

COMPARATIVE POLITICS AND GOVERNMENT

Edited By
Dr. Javeed Ahmad Bhat

Printed by
USI PUBLICATIONS
2/31, Nehru Enclave, Kalkaji Ext.,
New Delhi-110019
for
Lovely Professional University
Phagwara

CONTENT

Unit 1:	Nature and Scope of Comparative Politics *Javeed Ahmad Bhat, Lovely Professional University*	1
Unit 2:	Comparative Method and Politics *Vinod C.V., Lovely Professional University*	18
Unit 3:	Constitutions and Constitutionalism *Javeed Ahmad Bhat, Lovely Professional University*	42
Unit 4:	Political Culture *Vinod C.V., Lovely Professional University*	71
Unit 5:	Political Socialisation *Satyabrata Kar, Lovely Professional University*	87
Unit 6:	Socio-Economic Bases and Salient Features of the Constitutions *Vinod C.V., Lovely Professional University*	99
Unit 7:	Constitutional Structure: Executive *Satyabrata Kar, Lovely Professional University*	152
Unit 8:	Constitutional Structure: Legislature *Satyabrata Kar, Lovely Professional University*	187
Unit 9:	Constitutional Structure: Judiciary *Vinod C.V., Lovely Professional University*	220
Unit 10:	Party System *Javeed Ahmad Bhat, Lovely Professional University*	232
Unit 11:	Pressure Groups *Javeed Ahmad Bhat, Lovely Professional University*	253
Unit 12:	Politics of Representation and Participation *Vinod C.V., Lovely Professional University*	268
Unit 13:	Political Parties *Javeed Ahmad Bhat, Lovely Professional University*	302
Unit 14:	Globalization *Satyabrata Kar, Lovely Professional University*	330

SYLLABUS

Comparative Politics and Government

Objective

1. To make the students understand the conceptual bases of the comparative government and politics.
2. To enable the students to do a comparative analysis of the different kinds of Political system in the world.
3. To help the students to make a comparison of Indian Political System with the different political systems of the world.

Sr. No.	Description
1	**Nature and Scope of Comparative Politics:** Definitions, development of comparative politics, comparative politics and comparative government, comparative method and comparative politics, traditional approach to the study of comparative politics
2	**Constitutions and Constitutionalism:** Constitution- Meaning, Process of growth, kinds of constitution, necessity of a good constitution; Constitutionalism- Meaning, development of Constitutionalism, Liberal and Marxist notions.
3	**Political Culture and Political Socialisation:** Political Culture- meaning, mapping the three levels of political culture; Political socialisation- meaning, agents of political socialisation, trends in contemporary political cultures.
4	**Socio - Economic bases and Salient Features of the Constitutions:** Constitutions of UK, USA, Russia, France, China and Switzerland; Amendment Process in the Constitution of USA and Switzerland, Federal System of the USA and Switzerland.
5	**Constitutional Structure - Executive:** British King and Prime Minister, the President of the USA, France, Russia, China and Plural Executive of Switzerland.
6	**Constitutional Structure - Legislature:** Composition and Powers of the British Parliament, US Congress, Swiss Federal Assembly, Russian and French Parliament and National People's Congress of China.
7	**Constitutional Structure - Judiciary:** US Supreme Court and Judicial Review, Judicial system of UK Russia, France and Federal Judiciary of Switzerland.
8	**Political Parties and Party systems:** Party system-Meaning of a political party, functions of political parties, kinds of party system; Pressure groups- Meaning of a pressure group, difference between political parties and pressure groups, role of pressure group
9	**Politics of Representation and Participation:** Political Parties in the USA, U.K. Russia and France, Role of Communist Party in China, Interests Groups in the USA, UK, Russia and France.
10	**Globalization:** Globalisation and Comparative Politics, Trans-national state, Responses from developed and developing societies.

Unit 1: Nature and Scope of Comparative Politics

Notes

CONTENTS

Objectives
Introduction
1.1 Definition, Meaning, Nature and Scope of Comparative Politics
1.2 Development of Comparative Politics
1.3 Comparative Politics and Comparative Government
1.4 Summary
1.5 Key-Words
1.6 Review Questions
1.7 Further Readings

Objectives

After studying this unit students will be able to:

- Explain the definition of Comparative Politics.
- Understand the development of Comparative Politics.
- Discuss the Comparative Politics and Comparative Government.

Introduction

The subject of comparative politics virtually constitutes a study in the direction of the 'expanding horizon of political science' wherein we seem to have emerged from the 'plains of doubts and darkness' to a 'higher plateau' to see what our passionate endeavours, particularly of the skeptical decade of the 1950's and the 'determined decade' of the 1960's, "have produced, in which the earlier high points of the discipline have lost some of their erstwhile importance or at least are now seen in a new light, and those whose significance suffered by neglect, have emerged in our perspective and awareness in the vale of political knowledge, which contains both rushing torrents (i.e., political process as a whole) as well as limped pools (i.e., speculative political thought)". What has played the role of a motivating force in this important direction is the quest to study 'political reality' by means of new techniques and approaches in a way so that the entire area of 'politics' may be covered. As a result, not a study of the 'government' but of the 'governments' has become the central concern that implies the taking of 'decision' whether "in the United Nations, or in a parish council, in a trade union or in a papal conclave, in a board room or in a tribe." Comparative politics has appeared as a subject of momentous significance on account of this vital reason that a great deal of experimentation "is now going on with new approaches, new definitions, new research tools. Perhaps the main reason for the present intellectual ferment is a widespread feeling of disappointment and dissatisfaction with the traditional descriptive approach to the subject."

1.1 Definition, Meaning, Nature and Scope of Comparative Politics

The term 'comparative politics' is of recent origin and came into vogue in the fifties of the present century and is indicative of the expanding horizon of political science. The political scientists made a bid to study the political reality through a new techniques and approaches. The old concepts were also seen in new light. One of the main reason which encouraged the development of new approach for the study of politics was dissatisfaction with the traditional descriptive approach to the subject. The scholars laid greater emphasis on informal political process rather

Notes

than political institutions and state. They borrowed a number of ideas and concepts from other social sciences and provided the political studies a new empirical orientation.

Before we proceed further to draw a distinction between comparative government and comparative politics, it shall be desirable to define comparative politics. According to Freeman "Comparative politics is comparative analysis of the various forms of government and diverse political institutions." Braibante says comparative politics is "identification and interpretation of factors in the whole social order which appears to affect whatever political functions and their institutions which have been identified and listed for comparison."

Distinction between Comparative Government and Comparative Politics: Scholars have tended to use the terms 'comparative government' and 'comparative politics' for each other without realising the difference between the two. For example Prof. S. E. Finer does not consider the two as different when he argues that "politics is neither the same thing as government nor is it necessarily connected only with those great territorial associations which have a government and which are known as 'State'. For if we use government in the sense of 'governance' or the 'activity of governing' we shall find that government exists at three levels (1) by for the vastest area of human conduct and activity in society proceeds quite unregulated by the public authorities. It forms a coherent set of patterns and regulates itself. (2) The second chief mode by which society forms its own patterns and regulates itself is the process of so-called 'socialisation' of the individual, with which is associated the concept of 'social control'. Most societies in the modern world, however, are equipped with governments.

However, Edward Freeman is conscious of the fact that these two terms are not identical and tries to draw a distinction between them.



Did u know? "By comparative government I mean the comparative study of political institutions or forms of government, And, under, the name of comparative politics I wish to point out and bring together many analogies which are to be seen between the political institutions of times and countries most remote from one another. We are concerned with the essential likeness of institutions to keep us from seeing essential likeness."

The main differences between 'comparative politics' and 'comparative government' are as follows:

1. Firstly, while comparative government is concerned with the study of formal political institutions like legislature, executive, judiciary and bureaucracy alone in comparative politics the other factors which influence the working of the political institutions are taken into account. In other words 'comparative politics' makes a study of the formal as well as informal political institutions. This point has been summed up by a scholar thus: "The scope of comparative politics is wider than that of comparative government despite search for making comparisons which is central to the study of both. The concern of a student of comparative politics does not end with the study of rule making, rule implementation and rule adjudicating organs of various political systems or even with that study of some extra constitutional agencies (like political and pressure groups) having their immediate connection, visible or invisible with the departments of state activity. In addition to all this, he goes ahead to deal with...even those subjects hitherto considered as falling within the range of Economics, Sociology and Anthropology."
2. Secondly, comparative government was chiefly confined to the study of the political institutions of western democratic countries. On the other hand comparative politics concentrates on the study of political institutions of all the countries of the world. It has laid special emphasis on the study of political institutions of the states which have emerged in the twentieth century.
3. Thirdly, comparative government involves only descriptive study of the political institutions and makes only formal study of the political institutions provided by the constitution. On the

Notes

other hand comparative politics concentrates on analytical study of the various political institutions. Investigation and experimentation constitute prominent features of comparative politics.

4. Finally, comparative government concerns itself only with the political activities of the political institutions, while comparative politics also takes into account the economic, cultural and social factors. In other words it tries to examine the political institutions through inter-disciplinary approach.

Politics is a continuous, timeless, ever-changing and universal activity having its key manifestation in the making of a decision to face and solve a 'predicament'. It "flows from a special kind of activity, a form of human behaviour." It refers to the making or taking of a decision in which some political action is involved. It is a different thing that political scientists define and interpret the term 'political action' in their own ways that ascribes to them the title of being a conservative, or a traditionalist, or a modernist. It is for this reason that while Oakeshott defines political activity as "an activity in which human beings, related to one another as members of a civil association, think and speak about the arrangements and the conditions of their association from the point of view of their desirability, make proposals about changes in these arrangements and conditions, try to persuade others of the desirability of the proposed changes and act in such a manner as to promote the changes"; David Easton treats it as an action for the 'authoritative allocation of values'; Harold Lasswell and Robert Dahl describe it as 'a special case in the exercise of power'; and Jean Blondel lays emphasis on the point of 'decision taking'. However, a fine interpretation of the term 'political activity' is thus given by Oakeshott who says: "In political activity, then, men sail a boundless and bottomless sea; there is neither harbour for shelter nor floor for anchorage; neither starting place nor appointed destination. The enterprise is to keep afloat on an even keel; the sea is both friend and enemy."

In the field of comparative politics, the term 'politics' has three connotations—political activity, political process and political power. As already pointed out, political activity consists of the efforts by which conditions of conflicts are created and resolved in a way pertaining to the interests of the people, as far as possible, who play their part in the 'struggle for power'. The reduction of tensions or the resolution of conflicts naturally takes place through the operation of permanent mechanisms of tension reduction as well as, from time to time, by the introduction of further 'reserve' mechanisms designed to reduce the amount of tensions and conflicts in emergencies. If politics means the authoritative allocation of 'values', some measure of conflict is bound to arise between 'values' as desired by the people and 'values' as held by the men in power. Thus arise conflicts that demand their solution and what leads to efforts in this regard constitutes political activity. It is the government that "has to solve these conflicts by whatever means are at its disposal, the only limitation being that in so doing it must prevent the break-up of the polity. Politics ceases where secession, and indeed civil war begins, as, at that point, there is no longer an authoritative allocation of values, but two sides allocating their values differently". It should, however, not be inferred from this statement that there is nothing like political activity during the days of civil war or some revolutionary upheaval, it simply means that as such an eventuality "constitutes a high point of tension in the life of a community, the role of political action must consist of preventing the community from reaching such a point.

Political activity emanates from a situation of 'predicament'—a form of human behaviour in which the interests of persons, more than one, clash or interact for the purpose of having an allocation of binding values in their respective favours. The moment a voice is raised in a group or a community of people for a common rule or policy on any issue whatsoever, a predicament is created in the sense that even to decide against the demand requires to take a decision. The matter does not stop here. Further problem arises when the members of a group or a community advocate mutually exclusive policies. The result is clash of interests and the stage of resolution of conflicts can be achieved either by peaceful means of reasoning, persuasion, adjustments, diplomacy or compromise or by the violent means of force and coercion. While, in the former case, competing agents may come piecemeal to abandon a part of their demands in order to have a mutually acceptable solution, in the latter case, the policy of one section may, wholly or largely,

Notes

prevail over the desires of another. The former position may be called the state of 'spontaneous unanimity', the latter as imposed consensus. The common point is that political activity stops at the point of 'political rest.' "So, just as a situation of political rest does not start up any political activity, it also closes down a cycle of political activity."


Notes

Politics not only connotes 'political activity', it also implies a 'train of activities', *i.e.*, efforts directed towards creating the conditions of tension and having their resolution until the point of 'spontaneous unanimity' is achieved.

Political process is an extension of the sense of political activity. Here the case of all those agencies figures in which have their role in the decision-making process. The study of politics is thus broadened so as to include even 'non-state' agencies. A study of the way groups and associations operate shows that they are not free from the trends of struggle for power; they have their internal' governments' to deal with their internal conflicts and tensions. What is particularly important for our purpose is that these 'non-state' associations influence the government of the country for the sake of protecting and promoting their specific interests. Thus, there occurs a very sharp process of interaction between the groups *inter se* and between the groups and the government of the country. Finer is right in saying that clearly a private association's hope of success in its competition with other groups is maximised if the full power of the state, as mediated through the government, is put behind it. And so it is that, once such competition takes place within the framework of the state, what would otherwise have to be a private and intermittent struggle of one group against another now becomes a public competition with other groups, either to get the government to espouse its policy and enforce it, or else to go forward and become the government. And the set of procedures whereby the private associations existing in a state seek to influence the government, or participate in policy formation by the government or become the government, is the 'political process'.

Since comparative politics includes all that comes within the scope of political activity and political process, it is said to 'drown' the national governments "among the whole universe of 'partial governments' which exist in any community." It is needed that the study of the government (as an element of the state) should be made *vis-a-vis* the 'governments' of non-state associations that operate in a way so as to influence the government of the country and also be influenced by it in some way or another. As Blondel says: "Government is the machinery by which values are allocated, if necessary by using compulsion: what is, therefore, important is to examine the three stages of the operation by which these values are allocated. Firstly, we must see the way in which the values come to be formulated and government is made aware of them. Secondly, we must see how the machinery of government 'digests' and transforms these values into decisions applicable to the whole community. Thirdly, we must see how these decisions come to be implemented down the level of governmental command. The whole operation of government thus takes the form of a two-way operation, or, perhaps more appropriately, of a machine which receives signals and transforms these signals into others."

Finally, the scope of comparative politics includes the subject of 'political power'. The term 'power' has been defined by different writers in different ways. For instance, while. Carl J. Friedrich describes it as 'a certain kind of human relationship', Tawney regards it as 'the capacity of an individual, or a group of individuals, to modify the conduct of other individuals or groups in the manner in which he desires. Referring to the role of power in the matter of decision-making, Lasswell says: "The making of decision is an interpersonal process: the policies which other persons are to pursue are what is decided upon. Power as participation in the making of decisions is an interpersonal relation." Politics thus connotes a special case in the exercise of power—an exercise in the attempt to change the conduct of others in one's own direction. To define the term precisely, one can say that power "is taken to denote the whole spectrum of those external influences that, by being brought to bear upon an individual, can make him move in a required direction."

Notes

It is the study of the subject of politics from the standpoint of 'power' that has widened the scope of comparative politics so as to include a study of the infra-structure of the political systems. It is on account of this that politics "cannot be studied properly without identifying the ruling class, or the governing and non-governing elites, and measuring their respective roles. Politics also functions, by and large, within groups, though as we have seen earlier, however important in themselves the group may be, neither the individual nor the society can be left out." The subject of 'authority' becomes the handmaid of power. The rulers in a democratic system try to justify their authority by means of having the title of 'consensus', those of a totalitarian system resort to the naked use of power for achieving the superficial title of legitimacy. Thus, it becomes a celebrated principle of comparative politics: "Where consensus is weak, coercion tends to be strong, and *vice versa*."

It is on account of these important connotations that the term 'politics' has come to have its peculiar definition in the realm of comparative politics. Here politics has been made free from the shackles of normative dimensions and restated in empirical terms. The result is that it is not merely a study of the state and government, it is a study of the 'exercise of power'. As Curtis says: "Politics is organised dispute about power and its use, involving choice among competing values, ideas, persons, interests and demands. The study of politics is concerned with the description and analysis of the manner in which power is obtained, exercised, and controlled, the purpose for which it is used, the manner in which decisions are made, the factors which influence the making of those decisions, and the context in which those decisions, and the context in which those decisions take place."

1.2 Development of Comparative Politics

The study of comparative politics became highly significant in the 1950's when a good number of leading American political scientists sought to 'transform the field of politics' by taking the study of this subject 'from foreign to comparative political phenomenon' and 'from the study of the governments to the study of the political systems'. In broad terms, the transformation which "has taken place has been from a field which would most appropriately be labelled 'foreign governments' to one which might most adequately be called comparative political systems." However, the historical development of this subject may be roughly put into three phases — unsophisticated, sophisticated, and increasingly sophisticated.

The contributions made to the study of politics by great figures like Aristotle, Machiavelli, de Tocqueville, Bryce, Ostrogorski and Weber belong to the first phase who simply utilised the comparative method for the primary purpose of understanding better the working of the political organisations. These writers employed, what was called, the comparative method that "aimed through the study of existing politics or those which had existed in the past to assemble a definite body of material from which the investigator by selection, comparison, and elimination may discover the ideal types and progressive forces of political history." John Stuart Mill undertook to show that the comparative method "may assume several forms, the 'most perfect' of which is the process of difference by which two politics, identical in every particular except one, are compared with a view to discovering the effect of the differing factor." Lord James Bryce preferred comparative method and designated it as scientific by adding: "That which entitles it to be called scientific is that it reaches general conclusions by tracing similar results to similar causes, eliminating those disturbing influences which, present in one country and absent in another, make the results in the examined cases different in some points while similar in others."

The contributions of some important recent writers like Samuel H. Beer, M. Hass, Bernard Ulam and Roy C. Macridis may be included in the second phase who made use of the comparative method with a good amount of self-consciousness and also with a deliberate mood to present a more useful study of different political institutions. As a matter of fact, the writers belonging to this category, unlike political thinkers and writers belonging to the first, applied the instruments of institutional comparisons in a quite rigorous manner to present a better (in the sense of realistic) study of the governments what they desired to address as 'political systems'. This may

Notes

be called the 'sophisticated' phase in the growth of the subject of comparative politics inasmuch as these writers "were concerned with the various strategies of comparison: area studies, configurative approach, institutional and functional comparisons, a problem-based orientation, and with various methodological problems: conceptualisation, the establishment of agreed categories for comparison, validity as a problem, cross-cultural difficulties and the availability of data."

The contributions of David Easton, Gabriel A. Almond, James C. Coleman, Karl Deutsch, G.B. Powell, Harold Lasswell, Robert A. Dahl, Edward Shils, Harry Eckstein, David Apter, Lucian W. Pye, Sidney Verba, Myron Weiner and a host of others may be included in the final phase. It may rightly be described as the mark of an increasingly sophisticated phase in the growth of comparative politics. The writers belonging to this phase have made use of interrelated set of concepts for the sake of presenting their contributions on the basis of comparative analyses, though they have provided a specialised vocabulary in their own ways. As Roberts says: "If Easton talks of inputs, outputs, demands, gatekeepers, supports and stresses, environment, feedback, values, critical ranges and political authorities; Almond offers a set of input and output functions; Deutsch borrows a cybernetic language which applies to political systems the concept of feedback of various types—autonomy, memory, load, lag, lead and gain, receptors, communication, selective screening of information and so on. Almond's aim of 'universality' sums up the purpose for the choice of such languages — they are sufficiently general to be applicable to any political unit, regardless of size, period, degree of development or other factors."

The subject of comparative politics as developed, in the latest phase, has these main characteristics:

1. **Analytical and Empirical Investigation:** The analytical-cum- empirical method adopted by the writers belonging to the latest phase "has definitely enlarged the field of our enquiry as it has cleared up the mist in which many helpful distinctions within the framework of political studies lay obscured." Eckstein has referred to the late decades of the nineteenth century as a period in which Political Science, influenced by a 'primitive positivism' "effected a divorce between its normative and its descriptive concerns." He further says that in the realm of 'comparative government', more and more writers "turned from a concern for the evaluation of governmental forms to a pure description. By and large they retained the analytical categories developed by their predecessors, but began to shape their meanings to fit descriptive rather than normative purposes. Thus, for example, a pure ideal-type democracy, while it continued to be a tool employed in normative political theory, no longer had utility for specialists in comparative government, and the definition of democracy was loosened to permit inclusion of a congeries of actual governmental forms and socio-political conditions."
2. **Study of the Infrastructure:** The study of comparative politics is not confined to the formal structures of government as was the trend with the traditional political scientists. Here a student is concerned 'with inquiry into matters of public concern, with the behaviour and acts that may concern a society as a totality or which may ultimately be resolved by the exercise of legitimate coercion." Instead of remaining concerned with the formal structures of government alone, he "has to be concerned with crystallised patterns of behaviour, with 'practices' since these are parts of the living structures of government." If instead of 'government' the term 'political system' is used, naturally it becomes a part of the entire social system and the 'input-output' process includes all those forces of the 'environment' that have their effect on the decision-making process. Thus, the role of political parties and pressure groups, for example, becomes as significant as the role of legislatures and executives in the study of modern political systems. As Blondel says: "Structures of government exist; they have to exist because this is the way in which tension is reduced and delayed and thereby tension decreases and the polity is maintained. But structures change gradually and in a complex fashion. Thus, if we are to understand how governmental systems operate, we have to note that the 'law' (in the general sense of the rule of procedure) is an indispensable element of the life of governmental systems; it makes political life possible and maintains politics."

Notes

3. **Emphasis on the Study of Developing Societies:** What has added more to the significance of the study of comparative politics is the emphasis of more writers on the 'politics of the developing areas'. It has occurred as a result of the realisation that the subject of comparative politics must include all governments along with their infra-structures that "exist in the contemporary world and, where possible, references to governments throughout time." The study of comparative government is no longer a study of the selected European or American governments; it is as much a study of developed western governments as those of the developing political systems of the poor and backward countries of the Afro-Asian and Latin American world.

   However, what is of striking importance in this regard is that more and more attention is being paid to the study of the politics of developing societies both for the reason of making this a subject of universal study and for building theories and models so that the 'system of democracy' prevailing in these countries could be saved from being subverted by the forces opposed to it. As Wood says: "One could not help being aware of the fact that there existed in the recent political experiences of dozens of countries a veritable laboratory in which to test propositions about the way governmental systems behave under stress and the factors which bring about changes in political forms. What was more, there were appearing on the scene or waiting close by in the wings dozens more of the formerly colonial countries of Asia and Africa, for which political institutions were being carved out with or without concern for the well-catalogued experiences of their older brethren. Political scientists were worried about the preservation of democracy as the dominant form of government in the world or simply about the best way of assuring that the newly emerging fragile systems would have the best opportunity for stable development. They found ample reason to build theory to help find answers to the problems immediately at hand, because they found themselves woefully bereft of a body of theory upon which to draw for adequate leverage over the question of how to provide new nations with stable democracy."

4. **Focus on Inter-Disciplinary Approach:** What has really enriched the field of comparative politics and, at the same time, made it a 'complex subject' is the focus on inter-disciplinary study. Writers have made more and more use of tools that they have borrowed from the disciplines of sociology, psychology, economics, anthropology and even from natural sciences like biology. For instance, systems analysis with its two derivatives in the form of structural-functional and input-output approches owes its origin to the discipline of biology that has been borrowed by the leading American political scientists like David Easton from sociologists like Robert Merton and Talcott Parsons. The result is that comparative politics has come to have much that makes it look like political sociology and political psychology. A study of new topics like political development, political modernisation, political socialisation, political acculturation, political change, political leadership and the like shows that now political science has become the "application of sociological and psychological analysis to the study of the behaviour of government and other political structures." A modern political scientist interested in the subject of political development "has learned that he cannot treat this topic without looking for the conditions of social mobilisation; men cannot become citizens in political sense without changing their values and personality orientations." A well-known writer in the field of comparative politics has thus pointed out that classical political theory "is more a political sociology and psychology and a normative political theory than a theory of political process. What goes on inside the black box of the political system and its consequences are inferred from the ways in which the social structure is represented in it." It is certainly on account of the adoption of this interdisciplinary approach by the writers on comparative politics that the subject of political science is said to have "undergone a revolution of sorts."

5. **Value-Free Political Theory:** Finally, the subject of political science has lost its normative aspect and assumed empirical dimensions in the sphere of comparative politics. The result is that value-free political theory has replaced value-laden political theory. The concern of the students of comparative politics is not with the things as they ought to be in their ideal forms;

Notes

it is with what they are. There is hardly any place for the rules of history or ethics in the subject of comparative politics as the entire field has been covered by the rules of sociology, psychology and economics. There is thus hardly any place for a man like Leo Strauss in the field of comparative politics who, while sticking to the traditions of Plato and Aristotle, contends that political theory cannot eschew 'values' and thus a value-free political science is impossible. It should, however, be made clear that the use of the term 'values' by Easton (when he defines politics as 'the authoritative allocation of values') or of 'value system' by Almond (when he identifies it with a system of ideas and beliefs) has an empirical, and not a normative, connotation. We may say that the term value is used by the writers on comparative politics in the sense of a 'price' or 'worth' that a thing gets after it is recognised by the policy-makers. There is no value in a thing unless it is allocated by those who are in authority. Political science, thus, becomes *inter alia* a study of the distribution by persons in authority of things which are valued, or the attribution by such persons of value to things, or the deciding by such persons of disputes relating to things which are valued.

In fact, the study of comparative politics in its latest form includes significant contributions of those recent writers who have broadened the scope of this subject by taking into their areas of study more and more countries of the world, particularly of the Afro-Asian and 'Latin-American regions better known as the' world of developing areas'. These writers, in a way, have paid their sincere heed to the counsel of Lord James Bryce who once said that 'the time seems to have arrived when the 'actualities' of government in its various forms should be investigated." The eminent writers on comparative politics have not only endorsed but also improved upon the observation of James T. Shotwell that as "we pass from France to Italy, Switzerland, Germany and USSR, there is no common thread, no criterion of why these particular countries were selected and no examination of the factors that account for similarities and diversities."

Most of the states of the world are engaged in activities of their development in social, economic and political spheres. Non-state institutions are also playing their role in this regard that naturally strengthens the case of a civil society in 'non-western' countries. The result is growing interaction between state and non-state actors that provides a kind of interesting material to the study of comparative politics in present times, particularly after the disintegration of the socialist world what Fukuyama calls the 'end of history'. Thus, the study of comparative politics has become widespread and highly diversified. Apter prefers to rechristen it as 'new comparative politics'. It has its emphasis on growth and development and thus involves within itself the trends of decolonisation and democratisation having their manifestation particularly in the 'undeveloped' or 'under-developed' parts of the world. Politics "is no longer Euro-centred; it is more concerned with how to build democracy in countries in which it is not indigenous." Apter calls it 'neo-institutionalism' that "combines older institutionalist concerns with developmentalism."



Did u know? "Politics is the struggle for power in any organisation, and comparative politics is the study of this struggle around the world."

Civil Society" is meant" a society in which people are involved in social and political interactions free of state control or regulation. . . . . participation in associational or institutional groups socialises individuals into the types of political skills and cooperative relations that are a part of well functioning society. People learn how to organise, how express their interests, and how to work with others to achieve common goals. They also learn the important lessons that the political process itself is as important as the immediate results. Thus, a system of active associational groups can lessen the development of anomie or non-associational activity.

Notes

Problems in Study of Comparative Politics

The study of comparative governments, however, involves many difficulties. Some of the difficulties faced in the study can be described under the following heads:

1. **Difficulty in collecting information.** The major difficulty in collecting information and getting data about individual governments is that sometimes the facts and figures are simply forbidden by the country or countries under study. Specially, information in the totalitarian countries is very meagre. But it does not mean that these countries are totally closed to investigation. Many facts come out and some others are published by their governments to show the achievements that they make during a particular period. Moreover, a careful study of the members of the government over a time is revealing in many ways, for example, it can be known whether the government is stable or unstable, what kinds of men lead the country and also what are the various factions, if any, that exist in the ruling group. Information-gathering in the democratic countries is easy. Information can be gathered readily both from the news-papers, reports etc. and from those who are running the government. But even in a democratic country full information may not be available. Many facts are got given by these countries on the pretext of "public interest" specially those dealing with the security of the country or the defence, or the foreign affairs. Similarly the decisions of the Cabinet are not 'leaked' out; the decisions reached at the closed door meeting of the party are also kept a secret. So even a democratic country is not absolutely "open" to the investigator.

   Another difficulty faced in the field is that data are difficult to gather because they are sometimes difficult to measure. In fact, many political decisions defy accurate measurement and hence can hardly be put to comparative use.

   Still another difficulty that faces a student of comparative politics in collecting information is that many events seem to be 'unique' and a comparative analysis appears consequently inappropriate. One may study the chief executives of different countries, say, the British Prime Minister, the Indian Prime Minister, the American President. But the studies of these executives without other "unique" influences would prove futile. For these studies in true perspective it is, therefore, essential that the forces of decision-making must be taken into account and these forces consist of voters, legislators and many other factors in each country under study.

   Finally, the unwillingness of the governments to give complete details is another hurdle in collecting information.

2. **Difficulty faced due to the background variables.** In addition to the above difficulties, the background variables create some problems for the student of comparative governments. In every country, the pattern of thinking and acting of the masses as well as of those who are in power depends on different factors known as variables. These variables range from economic conditions to the climate of a country or its geographical conditions or certain historical happenings. These variables have a complex influence on the politics of an individual country. Earlier attempts were made to explain the influence of these variables on a very small scale. For example, explanation on the basis of economic factors divides the countries on the variables of those who possess capital (capitalistic system of society) and socialists. A similar attempt was made to simplify the influence of variables on the basis of seafaring countries *vs.* land-based states, i.e., the influence of climate or geography.

   It is, however, futile to look for a factor accounting for all the variations between governments. Students of comparative governments have now turned their attention to a better and maturer approach i.e. they now measure the relative weights of all variables and describe as precisely as possible the extent to which a particular variable accounts for the characteristics of a political system. This approach is called the multi-variate analysis.

3. **Problems as a result of the role of norms, institutions and governmental behaviour.** Nearly all the countries have the government of their own choice. They decide in advance what type or form of government they should have. This decision to have a particular type of government introduces the element of *value* or *norm* in the governmental system. It is also decided as to

Notes

what the government should do and about how it should do. In other words, we have to see *whether the norm corresponds to the behaviour*. The question of the relationship between norms and behaviour is complex. These norms are usually to be found in Constitutions or the various practices which become "solidified" and become the conventions (as in the British Constitution). Different kinds of norms can be found in different societies and political systems could be compared in terms of the relationship between norms and behaviour. Thus for the study of comparative governments it is essential to look into the relationship of norms with institutions and with behaviour. However, the relationship between these three elements is not simple.

1.3 Comparative Politics and Comparative Government

The study of comparative government and politics in its latest form includes significant contributions of those recent writers who have broadened the scope of this subject by taking into their areas of study more and more countries of the world, particularly of the Afro-Asian and Latin-American regions better known as the 'world of developing areas'. These writers, in a way, have paid their sincere heed to the counsel of Lord James Bryce who once said that 'the time seems to have arrived when the 'actualities' of government in it is various forms should be investigated." The eminent writers on comparative politics have not only endorsed but also improved upon the observation of James T. Shotwell that as "we pass from France to Italy, Switzerland, Germany and USSR, there is no common thread, no criterion of why these particular countries were selected and no examination of the factors that account for similarities and diversities."

Although the two terms 'comparative politics' and 'comparative government' are used loosely and interchangeably, there is a point of distinction between the two. While the latter covers a comparative study of different political systems with special emphasis on their institutions and functions, the former has a broader scope so as to cover all that comes within the purview of the former and, in addition to that, all else that may be designated as the study of 'non-state' politics. In other words, the scope of comparative politics is wider than that of comparative government despite the fact that the search for making comparisons is central to the study of both. The concern of a student of comparative politics does not end with the study of rule-making, (legislature), rule-implementing (executive) and rule-adjudicating (judicial) departments of the political systems or even with the study of some extra-constitutional agencies (like political parties and pressure groups) having their immediate connection, visible or invisible, with the principal spheres of state activity. In addition to all this, he goes ahead to deal, though in a particular way, with even those subjects hitherto considered as falling within the range of economics, sociology, psychology and anthropology. As Sidney Verba concisely suggests: "Look beyond description to more theoretically relevant problems; look beyond the formal institutions of government to political processes and political functions; and look beyond the countries of Western Europe to the new nations of Asia, Africa and Latin America."

The meaning and nature of comparative politics as distinguished from that of the comparative government is well brought out by Curtis in these words: "Comparative politics is concerned with significant regularities, similarities and differences in the working of political institutions and in political behaviour. Meaningful analysis requires explanatory hypotheses, the testing of sentiments, categories and classification by the collection of empirical data, observation, experimentation if at all possible; and the use of research techniques such as sampling, and communications data to increase knowledge." Curtis, however, makes it quite obvious that the inquiry into similarities and differences is not a search for certainty or predictability, nor does it start from the premise that what is not 'scientific' is not knowledge. Systems classification and categories are always tentative: they cannot claim finality. Politics cannot be reduced to a series of involuntary and automatic responses to stimuli. Sometime the most significant political phenomena are those changes in the mood of the times that are impossible to quantify. It is

Notes

affirmed by Chlicote in these words: "Comparative government usually refers to the study of institutions and functions of countries or nation-states in Europe with attention to the executives, legislatures and judiciaries as well as such supplementary organisations as political parties and pressure groups. Comparative politics, in contrast, studies a broader range of political activity including the government and their institutions as well as other forms of organisations, not directly related to national government for example, tribes, communities, associations and unions."

From the above, it infers that me term 'comparative politics' should be preferred to the term 'comparative government', as the scope of the former is wider and more comprehensive to include all the essential characteristics that we have disscussed above. One may, however, agree with the observation of Blondel that the term 'comparative government' has two aspects—horizontal and vertical—and this term may be identified with 'comparative politics' if both the aspects are taken into account. Vertical comparison is a comparative study of the state vis-a-vis other associations and groups that have their 'political character' and cast their impact upon the functioning of a political system; horizontal comparison is a comparative study of the state vis-a-vis other national governments. Blondel may be justified to some extent in saying that comparative government becomes comparative politics when both the vertical and horizontal aspects of comparisons are taken into account that lead to this definition: "Comparative government can thus be defined in a preliminary fashion as the study of patterns of national governments in the contemporary world."



What do you mean by Civil Society?

Though one may, or may not, fully agree with the view of Blondel, it may, nevertheless, be added that it is always safer to use the title 'comparative politics' in preference to 'comparative government'. Perhaps, it is for this reason that Edward Freeman makes an attempt to bring out a distinction between the two in these words: "By comparative government I mean the comparative study of political "institutions, of forms of government. And under the name of comparative politics, I wish to point out and bring together many analogies which are to be seen between the political institutions of times and countries most remote from one another... We are concerned with the essential likeness of institutions and we must never allow incidental traits of unlikeness to keep us from seeing essential likeness." It may, however, be added with a word of caution that comparative politics, though concerned with significant regularities, similarities and differences in the sphere of political institutions and human behaviours, the work of comparison should neither be done half-heartedly to ignore much that is really useful, nor should it be taken to the extremes of over-simplification making the whole study vulgar and implausible. We should be guided by the counsel of Roberts that any lesser conception of comparative politics "tends to lack either clear identity or criteria of selection and exclusion." We should also pay heed to the warning of Eckstein and Apter that "too broad a conception of comparative politics would widen it to encompass political science."

Case of Developed and Developing Countries

Distinguished writers on the subject of comparative politics like Herman Finer, C.F. Strong, FA. Ogg, Harold Zink, W.B. Munro etc. had confined their attention to the study of the developed or industrialised countries of the West that came to be known as the 'first world'. It is a different matter that they included in their study the political system of the Soviet Union in view of some of its peculiar features though they made derogatory reflections by regarding a communist system as a piece of the 'second world'. The trend saw a remarkable change after the second World War when a number of new states emerged in the regions of Asia, Africa and Latin America that came to be known as the 'third world'. To a student of comparative government and politics, the 'third world' has appeared as a vast area of investigation and empirical research.

Notes

The developed countries of the world are those which are highly industrialised and politically modernised in which democratic system has come to stay. In the view of recent writers like Lucian W. Pye, David E. Apter and S.P. Huntington, these countries have achieved the goal of political development, while the countries of the 'third world' are economically backward and they are ridden with political instability that enacts the drama of political development and political decay at different intervals. In the view of A.G. Frank, Samir Amin and Immunuel Wallerstein, they are at the 'periphery' of the modern world system and they cannot be developed countries on account of their exploitation by the core countries' as well as by the 'semi-peripheral' countries of the world.

D. Rustow and R.E. Ward lay stress on the following characteristics of a developed and modernised polity:

1. A highly differentiated and functionally specific system of governmental organisation.
2. A high degree of integration within the governmental structure.
3. The prevalence of rational and secular procedures for the making of political decisions.
4. The large volume, wide range and high efficacy of the political and administrative decisions.

A Modern Classification of Governments

Types of Governments Participation Policy	*Leadership*	*Opportunities for Contest*	*Direction or Mass*
1. Traditional	Closed	Negligible	Conservative
2. Competitive Conservative/ Adaptive	Open Oligarachy	Limited	
3. Military	Closed	Negligible	Conservative/ Reformist
4. Populist/ Mobilising	Closed	Moderate	Transformative/ Adaptive
5. Communist Transformative (Regimented)	Closed Party State	Multiples	
6. Liberal Democracy	Open	Multiples	Reformist (Voluntary)

5. A widespread and effective sense of popular identification with the history, territory and national identity of the state.
6. Widespread popular interest and achievement in the political system though not necessarily in the decision-making aspects thereof.
7. The allocation of political roles by achievements rather than by ascriptions, and
8. Judicial and regulatory techniques based upon a predominantly secular and impersonal system of laws.

S.P. Huntington describes the following characteristics of the modernizing process:

1. It is a *revolutionary* process. Change from tradition to modernity consequently involves a radical and total change in the patterns of human life.
2. It is a *complex* process. It cannot be easily reduced to a single factor or to a single dimension.

Notes

3. It is a *systemic* process. Changes in one factor are related to and affect changes in the other factors.
4. It is a *global* process. Though originated in Europe, it has now become a world-wide phenomenon.
5. It is a *lengthy* process. The totality of the changes which modernisation involves can only be worked out through time. Transition from tradition to modernity will be measured in generations.
6. It is a *phased* process. It is possible to distinguish between levels or phases of modernisation through which all societies will move.
7. It is a *homogeneous* process. It produces tendencies towards convergence among societies.
8. It is an *irreversible* process. There may be temporary breakdowns and occasional reversals in the elements of modernising process, as a whole it is essentially a secular trend.
9. It is a *progressive* process. In the long run, it enhances human well-being culturally and materially.

To a student of comparative government and politics, the states of the 'third world' have these striking features.

1. In such countries politics and government are shaped by the basic facts of scarce economic resources, extensive poverty and inequality, and a relatively weak position in the international system.
2. The political legitimacy of most of the countries is very weak. Most of the citizens have no faith in their political leaders or perhaps in the very nature of the political system of their country.
3. The effective power of governance in these countries is very limited. The state may have little real ability to exert its authority much beyond the capital city and a few large urban centres.

The countries of the 'third world' suffer from what is given above in spite of the fact that their political systems have the marks of diversity as an established secular democracy in India, a theocratic authoritarianism in Pakistan, a semi-democracy in Bangladesh, a budding democracy in Nepal, a military regime in Myanmar, a communist party-state in China, a new democracy in South Africa and the like. And yet to one degree or another all experience this problem in ways that make the 'third world' state a distinctive and important entity in the study of comparative government and politics.

Self-Assessment

1. Choose the correct option:

(*i*) Comparative government is concerned with the formal political institutions like ..... .

(*a*) legislature and executive (*b*) judiciary

(*c*) bureaucracy (*d*) all of these.

(*ii*) Politics has the connotations like ..... .

(*a*) political activity (*b*) political process

(*c*) political power (*d*) all of these.

(*iii*) "The First World War" known as:

(*a*) Industrialised countries (*b*) developing countries

(*c*) developed countries (*d*) none of these.

(*iv*) The comparative politics became highly significant in ..... .

