlement of boundary dispute between Karnataka and Maharashtra etc.

Functions of Interest Groups:

The method and functional style of interest groups vary in different political systems conditioned by five factors.

1. Pattern of political institution
2. Nature of party system
3. Political culture and attitude of leaders and people.
4. The nature of issues and problem concerned
5. The character and type of the concerned interest groups.

Different types of party systems give rise to different form of interest group activities. In countries where party system is weak, the interest groups work on their own. In some countries these groups have closer relationship with the political parties. The work of interest group is determined by the political culture of the country. Every interest group by its own nature and characteristics employs different approaches, methods and tactics.

Influence that interest group can exercise depends upon the several important factors like its own organizational strength, discipline and perseverance of its members in pursuing and issue.

Money is used by interest groups for legal and illegal activities. It is required to promote public relation campaign, and for using the media to popularize the issue. Payments of bribes to vulnerable officials, ministers, political parties, legislatures etc., are not unknown methods of pressurizing.

Interest groups that work for larger human causes like peace, disarmament, environmental protection, de-segregation and racial equality, human rights decolonisation etc, pursue a different approach and method. They work by building enlightened public opinion, by promoting an all-party consensus, by enlisting the sympathy, good sense and compassion.

To sum up, unlike political parties, interest groups do not work for capturing power. Their objectives are limited and specific. They provide necessary link in functioning of democracy.

8.9 PUBLIC OPINION:

Public opinion plays a vital role in modern democracy. Infact democracy has been defined as government by public consent or government responsive to public opinion. Even in dictatorship, government attaches much importance to public opinion. Public opinion is defined as the expression of all those members of a group who are given attention in any way to a given issue. Opinions may be reflected in an election, a policy decision of formal legislative enactment.

Importance of Public opinion:

Public opinion is a tremendous social and political force not be ignored in the modern world. All parties give greater importance to public opinion. They feel that the money invested to create public opinion is good for them and the country.

Success of any government depends upon how it wins the opinion of the people. Vigilant public opinion is necessary for a successful democracy. Public opinion very much limits the power of rulers. Decision taken against public opinion will be detrimental to party and the government in power.

Conditions Necessary for Public Opinion:

1. Peoples capacity to think
2. Interest of people in national problem
3. Formation of groups
4. Initiative by political leaders.
5. Role of writers.
6. Homogeneity and community interest.

PUBLIC OPINION – AN ANALYSIS:

There is a greater contrast between public opinion in western countries and that of in backward countries. In the West people are well educated and so strong public opinion can be easily formed. This is not the case in backward countries of Asia and Africa.

In India most of the people live in villages. Difficulties of means of transport and communication have virtually insolated them and there can be no question of having any opinion of their own. Generally public opinion emerges in big cities and towns.

Political parties concentrate on cities and leave most of rural areas untouched. Only during election they go to the villages and thrust their opinion among villagers who blindly follow. In India issues are judged not on their merits but on religious, caste and other considerations. This tendency has to be rectified. Significance of public opinion lies in its ability to influence the government.

8.10 ROLE OF MASS MEDIA:

Cinema has been a traditional area of entertainment and learning. In a subtle way it influences public opinion. It is the most effective mass media.

The electronic revolution has penetrated every part of the country, every locality and household. Radio, TV and VCR have established a wider communication channel for dissemination of news, information, views, advertisements and entertainments.

The audio-visual methods, which they employ, can influence even the illiterates. In home, in office, in market and street corners the media's presence have altered the entire pattern of communication and of social life.

Electronic media plays direct and indirect part in projecting and building public opinion, by increasing the level of information, expanding awareness and making available many points of views and approaches.

The Press – news papers, magazines, journals etc are called print media, which today stand most powerful single agency moulding, influencing and disseminating public opinion. A printed word acquires greater sanctity, appeal and legitimacy in human consciousness than a spoken word.

Newspapers with their daily dissemination of news, facts and information together with editorial comments, views of analyst and experts, and leaders provide the daily diet for the formation of public opinion.

8.11 MACHINERY FOR CONDUCTING ELECTION:

The founding – fathers of Indian constitution were unanimous in underlying the importance and significance of an autonomous electoral machinery to ensure free and fair election as a bed rock of a genuine democratic system.

Accordingly an election commission has been set up to perform three functions of 'superintendence, direction and control' of election. It is responsible for preparation, revision and updating of the electoral rolls from time to time. It conducts election to parliament and state legislature as well as to the office of the President and the Vice President of India (Article 324).

Election Commission:

It consists of the Chief Election Commissioner and a few other election commissioners whose membership is determined and fixed from time to time by the President of India.

They are appointed by the President for a fixed term of five years. Their tenure and service conditions are laid down by the parliament and cannot be changed during the term of office.

The Chief Election Commissioner cannot be removed from office, except on the ground and in the manner on which the Supreme Court judge can be removed. This is to protect him from undue interference of executive and legislature.

A branch of Election Commission exists in each state headed by a Chief Electoral Officer appointed by the Chief Election Commissioner in – consultation with the state government. They constitute a permanent setup of machinery for conducting elections in the state.

The number of members of Election Commission is limited but at the time of elections necessary officers and staff are drawn from other departments of the government. Eg: government departments and educational institutions.

Powers and functions of Election Commission:

The Election Commission of India has been given wide powers and functions. They are,

1. To prepare, revise and update the list of voters for elections.
2. To conduct and supervise the elections and bi-elections.
3. To delimit constituencies for election to the parliament and state legislature and to allot seats to each of them.
4. To fix the election programme including dates for the nomination and scrutiny of candidates and date of election, making arrangement and declaration of result etc.
5. To advise the President or the Governor of the concerned state as the case may be regarding all electoral matters including queries relating to disqualification of members.
6. To prepare guidelines for a code of conduct for political parties, candidates and voters during the period of elections.
7. To fix limit of election expenses and to examine the accounts of electoral expenditure submitted by the candidates.
8. To determine criteria for recognizing political parties and then recognize them and decide their election symbols and allocate time to them for the use of radio and TV in order to help them to reach the people on the election issue.
9. To prepare a list of 'free symbols' for allotment to independent candidates, and
10. To settle election disputes and petition, referred to it by the President or the Governor of a state.

8.12 NATIONAL PARTY:

In terms of geographical spread there are four types of parties. They are national parties, regional parties, trans-regional parties and local parties. Since the second general elections to LOKSABHA in 1957, Election Commission of India has recognised several parties as national parties, on the formula that they should have secured not less than 4% of total valid votes in the previous general election, atleast in four states.

Examples of national parties are,

Congress Party,

Bharatiya Janatha Party,

Communist party of India (CPI) and

Communist party of India (CPM).

8.13 REGIONAL PARTY:

The emergence of regional parties in India has a geo-political rationale. Under conditions of democratic culture there are socio economic and ethnic diversities, which are specific to different regions in India.

Examples are Assam, Nagaland, Mizorm, Punjab, Orissa, Andhrapradesh and Tamilnadu. Each of these regions with a regional outfit seeks and aspires for political autonomy. These outfits press for the development of their region in a federation like India.

The first type:

There have been three types of regional parties in India. Among them the first type is that of groups formed by congress dissidents. They were all short lived and often served a temporary purpose or cause. This gave the group strength for bargaining.

Eg. Bangla Congress, Kerala Congress, the Utkal congress and Telangana Praja Committee.

The second type:

Are tribal parties as focal points of building a tribal political identity and as a platform for obtaining more concessions from the center. They had often talked even of concessions from the center. They had often talked even of session from India, and demanded complete independence.

Examples of this trend are militant movements like the Naga National Council, Misoram National Front, Garo National council, Manipur National People Party etc..

The third type:

Are larger political formations in ethnically, culturally and linguistically defined regions like Tamil Nadu, Andhra Pradesh, Punjab, Jammu & Kashmir and Assam.

These parties are bigger in their composition, well knit in their organization and more stable in their role as important components of the multi-party system in India. Because of their electoral majority they have capacity to send their members to Lok Sabha and Rajya Sabha and play critical role as a balancing factor between ruling party and major opposition parties in parliament.

Examples of their types are :

DMK, AIADMK, ASSAM GANA PARISHAD.

8.14 CASTE PARTY:

Generally people are divided into groups on the basis of area, profession, caste, community, religion and race. Sometimes they are divided on the basis of colour of the skin.