(*a*) 1945 (*b*) 1950 (*c*) 1919 (*d*) 1990

(*v*) Populist government has ..... leadership.

(*a*) closed (*b*) open

(*c*) oligarchy (*d*) none of these

Notes

1.4 Summary

- The term 'comparative politics' is of recent origin and came into vogue in the fifties of the present century and is indicative of the expanding horizon of political science.
- One of the main reason which encouraged the development of new approach for the study of politics was dissatisfaction with the traditional descriptive approach to the subject.
- "Comparative politics is comparative analysis of the various forms of government and diverse political institutions."
- Politics is a continuous, timeless, ever-changing and universal activity having its key manifestation in the making of a decision to face and solve a 'predicament'.
- Political activity as "an activity in which human beings, related to one another as members of a civil association, think and speak about the arrangements and the conditions of their association from the point of view of their desirability, make proposals about changes in these arrangements and conditions, try to persuade others of the desirability of the proposed changes and act in such a manner as to promote the changes.
- In the field of comparative politics, the term 'politics' has three connotations—political activity, political process and political power.
- The reduction of tensions or the resolution of conflicts naturally takes place through the operation of permanent mechanisms of tension reduction.
- If politics means the authoritative allocation of 'values', some measure of conflict is bound to arise between 'values' as desired by the people and 'values' as held by the men in power. Thus arise conflicts that demand their solution and what leads to efforts in this regard constitutes political activity.
- Politics ceases where secession, and indeed civil war begins, as, at that point, there is no longer an authoritative allocation of values, but two sides allocating their values differently".
- The common point is that political activity stops at the point of 'political rest.' "So, just as a situation of political rest does not start up any political activity, it also closes down a cycle of political activity."
- The set of procedures whereby the private associations existing in a state seek to influence the government, or participate in policy formation by the government or become the government, is the 'political process'.
- It is needed that the study of the government (as an element of the state) should be made *vis-a-vis* the 'governments' of non-state associations that operate in a way so as to influence the government of the country and also be influenced by it in some way or another.
- The whole operation of government thus takes the form of a two-way operation, or, perhaps more appropriately, of a machine which receives signals and transforms these signals into others."
- The scope of comparative politics includes the subject of 'political power'. The term 'power' has been defined by different writers in different ways. For instance, while. Carl J. Friedrich describes it as 'a certain kind of human relationship', Tawney regards it as 'the capacity of an individual, or a group of individuals, to modify the conduct of other individuals or groups in the manner in which he desires.
- Politics thus connotes a special case in the exercise of power—an exercise in the attempt to change the conduct of others in one's own direction. To define the term precisely, one can say that power "is taken to denote the whole spectrum of those external influences that, by being brought to bear upon an individual, can make him move in a required direction."
- Politics "cannot be studied properly without identifying the ruling class, or the governing and non-governing elites, and measuring their respective roles.

Notes

- The subject of 'authority' becomes the handmaid of power. The rulers in a democratic system try to justify their authority by means of having the title of 'consensus', those of a totalitarian system resort to the naked use of power for achieving the superficial title of legitimacy. As Curtis says: "Politics is organised dispute about power and its use, involving choice among competing values, ideas, persons, interests and demands. The study of politics is concerned with the description and analysis of the manner in which power is obtained, exercised, and controlled, the purpose for which it is used, the manner in which decisions are made, the factors which influence the making of those decisions, and the context in which those decisions, and the context in which those decisions take place."
- The transformation which "has taken place has been from a field which would most appropriately be labelled 'foreign governments' to one which might most adequately be called comparative political systems." However, the historical development of this subject may be roughly put into three phases — unsophisticated, sophisticated, and increasingly sophisticated.
- The comparative method "may assume several forms, the 'most perfect' of which is the process of difference by which two politics, identical in every particular except one, are compared with a view to discovering the effect of the differing factor."
- The 'sophisticated' phase in the growth of the subject of comparative politics inasmuch as these writers "were concerned with the various strategies of comparison: area studies, configurative approach, institutional and functional comparisons, a problem-based orientation, and with various methodological problems: conceptualisation, the establishment of agreed categories for comparison, validity as a problem, cross-cultural difficulties and the availability of data."
- As Roberts says: "If Easton talks of inputs, outputs, demands, gatekeepers, supports and stresses, environment, feedback, values, critical ranges and political authorities.
- Almond's aim of 'universality' sums up the purpose for the choice of such languages — they are sufficiently general to be applicable to any political unit, regardless of size, period, degree of development or other factors."
- The study of comparative politics is not confined to the formal structures of government as was the trend with the traditional political scientists.
- If instead of 'government' the term 'political system' is used, naturally it becomes a part of the entire social system and the 'input-output' process includes all those forces of the 'environment' that have their effect on the decision-making process. Thus, the role of political parties and pressure groups, for example, becomes as significant as the role of legislatures and executives in the study of modern political systems.
- It has occurred as a result of the realisation that the subject of comparative politics must include all governments along with their infra-structures that "exist in the contemporary world and, where possible, references to governments throughout time." The study of comparative government is no longer a study of the selected European or American governments; it is as much a study of developed western governments as those of the developing political systems of the poor and backward countries of the Afro-Asian and Latin American world.
- Political scientists were worried about the preservation of democracy as the dominant form of government in the world or simply about the best way of assuring that the newly emerging fragile systems would have the best opportunity for stable development.
- Political science has become the "application of sociological and psychological analysis to the study of the behaviour of government and other political structures.
- The subject of political science has lost its normative aspect and assumed empirical dimensions in the sphere of comparative politics. The result is that value-free political theory has replaced value-laden political theory.

Notes

- We may say that the term value is used by the writers on comparative politics in the sense of a 'price' or 'worth' that a thing gets after it is recognised by the policy-makers. There is no value in a thing unless it is allocated by those who are in authority.
- The study of comparative governments and politics can be traced back to the fourth century B.C. when Aristotle made a study of 158 constitutions of Greek city-states and offered classification based on the principles of number of people wielding power and the nature of government.
- After Aristotle Polybius, Cicero, Machiavelli, Montesquieu, J.S. Mill, Freeman, James Bryce etc. also made contribution to comparative study. In present century main contributions were made by Herman Finer, Friedrich, Sait etc.
- In the post-World War II period comparative politics has assumed more importance and various writers evolved new techniques and approaches for the study of comparative politics. There is a feeling of disappointment and dissatisfaction with the traditional descriptive approach to the subject of comparative politics and hence much experimentation is now going on with new approaches, new definitions and new research tools. The study of individual political systems, though of great educational value, has some serious draw-backs.
- The comparative method does not consist in just studying the different constitutions in different order but consists in interpreting political data in terms of hypothesis or theories. Interpretation must deal with institutions as they really function. Thus comparative method lays emphasis on scientific nature of inquiry, on political behaviour and orientation of research within a broad analytic scheme.
- The study of comparative government and politics in its latest form includes significant contributions of those recent writers who have broadened the scope of this subject by taking into their areas of study more and more countries of the world, particularly of the Afro-Asian and Latin-American regions better known as the 'world of developing areas'.
- The two terms 'comparative politics' and 'comparative government' are used loosely and interchangeably, there is a point of distinction between the two. While the latter covers a comparative study of different political systems with special emphasis on their institutions and functions, the former has a broader scope so as to cover all that comes within the purview of the former and, in addition to that, all else that may be designated as the study of 'non-state' politics.
- The meaning and nature of comparative politics as distinguished from that of the comparative government is well brought out by Curtis in these words: "Comparative politics is concerned with significant regularities, similarities and differences in the working of political institutions and in political behaviour.
- Sometime the most significant political phenomena are those changes in the mood of the times that are impossible to quantify. It is affirmed by Chlicote in these words: "Comparative government usually refers to the study of institutions and functions of countries or nation-states in Europe with attention to the executives, legislatures and judiciaries as well as such supplementary organisations as political parties and pressure groups.
- "Comparative government can thus be defined in a preliminary fashion as the study of patterns of national governments in the contemporary world."
- By comparative government I mean the comparative study of political "institutions, of forms of government. The developed countries of the world are those which are highly industrialised and politically modernised in which democratic system has come to stay. The countries of the 'third world' suffer from what is given above in spite of the fact that their political systems have the marks of diversity as an established secular democracy in India, a theocratic authoritarianism in Pakistan, a semi-democracy in Bangladesh, a budding democracy in Nepal, a military regime in Myanmar, a communist party-state in China, a new democracy in South Africa and the like.

Notes

1.5 Key-Words

1. Adjudication : The final judgement in a legal proceeding, the act of pronouncing judgment based on the evidence presented.
2. Political communication : It is a sub-field of communication and political science that is concerned with how information spreads and influences politics.
3. Regim : It is a form of government, the set of rules, cultural or social norms that regulate the operation of government and its interactions with society.

1.6 Review Questions

1. What is politics? Discuss nature and scope of Comparative Politics.
2. Explain the development of Comparative Politics.
3. Distinguish between Comparative Politics and Comparative Government.

Answers: Self-Assessment

1. (*i*) (*d*) (*ii*) (*d*) (*iii*) (*a*) (*iv*) (*b*) (*v*) (*a*)

1.7 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 2: Comparative Method and Politics

CONTENTS

Objectives
Introduction
2.1 Comparative Method and Comparative Politics
2.2 Comparative Method in Comparative Politics
2.3 Traditional Approach to the Study of Comparative Politics
2.4 Summary
2.5 Key-Words
2.6 Review Questions
2.7 Further Readings

Objectives

After studying this unit students will be able to:

- Explain the comparative method and comparative politics.
- Describe the comparative method in comparative politics.
- Know the traditional approach to the study of comparative politics.

Introduction

There are different methods of studying politics other than comparative: experimental, statistical and case study. All of them have their own advantages and disadvantages but here we shall concentrate on exploring comparative method.

Arend Lijphart argues that "the term "comparative politics" indicates the "how" but does not specify the "what" of the analysis". Comparativists usually compare and contrast different component parts of countries' political systems and try to find differences and certain tendencies. Comparison consists of the following basic operations: compiling a list of things to compare, sorting and classifying them and, eventually, carrying out a basic act of comparison and making relevant conclusions. Comparative method can be used to compare political systems of different countries and also it can be used to compare political systems over time. There are different "schools" of the subject in the study of comparative politics as well – institutionalism and functionalism. Institutionalism refers to the practice of comparing political institutions such as governments, political parties etc.

Functionalism is opposed to institutionalism in the way that however different political systems are, they all have the same functions. In functionalism, these are functions that matter, not institutions.

The main advantage of comparative method is that it makes the study of politics more structured and conclusions derived with this method are more precise. For example, we shall compare electoral systems in the UK and Germany. In Britain the electoral system is referred as single member plurality system. This is when the candidate with the largest number of votes in each constituency wins the seat in parliament. This system allows some parties to secure the majority of seats because even a small surge of support will significantly increase the number of seats for winning party comparing to the parties coming after. One of the strongest advantages of single member plurality system is that it produces clear-cut electoral decisions with single-party governments able to exercise leadership. But the disadvantage of this system is when the party achieves the second place in the majority of seats, it will suffer from under-representation in the parliament,

Notes

which means that many votes are just wasted. This leads for more citizens to act in informal and unorthodox forms of political participation.

For comparison, Germany adopted the additional member system, which can be described as a hybrid of single member plurality system and proportional representation. Voters vote within this electoral system: for their party and also for their local representative. So half of the seats in the Bundestag are allocated in the same way as in Britain and the other half of the seats are allocated according to the proportion of votes received by each party in each region. This allows fairly proportional allocating seats in the parliament and also allows smaller parties to have representatives even if they are not successful in any individual constituency. But it should be mentioned that still the result is not strictly proportional as there is a threshold of support which is five percent. This is done to deny access to parliament for minor radical parties.

Of course, there are certain difficulties and disadvantages in comparative method as well. Common problem of social sciences is that there are usually too many variables and too few cases. There are more than 200 countries in the world, but unfortunately for us, they are all quite different. It is impossible to compare radically different or completely identical countries, so in order to take the advantage of comparative method, only similar countries with minor differences should be compared and in some cases it may prove to be complicated to find such.

The other problem with the comparative method is that research might be not objective and the researcher deliberately chooses countries to show negative or positive moments to proof his/her point of view. For example, let's consider a hypothesis, that countries with weak trade unions are more economically successful than countries with strong trade unions. Here, trade unionists and, on opposite side, managing directors have a political point to make, so more than likely their conclusions might completely differ. So we should be aware that conclusions are not driven by someone's motivations and values.

Comparative method is definitely the best choice to study and analyze contemporary politics, but we should be aware of the difficulties associated with this method.

Comparative approach to studying of politics also enables us to move beyond mere description, toward explanation and within this method we can talk about comparative politics as a science. But on the other side, we shouldn't forget that any research of comparative method is vulnerable to personal interests and motivations. Therefore we need to make sure that such research should only consist of facts, conclusions derived from these facts and be free of any assumptions.

2.1 Comparative Method and Comparative Politics

Among the several fields or subdisciplines into which the discipline of political science is usually divided, comparative politics is the only one that carries a methodological instead of a substantive label. The term "comparative politics" indicates the *how* but does not specify the *what* of the analysis. The label is somewhat misleading because both explicit methodological concern and implicit methodological awareness among students of comparative politics have generally not been very high. Indeed, too many students of the field have been what Giovanni Sartori calls "unconscious thinkers" —unaware of and not guided by the logic and methods of empirical science, although perhaps well versed in quantitative research techniques. One reason for this unconscious thinking is undoubtedly that the comparative method is such a basic, and basically simple, approach, that a *methodology* of comparative political analysis does not really exist. As Sartori points out, the other extreme—that of the "overconscious thinkers," whose "standards of method and theory are drawn from the physical paradigmatic sciences"—is equally unsound. The purpose of this paper is to contribute to "conscious thinking" in comparative politics by focusing on comparison as a method of political inquiry. The paper will attempt to analyze not only the inevitable weaknesses and limitations of the comparative method but also its great strengths and potentialities.

In the literature of comparative politics, a wide variety of meanings is attached to the terms "comparison" and "comparative method." The comparative method is defined here as one of the basic methods—the others being the experimental, statistical, and case study methods—

Notes

of establishing general empirical propositions. It is, in the first place, definitely a *method*, not just "a convenient term vaguely symbolizing the focus of one's research interests." Nor is it a special set of substantive concerns in the sense of Shmuel N. Eisenstadt's definition of the comparative approach in social research; he states that the term does not "properly designate a specific method ..., but rather a special focus on cross-societal, institutional, or macrosocietal aspects of societies and social analysis."

Second, the comparative method is here defined as *one* of the basic scientific methods, not *the* scientific method. It is, therefore, narrower in scope than what Harold D. Lasswell has in mind when he argues that "for anyone with a scientific approach to political phenomena the idea of an independent comparative method seems redundant," because the scientific approach is "unavoidably comparative." Like-wise, the definition used here differs from the very similar broad interpretation given by Gabriel A. Almond, who also equates the comparative with the scientific method: "It makes no sense to speak of a comparative politics in political science since if it is a science, it goes without saying that it is comparative in its approach."

Third, the comparative method is here regarded as a *method of discovering empirical relationships among variables,* not as a method of measurement. These two kinds of methods should be clearly distinguished. It is the latter that Kalleberg has in mind when he discusses the "logic of comparison." He defines the comparative method as "a form or measurement"; comparison means "nonmetrical ordering," or in other words, ordinal measurement. Similarly, Sartori is thinking in terms of measurement on nominal, ordinal (or comparative), and cardinal scales when he describes the conscious thinker as "the man that realizes the limitations of not having a thermometer and still manages to say a great deal simply by saying hot and cold, warmer and cooler." This important step of measuring variables is logically prior to the step of finding relationships among them. It is the second of these steps to which the term "comparative method" refers in this paper.

Finally, a clear distinction should be made between *method* and *technique*. The comparative method is a broad-gauge, general method, not a narrow, specialized technique. In this vein, Gunnar Heckscher cautiously refers to "the method (or at least the *procedure*) of comparison," and Walter Goldschmidt prefers the term comparative *approach*, because "it lacks the preciseness to call it a method." The comparative method may also be thought of as a basic research *strategy,* in contrast with a mere tactical aid to research. This will become clear in the discussion that follows.



Comparative method simplifies a complex political reality and makes it more manageable. Comparative politics brings us into contact with political worlds other than our own and expands our political and cultural horizons.

The Experimental, Statistical, and Comparative Methods

The nature of the comparative method can be understood best if it is compared and contrasted with the two other fundamental strategies of research; these will be referred to, following Neil J. Smelser's example, as the *experimental* and the *statistical* methods. All three methods (as well as certain forms of the case study method) aim at scientific explanation, which consists of two basic elements: (1) the establishment of general empirical relationships among two or more variables, while (2) all other variables are controlled, that is, held constant. These two elements are inseparable: one cannot be sure that a relationship is a true one unless the influence of other variables is controlled. The *ceteris paribus* condition is vital to empirical generalizations.

The experimental method, in its simplest form, uses two equivalent groups, one of which (the experimental group) is exposed to a stimulus while the other (the control group) is not. The two groups are then compared, and any difference can be attributed to the stimulus. Thus one knows the relationship between two variables—with the important assurance that no other variables were involved, because in all respects but one the two groups were alike. Equivalence—that is, the

Notes

condition that the *cetera* are indeed *paria*—can be achieved by a process of deliberate randomization. The experimental method is the most nearly ideal method for scientific explanation, but unfortunately it can only rarely be used in political science because of practical and ethical impediments.

An alternative to the experimental method is the statistical method. It entails the conceptual (mathematical) manipulation of empiricially observed data—which cannot be manipulated situationally as in experimental design—in order to discover controlled relationships among variables. It handles the problem of control by means of *partial correlations.* For instance, when one wants to inquire into the relationship between political participation and level of education attained, one should control for the influence of age because younger generations have received more education than older generations. This can be done by partialing—dividing the sample into a number of different age groups and looking at the correlations between participation and education within each separate age group. Paul F. Lazarsfeld states that this is such a basic research procedure that it "is applied almost automatically in empirical research. Whenever an investigator finds himself faced with the relationship between two variables, he immediately starts to 'cross-tabulate,' i.e., to consider the role of further variables."

The statistical method can be regarded, therefore, as an approximation of the experimental method. As Ernest Nagel emphasizes, "every branch of inquiry aiming at reliable general laws concerning empirical subject matter must employ a procedure that, if it is not strictly controlled experimentation, has the essential logical functions of experiment in inquiry." The statistical method does have these essential logical functions, but it is not as strong a method as experimentation because it cannot handle the problem of control as well. It cannot control for all other variables, merely for the other *key* variables that are known or suspected to exert influence. Strictly speaking, even the experimental method does not handle the problem of control perfectly, because the investigator can never be completely sure that his groups are actually alike in every respect. But experimental design provides the closest approximation to this ideal. The statistical method, in turn, is an approximation—not the equivalent—of the experimental method. Conversely, one can also argue, as Lazarsfeld does, that the experimental method constitutes a special form of the statistical method, but only if one adds that it is an especially potent form.

The logic of the comparative method is, in accordance with the general standard expounded by Nagel, also the same as the logic of the experimental method. The comparative method resembles the statistical method in all respects except one. The crucial difference is that the number of cases it deals with is too small to permit systematic control by means of partial correlations. This problem occurs in statistical operations, too; especially when one wants to control simultaneously for many variables, one quickly "runs out of cases." The comparative method should be resorted to when the number of cases available for analysis is so small that cross-tabulating them further in order to establish credible controls is not feasible. There is, consequently, no clear dividing line between the statistical and comparative methods; the difference depends entirely on the number of cases. It follows that in many research situations, with an intermediate number of cases, a combination of the statistical and comparative methods is appropriate. Where the cases are national political systems, as they often are in the field of comparative politics, the number of cases is necessarily so restricted that the comparative method has to be used.

From the vantage point of the general aims and the alternative methods of scientific inquiry, one can consider the comparative method in proper perspective and answer such questions as the following, raised by Samuel H. Beer and by Harry Eckstein: Can comparison be regarded as "the social scientist's equivalent of the natural scientist's laboratory?" and: "Is the comparative method in the social sciences ... really an adequate substitute for experimentation in the natural sciences, as has sometimes been claimed?" The answer is that the comparative method is not the equivalent of the experimental method but only a very imperfect substitute. A clear awareness of the limitations of the comparative method is necessary but need not be disabling, because, as we shall see, these weaknesses can be minimized. The "conscious thinker" in comparative politics should realize the limitations of the comparative method, but he should also recognize and take advantage of its possibilities.

Notes

The Comparative Method: Weaknesses and Strengths

The principal problems facing the comparative method can be succinctly stated as: many variables, small number of cases. These two problems are closely interrelated. The former is common to virtually all social science research regardless of the particular method applied to it; the latter is peculiar to the comparative method and renders the problem of handling many variables more difficult to solve.

Before turning to a discussion of specific suggestions for minimizing these problems, two general comments are in order. First, if at all possible one should generally use the statistical (or perhaps even the experimental) method instead of the weaker comparative method. But often, given the inevitable scarcity of time, energy, and financial resources, the intensive comparative analysis of a few cases may be more promising than a more superficial statistical analysis of many cases. In such a situation, the most fruitful approach would be to regard the comparative analysis as the first stage of research, in which hypotheses are carefully formulated, and the statistical analysis as the second stage, in which these hypotheses are tested in as large a sample as possible.

In one type of comparative cross-national research, it is logically possible and may be advantageous to shift from the comparative to the statistical method. Stein Rokkan distinguishes two aims of cross-national analysis. One is the testing of "*macro* hypotheses" concerning the "interrelations of structural elements of total systems"; here the number of cases tends to be limited, and one has to rely on the comparative method. The other is "*micro* replications," designed "to test out in other national and cultural settings a proposition already validated in one setting." Here, too, one can use the comparative method, but if the proposition in question focuses on individuals as units of analysis, one can also use the statistical method; as Merritt and Rokkan point out, instead of the "one-nation, one-case" approach, nationality can simply be treated as an additional variable on a par with other individual attributes such as occupation, age, sex, type of neighborhood, etc.

Terence K. Hopkins and Immanuel Wallerstein make a similar distinction between truly "cross-national studies" in which total systems are the units of analysis, and "multi-national but *cross-individual* research."

The second general comment concerns a dangerous but tempting fallacy in the application of the comparative method: the fallacy of attaching too much significance to negative findings. The comparative method should not lapse into what Johan Galtung calls "the traditional quotation/illustration methodology, where cases are picked that are in accordance with the hypothesis—and hypotheses are rejected if one deviant case is found." All cases should, of course, be selected systematically, and the scientific search should be aimed at probabilistic, not universal, generalizations. The erroneous tendency to reject a hypothesis on the basis of a single deviant case is rare when the statistical method is used to analyze a large sample, but in the comparative analysis of a small number of cases even a single deviant finding tends to loom large. One or two deviant cases obviously constitute a much less serious problem in a statistical analysis of very many cases than in a comparative study of only a few —perhaps less than ten—cases. But it is never-the less a mistake to reject a hypothesis "because one can think pretty quickly of a contrary case." Deviant cases weaken a probabilistic hypothesis, but they can only invalidate it if they turn up in sufficient numbers to make the hypothesized relationship disappear altogether.

After these introductory observations, let us turn to a discussion of specific ways and means of minimizing the "many variables, small N" problem of the comparative method. These may be divided into four categories:

1. *Increase the number of cases as much as possible:* Even though in most situations it is impossible to augment the number of cases sufficiently to shift to the statistical method, any enlargement of the sample, however small, improves the chances of instituting at least some control. Modern comparative politics has made great progress in this respect as a result of the efforts of the field's innovators to fashion universally applicable vocabularies of basic politically relevant concepts, notably the approaches based on Parsonian theory and Gabriel A. Almond's functional approach. Such a restatement of variables in comparable terms makes many previously inaccessible cases available for comparative analysis. In addition to extending the analysis

Notes

geographically, one should also consider the possibilities of "longitudinal" (cross-historical) extension by including as many historical cases as possible.

It was the promise of discovering universal laws through global and longitudinal comparisons that made Edward A. Freeman enthusiastically espouse the comparative method almost a century ago. In his *Comparative Politics,* published in 1873, he called the comparative method "the greatest intellectual achievement" of his time, and stated that it could lead to the formulation of "analogies . . . between the political institutions of times and countries most remote from one another." Comparative politics could thus discover "a world in which times and tongues and nations which before seemed parted poles asunder, now find each one its own place, its own relation to every other." The field of comparative politics has not yet achieved—and may never achieve—the goals that Freeman set for it with such optimism. But his words can remind us of the frequent utility of extending comparative analyses both geographically and historically. (The value of this suggestion is somewhat diminished, of course, because of the serious lack of information concerning most political systems; for historical cases in particular this problem is often irremediable.)

2. *Reduce the "property-space" of the analysis:* If the sample of cases cannot be increased, it may be possible to combine two or more variables that express an essentially similar underlying characteristic into a single variable. Thus the number of cells in the matrix representing the relationship is reduced, and the number of cases in each cell increased correspondingly. Factor analysis can often be a useful technique to achieve this objective. Such a reduction of what Lazarsfeld calls the "property-space" increases the possibilities of further cross-tabulation and control without increasing the sample itself. It may also be advisable in certain instances to reduce the number of classes into which the variables are divided (for instance, by simplifying a set of several categories into a dichotomy), and thus to achieve the same objective of increasing the average number of cases per cell. The latter procedure, however, has the disadvantage of sacrificing a part of the information at the investigator's disposal, and should not be used lightly.
3. *Focus the comparative analysis on "comparable" cases:* In this context, "comparable" means: similar in a large number of important characteristics (variables) which one wants to treat as constants, but dissimilar as far as those variables are concerned which one wants to relate to each other. If such comparable cases can be found, they offer particularly good opportunities for the application of the comparative method because they allow the establishment of relationships among a few variables while many other variables are controlled. As Ralph Braibanti states, "the movement from hypothesis to theory is contingent upon analysis of the total range of political systems," but it is often more practical to accord priority to the focus on a limited number of comparable cases and the discovery of *partial* generalizations.

   Whereas the first two ways of strengthening the comparative method were mainly concerned with the problem of "small N," this third approach focuses on the problem of "many variables." While the total number of variables cannot be reduced, by using comparable cases in which many variables are constant, one can reduce considerably the number of *operative* variables and study their relationships under controlled conditions without the problem of running out of cases. The focus on comparable cases differs from the first recommendation not only in its preoccupation with the problem of "many variables" rather than with "small N," but also in the fact that as a by-product of the search for comparable cases, the number of cases subject to analysis will usually be *decreased.* The two recommendations thus point in fundamentally different directions, although both are compatible with the second (and also the fourth) recommendation.

   This form of the comparative method is what John Stuart Mill described as the "method of difference" and as the "method of concomitant variations." The method of difference consists of "comparing instances in which [a] phenomenon does occur, with instances in other respects similar in which it does not." The method of concomitant variations is a more sophisticated version of the method of difference: instead of observing merely the presence or absence of the operative variables, it observes and measures the quantitative variations of the operative

Notes

variables and relates these to each other. As in the case of the method of difference, all other factors must be kept constant; in Mill's words, "that we may be warranted in inferring causation from concomitance of variations, the concomitance itself must be proved by the Method of Difference."

Mill's method of concomitant variations is often claimed to be the first systematic formulation of the modern comparative method. It should be pointed out, however, that Mill himself thought that the methods of difference and of concomitant variations could not be applied in the social sciences because sufficiently similar cases could not be found. He stated that their application in political science was "completely out of the question" and branded any attempt to do so as a "gross misconception of the mode of investigation proper to political phenomena." Durkheim agreed with Mill's negative judgment: "The absolute elimination of adventitious elements is an ideal which can not really be attained; . . . one can never be even approximately certain that two societies agree or differ in all respects save one." These objections are founded on a too exacting scientific standard—what Sartori calls "over-conscious thinking." It is important to remember, however, that in looking for comparable cases, this standard should be approximated as closely as possible.

The area approach appears to lend itself quite well to this way of applying the comparative method because of the cluster of characteristics that areas tend to have in common and that can, therefore be used as controls. But opinions on the utility of the area approach differ sharply: Gunnar Heckscher states that "area studies are of the very essence of comparative government," and points out that "the number of variables, while frequently still very large, is at least reduced in the case of a happy choice of area." Roy C. Macridis and Richard Cox also argue that if areas are characterized by political as well as non-political uniformities, "the area concept will be of great value, since certain political processes will be compared between units within the area against a common background of similar trait configuration"; they cite Latin America as an example of an area offering the prospect of "fruitful intra– area comparison." On the other hand, Dank-wart A. Rustow declares in a recent article that area study is "almost obsolete," and he shows little faith in it as a setting for "manageable comparative study." He argues that "mere geographic proximity does not necessarily furnish the best basis of comparison," and furthermore that "comparability is a quality that is not inherent in any given set of objects; rather it is a quality imparted to them by the observer's perspective." This is a compelling argument that should be carefully considered.

It is not true that areas reflect merely geographic proximity; they tend to be similar in many other basic respects. By means of an inductive process—a factor analysis of 54 social and cultural variables on 82 countries—Bruce M. Russett discovered socio-culturally similar groupings of countries, which correspond closely to areas or regions of the world as usually defined. Comparability is indeed not inherent in any given area, but it is more likely within an area than in a randomly selected set of countries. It seems unwise, therefore, to give up the area approach in comparative politics. But two important provisos should be attached to this conclusion. First, the area approach can contribute to comparative politics if it is an aid to the comparative method, not if it becomes an end in itself. Otherwise, area study may indeed become "a form of imprisonment." It is against this danger that the thrust of Rustow's argument is directed. Second, the area approach should not be used indiscriminately, but only where it offers the possibility of establishing crucial controls. In this respect, some of the smaller areas may offer more advantages than the larger ones—Scandinavia, for example, which has barely been exploited in this manner, or the Anglo-American countries, which have received greater comparative attention (but which do not constitute an area in the literal sense).

An alternative way of maximizing comparability is to analyze a single country diachronically. Such comparison of the same unit at different times generally offers a better solution to the control problem than comparison of two or more different but similar units (e.g., within the same area) at the same time, although the control can never be perfect; the same country is not really the same at different times. A good example of diachronic comparative analysis is Charles E. Frye's study of the empirical relationships among the party system, the interest group

Notes

system, and political stability in Germany under the Weimar and Bonn Republics. Frye argues that "for the study of these relationships, Weimar and Bonn make a particularly good case [strictly speaking, *two* cases] because there are more constants and relatively fewer variables than in many cross-national studies. Yet the differences could hardly be sharper."

Unless the national political system itself constitutes the unit of analysis, comparability can also be enhanced by focusing on intranation instead of internation comparisons. The reason is again the same: comparative intranation analysis can take advantage of the many similar national characteristics serving as controls. Smelser illustrates the utility of this strategy with the example of a hypothetical research project on industrialization in Germany and Italy: "For many purposes it would be more fruitful to compare northern Italy with southern Italy, and the Ruhr with Bavaria, than it would be to compare Germany as a whole with Italy as a whole. These two countries differ not only in level of industrialization, but also in cultural traditions, type of governmental structure, and so on." The advantage of intra-unit comparison is that inter-unit differences can be held constant. "Then, having located what appear to be operative factors in the intra-unit comparisons, it is possible to move to the inter-unit comparisons to see if the same differences hold in the large."

As Juan J. Linz and Amando de Miguel point out, a particularly promising approach may be the combination of intranation and internation comparisons: "The comparison of those sectors of two societies that have a greater number of characteristics in common while differing on some crucial ones may be more fruitful than overall national comparisons." An illustrative example of this approach in the political realm is suggested by Raoul Naroll: "If one wishes to test theories about the difference between the cabinet and the presidential systems of government. . . one is better advised to compare Manitoba and North Dakota than to compare Great Britain and the United States, since with respect to all other variables Manitoba and North Dakota are very much alike, while Great Britain and the United States have many other differences."

4. *Focus the comparative analysis on the "key" variables:* Finally, the problem of "many variables" may be alleviated not only by some of the specific approaches suggested above but also by a general commitment to theoretical parsimony. Comparative analysis must avoid the danger of being overwhelmed by large numbers of variables and, as a result, losing the possibility of discovering controlled relationships, and it must therefore judiciously restrict itself to the really key variables, omitting those of only marginal importance. The nature of the comparative method and its special limitations constitute a strong argument against what Lass-well and Braibanti call "configurative" or "contextual" analysis: "the identification and interpretation of factors in the whole social order which appear to affect whatever political functions and their institutional manifestations have been identified and listed for comparison" (Braibanti's definition). Lasswell argues that the comparative method as usually applied has been insufficiently configurative, and calls for the exploration of more variables: the entire context—past, present, and future—"must be continually scanned."

   Scanning all variables is not the same as *including* all variables, of course, as long as one is on one's guard against an unrealistic and eventually self-defeating perfectionism. Comparative politics should avoid the trap into which the decision-making approach to the study of international politics fell, of specifying and calling for the analysis of an exhaustive list of all variables that have any possible influence on the decision-making process. Parsimony suggests that Joseph LaPalombara's call for a "segmented approach" aiming at the formulation of middle-range propositions concerning partial systems makes a great deal of sense. Similarly, Eckstein's urgent call for greater manageability of the field should be carefully heeded: "The most obvious need in the field at present is simplification—and simplification on a rather grand scale—for human intelligence and scientific method can scarcely cope with the large numbers of variables, the heaps of concepts, and the mountains of data that seem at present to be required, and indeed to exist, in the field."

   It is no accident that the most fruitful applications of the comparative method have been in anthropological research. In primitive societies, the number of variables is not as bewilderingly large as in more advanced societies. All relevant factors can therefore be more easily surveyed

Notes

and analyzed. In this respect, anthropology can be said to provide "almost a laboratory for the quasi–experimental approach to social phenomena." Political science lacks this advantage, but can approximate it by focusing attention on the key variables in comparative studies.

A final comment is in order about the relationship of comparative politics as a substantive field and comparison as a method. The two are clearly not coterminous. In comparative politics, other methods can often also be employed, and the comparative method is also applicable in other fields and disciplines. A particularly in-structive example is James N. Rosenau's study of the relative influence of individual variables (personal policy beliefs and "personalizing tendencies") and role variables (party role and committee role) on the behavior of United States senators during two similar periods: the "Acheson era," 1949–1952, and the "Dulles era," 1953–1956. Rosenau argues that these two eras were characterized by a generally similar international environment and that the two secretaries of state conducted similar foreign policies and also resembled each other in personal qualities. He terms the method that he uses in his analysis the method of "quantitative historical comparison." One of its basic characteristics is the testing of hypotheses by comparing two eras (cases) that are "essentially comparable . . . in all respects except for the . . . variables being examined." The method is called "quantitative" because the variables are operationally defined in quantitative terms, and "historical" because the two cases compared are historical eras. The method is, therefore, a special form of the comparative method. It illustrates one of very many ways in which an imaginative investigator can devise fruitful applications of the comparative method.

The Comparative Method and the Case Study Method

The discussion of the comparative method is not complete without a consideration of the case study method. The statistical method can be applied to many cases, the comparative method to relatively few (but at least two) cases, and the case study method to one case. But the case study method can and should be closely connected with the comparative method (and sometimes also with the statistical method); certain types of case studies can even be considered implicit parts of the comparative method.

The great advantage of the case study is that by focusing on a single case, that case can be intensively examined even when the research resources at the investigator's disposal are relatively limited. The scientific status of the case study method is somewhat ambiguous, however, because science is a generalizing activity. A single case can constitute neither the basis for a valid generalization nor the ground for disproving an established generalization.

Indirectly, however, case studies can make an important contribution to the establishment of general propositions and thus to theory-building in political science. Six types of case studies may be distinguished. These are ideal types, and any particular study of a single case may fit more than one of the following categories:

1. Atheoretical case studies;
2. Interpretative case studies;
3. Hypothesis-generating case studies;
4. Theory-confirming case studies;
5. Theory-infirming case studies;
6. Deviant case studies.

Cases may be selected for analysis because of an interest in the case *per se* or because of an interest in theory-building. The first two types of cases belong to the former category. *Atheoretical case studies* are the traditional single-country or single-case analyses. They are entirely descriptive and move in a theoretical vacuum: they are neither guided by established or hypothesized generalizations nor motivated by a desire to formulate general hypotheses. Therefore, the direct theoretical value of these case studies is nil, but this does not mean that they are altogether useless. As LaPalombara emphasizes, the development of comparative politics is hampered by an appalling lack of information about almost all of the world's political systems. Purely descriptive case studies do have great utility as basic data-gathering operations, and can thus contribute indirectly

Notes

to theory-building. It can even be claimed that "the cumulative effect of such studies will lead to fruitful generalization," but only if it is recognized that this depends on a theoretically oriented secondary analysis of the data collected in atheoretical case studies.

As indicated earlier, the atheoretical case study and the other types of case studies are ideal types. An actual instance of an atheoretical case study probably does not exist, because almost any analysis of a single case is guided by at least some vague theoretical notions and some anecdotal knowledge of other cases, and usually results in some vague hypotheses or conclusions that have a wider applicability. Such actual case studies fit the first type to a large extent, but they also fit one or more of the other types (particularly the third, fourth, and fifth types) at least to some extent.

Interpretative case studies resemble atheoretical case studies in one respect: they, too, are selected for analysis because of an interest in the case rather than an interest in the formulation of general theory. They differ, however, in that they make explicit use of established theoretical propositions. In these studies, a generalization is applied to a specific case with the aim of throwing light on the case rather than of improving the generalization in any way. Hence they are studies in "applied science." Since they do not aim to contribute to empirical generalizations, their value in terms of theory-building is nil. On the other hand, it is precisely the purpose of empirical theory to make such interpretative case studies possible. Because of the still very limited degree of theoretical development in political science, such case studies are rare. One interesting example is Michael C. Hudson's imaginative and insightful case study of Lebanon in the light of existing development theories, in which he discovers a serious discrepancy between the country's socio-economic and political development.

The remaining four types of case studies are all selected for the purpose of theory-building. *Hypothesis-generating case studies* start out with a more or less vague notion of possible hypotheses, and attempt to formulate definite hypotheses to be tested subsequently among a larger number of cases. Their objective is to develop theoretical generalizations in areas where no theory exists yet. Such case studies are of great theoretical value. They may be particularly valuable if the case selected for analysis provides what Naroll calls a sort of "crucial experiment" in which certain variables of interest happen to be present in a special way.

Theory-confirming and *theory-infirming case studies* are analyses of single cases within the framework of established generalizations. Prior knowledge of the case is limited to a single variable or to none of the variables that the proposition relates. The case study is a test of the proposition, which may turn out to be confirmed or infirmed by it. If the case study is of the theory-confirming type, it strengthens the proposition in question. But, assuming that the proposition is solidly based on a large number of cases, the demonstration that one more case fits does not strengthen it a great deal. Like-wise, theory-infirming case studies merely weaken the generalizations marginally. The theoretical value of both types of case studies is enhanced, however, if the cases are, or turn out to be, extreme on one of the variables: such studies can also be labeled "crucial experiments" or crucial tests of the propositions.

Deviant case analyses are studies of single cases that are known to deviate from established generalizations. They are selected in order to reveal why the cases are deviant—that is, to uncover relevant additional variables that were not considered previously, or to refine the (operational) definitions of some or all of the variables. In this way, deviant case studies can have great theoretical value. They weaken the original proposition, but suggest a modified proposition that may be stronger. The validity of the proposition in its modified form must be established by further comparative analysis.

Of the six types of case studies, the hypothesis-generating and the deviant case studies have the greatest value in terms of their contribution to theory. Each of these two types, however, has quite different functions in respect to theory-building: The hypothesis-generating case study serves to generate new hypotheses, while the deviant case study refines and sharpens existing hypotheses. The deviant case study—as well as the theory-confirming and theory-in-firming case studies—are implicitly comparative analyses. They focus on a particular case which is singled out for analysis

Notes

from a relatively large number of cases and which is analyzed within the theoretical and empirical context of this set of cases. The deviant case may be likened to the "experimental group" with the remainder of the cases constituting the "control group." Just as the analytical power of the comparative method increases the closer it approximates the statistical and experimental methods, so the analytical power of the case study method increases the more it approximates the comparative method in the form of deviant case analysis. Such case analysis requires, of course, that the position of the deviant case on the variables under consideration, and consequently also its position relative to the other cases, are clearly defined.

The different types of cases and their unequal potential contributions to theory-building should be kept in mind in selecting and analyzing a single case. Some of the shortcomings in Eckstein's otherwise insightful and thought-provoking case study of Norway may serve as instructive examples. Eckstein argues that the Norwegian case deviates from David B. Truman's proposition concerning "overlapping memberships," because Norway is a stable democracy in spite of the country's deep and nonoverlapping geographic, economic, and cultural cleavages. But he fails to place the case of Norway in relation to other cases. In fact, although he describes Norway's divisions as "astonishingly great, sharp, and persistent," he explicitly rules out any comparison with the cleavages in other countries. This exclusion seriously weakens the case study. Furthermore, instead of trying to refine Truman's proposition with the help of the deviant findings, Eckstein simply drops it. In terms of the sixfold typology of case studies discussed above, his analysis of the Norwegian case is only a theory-infirming one and is not made into a deviant case study.

From then on, the case study becomes a theory-confirming one. Eckstein finds that the Norwegian case strikingly bears out his own "congruence" theory, which states that governments tend to be stable if there is considerable resemblance (congruence) between governmental authority patterns and the authority patterns in society. He demonstrates persuasively that both governmental and social patterns of authority are strongly democratic in Norway and thus highly congruent. The problem here is not that the Norwegian facts do not fit the theory, but that they fit the theory too perfectly. The perfect fit strengthens the theory marginally, but does not contribute to its refinement. The theory does not hold that complete congruence of authority patterns is required for stable democracy. In his original statement of the congruence theory, Eckstein himself points out the necessity of further work on the important questions of how much disparity can be tolerated and how degrees of congruence and disparity can be measured. Because the Norwegian case turns out to be a perfect theory-confirming one, it cannot be used to *refine* the theory in any of these respects. Therefore, Eckstein was unlucky in his selection of this case as far as the development of his congruence theory is concerned, and he fails to take full advantage of the case study method in analyzing the case in terms of Truman's theory of overlapping memberships.

The comparative method and the case study method have major drawbacks. But precisely because of the inevitable limitations of these methods, it is the challenging task of the investigator in the field of comparative politics to apply these methods in such a way as to minimize their weaknesses and to capitalize on their inherent strengths. Thus, they can be highly useful instruments in scientific political inquiry.

2.2 Comparative Method in Comparative Politics

The subject of comparative politics is necessarily concerned with the study of political systems for the obvious reason that here comparative method is used in a special sense — a sense that covers both macro and micro aspects or, as Blonded says, vertical and horizontal dimensions of political systems. It should be pointed out again that here comparative method is not used in the same manner as it was done by classical writers on political science like Aristotle, Machiavelli and Montesquieu; rather in the sphere of comparative politics, it is used for a particular reason and also in a particular sense. As Wood says: "The only reason for including the term comparative in the designation of the field is to emphasis that the responsibility which the field has to the discipline of political science is to treat the political systems existing in the world as units for comparison in the general quest of theory-building and testing in political science."

Notes

As applied to the field of comparative politics, the comparative method has three essential characteristics:

1. **Definition of Conceptual Units:** The units which we compare in the field of comparative politics are conceptual units in the sense that they are the objects of the definitions to which the real phenomena we are comparing, more or less conform. The business of a student of comparative politics does not end with the making of similarities and differences between two governmental systems; he has to deal with the macro units, i.e., the entire political systems which perform functions for large and complex societies. It is needed that, apart from looking at the three formal structures of a political organisation like legislature, executive and judiciary, he should also study the role of legislators, behaviour of the voters, operational form of the political parties and pressure groups etc. In other words, a student of comparative politics is concerned with the 'units of lesser scope' that constitute the infrastructure of a political system. It is a different thing that, while making a definition of the political system, he may take some and ignore other aspects as per his area of concern. As such in the field of comparative politics, one should feel concerned with the conceptual units and proceed ahead in the direction of making comparisons on the basis of definitions that he has made. Thus, a writer on comparative politics studies the 'units of lesser scope' as elements within the context of a national political system' and that he "is interested in them only in so far as they help him to characterise the system as a whole."
2. **Classifications:** Taxonomy occupies a very important place in the field of comparative government and politics on account of this fact that it facilitates the making of broad general judgements as to the characteristics of a very-complex phenomenon. The work of theory-building and testing conclusions becomes easier when a student of comparative politics draws tables and charts to categorise different political systems on the basis of division of powers (between federal and unitary systems), or relationship between the executive and legislative departments (between parliamentary and presidential systems), or liberties of the people (between democratic and totalitarian systems), etc. What is especially noticeable at this stage is that a student of comparative government and politics widens his scope of study so as to make typological illustrations on the basis of the 'units of lesser scope' that helps him in presenting a better and more plausible explanation of the varieties of political phenomena. Realising that the problem of presenting a classification of modern political systems is to establish categories that 'are neither so numerous as to make comparisons impossible, nor so few as to make contrasts impossible." Finer, in his own way, says: "What differentiate one system of government from another are: (*a*) how far the mass of the public are involved in or excluded from this governing process – this is the participation-exclusion dimension; (*b*) how far the mass of the public obey their rules out of commitment or how far out of fear – what may be called the coercion-persuasion dimension; and (*c*) how far the arrangements are designed to cause the rulers to reflect the actual and current values of the mass of the public or how far they may disregard these for the sake of continuity and future values – what may be called the order - representativeness dimension."
3. **Hypothesis Formulation and Testing:** The work of making comparisons should be done in a way that hypotheses are formulated and then tested so that the requirement of verifiability and applicability is fulfilled. By taking political system as the basic unit of his study, a student of comparative politics is necessarily concerned with the question as to how political systems operate. What determines the degree of support which the system will receive and extract from the populace, whether in the form of voting, tax paying or personal service in times of crisis? What determines the degree of institutional stability within the system? What determines the capacity of the system to produce effective leadership to meet the needs of all times? An answer to such important questions has to be sought and offered by a serious student of this subject in a way that the general theory and tested generalisations are brought together into a 'self-contained, internally consistent, but empirically sound body of knowledge.'

Notes

Comparative Politics — Old and New

From the start, comparing has been a particular way of connecting ideas derived from political philosophy and political theory to empirical events and phenomena with primary emphasis on power. The purpose is to determine what difference is brought about between the ways power is deployed at different levels. Power is wielded by the state, it is exercised by the government. Thus, different kinds of political systems exist and it becomes the function of a political theorist to distinguish one from the other with a view to justify the excellence of one at the cost of the other. This is the reason that Aristotle distinguished between true and perverted forms of state and justified the excellence of the polity – a middle class rule. Lord Bryce studied the case of democracy prevailing in many countries of the world and then admired Switzerland for being the 'ancestral home of democracy'. He gave a definitive view that democracy has no alternative. A. de Tocqueville studied the operational form of American democracy and confidently affirmed that there existed the model of a civil society.

Bryce, Laski, Finer, Barker, Jennings, Friedrich, Wheare, Siegfried, Duverger etc. belong to this tradition. They are called 'institutionalists', because they kept their attention confined to the working of political institutions like legislature, executive, bureaucracy, judiciary, federal systems, political parties, elections etc. In a way they integrated their study of politics with the disciplines of philosophy, history and law. As empiricists, they studied the institutions as they existed and operated and on that basis they drew plausible conclusions that democracy was a system of order with open ends. They did not take into their consideration the fact of social change and economic growth and development that affected the operation of the political institutions and created a sort of 'configuring'. Thus, institutionalism "became inadequate to the test imposed by constitutional engineering."

A marked change occurred after 1960 when the new writers on this subject like Harry Eckstein, David Apter, R. C. Macridis, Lucian W. Pye, S.P. Huntington, F.W. Riggs etc. realised that the comparative study had thus far been comparative in name only. It had been a part of what may loosely be called the study of some selected foreign governments in which the governmental structures and the formal organisation of state institutions were treated in a descriptive, historical or legalistic manner. Primary emphasis had been placed on written documents like constitutions and the legal prescriptions for the allocation of political power. Macridis has thrown light on these features of the old or traditional approach to comparative politics:

1. It is *essentially non-comparative:* The writers have their attention limited either to one country or with parallel descriptions of the institutions of a number of countries. The student is led through the constitutional foundations, the organisation of political power, and a description of the ways in which such powers are exercised.
2. It is *essentially descriptive:* It may well be argued that description of the formal political institutions is vital for the understanding of the political process and that, as such, it leads to comparative study. If, we hardly ever have any comparison between the particular institutions described.
3. It is *essentially parochial:* The great number of studies on foreign political systems has been addressed to the examination of Western European institutions. No systematic effort has been made to identify the similarities and the differences among these countries except in purely descriptive terms. No effort has been made to define in analytical terms the categories that constitute an 'area' of study.
4. It is *essentially static:* It has ignored the dynamic factors that account for growth and change. It has concentrated on what is called 'political anatomy'. The writers have shown no interest in the formulation of their theories in the light of which change could be comparatively studied.
5. It is *essentially monographic:* The most important studies of foreign systems have taken the form of monographs that have concentrated on the study of the political institutions of one system or on the discussion of a particular institution in one system.

Thus, Macridis asserts that such studies made by the comparativists subscribing to traditional approaches "have been usually confined to the institutional framework of the country involved.

Notes

Analyses of policy orientation have not gone beyond the examination of reforms of the formal institutional structure. The study of such problems has paved the way, however, for the abandonment of the traditional formal categories, for these problems cannot be examined in that restricted frame. They call for the development of a more precise analysis of human behaviour and of the relationship between political institutions and social and economic factors. They call for an approach in which politics is concerned as a process that cannot be understood without reference to the contextual factors of a political system."

The new comparative politics does not reject what was done by the writers on this subject in the past. It desires emphasis on social change and economic development while making a comparative study of the political institutions of different countries. Institutionalism is thus replaced by neo-institutionalism. The study should not be merely Euro-centred, it should cover as many countries of the world as possible and that while discussing the operation of a political system whether democratic, or totalitarian, or authoritarian of any hue, the factor of social change and economic growth should also be taken into account. Thus, political development should be studied *vis-a-vis* political decay (Huntington), or development should be studied *vis-a-vis* under-development. (Frank and Wallerstein).

It is for this reason that neo-institutionalists draw heavily from disciplines like economics, sociology, psychology and anthropology. It may also be labelled 'developmentalism' which desires comparison of societies with widely different social and political institutions and cultural practices. The central hypotheses are drawn from how modern institutions had their evolution as from theocracy to secularism, and from traditional to legal and rational authority. How different cultures and ethnic groups respond to innovation becomes a concern of the new comparativists who draw material from the 'modernity theory' of Eisenstadt, 'identity theory' of Erikson, 'achievement motivation theory' of McLelland, 'frustration-aggression theory' of John Dollard, 'political violence theory' of Gurr, 'political integration theory' of Geertz, 'ethnic conflict theory' of Horowitz, 'power theory' of Foucault and 'society's central values theory' of Alain Touraine.

In fine, in the domain of new comparative politics, we take note of emphasis on the institutionalisation, internalisation and socialisation of norms drawn particularly on learning theory imported from social psychology and on value theory imported from political anthropology. The new writers examine in depth the themes of change, development, hegemony and power that have their impact on the operation of a political system in different countries of the world. "Neo-institutionalism, then, is less constitutional than the old, and more prone to economic analysis in so far as it deals with fiscal and monetary policy, banks, markets and globalisation. But it is also concerned with locating changes in the legislative process, shifts in long-established party politics, not to speak of new social formations, coalitions and so on, as these impinge on the slate. Like the old, it is concerned with the state as an instrumentality in its own right, with its own tendencies and needs, and, as a configuring power, how it determines the nature of civil society."

Critical Appreciation

The study of comparative government and politics is beset with a number of limitations and problems that defy the presentation of a scientific analysis. These are:

1. There is the problem of a standard and precise definition of the various important terms and concepts. The writers make use of different concepts with their different implications according to their specialised knowledge.
2. Serious difficulties are encountered by a student of this subject in collecting information and data about the political system and other 'non-state' institutions having their definite relation with the working of a political system.
3. Political behaviour is not necessarily conducted on a rational basis or on scientific principles thereby rendering a scientific study more difficult.

Notes

4. The factor of the complexity of the political systems and political behaviour should also be taken into account here.
5. The roles that the people play in the politics of their country cannot be subjected to uniform rules as evolved or framed by a student of comparative government and politics.
6. Much of the study of this subject is concerned with the issues of stability and maintenance of a political system perhaps on account of this basic assumption that 'power is always conservative'.
7. The adoption of the inter-disciplinary approach has so much widened the field of this subject that a student often feels perplexed as to what it includes and what not.
8. A value-free or thoroughly empirical study of this subject becomes a source of problem for one who has preference for a normative approach.
9. Above all, there is the problem of bias. Western writers have all appreciation for the advanced political systems of the world and, for this reason, they use derogatory terms like the 'second world' and the 'third world'. Their explanations may be thoroughly empirical, but they have a subjective appreciation of the norms and values of their own political systems.

A question arises as to why a study of comparative government be made. Following cogent reasons may be given:

1. It is to find out more about the countries we know least about.
2. It is to formulate and test hypotheses and scrutinise important questions as do plurality electoral systems. Verified hypotheses are valuable not just for their own sake, but because they can then help to account for the particular. Without comparison we would lack general knowledge of politics and therefore that ability to explain particular observations.
3. Generalisations which emerge sometimes have potential for prediction. Sometimes researchers choose to study specific countries precisely for their predictive value.
4. It improves our classification of politics. Classification is a stepping stone as the journey to understand distinction between democracy, dictatorship, authority, power etc.

Comparative focus is the methodological core of the scientific study of politics as well. Comparative analysis helps us to develop explanations and test theories of the ways in which political processes work and in which political change occurs. Here the logic and the intention of the comparative method used by political scientists are similar to those used in more exact sciences."

In brief, There may be different forms of comparisons, but for a student of comparative government and politics it is required that he should move ahead in a way so that the conceptual units chosen by him are precisely defined and the theories that he has evolved should be empirically verifiable and testable. He should keep it in mind that in an effort to discover general principles, the diversity of conditions and circumstances, such as differences of the temperament and genius of the people, economic and social conditions, moral and legal standards, political training and experience, are not apt to be ignored or minimised.



Did u know? Comparative method is the life-breath of the subject of comparative politics and a writer on this subject, whether he likes it or not, "has to examine, account for and, as many would want him to do, find recipes to redress the structure and behaviour of government."

Politics is commonly defined as the struggle in any group for power that will give a person or people the ability to make decisions for the larger groups. This group may range from a small organisation up to an entire country or even the entire global population ..... Politics is essentially the struggle for the authority to make decisions that will affect the public as a whole. Within political science, comparative politics is a sub-field that compares this struggle across countries.

2.3 Traditional Approaches to the Study of Comparative Politics

Notes

Approaches to the study of politics may be broadly classified into two categories — normative and empirical. While the former is said to be value-laden, the latter is known for being 'value-neutral'. In other words, while normativism is the hallmark of the former, empiricism is that of the latter. Fact-value relationship is, therefore, the basis of our classification in this regard. On this basis, we may say that while traditional approaches lean to the side of 'values', the latter do the same for 'facts'. The result is that 'fact-value dichotomy' becomes the determining factor. The traditional approaches have a historical-descriptive and prescriptive character with a dominating place for values and goals. Their different varieties may be discussed as under.

1. **Philosophical Approach:** The oldest approach to the study of politics is philosophical. It is also known by the name of ethical approach. Here the study of state, government and man as a political being is inextricably mixed with the pursuit of certain goals, morals, truths or high principles supposed to be underlying all knowledge and reality. A study of politics, in this field, assumes a speculative character, because the very word 'philosophical' "refers to thought about thought; a philosophical analysis is an effort to clarify thought about the nature of the subject and about ends and means in studying it. Put more generally, a person who takes a philosophical approach to a subject aims to enhance linguistic clarity and to reduce linguistic confusion; he assumes that the language used in description reflects conceptions of reality, and he wants to make conceptions of reality as clear, consistent, coherent, and helpful as possible. He seeks to influence and guide thinking, and the expression of thought so as to maximise the prospect that the selected aspect of reality (politics) will be made intelligible."

   It is for this reason that thinkers and writers subscribing to the philosophical-ethical approach look like advising the rulers and the members of a political community to pursue certain higher ends. Thus, great works of Plato, More, Bacon, Harrington, Rousseau, Kant, Hegel, Green, Bosanquet, Nettleship, Lindsay and Leo Strauss take the study of 'politics to a very high level of abstraction and also try to mix up the system of values with certain high norms of an ideal political system. Here normativism dominates and empiricism as contained in certain classics like those of Aristotle, Machiavelli, Bodin, Hobbes, Locke and Montesquieu looks like integrating the study of politics either with ethics, or with history, or with psychology, or with law respectively just in an effort to present the picture of a best-ordered political community.

   The philosophical approach is criticised for being speculative and abstract. It is said that such an approach takes us far away from the world of reality. For this reason, it is accused of being hypothetical. At the hands of Kant and Hegel, it culminates in the exaltation of state to mystical heights. Politics, therefore, becomes like the handmaid of ethics or metaphysics. The case of things as they 'are' is dominated by the case of things as they 'ought to be.' However, great protagonists of such an approach like Leo Strauss and Berlin affirm that values are an indispensable part of political philosophy and they cannot be excluded from the study of politics. He says: "If this directedness becomes explicit, if men make their explicit goal to acquire knowledge of the good life and of the good society, political philosophy emerges."



What was the oldest approach to the study of Politics?

2. **Historical Approach:** The distinguishing feature of this approach is focused on the past or on a selected period of time as well as on a sequence of selected events within a particular phase so as to find out an explanation of what institutions are, and are tending to be, more in the knowledge of what they have been, and how they came to be, what they are than in the analysis of them as they stand." It may also be added that here a scholar treats history as a genetic process—as the study of how man got to be, what man once was and now is." A study of politics with such a point of view also informs him "to look into the role of individual motives, actions, accomplishments, failures and contingencies in historical continuity and change."

Notes

Shortcomings of Traditional Approaches

Focus on Western Political Systems

1. It dealt primarily with a single-culture configuration-Western world.
2. It dealt mainly with representative democratic systems as their aberrations.
3. It prevented a student from dealing systematically with Western as well as non-Western systems.
4. Research was just superficial as it was founded on the study of isolated aspects of the governmental process within specific countries.

Excessively formalistic in its approach

1. The analysis was focused on the formal institutions of government to the detriment of a sophistincated awareness of the informal arrangements of society and of their role in the formation of decisions and the exercise of power.
2. It proved to be relatively insensitive to the non-political determinants of political behaviour and hence to the non-political bases of governmental institutions.
3. Comparison was made in terms of the formal constitutional aspects of Western systems which are not necessarily the most fruitful concepts for a truly comparative study.

Descriptive rather than problem solving nature

1. Except for some studies of proportional representation, emergency legislation and electoral systems, the field was insensitive to hypotheses and their verifications.
2. Even in the purely descriptive approach to political systems, it was relatively insensitive to the methods of cultural anthropology, in which descriptions are fruitfully made in terms of general concepts or integrating hypotheses.
3. Thus, description in comparative government did not readily lend itself to the testing of hypotheses, to the compilation of significant data regarding a single political phenomenon-or class of such phenomenon in a large number of societies.
4. Description without systematic orientation obstructed the discovery of hypotheses regarding uniformities in political behaviour and prevented the formulation, on a comparative basis, of a theory of political dynamics-change, revolution, conditions of stability etc.

Factors accounting for our increasing awareness in this regard

1. The prevalent dissatisfaction with the country-by-country approach in teaching and research. The study of foreign governments is not in any sense of the word comparative study. It results in making superficial similarities and differences between political systems.
2. The need to broaden our approach by including in our study non-Western systems and by attempting to relate the contextual elements of any system with the political process.
3. The growing concern with policy-making and policy implementation. It is probably not untrue to say that research is often related to the broad exigencies of policy-making. Its global requirements have suggested the close inter-relationships of a number of factors that were considered to be separate in the past and have shown the fallacy of compartmentalisation-that is of area studies.
4. Comparative analysis is being increasingly a part and parcel of the growing concern with the scientific approach to politics.

Source: R.C. Macridis: "A Survey of the Study of Comparative Government" in Jean Blondel (ed.): Comparative Government (London: Macmillan, 1969).

The historical approach stands on the assumption that the stock of political theory comes out of socio-economic crises and the reactions they have on the minds of the great thinkers. Thus, historical evidence has an importance of its own. The conditions of ancient Greece created Plato and Aristotle; likewise, the conditions of seventeenth century England produced Hobbes

Notes

and Locke; the capitalist system of the nineteenth century created Mill and Marx. Obviously, in order to understand political theory, it is equally necessary to understand clearly the time, place and circumstances in which it was evolved. The political philosopher "may not actually take part in the politics of his times, but he is affected by it and, in his own turn, he tries vigorously to affect it." Sabine well takes note of this fact when he observes that all great political theories "are secreted in the interstices of political and social crises."

It may, however, be added at this stage that the historical approach to burning political questions differs in many ways depending upon the range of choice that a scholar adopts for his purpose. If Machiavelli could make use of history for exalting the record of the Romans and thereby exhorting his people to restore the 'glory of Rome', Oakeshott associates it with the trend of conservatism. It is contained in his treatment of politics as the "activity of attending to the general arrangements of a collection of people who, in respect of their common recognition of a manner of attending to its arrangements, compose a single community." That is, a political activity mainly springs neither from instant desires, nor from general, principles, but from the existing traditions of behaviour themselves. As he says: "In any generation, even the most revolutionary, the arrangements which are enjoyed always far exceed those which are recognised to stand in need of attention, and those which are being prepared for enjoyment are few in comparison with those which receive amendment; the new is an insignificant proportion of the whole." Again: "What we are learning to understand is a political tradition, a concrete manner of behaviour. And for this reason it is proper that, at the academic level, the study of politics should be an historical study."

The historical approach has certain weaknesses. For instance, as James Bryce says, it is often loaded with superficial resemblances. As such, historical parallels may sometimes be illuminating, but they are also misleading in most of the cases. Likewise, Prof. Ernest Barker holds: "There are many lines —some that suddenly stop, some that turn back, some that cross one another; and one may think rather of the maze of tracks on a wide common than of any broad king's highway." That is, a scholar subscribing to this approach adheres to a particular path of his choice in making use of historical data and then offering his explanation so much so that other important aspects are virtually ignored. It is also possible that he may play with his emotions or prejudices while making use of this approach as we may find in the cases of Machiavelli and Oakeshott.

Nevertheless, the value of the study of political theory in the context of its historical evolution and growth cannot be so lightly dismissed. Works of G.H. Sabine, R.G. Gettell, W.A. Dunning, C.C. Maxey, T.I. Cook, R.J. Carlyle, G.E.G. Catlin, C.E. Vaughan, etc. have an importance of their own. Such an approach has its own usefulness in understanding the meaning of eminent political thinkers from Plato and Aristotle in ancient to St. Augustine, St. Thomas and Marsiglio in the middle and thereon to Machiavelli, Bodin, Hobbes, Locke, Rousseau, Hegel, Mill, Marx and Laski in the modern ages. If political theory has a universal and respectable character, its reason should be traced in the affirmation that it is rooted in historical traditions.

3. **Institutional Approach:** Here a student of politics lays stress on the study of the formal structures of a political organisation like legislature, executive and judiciary. This trend may be discovered in the writings of a very large number of political scientists from Aristotle and Polybius in the ancient to Bryce and Finer in the modern periods. However, the peculiar thing about modern writers is that they also include party system as the 'fourth estate' in the structures of a political system, while contemporary writers like Bentley, Truman, Latham and V.O. Key, Jr. go a step further by including numerous interest groups that constitute the infrastructure of a political system. That is why, institutional approach is also known by the name of structural approach.

   The institutional or structural approach may be visualised in the works of several English and American writers. We may refer to the works of Walter Bagehot, F.A. Ogg, W.B. Munro, Herman Finer, H.J. Laski, Richard Neustadt, C.F. Strong, Bernard Crick, James Bryce, Harold Zink, Maurice Duverger and Giovanni Sartori. The striking feature of their works is that the study of politics has been confined to the formal, as well as informal, institutional structures of a political system. Moreover, in order to substantiate conclusions, a comparative study of major governmental systems of certain advanced countries of the West has also been made.

Notes

This approach has been criticised for being too narrow. It ignores the role of individuals who constitute and operate the formal, as well as informal, structures and sub-structures of a political system. It is because of this that behavioural approaches have overshadowed the significance of this approach. Another difficulty is that the meaning and range of an institutional system vary with the view of the scholar. "Those who have conceived governmental institutions, offices and agencies have been inclined to teach and write about government accordingly, organisation charts being suggestive of much of what they have done. Under this conception, the study of politics becomes, at the extreme, the study of one narrow, specific fact about another." Finally, the students of this approach "have also tended to ignore international politics. Since for long there were no world institutions analogous to the state or government, there seemed to be nothing in this area for political scientists to talk about."

4. **Legal Approach:** Finally, in the realm of traditional approaches, we may refer to the legal or juridical approach. Here the study of politics is mixed up with legal processes and institutions. Themes of law and justice are treated as not mere affairs of jurisprudence, rather political scientists look at state as the maintainer of an effective and equitable system of law and order. Matters relating to the organisation, jurisdiction and independence of judicial institutions, therefore, become an essential concern of a political scientist. Analytical jurists from Cicero in the ancient to Dicey in the modern periods have regarded state as primarily a corporation or a juridical person and, in this way, viewed politics as a science of legal norms having nothing in common with the science of the state as a social organism. Thus, this approach "treats the state primarily as an organisation for the creation and enforcement of law."

   In this context, we may refer to the works of Jean Bodin, Hugo Grotius and Thomas Hobbes of the early modern period who propounded the doctrine of sovereignty. In the system of Hobbes, the head of the state is the highest legal authority and his command is law that must be obeyed either to avoid punishment following its infraction, or to keep the dreadful state of nature away. The works of Bentham, John Austin, Savigny, Sir Henry Maine, and A.V. Dicey may also be referred to in this connection. The result is that the study of politics is integrally bound up with the legal processes of the country and the existence of a harmonious state of liberty and equality is earmarked by the glorious name of the rule of law.

   The legal approach, applied to the study of national as well as international politics, stands on the assumption that law prescribes action to be taken in a given contingency and also forbids the same in certain other situations; it even fixes the limits of permissible action. It also emphasises the fact that where the citizens are law-abiding, the knowledge of law provides a very important basis for predictions relating to political behaviour of the people. A distinguished student of this approach like Jellinek advises us to treat organised society not as a mere social or political phenomenon but as an ensemble of public law rights and obligations founded on a system of pure logic or reason. It implies that the state as an organism of growth and development cannot be understood without a consideration of those extra-legal and social forces which lie at the back of the consideration and, for this reason, are responsible for many of its actions and mutual reactions. It may, however, be pointed out that this approach has a very narrow perspective. Law embraces only one aspect of a people's life and, as such, it cannot cover the entire behaviour of the political actors. As the idealists can be criticised for treating state as nothing else but a moral entity, so the analytical jurists commit the mistake of reducing every aspect of a political system to a juridical entity. "Determination of the content of law through legislative power is a political act, ordinarily to be explained on the basis of something other, than a legal approach."

   The traditional approaches may be said to have four main varieties as discussed above. Their outstanding feature is that value-laden system dominates. Normativism assigns to them a peculiar and distinctive character. As a result of this, political theory is said to have become abstract, hypothetical, speculative, even metaphysical. On the whole, normativism lays stress on the significant discussion. It "looks to the establishment of a moral criterion of political conduct and asks questions about the nature of the state and its ends, the limit of one's obligations to obey the commands, the basis and content of the individual's rights and freedom, the form of good life and so on."

Notes

Self-Assessment

1. Fill in the blanks:

(*i*) Comparativists usually compare and contrast different component parts of countries ..... .

(*ii*) Switzerland is known as the ancestral home of ..... .

(*iii*) Bryce, Laski, Finer, Barker, etc. belong to the tradition called ..... .

(*iv*) Acheson era is considered in the period ..... .

(*v*) Dulles era is from ..... .

2.4 Summary

- The main advantage of comparative method is that it makes the study of politics more structured and conclusions derived with this method are more precise. For example, we shall compare electoral systems in the UK and Germany. In Britain the electoral system is referred as single member plurality system.
- One of the strongest advantages of single member plurality system is that it produces clear-cut electoral decisions with single-party governments able to exercise leadership. But the disadvantage of this system is when the party achieves the second place in the majority of seats, it will suffer from under-representation in the parliament, which means that many votes are just wasted. This leads for more citizens to act in informal and unorthodox forms of political participation.
- Comparative method is definitely the best choice to study and analyze contemporary politics, but we should be aware of the difficulties associated with this method.
- In the literature of comparative politics, a widem variety of meanings is attached to the terms "comparison" and "comparative method." The comparative method is defined here as one of the basic methods—the others being the experimental, statistical, and case study methods—of establishing general empirical propositions.
- Comparative method simplifies a complex political reality and makes it more manageable. Comparative politics brings us into contact with political worlds other than our own and expands our political and cultural horizons.
- The experimental method, in its simplest form, uses two equivalent groups, one of which (the experimental group) is exposed to a stimulus while the other (the control group) is not. The two groups are then compared, and any difference can be attributed to the stimulus.
- The logic of the comparative method is, in accordance with the general standard expounded by Nagel, also the same as the logic of the experimental method. The comparative method resembles the statistical method in all respects except one. The crucial difference is that the number of cases it deals with is too small to permit systematic control by means of partial correlations.
- A clear awareness of the limitations of the comparative method is necessary but need not be disabling, because, as we shall see, these weaknesses can be minimized. The "conscious thinker" in comparative politics should realize the limitations of the comparative method, but he should also recognize and take advantage of its possibilities.
- Comparative politics could thus discover "a world in which times and tongues and nations which before seemed parted poles asunder, now find each one its own place, its own relation to every other."
- Whereas the first two ways of strengthening the comparative method were mainly concerned with the problem of "small N," this third approach focuses on the problem of "many variables." The focus on comparable cases differs from the first recommendation not only in its preoccupation with the problem of "many variables" rather than with "small N,".

Notes

- Mill's method of concomitant variations is often claimed to be the first systematic formulation of the modern comparative method. It should be pointed out, however, that Mill himself thought that the methods of difference and of concomitant variations could not be applied in the social sciences because sufficiently similar cases could not be found.
- "The absolute elimination of adventitious elements is an ideal which can not really be attained; . . . one can never be even approximately certain that two societies agree or differ in all respects save one."
- An alternative way of maximizing comparability is to analyze a single country diachronically. Such comparison of the same unit at different times generally offers a better solution to the control problem than comparison of two or more different but similar units (e.g., within the same area) at the same time, although the control can never be perfect; the same country is not really the same at different times.
- Unless the national political system itself constitutes the unit of analysis, comparability can also be enhanced by focusing on intranation instead of internation comparisons.
- Comparative analysis must avoid the danger of being overwhelmed by large numbers of variables and, as a result, losing the possibility of discovering controlled relationships, and it must therefore judiciously restrict itself to the really key variables, omitting those of only marginal importance.
- "The most obvious need in the field at present is simplification—and simplification on a rather grand scale—for human intelligence and scientific method can scarcely cope with the large numbers of variables, the heaps of concepts, and the mountains of data that seem at present to be required, and indeed to exist, in the field."
- A final comment is in order about the relationship of comparative politics as a substantive field and comparison as a method.
- The great advantage of the case study is that by focusing on a single case, that case can be intensively examined even when the research resources at the investigator's disposal are relatively limited. The scientific status of the case study method is somewhat ambiguous, however, because science is a generalizing activity.
- Purely descriptive case studies do have great utility as basic data-gathering operations, and can thus contribute indirectly to theory-building. It can even be claimed that "the cumulative effect of such studies will lead to fruitful generalization," but only if it is recognized that this depends on a theoretically oriented secondary analysis of the data collected in atheoretical case studies.
- *Theory-confirming* and *theory-infirming case studies* are analyses of single cases within the framework of established generalizations. Prior knowledge of the case is limited to a single variable or to none of the variables that the proposition relates. The case study is a test of the proposition, which may turn out to be confirmed or infirmed by it. If the case study is of the theory-confirming type, it strengthens the proposition in question. But, assuming that the proposition is solidly based on a large number of cases, the demonstration that one more case fits does not strengthen it a great deal.
- *Deviant case analyses* are studies of single cases that are known to deviate from established generalizations. They are selected in order to reveal why the cases are deviant—that is, to uncover relevant additional variables that were not considered previously, or to refine the (operational) definitions of some or all of the variables.
- Of the six types of case studies, the hypothesis-generating and the deviant case studies have the greatest value in terms of their contribution to theory. Each of these two types, however, has quite different functions in respect to theory-building: The hypothesis-generating case study serves to generate new hypotheses, while the deviant case study refines and sharpens existing hypotheses.
- The different types of cases and their unequal potential contributions to theory-building should be kept in mind in selecting and analyzing a single case.

Notes

- The comparative method and the case study method have major drawbacks. But precisely because of the inevitable limitations of these methods, it is the challenging task of the investigator in the field of comparative politics to apply these methods in such a way as to minimize their weaknesses and to capitalize on their inherent strengths.
- "The only reason for including the term comparative in the designation of the field is to emphasis that the responsibility which the field has to the discipline of political science is to treat the political systems existing in the world as units for comparison in the general quest of theory-building and testing in political science."
- It is needed that, apart from looking at the three formal structures of a political organisation like legislature, executive and judiciary, he should also study the role of legislators, behaviour of the voters, operational form of the political parties and pressure groups etc.
- It is a different thing that, while making a definition of the political system, he may take some and ignore other aspects as per his area of concern. As such in the field of comparative politics, one should feel concerned with the conceptual units and proceed ahead in the direction of making comparisons on the basis of definitions that he has made.
- Taxonomy occupies a very important place in the field of comparative government and politics on account of this fact that it facilitates the making of broad general judgements as to the characteristics of a very-complex phenomenon. The work of theory-building and testing conclusions becomes easier when a student of comparative politics draws tables and charts to categorise different political systems on the basis of division of powers (between federal and unitary systems), or relationship between the executive and legislative departments (between parliamentary and presidential systems), or liberties of the people (between democratic and totalitarian systems), etc.
- The work of making comparisons should be done in a way that hypotheses are formulated and then tested so that the requirement of verifiability and applicability is fulfilled. By taking political system as the basic unit of his study, a student of comparative politics is necessarily concerned with the question as to how political systems operate.
- The purpose is to determine what difference is brought about between the ways power is deployed at different levels. Power is wielded by the state, it is exercised by the government.
- A marked change occurred after 1960 when the new writers on this subject like Harry Eckstein, David Apter, R. C. Macridis, Lucian W. Pye, S.P. Huntington, F.W. Riggs etc. realised that the comparative study had thus far been comparative in name only.
- It may well be argued that description of the formal political institutions is vital for the understanding of the political process and that, as such, it leads to comparative study. If, we hardly ever have any comparison between the particular institutions described.
- It has ignored the dynamic factors that account for growth and change. It has concentrated on what is called 'political anatomy'.
- The new comparative politics does not reject what was done by the writers on this subject in the past. It desires emphasis on social change and economic development while making a comparative study of the political institutions of different countries.
- In the domain of new comparative politics, we take note of emphasis on the institutionalisation, internalisation and socialisation of norms drawn particularly on learning theory imported from social psychology and on value theory imported from political anthropology.
- The adoption of the inter-disciplinary approach has so much widened the field of this subject that a student often feels perplexed as to what it includes and what not.
- Comparative method is the life-breath of the subject of comparative politics and a writer on this subject, whether he likes it or not, "has to examine, account for and, as many would want him to do, find recipes to redress the structure and behaviour of government."
- We may say that while traditional approaches lean to the side of 'values', the latter do the same for 'facts'. The result is that 'fact-value dichotomy' becomes the determining factor. The

Notes

traditional approaches have a historical-descriptive and prescriptive character with a dominating place for values and goals.

- The oldest approach to the study of politics is philosophical. It is also known by the name of ethical approach.
- The philosophical approach is criticised for being speculative and abstract. It is said that such an approach takes us far away from the world of reality. For this reason, it is accused of being hypothetical.
- The distinguishing feature of this approach is focused on the past or on a selected period of time as well as on a sequence of selected events within a particular phase so as to find out an explanation of what institutions are, and are tending to be, more in the knowledge of what they have been, and how they came to be, what they are than in the analysis of them as they stand."
- Historical evidence has an importance of its own. The conditions of ancient Greece created Plato and Aristotle; likewise, the conditions of seventeenth century England produced Hobbes and Locke; the capitalist system of the nineteenth century created Mill and Marx.
- A political activity mainly springs neither from instant desires, nor from general, principles, but from the existing traditions of behaviour themselves.
- The historical approach has certain weaknesses. For instance, as James Bryce says, it is often loaded with superficial resemblances.
- If political theory has a universal and respectable character, its reason should be traced in the affirmation that it is rooted in historical traditions.
- "Those who have conceived governmental institutions, offices and agencies have been inclined to teach and write about government accordingly, organisation charts being suggestive of much of what they have done. Under this conception, the study of politics becomes, at the extreme, the study of one narrow, specific fact about another."
- Themes of law and justice are treated as not mere affairs of jurisprudence, rather political scientists look at state as the maintainer of an effective and equitable system of law and order. Matters relating to the organisation, jurisdiction and independence of judicial institutions, therefore, become an essential concern of a political scientist.
- The legal approach, applied to the study of national as well as international politics, stands on the assumption that law prescribes action to be taken in a given contingency and also forbids the same in certain other situations; it even fixes the limits of permissible action. It also emphasises the fact that where the citizens are law-abiding, the knowledge of law provides a very important basis for predictions relating to political behaviour of the people. "Determination of the content of law through legislative power is a political act, ordinarily to be explained on the basis of something other, than a legal approach."
- Normativism assigns to them a peculiar and distinctive character. As a result of this, political theory is said to have become abstract, hypothetical, speculative, even metaphysical. On the whole, normativism lays stress on the significant discussion.

2.5 Keywords

1. Political System : It is a system of politics and government. It is usually compared to the legal system, economic system. Cultural system, and other social systems. It handles how religious questions should be handled and what the government's influence on its people and economy should be.
2. Superficial resemblances : Apparent rather than actual or substantial.

Notes

2.6 Review Questions

1. Differentiate between Comparative Method and Comparative Politics.
2. Discuss the traditional approach to the study of Comparative Politics.
3. Explain Comparative Method in Comparative Politics.

Answers: Self-Assessment

1. (*i*) Political System
   (*ii*) Democracy
   (*iii*) Institutionalists
   (*iv*) 1949–1952
   (*v*) 1953 to 1954.

2.7 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 3: Constitutions and Constitutionalism

CONTENTS

Objectives

Introduction

3.1 Meaning and Process of Growth of Constitution

3.2 Kinds of Constitution

3.3 Necessity of a Good Constitution

3.4 Meaning and Development of Constitutionalism

3.5 Liberal and Marxist Notions

3.6 Summary

3.7 Key-Words

3.8 Review Questions

3.9 Further Readings

Objectives

After studying this unit students will be able to:

- Explain the Meaning and Process of Growth of Constitution and Constitutionalism
- Describe the Kinds of Constitution
- Know the Necessity of a Good Constitution
- Understand the Liberal and Marxist Notions

Introduction

It is one of the celebrated maxims of political science that there can be no well-ordered society without a state; another ancillary axiom is that there can be no state without a constitution of its own. Though the word 'constitution' is used in many senses (as constitution of a body, constitution of a trade union, constitution of a political party etc.), we are concerned with its use in a political sense alone that signifies the constitution of the state. If so, every state has a constitution of its own and by virtue of that, in a literal sense, it is a 'constitutional state.' But, as we shall see, the term 'constitutional state' has assumed a normative connotation; now it has become another term for a 'democratic political order.' The very idea that every state must have a constitution of its own and that its government must be organised and conducted according to (the rules of the constitution so that the people have a 'rule of law' and not a 'rule of man', it constitutes the case of 'constitutionalism.'

The study of political constitutionalism occupies a significant place in the sphere of comparative politics in view of the fact that it is the constitution that, as Dicey says 'directly or indirectly affects the exercise of the sovereign power of the state.' A political scientist is concerned with the origin and development of the state, with its nature and organisation, with its purpose and functions, and with the theory of the state and its possible forms. If so, he is naturally concerned with all these facts of the subject in a certain manner. Since the study of the political constitutions is 'a branch of political science or the science of the state', a student of this subject" is interested chiefly in the institutions which the state builds up for its peace and progress without which the state could not maintain itself, any more than a society could maintain itself without the state."