In India people belong to various groups. Caste is one such group. This kind of division of the people is found mostly in India only. There are several caste groups throughout India. The main reason for this is to be found in the varnashra dharma of the Hindu religion.

Generally major political parties do not support caste groups. However in India caste plays a dominant role in politics and also in elections to representative bodies. Caste is an uniting factor.

People belonging to every group support the party leaders and candidates belonging to their caste. The need for caste party is to secure certain benefits and advantages from the government to people of their caste.

In Tamil Nadu also there are many caste parties, which exert influence on major political parties for getting the things they wanted. This is the sum total of a caste party.

8.15 COMMUNAL PARTY:

A party political or otherwise formed on the basis of communal feelings and beliefs is known as a communal party. Like the caste party, communal party has its origins in the division of people or the society on grounds of caste distinctions.

The motive behind the formation of a communal party is to secure some benefits from the major communities and also from the government of the country. Communal parties are always selfish and partisan. They generally act against the interest of other groups and therefore not supported by parties, which do not have faith in race, religion and colour of the people. Communal parties should not be encouraged as they are against national spirit.

Questions

Part – A

I. Choose and write the correct answer:

1. Indian National Congress was founded by
 - a) A.O.Hume
 - b) Annie Beasant
 - c) Mahatma Gandhi
 - c) Nethaji
2. When was the A.I.A.D.M.K. party formed?
 - a) 1948
 - b) 1972
 - c) 1977
 - d) 1980

II. Fill in the blanks:

1. India has a _____ party system.
2. Telugu Desam is a _____ party.

III. True or false:

1. National elections in India are conducted by the Election Commission.
2. Media paly a vital role in shaping public opinion

Part – B

1. Explain the need for a political party.
2. Describe communal party and its evils.

Part – C

1. Discuss the advantages and disadvantages of double party system.
2. What is the meaning of mass party?

Part – D

1. Give the meaning of single party system and give its merits and demerits
2. Explain the process of election and describe the role of Election Commission in conducting elections.

Chapter – 9

DEMOCRATIC DECENTRALIZATION

9.1 INTRODUCTION :

Centralization and decentralization are important concepts in organization. These are related to the problems which an organization has to face in the discharge of its duties and the responsibilities. Governments throughout the world particularly non democratic governments have always concentrated the powers in the executive. There was no limit to the concentration and no government was satisfied with the powers it possessed. It was an unending process. This kind of concentration of powers in a single hand or in one authority was characteristic of the government until the emergence of democracy. The reasons for this are many.

A few of them are,

1. The means of production based on large scale technology
2. The tendency to take over more powers from the lower institutions.
3. Lack of self control among the rulers.
4. The desire on the part of the people to become rich with in a short period by questionable means.
5. The scramble for power among the top politicians, and
6. The lack of direct contact between the producers and the consumers.

The above factors have compelled the governments to acquire more powers to regulate social, economic, political and technological life of the people. The result is gradual decline in initiative, enterprise, self reliance and self confidence of the modern man who wants to entrust everything including his thinking to the government and expects many things from it. He has thus become insignificant and lifeless cog in the huge government machinery, which is ever growing and ever expanding its commanding influence over every walk of life.

However against this backdrop there emerged a tendency in democratic systems towards decentralization. This is the opposite of centralization or the concentration of powers in a single authority or in a single individual. In India this system came into being immediately after independence under the directions of Pandit Jawharalal Nehru who believed in the intelligence and the capacity of the people for taking initiative for getting their requirements by themselves.

9.2 DEFINITION OF DEMOCRATIC DECENTRALIZATION :

Democracy means government of the people. In this people occupied the central stage. Once the people are given due importance and necessary encouragement they

could be motivated to achieve the purpose for which democracy existed. Aristotle believed that the state existed for realizing the good life of the people. So is the object of democracy in the modern times. This could be achieved only under a scheme of decentralization of functions powers and responsibilities. This is what is called decentralization.

Thus democratic decentralization means performing functions according to the principles of democracy through and with the participation of the people in achieving the objectives of the people through the implementation of people oriented welfare programmes and projects. The essential element in decentralization is the delegation of decision making functions. Democratic decentralization is the process of devolving the functions and resources of the state from the centre to the elected representatives at the lower levels so as to facilitate greater direct participation of the citizens in governance. Another significant aspect of democratic decentralization is to bring the bureaucratic state machinery at the lower levels under the authority of elected local self governments. This kind of democratic decentralization requires the creation of local level are institutions to enable ordinary citizens at lower levels to participate in the decision making, implementation, monitoring and sharing of the benefits of the government activities.

Decentralization and Delegation :

Decentralization should be distinguished from delegation. Decentralization signifies the central authority divesting itself of certain powers which are given away to the local authorities. But delegation means the transfer of certain specified functions by the central to the local authority which acts as the agent of the former. In this arrangement the central authority retains the rights to issue direction or revise decisions. It does not transfer its authority and responsibility. What it does here is to ask the local authorities to perform certain functions on it behalf or as its representative.

This kind of democratic decentralization was called by the late Primer Minister Nehru as the “Panchayat Raj”. Hence the term “Democratic Decentralization” “is always used to denote the Panchayat Raj Institutions.

9.3 MEANING OF LOCAL SELF – GOVERNMENT

Local self – Government, in its organization, functions and objectives, differ from the government. It refers to an agency or organization whose concern is the administration of the affairs, the introduction and implementation of schemes intended to promote the welfare of the people living both in the urban and rural areas. This kind of set – up is complementary to what a national or a state government does for the benefit of the people.

In this connection it may be understood that government is an organization with such bodies as the executive, legislature, and judiciary. Its jurisdiction is concerned with its boundaries which includes the national resources and the whole population.

Its activities are numerous and varied. They are in nature social, economic, cultural and political. Strictly speaking almost every aspect of the governance, the exploitation of wealth, and carrying out of programmes for the welfare of the people come under its responsibility. From this it will be clear that the term government refers to a body whose jurisdiction and responsibility extend to the entire area of a state and includes the whole population. But local self – government is an agency which is concerned with the well being of a population living in any part of the state. It deals with aspects and problems pertaining to the area which comes directly under its jurisdiction.

Local self –government also implies that the administration of an area is the responsibility of the people living in any one particular area or place. The local administration, in theory, is said to be voluntary. The local self government is created in accordance with the laws enacted by the government and functions with reference to the terms and conditions which have been stipulated in those laws of the state. Thus it should be clear that government and local self – government are not one and the same in their composition and functions and in their characteristic features. Government has a superior status while the local self – government is a subordinate agency.

9.4 NEED FOR LOCAL SELF – GOVERNMENT :

The need for local self – government arises out of the growth in size of a modern state and the multiplication of its functions. When the area of a state is too large and the population is too great, it becomes difficult for the government of a state to ably administer the affairs of the state and at the same time look after and attend to the particular needs of a particular area or the people. Problems of a local nature in the vast area must necessarily differ and these cannot be solved by a uniform treatment. It becomes essential, therefore to decentralize power and hand it over to people in these local areas who can look after those affairs with greater interest, enthusiasm and active participation or involvement. They can handle problems like sanitation, water supply, provision of market facilities and primary education and wherever necessary and possible, to provide facilities for education and running of transport in their areas more efficiently than if these were to be administered by a central government in a unitary state or by provincial or state government in a federation.

The reason for the existence and the benefits of local self – government are many. According to Gilchrist, in the first place a local self – government is necessary for efficiency. In an area where the people are most interested in certain acts of government, it is in the interests of the people to have these acts performed efficiently. For such efficient performance the people should be able to control those responsible for the work by being able to ensure or dismiss them.

Secondly, economy is secured by local self–government. If certain acts of government benefit only a definite area, obviously the expense of these acts should be borne by that locality. Sometimes it may be necessary for the governments to give grants on certain conditions; or the government may grant power grants on certain

conditions; or the government may grant power to a local body to raise a loan for certain specific purposes; or it may have to set a limit to which the local body can tax the residents in its area. Taxation or rating, is the chief method of raising money in local areas. The people who pay rates elect local boards or councils and thus largely controls expenditure as well as managements.

Thirdly, local self – governments acts also as an agency to educate the people in modern representative system of government. In normal modern states the citizen is called upon only occasionally to take a personal part in the direction of national affairs, usually to record a vote at intervals of three to five years. This may lead either to apathy or discontent; but local government provides an actual representative system close at hand on the proper conduct of which the ordinary things of everyday life depend. The citizen thus becomes acquainted with public affairs. Local bodies provide an excellent school of training for the wider affairs of central government.

Fourthly, local self – government shares the burden of the work of the government, where there is no local self – government the governments would have to do everything through its officials. The local self – government also assists the government in the administration and collection of the taxes and revenues for the government in its area.

Lastly, the local bodies provide the necessary information and advice on proposed legislation. The advice of the local bodies thus become an important aspect in the formulation of policies of the government and enactment of laws by the legislatures.

The information furnished above the discussion on the meaning and importance of local self – governments make it clear, how essential the local bodies are in modern democracies.

9.5 FUNCTIONS OF LOCAL SELF – GOVERNMENT – GENERAL :

The functions of local self – government may be divided into two broad groups. They obligatory and discretionary. The obligatory functions are the lighting of streets and public places, water supply, fire – control, registration of births and deaths, primary education, hospitals and dispensaries. In short the obligatory functions include such amenities as parks and public gardens, libraries an amusements, swimming pools, transport, the control of food – stuffs and such other measures which promote public safety, health and convenience.

9.6 FUNCTIONS OF LOCAL SELF – GOVERNMENT IN THE CHANGED CONTEXT:

The objects of the local self – government in the context of changing conditions may be given as given below :

- a. To work as local units of self government
- b. To provide local services and public conveniences for making an individual good citizen.

- c. To ensure planned and regulated development of the urban and rural areas.
- d. To mobilize local resources and utilize for public welfare.
- e. To promote social, economic and cultural development in an integrated way.

In short, it may be observed that the local bodies particularly in India are not only field agencies for the development and maintenance of civil services and for execution in their respective areas of national programmes but they are also the primary units of democratic government. They are the most appropriate organizations for undertaking local tasks of development and social welfare. Apart from providing civic amenities for the safety and convenience of its citizens, it is their duty to mobilize local support and public co –operation for implementation of programmes of health, maternity, child welfare and family planning education, housing, slum clearance and improvement and other schemes of social welfare.

9.7 CONDITIONS FOR THE SUCCESS OF LOCAL SELF – GOVERNMENT :

The success of local self – government depends upon the encouragement and guidance that it receives from the central government and the supervision that it exercises over local bodies. Such supervision should not mean undue interference in the administration of local self governing institutions.

Such supervision should be wise and helpful. It should leave enough scope for the local population to show its intelligence and initiative. No local institution will function successfully unless the people are willing to participate in the work and are anxious to put through new ideas and try new experiments.

This is only possible when the local population is educated and has a high civic sense. They must be willing to perform their civic duties regularly.

Further, with the increasing number of functions, which the local authorities have now to undertake, they must have adequate sources of revenue to manage them properly. In the absence of adequate income, local problems will remain neglected and people will lose interest in local administration.

9.8 DEFECT OF LOCAL SELF – GOVERNMENT :

It must be noted that local self – government may tend to encourage a narrow outlook amongst the people. Persons may view every problem from a local angle and place their local interests above national necessity. The evils of the party system may also creep into local administration for the promotion of their selfish interest. Efficient government can only then become almost impossible.

These evils can only be overcome by an awareness on the part of every citizen of his own responsibilities. No group of inefficient persons can remain in power for long if every citizen in the locality realizes that their immediate welfare is in danger because of the administration of the local body by such persons.

Citizens must have civic sense or civic consciousness and must put in joint effort to remove such incompetent persons from office at the next election. It is only civic apathy on the part of citizens that can explain the bad administration by local authorities. Civic consciousness also implies that the citizen must pay their taxes to the authorities regularly and help to maintain healthy and clear conditions of living.

Every citizen must understand that he is a part of society and that is only active co – operation on his part that can improve the life in his city or town or village. In short, he must be activated with the spirit of social service. It is this spirit of give and take, of doing the best that one is capable of in his relation to society, that will improve civic life and strengthen the citizen's faith in local self – government.

9.9 THE ORIGIN OF LOCAL SELF – GOVERNMENT :

The local self government under the British government in India began in a modest way and the scope of it was limited. The purpose at that time were to foster trade and to remove certain problems and difficulties. The first municipal law enacted in 1842 was known as “The Bengal People Act, 1842”. It was applicable to the province of Bengal as a trial measure. The performance of the local bodies under this act was not considered successful. It was replaced by the XXVI Act of 1850 as an all India measure. Since then several other acts were passed which led to the establishment of local bodies like the corporation of Calcutta, Bombay etc.

In order to make the local self – government broad based and improve its working Lord Mayo, Viceroy of India, issued an order in the form of a resolution of financial decentralization in 1870. The object of this resolution was to promote the working in education, public health, sanitation, medical relief and local works operations besides to afford opportunities for the development of self – government for strengthening municipal institutions. The second phase of the development of local self – government was reached in 1882, when Lord Ripon paid his personal attention to providing better opportunities of participation in the management of the public affairs.

The next stage in the growth of the local bodies was based on the recommendations of the Royal Commission on Decentralization in 1906. The Commission was of the opinion that the working of local bodies was a failure. It recommended among others the grant of more powers, genuine elections with majority of not only non – official elements but also the major strength of the elected representatives. Taking into consideration the unsatisfactory financial condition it recommended that within the sanctioned limits, local bodies should be allowed to determine their own taxes within the legal frame work of the constitution. In 1918 the Government of India accepted most of the proposals of the commission including electing majority in the local bodies with wider suffrage. From this time onwards and particularly from the Montague Chelmsford Report and the Government of India's Resolution of 1918. As soon as the country achieved independence in 1947 a new life was given and amending legislation was undertaken in all states of India in order to democratize the organization, functions and

working of the local bodies. During the post independence period emphasize was on developments in the field of rural government.

This was in accordance with the views of Gandhiji whose interest was mainly on the improvement of villages. It is significant to note that Gandhiji attributed all the evils of modern civilization to the twin processes of industrialization and urbanization. He thought that the only effective antidote to them was the revival of self – sufficient villages which flourished in ancient times. Most of the leaders of free India who came to power at the centre and in the states were his ardent disciples and they thought it was their duty to give effect to the ideas with which he inspired them. Much of the legislation on village Panchayati Raj from 1958 was the outcome of the enormous influence that Gandhiji's philosophy exercised on those who were at the helm of affairs in the years following 1947. It is not possible to give a detailed account of the evolution of the local bodies here and the readers are advised to consult books given in the bibliography.

9.10 KINDS AND ORGANIZATION OF LOCAL BODIES IN INDIA :

Broadly the local bodies in India can be divided into two groups namely, Urban Self – Governing Bodies and Rural Self Governing Bodies.

Urban Self – Governing Bodies :

Urban this category there are Corporations, Municipalities and Cantonment Boards besides the Township Committees. The greater a local – governing body is, the more are its functions and powers. The municipalities of large cities are known as corporation. The status, structure and functions of these bodies are decided by the government. For this purpose suitable legislation is enacted from time to time.

Rural Self – Governing Bodies

In this category comes the Panchayati Raj institutions. These bodies facilitate the rural people to participate in and look after their own affairs themselves. This would, ultimately, in the opinion of great leaders like Mahatma Gandhi, lead to the revival of the ancient institution of the panchayat and contribute to the economic prosperity of the people living in village.

The status, structure and functions of the rural local bodies were introduced in the India according to the laws. These have undergone a sea change especially since independence based on the recommendations of several high level commissions and committees. A detailed account of these is given in the next few pages.

SELF – GOVERNMENT IN RURAL AREAS :

Panchayati Raj Bodies :

The meaning, importance and need for local government have been discussed earlier in this chapter. But urban local bodies alone will not be in a position to achieve the desired result because about seventy percent of the people in more than five lakhs

of villages live in India. Thus the system of local government which does not provide of the participation of the rural people in the administration would be incomplete. An important element of the participation of the rural people in rural self – government is that it will provide adequate encouragement for innovations and confidence in their capacity for doing good work. With this objective in view, the government at the centre and in the states, after independence, thought it fit to introduce the Panchayati Raj system of administration in the rural areas in the whole of India. The Panchayati Raj system or local self – government, has got its nucleus in the village.