Notes

3.1 Meaning and Process of Growth of Constitution

Meaning: In simple terms, the constitution of a state may be defined as a body of rules and regulations, written as well as unwritten, whereby the government is organised and it functions. It is another matter that in order to meet the requirements of a democratic order, a constitution embodies some more principles specifying relationship between the individuals and their state in the form of a specific charter of their fundamental rights and obligations. Thus, a constitution "may be said to be a collection of principles according to which the powers of the government, the rights of the governed, and the relations between the two are adjusted." In other words, it may be described as a frame of political society organised through and by law, in which law has established permanent institutions with recognised functions and definite rights.. ." By all means, it is a legal document known by different names like 'rules of the state,' 'instrument of government', 'fundamental law of the land', 'basic statute of the polity', 'cornerstone of the nation-state' and the like.

The rules of a constitution may be in a written form, whether in detail or in brief, or most of them may be in the form of maxims, usages, precedents and customs, it is essential that these rules as a whole determine the organisation and working of the government of a state. It may be a deliberate creation on paper in the form of a single document prepared by some assembly or convention, or it may be in the form of a bundle of documents having authority of the law of the state the best example of which may be seen in the case of the English constitution. According to K.C. Wheare, "The word 'constitution' is commonly used in at least two senses in an ordinary discussion of political affairs. First of all, and partly non-legal or extra-legal, taking the form of usages, understandings, customs, or conventions which courts do not recognise as law but which are no less effective in regulating the government than the rules of law strictly called. In most countries of the world the system of government is composed of this mixture of legal and non-legal rules and it is possible to speak of this collection of rules as the 'constitution."


Notes

It is used to describe the whole system of the government of a country, the collection of rules which establish and regulate or govern the government. These rules are partly legal, in the sense, that the courts of law will recognise and apply them.

Process of Growth: Every constitution grows with the passage of time. It means that the rules of a constitution have a Darwinian character. James McIntosh and Sir Henry Maine recognise this fact when they hold that a constitution is not made, it grows. It well applied to the case of England where the constitution is an evolved instrument; it is a growth and not a make. But its first part does not apply to a country having an enacted constitution like the United States where the constitution is regarded both as a make and a growth. However, the fact stands out that a constitution develops in course of time in response to the urges and aspirations of the people and the nature of political development. Though a typical justification of the excellence of the English constitution, Lord Brougham holds that constitutions "must grow, if they are of any value; they have roots, they ripen, they endure. Those that are fashioned, resemble painted sticks, planted in the ground; they strike no root, bear no fruit, swiftly decay, and ere long perish."

We may, therefore, look into the sources that bring about changes in the constitution of a state over a period of time. These are:

1. **Formal Amendments:** Every constitution has a procedure by which it can be amended in response to the needs of the time. The process may be very simple making the constitution an example of a flexible instrument (as in England), or it may be very difficult (as in USA and Switzerland), or a mixture of the two (as in India), it is certain that a constitution is changed from time to time by following the procedure laid down for that purpose. Thus, some hew rules are added to it, some are omitted, or some rules are revised to the necessary extent. For

Notes

instance, the provision that a person cannot have more than two terms for the post of the President of the American republic came as a result of the 22nd amendment of 1951.

It is also possible that the constitution as a whole may be changed as happened in France when the constitution of 1946 was replaced by the constitution of 1958. It may be in the form of partial revision as happened in Switzerland where the constitution of 1848 was replaced by the constitution of 1874. A new constitution certainly has new provisions, or it may restore some of the old provisions with necessary alterations. For instance, the new constitution of China (1982) restores the office of the Chairman (President) of the republic. In Pakistan the Ayub Constitution of 1962 established presidential form of government, but the Bhutto Constitution of 1977 restored the parliamentary system. It is also possible that an entirely new system may be established as the constitution of Sri Lanka (1978) establishes a French-like quasi-presidential government in place of parliamentary government.

2. **Great Statutes:** Important legislation is another source of constitutional development. From time to time the legislature of a state makes laws as per requirements of the time. These laws effect some important changes. The rules of the constitution are accordingly changed. For instance, the British Parliament made a law in 1911 that crippled the powers of the House of Lords and made the House of Commons a really powerful chamber. The American Congress made a law in 1946 whereby the judges (whose tenure is not specified in the Constitution of 1787 and who, for this reason, enjoy a life term) may seek voluntary retirement after completing the age of 70 years or a service of 10 years. So in Canada (where Senators were appointed for life) a law made by the Parliament in 1965 provides for the retirement of the Senators on completing the age of 75 years. It may be said at this stage that while referring to the laws made by a legislature in this connection, we should refer only to very important enactments that effect change in the rules of the basic law of the land.
3. **Executive Decrees:** The head of the state issues orders, decrees and proclamations from time to time which make changes in the rules of the constitution. Sometimes, these changes override the written portions of the constitution. For instance, the American constitution says that all foreign treaties signed by the President must be approved by the Senate. But the Presidents have invented a new device of signing some secret treaties and not putting them for the ratification of the Senate by calling them 'executive agreements'. While the American constitution says that the Congress can make a declaration of war and peace, in actual practice we find that the President makes a declaration to this effect that is subsequently adopted by the Congress. The British people are proud of the great charters signed by their monarchs (like Magna Carta of 1215 and Petition of Right of 1628) which embody important principles of their constitutional law. In other countries the head of the state may promulgate an ordinance that has the force of law and that may be ratified by the legislature after some time. In China the Standing Committee of the NPC has the power to issue a command in the form of a 'decree' that has the force of law and that may be approved by the National People's Congress in its session after some time.
4. **Leading Judicial Decisions:** The provisions of the constitution are also amended by the decisions of the courts given in leading cases. For instance, the American Supreme Court in the case of *Marbury v. Madison* (1803) ruled that the government had no power to issue an order that was violative of the Constitution of the United States. With this interpretation it assumed in its hands the power of 'judicial review' that has resulted in the growth of 'judicial supremacy' there. The British courts, in many cases, have ruled that the proceedings of the Parliament cannot be questioned in a legal dispute before them and the Parliament is the master of defining and protecting the privileges of its members. In India in the *Kesavanand Bharati Case* (1973) the Supreme Court has ruled that no amendment may be effected that is violative of the 'basic structure of the Constitution'. In 1982 the Canadian Supreme Court has ruled that the central government has the power to go ahead with the work of constitutional amendment as the provincial governments have the power to veto a bill of constitutional amendment after it is passed by the Parliament.' It all shows that in some very important cases the courts may give a decision that has an important bearing on the provisions of the constitution.

Notes

5. **Usages and Customs:** Finally, we may refer to numerous practices, precedents, usages and customs of the country that have their own effect on the provisions of the constitution. John Stuart Mill calls them 'unwritten maxims of the constitution' and A.V. Dicey describes them as 'conventions of the constitution'. These customs grow as a matter of practice and in due course they are hardened into a custom. For instance, it is just a matter of English customary law that the Prime Minister must be the leader of the party commanding absolute majority in the House of Commons and that, he must tender his resignation if the House expresses its want of confidence in him. Similarly, in the United States the Senate has developed the practice of ratifying all appointments made and all foreign treaties signed by the President.

   That the President and the Vice-President must come from different regions of India (like north and south) and the Governor of a State must not be a domicile of that State in which he is appointed are some of the usages of the Indian constitution.

   The role of these factors may be seen in the development of any constitution of the world. The basic point is that the rules of the constitution change from time to time as per the requirements of the state. Macaulay's caution has a sense that if a constitution is not changed according to the needs of the time, it would lead to the outbreak of a serious revolt destroying the constitution itself. Hence, every constitution must provide some mechanism by which necessary changes maybe effected. Mulford says that an unamendable constitution "is me worst tyranny of time, or rather the very tyranny of time. It makes an earthly providence of a convention which has adjourned without day. It places the scepter over a free people in the hands of dead men, and the only office left to the people is to build thrones out of their sepulchers."

3.2 Kinds of Constitution

Writers have used different bases to present a typological study of political constitutions with the result that, like political systems, constitutions have their own forms in accordance with the grounds taken into consideration by them. Hence, considered as an 'instrument of evidence', they have been classified as cumulative or evolved and conventional or enacted constitutions. Then, in view of the breadth of written provisions, they have been described as written and unwritten constitutions. The process of amending a constitution may be used as another basis on which they may be termed rigid and flexible constitutions. Finally, they use the basis of concentration versus distribution of powers and then categories them as unitary and federal constitutions. We may thus study different kinds of constitutions and their respective merits and demerits.

In the first place, we take up the case of evolved and enacted constitutions. The constitution of a state may be a deliberate creation on paper formulated by some assembly or convention at a particular time; or it may be found in the shape of a document that itself is altered in response to the requirements of time and age; it may also be in the form of a bundle of separate and scattered laws assuming special sanctity by virtue of being the fundamental law of the land. Or, again, if it may be that the bases of a constitution are fixed in one or few fundamental laws of the land, while the rest of it depends for its authority upon the force of custom. A look at the constitutions of the world shows that, for most of them, the constitution "is the selection of the legal rules which govern the government of the country and which have been embodied in a document." However, Britain affords the peculiar case where the constitution is not in the form of a document; it is a growth, not a make. Here the definition of Bolingbroke applies: "By a constitution we mean, whenever we speak with propriety and exactness that assemblage of laws, institutions and customs, derived from certain fixed principles of reasons... that composes the general system, according to which the community has agreed to be governed."



Did u know? It is very seldom that the Senators oppose some nomination or some treaty. It is called 'Senatorial courtesy'.

Notes

It may be understood that here the ground of classification is the 'instrument of historical evidence'. Thus, to the category of an evolved or cumulative constitution belongs one which has its origin mainly in practices, usages and customs and which consists, for most of the part, of accumulated wisdom of the age, principles of common law, and decisions of courts etc. It is a product of historical evolution and growth and not of a deliberate or formal enactment or creation. In other words, it has no conscious starting point, it is not struck off at a specified time and that it changes by slow and gradual accretion rather than by formal legal processes. An enacted constitution is one which has been formulated by some constitutional convention summoned by the head of the state or by people at a particular time well-known to the people of a country. Thus, while the English constitution is the best example of an evolved constitution, all other constitutions of the world belong to the category of an enacted constitution. The American constitution is the first great example of such a constitution made by the Philadelphia Convention in 1787.

An evolved constitution has the merit of being thoroughly dynamic. It is always in a process of change in response to the urges and aspirations of the people. But its demerit is that it lives in the form of numerous separate and scattered documents and political conventions. It cannot be put into tue form of a book and, for that reason, an American philosopher like Thomas Paine and a French historian like A. de Tocqueville gave the view that there was no constitution in England. Documentary constitution or a constitution made by some assembly is quite specific and its being in a codified form is always a source of great convenience to the people. But the English people are proud of their constitution despite the fact that it is a sort of maze in which the wanderer is perplexed by unreality, by antiquarianism, and by constitutionalism.

Then, we may take up the case of written and unwritten constitutions. In simple terms, a written constitution is one whose provisions are written in detail; an unwritten constitution is one whose written provisions are very brief and most of the rules of the constitution exist in the form of usages and customs. The British constitution is the best example of an unwritten constitution. In the words of Bryce, it is "a mass of precedents carried in men's minds or recorded in writing, dicta of lawyers or statesmen, customs, usages, understandings and briefs, a number of statutes mixed up with customs and all covered over with a parasitic growth of legal decisions and political habits." Herman Finer gives two reasons for designating British constitution as unwritten. First, the Institutions of government are guided by conventions which are taken for granted, but not formulated, save occasionally by individuals. Second, the constitution was not framed deliberately by any formal body like a constituent assembly.

It follows that an unwritten constitution is one in which most, but not all, of the prescriptions have never been reduced to writing and formally embodied in a document or a collection of documents. It is made up, as Jameson says, largely of customs and judicial decisions, the former more or less evanescent and intelligible, since in a written form they exist only in the unofficial collections or commentaries of the publicists or lawyers." On the contrary, a written constitution is one in which most of the provisions are embodied in a single formal written instrument or instruments. It is a work of conscious art and the result of a deliberate effort to lay down a body of fundamental principles under which a government shall be organised and conducted."

A written constitution has its own merits. First, it is full of clarity and definiteness because the provisions are written in detail. Second, it has the quality of stability. Since the people know about the nature of contitutional provisions, they feel a sense of satisfaction. Third, since all important points are reduced to writing, the rights and liberties of the people are secure. But it has its demerits too. First, it creates a situation of rigidity. Since all important rules are in writing, attempts are made to act according to rules. It leads to the development of a conservative attitude. Second, it becomes difficult to change it easily and quickly as per the requirements of the time. As such, the possibilities of mass upheaval are increased. Third, a written constitution becomes a plaything in the hands of the lawyers and the courts. Different interpretations come up from time to time that unsettle the judicial thought of the country.

An unwritten constitution has its own merits and demerits. Its merits are: First, it has the quality of elasticity and adaptability. Since, most of the rules are in an unwritten form, people may adapt them in response to the new conditions. Second, it is so dynamic that it prevents the chances of

Notes

popular uprisings. Third, it is resilient with the result that it can absorb and also recover from shocks that may destroy a written constitution. It looks like the natural out-growth of a national life. Its demerits are: First, it leads to the situations of instability. The provisions of such a constitution may change at the spur of the moment and so they are always in a state of flux as per the emotions, passions and fancies of the people. Second, it also leads to a state of confusion. Controversies often arise over different provisions of the constitution having their place in the usages and customs of the country. Third, such a constitution may suit a monarchical or an aristocratic system, it certainly does not suit a democracy where people are generally suspicious of constitutional prescriptions.

We have thus seen the implications as well as the merits and demerits of written and unwritten constitutions. But two important points should be made at this stage. First, a written constitution is generally preferred to an unwritten constitution. Hence, leaving aside the case of the British constitution, all constitutions of the world pertain to the category of a written constitution. Second, the difference between a written and unwritten constitution is one of degree and not of kind. Both constitutions are written, one in detail and the other in brief. But a deeper study shows that the distinction between the two is of a superficial nature. The boundary line between the two is not only hazy, it is blurred. It is a fact that all written constitutions are overlaid, with customs over a period of time and many rules are reduced to writing in a country having an unwritten constitution. Wincare well suggests: "The classification of constitutions into written and unwritten forms should therefore be discarded. The better distinction is that between countries which have a written constitution and those which have no written constitution."

After this, we may pass on to the study of rigid and flexible constitutions. Here the basis of distinction is the process of amendment. If it is very simple and convenient, the constitution is flexible. Its best example is the British constitution. Any new law made by the Parliament adds a new rule to the constitution. Thus, it is obvious that there is no distinction between an ordinary law and a constitutional law in a country having a flexible constitution. As Garner says: "Those which possess no higher legal authority than ordinary laws and which may be altered in the same way as ether laws, whether they are embodied in a single document or consist largely of conventions, should then be classified as flexible, movable or elastic constitutions." To take the case of England, we may say that there is no special procedure for making a constitutional law. A bill must be passed by both the Houses of Parliament by simple majority and then assented to by the monarch. Dicey is right in holding that "strictly speaking, there is no constitutional law in Great Britain."

Opposed to this is rigid constitution. Here the process of amendment is quite difficult. A special procedure has to be followed to make a change in any rule of the constitution. Thus, a bill must be passed by the Parliament by special majority (as 2/3 majority) and then it must also be approved either by the provincial (regional) governments or by the people in a referendum or both. Obviously, here we find a clear distinction between a constitutional law and an ordinary law, the former having higher sanctity than the latter. It is required that the ordinary law must be in conformity with the constitutional law of the land, otherwise it could be invalidated by the courts on the ground of being 'unconstitutional'. The constitutions of USA, Switzerland, France and Australia fall in this category. Thus, Garner says that rigid constitutions are those which emanate from a different source, which legally stand over and above ordinary laws and which may be amended by a different process. Dicey also defines it as one under which certain laws generally known as constitutional or fundamental laws cannot be changed in the same manner as the ordinary laws."

A flexible constitution has its merits. First, it has the quality of adaptability. It may be easily changed as per the requirements of the time, particularly during the times of national and international crises. Second, it enables the people to seek a change in the rules of the state without preferring to adopt revolutionary, means. Last, it is an excellent mirror of the national mind. It is representative of the needs and thoughts of the people. It can feel and record the pulse of the people and their urges and aspirations with comparative ease. But it has its demerits too. First, it is always subject to the winds of instability. Crafty politicians may take advantage of the situation and thereby make changes according to their whims and caprices. Second, it is not suitable to people who lack political education and training. Politically indifferent or backward people would not be able to check their selfish leaders from changing the constitution just for the sake of some

Notes

political gains. Last, it can be like a plaything in the hands of judicial tribunals who may create controversies by giving twists to the provisions of the constitution.

So is the case with a rigid constitution that has its own merits and demerits. Its merits are: First, it offers a guarantee of solidity and permanence. It is generally secure from legislative encroachments and provides safeguards against hasty changes. Second, since the provisions of the constitution are not easily amendable, the crafty politicians feel discouraged in changing the rules of the states as per their whims and caprices. It, therefore, commands the confidence of the people in general. Last, it protects the rights and liberties of the people in a better way. Since the rights of the people are put in writing and since constitutional provisions cannot be amended quickly, it is certain that people feel more secure under such a constitution. But a rigid constitution has its demerits too. First, it inculcates the feelings of conservatism. It may fail to keep pace with the changing conditions of the country. Second, the element of inelasticity leads to the possibilities of frequent upheavals or revolts. Last, it opens room for judicial supremacy. Whenever there is some controversy, matters are taken to the courts for an authentic interpretation. The result is that constitution becomes a lawyers' heaven.

We may endorse this view of Lawrence that the classification of the constitution into flexible and rigid forms is hardly a real one. The reason is that the flexibility or rigidity of a constitution depends not so much upon the breadth of the written provisions or upon the process of amendment, as it depends upon the character or temperament of the people. The English people are conservative by their nature as a result of which their constitution, though a model of a flexible constitution, has a conservative or 'prescriptive' (a term popularised by Edmund Burke) character. The American constitution is notoriously rigid and yet it has been changed not only by the process of formal amendment (that is so cumbersome) but also by other sources like executive decrees, legislative measures, judicial decisions, and usages and customs. The American people proudly say that though they still have the constitution made by the Philadelphia Convention of 1787, it is not the same thing what was produced by their founding fathers.

One thing is, however, certain. A flexible constitution is better than a rigid constitution. As such, if a state has a rigid constitution, it must also evolve some mechanism for the amendment of the constitution in times of needs without facing insurmountable difficulties. The statesmen of a country must also be wise enough to know the nature and temperament of their people. If the constitution of a state fails to be in consonance with the national temperament, it is bound to collapse the examples of which may be seen in the political developments of many countries of the Afro-Asian world. It means that an element of flexibility must invariably be accommodated into the fundamental law of the land. We may appreciate the view of Bryce that only flexible constitutions "can be stretched or bent so as to meet emergencies without breaking their framework; and when the emergency has passed, they slip back into their old form like a tree whose outer branches have been pulled aside to let a vehicle pass."

Like governments, constitutions may also be classified as unitary and federal on the ground of concentration and distribution of powers. A unitary constitution is one that vests all powers in a central government, but a federal constitution distributes powers "between the central and regional governments. The units of local government do not enjoy autonomy under a unitary constitution as they live and work under the control of the central government, but the units or regional governments enjoy autonomy under a federal constitution in the sphere allotted to them by the constitution. It is essential that the federal constitution specifies the powers of both the governments so that there is, as far as possible, no chance of conflict between the two. Its process of amendment is made rigid so that it may hot be easily amendable by the unilateral action of the central government. The bill of constitutional amendments passed by 2/3 majority in the chambers of national legislature and it is subject to ratification by the majority of the legislatures of the units by similar majority as in the United States, or by the final verdict of the people given in a referendum as in France, or by both as in Switzerland. An independent and impartial judiciary is also set up to act as an umpire between the two governments and to interpret the provisions of the Constitution when required.

Notes

The unitary and federal constitutions have their merits and demerits. A unitary constitution makes the central government strong so that it may meet any critical situation, but it does not work well in a big country or where there is marked diversity in respect of religions, cultures, languages and ways of life of the people. The federal constitution makes the central government weak by dividing the powers between he centre and the units, but it suits big countries like USA, Russian Federation and Canada and it is invariably required in countries marked by religions, social and cultural diversities like Switzerland; India and South Africa. The element of centralism has made its place in every federal system of the world as a result of which the inherent weakness of a federal constitution has been done away with. A peculiar arrangement has been devised in India where the constitution operates as a federal mechanism in normal times and becomes unitary during times of emergency.

3.3 Necessity of a Good Constitution

We have read about the meaning, development and kinds of constitutions convinces us with this important axiom of political theory that every state must have a constitution of its own. It is indispensable even for the states in which a regime of the most primitive type or a despotism of the worst sort prevails. Jellinek is right in holding that a state without a constitution would not be a state but a regime of anarchy. In all times, whether ancient, medieval, or modern, constitutions have existed in some form irrespective of the fact that the rulers acted in the most autocratic manner. Evidence shows that in the days of ancient Greece, Aristotle could have a study of about 158 constitutions. Even during middle ages constitutions existed, though in a very crude form, if we compare them with present standards. A remarkable change has taken place in modern times when the constitution of state is given utmost sanctity. It is lauded as the 'cornerstone' of a democratic nation-state; even the non-democratic states have their own set of rules which they call 'a charter' or 'a manifesto' of the ideology of their state apparatus.

It is also essential that the constitution of a state should neither be a strong defence of the *status quo* permitting hardly any change in response to the changing conditions of the people, nor should it be so flexible or dynamic that it may be a plaything in the hands of the legislators, or administrators, or adjudicators of the country. It must have an element; of permanence permitting room for necessary changes without inviting the conditions of a violent upheaval. It should be well in consonance with the political culture, education and training of the people. Merriam's observation is worth quoting: "The letter of the constitution must neither be idolised as a sacred instrument with that mistaken conservatism which clings to its own worn-out garment until the body is ready to perish from cold, nor it ought to be made a plaything of politicians, to be tampered with and degraded to the level of an ordinary statute."

3.4 Meaning and Development of Constitutionalism

Constitutionalism is a modern concept that desires a political order governed by laws and regulations. It stands for the supremacy of law and not of the individuals; it imbibes the principles of nationalism, democracy and limited government. It may be identified with the system of 'divided power.' As Friedrich says: "Constitutionalism by dividing power provides a system of effective restraints upon governmental action. In studying it, one has to explore the methods and techniques by which such restraints are established and maintained. It is a body of rules ensuring fairplay, thus rendering the government 'responsible.' Constitutionalism, thus, stands for the existence of a constitution in a state, since it is the instrument of government, or the fundamental law of the land, whose objects "are to limit the arbitrary action of the government, to guarantee the rights of the governed, and to define the operation of the sovereign power."

In order to have a proper understanding of the term 'constitutionalism,' we must first understand the meaning of terms like 'constitution' and 'constitutional government'. A constitution "may be said to be a collection of principles according to which the powers of the government, the rights of the governed, and the relations between the two are adjusted." In other words, it may be

Notes

described as "a frame of political society organised through and by law, in which law has established permanent institutions with recognised functions and definite rights..." According to Wheare: "The word 'constitution' is commonly used in at least two senses in an ordinary discussion of political affairs. First of all, it is used to describe the whole system of a government of a country, the collection of rules which establish and regulate or govern the government. These rules are partly legal, in the sense, that the courts of law will recognise and apply them, and partly non-legal or extra-legal, taking the form of usages, understandings, customs, or conventions which courts donot recognise as law but which are not less effective in regulating the government than the rules of law strictly called. In most countries of the world the system of government is composed of this mixture of legal and non-legal rules and it is possible to speak of this collection of rules as the 'Constitution.'

The constitution of a state may be a deliberate creation on paper effected by some assembly or convention at a particular time; it may be found in the shape of a document that has altered in response to the requirements of the time and age; it may also be a bundle of separate laws assuming special sanctity of being the fundamental law of the land; or again, it may be that the bases of a constitution are fixed in one or few fundamental laws of the land, while the rest of it depends for its authority upon the force of the custom. A look at the constitutions of the countries of the world shows that for most of them the constitution "is a selection of the legal rules which govern the government of that country and which have been embodied in a document." However, Britain affords the peculiar case where the constitution is not in the form of a document; it is a growth and not a make. Bolingbroke thus said about the English constitution: "By constitution, we mean, whenever we speak with propriety and exactness, that assemblage of laws, institutions and customs, derived from certain fixed principles of reason... that compose the general system, according to which the community hath agreed to be governed."

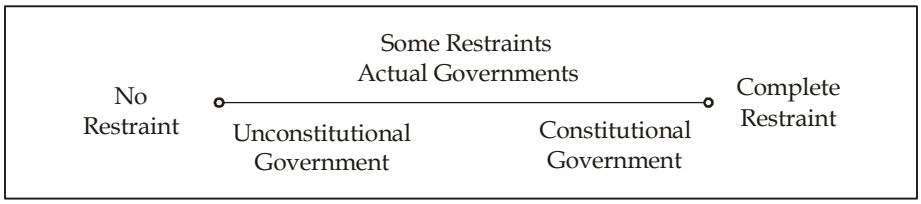
Whereas the constitution refers to a frame of political society organised through and by means of law and in which law has established permanent institutions with recognised functions and definite rights, a constitutional state "is one in which of the powers of the government, the rights of the governed and the relations between the two are, adjusted." According to Wheare, constitutional government "means something more than a government according to the terms of a Constitution. It means government according to rule as opposed to arbitrary government; it means government limited by the terms of a Constitution, not government limited only by the desires and capacities of those who exercise power."

From the above, it may be inferred that a constitutional government is one that operates within a universe of positive restraints. It is, however, a different matter that the degree of restraint may vary from one political system to another. That is, while one state may be constitutional by virtue of being set in a universe of more restraints, the other may be of the same category by virtue of being set in a universe of few restraints. The charge of being 'unconstitutional' can be levelled against a state only if it has 'no restraints' as specified by Friedrich in his paradigm:

It is, therefore, clear that, like all true functional concepts, the notion of constitutional government is essentially descriptive of two poles: very strong restraint and very weak restraint. Between these two poles, all actual governments can be ranged. Carl Friedrich, however, makes it very clear that the case of an unconstitutional state can be conceived in mere theoretical terms as every state of the world has a constitution of its own that places restraints to some degree at least. As he shows in his paradigm and says: "The unreal limits are 'complete restraint' and 'no restraint'." "Moreover, constitutionalism" as Blondel says, "is clearly a dimension: it is an oversimplification to classify regimes as 'constitutional' or 'non-constitutional', as it is an over-simplification to classify them as 'liberal' or 'authoritarian'. Dichotomies may be useful in practice, but a general theory of constitutionalism must take into account the fact that the regimes stretch along a continuum ranging from complete authoritarianism to full liberalism and that a replica of this continuum is provided by an axis stretching from 'full constitutional government' to 'pure non-constitutional rule.'

Notes

Friedrich's Paradigm



Constitutionalism, in this way, desires a political order in which the powers of the government are limited. It is another name for the concept of a limited, and for this reason, a 'civilised' government. The real justification of the constitution finds place in having a "limited government" and of requiring those who govern "to conform to laws and rules." We are required to see how the constitution of a state works in actual practice and whether usages and conventions operate to strengthen or weaken the machinery of the constitutional arrangement. We may find that, apart from those limitations that have their place in the provisions of the constitution, there are well-established customs and norms that have their own effect for the same purpose. Keeping such empirical facts in mind, one may say that there exists no government in the world that may not be called constitutional, though he may also say that such a government hardly exists in a country binder a totalitarian rule where the constitution is seen with 'contempt'. For this reason, it is only in a democratic country that constitutional government can be said to exist.

Development of Constitutionalism: An Historical Process of the Rise of Constitutional State

The rise of a constitutional state is essentially an historical process whose chief material is contained in the history of political institutions coupled with the history of western political ideas right from ancient to modern times.

Rome and thereafter they witnessed their rise and growth in the middle and modern ages. Side by side, reference should be made to the ideas of great political thinkers who either drew stimulus from the development of political institutions, or who thought in terms of having a particular form of polity under the ideal or obtainable conditions. The movement is still going on with a view to seek the improvement of political institutions in the direction of having a legitimate constitutional order. We may study the history of the development of constitutionalism under these heads:


Notes

The history of the development of constitutionalism is thus a history of the growth of political institutions that had their first important manifestation in the soils of ancient Greece.

Greek Constitutionalism: They had city-state system in which the benefits of citizenship were open to the freemen only. Most of the city-states had a direct democratic system, though Sparta was under the rule of military junta. The Greeks, however, had a peculiar notion about the state and the role of the people (citizens) therein. As Strong says: "A Greek citizen was actually and in person a soldier, a judge and a member of the governing assembly...The state to the Greek was his whole scheme of association, a city where in all his needs, material and spiritual, were satisfied..." The Greek philosophers like Plato and Aristotle, however, studied the case of political institutions from an ethical point of view with the result that the political constitutionalism became a handmaid of normative and moral notions. The ideal state of Plato under the al powerful rule of a non-corrupt and incorruptible philosopher-king looked like a ' utopia', while the best practicable state of Aristotle having 'polity' signified a type of middle-class rule "striking a balance between the unrealisable, or at least transitory, best and the intolerable worst." It is true that while Plato

Notes

thought in terms of the ideal state of a superman and Aristotle in terms of a best practicable state under the super-science of law, both failed to look beyond the horizon of a city-state with the result that Greek constitutionalism failed to move with the pace of the changing conditions of history. As Barker says: "Neither the enlightened monarchy which Plato had suggested, nor the mediating middle class on which Aristotle set his hopes could avail to set the city-state; and to be rescued from itself it had to lose its cherished independence."



Did u know? The Greeks occupy the first place in this direction who had 'political separatism' as a marked characteristic of their life.

Roman Constitutionalism: A great change occurred after the eclipse of the city-state system and the establishment of a great empire under the Romans. The intellectual life became more diffuse and driven into different channels. Men retreated with themselves; ethics became independent of politics; society and state ceased to be equivalent terms and the individual, apart from the state, became the chief object of contemplation. C.H. Mcllwain, thus, observes that there "was gradually emerging an individual who was something more than a citizen, a society that was wider than any possible political unit and a humanity more extended than any single race; individualism and cosmopolitanism are the most marked of the newer aspects of political philosophy." The imperial rulers of Rome evolved their constitution as a determinate instrument of government—"a mass of precedents, carried in men's memories or recorded in writing, of dicta of lawyers or statesmen, of customs, of usages, understandings and beliefs, upon the methods of government, together with a number of statutes." With the termination of monarchy about 500 B.C., there emerged the Republic that had a 'mixed,' constitution. The offices of the Consuls (of whom two were elected annually each with a right to veto another) represented the monarchical element of the terminated system; the Senate (a small body with vast legislative powers) represented the aristocratic element; the democratic element existed in the meetings of the people in three sorts of conventions according to the division of land or people (curies, centuries or tribes). It is a different thing that, in course of time, the era of irresponsible autocracy came to prevail in Rome when the office of the Emperor was revived. Despite this, Roman constitutionalism made certain important contributions to the development of this concept. They codified their law and laid down the principle of representative government that came to be the most celebrated principles of constitutionalism. The two-pronged conception of the legal sovereignty of the Emperor—that his pleasure had the force of law and that his powers were ultimately derived from the people—persisted for many centuries and influenced throughout the medieval period the views on the relations between the rulers and the ruled.

Medieval Constitutionalism: A great change took place after disintegration of the Roman Empire in the fifth century A.D. and its substitution by the establishment of a number of feudal states. The Teutons brought with them certain new ideas as the personality of law based on the force of folk customs that bound the authority of the king. The invasions of the barbarians caused the emergence of a haphazard political and economic set up in which the old nomadic relationship informed the formation and character of the society and political institutions. The state of incessant warfare finally gave way to innumerable scattered political and economic 'sovereignties' not on a national and territorial but on local levels due to which Europe "became a dismal swamp of individual feudal allegiances." The era of feudalism represented a phase of transition, decentralisation, and disintegration. From the political point of view, it exhibited an age of 'statelessness' since every lord could conduct warfares or regulate commerce, or coin currency, or discharge judicial responsibilities. From an economic point of view, it "meant a state of society in which all or a great part of public rights and duties are inextricably interwoven with the tenure of land, in which the whole governmental system—financial, military, judicial—is part of the law of private property."

Curiously, universalism came to be the keynote of this era of transition, decentralisation and disintegration as a result of the spread of the religion of Christianity. With the conversion of more and more people to the new religion, 'Christendom' came into being and Biblical law took the

Notes

place of Roman law. A happy synthesis occurred between the Roman and Teutonic ideas and practices. For instance, the Roman conception that the people were the ultimate source of the royal authority and the practice of the barbarian tribes that the king was under the law of the folk happily coincided. The coronation ceremony in the presence of the chiefs and nobles coupled with the swearing in ceremony of the king became a clear indication of the fact that the monarch was the holder of temporal powers in the name of the ultimate authority of his people. These events led to the growth of democratic constitutionalism.

However, what retarded the pace was the domination of the church. Political thinkers followed the trend set by St. Augustine and St. Thomas in making secular authority subservient to the authority of the church that signified the rule of the bishop over the authority of the monarch and of the Pope over all secular and religious heads of the Christian world. This baleful state of affairs could not be remedied until, after a period of about 800 years, the national monarchs raised their heads to overthrow the discredited hold of the Papacy. The trend of nationalism reared its head particularly in France, England and Spain that witnessed the emergence of the 'actual germs of the modern constitutional state', for in these countries, practical politics "outstrode the legal theories and the ghost of the Holy Roman Empire was irrevocably laid."

Constitutionalism during Renaissance Period: The medieval world came to an end 'with the pestilence of the Black Death of the Fourteenth century.' The renaissance marked the re-emergence of a humanistic and scientific outlook. It indicated that the European people had developed a new consciousness of life and a new sense of liberty. Achievements in the fields of arts, literature and science threw off medieval forms and looked for new values. Inspiration was derived from the models of the classical world. Along with the renaissance, another movement that brought the Middle Ages to an end was the Reformation that destroyed the medieval concept of universalism and scholasticism and supplemented the work of each other by creating modern secular and sovereign national states. The general effect "was at once one of atomisation and one of integration: it atomised the medieval world but integrated individual states." However, one thing that still retarded the pace of a constitutional state was the emergence of absolute monarchy. The unassailable position, of a single Pope was taken over by a number of despotic rulers that forced the people to take the matter to the revolution for a final settlement.

Machiavell's *Prince* and Bodin's *Six Books on the Republic* became the chief sources of attraction. The result was that after the decline of the Papacy, absolute monarchical rules were established in England, France, Italy, Spain and Prussia. For this reason, it is commented that the Renaissance state "was not truly a constitutional, much less a democratic, State."

Constitutionalism in England: Britain occupies the most significant place in the development of constitutionalism. The age of Tudor Despotism ended with the 'golden age' of Queen Elizabeth. The Stuart monarchs had to face the opposition of the people. The civil war of 1640–48 was conducted on the issue as to who was supreme — the law (*lex*) or the king (*rex*). The defeat of the king and the victory of the people confirmed the sovereignty of the people. What remained undone in the civil war was accomplished in the Glorious Revolution of 1688 that laid the foundations of the sovereignty of the Parliament. The movement for the democratisation of the system continued with the result that the great Reform Acts were passed in 1832, 1867 and 1884 that, enfranchised more and more people. The Parliament Act of 1911 crippled the House of Lords and its amendment of 1949 further reduced the area of authority of the House in matters of passing a non-money bill. The rise of two political parties had its own contribution to the development of constitutionalism in this country. It made the functioning of the parliamentary government a possibility.

As a result of all these developments, the sovereign stands removed from the area of political authority; the power is exercised by the ministers accountable to the Parliament; and that all citizens of the country, irrespective of their social and political position, enjoy the boons of liberty and equality, what Dicey calls the 'rule of law'. What is of special importance in this regard is that English constitutionalism has supplied a "continuity of life to liberal institutions through many centuries when elsewhere they were dead or had never lived, permitted the growth of its own institutions among those communities in all parts of the world of which England herself was the mother and supplied the pattern of a constitution when the moment came for any newly-liberated community to found one."

Notes

Constitutionalism in France: France could not remain immune from the influence of modern constitutionalism. The voice of Rousseau's *Social Contract* that 'man is born free, he is everywhere in chains' had its clear echo in the Declaration of the Rights of Man and Citizen adopted by the National Assembly in 1789 that said: "Men are born free and equal in rights... The aim of every political association is the preservation of the practical and imprescriptible rights of man." The Constitution of 1791 based on the ideals enshrined in the Declaration could not last as the legislative assembly that was created under this instrument of government failed to arrest the state of anarchy in which the country was caught up.

Moreover, what acted as a great impediment in the way of a well-established constitutional government was the emergence of Napoleonic dictatorship. The monarchy that was terminated in 1789 had its revival in 1799 that continued till the 'total' defeat of the Emperor in 1815. The country witnessed the rise and fall of several unstable monarchs until the Third Republic was created in 1875. It had a parliamentary government, a constitutional President and a responsible ministry. It continued till it was shattered by the Second World War in 1940. The Fourth Republic came into being in 1946 with the parliamentary system of government, a constitutional President and a responsible executive. Since the government of France failed to check the rise and growth of revolutionary conditions in its colony of Algeria, a new Constitution came into force in 1958 that marked the establishment of the Fifth Republic under Charles de Gaulle. The new arrangement provides for a strong President and a weak Prime Minister with a weaker Parliament. It may be termed quasi-presidential or quasi-parliamentary. However, keeping in view the very strong position of the President, it has also been called a 'monarchist constitution'. The contribution of France in this regard should be discovered in the fact that here we find the first example of a constitution frankly based on the ideals of 'liberty, equality and fraternity.'

Constitutionalism in America: The spirit of the *Social Contract* of Rousseau had its echo in the United States also where the Declaration of Independence of 1776 categorically stated that "all men are created equal: that they are endowed by their Creator with certain unalienable rights that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form or government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundations on such principles, and organising its powers in such form, as to them shall seem most likely to affect their safety and happiness."

Guided by these ideals, the Founding Fathers of the American republic established a form of federal government based on the principles of separation of powers as so elaborately presented by a French thinker (Montesquieu) and supplemented it with the principle of checks and balances as evolved by them. The result was that America came to have a government with executive, legislative and judicial powers vested respectively in the President, the Congress and the Supreme Court.

The three organs of American government are separated from each other and, at the same time, they check each other so that the balance may be maintained. Thus, all appointments and foreign treaties made by the President must be ratified by the Senate; the Congress may remove the President by the process of impeachment; and the Courts can invalidate any order or decree issued by the President in case it goes beyond the constitution or is against the due process of law. Likewise, the Congress cannot make a law that violates the letter and spirit of the Constitution. A bill passed by the Congress requires the assent of the President and the Courts may invalidate it if they find that the impugned law is against the constitution or the due process of law. Finally, the Courts are checked by the authority of the President and the Congress. The Congress may pass a law to enhance the jurisdiction of the Courts, or the number of the judges and their emoluments and may also remove a judge by the process of impeachment. The judges of the Supreme Court and other federal courts are nominated by the President and the Chief Justice acts under an oath of office that is administered to him by the President.

In this way, the American constitution has materialised the maxim that 'power cuts power' or that 'power checks power'. The result of all these constitutional arrangements has come to be that democracy in America "rests upon the expectation that lawful conduct is the standard to which both governments and men will conform." The most outstanding feature of the development of

Notes

constitutionalism is that here in we find the "true beginning of modern documentary constitutionalism."

Constitutionalism after the First World War: The period following the first Great War came as an era of great surprise since, instead of bringing about a rich harvest of constitutionalism after the termination of hostilities in a world that could be made 'safe for democracy', it witnessed serious authoritarian reactions against the process of constitutionalism hitherto set in the direction of representative and responsible government. The emergence of communism in Russia, Fascism in Italy and Nazism in Germany can be cited as the concrete instances in this regard. The new constitutional devices adopted in these countries contained two elements that distinguished them from a constitutional state hitherto known—political dictatorship through the dominance of a single party to the exclusion of all others and a totalitarian system that used the political machine to control and direct every aspect of economic, social and even religious life. However, one remarkable aspect of the post-First War period was the establishment of the first international organisation called the League of Nations that aimed, by constitutional means, at preventing or peacefully settling conflicts between the sovereign states. It marked a new and unprecedented stage in the development of constitutionalism. Constitutionalism, thus, came to have one more attribute called internationalism.