Before the Panchayati Raj system was introduced, the leaders and the Government addressed themselves to the problems that are common and the difficulties of introducing the pachayati Raj system and hence constituted several commissions and committees such as the one headed by Balwantraji Mehta (1957) the Santhanam Study Team on Panchayati Raj Finances (1963), the Santhanam Committee on supervision and control over Panchayati Raj Institutions, or the Ashok Mehta Committee (1978) on the re – organization of Panchayati Raj Institutions.

Based on the reports and recommendations of these committees and the exercises of the Planning Commission and other bodies relating to the Community Development and Rural Extension Schemes, a broad based Panchayati Raj system was established. A definite step in this direction became a reality with enactment of Acts by several governments in the State in 1958 and afterwards. Still, it is the opinion of many that the Panchayati Raj Institutions have not been what they ought to be and they have not been able to lay the firm foundations of grassroots democracy in their country. However there cannot be two opinions in regard to the desirability of the continuance of Panchayati Raj bodies and their role in the re – construction of the economy of the villages and the social well – being of the villages.

The main object of Panchayati Raj with its three – tier system is to have a smooth two – way channel of information, ideas and feelings from the village household right upto the national parliament and vice versa, as Members of Parliament and the Legislature have representation in the Panchayati Raj system. In recent times emphasis is on social mobilisation and generation of implementation of the nation – building programmes.

9.11 PANCHAYATI RAJ SYSTEM IN TAMIL NADU BEFORE 1994 :

The Panchayati Raj system was introduced in Tamilnadu in accordance with the provisions of the Taminadu panchayat Act 1958. At the bottom of this system there is the village Panchayat. Above it are the Panchayat Unions and the District Development Council. With the introduction of the new system, the District Boards were abolished and the Panchayat Unions become their successor bodies. The area of Panchayat Union is made co – terminus with that of the Development Programme the organization of the Panchyati Raj Institutions in Taminadu as per the 1958 Act, can be described as follows.

1. Panchayats :
 - a) Village Panchayats
 - b) Town Panchayats.
2. Panchayat Union
3. District Development Council
4. Panchayat Development Consultative Committees at State level.

9.12 THE TAMILNADU PANCHAYAT ACT 1994:

The Tamilnadu Panchayat Act of 1994 is an important milestone in the growth of Panchayati Raj institutions in Tamilnadu. In this context students of local self-government have to remember that the experiment in local governing institutions has not been successful as expected. Therefore there was a move at the national and regional level that something concrete should be done to make the local governing bodies more effective than they were. All major political parties and those who are familiar with the functioning of the local bodies subscribe to this view. Therefore as early as 1985 Thiru. Rajiv Gandhi who became a fullpledged Prime Minister of India, took the initiative for strengthening these bodies. However his efforts in this direction did not succeed as anticipated by him.

His successor Thiru. V.P.Singh of the National Front government also did not succeed in enacting a law in this respect. Thiru. P.V. Narasimha Rao, Prime Minister belonging to the Congress Party government in consultation with the major Political parties got the Constitution 73rd Amendment Act passed by parliament in December 1992 which became operative from May 1993 on its ratification by fifty percent of the states of India.

This led to the fulfillment of the dream of Thiru. Rajiv Gandhi. This act served as a turning point for Panchayat Raj Institutions to perform very effectively their duties and responsibilities. Many far-reaching changes were introduced by this act.

Every state in the Indian federation has to compulsorily implement this Act. The elections to elect the representatives to the various organs of Panchayat Raj bodies were mandatory. If any one state failed to comply with the requirement it was not eligible for getting central grants.

The Panchayati Raj bodies are empowered to take decisions on 29 clearly defined subjects, all concerning the day-to-day living. Their role in implementing the decisions is much more pronounced. They are the implementing agency of the state governments. The functions and powers given to the Panchayati Raj institutions are enumerated in the Act mentioned above: For details please refer to the Act.

Panchayat Raj System in Tamilnadu:

In pursuance to the 73rd Amendment Act to the Constitution the Government of Tamilnadu enacted the Tamilnadu Panchayat Act 1994. On the basis of this Act there are in Tamilnadu now 1. 12619 Village Panchayats 2. 385 Panchayat Unions and 3.29 District Panchayats.

These bodies now function in full swing. Peoples representatives take an active participation in every affair relating to their area and the society. Other details of the Act and consequential developments are dealt with in the text book for the second year of the plus two course.

Questions

Part – A

I. Choose and write the correct answer :

Which one of the following is NOT an unit of local self- government ?

- | | |
|-----------------|------------------|
| a) Gram sabha | b) Samithi |
| c) Taluk office | d) Zila Parishad |

II. Match the following :

- | | | |
|--------------------|---|--------------------|
| a) Ashok Metha | - | Three tier system |
| b) Balwantra Metha | - | Village Panchayat |
| c) President | - | District panchayat |
| d) Chairman | - | Two tier system |

III. Fill in the blanks:

1. Local self government gets monetary grants from _____ .
2. The latest Panchayat Raj act was enacted in the year _____ .

IV. True/False:

1. Rajiv Gandhi took the initiative for the present Panchayat Raj system.
2. Elections to the local bodies are conducted by state Election Commission.

Part – B

1. What is meant by local self- government?
2. Explain Gram Panchayat.

Part – C

1. Give the meaning of Democratic Decentralisation
2. Explain the significance of the 73rd Amendment Act.

Part - D

1. Describe the organization of Panchayat Raj System.
2. Trace the evolution of local self- government in India.

Chapter - 10

INTERNATIONAL POLITICAL ORDER

10.1 INTRODUCTION :

The term international political order refers to community and change in domestic and international political relations. There are several approaches to study the international political order. In this chapter only two major approaches are focused.

They are,

1. Historical approach and
2. Institutional approach.

10.2 HISTORICAL APPROACH :

When international political order is studied with reference to its past, it is known as historical approach. The historical approach to the study of international political order emphasizes the following :

1. Domestic and international political order is not static but dynamic in nature.
2. Historical background of every nation is important in analyzing the present international political order.

10.3 INSTITUTIONAL APPROACH

This chapter is about the international political components that one has to understand from both historical and institutional perspectives. For a better understanding, the chapter is divided into two major parts. The first part explains the term international political order from both historical and institutional framework.

In the second part, international and regional organizations are explained in detail to illustrate how far they were successful in maintaining international political order. Students of political science must remember that international political order is not a static one but dynamic in nature. In the context of present globalized economic order and communication revolutions we live in a different world of political order.

The history of international political orders is written in terms of continuity and change in domestic and international political relations. As a step in the direction of understanding such continuity and change, this chapter explores some ideas drawn from an institutional perspective. An institutional perspective is characterized in terms of organized and formalized efforts in order to bring the desired political order at regional and international level. Students of political science try to understand how and when international political order are created, maintained, changed, and abandoned.

Many of the key question belong to a wider class of difficult questions about the dynamics of social order and development. How can order develop out of anarchy?

What stabilizes an order? When and how does a stable order fall apart? How does peaceful change occur? Why do peaceful relations sometimes find themselves drawn into less peaceful confrontations? How is the search for order among collectivities linked to the search for order within them?

This chapter explains such questions. It considers a few distinctive ways of thinking about the history and existing international and regional political organizations and elaborates some of them as an example, the League of Nations, UNO, NAM and SAARC, which could be called an institutional approach to such thinking.

10.4 CHANGE AND CONTINUITY IN INTERNATIONAL ORDER :

At some period in some area, political life has been rather well organized around well – defined boundaries, common rules and practices, shared causal and normative understandings, and resources adequate for collective action. At other times and places the system has been relatively anarchic. Relations have been less orderly; boundaries less well defined, institutions less common, less adequately supported, and less involved. As political institutions experience their histories, political life achieves or loses structure, and the nature of order changes.

Since the Treaty of Westphalia (1648) several changes have taken place in the world order of nations. In 1917 the Union of Soviet Socialist Republic came in to existence which challenged the supremacy of the United States. However it did not last long and the USSR itself disappeared and with that the challenge to the supremacy of U.S.A. has ended.

10.5 WORLD ORDER TODAY :

The disintegration of the Soviet Union has brought an end to the bipolar world order. The bipolar world order in fact dominated international politics since the Second World war. Today the world order is dominated by one ‘super power’ i.e. USA. Political Scientists call such one nation domination as ‘unipolar’ world order.