Constitutionalism after the Second World War: While the dictatorships of Italy, Germany and Japan were destroyed in the second Great War, the model of the Soviet Union survived that now witnessed its proliferation in other countries of the world. As a result, a new model of constitutionalism came to have its place that may be found in all the communist countries of the world. A good number of countries became free that sought to adopt the English or American models or a peculiar combination of the two. For instance, while India adopted the Westminster model in 1950, Pakistan switched over to the American-model in 1958 and then got back to the English model in 1972 subverted in 1977. The poor and backward countries of the Third World, called the developing countries, made several interesting experiments with constitution-making in order to have a constitutional state. The establishment of the United Nations at the debris of the League of Nations cemented the fact that constitutionalism not only stands for nationalism and democracy, it also includes the attribute of internationalism. So we take note of the fact that in the Japanese Constitution of 1946, renunciation of war has been specifically incorporated so as to confirm its character as a document of 'peace'. The Constitution of India includes a directive principle in its Part IV (Art. 51) saying that the State shall strive for a peaceful and secure international order, promote international law and justice and seek pacific settlement of international disputes.

A study of the theme of the development of constitutionalism, as contained above, leaves certain important impressions.

1. Constitutionalism signifies 'addiction to constitutions or the fundamental law'. That is, it desires that every state should be governed by means of a constitution that may be taken as a clear proof of the fact that the rule of law and not that of man is the prime necessity of a civilised political order.
2. Constitutionalism, in course of time, has come to have three essential attributes—nationalism, democracy and self-government. We have neither city-states of the ancient model nor an empire of the medieval form but sovereign nation-states. Then, every state is committed to the ideal of a democratic form. Thus, constitutionalism desires that power should be with the people and that all changes should be effected in a peaceful and lawful manner.
3. Internationalism requires that every state must subscribe to the principle of a super-world federation in which each state is a member and it has to keep faith in the principles of the charter of this international organisation.
4. Since modern state is a social welfare state, it is also needed that the constitution of a state must be such that the idea of social and economic welfare of the people be realised so as to ensure an equitable social, economic and political order.

Notes

5. In a country with diverse religions, cultures, languages and ways of life, constitutionalism enjoins the adoption of a federal system in consonance with the urges and aspirations of the people and exigencies of the prevailing conditions.
6. Serions attention should be paid to incorporate provisions touching new themes like protection of human rights, preservation of a healthy environment, and observance of the norms of international law and morality.
7. Existing provisions of the constitution should be suitably amended, or new ones should be incorporated, so as to meet the requirements of the new trends of globalisation and liberalisation.


Task What do you mean by constitutional Government?

One thing is, however, certain that the idea of constitutionalism is still in an experimental stage and that it is under the stress of a severe challenge coming from the side of the communist model. Since modern state is a social welfare state, it is also needed that the constitution of a country must be such that the ideal of the socio-economic welfare of the people should be realised along with the realisation of the purpose of securing a stable political order. The ideal of national democratic constitutionalism, ancient though its origins may be, "is still in an experimental stage and that if it is to survive in competition with more revolutionary types of governments, we must be prepared constantly to adapt it to the ever-changing conditions of modern society. The basic purpose of a political constitution is, after all, the same wherever it appears: to secure social peace and progress, safeguard individual rights and promote national well-being."

3.5 Liberal and Marxist Notions

Constitutionalism, as already stated, stands for a system having division of powers and an arrangement of checks and balances so that the government remains responsible; it also desires that the system be provided with adequate techniques and procedures that can bring about a systematic and orderly change. It does not stand for a particular form of government, though it may be described as essential for a democratic polity in view of the fact that it limits the powers of the government and seeks to check the 'abuse of power'. One may hardly agree with this interpretation that constitutionalism is against any form of centralisation of powers where in there is no harmony between the authority of the state and the liberty of the individuals. Such an interpretation refutes the case of constitutionalism in a country having a fascist or communist model of government. A look at the views of eminent writers on this subject shows that there are two varying concepts given by the 'liberal' scholars on the one hand and by the 'socialist' writers on the other, though we may also refer to the case of the concept of constitutionalism in the 'developing' countries of the world.

Liberal Concept of Constitutionalism: Western writers like Thomas Paine, Alexis de Tocqueville, James Bryce, Harold J. Laski, Herman Finer, Charles H. Mcllwain, C.F. Strong, Carl J. Friedrich and a host of others have taken the view that constitutionalism is both an end and a means; it is both value-free and value-laden; it has both normative and empirical dimensions. The provisions of the constitution not only provide for the composition of various organs of the government and the powers entrusted to them, they also attach sanctity to the norms of liberty, equality, justice, rights, etc. For instance, the Constitution of India in its Preamble enshines the ideals of Justice, Liberty, Equality and Fraternity. According to this view, the constitution is not only an end that ought to be respected by all, it is also a means to an end, the being the achievement of security and the protection of liberty of the people.

The western concept of constitutionalism stands for a constitution that is either in the form of a document, or it is like an assemblage of numerous laws, institutions and customs. The 'rigid' view of some scholars like Thomas Paine and A. de Tocqueville that there 'exists no constitution in

Notes

England' is hardly convincing in view of the fact that a constitution may not necessarily be in the form of a specific 'document' made at a particular time of history. The rules may either be written, or they may exist in the form of conventions of the constitution and both of them may have the same force of application. What makes a constitution, therefore, is the actual observance of recognised principles relating to the government of a country. James Bryce has rightly added that such principles do exist in England in the form of a host of conventions, usages, judicial decisions, etc. that have acquired general acceptance together with a number of formal charters and statutes. It is for this reason that we find uniqueness in the character of the English constitution. As Neumann says: "What makes the English constitution so unique is the uncommonly large number of its rules which are based solely on conventions and the fact that no act has a higher degree of authority than a simple act of Parliament."

Whether the constitution is in the form of a document made at a particular time of history as the American constitution was made by the "Philadelphia Convention in 1787, or it is in the form of numerous laws, institutions, and conventions as in the case of the English constitution, the western concept of constitutionalism lays emphasis on this point that the basic laws of the land should be such that difference between the government of the people and the constitution of the state is discernible. The constitution is more important than the government. It makes adequate arrangement for the establishment and maintenance of restraints so that the areas of a civilised government are well preserved. These restraints may be embodied in the legal framework, they may also be in the form of informal arrangements. What is really needed is that the restraints must be effective so that the government remains limited and also committed to realise the ideals of the constitution. The problem of effectiveness "involves a factual situation and an evaluation and existential judgment of that situation. If no one has 'absolute' power, if in actual fact there exists no sovereign who holds unrestrained power in a given community, then the restraints may be said to be effective."

The western or liberal concept of constitutionalism desires a 'constitutional state' that has a well-acknowledged body of laws and conventions for the operation of a limited government. It has a legislature, an executive, and a judiciary all required to work within the prescribed framework by following the defined procedure. If there is a change, it should be peaceful and orderly so that the political system is not subjected to violent stresses and strains. There is the rule of law ensuring liberty and equality to all; there is the freedom of the press to act as the 'fourth estate'; there is a plural society having freedom for all interests to seek the 'corridors of power'; there is a system that strives to promote international peace, security and justice. Thus viewed, constitutionalism becomes 'an addiction' to the existence and operation of a democratic political system that is fundamentally different from those systems where constitution "is treated with neglect or contempt.

Marxist Concept of Constitutionalism

Different from this is the case of the Marxist concept of constitutionalism. In a'socialist' country, the constitution is not an end in itself, it is just a means to implement the ideology of 'scientific socialism'. It is a tool in the hands of the 'dictatorship of the proletariat' that seeks establish a classless society that would eventually turn into a stateless condition of life. The purpose of having the constitution is not to limit the powers of the government but to make them so vast and comprehensive that the ideal of "workers' state" is realised and 'a new type of state' comes into being. The real aim of the constitution in such a country is not to ensure liberty and equality, rights and justice for all but to see that the enemies of socialism are destroyed and the new system is firmly consolidated. In this way, the real aim of the constitution is "to firmly anchor the new socialist discipline among the working people."

The socialist concept of constitutionalism is based on the principles of the particular ideology of Marxism-Leninism according to which the state is viewed as a class institution whose *raison d'etre* is to act as an instrument of exploitation and oppression by one class over another. If the bourgeois class makes use of this instrument to perpetuate its rule of exploitation and oppression over the working class, the proletariat will make use of the same instrument for the purpose of liquidating the enemies of socialism and all counter-revolutionary forces. Thus, not the constitution of the state but the policy of the Communist Party is supreme. Without concealing his mind, Stalin once

Notes

frankly asserted: "No important political or organisational problem is ever decided by our Soviets and other mass organisations without directives from the Party." The Communist Party is the 'vanguard of the working class' and it is the party that has to see that the gains of the revolution are firmly consolidated. Hence, after the victory of socialism, there "can be no juxtaposition of public and private rights and interests in the Soviet society. The interests of the state, society and personality are synthesised in a new unity. Hence, all branches of law are part and parcel of the same uniform law — Soviet law."

As in the former Soviet Union so in the People's Republic of China, the constitution is a sort of mainfesto, a confession of faith, a statement of ideals that, as Wheare says, makes 'excursions into political theory'. Though a brief document, it lays down in detail the political, economic and social objectives of the regime. It deals not only with the present 'that which actually exists'; it also deals with the future and that which has yet to be achieved'. The constitution clearly states the determination of the country "to ensure the gradual abolition of systems of exploitation and the building of a socialist society." It is, therefore, clear that like the *Common Programme*, the Mao Constitution (1954) "is an important political manifesto announcing the basic principles of state power, military organisation, economic, cultural and educational policy, and foreign policy."

It may well be discerned as to how different is the concept of constitutionalism when we examine the case of a communist country. The Marxist writers not only eulogise their concept of constitutionalism, they also denigrate the western concept as basically misleading. To them parliamentary democracy is a sham as it is another name for the oppressive and exploitative model of the bourgeois order. The model of 'western government' suits the interests of the class of the exploiters and the oppressors. As Lenin writes: "At each step in the most democratic bourgeois state, the oppressed masses encounter a lamentable contradiction between the formal equality proclaimed by capitalist democracy and the thousands of factual limitations and complications making hired slaves of the proletarians." Fundamentally different from this, the Soviets were the councils of the workers endowed with the aim to draw the whole of the poor into the practical work of administration. It was a power that was open to all, that did everything in the sight of the masses, that was accessible to the masses, that sprang directly from the masses. The Marxist concept of constitutionalism, thus, stood for the system of the Soviets wherein "is realised the universal participation of the working people, one and all, in the management of the state."

Concept of Constitutionalism in Developing Countries: It is very difficult to suggest the precise features of the concept of constitutionalism in poor and backward countries of the Afro-Asian world that have recently emerged as sovereign nation-states and are struggling hard for achieving the ideal of a social welfare state. It appears that they are torn between the poles of imitating the system of some European country under which they remained for a sufficiently long period of colonial domination on the one hand and going for a better and more workable system having much of the indigenous elements coupled with something of the 'socialist' systems of the world on the other. It is also found that several developing countries are experimenting with the imported constitutional arrangements and trying to establish a synthesis between the ideals of the liberal-democratic constitutional state on the one side and the demands and aspirations of the local people on the other. It is for this reason that countries like Pakistan and Bangladesh can be seen involved in alternating from parliamentary to presidential systems and *vice versa*. It can also be found that the failure of the constitutional state has led to the collapse of the popular system and its replacement by a system of military rule that should be regarded as the breakdown of constitutionalism in most of the countries of the Third World like Egypt, Iraq, Iran, Turkey, Sudan, Afghanistan, Pakistan, Myanmar, Bangladesh, Indonesia and Thailand.

The case of constitutionalism in developing countries may, however, be said to have some broad features: First, some countries like India and Sri Lanka have been able to incorporate the values of a western constitutional state, though the ideals like those of liberty, equality and justice have been suitably tempered with the requirements of a social and economic welfare of the society. Second, some countries like Ghana, Tanzania, Uganda, Pakistan, etc. have not yet been able to choose the correct options and they still feel that the western concept of constitutionalism may not serve their real purpose, though they have not yet reached the stage of losing their faith altogether

Notes

in this concept so far. Third, a definite shift towards imbibing the values of a socialist concept are definitely visible to solve the pressing problems of a nascent social welfare state. It is for this reason that essential liberties of the people have been suitably curbed in countries like South Africa and Afghanistan. As a matter of fact, many developing countries are faced with a grim challenge, something that was felt by President Lincoln when he said: "Must a government, of necessity, be too strong for the liberties of its own people, or too weak to maintain its own existence."

Problems and Prospects of Constitutionalism

Mention, at this stage, must be made of the forces that work against the operation of a constitutional government and whose results shake our faith in the concept of constitutionalism as an addiction to the establishment of a democratic political order. Three factors may be discussed in this regard:

war, emergency and socio-economic degeneration. It is in the war time when the government claims absolute power and in the name of defending the realm from foreign aggression goes to the final extent of crushing the essential liberties of the people. The government undertakes several measures like compulsory conscription, military training, nationalisation of major industries, censorship of the press, etc. for the sake of defending the country. It appears that the framework of a constitutional government is subverted during war times. Such a statement may and may not be correct depending upon the nature of the case. Thus, whereas a constitutional government had its total doom in countries like Italy, Germany and Japan during the days of the Second World War, it could not have the same fate in other countries like France and Britain. A return to the normal constitutional government occurred after the termination of hostilities.

A constitution may incorporate a particular clause saying that the powers of the government shall be unlimited during the days of war or armed rebellion as we may see in the case of the Irish constitution. It, however, depends upon the nature of the case whether such a categorical provision goes against the very spirit of constitutionalism or not. It is said that the emergency powers of the President, as given in the Indian constitution, look like a replica of the Weimer constitution wherein the seeds of future totalitarianism were embedded. One may well disagree with such a rash judgment and endorse the sane observation of Wheare: "The extent to which constitutional government has been suspended in time of war varies a great deal. It need not be assumed that war means the destruction of constitutional government in every case. Yet it is certain to put a strain upon it and it usually suspends it in some degree."

Allied with this is the second factor of emergency. The suspension of the constitutional government is justified if there are the conditions of national emergency. It was under these conditions that President Lincoln went to the unprecedented extent of using troops to crush the revolt of the southern States of the American Union that had raised their heads in opposition to his mission of banishing slavery. The British government took several important measures to meet the conditions of emergency during the days of the first and second world wars. American President Roosevelt went to the length of having 'New Deal' legislation in the 1930's to face the conditions of great depression. The Government of India had made several important arrangements after the proclamation of national emergency in 1975 that were dubbed by its critics as the 'murder of democracy'. What we have said above applies here also. It depends upon the nature of the case whether conditions of emergency entail the doom of the constitutional government or not. Thus, while countries like the United States and Britain returned to the era of a limited government after the termination of the conditions of emergency, others like Italy, Germany and Japan took the matter to a point that their 'constitutional governments' had a quite inglorious end.

Finally, there is the factor of the social and economic distress. Eradication of the conditions of starvation, famine, illiteracy, disease, poverty, squalor, prestilence, etc. requires discretionary action of the state. The government is called for to take immediate and drastic action to alleviate the sufferings of the people. What the Government of India has been doing since the inauguration of the five year plans can be cited as a clear instance in this direction. We may once again reiterate the same point that the outstretched authority of the government to alleviate the conditions of social and economic distress may, and may not, entail the destruction of the constitutional government.

Notes

It depends upon the sagacity and wisdom of the men in power that by extending the area of their discretionary authority they may save the country from the challenge of social and economic disintegration, or they may push it to the most disastrous consequences. Wheare rightly suggests that conditions of national emergency or socio-economic distress "lead to the suspension of the ordinary limitations upon government in order to permit swift and effective action. Crisis or emergency government can seldom be constitutional government: peace and prosperity are in truth strong allies of constitutional government. Their prospects are its prospects."

Latest Perspective

A pertinent question arises as to how these serious problems should be dealt with. Or, what should be the outlook for constitutionalism in the present age of globalisation, liberalisation and demoeratisation.

The attribute of nationalism occupies the first place in view of the fact that the modern constitutional state is necessarily a nationalist organisation. The constitutionalism should recognise the principle of national self determination. We may quote several instances to show that the edifice of a constitutional state was shattered by the forces of nationalism that raised their heads and ultimately caused the disintegration of the constitutional state. The emergence of the republic of Bangladesh may be cited as an intance of the same fact. The Soviet constitution had given the right to every nationality to secede from the Union that had made the federation analogous to a confederation. It may be feared that certain minorities may take undue advantage of claiming autonomy as we find in the case of the French community in the province of Quebec in Canada or of rebel Nagas and Mizos in the north eastern region of India. Such movements may create serious problems for the government. However, the solution to all such difficulties and problems lies in the successful realisation of the ideal of national integration.

The new trend must be taken note of that the concept of nation-state with the attribute of sovereignty has been steadily in the process of erosion for the last many years. Nationalism is being imperceptibly supreseded by trans-nationalism the example of which may be seen in the successful working of the European Union. The member-states of this trans-national organisation have made necessary adjustments so as to harmonise their political institutions with the constitutional set up of the European Union. The British Parliament is no longer a sovereign body as taken by A.V. Dicey in 1885. A member-state of such a trans-national organisation is no longer the exclusive locus of power within its own territorial boundaries. Its powers are limited, and so the powers of the Union are limited in relation to the individual member-states. It is specifically given in the Maastricht Treaty of 1992 that every person holding the nationality of a member-state shall be a citizen of the European Union. The case of the Association of South-East Asian Nations may also be counted in this regard. The operation of such supra-regional organisations is certainly adding a new dimension to the case of constitutionalism.

Though constitutionalism does not strictly stand for a representative and responsible government as conceived by the liberals, it nevertheless attaches prime significance to a rule that is opposed to a totalitarian government. "If constitutional government is limited government, it follows that one of its enemies is absolutism of any kind. Any body of opinion and any organised movement which aims at establishing omnipotent government is clearly a force opposed to constitutional government." The provisions of the constitution must, for this reason, pertain to a democratic model, though the degree of demoeratisation may vary from one country to another as per obtaining social, economic and political conditions.

It should also be kept in view that the idea of constitutionalism that had an aristocratic nature at the outset has now come to assume a democratic character. Achievements made during the days of the Jacksonian presidency in the United States, the democratisation of franchise in England and civil war in France all covering the middle portion of the nineteenth century—have brought about a basic change in the concept of constitutionalism. The result is that if nationalism is one essential attribute of constitutionalism, democracy is another. The fears of totalitarianism should be dispelled by the provisions of more and more democracy. The constitution must provide room for essential freedoms of the people, safeguards for the rights of the minorities, protection of the legitimate

Notes

social and economic rights of the people, guarantee of freedom for the channels of mass communication and the like. We should understand the significance of this motto that the best way to defend freedom is to have it and to struggle for it.

A new definition of the term constitutionalism should be thus furnished that it "embodies the simple proposition that the government is a set of activities organised by and operated on behalf of the people, but subject to a series of restraints which attempt to ensure that the power which is needed for such governance is not abused by those who are called upon to do the governing. There is no apparent reason why a greater or lesser amount of such governmental activities should be incompatible with effective restraints provided the concentration of power in one group or man is guarded against."

A very ticklish problem has been created by the philosophy and practice of socialism that has contributed to the modification of the meaning of constitutionalism. We may agree with the observations of 'western' writers that the ideology of scientific socialism as contained in the works of Marx, Lenin, Stalin, Mao and others refutes the very essence of constitutionalism, since it combines an advocacy of force and violence during the revolutionary and post-revolutionary periods and "a ready acceptance of the dictatorship of the working class with a vague and anarchical type of democracy after all classes except the labour class have been destroyed." Opposed to this is the interpretation of democratic socialism that takes the state as a 'welfare agency' whereby it (state) is treated as a great balancer of different interests and classes of society.

This is the age of nationalism, democracy and socialism. Hence, the concept of constitutionalism must imbibe the ideals of all the three. If English constitutionalism can accommodate the philosophy and practice of Fabianism, or if the constitution of China can accommodate the thought of Socialism with Chinese characteristics, or if the Indian Constitution can be successfully run by those irrevocably wedded to realise the ideal of a socialist pattern of society or to establish a socialist cooperative commonwealth, it can be easily suggested that constitutionalism "is combinable with a considerable variety of economic patterns. Constitutionalism rests upon a balance of classes in society. But this balance is not a hard and fast one, it is an equipoise of mechanical weights, but rather a moving equilibrium of a kaleidoscopic combination of interests. The government, through the parties, operates as a balancer of these combinations."

The outlook for constitutionalism must recognise the significance of the concept of federalism as well that desires a new interpretation of the idea of sovereignty in the national and international spheres. It is the device of federalism that can realise the ideal of 'unity in diversity'. It is this device alone that can bring about a happy reconciliation between local and regional, or regional and national interests in a way so as to strengthen the very framework of the constitutional state. Examples should be cited of the United States, Switzerland, Canada and South Africa to show how the problems of a multi-national constitutional state have been solved by adopting the device of federalism. Even a unitary state adopts the policy of 'devolution' of powers to have a well-ordered constitutional system as we find in the cases of Britain and France. What has happened to the astonishment of all, in this direction, is that a modern federal state, though based on the principle of division of powers, has struck a good balance between the principle of the distribution of powers and their concentration in the hands of the national government. May has, therefore, observed that a federal system "falls somewhere between a unitary government and a loose association of sovereign states."

Not a mere territorial division of powers but a functional division also can make the device of federalism more meaningful. A federal plan should be devised so that the society, apart from being a federation of territorial units is also a federation of all kinds of associations in which all people "do in practice express themselves far more freely than they do through the normal political organisation. It implies the establishment of semi-sovereign bodies with definite rights within the sphere of their action corresponding to such rights at present enjoyed by the federating units in such federations as the United States and the Commonwealth of Australia, the difference being that they would have no political but economic, religious or social functions. The state would, of course, remain, as it is bound to remain, to coordinate these new parts and maintain order among them. But in this case the state becomes an association of interests which every citizen can appreciate.

Notes

"Sovereignty then begins to assume a new guise; it becomes instead a fixed legal idea, a pliant tool for man's welfare. And once this is felt of it, there is hardly any limit to the possibilities of constitutional development, whether national or international."

Then, we may take up the factor of internationalism. Modern constitutionalism is confronted with the issue of how to reconcile the framework and operation of a constitutional state with the requirements of a new international order. The constitution of a state should be such that recognises the ideals of international law and justice, renunciation of the policies and programmes of war or irrational protectionism, observance of the decisions of the international organisation and the like. As already pointed out, the constitution of Japan has done a great thing by incorporating a specific clause (Art. 9) speaking of the renunciation of war as an instrument of national policy. The Indian constitution goes a step ahead by incorporating a directive principle in its Part IV (Art. 51) that says that the state shall strive to promote international peace and security, foster respect for international law and treaty obligations and encourage settlement of international disputes by peaceful means.

No right-thinking person can deny that some kind of world authority is the only alternative to international anarchy that has produced two devastating wars and must, if not checked, end in such, rather a far bigger, holocaust entailing total destruction of the human race. It requires that the constitution of a state should be so devised that it does not act as an impediment to the growth of a better international order. A constitution desiring 'export of revolution' or propagation of an ideology of totalitarianism, or subscribing to the eulogy of wars and the like should be deemed as the very enemy of the idea of constitutionalism. We may once again invoke the device of federalism that can . serve our purpose in this regard very well. A constitutional state must subscribe to this idea that the ultimate objective is the 'establishment not of an international but of a supra-national authority to which the nations would sacrifice their external authority."

In addition, three more features may be enumerated which have come into limelight in the age of globalisation and liberalisation. These are related to the protection of human rights, prevention of environmental pollution, and observance of the principles of international law and morality. It is for this reason that the new constitutions of some countries like China, Russian Federation and South Africa have some provisions in this regard. Though a communist country, the Chinese constitution of 1982 has a set of general principles one of which says that the state 'shall give permission to foreign enterprises, whether individual or collective, to invest their money in this country and to enter into economic cooperation with Chinese entrepreneurs'. The constitution of the Russian Federation of 1993 has provisions for the protection of a healthy environment. It recognises the norms of sustainable development. The constitution of South Africa of 1996 honours the principles of international law. Hence, the state is enjoined to observe its international treaties and commitments.

Two important points arise to engage our attention at the end of this study from what we have discussed so far. First, an analysis of constitutionalism would be incomplete if it does not attempt to assess efforts made to combat the forces of totalitarianism that is its biggest enemy. Any movement in the direction of weakening the civil rights of the people in the name of the'reason of the state'is a challenge to the concept of constitutionalism that should be faced to revise the meaning of constitutionalism in the light of new and still newer conditions. We should look at the forces that have an essentially totalitarian character and yet they have a potential attraction for the people. Conditions should be generated in which the models of social arjd economic democracy are strengthened. Such a model of democracy "is not a miracle which comes to life at a particular moment and then continues to function automatically, but it is rather a political task upon which it is necessary to work continually."

Second, change is the law of nature that should be welcomed as it is inevitable. It calls for the revision of the old values and systems in the light of new hopes and aspirations of the people. We have seen that it is on account of this change that the content of constitutionalism took a turn from an aristocratic to a democratic side after the events of the middle phase of the last century and that socialism came to be added as one more attribute to it after those of nationalism and democracy. In other words, it signifies that the meaning of constitutionalism should not be given a rigid or

Notes

fixed form; it should be treated as a dynamic affair that changes with the emergence of new conditions, new challenges, new problems and new issues. And change "is not something to be feared and avoided, as Aristotle thought, but it is of the very warp and weft of modern constitutionalism."

Self-Assessment

1. Fill in the blanks:

(*i*) The post of president of the American Republic came as a result of the 22nd amendment of ..... .

(*ii*) Monarchy terminated around ..... .

(*iii*) The Great Reform Acts were passed in 1832, 1867 and ..... .

(*iv*) Philadelphia convention took place in ..... .

(*v*) The constitution of a state is defined as a body of ..... and ....., written as well as ..... .

3.6 Summary

- In simple terms, the constitution of a state may be defined as a body of rules and regulations, written as well as unwritten, whereby the government is organised and it functions.
- Thus, a constitution "may be said to be a collection of principles according to which the powers of the government, the rights of the governed, and the relations between the two are adjusted."
- The rules of a constitution may be in a written form, whether in detail or in brief, or most of them may be in the form of maxims, usages, precedents and customs, it is essential that these rules as a whole determine the organisation and working of the government of a state. It may be a deliberate creation on paper in the form of a single document prepared by some assembly or convention, or it may be in the form of a bundle of documents having authority of the law of the state the best example of which may be seen in the case of the English constitution.
- It is used to describe the whole system of the government of a country, the collection of rules which establish and regulate or govern the government. These rules are partly legal, in the sense, that the courts of law will recognise and apply them and partly non-legal or extra-legal, taking the form of usages, understandings, customs, or conventions which courts do not recognise as law but which are no less effective in regulating the government than the rules of law strictly called.
- Every constitution grows with the passage of time. It means that the rules of a constitution have a Darwinian character. James McIntosh and Sir Henry Maine recognise this fact when they hold that a constitution is not made, it grows. It well applied to the case of England where the constitution is an evolved instrument; it is a growth and not a make. But its first part does not apply to a country having an enacted constitution like the United States where the constitution is regarded both as a make and a growth.
- Every constitution has a procedure by which it can be amended in response to the needs of the time. The process may be very simple making the constitution an example of a flexible instrument (as in England), or it may be very difficult (as in USA and Switzerland), or a mixture of the two (as in India), it is certain that a constitution is changed from time to time by following the procedure laid down for that purpose.
- A new constitution certainly has new provisions, or it may restore some of the old provisions with necessary alterations. For instance, the new constitution of China (1982) restores the office of the Chairman (President) of the republic. In Pakistan the Ayub Constitution of 1962 established presidential form of government, but the Bhutto Constitution of 1977 restored the parliamentary system.

Notes

- Important legislation is another source of constitutional development. From time to time the legislature of a state makes laws as per requirements of the time. These laws effect some important changes.
- The British Parliament made a law in 1911 that crippled the powers of the House of Lords and made the House of Commons a really powerful chamber. The American Congress made a law in 1946 whereby the judges (whose tenure is not specified in the Constitution of 1787 and who, for this reason, enjoy a life term) may seek voluntary retirement after completing the age of 70 years or a service of 10 years.
- The head of the state issues orders, decrees and proclamations from time to time which make changes in the rules of the constitution. Sometimes, these changes override the written portions of the constitution.
- While the American constitution says that the Congress can make a declaration of war and peace, in actual practice we find that the President makes a declaration to this effect that is subsequently adopted by the Congress.
- In China the Standing Committee of the NPC has the power to issue a command in the form of a 'decree' that has the force of law and that may be approved by the National People's Congress in its session after some time.
- The American Supreme Court in the case of *Marbury v. Madison* (1803) ruled that the government had no power to issue an order that was violative of the Constitution of the United States.
- In India in the *Kesavanand Bharati Case* (1973) the Supreme Court has ruled that no amendment may be effected that is violative of the 'basic structure of the Constitution'. In 1982 the Canadian Supreme Court has ruled that the central government has the power to go ahead with the work of constitutional amendment as the provincial governments have the power to veto a bill of constitutional amendment after it is passed by the Parliament.'
- For instance, it is just a matter of English customary law that the Prime Minister must be the leader of the party commanding absolute majority in the House of Commons and that, he must tender his resignation if the House expresses its want of confidence in him.
- It is very seldom that the Senators oppose some nomination or some treaty. It is called 'Senatorial courtesy'.
- Macaulay's caution has a sense that if a constitution is not changed according to the needs of the time, it would lead to the outbreak of a serious revolt destroying the constitution itself. Hence, every constitution must provide some mechanism by which necessary changes maybe effected.
- The process of amending a constitution may be used as another basis on which they may be termed rigid and flexible constitutions.
- The constitution of a state may be a deliberate creation on paper formulated by some assembly or convention at a particular time; or it may be found in the shape of a document that itself is altered in response to the requirements of time and age; it may also be in the form of a bundle of separate and scattered laws assuming special sanctity by virtue of being the fundamental law of the land.
- A look at the constitutions of the world shows that, for most of them, the constitution "is the selection of the legal rules which govern the government of the country and which have been embodied in a document."
- Thus, while the English constitution is the best example of an evolved constitution, all other constitutions of the world belong to the category of an enacted constitution. The American constitution is the first great example of such a constitution made by the Philadelphia Convention in 1787.

Notes

- Documentary constitution or a constitution made by some assembly is quite specific and its being in a codified form is always a source of great convenience to the people. But the English people are proud of their constitution despite the fact that it is a sort of maze in which the wanderer is perplexed by unreality, by antiquarianism, and by constitutionalism.
- An unwritten constitution is one whose written provisions are very brief and most of the rules of the constitution exist in the form of usages and customs. The British constitution is the best example of an unwritten constitution.
- First, the Institutions of government are guided by conventions which are taken for granted, but not formulated, save occasionally by individuals. Second, the constitution was not framed deliberately by any formal body like a constituent assembly.
- A written constitution is one in which most of the provisions are embodied in a single formal written instrument or instruments. It is a work of conscious art and the result of a deliberate effort to lay down a body of fundamental principles under which a government shall be organised and conducted."
- A written constitution has its own merits. First, it is full of clarity and definiteness because the provisions are written in detail. Second, it has the quality of stability. Since the people know about the nature of contitutional provisions, they feel a sense of satisfaction. Third, since all important points are reduced to writing, the rights and liberties of the people are secure.
- A written constitution becomes a plaything in the hands of the lawyers and the courts. Different interpretations come up from time to time that unsettle the judicial thought of the country.
- It has the quality of elasticity and adaptability. Since, most of the rules are in an unwritten form, people may adapt them in response to the new conditions. Second, it is so dynamic that it prevents the chances of popular uprisings. Third, it is resilient with the result that it can absorb and also recover from shocks that may destroy a written constitution.
- A written constitution is generally preferred to an unwritten constitution.
- The difference between a written and unwritten constitution is one of degree and not of kind. Both constitutions are written, one in detail and the other in brief. But a deeper study shows that the distinction between the two is of a superficial nature.
- "The classification of constitutions into written and unwritten forms should therefore be discarded. The better distinction is that between countries which have a written constitution and those which have no written constitution."
- Here the process of amendment is quite difficult. A special procedure has to be followed to make a change in any rule of the constitution.
- The constitutions of USA, Switzerland, France and Australia fall in this category. Thus, Garner says that rigid constitutions are those which emanate from a different source, which legally stand over and above ordinary laws and which may be amended by a different process.
- A flexible constitution has its merits. First, it has the quality of adaptability. It may be easily changed as per the requirements of the time, particularly during the times of national and international crises.
- Politically indifferent or backward people would not be able to check their selfish leaders from changing the constitution just for the sake of some political gains.
- First, it inculcates the feelings of conservatism. It may fail to keep pace with the changing conditions of the country. Second, the element of inelasticity leads to the possibilities of frequent upheavals or revolts.

Notes

- The American constitution is notoriously rigid and yet it has been changed not only by the process of formal amendment (that is so cumbersome) but also by other sources like executive decrees, legislative measures, judicial decisions, and usages and customs. The American people proudly say that though they still have the constitution made by the Philadelphia Convention of 1787, it is not the same thing what was produced by their founding fathers.
- If the constitution of a state fails to be in consonance with the national temperament, it is bound to collapse the examples of which may be seen in the political developments of many countries of the Afro-Asian world. It means that an element of flexibility must invariably be accommodated into the fundamental law of the land.
- The units of local government do not enjoy autonomy under a unitary constitution as they live and work under the control of the central government, but the units or regional governments enjoy autonomy under a federal constitution in the sphere allotted to them by the constitution.
- The bill of constitutional amendments passed by 2/3 majority in the chambers of national legislature and it is subject to ratification by the majority of the legislatures of the units by similar majority as in the United States, or by the final verdict of the people given in a referendum as in France, or by both as in Switzerland.
- A unitary constitution makes the central government strong so that it may meet any critical situation, but it does not work well in a big country or where there is marked diversity in respect of religions, cultures, languages and ways of life of the people.
- The element of centralism has made its place in every federal system of the world as a result of which the inherent weakness of a federal constitution has been done away with.
- It is indispensable even for the states in which a regime of the most primitive type or a despotism of the worst sort prevails. Jellinek is right in holding that a state without a constitution would not be a state but a regime of anarchy.
- It is lauded as the 'cornerstone' of a democratic nation-state; even the non-democratic states have their own set of rules which they call 'a charter' or 'a manifesto' of the ideology of their state apparatus.
- It is also essential that the constitution of a state should neither be a strong defence of the *status quo* permitting hardly any change in response to the changing conditions of the people, nor should it be so flexible or dynamic that it may be a plaything in the hands of the legislators, or administrators, or adjudicators of the country.
- Constitutionalism is a modern concept that desires a political order governed by laws and regulations. It stands for the supremacy of law and not of the individuals; it imbibes the principles of nationalism, democracy and limited government. It may be identified with the system of 'divided power.'
- A constitution "may be said to be a collection of principles according to which the powers of the government, the rights of the governed, and the relations between the two are adjusted."
- "The word 'constitution' is commonly used in at least two senses in an ordinary discussion of political affairs. First of all, it is used to describe the whole system of a government of a country, the collection of rules which establish and regulate or govern the government.
- The constitution of a state may be a deliberate creation on paper effected by some assembly or convention at a particular time; it may be found in the shape of a document that has altered in response to the requirements of the time and age; it may also be a bundle of separate laws assuming special sanctity of being the fundamental law of the land; or again.
- Whereas the constitution refers to a frame of political society organised through and by means of law and in which law has established permanent institutions with recognised functions and definite rights, a constitutional state "is one in which of the powers of the government, the rights of the governed and the relations between the two are, adjusted."

Notes

- According to Wheare, constitutional government "means something more than a government according to the terms of a Constitution. It means government according to rule as opposed to arbitrary government; it means government limited by the terms of a Constitution, not government limited only by the desires and capacities of those who exercise power."
- Dichotomies may be useful in practice, but a general theory of constitutionalism must take into account the fact that the regimes stretch along a continuum ranging from complete authoritarianism to full liberalism and that a replica of this continuum is provided by an axis stretching from 'full constitutional government' to 'pure non-constitutional rule.'
- The history of the development of constitutionalism is thus a history of the growth of political institutions that had their first important manifestation in the soils of ancient Greece.
- The Greeks occupy the first place in this direction who had 'political separatism' as a marked characteristic of their life.
- The Greek philosophers like Plato and Aristotle, however, studied the case of political institutions from an ethical point of view with the result that the political constitutionalism became a handmaid of normative and moral notions.
- A great change occurred after the eclipse of the city-state system and the establishment of a great empire under the Romans. The intellectual life became more diffuse and driven into different channels.
- The imperial rulers of Rome evolved their constitution as a determinate instrument of government—"a mass of precedents, carried in men's memories or recorded in writing, of dicta of lawyers or statesmen, of customs, of usages, understandings and beliefs, upon the methods of government, together with a number of statutes."
- Despite this, Roman constitutionalism made certain important contributions to the development of this concept. They codified their law and laid down the principle of representative government that came to be the most celebrated principles of constitutionalism. The two-pronged conception of the legal sovereignty of the Emperor—that his pleasure had the force of law and that his powers were ultimately derived from the people—persisted for many centuries and influenced throughout the medieval period the views on the relations between the rulers and the ruled.
- The invasions of the barbarians caused the emergence of a haphazard political and economic set up in which the old nomadic relationship informed the formation and character of the society and political institutions.
- From an economic point of view, it "meant a state of society in which all or a great part of public rights and duties are inextricably interwoven with the tenure of land, in which the whole governmental system—financial, military, judicial—is part of the law of private property."
- The coronation ceremony in the presence of the chiefs and nobles coupled with the swearing in ceremony of the king became a clear indication of the fact that the monarch was the holder of temporal powers in the name of the ultimate authority of his people. These events led to the growth of democratic constitutionalism.
- The unassailable position, of a single Pope was taken over by a number of despotic rulers that forced the people to take the matter to the revolution for a final settlement.
- The movement for the democratisation of the system continued with the result that the great Reform Acts were passed in 1832, 1867 and 1884 that, enfranchised more and more people.
- The Founding Fathers of the American republic established a form of federal government based on the principles of separation of powers as so elaborately presented by a French thinker (Montesquieu) and supplemented it with the principle of checks and balances as evolved by them.

Notes

- A bill passed by the Congress requires the assent of the President and the Courts may invalidate it if they find that the impugned law is against the constitution or the due process of law.
- The emergence of communism in Russia, Fascism in Italy and Nazism in Germany can be cited as the concrete instances in this regard. The new constitutional devices adopted in these countries contained two elements that distinguished them from a constitutional state hitherto known—political dictatorship through the dominance of a single party to the exclusion of all others and a totalitarian system that used the political machine to control and direct every aspect of economic, social and even religious life.
- The provisions of the constitution not only provide for the composition of various organs of the government and the powers entrustedto them, they also attach sanctity to the norms of liberty, equality, justice, rights, etc.
- According to this view, the constitution is not only an end that ought to be respected by all, it is also a means to an end, the being the achievement of security and the protection of liberty of the people. The western concept of constitutionalism stands for a constitution that is either in the form of a document, or it is like an assemblage of numerous laws, institutions and customs. Whether the constitution is in the form of a document made at a particular time of history as the American constitution was made by the "Philadelphia Convention in 1787, or it is in the form of numerous laws, institutions, and conventions as in the case of the English constitution, the western concept of constitutionalism lays emphasis on this point that the basic laws of the land should be such that difference between the government of the people and the constitution of the state is discernible.
- The problem of effectiveness "involves a factual situation and an evaluation and existential judgment of that situation. If no one has 'absolute' power, if in actual fact there exists no sovereign who holds unrestrained power in a given community, then the restraints may be said to be effective."
- The western or liberal concept of constitutionalism desires a 'constitutional state' that has a well-acknowledged body of laws and conventions for the operation of a limited government. It has a legislature, an executive, and a judiciary all required to work within the prescribed framework by following the defined procedure.
- In a'socialist' country, the constitution is not an end in itself, it is just a means to implement the ideology of 'scientific socialism'. It is a tool in the hands of the 'dictatorship of the proletariat' that seeks establish a classless society that would eventually turn into a stateless condition of life.
- The real aim of the constitution in such a country is not to ensure liberty and equality, rights and justice for all but to see that the enemies of socialism are destroyed and the new system is firmly consolidated.
- As in the former Soviet Union so in the People's Republic of China, the constitution is a sort of mainfesto, a confession of faith, a statement of ideals that, as Wheare says, makes 'excursions into political theory'.
- As Lenin writes: "At each step in the most democratic bourgeois state, the oppressed masses encounter a lamentable contradiction between the formal equality proclaimed by capitalist democracy and the thousands of factual limitations and complications making hired slaves of the proletarians."
- The Marxist concept of constitutionalism, thus, stood for the system of the Soviets wherein "is realised the universal participation of the working people, one and all, inThe management of the state."
- The government undertakes several measures like compulsory conscription, military training, nationalisation of major industries, censorship of the press, etc. for the sake of defending the country. It appears that the framework of a constitutional government is subverted during war times. Such a statement may and may not be correct depending upon the nature of the case.

Notes

- A constitution may incorporate a particular clause saying that the powers of the government shall be unlimited during the days of war or armed rebellion as we may see in the case of the Irish constitution.
- "The extent to which constitutional government has been suspended in time of war varies a great deal. It need not be assumed that war means the destruction of constitutional government in every case. Yet it is certain to put a strain upon it and it usually suspends it in some degree."
- The Government of India had made several important arrangements after the proclamation of national emergency in 1975 that were dubbed by its critics as the 'murder of democracy'.
- There is the factor of the social and economic distress. Eradication of the conditions of starvation, famine, illiteracy, disease, poverty, squalor, prestilence, etc. requires discretionary action of the state. The government is called for to take immediate and drastic action to alleviate the sufferings of the people.
- Crisis or emergency government can seldom be constitutional government: peace and prosperity are in truth strong allies of constitutional government. Their prospects are its prospects."
- The attribute of nationalism occupies the first place in view of the fact that the modern constitutional state is necessarily a nationalist organisation. The constitutionalism should recognise the principle of national self determination.
- The Soviet constitution had given the right to every nationality to secede from the Union that had made the federation analogous to a confederation.
- Nationalism is being imperceptibly supreseded by trans-nationalism the example of which may be seen in the successful working of the European Union. The member-states of this trans-national organisation have made necessary adjustments so as to harmonise their political institutions with the constitutional set up of the European Union.
- "If constitutional government is limited government, it follows that one of its enemies is absolutism of any kind. Any body of opinion and any organised movement which aims at establishing omnipotent government is clearly a force opposed to constitutional government."
- A new definition of the term constitutionalism should be thus furnished that it "embodies the simple proposition that the government is a set of activities organised by and operated on behalf of the people, but subject to a series of restraints which attempt to ensure that the power which is needed for such governance is not abused by those who are called upon to do the governing.
- A federal plan should be devised so that the society, apart from being a federation of territorial units is also a federation of all kinds of associations in which all people "do in practice express themselves far more freely than they do through the normal political organisation. It implies the establishment of semi-sovereign bodies with definite rights within the sphere of their action corresponding to such rights at present enjoyed by the federating units in such federations as the United States and the Commonwealth of Australia, the difference being that they would have no political but economic, religious or social functions.

  The constitution of the Russian Federation of 1993 has provisions for the protection of a healthy environment. It recognises the norms of sustainable development. The constitution of South Africa of 1996 honours the principles of international law. Hence, the state is enjoined to observe its international treaties and commitments.

3.7 Key-Words

1. Constitutional government : A constitutional government is any government whose authority and constructions are defined by a constitution. The government need not be of specific type, such as democratic, socialist, etc., but it does need to have parameters that are defined and relatively unchangeable.

Notes

2. Constitutionalism : Government in which power is distributed and limited by a system of laws that must be obeyed by the rules.
3. Lex : Law
4. Rex : King

3.8 Review Questions

1. Discuss the Marxist concept of constitutionalism.
2. What are the kinds of constitutions? Discuss
3. Explain the process of growth of constitution.
4. Write a note on "the necessity of a good constitution".

Answers: Self-Assessment

1. (*i*) 1951 (*ii*) 500 B.C. (*iii*) 1884 (*iv*) 1787
   (*v*) Rules and Regulations, Unwritten

3.9 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Unit 4: Political Culture

Notes

CONTENTS

Objectives
Introduction
4.1 Meaning of Political Culture
4.2 Mapping the Three Levels of Political Culture
4.3 Trends in Contemporary Political Cultures
4.4 Summary
4.5 Key-Words
4.6 Review Questions
4.7 Further Readings

Objectives

After studying this unit students will be able to:

- Understand the meaning of Political Culture.
- Explain mapping the three levels of Political Culture.
- Describe the trends in Contemporary Political Cultures.

Introduction

The study of the concept of political culture constitutes an examination of the sociological aspect of the subject of political development. Ever since this term was popularised by some leading American writers like Ulam, Beer and Almond, it has come to stand as a very important variable for a morphological study of the political systems. It has influenced the system-theorists to assert that one political system is distinguished from another not only in terms of its structure but also in respect of the political culture in which it lays embedded. It is on account of this very fact that while a parliamentary system of government could develop and work well in a country like Britain, it failed to have a similar success in many backward countries of the Third World. The realisation has, therefore, now come to stay that the attitudes, sentiments and cognitions that inform and govern political behaviour in any society "are not just random congeries but represent coherent patterns which fit together and are mutually reinforcing, that in any particular community there is a limited and distinct political culture which gives meaning, predictability and form to the political process, that each individual must, in his own historical context, learn and incorporate into his own personality the knowledge and feelings about the politics of his people and his community."

4.1 Meaning of Political Culture

A political culture "is composed of the attitudes, beliefs, emotions and values of society that relates to the political system and to apolitical issues." It is defined as "the pattern of individual attitudes and orientations towards politics among the members of a political system." The people of a society share a common human nature like emotional drives, intellectual capacities and moral perspectives. The common human nature expresses itself in the form of certain values, beliefs and emotional attitudes which are transmitted from one generation to another, though with greater or lesser modifications, and thus constitute the general culture of that society. "Certain aspects of the general culture of a society are especially concerned with how government ought to be conducted and what it shall try to do. This sector of culture we call political culture." It is the set of attitudes,

Notes

beliefs and sentiments that give order and meaning to a political process and that provides the underlying assumptions and rules that govern behaviour in the political system."

The political culture, then, may be seen "as the over-all distribution of citizens' orientations to political objects." R.C. Macridis writes of it as "the commonly shared goals and commonly accepted rules." Robert A. Dahl has singled out political culture as a factor explaining different patterns of political opposition whose salient elements are:

1. Orientations to problem-solving; are they pragmatic or rationalistic?
2. Orientations to collective action; are they cooperative or non-cooperative?
3. Orientations to the political system; are they allegiant or alienated?
4. Orientations to other people; are they trustful or mistrustful?

However, Lucian W. Pye has studied the meaning of political culture in the context of his concept of political development relating to the case of new states of the Third World and, for this reason, he has included three factors in its study:

1. Scope of politics; how ends and means in politics are related?
2. Standards for the evaluation of political action; and
3. Values that are salient for political action.



What do you mean by Political Culture?

Thus, political culture may be described as "a short-hand expression to denote the emotional and attitudinal environment within which the political system operates." Borrowing from Talcott Parsons, we "can be a little more precise at this point and say that we are concerned with *orientations* towards *political objects*. Orientations are pre-dispositions to political action and are determined by such factors as traditions, historical memories, motives, norms, emotions and symbols.'

It is obvious that the concept of political culture finds place in the subjective realm. According to Almond and Powell, "such individual orientations involve three components — (*i*) *cognitive orientations* implying knowledge, accurate or otherwise, of the political system, (*ii*) *affective orientations* implying feelings of attachment, involvement, rejection, and the like about political objects, and (iii) *evaluative orientations* implying judgments and opinions about the political objects, which usually involve applying value standards to political objects and events."

From the above, one may infer that political culture has certain components having their place in the world of sociology. They are: values, beliefs and emotional attitudes of the people towards their political system. We may observe that the people have, in general, certain political values as elections should be held periodically and also in a free and fair manner; that the ministers should resign if they forfeit the confidence of the people or their chosen deputies, that no person should be made to suffer in body or in goods unless a verdict is given by a competent court of law following a procedure established by the organic law of the country, etc. Closely linked with political values is the component of political beliefs about the actual behaviour of men and countries. It includes certain norms such as that adult population of a country has the right to take part in the political discussions. The significant cause of the beliefs should also be traced in this fact that ideas that "donot appear at first glance to have relevance to politics may be intimately connected with it through the belief system of the political culture." Finally, we come to the component of emotional attitudes, the tone and temper of the people. While attitudes inherited from a past full of struggles for a constitutional democracy, as in Britain, may inform that the speakers must behave courteously, the tone of discourse must be conversational and the whole style of behaviour and speech must conform not only to the rules of procedure of the Parliament but also to a complex and largely unspoken set of conventions, attitudes inherited from a long authoritarian past may impede the operation of a democratic system, even though most of its members sincerely accept the democratic ideal.

Notes

A political culture hinging on the fact of people's attitudes and beliefs towards the political system, whether homogeneous or heterogeneous, is a product of several inter-related factors—historical, geographical and socio-economic. Moreover, it is not static, it is dynamic and thus responds to the needs generated within the political system or imparted or imposed from outside. A pragmatic orientation, in this direction, is known by the name of 'secularisation' of the political culture. Let us first examine the three factors that constitute the foundations of the political culture.

A study of history offers ample authentic evidence to prove the continuity or discontinuity of a political system behind which the foundations of a political culture can well be found out. The importance of political continuity in a country like Britain, for example, lies in the fact that there older values "have been allowed to merge with modern attitudes undisturbed by violent internal strife or domination by foreign power." France offers a sharp contrast in the chain of historical development. While the revolution of 1789 violently overthrew the existing structures and subsequent events showed the highly emotional attitudes of the French people, the English leaders expressed their shock at the events of 1789 and a leading parliamentarian like Edmund Burke could successfully draw the attention of his countrymen towards the horrors of such a violent upheaval. Such a political culture had its impact upon the fate of the colonies as well. Thus, while the Indians learnt from their British masters the values of parliamentary democracy and efficacy of the constitutional means, the people of Algeria and Vietnam learnt from their French masters the lessons of an insurrectionary struggle. Burke rightly understood the role of historical development in the formulation of political culture when he repudiated the logic of French revolution and thereby laid down his doctrine of the 'prescriptive constitution.' For instance, while criticising rabidly the logic of the French revolution, he said: "Our constitution is a prescriptive constitution. It is a constitution whose sole authority is that it has existed time out of mind."

Geography has its own part in laying the foundations of a political culture. The insular character of the British Isles protected the country from foreign invasion and also from the massive influx of foreign races that could have created the problem of ethnic differences. Different from this, the limitless frontiers of a country like India opened the ways for the foreigners to invade and even stay here with the result that we developed the values of independent egalitarianism in the midst of sharp ethnic differences. Instances can be gathered to show that in case the ethnic differences are allowed to develop in the direction of hostile political cultures, national integration suffers heavily and different people in the name of their different nationalities struggle for their separate sovereign states. Thus, the Government of Kenya, for instance, has to wage a relentless fight against its Somali tribesmen demanding their union with Somaliland. The factor of political geography engages our attention when we find that the rebellious tribesmen very much thrive on the support of the alien enemy nations as the Nagas of India, or the people of a country like West Germany were forced to accept the existing political structures of a neighbouring state like that of East Germany—virtually an integral part of their own—because of the geographical compulsions and also because of the competing international alliances then led by the United States and the Soviet Union.

Lastly, we take up the determinant of socio-economic development. "A predominantly urban industrialised society is a more complex society, putting a premium on rapid communications. Educational standards are higher, groups proliferate, and participation in the decision-making process is, by necessity, wider. Rural societies are not geared to change and innovation, and states with a predominantly peasant population are more conservative. Developments in the field of science and technology have their impact on the growth of agriculture and industry; they also have their impact on the process of transportation and communications, migrations and immigrations, imports and exports, revolutions and warfares.

It all leads to changes in political values and beliefs of the people. Thus, the labour classes become 'embourgeoisiefied' in rich countries of the Western world. It contradicts the Marxian law of increasing misery, degradation and pauperisation of the proletariat in the industrially advanced countries of the world. The Americans, for instance, abandoned their foreign policy of splendid isolationism at the time of the first Great War and they adopted the policy of effective intervention after the Second world War for containing the growth of communism. It is also possible that an

Notes

industrially developed nation may outstretch its imperialistic arms to subjugate another country and cause a transformation of the political culture of the subjugated people before it withdraws its control as happened in Japan where the promulgation of the Peace Constitution in 1946 at the hands of the Americans led to the superimposition of liberal-democratic values over the feudal political culture providing sanction to the norms of military behaviour.

Allied with this is the subject of secularisation of the political culture. It has two attributes — (i) pragmatic and empirical orientations and (ii) movement from diffuseness to specificity of cultural orientations. Times change and so change the beliefs and values of the people. This change should, however, be in a pragmatic and empirical direction and that too in a way from diffuseness to specificity. That is, the political beliefs and values of the people must change from a parochial to a mundane variety, the people must learn more and more the meaning of political participation and political recruitment and their knowledge of political involvement should grow so that they may grasp the implications of the idea of a political legitimacy. Thus, it is through the secularisation of political culture that these rigid, ascribed and diffuse customs of social interaction come to be over-ridden by a set of codified, specifically political, and universalistic rules. By the same token, "It is in the secularisation process that bargaining and accommodative political actions become a common feature of the society, and that the development of special structures such as interest, groups and parties become meaningful."


Notes

The process of the secularisation of political culture means increasing political awareness of the people enabling them to have a growing information about their political system and their role as a political actor in it.

It follows that the system of parliamentary democracy cannot be imposed on people having their faith *m* the tenets of authoritarianism. More than hundred fifty years ago, John Stuart Mill was right when he held that despotism was the best form of government for the barbarians, while representative government for the civilised ones. Examining the case of the Weimer Republic of Germany established after the First World War, Eckstein, for this reason, concludes that the reason of its instability should be related to the wide gap between the democratic rules of the conduct of government and the authoritarianism found in the military, the bureaucracy, the political parties and the family.' Likewise, while referring to the case of Japan, Frank Langdon has observed that the strength of the support attached to the *status quo* and to traditional norms is a source of hindrance to the tasks of social and political modernisation.

The dichotomy between tradition and modernity on the cultural front thus creates the problem of political bi-culturalism. The makers of the new states are, therefore, confronted with this dilemma and it depends upon their sagacity and magnanimity as how to take their country to the path of political modernisation. Evidence shows that a sudden or total change amounts to the breakdown of the new political system, because the tradition-bound people donot appreciate change that stands in total contradiction to the values of their conventional culture. On the other hand, the leaders who strive for a gradual change get ample success in their endeavours. In this way, the "very stability and integration of the political culture depend on promoting orderly changes and achieving a political consensus depends on the politician's ability to strike a balance between the old and the new."

If so, the case of political development has both conservating and innovating aspects. The former aspect may be seen in vehement opposition to any move towards total change, the latter may be traced in the endeavours of the leaders like Kemal Ataturk of Turkey, Nasser of Egypt and Nehru of India to infuse political modernisation in degrees. The latter course proves eminently successful, because the process of incremental change finds its simultaneous assimilation with the traditional culture and that effects its legitimisation in an imperceptible way. What strikes us here is that the leaders of such countries appreciate the existence of diverse cultures in the midst of which a sort of astonishing homogeneity prevails. Nehru calls it by the name of 'unity in diversity'. The burden

Notes

of their argument is that "if all people spoke the same language, or had the same religion, or belonged to the same race, all the diversity and cultural richness that these differences represent would be lost."

It is true that the stability of Anglo-American political systems may be described as a result of the factor of cultural homogeneity, but it would be a mistake to agree with the view of Parsons and Sutton that societies may be divided into two categories—industrial and agricultural—and that a uniform value system.

4.2 Mapping the Three Levels of Political Culture

A nation's political culture includes its citizens' orientations toward three levels: the political system, the political and policymaking process, and policy outputs and outcomes (Table 4.1). The *system* level involves the citizens' and leaders' views of the values and organizations that comprise the political system. Do citizens identify with the nation and accept the general system of government? The *process* level includes expectations of how politics should function, and individuals' relationship to the political process. The *policy* level deals with citizens' and leaders' policy expectations from the government. What are the government's policy goals and how are they to be achieved?

Table 4.1: The Aspects of Political Culture

Aspects of Political Culture	Examples
System	Pride in nation
National identity	
Legitimacy of government	
Process	Role of citizens
Perceptions of political rights	
Policy	Role of government
Government policy priorities	

The System Level

Orientations toward the political system are important because they tap basic commitments to the polity and the nation. Feelings of national pride are a revealing example of this aspect of the political culture. National pride seems strongest in nations with a long history that has emphasized feelings of patriotism—the United States is a prime example. Such a common sense of identity and national history is often what binds a people together in times of political strain. High levels of pride exist in nations with much different political and economic systems, such as the United States and Poland. In contrast, national pride is low in Japan and Germany, two nations that have avoided nationalist sentiments in reaction to the pre-World War II regimes and their excesses. In other cases, ethnicity, language, or history divide the public, which may strain national identities and ultimately lead to conflict and division.

The **legitimacy** of the political system also provides a foundation for a successful political process. When citizens believe that they ought to obey the laws, then legitimacy is high. If they see no reason to obey, or if they comply only from fear, then legitimacy is low. Because it is much easier for government to function when citizens believe in the legitimacy of the political system, virtually all governments, even the most brutal and coercive, try to make their citizens believe that the laws ought to be obeyed. A political system and a government with high legitimacy will be more effective in making and carrying out policies and more likely to overcome hardships and reversals.

Citizens may grant legitimacy to a government for different reasons. In a traditional society, legitimacy may depend on the ruler's inheriting the throne or on the ruler's obedience to religious customs, such as making sacrifices and performing rituals. In a modern democracy, the legitimacy of the authorities will depend on their selection by voters in competitive elections and on their

Notes

following constitutional procedures in their actions. In other political cultures, the leaders may base their claim to legitimacy on their special grace, wisdom, or ideology, which they claim will transform citizens' lives for the better, even though the government does not respond to specific demands or follow prescribed procedures.

Whether legitimacy is based on tradition, ideology, citizen participation, or specific policies, the basis of legitimacy defines the fundamental understanding between citizens and political authorities. Citizens obey the laws—and in return the government meets the obligations set by the terms of its legitimacy. As long as the government meets its obligations, the public is supposed to comply, be supportive, and act appropriately. If legitimacy is violated—the line of succession is broken, the constitution is subverted, or the ruling ideology is ignored—then the government may expect resistance and perhaps rebellion.

In systems with low legitimacy or where the claimed bases for legitimacy are not accepted, people often resort to violence to solve political disagreement. Legitimacy may be undermined where the public disputes boundaries of the political, system (as in Northern Ireland or East Timor) rejects the current arrangements for recruiting leaders and making policies (as when Filipinos took to the streets and demanded the ouster of Ferdinand Marcos and free elections) or loses confidence that the leaders are fulfilling their part of the political bargain in making the right kinds of laws or following the right procedures (as when Indonesians protested deteriorating of living conditions under Sukarno).

The Soviet Union disintegrated in the early 1990s because all three kinds of legitimacy problems appeared. After Communist ideology failed as a legitimizing force, there was no basis for a national political community in the absence of common language or ethnicity. Similarly, the general loss of confidence in the Communist Party as the dominating political structure led many people to call for new arrangements. Finally, shortages of food and consumer goods caused people to lose faith in the government's short-term economic and political policies. Soviet President Mikhail Gorbachev failed in his efforts to deal with all three problems at the same time.

Another systemic orientation involves regime norms. In the early twentieth century a variety of political systems divided the world. Fascism was on the rise in Europe, communism was establishing itself in the Soviet Union, colonial administrations governed large parts of the world, monarchical or authoritarian governments ruled other parts of the world, and Western Europe and North America strained to maintain democracy in this sea of conflicting currents.

Today, many of these forms of governance are no longer widely accepted. Communism still has strong holds in China and Cuba, but it has lost its image as a progressive force for global change. Some nations of the world still accept autocratic or religiously based systems of government. However, most of the people in the world today seem to favor democratic principles even if they differ in how those principles should be applied.



Did u know? The global wave of democratization in the 1990s has, raised democratic principles to a position of prominence.

The Process Level

The second level of the political culture involves what the public expects of the political process. If you are English or Nigerian, what do you think about the institutions of your political system and what is expected of you as a citizen?

Broadly speaking, three different patterns describe the citizens' role in the political process. **Participants** are involved as actual or potential participants in the political process. They are informed about politics and make demands on the polity, granting their support to political leaders based on performance. **Subjects** passively obey government officials and the law, but they do not vote or actively involve themselves in politics. **Parochials** are hardly aware of government

Notes

and politics. They may be illiterates, rural people living in remote areas, or simply people who ignore politics and its impact on their lives.

As shown in Figure 4.1, in a hypothetical modern industrial democracy a sizable proportion (for instance, 60 percent) are participants, another third are simply subjects, and a small group are parochials. Such a distribution provides enough political activists to ensure competition between political parties and sizable voter turnout, as well as critical audiences for debate on public issues by parties, candidates, and pressure groups. At the same time, not all citizens feel the need to be active or concerned about the political system.

The second column in Figure 4.1 depicts the pattern we expect in a industrialized authoritarian society, such as the former communist nations of Eastern Europe. A small minority of citizens are involved in a one-party system, which penetrates and oversees the society, as well as decides government policies. Most other citizens are mobilized as subjects by political institutions: political parties, the bureaucracy, and government-controlled mass media. People are encouraged and even forced to cast a symbolic vote of support in elections and to pay taxes, obey regulations, and accept assigned jobs. Because of the effectiveness of modern social organization and mass communications and the efforts of the authoritarian power structure, few citizens are unaware of the government and its influence on their lives. If such a society suddenly attempts to democratize its politics, many citizens must learn to become participants as well as democrats.

The third column shows an authoritarian society that is partly traditional and partly modern, such as in Egypt or China. In spite of an authoritarian political organization, some participants—students and intellectuals, for example—oppose the system and try to change it by persuasion or more aggressive acts of protest. Favored groups, like business people and landowners, discuss public issues and engage in lobbying. Most people in such systems are passive subjects, aware of government and complying with the law but not otherwise involved in public affairs. The parochials—poor and illiterate urban dwellers, peasants, or farm laborers—have little conscious contact with the political system.

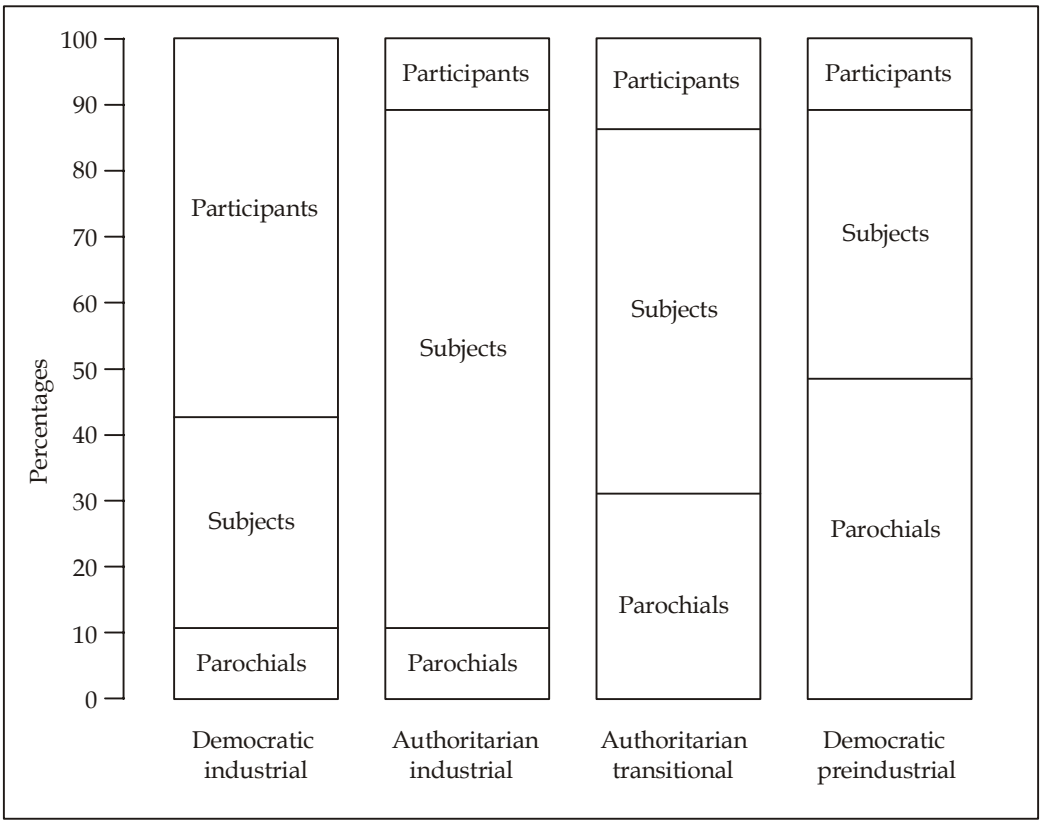


Figure 4.1: Model of Political Culture: Orientations Toward Involvement in the Political Process

Notes

Our fourth example is the democratic preindustrial system, perhaps one like India, which has a pre-dominantly rural, illiterate population. In such a country there are few political participants, chiefly educated professionals, business people, and landowners. A much larger number of employees, workers, and perhaps independent farmers are directly affected by government taxation and other official policies. The largest group of citizens are illiterate farmworkers and peasants, whose knowledge of and involvement with national politics is minimal. In such a society it is a great challenge to create a more aware citizenry that can participate meaningfully and shape public policies through democratic means.

In summary, the distribution of these cultural patterns is related to the type of political process that citizens expect and support. For instance, we normally identify democracy with a more participatory political culture. Authoritarian states are more likely to endure when the public is characterized by subjects and parochials—although authoritarian states can come in many forms, ranging from communism, to dictatorships, to religion-based regimes.

Another critical feature of the process culture involves beliefs about other groups and oneself as a group member. Do individuals trust their fellow citizens? Do they see the society as divided into social classes, regional groups, or ethnic communities? Do they identify themselves with particular factions or parties? How do they feel about groups of which they are not members? When people trust others they will be more willing to work together for political goals, and group leaders may be more willing to form coalitions. Governing a large nation requires forming large coalitions, and there must be substantial amounts of trust in other leaders to keep bargains and ensure honesty in negotiations.

The opposite of trust is hostility, which can destroy intergroup and interpersonal relations. The tragic examples of ethnic, religious, and ideological conflict in many nations—such as the conflicts in Rwanda, Lebanon, Northern Ireland, and Chechnya-show how easily hostility can be converted into violence and aggressive action. Respect for human life and dignity is sometimes in too short supply in the contemporary world.

The Policy Level

The politics of a country are also influenced by public images of what constitutes the good society and how to achieve it. At one level, the political culture includes expectations of the government's overall involvement in society and the economy. Should government manage the economy, or should private property rights and market forces guide economic activity? Should the state be interventionist in addressing societal issues, or follow a minimalist strategy? The ongoing debates over "big government" versus "small government" in democratic states, and between socialist and market-based economies reflect these different images of the scope of government.

Figure 4.2, illustrates the extent of cross-national differences in public expectations about whether it is the government's role to ensure that everyone is provided for. The range in opinions is considerable, from around three-quarters believing this is a government responsibility in Israel and Nigeria, to only a quarter of the French. In general, such sentiments are more common in developing nations and in the formerly communist nations in Eastern Europe— reflecting both the socioeconomic context and political ideologies.



There are some Western nations, such as Sweden and Finland, where traditions also include a large role for the government. In general, however, it appears that public support for government action decreases as national affluence increases.

When the public expects a larger role for government, it is likely that the policies of the government will grow to meet the public's expectations.

Notes

Policy expectations also involve specific policy demands. Some policy goals, such as material welfare, are valued by nearly everyone. Concern about other policy goals may vary widely across nations because of the nation's circumstances and because of cultural traditions. People in developing countries are more likely to focus on the government's provision of basic services to ensure public well-being. Advanced industrial societies provide for basic needs, and in these nations people may be more concerned with quality of life goals, such as preservation of nature and even government support for the arts. One of the basic measures of government performance is its ability to meet the policy expectations of its citizens.

80%	Israel
	Nigeria
	Sweden/Tanzania
	India
70%	Turkey/Argentina
	Egypt
	Finland
	Latvia
60%	Estonia
	Mexico
	Germany (East)
50%	Peru
	Italy/RussiaD
	China
	Poland/Lithuania
40%	Canada/Czech Republic
	Netherlands
	United States/Japan
30%	Britain
	France/Germany (West)

Figure 4.2: The Government Should Ensure Everyone is Provided For (percent agreeing)

Another set of expectations involves the functioning of government. Some cultures put more weight on the policy outputs of government, such as providing welfare and security. Other cultures also emphasize how the process functions, which involves values such as the rule of law and procedural justice. Among Germans, for example, the rule of law is given great importance; in many developing nations political relations are personally based, and there is less willingness to rely on legalistic frameworks.

Cultural Congruence

At the heart of our discussion of political culture is the belief that political structures and political cultures are mutually reinforcing in stable political systems. It is difficult to sustain democracy in a nation lacking participatory democrats, just as it is difficult to sustain an authoritarian state if the citizens are politically sophisticated and want to participate. Indeed, one of the major political issues in the world today is whether the democratic transitions in Eastern Europe, Latin America, and East Asia that began in the 1990s can be sustained. The political culture in these nations will provide a significant part of the answer.

Notes

Figure 4.3, illustrates the relationship between history and political culture. The figure displays public satisfaction with the functioning of democracy for three groups of nations; each oval in the figure represents a separate nation. One can readily see that satisfaction with democracy is higher in the first group of stable and very democratic nations; these are largely the established democracies of Western Europe and North America. Political satisfaction is lower in the second group of nations that have recently developed strong democratic structures— several Latin American and East European nations fall into this category. Finally, political satisfaction is lowest in the third group—nations with new political systems having weak democratic structures, such as the states of the former Soviet Union. Structure and culture do overlap in these nations.

One may ask whether democracies create a satisfied and democratic public, or whether such a political culture leads to a democratic political system. Obviously it works both ways. For example, immediately after World War II Germans were less supportive of democracy, but the political culture was transformed by political institutions and political experiences over the generation. At the same time, democracy endured in Britain during the strains of the Great Depression and World War II at least in part because the British public was supportive of the democratic process. The important conclusion is that there is normally a relationship between political culture and political structures.



What is the difference between political culture and culture?

Consensual or Conflictual Political Cultures

We have described political culture as a characteristic of a nation, but values and beliefs also vary within nations. Political cultures may be consensual or conflictual on issues of public policy and,

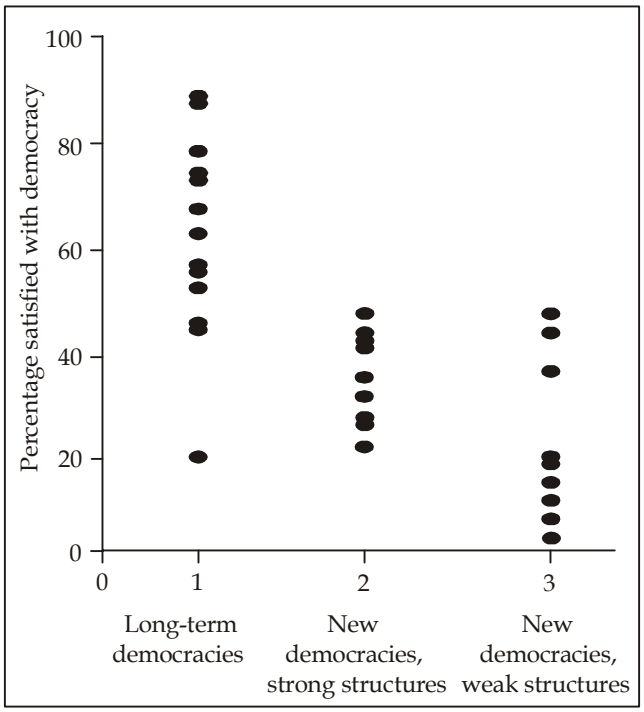


Figure 4.3: The Relationship Between Democratic Experience and Political Support

more fundamentally, on views of legitimate governmental and political arrangements. In a **consensual political culture,** citizens tend to agree on the appropriate means of making political

Notes

decisions and to agree on the major problems facing the society and how to solve them. In a **conflictual political culture,** the citizens are sharply divided, often on both the legitimacy of the regime and solutions to major problems.

When a country is deeply divided in political attitudes and these differences persist over time, distinctive **political subcultures** may develop. The citizens in these subcultures may have sharply different points of view on at least some critical political matters, such as the boundaries of the nation, the nature of the regime, or the correct ideology. Typically, they affiliate with different political parties and interest groups, read different newspapers, and even have separate social clubs and sporting groups. Thus they are exposed to quite distinctive patterns of learning about politics. Such organized differences characterize the publics in India, Nigeria, and Russia today.

Where political subcultures coincide with ethnic, national, or religious differences, as in Northern Ireland, Bosnia, and Lebanon, the divisions can be enduring and threatening. The fragmentation of the Soviet empire, the breakup of Yugoslavia, and the impulses toward autonomy and secession among ethnically distinct regions (such as in Scotland or separatist movements in Africa) all reflect the lasting power of language, culture, and historical memory to create and sustain the sense of ethnic and national identity among parts of contemporary states. Samuel Huntington has predicted that the places in the world where the major traditional cultures collide will be major sources of political conflict in the next century.

4.3 Trends in Contemporary Political Cultures

A political culture exists uniquely in its own time and place. Citizens' attitudes and beliefs are shaped by personal experiences and by the agents of political socialization. Yet, in any historical period there may be trends that change the culture in many nations. The major social trends of our time— modernity and secularism, postmaterial values, fundamentalism and ethnic awareness, democratization, and marketization—reflect both general societal developments and specific historic events.

The major cultural trend that has transformed the world and public values has been **modernization**. For almost two centuries now, the secularizing influences of science and control over nature have altered economic and social systems and shaped political cultures, first in the West and increasingly throughout the world. This trend toward cultural modernization continues to have powerful effects as it penetrates societies (or parts of societies) that have been shielded from it. Exposure to modernity through work, education, and the media shapes an individual's personal experiences and sends messages about modernity in other societies. It encourages citizen participation, a sense of individual equality, the desire for improved living standards and increased life expectancy, and government legitimacy based on policy performance. It also frequently disrupts familiar ways of life, traditional bases of legitimacy, and political arrangements that depend on citizens remaining predominantly parochials or subjects. Alex Inkeles and David Smith's study of the development of modern attitudes emphasized how factory experience can create an awareness of the possibilities of organization, change, and control over nature.

A by-product of socio-economic modernization appears in the nations of North America, Western Europe, and Japan that have developed the characteristics of a postindustrial society. Younger generations who grew up under conditions of economic prosperity and international peace are now less concerned with material well-being and personal security than their parents. Instead, the young are more likely to emphasize **postmaterial values:** social equality, environmental protection, cultural pluralism, and self-expression. Postmaterial values have spawned new citizen groups, such as the environmental movement, the women's movement, and other public interest associations. These changing values have also reshaped the policy agenda of industrial democracies; more citizens are asking government to restore the environment, expand social and political freedoms, and emphasize policies to ensure social equality. Politicians in these democracies are struggling to balance these new policy demands against the continuing policy needs of the past.

A much different response to modernization has been the resurgence of **ethnicity**, or ethnic identities, in many parts of the world. As citizen skills and self-confidence have increased, formerly

Notes

suppressed ethnic groups are expressing their identities and demanding equal treatment. Development of education and communication skills may encourage a flourishing of literature in a local language whose previous tradition has been informal and oral. This development can further intensify awareness of common symbols and history. While resurgence of distinctive local cultures enriches the global society, clashes between cultures and subcultures can also be particularly deadly bases of political conflict. Moreover, the migration of peoples into new areas, made possible by easier transportation and encouraged by wars, political conflicts, and the desire for economic betterment, can seem to threaten the way of life of the host society. The exposure to values from other cultures may intensify one's own self-image, which may increase cultural tensions. Although such exposure may eventually lead to greater tolerance, there is no guarantee of this outcome.

In the last decade the major new development is the trend toward democracy in Eastern Europe, East Asia, and other parts of the developing world. This **democratization** trend reflects long-term responses to modernity as well as immediate reactions to current events. Modernization gradually eroded the legitimacy of nondemocratic ideologies, while the development of citizens' skills and political resources made their claim to equal participation in policy-making (at least indirectly) more plausible. Thus many studies of political culture in Eastern Europe and the former Soviet Union uncovered surprising support for democratic norms and processes among the citizenry as the new democratic system formed.

Ironically, as democratic values have begun to take root in Eastern Europe, citizens in many Western democracies have become increasingly skeptical about politicians and political institutions. In 1964, three-quarters of Americans said they trusted the government; today only a third of the public say as much—and the malaise is spreading to Western Europe and Japan. Recent research shows that citizen support for democratic norms has not waned; in fact, democratic norms and values have strengthened over time as democracy has developed in the West. Instead, people are critical about how democracy functions. Western citizens expect democracy to fulfill its ideals and are critical of politicians and political parties when they fall short of these ideals. Although this cynicism is a strain on democratic politicians, it presses democracy to continue to improve and adapt, which is ultimately democracy's greatest strength.

Another cultural trend in recent years has been a shift toward **marketization**—that is, a greater public acceptance of free markets and private profit incentives, rather than a government-managed economy. The movement appeared in the United States and many Western European nations in the 1980s, where economies had experienced serious problems of inefficiency and economic stagnation. Margaret Thatcher in Britain and Ronald Reagan in the United States rode to power on waves of public support for reducing the scale of government. Public opinion surveys show that people in these nations feel that government had grown too large. The political victories of Reagan and Thatcher gave further prestige to efforts to roll back government involvement.

Just as Western Europeans began to question the government's role in the economy, the political changes in Eastern Europe and the Soviet Union added a new feature to the discussion. The command economies of Eastern Europe were almost exclusively controlled by state corporations and government agencies. The government set both wages and prices and directed the economy. Today, the collapse of these systems raises new questions about public support for marketization. Public opinion surveys generally find that Eastern Europeans support a capitalist market system.

Support for market economies has also apparently grown in the developing world. In the past decade, many developing nations had difficulties in modernizing their economies through government-controlled economic development; this made freer markets a plausible alternative. The successes of the Asian "tigers" of South Korea, Taiwan, and Singapore in achieving rapid economic growth encouraged this movement, which has even affected policy directions in the People's Republic of China. It is difficult to disentangle the fundamental political economy issues here from the effects of contemporary events. The trend toward marketization is a response to a long period of increased government intervention in economies. At the moment, no particular mixture of free market and government intervention seems ideal. We expect much further experimentation; the current trend to marketization may also encounter reversals or countertrends in the future.

Notes

Clearly, political culture is not a static phenomenon. Our understanding of political culture must be dynamic. It must encompass how the agents of political socialization communicate and interpret historic events and traditional values. It must juxtapose these with the exposure of citizens and leaders to new experiences and new ideas. We must understand also that the gradual change of generations means continuing modification of the political culture as new groups of citizens have different experiences on which to draw.

Self-Assessment

1. Choose the correct options:

(*i*) Communism still has strong holds in ..... .

(*a*) China and Cuba (*b*) Pakistan and India

(*c*) Russia and Estonia (*d*) Germany and Peru

(*ii*) The global wave of democratisation in ..... his raised democratic principles to a position of prominence.

(*a*) 1980 (*b*) 1990

(*c*) 1985 (*d*) 2000

(*iii*) Parochaials are ..... .

(*a*) illiterates (*b*) rural people

(*c*) people who ignore politics (*d*) all of these

(*iv*) A small minority of citizens are involved in a ..... .