10.6 EMERGENCE OF UNIPOLAR WORLD :

The Gulf War in 1991 paved the way for unipolar world. Through United Nations the USA was able to pass resolution against Iraq which invaded Kuwait on August 2, 1990. The Gulf War was between Iraq and the USA and the UN had supported the USA. A survey of Gulf War shows that the UNO's functioning was under the complete domination of the USA. Today the world order being referred as unipolar and such world order has proved to be more harmful to the interests of small powers than the bipolar or the multipolar one.

10.7 THE LEAGUE OF NATIONS :

The forerunner of United Nations was the League of Nations, an organization conceived in similar circumstances during the First World War, and established in 1919

under the Treaty of Versailles “to promote international cooperation and to achieve peace and security”. The International Labour Organisation was also created under the Treaty of Versailles as an affiliated agency of the league. The League of Nations ceased its activities after failing to prevent the Second World War.

Why League of Nations Failed ?(1921 – 1939) :

The League of Nations was the first experiment to establish an international organization in the political field. One of its main shortcomings was that it was primarily aimed to preserve the status quo i.e. The international system that came into existence consequent on the Treaty of Versailles of 1919. The other major reasons for its failure were :

1. It lost its universality of membership.
2. Basically it acted as an European club.
3. President Woodrow Wilson, one of the founding fathers of the League of Nations was not allowed to join the League of Nations, because the US senate refused to ratify the Covenant of the League.
4. The League of Nations failed to prevent the aggression and conquest of Manchuria (north – east of china) by Japan in 1931.
5. It also failed to prevent the aggression of Abyssinia (Ethiopia) by Italy under Mussolini in 1935.
6. The emergence of dictatorship and the eclipse of democracies in many parts of Europe was another important factor.
7. The emergence of Nazism in Germany and the rise of Adolf Hitler.
8. The League had no role to play in the field of international economics.
9. The US congress reduced its contribution to the League budget by 25%.
10. It failed to enforce its resolutions against aggressive nations. (Japan, Germany and Italy).

Success of the League

1. It initiated world disarmament conference in 1932.
2. It successfully controlled international traffic in opium and narcotic drugs.
3. The League Experience became relevant to the formation of United Nations.

10.8 UNITED NATIONS ORGANIZATION :

The name “United Nations,” was coined by United States President Franklin D.Roosevelt. It was first used in the “Declaration by United Nations” of 1 January 1942. During the Second World War, representatives of 26 nations pledged their Governments to continue fighting together against the Axis Powers (Germany, Italy and Japan).

In 1945, representatives of 50 countries met in San Francisco at the United Nations Conference on International organization to draw up the United Nations Charter. Those delegates deliberated on the basis of proposals worked out by the representatives of China, the Soviet Union, the United Kingdom and United States at Dumbarton Oaks, United States in August October 1944. The representatives of 50 countries signed the Charter on 26 June 1945. Poland, which was not represented at the conference, signed it later and became one of the original 51 member States. The United Nations officially came into existence on 24 October 1945. United Nations Day is celebrated on 24 October each year.

The Dumbarton Oaks Proposals, along with provisions agreed upon by Churchill, Roosevelt, and Stalin at the Yalta Conference in February 1945, formed the basis for the United Nations Conference on International Organization. This meeting, held in San Francisco in April 1945, produced the final charter of the United Nations. It was signed on June 26 and enacted on October 24, 1945.

On December 10, 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights.

Article 1. 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.

Article 2. Everyone is entitled to all the rights and freedom set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status

The United Nations assumed many of the functions of the League of Nations that had been championed by Woodrow Wilson at the close of World War I...

UNO Charter :

The Charter is the constituting instrument of the United Nations, setting out the rights and obligations of member States, and establishing the organization's organs and procedures.

Purposes :

The purpose of the United Nations, as set forth in the charter, are to maintain international peace and security.

1. To develop friendly relations among nations;
2. To cooperate in solving international economic, social, cultural, and humanitarian problems.
3. Promoting respect for human rights and fundamental freedoms; and
4. To be centre for harmonizing the actions of nations in attaining these ends.

Structure :

The six major organs of the United Nations, are the General Assembly, Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice and Secretariat. The United Nations family, however, is much larger, encompassing 15 agencies and several programmes and bodies.

The United Nations Family:

The United Nations of organizations is made up of the United Nations Secretariat, the United Nations programmes and funds- such as the UN Children's Fund (UNICEF) and the UN Development Programme (UNDP) – and the specialized agencies. The programmes, funds and agencies have their own governing bodies and budgets, and set their own standards and guidelines. Together, they provide technical assistance and other forms of practical help in all areas of economic and social development.

General Assembly:

The General Assembly is the main deliberative organ of United Nations. It is composed of representatives of all member states, each of which has one vote. Decisions on important questions, such as those on peace and security, admission of new members and budgetary matters, require a two- thirds majority. A simple majority reaches decisions on other questions.

Committees of General Assembly:

Most questions are discussed in its six main committees:

- First Committee – Disarmament and International Security Committee
- Second Committee – Economic and Financial Committee
- Third Committee – Social, Humanitarian and Cultural Committee
- Fourth Committee – Special Political and Decolonization Committee.
- Fifth Committee – Administrative and Budgetary Committee
- Sixth Committee – Legal Committee

Some issues are considered only in plenary meetings, rather than in one of the main committees. All issues are voted on through resolutions passed in plenary meetings, usually towards the end of the regular session, after the committees have completed their consideration of them and submitted draft resolutions to the plenary Assembly. Voting in committees is by a simple majority.

In plenary meetings, resolutions may be adopted by acclamation, without objection or without a vote, or the vote may be recorded or taken by roll call. While the decisions of the Assembly have no legally binding force for governments, they carry the weight of world opinion, as well as the moral authority of the world community.

The work of the United Nations year-round derives largely from the decisions of the General Assembly - that is to say, the will of the majority of the members as expressed in resolutions adopted by the Assembly That work is carried out:

- By the committees and other bodies established by the Assembly to study and report on specific issues, such as disarmament, peacekeeping, development and human rights;
- In International conferences called for by the Assembly; and
- By the Secretariat of the United Nations – the Secretary General and his staff of international civil servants.

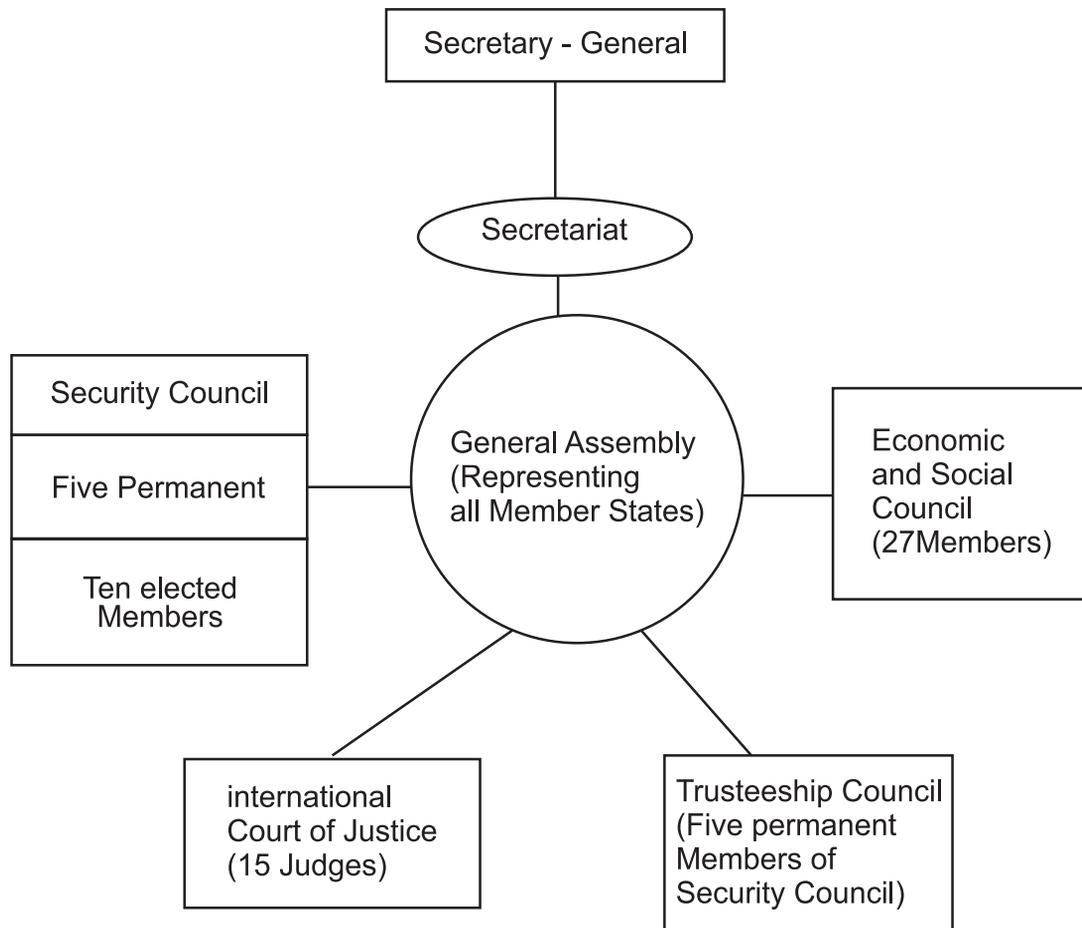
Functions and Powers:

Under the Charter, the functions and powers of the General Assembly include:

- To consider and make recommendations on the principals of cooperation in the maintenance of international peace and security, including the principles governing disarmament and arms regulation;
- To discuss any question relating to international peace and security and, expect where a dispute or situation is being discussed by he Security Council, to make recommendations on it.
- To discuss and, with the same exception, make recommendations on any question within the scope of the Charter or affecting the powers and functions of any organ of the United Nations;
- To initiate studies and make recommendations to promote international political cooperation, the development and codification of international law, the realization of human rights and fundamental freedom for all, and international collaboration in economic, social, cultural, educational and health fields;
- To make recommendations for the peaceful settlement of any situation, regardless of origin, which might impair friendly relations among nations.
- To receive and consider reports from the Security Council and other United Nations organs;
- To consider and approve the United Nations budget and to apportion the contributions among members;
- To elect the non- permanent members of the Security Council, the members of the Economic and Social Council and those members of the Trusteeship Council that are elected

- To elect jointly with the Security Council the judges of the International Court of Justice; and, on the recommendation of the Security Council, to appoint the Secretary- General.

THE UNITED NATIONS SYSTEM



The General Assembly's regular session usually begins each year in September. The 2000-2001 session, for example, is the fifty-fifth regular session of the General Assembly. At the start of each regular session, the Assembly elects a new president, 21 vice-presidents and the chair persons of the Assembly's six main committees. To ensure equitable geographical representation, the presidency of the Assembly rotates each year among five groups of States: African, Asian, Eastern European, Latin American and Caribbean, and Western European and other States.

In addition to its regular sessions, the Assembly may meet in special sessions at the request of the Security Council, of a majority of Member States. One member may call emergency special session within 24 hours of a request by the Security Council on the vote of any nine Council members, or by a majority of the United Nations members, or if the majority of members concurs.

At the beginning of each regular session, the Assembly holds a general debate, often addressed by heads of state and government, in which member states express their views on the most pressing international issues.

The Security Council:

The Security Council has primary responsibility for the maintenance of international peace and security. It is so organized as to be able to function continuously, and representative of each of its members must be present at all times at United Nation Headquarters.

When a complaint concerning a threat to peace is brought before it, the Council's first action is usually to recommend to the parties to try to reach agreement by peaceful means. In some cases, the Council itself undertakes investigation and mediation. It may appoint special representatives or request the Secretary- General to do so or to use his good offices. It may set forth principles for a peaceful settlement.

When a dispute leads to fighting, the Council's first concern is to bring it to an end as soon as possible. On many occasions, the Council has issued cease-fire directives that have been instrumental in preventing wider hostilities.

It also sends United Nations peacekeeping forces to help reduce tensions in troubled areas, keep opposing forces apart, and create conditions of calm in which peaceful settlements may be sought. The Council may decide on enforcement measures, economic sanctions. (such as trade embargoes) or collective military action.

A member state against which preventive or enforcement the Security Council has taken action may be suspended from the exercise of the rights and privileges of membership by the General Assembly on the recommendation of the Security Council. The Assembly on the Council's recommendation may expel a member state that has persistently violated the principles of the Charter from the United Nations.

A state that is a member of the United Nations but not of the Security Council may participate, without a vote, in its discussions when the Council considers that that country's interests are affected. Both members of the United Nations and non-members, if they are parties to a dispute being considered by the Council, are invited to take part, without a vote, in he Council's discussions; the Council sets the conditions for participation by a non-members state.

The Presidency of the Council rotates monthly, according to the English alphabetical listing of its member states. The Council has 15 members-five permanent members and 10 elected by the General Assembly for two- year terms:

The permanent members of the Security Council are 1. USA 2. Russian Federation 3. UK 4. France and 5. China. Each Council member has one vote. Decisions on procedural matters are made by an affirmative vote of at least nine of the 15 members. Decisions on substantive matters require nine votes, including the concurring votes of all five permanent members. This is the rule of "great power unanimity," often referred to as the "veto" power.

All members of the United Nations agree to accept and carry out the decisions of the Security Council. While other organs of the United Nations make recommendations to governments, the Council alone has the power to take decisions that member states are obligated under the Charter to carry out.

The Economic and Social Council (Eco Soc):

The Economic and Social Council coordinates the work of the 14 UN specialized agencies, 10 functional commissions and five regional commissions; receives reports from 11 UN funds and programmes and issues policy recommendations to the UN system and to member states. ECOSOC is responsible for promoting higher standards of living, full employment, and economic and social progress; international cultural and educational cooperation; and encouraging universal respect for human and financial resources of the entire UN system.

In carrying out its mandate, ECOSOC consults with academics, business sector representatives and more than 2,100 registered non-governmental organizations. This year 2003, ECOSOC President H.E. Gert Rosenthal will chair the high-level segment and it will cover "Promoting and integrated approach to rural development in developing countries for poverty eradication and sustainable development." The Council will adopt a Ministerial Declaration, providing policy guidance and recommendations for action.

Trusteeship Council:

The Trusteeship Council suspended operation on 1st November 1994, with the independence of Palau, the last remaining United Nations trust territory, on 1st October 1994. By a resolution adopted on 25 May 1994, the Council amended its rules of procedure to drop the obligation to meet annually and agreed to meet as occasion required – by its decision or the decision of its President, or at the Security Council. In setting up an International Trusteeship System, the Charter established the Trusteeship Council as one of the main organs of the United Nations and assigned to it the task of supervising the administration of Trust Territories placed under the Trusteeship System. Major goals of the System were to promote the advancement of the inhabitants of Trust Territories and their progressive development towards self-government or independence. The Trusteeship Council is made up of the five permanent members of the Security Council- China, France, Russian Federation, United Kingdom and United States.

The aims of the Trusteeship System have been fulfilled to such an extent that all Trust Territories have attained self-government or independence, either as separate states or by joining neighbouring independent countries.

Functions and powers:

The Trusteeship Council is authorized to examine and discuss reports from the Administering Authority on the political, economic, social and educational advancement

of the peoples of Trust Territories and, in consultation with the Administering Authority, to examine petitions from and undertake periodic and other special missions to Trust Territories.

The international Court of Justice (ICJ):

The International Court of Justice is the principal judicial organ of the United Nations. It is located at the Peace Palace in The Hague (Netherlands). It began work in 1946, when it replaced the Permanent Court of International Justice, its predecessor, as an integral part of the Charter of the United Nations.

Functions of the Court:

The Court has a dual role: to settle in accordance with international law the legal disputes submitted to it by states, and to give advisory opinion on legal questions referred to it by duly authorized international organs and agencies.

Composition:

The Court is composed of 15 judges elected to nine-year terms of office by the United Nations General Assembly and Security Council sitting independent of each other.

It may not include more than one judge of any nationality. Elections are held every three years for one-third of the seats, and retiring judges may be re-elected. The members of the Court do not represent their governments but are independent magistrates. The judges must possess the qualifications required in their respective countries for appointment to the highest judicial offices, or be jurists of recognized competence in international law. The composition of the Court has also to reflect the main forms of civilization and the principal legal system of the world.