(*a*) two-party system (*b*) one-party system

(*c*) multi-party system (*d*) none of these

(*v*) Authoritarian society can be seen in ..... .

(*a*) Germany (*b*) Cuba

(*c*) Egypt or China (*d*) none of these.

4.4 Summary

- A political culture "is composed of the attitudes, beliefs, emotions and values of society that relates to the political system and to apolitical issues." It is defined as "the pattern of individual attitudes and orientations towards politics among the members of a political system."
- It is the set of attitudes, beliefs and sentiments that give order and meaning to a political process and that provides the underlying assumptions and rules that govern behaviour in the political system."
- Political culture may be described as "a short-hand expression to denote the emotional and attitudinal environment within which the political system operates."
- Political culture has certain components having their place in the world of sociology. They are: values, beliefs and emotional attitudes of the people towards their political system.
- It includes certain norms such as that adult population of a country has the right to take part in the political discussions. The significant cause of the beliefs should also be traced in this fact that ideas that "donot appear at first glance to have relevance to politics may be intimately connected with it through the belief system of the political culture."
- A political culture hinging on the fact of people's attitudes and beliefs towards the political system, whether homogeneous or heterogeneous, is a product of several inter-related factors— historical, geographical and socio-economic. A pragmatic orientation, in this direction, is known by the name of 'secularisation' of the political culture.
- France offers a sharp contrast in the chain of historical development. While the revolution of 1789 violently overthrew the existing structures and subsequent events showed the highly emotional attitudes of the French people, the English leaders expressed their shock at the

Notes

events of 1789 and a leading parliamentarian like Edmund Burke could successfully draw the attention of his countrymen towards the horrors of such a violent upheaval.

- Geography has its own part in laying the foundations of a political culture. The insular character of the British Isles protected the country from foreign invasion and also from the massive influx of foreign races that could have created the problem of ethnic differences.
- The factor of political geography engages our attention when we find that the rebellious tribesmen very much thrive on the support of the alien enemy nations as the Nagas of India, or the people of a country like West Germany were forced to accept the existing political structures of a neighbouring state like that of East Germany—virtually an integral part of their own—because of the geographical compulsions and also because of the competing international alliances then led by the United States and the Soviet Union.
- Developments in the field of science and technology have their impact on the growth of agriculture and industry; they also have their impact on the process of transportation and communications, migrations and immigrations, imports and exports, revolutions and warfares.
- The Americans, for instance, abandoned their foreign policy of splendid isolationism at the time of the first Great War and they adopted the policy of effective intervention after the Second world War for containing the growth of communism.
- "It is in the secularisation process that bargaining and accommodative political actions become a common feature of the society, and that the development of special structures such as interest, groups and parties become meaningful."
- A nation's political culture includes its citizens' orientations toward three levels: the political system, the political and policymaking process, and policy outputs and outcomes.
- The *process* level includes expectations of how politics should function, and individuals' relationship to the political process. The *policy* level deals with citizens' and leaders' policy expectations from the government.
- Orientations toward the political system are important because they tap basic commitments to the polity and the nation. Feelings of national pride are a revealing example of this aspect of the political culture.
- Citizens may grant legitimacy to a government for different reasons. In a traditional society, legitimacy may depend on the ruler's inheriting the throne or on the ruler's obedience to religious customs, such as making sacrifices and performing rituals
- In other political cultures, the leaders may base their claim to legitimacy on their special grace, wisdom, or ideology, which they claim will transform citizens' lives for the better, even though the government does not respond to specific demands or follow prescribed procedures.
- In systems with low legitimacy or where the claimed bases for legitimacy are not accepted, people often resort to violence to solve political disagreement. Legitimacy may be undermined where the public disputes boundaries of the political, system (as in Northern Ireland or East Timor) rejects the current arrangements for recruiting leaders and making policies (as when Filipinos took to the streets and demanded the ouster of Ferdinand Marcos and free elections) or loses confidence that the leaders are fulfilling their part of the political bargain in making the right kinds of laws or following the right procedures (as when Indonesians protested deteriorating of living conditions under Sukarno).
- The general loss of confidence in the Communist Party as the dominating political structure led many people to call for new arrangements. Finally, shortages of food and consumer goods caused people to lose faith in the government's short-term economic and political policies.
- The global wave of democratization in the 1990s has, raised democratic principles to a position of prominence.

Notes

- The second level of the political culture involves what the public expects of the political process. If you are English or Nigerian, what do you think about the institutions of your political system and what is expected of you as a citizen?
- **Participants** are involved as actual or potential participants in the political process. They are informed about politics and make demands on the polity, granting their support to political leaders based on performance.
- **Parochials** are hardly aware of government and politics. They may be illiterates, rural people living in remote areas, or simply people who ignore politics and its impact on their lives.
- The democratic preindustrial system, perhaps one like India, which has a pre-dominantly rural, illiterate population. In such a country there are few political participants, chiefly educated professionals, business people, and landowners.
- The opposite of trust is hostility, which can destroy intergroup and interpersonal relations. The tragic examples of ethnic, religious, and ideological conflict in many nations—such as the conflicts in Rwanda, Lebanon, Northern Ireland, and Chechnya-show how easily hostility can be converted into violence and aggressive action.
- The politics of a country are also influenced by public images of what constitutes the good society and how to achieve it. At one level, the political culture includes expectations of the government's overall involvement in society and the economy. Should government manage the economy, or should private property rights and market forces guide economic activity?
- The range in opinions is considerable, from around three-quarters believing this is a government responsibility in Israel and Nigeria, to only a quarter of the French.
- Policy expectations also involve specific policy demands. Some policy goals, such as material welfare, are valued by nearly everyone. Concern about other policy goals may vary widely across nations because of the nation's circumstances and because of cultural traditions.
- Some cultures put more weight on the policy outputs of government, such as providing welfare and security. Other cultures also emphasize how the process functions, which involves values such as the rule of law and procedural justice. Among Germans, for example, the rule of law is given great importance; in many developing nations political relations are personally based, and there is less willingness to rely on legalistic frameworks.
- Political satisfaction is lower in the second group of nations that have recently developed strong democratic structures— several Latin American and East European nations fall into this category.
- In a **consensual political culture,** citizens tend to agree on the appropriate means of making political decisions and to agree on the major problems facing the society and how to solve them.
- When a country is deeply divided in political attitudes and these differences persist over time, distinctive **political subcultures** may develop. The citizens in these subcultures may have sharply different points of view on at least some critical political matters, such as the boundaries of the nation, the nature of the regime, or the correct ideology.
- The major social trends of our time— modernity and secularism, postmaterial values, fundamentalism and ethnic awareness, democratization, and marketization—reflect both general societal developments and specific historic events.
- Exposure to modernity through work, education, and the media shapes an individual's personal experiences and sends messages about modernity in other societies. It encourages citizen participation, a sense of individual equality, the desire for improved living standards and increased life expectancy, and government legitimacy based on policy performance.
- A by-product of socioeconomic modernization appears in the nations of North America, Western Europe, and Japan that have developed the characteristics of a postindustrial society. Younger generations who grew up under conditions of economic prosperity and international peace are now less concerned with material well-being and personal security than their parents.

Notes

- These changing values have also reshaped the policy agenda of industrial democracies; more citizens are asking government to restore the environment, expand social and political freedoms, and emphasize policies to ensure social equality. Politicians in these democracies are struggling to balance these new policy demands against the continuing policy needs of the past.
- Development of education and communication skills may encourage a flourishing of literature in a local language whose previous tradition has been informal and oral. This development can further intensify awareness of common symbols and history.
- This **democratization** trend reflects long-term responses to modernity as well as immediate reactions to current events. Modernization gradually eroded the legitimacy of nondemocratic ideologies, while the development of citizens' skills and political resources made their claim to equal participation in policy-making (at least indirectly) more plausible.
- In 1964, three-quarters of Americans said they trusted the government; today only a third of the public say as much—and the malaise is spreading to Western Europe and Japan. Recent research shows that citizen support for democratic norms has not waned; in fact, democratic norms and values have strengthened over time as democracy has developed in the West.
- The trend toward marketization is a response to a long period of increased government intervention in economies. At the moment, no particular mixture of free market and government intervention seems ideal. We expect much further experimentation; the current trend to marketization may also encounter reversals or countertrends in the future.

4.5 Key-Words

1. Ethnicity : It is a population of human brings whose members identify with each other, either on the basis of a presumed common genealogy or ancestry, or recognition by others as a distinct group, or by common cultural, linguistic, religious, or territorial traits.
2. Parochials : Relating to a parish as a unit of local government.

4.6 Review Questions

1. What is the concept of political culture? Discuss.
2. Discuss the trends in contemporary cultures.
3. Explain the three levels of political culture.

Answers: Self-Assessment

1. (*i*) (*a*) (*ii*) (*b*) (*iii*) (*d*) (*iv*) (*b*) (*v*) (*c*)

4.7 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 5: Political Socialisation

CONTENTS

Objectives
Introduction
5.1 Meaning of Political Socialisation
5.2 Agents of Political Socialisation
5.3 Summary
5.4 Key-Words
5.5 Review Questions
5.6 Further Readings

Objectives

After studying this unit students will be able to:

- Explain the meaning of political socialisation.
- Know the agents of political socialisation.

Introduction

The concept of political development has two dimensions-sociological and psychological. Further studies in both the directions have led to the emergence of two more concepts that should be taken as the derivatives of the concept of political development. They are *political socialisation* in the psychological and *political acculturation* in the sociological spheres. If modernisation is a state of mind and to a student of empirical politics it seems that a political system can be operated effectively only by the people who share the lively and rational ingredients of the modern outlook, the task of political development thus boils down to the blunt need to change the attitudes and feelings of the people. According to this viewpoint, the argument about how best to facilitate development is again relatively simple: introduce the essential structure and performance changes —by persuasion if possible, arbitrarily if necessary— and the people will in course of time make the appropriate changes in attitudes. Evidence can be cited to show that "once people have been placed in a developed context, they can readily adapt their mind and spirit and thus there is little need to show excessive concern over such murky matters as the psychic state of affairs of transitional individuals."

5.1 Meaning of Political Socialisation

H.H. Hyman, who coined the term 'political socialisation', laid emphasis on the perpetuation of political values across generations. Picking up a thread from such an interpretation, Lasswell says that political socialisation "unquestionably meets the criterion of significance in as much as it is an important feature of every past, present and future body politic. Every community transmits with varying degrees of success the mature practices of its culture to the immature. Every stable sub-culture engages in a parallel process, since it also distinguishes between participation by the mature and the immature."

Political socialisation "is the process by which political cultures are maintained and changed. Through the performance of this function individuals are inducted into the political culture, their orientations towards political objects are formed." In other words, it refers to the learning process by which norms and behaviour acceptable to a well-running political system are transmitted from

Notes

one generation to another. Thus, the aim of this concept is to train or develop the individuals in a way that they become well-functioning members of a political community. Obviously, it has a peculiarly psychological dimension in the sense that it "is the gradual learning of the norms, attitudes and behaviour acceptable to an on-going political system."

The process of political socialisation generally acts in a causal or imperceptible manner. That is, it operates in a quiet or smooth manner without people's being aware of it. The people take the norms for granted without questioning their legitimacy. Thus, the subject-matter of this concept "is the process by which people acquire political values not simply during active political participation, but also in the period before they engage in an explicitly political activity." Thus viewed, political socialisation would encompass all political learning whether formal or informal, or whether deliberate and unplanned, at every stage of the cycle of his life, including not only explicitly political learning which "affects political behaviour, such as the learning of politically irrelevant social attitudes and the acquisition of politically relevant personal characteristics."

The stability of a social or political system depends on the political socialisation of its members on account of the fact that a well-functioning citizen is one who accepts (internalises) society's political norms and who will then transmit them to future generations. For example, the members of a stable democratic system as operating in Britain are trained and made habitual of adopting constitutional means to affect changes rather than resorting to the techniques of taking the matters to the streets or creating conditions of a violent upheaval. Political socialisation thus covers the whole process by which an individual "born with behavioural potentialities of immense range, is led to develop actual behaviour which is confined with a much narrower range —the range of which is customary and acceptable for him according to the students of his groups."

Simply stated, political socialisation desires to achieve the goal of political stabilisation. It stands on the premise that a political system cannot function smoothly unless the process of the internalisation of political norms and values is at work simultaneously. As in the case of an individual organism so in the case of body politic, nothing but maintenance or survival is needed. And survival means nothing else than stabilisation. As Roberta Sigel says: "The goal of political socialisation is to so train or develop individuals so that they become well-functioning members of the political society... For without a body politic in harmony with the on-going political values and the political system would have trouble in functioning smoothly and perpetuating itself safely. And survival, after all, is a prime goal of the political organism just as it is of the individual organism.



The principal emphasis of the concept of political socialisation is on the transmission of political values from one generation to another.

Political socialisation seeks to inculcate values, norms and orientations in the minds of the individuals so that they develop trust in their political system and thereby keep themselves like well-functioning citizens and also leave their indelible imprints on the minds of their successors. Political socialisation may thus be defined as the process by which an individual "becomes acquainted with the political system and which determines his reactions to political phenomena. It involves the examination of the social, economic or cultural environment of society upon the individual and upon his political attitudes and values. Political socialisation is the most important link between the social and political systems, but may vary considerably from one system to another. From a political point of view, political socialisation is extremely important as the process by which individuals become involved to varying degrees in the political system-in political participation.

Development of Political Socialisation: Case of Open versus Closed Societies

Every society that wishes to maintain itself or to have its stability as a condition precedent to its survival has one of its essential functions in the socialisation of the young in order to enable them

Notes

to carry on willingly the established values, orientations and norms of their collective life. A new-born child is not a socialised creature; he is socialised by means of a learning process. Moreover, such learning "is not limited to the acquisition of appropriate knowledge about a society's norms but requires that the individual so makes these norms his own — internalises them —that to him they appear to be right, just and moral. Having once internalised society's norms, it will presumably not be difficult for the individual to act in congruence with them." Moreover, this process of norm-internalisation is not exhausted with the age of adolescence; it also covers the young for the same reason which informs that a politically organised society has the same maintenance needs in which the young people have to play a quite responsible part. Let us, therefore, look at the norms— internalisation process at two stages—socialisation of the child and the adolescent and socialisation of the young people.

The process of political socialisation starts when the child becomes aware of a wide environment; he feels increasingly perceptive in response to particular situations and comes to have an outlook that becomes increasingly coherent and total where before it was fragmented and limited. It is at this stage that the general attitude of the children towards authority, obedience, resistance, cooperation, aggression, etc. has its germination. What a child gets from the family has its furtherance in the school that cements his early convictions towards political values. Easton and Dennis posit four stages in the process of political socialisation at the childhood stage —(i) recognition of authority through particular individuals such as parents, policemen and the President of the country; (ii) distinction between public and private authority; (iii) recognition of impersonal political institutions like national legislature, judiciary and voting behavior; and (iv) distinction between political institutions and persons engaged in the activities associated with those institutions so that idealised images of particular persons such as the President or the Congressmen are transferred from the Presidency and the Congress.

Thus, the process of socialisation continues even after the period of adolescence. The main outlines of future political behaviour "may well be determined in the earlier period, but this is more likely to create a situation in which there is interaction between early political socialisation and the environmental and experiential influences of later life than to preclude adult socialisation." A study of the voting behaviour, for example, shows how the members of a legislature undergo a process of political socialisation during the war of votes and that their subsequent legislative behaviour is determined partly by their knowledge, values and attitudes as these existed prior to elections, and partly by their experiences within and reactions to their new environment in the legislature. Electoral studies have demonstrated correlations between party preferences and characteristics of the voters which are related to environment and experience.


Notes

If the factors of environment and experiential influences have their definite impact on the life of the individual in his childhood and adolescence, it is quite reasonable to assume that these influences have an importance of their own during the phase of adulthood.

Though it is true that early socialisation lays the foundation of later socialisation, it does not imply that the pattern of later socialisation should strictly conform to the former. The effect of the later experiential influences "may bring about a change in the attitudes or orientations of men at an advanced stage of his life. "The knowledge, values and attitude acquired during me cnildhood and adolescence will be measured against the experience of adult life: to suggest otherwise is to suggest a static political behaviour. If the process of adult socialisation tends to reinforce those of childhood and adolescence, the degree of change may be limited to that of increasing conservatism with age, but where conflict occurs, radical changes in "political behaviour may result: such conflict may have its roots in early political socialisation, but it may also be attributable to the experiences of later socialisation."

Notes

The process of political socialisation automatically involves the case of re-socialisation that takes place when individuals are inducted into new status for which no role models previously existed in the society. Most pre-industrial political systems undergoing rapid social change are faced with burdensome tasks of re-socialisation. The literature on totalitarian political systems (as Fascist Italy, Nazi Germany and Communist Russia) has also devoted considerable attention to this subject. Another form of resocialisation takes place when a group inducts an individual into a status for which he was not prepared by his earlier training. Social mobility would be a case in point. Only when the socialisation role of these secondary or intermediary institutions is understood, will we be able to explain with more confidence why the well-trained generation leads to revolution against the established order, or why, for example, "the radical Japanese adolescent becomes a conservative adult."

It shows that the process of political socialisation covers the whole life of a man. Its foundations are laid in the early stages of a man's life, its superstructures may undergo change in the later stage on account of certain new experiences. What is strikingly noticeable at this stage is that the political socialisation of the young witnesses, what Almond and Verba call 'multi-directional flow of influences.' The result is that what the individuals learn at their grown up stage, they strive to have it inculcated at the early stage of the life of their off springs. While referring to the case of the United States, Almond and Verba point out that the people owing to the practice of political democracy in the country "subsequently demand the practice of democracy in school, shop and church. Since the demand is often met, school-children, workers and others acquire an articulation, debate and decision-making. These experiences, in turn, help them towards developing the skills with which to participate in political life and either to help bring about or to accept political change. Thus, the socialisation process contributes not only to a society's political stability but also to change and to the strain at ease with which changes take place."

The process of political socialisation has two forms: (i) homogeneous or continuous signifying that the individuals cooperate with each other in an atmosphere of mutual trust towards their political system, and (ii) heterogeneous or discontinuous signifying that the individuals have an attitude of mutual suspicion and hatred towards each other that eventually leads them to have disaffection with their political system. Thus, while in the event of a homogeneous or continuous process of political socialisation, a political system can hope to receive a more or less dependable support from the individuals, but the entire political life "is likely to become restless, and turbulent leading to the frustration and demands for radical social change." Obviously, "it is in the interest of the stability of a political system that it draws its sustenance from a homogeneous environment."

It should be pointed out at this stage that though political socialisation desires, as a matter of fact, political stabilisation, it should not at all be construed as an anti-change concept. It may certainly be described as a conservative' concept in the sense that it stands for a change that is neither radical nor rapid. It lays stress on this point that when change is the law of nature, it should be gradual and peaceful. Political socialisation, thus, emphasises that if the attitudes, orientations and values of the people change through time, a simultaneous change in the sphere of political culture must take place in order to avoid the risks of sudden changes that may bring about the decay or destruction of the political system. That is, the process of the shaping of political values and the process of change should run in conformity with each other. It requires that the rulers must remain very careful to prevent the occurrence of any major event like that of inflation or war that may lead to the inculcation of radical changes in the attitudes of the people. The men in power are thus duty-bound to see that the pressure of events does not reach a point that the loyalists are converted into the rebels, or the collaborationists become the aggressors, or the friends are transformed into the foes in view of the historical fact that if the process of socialisation "is slow, the waters of political culture will run smoothly, and a political system smoothly adjusted with the political culture of the country will be able to function effectively. Too rapid a process of political socialisation, on the other hand, is likely to throw everything out of gear."

The nature of the process of political socialisation at work varies over time and according to the environment of which it is a part and to which it contributes. It is, therefore, related to the nature of the political system and the degree and nature of change. "The more stable the polity, the more

Notes

specified the major agencies of political socialisation will be. Conversely, the greater the degree of change in a non-totalitarian polity, the more diffused the major agencies of political socialisation will be. The more basic the degree of revolution in a polity, the more specified the agencies of political socialisation will be." The paramount fact may, however, not be lost sight of that though political socialisation may involve political orientations and behaviour patterns from the maintenance and replication of a given political system to its transformation or total destruction, it, as a matter of fact, strives to emphasise the point that "the test for a stable political system is whether the socialising agencies are sufficiently flexible and inter-dependent to allow change without violent disruption."

The process of political socialisation in the form of the acquisition of political orientations and patterns of behaviour is as applicable to non-democratic societies as it is to the democratic ones, though it cannot be denied that the emphasis placed on the role of the 'agents' or the system of mechanism may vary both in kind and in its effectiveness. An open society allowing room for dissent and opposition has a plural character wherein multifarious interests operate for the purpose of inculcating a multifaceted variety of political norms and values. Opposed to this is the case of a totalitarian society where the men in power impose their ideology or political values on the people as a whole with a view to de-educate the old and re-educate the young generations. The totalitarian societies "differ from modern democracies in the degree of control they exercise over the political socialisation of their members. All governments seek directly or indirectly to socialise members of society to varying degrees by the control of information, but in the totalitarian society, the control is all-pervasive."

A totalitarian state is one that seeks to control all aspects of society and lays stress on the socialisation in general and political socialisation in particular. The ideology of the state "becomes the official basis of all the actions and pervades all activities. Political socialisation is not and cannot be left to find its own channels; nor to purview uncontrolled knowledge, values and attitudes which may contradict or undermine that ideology. The minds of men must be captured, guided and harnessed to the needs of the state through the vehicle of its ideology." This is evident from the statements of great totalitarian leaders like Adolph Hitler: "We have set before ourselves the task of inoculating our youth with the spirit of this community of people at a very early age. And this new Reich will give its youth to no one but itself, take youth and give to youth its own education and its own upbringing." Likewise, V.I. Lenin said: "Only by radically remoulding the teaching organisation and training of the young shall we be able to ensure that the results of the efforts of the younger generation will be the creation of a society that will be unlike the old society that is a communist society."

A deeper examination in this regard, however, leads to this astonishing impression that the process of political socialisation is essentially a conservative concept, regardless of the case of democratic and totalitarian societies, in view of the fact that its real concern is with the survival or maintenance of a political system. Whether it is a free and open society like that of the United States or Britain, or it is the opposite of that as we find in China, the net over-all effect of political socialisation "is in the direction of supporting the *status quo*, or at least the major aspects of the existing political regime." As Greenstein says: "Political socialisation in both stable and unstable societies is likely to maintain existing patterns.



What do you mean by totalitarian societies?

5.2 Agents of Political Socialisation

If political socialisation concerns itself with the orientation of the individuals towards political objects, let us look into the role of the 'agents' which play their part in the process of norm-

Notes

internalisation. An inquiry in this regard covers the role of those factors that have their latent as well as patent influence on the mind of the individual and thereby make up his personality. Simply stated, it means that we should have a brief study of the factors that internalise political norms and values what men of earlier ages called lessons in civic education, training for citizenship, behaviour of men in authority and role of social and political institutions. Thus, the role of the family, school, church, peer groups, mass media and public relations, etc., should be looked into in order to find out the veracity of this statement: "Since the individual is continually being influenced in the shaping of his political attitudes, orientations and values, the process of socialisation goes throughout his life." Or as Ball says: "Political socialisation is not a process confined to the impressionable years of childhood, but one that continues throughout adult life."

First of all, comes the family that should be described as the 'child's first window on the world outside, it is the child's first contact with authority'. The chief contribution of the family in forming the political personality of the individual derives from its role as the main source and locus for the satisfaction of all his basic and innate requirements. Thus, the child tends to identify with his parents and to adopt their outlook towards the political system. The father becomes the prototypical authority figure and thereby initiates the child's view of political authority. As Davies says: "The family provides the major means for transforming the mentally naked infant organism into adult, fully clothed in its own personality. And most of the individual's political personality— his tendencies to think and act politically in particular ways—has been determined at home, several years before he can take part in politics as an ordinary adult citizen and as a political prominent." Robert Lane has suggested that there are three ways in which the foundations of political beliefs may be laid through the family —(i) by overt and covert indoctrination, (ii) by placing the child in a particular social context, and (iii) by moulding the child's personality.

Then comes the school as a centre of primary education. Education has long been regarded as a very important variable in the explanation of political behaviour, and there is much evidence to suggest that it is a very important agent of political socialisation. Almond and Verba have pointed out that the more extensive an individual's education, the more likely he is to be aware of the impact of government, to follow politics, to have more political information, to possess a wider range of opinions on political matters, to engage in political discussions with a wider range of people, to feel a greater ability to influence political affairs, to be a member of and to be active in voluntary organisations, and express confidence in his social environment and exhibit feelings of trust. It is for this reason that the selection of courses comes to have an importance of its own and the politically conscious people fight for the revision of the syllabi as pertaining to their interests. Thus, the leaders of the Muslim League in Kerala struggled for the expunction of certain portions from the school textbooks in which Jawaharlal Nehru had said about the communal and antinational role of the League in the pre-independence days. To take another example, we may say that the American negroes have become more vocal in their criticism of the neglect of negro contributions in school text-books and have successfully demanded the inclusion of 'black studies' programme in many educational institutions.

What matters much in this direction is that, the problem of political socialisation arises after the children emerge from the early influences of their family and primary schools into the world of higher classes—also known as the 'peer groups' — and thus "may become subject to other influences which may reinforce or conflict with early politicisation." Martin Levin has found a tendency for individuals to adopt the majority group within the 'peer groups'. The courses of study, debates, discussions and other extra-curricular activities have their own impact upon the attitudes of the grown up students. Thus, the centres of higher education play their part in proto-political context and thereby become effective sources of political enlightenment. In this way, pedagogy finds its integration, with social sciences as the aim of both, as C. Wright Mills in his work *The Sociological Imagination* says, "is to help cultivate and sustain publics and individuals that are able to live with, and to act upon adequate definitions of personal and social relations."

Not merely the family and the educational institutions but social and political institutions as a whole play their part in the process of norm-internalisation. The role of religious institutions, for instance, need not be undermined. The effect of the church on political attitudes "is less apparent

Notes

when it reinforces other socialising agencies, but the role of Roman Catholicism in many European countries, liberal-democratic and totalitarian, offers illustrations of its conflict with both state and education, and is possibly a vital factor in the political behaviour of women in some countries." Youth movements do play an important part in the process of national integration particularly in the developing countries. Let us also have a look at the role of the political parties that are more diffuse because of their need to win wider support. The role of the government as a whole must be looked into, particularly in countries like Germany and Austria where financial support is given by the state to voluntary youth groups and organisations to encourage political education.

Lasswell's Common Set of Categories

Factors	Institutions	Effects
Power	Government and Law	Giving and receiving of support in connection with important decisions (authoritative commitments enforceable if challenged by the use of severe deprivations against challengers)
Enlightenment	Mass Media and Scientific Publications	Giving or receiving of news or scientific information
Wealth	Industry, Money and Credit	Giving or receiving of services or resources
Well-being	Nutrition and Medicare	Giving or receiving of opportunity for safety, health and comfort
Skill	Occupation, Profession, Arts	Giving or receiving of opportunity to discover and perfect latent capabilities
Affection	Families, Larger Identities	Giving or receiving of opportunity for love and loyalty
Respect	Classes, Ranks, Castes	Giving or receiving of opportunity for recognition
Rectitude	Ecclesiastical, Ethical organisations	Giving or receiving of opportunities to facilitate and apply norms of responsible conduct.

We should also examine the experiences that a man gathers during the course of his employment. One gains a great deal of insight into human nature by the way in which the employer behaves towards his employees. Brought up as a child in a family living on democratic lines and given to cooperation by nature, a person may develop a strong sense of resentment, even of violence, if he finds his employer behaving in a wrong manner. Herein figures the issue of the attitude of dominance towards the subordinates, attitude of deference of the subordinates towards their superiors, or a sort of sensitivity of power relationships. The job as well as the formal and informal organisations built around it, like unions and clubs, may constitute the channels for the explicit communication of political information and beliefs and any sort of participation in the process of collective bargaining or involvement with a strike can be a powerful socialising experience for workers and employers alike. The striking labourer not only learns that he can shape the authoritative decisions being made about his future, but he gains knowledge of specific action skills, such as demonstrating and picketing, which may be used in political participation.

The channels of mass communication exercise their own impact upon the 'cognitive map' of the individual's personality. By reading newspaper reports, listening to radio talks and seeing television films, people develop taste as well as distaste for certain norms and values. Thus, while free mass media—press, radio and television—inculcate different sets of values in the minds of the individuals, a controlled system of mass communications may play a quite effective part in bringing about a lot of conformity in their views.

Notes

Besides, we may also refer to the role of 'symbols' as an important means of developing political orientations. Events such as May Day parades, general elections, street demonstrations, coronation, inauguration of Presidency, birth anniversaries of Marx, Lenin and Gandhi, observance of national rejoicing days, etc. lay stress on historical continuity as well on unity of the people. A young child not only sees such events, he also develops an affective and evaluative orientation towards the regime. Positive judgements of the incumbents of these roles precede actual knowledge among children, for instance, about party affiliations and actual authority of the American President and political neutrality as well as titular headship of the British monarch.

Finally, we come to the influence of direct contacts with the political system. It will not be wrong to say that nothing can be as influential in shaping the attitudes and orientations of the individuals as their direct contacts with the institutions and processes of the political system under which they live and work. "No matter how positive the view of political system which has been included by family and school, when a citizen is ignored by his party, cheated by his police, starved in the bread line, and finally conscripted into the army, his views on the political realm are likely to be altered. Direct formal and informal relationships with specific elite in the political system are inevitably a powerful force in shaping orientations of individuals to the system."

Critical Appraisal

The study of political socialisation "seems to be one of the most promising approaches to the uderstanding of political stability and development." What has prompted the recent political scientists, political sociologists and political psychologists, particularly of the United States, is the desire for looking into the factors that have brought about transformations in the political systems and that have been playing their sinister part in this direction, particularly in the backward and developing countries of the world. As a matter of fact, what has motivated the scholars to render their contributions, in this regard, is their enthusiastic search for developing tools whereby existing political systems may be saved from their transformation into a form that is distinctly opposed to the domain of free and open societies. The result is that the concept of political socialisation may be accused of being conservative. As the entire concept of poltical development is an exercise for defending and preserving the *status quo*, the concept of political socialisation on account of the very fact of being a derivative of the same may be accused of in a similar vein.

As such, the concept of political socialisation may not serve the purpose of those who subscribe to the school of Marxism-Leninism, nor can it fully satisfy those who are in search of a real alternative to the school of scientific socialism. The Marxists openly declare that the philosophers have so far interpreted the world, the problem is how to change it. For this reason, they reject any concept of an 'open' society like that of political socialisation as another ingenuous gift of the bourgeois mind. What is peculiarly noticeable is that the entire approach of the political psychologists has failed to satisfy the scholars of the free world, though they have never rejected it like their counterparts subscribing to the school of Marxism-Leninism. The new generation of American political scientists has found many faults with the pattern variables and their empirical specifications not only in regard to their application to the developing countries of the Third World but to their own countries so terribly caught up in the problems like those of inflation, unemployment and war all assuming threatening postures to the survival of their own political systems.

A study of the political development of countries belonging to the Third World reveals that the model of political socialisation, as given by many distinguished American writers, may hardly apply to them in the midst of "too many armies, too much bureaucratic parasitism, too much unequal distribution and not enough production, too much concentration on display of projects and neglect of infrastructure, too much articulation of conflicts, between communities, in short, too much politics for the elites and not enough authentic participation for the masses. For anything but in the very long run, the Western model began to be regarded as unattainable, especially given the absolute character of the values and goals of many Third World leaders." As the two American critics comment: "The investigators rarely ask hard political questions about who benefits, who controls, and who attempts to control the processes they study. That children have a benevolent image of the political world is vastly a myth. But it is dead certain that the political socialisation theorists do."

Self-Assessment

Notes

1. Choose the correct options:

(*i*) Political socialisation refers to the process by which we

(*a*) develop our own political beliefs

(*b*) apply political answers to our society

(*c*) become politically active citizens.

(*d*) become saturated with political party propaganda

(*ii*) Political socialisation

(*a*) only occurs within the politically active

(*b*) is not particularly important

(*c*) is rather static in nature, and is not influenced by outside factors

(*d*) does not change over time

(*e*) beings in childhood

(*iii*) Party identification

(*a*) is a good predictor of an individual's political behavior.

(*b*) is still very strong in America

(*c*) has increased at a steady rate since the 1960s

(*d*) does not serve as a filter through which individuals view the political world

(*iv*) A broad-based change in party identification is known as

(*a*) political socialisation (*b*) party flipping

(*c*) a schema (*d*) a realignment

(*e*) partisan awareness.

(*v*) According to the text, public opinion is

(*a*) malleable (*b*) enduring

(*c*) subject to changing circumstances (*d*) all of the above

(*e*) none of the aove.

5.3 Summary

- Political socialisation "is the process by which political cultures are maintained and changed. Through the performance of this function individuals are inducted into the political culture, their orientations towards political objects are formed." In other words, it refers to the learning process by which norms and behaviour acceptable to a well-running political system are transmitted from one generation to another.
- Obviously, it has a peculiarly psychological dimension in the sense that it "is the gradual learning of the norms, attitudes and behaviour acceptable to an on-going political system."
- Political socialisation would encompass all political learning whether formal or informal, or whether deliberate and unplanned, at every stage of the cycle of his life, including not only explicitly political learning which "affects political behaviour, such as the learning of politically irrelevant social attitudes and the acquisition of politically relevant personal characteristics.
- Political socialisation desires to achieve the goal of political stabilisation. It stands on the premise that a political system cannot function smoothly unless the process of the internalisation of political norms and values is at work simultaneously. As in the case of an individual organism so in the case of body politic, nothing but maintenance or survival is needed. And survival means nothing else than stabilisation. As Roberta Sigel says: "The goal of political socialisation is to so train or develop individuals so that they become well-functioning members of the political society... For without a body politic in harmony with

Notes

the on-going political values and the political system would have trouble in functioning smoothly and perpetuating itself safely. And survival, after all, is a prime goal of the political organism just as it is of the individual organism.

- Political socialisation may thus be defined as the process by which an individual "becomes acquainted with the political system and which determines his reactions to political phenomena. It involves the examination of the social, economic or cultural environment of society upon the individual and upon his political attitudes and values.
- A new-born child is not a socialised creature; he is socialised by means of a learning process. Moreover, such learning "is not limited to the acquisition of appropriate knowledge about a society's norms but requires that the individual so makes these norms his own — internalises them —that to him they appear to be right, just and moral.
- The process of political socialisation starts when the child becomes aware of a wide environment; he feels increasingly perceptive in response to particular situations and comes to have an outlook that becomes increasingly coherent and total where before it was fragmented and limited.
- "The knowledge, values and attitude acquired during me cnildhood and adolescence will be measured against the experience of adult life: to suggest otherwise is to suggest a static political behaviour. If the process of adult socialisation tends to reinforce those of childhood and adolescence, the degree of change may be limited to that of increasing conservatism with age, but where conflict occurs, radical changes in "political behaviour may result: such conflict may have its roots in early political socialisation, but it may also be attributable to the experiences of later socialisation."
- It shows that the process of political socialisation covers the whole life of a man. Its foundations are laid in the early stages of a man's life, its superstructures may undergo change in the later stage on account of certain new experiences.
- The process of political socialisation has two forms: (i) homogeneous or continuous signifying that the individuals cooperate with each other in an atmosphere of mutual trust towards their political system, and (ii) heterogeneous or discontinuous signifying that the individuals have an attitude of mutual suspicion and hatred towards each other that eventually leads them to have disaffection with their political system.
- It should be pointed out at this stage that though political socialisation desires, as a matter of fact, political stabilisation, it should not at all be construed as an anti-change concept. It may certainly be described as a conservative' concept in the sense that it stands for a change that is neither radical nor rapid. It lays stress on this point that when change is the law of nature, it should be gradual and peaceful.
- The nature of the process of political socialisation at work varies over time and according to the environment of which it is a part and to which it contributes. It is, therefore, related to the nature of the political system and the degree and nature of change.
- The process of political socialisation in the form of the acquisition of political orientations and patterns of behaviour is as applicable to non-democratic societies as it is to the democratic ones, though it cannot be denied that the emphasis placed on the role of the 'agents' or the system of mechanism may vary both in kind and in its effectiveness.
- A totalitarian state is one that seeks to control all aspects of society and lays stress on the socialisation in general and political socialisation in particular.
- Simply stated, it means that we should have a brief study of the factors that internalise political norms and values what men of earlier ages called lessons in civic education, training for citizenship, behaviour of men in authority and role of social and political institutions. Thus, the role of the family, school, church, peer groups, mass media and public relations, etc., should be looked into in order to find out the veracity of this statement: "Since the individual is continually being influenced in the shaping of his political attitudes, orientations and values, the process of socialisation goes throughout his life.

Notes

- The chief contribution of the family in forming the political personality of the individual derives from its role as the main source and locus for the satisfaction of all his basic and innate requirements. Thus, the child tends to identify with his parents and to adopt their outlook towards the political system. The father becomes the prototypical authority figure and thereby initiates the child's view of political authority.
- Then comes the school as a centre of primary education. Education has long been regarded as a very important variable in the explanation of political behaviour, and there is much evidence to suggest that it is a very important agent of political socialisation.
- What matters much in this direction is that, the problem of political socialisation arises after the children emerge from the early influences of their family and primary schools into the world of higher classes—also known as the 'peer groups' — and thus "may become subject to other influences which may reinforce or conflict with early politicisation."
- In this way, pedagogy finds its integration, with social sciences as the aim of both, as C. Wright Mills in his work *The Sociological Imagination* says, "is to help cultivate and sustain publics and individuals that are able to live with, and to act upon adequate definitions of personal and social relations."
- Youth movements do play an important part in the process of national integration particularly in the developing countries. Let us also have a look at the role of the political parties that are more diffuse because of their need to win wider support. The role of the government as a whole must be looked into, particularly in countries like Germany and Austria where financial support is given by the state to voluntary youth groups and organisations to encourage political education.
- We should also examine the experiences that a man gathers during the course of his employment. One gains a great deal of insight into human nature by the way in which the employer behaves towards his employees. Brought up as a child in a family living on democratic lines and given to cooperation by nature, a person may develop a strong sense of resentment, even of violence, if he finds his employer behaving in a wrong manner.
- Finally, we come to the influence of direct contacts with the political system. It will not be wrong to say that nothing can be as influential in shaping the attitudes and orientations of the individuals as their direct contacts with the institutions and processes of the political system under which they live and work.
- The study of political socialisation "seems to be one of the most promising approaches to the uderstanding of political stability and development." What has prompted the recent political scientists, political sociologists and political psychologists, particularly of the United States, is the desire for looking into the factors that have brought about transformations in the political systems and that have been playing their sinister part in this direction, particularly in the backward and developing countries of the world.
- What has motivated the scholars to render their contributions, in this regard, is their enthusiastic search for developing tools whereby existing political systems may be saved from their transformation into a form that is distinctly opposed to the domain of free and open societies. The result is that the concept of political socialisation may be accused of being conservative. As the entire concept of poltical development is an exercise for defending and preserving the *status quo*, the concept of political socialisation on account of the very fact of being a derivative of the same may be accused of in a similar vein.
- As such, the concept of political socialisation may not serve the purpose of those who subscribe to the school of Marxism-Leninism, nor can it fully satisfy those who are in search of a real alternative to the school of scientific socialism.
- A study of the political development of countries belonging to the Third World reveals that the model of political socialisation, as given by many distinguished American writers, may hardly apply to them in the midst of "too many armies, too much bureaucratic parasitism, too much unequal distribution and not enough production, too much concentration on display

Notes

of projects and neglect of infrastructure, too much articulation of conflicts, between communities, in short, too much politics for the elites and not enough authentic participation for the masses.

5.4 Key-Words

1. Political socialisation : It is a lifelong process by which poeple form their ideas about politics and acquire political values.
2. Open societies : It is a concept originally developed in 1932 by the French philosopher Henri Bergson and then, in 1945, by Austrian and British philosopher Karl Popper. In open societies, government is purported to be responsive and tolerant, and political mechanisms are said to be transparent and flexible.

5.5 Review Questions

1. What do you mean by Political Socialisation?
2. Discuss the agents of Political Socialisation.
3. Write a short note on the development of Political Socialisation. Discuss Open vs. closed Societies.