The Secretariat:

It is an international staff working in duty stations around the world to carry out the diverse day-to-day work of the Organization. It services the other principle organs of the United Nations and administers the programmes and policies laid down by them. At its head is the Secretary-General, who is appointed by the General Assembly on the recommendation of the Security Council for a five-year, renewable term.

The duties carried out by the Secretariat are as varied as the problems dealt with by the United Nations. These range from administering peacekeeping operations to mediating international disputes, from surveying economic and social trends and problems to preparing studies on human rights and sustainable development. Secretariat staffs also inform the world's communications media about the work of the United Nations; organize international conferences on issues of worldwide concern; and interpret speeches and translate documents into the Organization's official languages.

The United Nations, while head quartered in New York, maintains a significant presence in Addis Ababa, Bangkok, Beirut, Geneva, Nairobi, Santiago, and Vienna, and has offices all over the world.

10.9 IMPORTANT AGENCIES OF UNO:

- Food and Agriculture Organization of the United Nations (FAO)
- International Atomic Energy Agency (IAEA)-Vienna, Austria
- International Civil Aviation Organization (ICAO) Montreal, Canada
- International Civil Service Commission (ICSC) New York, USA
- International Court of Justice (ICJ) The Hague, The Netherlands
- International Development Association (IDA) Washington, USA [World Bank Group]
- International Fund for Agricultural Development (IFDA) Rome, Italy
- International Labour Organization (ILO)-Geneva, Switzerland
- International Maritime Organization (IMO) –London, UK
- International Monetary Fund (IMF) - Washington, USA
- International Research and Training Institute for the Advancement of Women (INSTRAW)- Santo Domingo, Dominican Republic
- International Telecommunication Union (ITU)-Geneva, Switzerland,
- International Trade Center (ITC) - Geneva, Switzerland, [UNCTAD/WTO]
- Joint United Nations Programme on HIV/AIDS (UNAIDS) – Geneva, Switzerland
- Media and Peace Institute (University for peace)- Paris, France
- United Nations Children’s Fund (UNICEF) – New York, USA
- United Nations Conference on Trade and Development (UNCTAD)-Geneva, Switzerland
- United Nations International Drug Control Programme (UNDCP) - Vienna, Austria
- United Nations Development Fund for Women (UNIFEM) - New York, USA
- United Nations Development Programme (UNDP) - York
- United Nations Educational, Scientific and Cultural Organization (UNESCO)- Paris, France

- United Nations Environment Programme (UNEP)- Nairobi, Kenya
- United Nations High Commissioner for Human Rights, (OHCHR)-Geneva, Switzerland
- United Nations High commissioner for Refugees, Office of the (UNHCR) – Geneva, Switzerland
- United Nations Industrial Development Organization (UNIDO) -Vienna, Austria
- United Nations Population Fund (UNFPA) –New York, USA
- United Nations University (UNU)-Tokyo, Japan
- United Nations Volunteers (UNV)-Bonn, Germany
- United Postal Union (UPU) – Bern, Switzerland
- Women Watch – New York, USA
- World Bank Group – Washington, USA
- World Food Programme (WFP) – Rome , Italy
- World Health Organization (WHO) – Geneva, Switzerland
- World Intellectual Property Organization (WIPO)- Geneva, Switzerland
- World Meteorological Organization (WMO)- Geneva, Switzerland
- World tourism Organization – Madrid, Spain
- World Trade Organization (WTO) - Geneva, Switzerland,

Regional Organizations:

1. South Asian Association for Regional Cooperation (SAARC):

The idea of regional cooperation in South Asia was first raised in November 1980. After consultations, the Foreign Secretaries of the seven countries met for the first time in Colombo in April 1981. This was followed a few months later by a meeting of the Committee of the Whole, which identified five broad areas for regional cooperation. The Foreign Ministers, at their first meeting in New Delhi in August 1983, adopted the Declaration on South Asian Association for Regional Cooperation (SAARC) and formally launched the Integrated Program of Action (IPA) in the five agreed areas of cooperation: agriculture rural development; telecommunications; meteorology , and health and population activities. Later, transport; postal services, scientific and technological cooperation; sports arts, and culture were added to the IPA.

Membership:

Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka.

Purpose:

The SAARC seeks to promote the welfare of the peoples of South Asia, strengthen collective self-reliance, promote active collaboration and mutual assistance in various fields, and cooperate with international and regional organizations.

Standing Committee of Foreign Secretaries:

The Committee provides overall monitoring and coordination determines priorities, mobilizes resources, and approves projects and financing. It may meet as often as deemed necessary but in practice normally meets twice a year and submits its reports to the Council of Ministers.

The Standing Committee may also set up Action Committees comprising Member states concerned with implementation of projects per Articles VII of the Charter. The Standing Committee is assisted by a Programming Committee, an ad hoc body, comprising senior officials, to scrutinize the Secretariat Budget, finalize the Calendar of Activities, and take up any other matter assigned to it by the Standing Committee.]

The Programming Committee also has been entrusted to consider the reports of the Technical Committee and the SAARC Regional Centers and submit its comments to the Standing Committee.

Secretariat :

The Secretary – General, who is appointed by the Council of Ministers for a two – year term and is rotated among Member States, six Directors, and a General Service Staff , holds this position constitute the foundation for a strong and viable community of nations in southeast Asia.

II. Association of South East Asian Nations (ASEAN) :

The association of South Asian Nations or ASEAN was established on 8 August 1967 in Bangkok by the five original Member Countries, namely Indonesia, Malaysia, Philippines, Singapore, and Thailand. Brunei Darussalam joined on 8 January 1894, Vietnam on 28 July 1995, Laos and Myanmar on 23 July 1997, and Cambodia on 30 April 1999. At present India a dialogue partner.

Purposes :

The ASEAN Declaration states that the aims and purposes of the Association are :

- (i). To Accelerate the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of Southeast Asia nations, and
- (ii). To promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries in the region and adherence to the principles of the United Nations Charter.

STRUCTURES :

The highest decision – making organ of ASEAN is the Meeting of the ASEAN Heads of State and Government. The ASEAN Summit is convened every year. The ASEAN Ministerial Meeting (Foreign Ministers) is held on an annual basis. Ministerial meetings on several other sectors are also held : agriculture and forestry, economics, energy, environment, finance, information, investment, labour, law, rural development and poverty alleviation, science and technology, social welfare, transnational crime, transportation, tourism, youth, the AIA Council and, the AFTA council. The Secretary – General of ASEAN is appointed on merit and accorded ministerial status.

The Secretary – General of ASEAN, who has a five – year term, is mandated to initiate, advise, coordinate, and implement ASEAN activities. The members of the professional staff of the ASEAN Secretariat are appointed on the principle of open recruitment and region – wide competition. ASEAN has several specialized bodies and arrangements promoting inter - governmental cooperation in various fields.

POLITICAL COOPERATION :

The ASEAN political and security dialogue and cooperation is aimed to promote regional peace and stability by enhancing regional resilience. Regional resilience shall be achieved by cooperating in all fields based on the principles of self – confidence, self – reliance, mutual respect, cooperation, and solidarity, which shall constitute the foundation for a strong and viable community of nations in Southeast Asia. Through political dialogue and confidence building, no tension has escalated into armed confrontation among ASEAN members since its establishment more than three decades ago.

ECONOMIC AND FUNCTIONAL COOPERATION :

When ASEAN was established, trade among the member countries was insignificant. Estimates between 1967 and the early 1970s Showed that the share of intra – ASEAN trade from the total trade of the member countries was the preferential trading Arrangement of 1977, which accorded tariff preferences for trade among ASEAN economies. Ten years later, an enhanced PTA programme was adopted at the Third ASEAN Summit in Manila further increasing intra – ASEAN trade. In addition to trade and investment liberalization, regional economic integration is being pursued through the development of Trans – ASEAN transportation network consisting of major inter – state highway and railway networks, principal ports and sea lanes for maritime traffic, inland waterway transport, and major civil aviation links. ASEAN economic cooperation covers the following areas: trade, investment, industry, services, finance, agriculture, forestry, energy transportation and communication, intellectual property, small and medium enterprises, and tourism.

EXTERNAL RELATIONS :

The ASEAN Vision 2020 affirmed an outward – looking ASEAN playing a pivotal role in the international community and advancing ASEAN's common interests. The ASEAN summit of 1992 mandated the inclusion of ASEAN'S Dialogue partners include Australia, Canada, China the European Union, India, Japan, the Republic of Korea, New Zealand, the Russian Federation, the United States of America and the United Nations Development Programme. ASEAN maintains contact with other inter – governmental organizations, namely, the Economic Cooperation Organisation, the Gulf Cooperation Council, the Rio Group, the South Asian Association for Regional cooperation, and the South Pacific Forum. Most ASEAN Member Countries also participate actively in the activities of the Asia – Pacific Economic Cooperation (APEC) the Asia – Europe Meeting (ASEM), the East Asia – Latin America Forum (EALAF).

III. Non – Aligned Movement (NAM) :

The Non – Aligned movement emerged in the 1960s during the cold war between USA and former Soviet union (1949 – 89) Although originally used by poorer states, the non aligned movement was enriched by members of oil producing countries. NAM consists of 113 members; hold more than half the world's population and 85 of oil resources, but only 7 of global GDP (1995). Non – alignment is not a doctrine. It is not a dogma. It is a process. It is a way of looking at issues in a particular way. It is a need, not a creed. It is against hegemony, against formation of blocs by the powerful nations.

Origins of the Movement :

During the Cold War, between the former USSR and Eastern Europe on the one hand and the USA and Western Europe on the other, the world divided into two power blocs. However, during the 1960s a third bloc, the nonaligned movement emerged. It includes countries that had gained independence from the European empires in the period after World War II. The NAM tried to act as a stabilizing force between the two – superpower blocs. It provided its members a more powerful voice through unity. The origins of the movement lay in the 1955 Bandung Conference, Indonesia, at which Asian and African States met to find common ground and agreement for future co – operation, and proclaimed anti colonialism and neutrality between East and West power blocs. The Indian Premier Minister Jawaharlal Nehru, Ghana's Prime Minister Kwame Nkrumah, Egypt's Preseident Gamal Abdel Nasser, Indionesia's President Ahmed Sukarno, and Yugoslavia's President Tito founded the movement at the Belgrade Conference, Yugoslavia, in 1961.

Nonalignment Movement, During the Cold War :

During the cold War, both the USA and USSR tried to influence members of the nonaligned movement and attract them into their respective blocs. Monetary aid was given to development projects, such as the Soviet funding of Egypt's Aswan High

Dam project during the 1960s. The nonaligned movement was not a strongly unified group like the north Atlantic Treaty Organization (NATO) or Warsaw Pact. Members of NAM were weaker economically and militarily than the superpower blocs. Therefore, although its members were able to increase their status through unity and cooperative voting in the UN General Assembly, they were never able to challenge the dominance of the two superpowers. After the cold war membership of the nonaligned movement grew from 25 states in 1961 to 113 members and 17 observer states in 2000. The movement's members are drawn from Asia, Africa, South America, Central America, the Caribbean, and the Middle East, Malta. Yugoslavia is the only European members of the nonaligned movement. Conferences are held every three years. The movement has no permanent secretariat. With the end of the cold war, the major issues promoted by the movement have been international action against poverty, environmental destruction, nuclear testing, and drug trafficking.

Relevance of NAM :

The Cold war had ended but peace in the world is still threatened by forces of extremism, discord, aggressive nationalism, and terrorism and large stocks of weapons of mass destruction. Besides the dynamics of globalisation have produced a whole set of new problems which the Non – aligned Movement must address in coming years. Therefore, NAM is relevant in the contemporary international world political and economic order.

While the developing world is largely supportive of mutually beneficial global integration, it has major concerns that are not being addressed in the (new) global agenda.

These are equitable balance between rights and obligations of investors, particularly multi – national corporations (MNC's), extra – territorial application of domestic laws, intrusive and calculated invoking of human rights, and conditionality of environmental protection and preservation and opening up of national economies tied to grant of aid and trade concessions. Non–aligned countries are increasingly exposed to pressures to conform to an agenda that is being defined and driven by others particularly the G– 8 nations. NAM relevance lies in providing the ideal forum to oppose,

1. Disregarding the U.N. and diluting the authority of the Security Council by ignoring or simply by passing it.
2. To curtail the hegemonic tendencies on the part of “rogue states”, and
3. To slow down economic and social development of Third World nations.

India should take the lead and revitalize NAM, give it direction, coherence, and efficiency. To accelerate the process of revitalization, NAM should devote “more time and effort to promote cooperation among member–countries both in the economic and political fields.”

There is “renewed interest” among developing Countries in NAM. The fact that we are living in a unipolar world and the increasing unilateralism being shown by certain countries in world affairs should make NAM countries more united. There have been attempts by a group of countries to portray NAM as irrelevant and outdated. NAM is now even more relevant in the context of new international political order.

Features of International Political Order :

The main characteristic of the world order of the mid – late 2000’s is as follows:

Values :

Liberalism or democratic capitalism has triumphed over socialism and is being incorporated into Eastern Europe. The Western, particularly American values and attitudes of materialism, consumption and self gratification in an urban, industrial, high technological context are being rapidly spread by American media and **MNC’s**.

Goals :

The dominant goals are those of the G-7 powers and their financial institutions and emphasis global capitalism, democracy, rule of Euro – global capitalism, democracy, rule of Euro – North American international law, growing global trade, peaceful conflict resolution, and inequality in wealth, power and status between the G7 and other states.

Power Distribution:

The bipolar system has been replaced by an unipolar oligarchy of the G7, led on most dimensions by US, along with some increase in power of non-state actors (IMF) and declining power generally of the Third World.

1. Security: The USA has become the single military superpower by capability and leadership.
2. Culture: American Culture is dominant and rapidly spreading through out the globe.
3. Economy: Here an oligarchy of shared power among the US, Germany and Japan exists.
4. Political / Diplomatic: the global influence of major LDC’s (Least Developed Countries) has decreased, although there is increased latitude for regional influence of some Third World powers.

Advantages for India

The new world order offers a mixture of advantages and disadvantages to a middle developed country and major Third World power like India. India will benefit in a number of ways,

1. Pakistan has already become less important geo-strategically to the US and its allies while India will become more important to them. India's assets, such as its large and mass, population, market potential, dynamic economy and democracy will reinforce its value over Pakistan to the G7 countries.
2. The irritations in US-India relations caused by bipolarity and India's close ties to the former USSR have been removed which should enable more amicable relations between these two governments.
3. Without close ties to the USSR, India's relations with china should improve, as seen in the recent India-China accord.
4. There should be greater acceptance of India's role as regional power.
5. India can upgrade the technological quality of its weapons by inexpensively purchasing advanced weapons from Russia and former Soviet republics
6. India can attract more foreign investment and imports of high technological products.
7. India may be able to carve out more areas of comparative advantage and to boost its export performance in the world economy.
8. As leading Third World power, India will have greater opportunity for increased leadership, status, and influence in the Third World and to serve as a key negotiator for the South with the North.
9. India and Brazil successfully did to create an environment aid funds as part of the new ozone regime.

Disadvantages for India:

1. India's global foreign policy options, room to manoeuvre, and power resources have become more limited, since it is not a permanent member of the Security Council.
2. India has been forced to compete economically with big powers such as USA, France, Germany, China, Japan and UK.
3. The strengthening of Security Council over the General Assembly of UNO and ECOSOC has diminished Indian power in UNO.

The majority of Third World countries will probably lose more than they gain from the new world political order. In contrast, India is positioned to benefit quite a bit particularly on the regional and Third World coalition levels.

Questions

Part – A

I. Choose and write the correct answer:

Which is NOT an international body?

- a) SAARC b) UNO c) IMF d) IHRC

II. Fill in the blanks:

The total permanent membership of UN Security Council is _____.

III. True or false:

India has a vote power in the Security Council of the UNO.

Part – B

1. Explain International political order.
2. What do you understand by the term 'unipolar world'?

Part – C

1. Explain the functions and powers of the UN General Security?
2. Describe the need for SAARC for South Asian Nations.

Part – D

1. Explain the relevance of NAM in the present New International Political order.
2. Critically examine the role of UNO in peace making efforts in the contemporary World.

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