Answers: Self-Assessment

1. (*i*) (*a*) (*ii*) (*c*) (*iii*) (*b*) (*iv*) (*a*) (*v*) (*c*)

5.6 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 6: Socio-Economic Bases and Salient Features of the Constitutions

CONTENTS

Objectives
Introduction
6.1 Constitutions of UK, USA, Russia, France, China and Switzerland
6.2 Amendment Process in the Constitution of USA and Switzerland
6.3 Federal System of the USA and Switzerland
6.4 Summary
6.5 Key-Words
6.6 Review Questions
6.7 Further Readings

Objectives

After studying this unit students will be able to:

- Explain the constitutional development of UK, USA, Russia, France, China and Switzerland.
- Know the amendment process in the constitution of USA and Switzerland.
- Understand the federal system of the USA and Switzerland.

Introduction

A comprehensive study of the British political system, and that too with a first and foremost place for it in a comparative study of the major modern governments is necessitated by certain pertinent reasons. Britain is rightly regarded as the ancestral home of the parliamentary government; the British Parliament is happily described as the 'mother of modern parliaments; and her constitution, though unwritten, is appropriately lauded as a testament of democracy in a land without 'a declaration of independence.' Impressed with the facts of English constitutional history, Woodrow Wilson observed that it "has been its leading characteristic that her political institutions have been incessantly in a process of development, a singular continuity marking the whole of the transition from her most ancient to her present form of government." The secret of this glorious feature of the British political system should be traced in this fact: "Homogeneity, consensus and deference are often cited as outstanding features of British society. Britain is widely seen as being fundamentally homogenous in its ethnic, religious and socio-economic composition, while the British people are often said "to exhibit a considerable degree of consensus on basic political issues and show a marked degree of defence towards political leaders."

A study of the American political system and that too with a place after the British political system in an advanced study of the major modern political systems of the world is not without some valid reasons. It is not at all due to America's being the most advanced nation of the democratic world, nor should its reason be traced in her being the most powerful country of the globe. Rather, the source of all pertinent reasons should be discovered in several momentous developments like the beginning of documentary constitutionalism, political and national integration, irresistible growth towards democratisation, freedom of the press, existence of an independent judiciary and a host of several other phenomena that constitute the model of a liberal-democratic order. More than all, the American constitutional system, like its English counterpart, has adapted itself to changing conditions. It is as a result of this that a "heterogeneous restless people have developed a continent,

Notes

built a nation, achieved a standard of living the highest the world has ever known, given the masses greater opportunities educationally and economically than any other people, preserved the great freedoms, renounced imperialism, successfully fought two world wars and has today assumed international leadership and international obligations unparalleled in history."


Notes A constitutions is a set of Laws on how a country is governed.

A study of the Russian political system in an advanced study of the major political systems of the world has its own reasons. Russia is the biggest country of Europe that had the credit of being a super-power of the world until a few years ago. A liberal democratic system has now come into being after the disintegration of the Union of Soviet Socialist Republics (USSR) in 1991. The 'socialist system' established by Lenin in 1917 and consolidated by Stalin withered away to the astonishment of all. A new order came into being under the leadership of Boris Yeltsin. What was the Russian Soviet Federated Socialist Republic (RSFSR) as a unit of the Soviet Union became a fully sovereign State with the name of Russian Federation committed to the norms of a liberal-democratic order. As President Yeltsin, in his message to the Federation Council on 21 December, 1996, reiterated: "I have no doubt that all of you are committed to the creation of a law-governed State. Many tasks are yet to be carried out for the idea of a law-governed State to triumph in our country. Among these goals is the criterion of a truly independent and authoritative judiciary."

A study of the French political system in a work on major modern political systems is governed by certain pertinent reasons. It is the country where the Great Revolution took place in 1789 for realising the boons of 'liberty, equality and fraternity' and where the Great Declaration of the Rights of Man and Citizen was adopted by the National Assembly that marked the inauguration of representative democracy. However, in the period following the Great Revolution, the people of this country made several important experiments with a republican system off and on tempered with the entry and exit of the remnants of an autocratic government like that of a Directory under Napoleon Bonaparte and the restoration of the Bourbon dynasty, until the notorious monarchy had its final termination in the revolution of 1848. Revolutionary trends continued with the result that one republic was replaced by another and the people continued their struggle to solve the problem of bringing about a workable reconciliation between the existence of an effectual parliament vis-s-vis the authority of a strong executive. As a result, since the Revolution of 1789, this country has had 16 constitutions under which many experiments took place all revealing the conviction of the people in this political axiom that "a parliamentary government is a representative government, whereas monarchical government is not. Democratic government must be both parliamentary and republican. The student of comparative government must, therefore, be prepared to assume that in France *political democracy*, the parliamentary system, and republicanism are, for practical purposes, three interchangeable concepts."

A study of the Chinese political system in an advanced study of the major modern political systems is not without certain pertinent reasons. The Chinese civilisation is one of the oldest civilisations of the world. To a student of religion and philosophy, China represents a very old system of its own. Likewise, to a student of politics, she is important not as much for its centuries-old religious or cultural traditions but because of her inherent potentialities of a world power. When China was like a moribund entity in the 19th century, Napoleon Bonaparte could visualise: "There lies a sleeping giant. Let it sleep, for when he wakes, he will shake the world." The whole world is aware of the fact that the Chinese rulers have ever been obsessed with the idea of world domination. However, what has attracted the attention of the world at large towards the political system of this country is the fact of its becoming 'red' in 1949 under the leadership of Mao Tsetung the Red Father of China. The progress that this country made under this supreme leader and after him coupled with political developments that have taken place ever since the advent of communism unmistakably lead to this impression that "an ignorance of the nature and aims of this rising

Notes

colossus, regardless of the attitudes taken towards it, is a serious chink in anyone's intellectual armoury."

A comprehensive study of the Swiss political system in a work on major modern political systems has certain pertinent reasons of its own. Though Switzerland is a small and land-locked country of Europe, her political institutions occupy a very significant place in the sphere of major constitutional systems of the world. Indeed, the Swiss system has successfully integrated a population characterised by social, linguistic, religious and cultural diversities into a united nation and demonstrated the possibility of close co-operation between peoples who at one time "were independent of each other politically and who today are widely divided by language and religion." Not only from a religious or ethnic but also from the political standpoint, the Swiss constitutional system is peculiarly important. It is primarily due to the fact that throughout the ages Switzerland has been a republic; the monarchist ways of thinking have been alien to the people. The Swiss, unlike the British or the French, has no understanding for the powers and privileges of a ruler, and thus for him the state "is an affair of all citizens, and its guidance is not to be hereditary, nor is it to be entrusted to an elected individual."

6.1 Constitutions of UK, USA, Russia, France, China and Switzerland

English Constitutionalism

The term 'constitution', when applied to a political society, embodies both a physical and a legal conception. In the former sense, it refers to the totality of constituent elements that form the physical make-up of the state as the factors of population and territory including the institutions of political machinery or administrative mechanism. But in the latter sense, it refers to a sum-total of statutes, charters, documents, and all written as well as unwritten (conventional) rules that constitute the organic public law of the state. Obviously, while in the former sense, the constitution becomes analogous to the science dealing with some phenomenon of nature, in the latter sense, it constitutes a field of important study in the domains of law and politics. And thus inspite of the fact that the term 'constitution' has been variously defined by different writers according to varying conceptions which they hold, it is indisputable that the constitution is a legal instrument which "embodies the more essential parts of the organic public law of the state." Such a definition of the term 'constitution' may create some difficulty for a student of constitutional law when he is concerned with a study of the English constitution. Hence, it should be added that the constitution, as Dicey observed, refers to all rules and regulations which directly or indirectly affect the distribution or exercise of the sovereign power of the state."


Notes

The British Constitution is unwritten in one single document, unlike the constitution in America on the proposed European constitution, and as such, is reformed to as an unclassified constitution in the sense that there is no single document that can be classed as Britain's constitution.

While constitution refers to a body of rules that are essential for every political community, constitutionalism desires appropriate limitations whereby power is proscribed and procedure is prescribed. In other words, constitutionalism has its libertarian as well as procedural aspects. While it is required that the state shall perform such and such functions, it is also made obligatory that it would not transgress its defined area of authority. Thus, the directions are set forth determining the manner in which the policy shall be formulated and implemented within the jurisdiction of the state. "Constitutionalism, then, governs two separate but related types of relationship. First, There is" the relationship of government with citizens. Second, there is the relationship of one governmental authority to another, the dichotomy is not sharp, for the latter type of relationship is regulated largely as a means of increasing the effectiveness of the control

Notes

imposed on the former type."

If constitutionalism precisely means the existence of a constitutional state, Britain occupies the most significant place in this regard. Moreover, the growth of British constitution affords a brilliant case of the development of genuine constitutionalism. The age of Tudor despotism ended with the 'golden age' of Queen Elizabeth I. The Stuart monarchs had to face the opposition of the people. The Civil War of 1640-48 was conducted on the issue as to who was supreme - the law or the king. The defeat of the king and the victory of the people confirmed the principle of the sovereignty of the latter. What remained undone in the Civil War was accomplished in the Glorious Revolution of 1688 that laid the foundation of the sovereignty of Parliament. The movement for the democratisation of the system continued with the result that the great Reform Acts were passed in 1832, 1867 and 1884 which enfranchised more and more people. The parliament Act of 1911 crippled the powers of House of Lords and its amendment in 1949 further reduced the area of authority of the House in matters of passing a non-money bill. The rise of the two political parties had its own contribution to the development of English constitutionalism. It made the functioning of the parliamentary government a possibility.

As a result of all these developments, the British sovereign stands away from the area of effective political authority; the power is exercised by the ministers of the Crown accountable to the Parliament; and that all citizens of the country, irrespective of their social and political status, enjoy the boons of liberty and equality what Dicey calls the 'rule of law'. What is of special importance in this regard is that English constitutionalism has supplied "a continuity of life to liberal institutions through many centuries when elsewhere they were dead or had never lived, permitted the growth of its own institutions among those communities in all parts of the world of which England herself was the mother and supplied the pattern of a constitution when the moment came for any newly liberated community to found one."

Controversy Regarding its Existence

As already pointed out, the constitution of a state consists of those fundamental rules which determine the form and functions of government and lay down the procedure by which the political authority is to be exercised. It is thus one of the celebrated axioms of the science of politics that there can be no state without a constitution. Curiously, a controversy has found its manifestation so far as the existence of the English constitution is concerned. The names of Thomas Paine of America and Alexis de Tocqueville of France are known in this direction who reacted against the classical defence of Edmund Burke regarding his argument of a prescriptive constitution. The central theme of the argument of Paine is that there exists no constitution at all unless it can be produced in a visible form, that is, in the form of a document. A generation later, Alexis de Tocqueville of France repeated the same argument. But while Paine examined the case on the basis of a written constitution, de Tocqueville studied the case on the basis of its flexible nature. Like Paine, he concluded that the English constitution did not exist owing to the fact that there was no difference between the ordinary law of the land and the constitutional law.

That the views of Paine and de Tocqueville are miserably misfounded and that a thing like constitution does exist in Britain becomes clear with a close look at its component elements. The English constitution not having been made at a particular period of history has grown like an organism and developed from age to age in which contributions have been made by six important factors:

1. **Great Charters:** The great charters constitute the most important milestones on the way of struggle for personal liberty and responsible government. They are historic and have a very important bearing on some of the fundamental aspects of the practices and principles of the constitution. The Manga Carta of 1215 established that even the king is subject to the law of the land and that the people have certain liberties which must be respected by him. The Petition of Right of 1628 denied taxation without the consent of the Parliament, prohibited arbitrary imprisonment, and biletting of royal soldiers on private residences, and also outlawed certain abuses of the royal power. Then, the Bill of Rights of 1689 laid the foundations of constitutional monarchy. These charters are the product of political crises and they contain the terms of

Notes

settlement between the monarch and the people which occurred at various stages of constitutional development.

2. **Great Statutes:** Numerous laws passed by the Parliament define the principles of organisation and working of British political institutions. They grant authority, establish administrative agencies, and lay down their tenure and jurisdiction. For instance, the Parliamentary Reform Acts of 1832 and 1867 ending with the People's Representation Act of 1970 determine franchise and regulate elections in the country. The Parliament Acts of 1911 and 1949 establish the supremacy of the House of Commons over the House of Lords. The Habeas Corpus Act of 1679 secures personal liberty against arbitrary detention. The Judicature Acts of 1873 and 1876 provide for judicial organisations and procedure. Thus in Britain constitutional principles can be distilled from numerous important statues. The Statute of Westminster of 1931, the Abdication Act of 1936, the Ministers of the Crown Act of 1937 and the Peerage Disclaimer Act of 1963 may be mentioned as other leading instances in this regard. All these statutes are very important for the development of political democracy and any attempt to repeal them would be considered as unconstitutional.
3. **Judicial Decisions:** Another source is to be found in the decisions of the judges. While deciding cases, the judges interpret, define and develop the provisions of the great charters and statutes. They fix the meaning and the scope of the formal laws of the constitution. For instance, in the *Case of Impositions* (1606) the court defined the scope of arbitrary power of the Crown to impose duties for the regulation of trade. Likewise, it was reaffirmed in a modern case (*Attorney General vs*. *De*. *Kayser's Royal Hotel Ltd*. *Case of* 1920) how the discretionary powers of the Crown are limited by a statute conferring similar authority. The independence of jury was firmly established in the famous *Bushell's Case* of 1670. In *Eton's Case* of 1815, the court was called upon to interpret Art. II of the Bill of Rights (the dispensing power as it hath been assumed and exercised of late) and decided that the expression did not apply to a general dispensation for which there was a precedent in the times of Queen Elizabeth I. The great text-books and commentaries written on the country's constitutional law by men like Sir Edward Coke and Blackstone have also contributed to clarify and fix the meaning and limits of important constitutional principles. In a good number of cases the courts have upheld the sovereign position of the Parliament. It may, however, be pointed out that the task of interpretation for the courts is based on the principle that their duty is to ascertain the true meaning of the words used by the Parliament and that the policy of the Act and the intentions of the law-makers are irrelevant except in so far as they have been expressed in the words used therein.
4. **Common Law:** Several matters of great constitutional importance are covered by the principles of common law. It is from these principles that the prerogatives of the Crown, the privileges of the members of Parliament and the liberties of the people flow. The origin of common law dates back to the fourteenth century when the courts began to lay down case law. They claimed authority to state the law at a time when the meetings of the Parliament were brief and infrequent and statute-making was in a stage of infancy.

   The courts exercised their independent role as time went on, often subject to coercion by the Crown. But the judges stated the law as in their authoritative books or according to custom or good sense and equity. Thus, they created new traditions and judicial precedents. They gathered and reconciled many local customs and composed their own resultant jurisprudence, the law common to the whole country: hence there grew a term common law. Side by side with the common law, there developed equity through the courts of Chancery division. Thus, from the principles of common law and equity many subtle adaptations in the governmental system were made. But it should be remembered that since there is legislative sovereignty in Britain, principles of both common law and equity hold good until the Parliament passes a statute on the same subject.
5. **Conventions:** However, the most important feature of the British constitution rests not upon formal law as upon the usages and customs technically called the 'conventions'. These usages are the unwritten rules of political practice and they have been defined by John Stuart Mill as 'unwritten maxims of the constitution'. The most curious thing in regard to constitutional

Notes

conventions is that although their validity cannot be a subject of controversy in a court of law, they cover some of the most important parts of the British governmental system and are most scrupulously observed. For instance, the entire apparatus of the Cabinet and its relationship with the Crown and the Parliament have no foundation in law, they are regulated by the usages and conventions of the constitution which have developed in the course of time.

6. **Standard Works:** Commentaries on the English constitution written by eminent figures are also important in as much as they have systematised the diverse written and unwritten rules, established an understandable relationship between one rule of the constitution and the other, and then linked them into some degrees of unity by reference to central principles of the fundamental law of the land. In certain cases, such writers have provided compendious and detailed accounts of the operation of particular categories of rule and their works have acquired the status of constitutional documents. Erskine May's *Treatise on the Law, Privileges, Proceedings and Usages of Parliament, A.V. Dicey's An Introduction to the Study of the Law of the Constitution, Anson's Law and Custom of the Constitution*, Walter Bagehot's *The English Constitution*, Jennings' *Cabinet Government*, Laski's *Parliamentary Government in England* and *Constitutional Law* by Wade and Phillips are some of the most celebrated works on the English constitution.

   It is thus evident that the British constitution is a living organism which has been in a condition of perpetual growth and change. However, it should be remembered that since the English people are conservative by nature, their political institutions have seldom witnessed a radical change, though they have a process of incessant evolution. That is why, it is said that in the history of British constitutional development no revolution was thoroughly radical and that while the present has remained connected with the past, the future is bound to remain organically connected with the present. The fact remains that while the British people are conservative by nature, they are also realistic in their outlook. As a result, the British constitutional system has been remarkably dynamic and constantly growing in response to the changing conditions of the age. For example, what was once an absolute monarchy, has gradually been transformed into a political democracy. The great British empire of Disraeli and Chamberlain has now become a Commonwealth or an association of free and sovereign nations. It has given strength to the national pride that in less fortune countries, such changes "take place to the accompaniment of protracted bloodshed and in the awful shadow of civil war. In Britain, they are announced in a Speech from the Throne."

Constitutional Conventions

Conventions of the constitution, a term popularised by Dicey, mean practices and usages hardened into unwritten rules of political behaviour. That is why, John Stuart Mill has called them 'unwritten maxims of the constitution' and Anson designated them as 'customs of the constitution'. They constitute an extra-legal phenomenon in as much as they do not find their place in the written rules adopted by a legislative or a judicial body. In other words, conventions mean 'constitutional practices', as Prime Minister Asquith said in the House of Commons in 1910, and they rest upon the usages developed over a long period of history. Hence, conventions of the constitution "are rules, or unwritten principles, understandings or maxims, of political behaviour. They are not established in statutes or judicial decisions or parliamentary custom, but they are created outside of these to regulate political conduct that the statutes etc. have not embodied and may never embody."

It follows that there is a technical point of difference between a law and a convention. While a law is made by legislative body, convention means a practice based on general acquiescence. Again, while law is precise because of being written into the shape of a document, convention is 'uncertain' as it is never formulated into words. Finally, while a law is enforced by the courts, judges can not enforce a custom as it does not emanate from a legally constituted body. Apart from these technical point of difference between the two, the peculiar notion about the conventions in Britain is that no definite boundary line can be drawn between the two in as much as theirs is a fusion without any confusion. The law of the land pays recognition to the well-established conventions of the times and once their existence is recognised by legislations, conventions do not remain really very

Notes

different from laws. Jennings thus rightly asserts that the conventional system of the British constitution "is, in fact, much like the system of the common law."

For the sake of convenience, we may put a long list of important conventions under these heads:

First, there are some well established *conventions relating to the monarch* which regulate the exercise of royal prerogatives. The monarch reigns but does not govern. As such, he is the titular head of the state acting upon the advice of his ministers. He can do no wrong which implies that the responsibility is of the ministers who carry on the administration of the country and who can not take shelter behind the throne for their acts of commission or omission. The monarch does not attend the meetings of the Cabinet; he appoints the Prime Minister without using his discretion to reveal the fact of his political non-partisanship. The office of the Prime Minister goes to the leader of the majority party in the House of Commons and the monarch has hardly any chance to exercise his discretion in this regard - save in the exceptional times of national crisis. The monarch has got the power to veto a bill passed by the Parliament, but he gives assent to every bill as a result of which his veto power has been in disuse since 1707.

Second, there are important conventions *relating to the Cabinet system*. The Prime Minister must belong to the House of Commons and that he must be the leader of the party which commands absolute majority in the House. All ministers must belong to the party of the Prime Minister and they must have the membership of the Parliament. However, if a minister is not a member of the Parliament, he must find his seat within a period of six consecutive months. All ministers are appointed by the monarch (on the advice of the Prime Minister) and they take oaths of office and secrecy before him. The ministers are accountable to the Parliament which means that they must resign in case a vote of non-confidence is passed against them. The Prime Minister may submit his resignation to the monarch whenever he so chooses and then advise the monarch to dissolve the House of Commons in order to have the final verdict of the people in a general election.

Third, there are equally important conventions *relating to the Parliament*. The Parliament must meet once a year at least. The House of Lords is not only the upper chamber of the British Parliament, it is also the highest court of appeal in civil matters and when the House meets in a judicial capacity, only 9 Law Lords sit. The Speaker of the House of Commons is a non-partyman and his office is highly exalted. So goes the maxim that 'once a Speaker, always a Speaker'. The Prime Minister and his ministers can be removed by the House of Commons and not by the House of Lords. A bill must be passed by both the Houses after three readings. The session of the Parliament begins with the Speech from the Throne. The Army Act is passed every year. The ministers have full regard to the will of the House of Commons in the conduct of foreign affairs, and do not declare war or neutrality, or make peace or enter into important treaties without securing, as soon as possible, endorsement by the Commons.

Last, there are some important conventions *relating to the Common wealth of Nations* which determine the relationship between the monarch and his Parliament on the one hand and the member-states on the other. In case there is a Dominion, the British monarch becomes the head of that State as well and he acts on the advice of the ministers of that Dominion and not on the advice of British ministers. The British Parliament cannot make law for a Dominion until so desired by the latter. The monarch has his agent in the Dominions called the Governor-General who acts as his nominee, but when present in a Dominion (as in Canada, Australia or New Zealand), the authority is exercised by the monarch himself. That is why, it is commented that today the Queen of Britain is at the same time the Queen of Canada or Australia acting through her Governor-General appointed by her on the recommendation of the Parliament of the Dominion concerned. This is called 'Dominion Status'. The membership of the Commonwealth of Nations is optional and, hence any member-state may abandon the membership at its will. Then, a member of the Commonwealth of Nations may be a Republic and thereby regard the British king as the 'symbol of friendship' instead of paying him final allegiance. It is also required by a convention that the members of the Commonwealth of Nations meet in the annual conference under the chairmanship of the British monarch and discuss matters of mutual concern and interest.

Notes

Now the question arises as to what is the sanction behind the conventions. When conventions are unwritten rules unenforceable by the courts, why are they observed? Different theories have been propounded in this regard which are correct in their own ways but which revolve round the fact that conventions form the wrap and woof of the British constitutional system and provide the lubricating oil which keeps the parts of mechanism well in operation. First, we take up the view of eminent English jurist A.V. Dicey who holds" that there is an integral relationship between law and convention as a result of which conventions are observed, otherwise sooner or later a violator would find himself actually breaking a law. Dicey's explanation is that conventions are so intimately bound up with laws that if the former are violated, it naturally leads to the violation of the latter as well.

The American writer Lowell holds a different view. He relies on the factors of public morality and the force of tradition and public opinion. He does not dismiss the contention of Dicey but finds it inadequate. In his view, many conventions may be broken or disrespected and there would be no punishment as there is no violation of law. For instance, if a defeated Prime Minister does not resign, he cannot be arrested and put before a magistrate for trial and eventual conviction. What is more important is the force of public conscience which, in such a case, would result in the shape of mass upheaval and compel the defeated Prime Minister to resign and go. Any undemocratic behaviour of the House of Lords would open ways for further dimunition of its powers.

Another view is furnished by an eminent English writer, Jennings. He considers the government functioning on a co-operative basis where the rules of law alone cannot provide for common action. Both written and unwritten rules are followed because of the habit of the people to obey. Thus, conventions are rules of political behaviour first established to meet with specific problems and subsequently to be followed by the canons of expediency and reasonableness.

The fact is that now laws and conventions have become interwoven to constitute and keep into operation the English constitutional system. They consist of understandings, habits or practices which, through only rules of political morality, regulate a large portion of the actual day-to-day relations and activities of even the most important of the public authorities. That is the reason which prompts Ogg and Zink to say that conventions "clothe the dry bones of law with flesh and make the legal constitution work and keep it abreast of changing social needs and political ideas." In fine, men work the Constitution to make it attain certain ends they deem desirable, the theory is the expression of these ends. As Laski says: "But men regard constitutional principles as binding and sacred, because they accept the ends they are intended to secure."

Salient Features of the Constitutions

1. An Evolved Constitution

The fact that Britain does not possess a coherent, well-formulated and written constitution does not substantiate the charge that 'there is no constitution in England'. 'The true position is that the English constitution is a growth, not a make. It was never made in a way as the American constitution was made by the Philadelphia Convention in 1787. In simple terms, it means that it was never created by a stroke at any particular period of history. No constitution-making body ever met to formulate the fundamental law of the English people; no monarch proclaimed it as an instrument of government complete in all respects. And yet there is very much a thing like the English constitution despite the obvious political fact that the English "have left the different parts of their constitution where the waves of history have deposited them; they have not attempted to bring them together, to classify or complete them, or make of it a consistent and coherent whole."

An exception to this can be found in the Instrument of Government framed in 1653. It was a written constitution prepared during the period of Oliver Cromwell. Virtually, it provided the model of a military government headed by the Lord Protector having several units under the charge of his lieutenants. It, however, could not work well and with the restoration of monarchy in 1660, England slid back into her traditional system of government.

The existence of the English constitution can be easily traced in its gradual change and remarkable continuity. It has been likened with an ever-green tree bearing fruits and flowers in

Notes

response to the climatic conditions, or it has been described as a living organism ever-growing and functioning without having sudden leaps or suffering from unexpected breaks. It may be called the lengthened shadow of the English people in as much as it well represents the gradually changed character of the English political system of a traditionally conservative nation. Leaving aside the only exception of the Protectorate Period (1649-60), the English people have never shown themselves as volatile as the people of France who switched over from monarchy to popular government and then swang back to an autocracy under Napoleon Bonaparte. The Glorious Revolution of 1688 can be cited as an example when the English people invited Mary and William to ascend the throne after King James II escaped - an event that laid down the foundations of constitutional monarchy. The stubborn attitude of the Lords as displayed by them in 1909 led to the passing of the Parliament Act of 1911 that virtually clipped the wings of upper chamber of the Parliament; the insistence of King Edward VIII on marrying Lady Simpson led to his peaceful abdication in 1936. As accidents have occurred, so the wisdom of the English people has shown itself in dealing with the problem of change. Thus, the English constitution is described as 'a product of accidents and designs', or 'a child of chance and wisdom.'

The result is that the English constitution has a different nature. It "is like a maze in which the wanderer is perplexed by unreality, by antiquarianism and by constitutionalism. James Bryce calls it "a mass of precedents carried in men's minds or recorded in writing dicta of lawyers or statesmen, usages, understandings and beliefs, a number of statutes mixed up with customs, and all covered with a parasitic growth of legal decisions and political habits." It is by all means a continuously changing blend of the ancient and the modern and herein lie the secrets of its strength. It is owing to this that the governments have been permitted to rule effectively without allowing them to govern for long in an arbitrary and irresponsible manner, disregarding the wishes at least of the more powerful and articulate sections of the government. Besides, no rigid constitutional or political orthodoxy has been able to ossify the institutions of government and it "has not been necessary totally and swiftly to reorganise them at the cost of destroying established habits of thought, behaviour and sentiment."

2. An Unwritten Constitution

The British constitution is the model of an unwritten constitution. Its written part is limited to some important charters signed by the monarchs, statutes passed by the Parliament and decisions given by the courts. The larger part of the constitution is unwritten as it is available in the form of numerous usages and customs. A list of constitutional documents should be referred to in this connection having leading instances like those of the Magna Carta of 1215, Petition of Right of 1628, Habeas Corpus Act of 1679, Bill of Rights of 1689, Act of Settlement of 1701, Act of Union of 1707, First Reform Act of 1832, Second Reform Act of 1867, Third Reform Act of 1884, Parliament Act of 1911, Statute of Westminster of 1931, Abdication Act of 1936, Ministers of the Crown Act of 1937, Peerage Disclaimer Act of 1963, Representation of the People Acts of 1918, 1928 and 1970 etc.

The bulk of the English constitution is contained in the form of usages, precedents and customs what Mill has termed the 'unwritten maxims of the constitution' and Dicey denominated them as 'conventions of the constitution'. These customs relate to the office of the monarch, the Prime Minister and his Cabinet, the Parliament and the Commonwealth of Nations. We have already dealt with their meaning, leading instances and the reasons behind their observance. What is relevant for our purpose at this stage is to point out that these well-established practices having no written form of their own constitute an integral part of the English constitution and since they constitute the bulky part of the English constitution, they render to it the character of an unwritten constitution.

The unwritten character of the English constitution has created the anomaly of something in theory and something else in practice what is sometimes described as its 'penchant for disguises'. It is due to this that 'nothing is what it seems to be or seems to be what it is'. Several instances may be given to corroborate that it is characteristic of the English constitution that forms and symbols continue to exist, while the spirit behind them has been completely transformed.

Notes

The written and unwritten parts of the English constitution may also be described as its internal and external segments. While the written rules of the constitution contained in the great charters and statutes are very clear and they constitute the internal segment, the practices or customs hedging around them to supply flesh and blood to the dry bones of the written skeleton may be said to constitute the external segment. That is why, Dicey divides the English constitution into the body of written rules which constitute, what he terms the 'law of the constitution', the other part consists of well established practices what he designates as 'conventions of the constitution'. However, the growth of the English constitution signifies the development of its both segments and that makes the nature of the English constitution "essentially pragmatic." Both the written and unwritten parts of the constitution are duly observed, rather the people attach due importance to the latter, as they "have a distinct dislike for declaring their political philosophy in terms of law."

3. Unitary System

A unitary system is one in which there is no division of power between the national or central government on the one hand and regional or provincial governments on the other. All powers are assigned to the central government and if some local units are created for the sake of administrative efficiency or convenience, they are the creation of the central government. The salient mark of a unitary system is that the units of the state enjoy no autonomy, as they are like the agents of the central government. As such, the centre may enlarge or reduce their area of authority, or make other incidental changes in the powers delegated to them.

The British constitution is unitary. The central government locate at London is constitutionally supreme and the governments of the unit like those of Wales, Scotland and Northern Ireland located at Cardiff Edinburgh and Belfast respectively derive their authority from the centre government. The British Parliament is sovereign that can make any law for the country as a whole or for its' part, or it may delegate some of it powers to a local parliament like that of Northern Ireland. Besides, there are units of local government like counties, boroughs, parishes and the London Metropolitan Council etc. that work according to the laws may by the Parliament and the directions issued by the central government.

The unitary system of Britain can be traced in the fact that though these areas "do enjoy a degree of regional independence, but nowhere does this extend to the creation of a federal relationship."

The units of British government enjoy a considerable degree of administrative devolution. For instance, the government of Scotland has control over education, agriculture, fisheries, home and health, while its M.P.s constitute the Scottish Grand Committee of the House of Commons that discusses all matters relating to this unit of the United Kingdom. Likewise, the government of Wales has its control over several matters and the M.P.s belonging to this part constitute a Grand Welsh Committee that discusses matters relating to this region of the United Kingdom. The administration of Northern Ireland is much different. There is a separate Parliament having two Houses (House of Commons and Senate, a Cabinet and a Governor-General and a minister for Welsh affairs in the British Cabinet. The Channel Islands and the Isle of Man have their own Parliament and, like Northern Ireland, they are largely self-governing in internal affairs. Despite all these administrative devolutions, Britain has a unitary system, because all units are ultimately subject to the legislative supremacy of the central government.

4. A Flexible Constitution

The British constitution is flexible in view of the fact that it can be changed very easily; moreover, there is no distinction between the higher (constitutional) and lower (ordinary) law as the Parliament may make any law by the same process of legislation. Any law passed by the Parliament by its simple majority may amount to a change in the constitution. That is, there is no special process laid down for passing a bill of constitutional amendment. The unwritten character of the constitution is responsible for making the English fundamental law as a highly flexible affair. That is why, we find that the slow and gradual way in which the power passed from the monarch to the Parliament and from Parliament to the Cabinet, thereon to the Prime

Notes

Minister, speaks of the highly flexible character of the English constitution. Not being set out or declared in any sacrosanct document, nor hedged in by some special process of amendment, the British constitution "can be changed or modified in any or every particular way by the ordinary process of legislation. It can be reformed in any part by an ordinary act of Parliament assented to in the ordinary way."

National character plays its own part in determining the nature of a constitution. A constitution may be flexible or rigid not only because of the process of its amendment, or the breadth of its written provisions, much also depends upon the character of the people. In other words, it means that changes in the constitution depend upon the temperament of the people. Thus, the flexibility of the English constitution is qualified by the conservative character of the people. Since the people are the lovers of tradition, no sudden or radical change has so far occurred in the English constitution. Leaving aside the peculiar events of the mid-seventeenth century, nothing very astonishing has occurred in the direction of, for example, reforming the House of Lords. No Parliament and no Prime Minister can dare take a step that might create mass indignation. It is for this reason that no change in the constitutional sphere as occurred without a very thorough airing of the matter in public many years before it was actually attempted and above all without seeking a mandate in an election to the proposal." As Munro says, the legislators "come from the people; they think and feel as the people do; they are saturated with the same hopes and fears; they are creatures of the same habits and when habits solidify into traditions or usages, they are stronger than laws, stronger than the provisions of the written constitutions."

5. Concentration and Diffusion of Powers

One of the peculiar features of the English constitution should be discovered in the unique manner in which powers have been concentrated in the executive and legislative organs of the government and, at the same time, these have been separated, rather, diffused, in the midst of what Bagehot calls 'supposed checks and balances' of the constitutional system of Britain. It should, however, be pointed out here that the meaning of the term 'separation of powers' does not have the same implications here that were given by Montesquieu and what we find in the American constitutional system. What should be taken note of is that the separation of powers does prevail in Britain to the extent and in a manner that is essential for the preservation of the essential liberties of the people. In the place of the rigid separation of powers, into three compartments, the British have preferred to have many divisions each providing checks on the other.

The concentration of powers is traceable in the fact that the monarch is the head of the state whose prerogatives, though formal, cover all the three spheres of government. The Prime Minister and the Cabinet constitute the executive part, but they have usurped the powers of the Parliament. Moreover, all members of the Cabinet are the members of the Parliament and thereby they perform functions originally vested in the national legislature. The Lord Chancellor is the peculiar authority whose range of functions defies the principle of separation of powers as he is in the legislature by virtue of being the presiding officer of the House of Lords; he is in the executive because of being a member of the Cabinet; finally, he is in the judiciary on account of serving as Lord Chief Justice while the House of Lords sits as the highest court of the country in civil and criminal matters for England and Northern Ireland and for Scotland in civil matters. In addition, he has executive duties connected with the courts, such as confirming the appointment of justices, clerks, sending out circulars on sentences and being responsible for prisons, the probation service, and the release of persons from Broadmoor and similar institutions. What engages our attention at this stage is that even judiciary is not a separate part of the English government in a manner we find in the United States — the land of the separation of powers.

The essential feature of the English constitution is, therefore, the concentration of powers and since most of the powers have been usurped by the Cabinet, it has become the single-most important piece of mechanism in the political structure of England. In terms of law, sovereignty lies with the Parliament; in terms of politics, the powers of the Parliament have been usurped

Notes

by the Cabinet. The result is the omnipotent position of the Cabinet that is sometimes identified with its 'dictatorship'. The essential thing is that the liberties of the people be preserved: while the Americans have done it by following the principle of 'separation of powers,' the English people have accomplished the same by having the 'diffusion of powers.' As Bagehot appreciates: "But we happily find that a new country need not fall back into the fatal division of powers incidental to a presidential-government; it may, if other conditions serve, obtain the ready, well-placed, identical sort of sovereignty which belong to the English constitution under the unroyal form of Parliamentary government."

6. Sovereignty of Parliament

The Parliament of Britain affords the solitary case of a sovereign law-making body. While writing in 1885, Dicey said that the sovereignty of Parliament is, from a legal point of view, the dominant characteristic of the English constitution. He further added that it "means neither more nor less than this, namely, that Parliament thus defined has, under the English Constitution, the right to make and unmake any law whatever, and further no person or body is recognised by law of England as having a right to over-ride and set aside the legislation of Parliament." While highlighting the same position, another writer mentions that in England Parliament is legally omnipotent and it "can do anything and achieve any result which can be achieved by man-made laws."

This classical phrase has certain important implications:

(*i*) It signifies that the legislative power of the Parliament is unlimited and absolute. As De Lolme said, it can do everything except changing the sex of a person; or as Bagehot commented, it can make any law to do anything except making a man a woman and *vice versa*. The reason is that there is no written constitution in the country to define the area of legislative power of the Parliament and there is no federal system forestalling the authority of the national government. As a result, the Parliament is all-powerful to make a law, then change it, or eve repeal it.

(*ii*) There is no distinction between constitutional law and ordinary law of the land. In the absence of a written constitution with a special procedure of amendment, the British constitution is the model of flexible constitution. As a result, the Parliament possesses full constituent powers. By passing a law with its simple majority it can lay down any constitutional provision or make any charge in the existing arrangement.

(*iii*) It signifies that there is no judicial authority in the country which may question the validity of a law passed by the Parliament. The courts are bound to enforce every law made by the Parliament.

(*iv*) The sovereignty of Parliament, in a more accurate language, means the supreme authority of the House of Commons. Legally speaking, the term King-in-Parliament means King and the House of Lords and the House of Commons. But now both the King and the House of Lords have lost their former position of power and become subservient to the will of the House of Commons.

(*v*) The doctrine of Parliamentary sovereignty is a legal fiction. It is a patent truth to a man of law who finds that a law made by the Parliament is binding and enforceable by the courts of the country.

As Parliamentary sovereignty is a legal fiction, the doctrine has been criticised from other angles. A man of politics highlighting the fact of political sovereignty is not prepared to accept the view that Parliament is omnipotent to pass any law as it is always under the control of the electorate. Democracy means power with the people and thus no Parliament can do anything to disregard the weight of public opinion. In case the Parliament makes a law contrary to the premises of the rule of law, it imperils its own supremacy. As Barker says, the sovereignty of Parliament and the rule of law "are not only parallel; they are also inter-connected and mutually interdependent." So, while attacking the doctrine of Parliamentary sovereignty from moral and humanitarian standpoints, it is argued that no Parliament can pass a law going against the celebrated norms of decent human life. Jennings is of the view that no Parliament can make a

Notes

law that all blue-eyed babies must be killed. It shows that there are profound moral and psychological checks and voluntary self-restraints which come into operation when substantial changes in the constitution are under consideration. The fact is that the supreme power of the Parliament is based on the confidence of the people in its being the temple of national glory and freedom. It stands on the political axiom that the consent of the Parliament "is taken to be every man's consent." In a word, the doctrine of Parliamentary sovereignty, so understood, "is one of the most treasured in British constitutional history. It signifies the glorious liberation of the people from royal tyranny."

7. Rule of Law

The constitutional government of Britain represents democratic way of the people without a declaration of independence and a written fundamental law of the land. It is, indeed, astonishing to see that the British people feel themselves securely free in the midst of an unwritten and evolved constitution the existence of which has been doubted by the protagonists of a written and enacted constitution. The reason for this lies in a constitutional government what the English writers, particularly Dicey, call by the name of 'rule of law'. It is based on the common law of the land and is the product of centuries of struggle between the *rex* or king determined to rule by the virtue of 'divine rights' and the *lex* or law made by the people to protect their inherent rights and privileges. Laski writes that it is through the rule of law that the Englishmen "have sought to avoid not merely the obvious dangers of unfettered executive discretion in administration; we have sought also to assure that the citizen shall have his rights decided by a body of men whose tenure is safeguarded against the shifting currents of political opinion."

The rule of law does not mean rule by super-men; it definitely means rule by the super-science of law. As such, it represents the antithesis of the rule of lawlessness. It stands on the premise that the welfare of the people is the supreme law. It implies a constitutional form of government which exercises power in accordance with law denying any change for the king or his ministers to identify themselves with the state in the fashion of King Louis XIV of France. Thus Lord Hewart of Bury defines the rule of law as to mean the 'supremacy or predominance of law as distinguished from mere arbitrariness." In other words, as a fundamental principle of the British constitutional system, it signifies that the exercise of the powers of government "shall be conditioned by law and that the subjects shall not be exposed to the arbitrary will of their rulers.

The essential principles of the rule of law may be pinpointed in the following manner:

(*i*) The individual should be able, through his legal adviser, to ascertain the law fairly precisely so that he can plan his actions with some degree of certainty.

(*ii*) Encroachment on the freedom of the individual must be lawful.

Hence:

(*a*) any act of the Government or its officials must be backed by law;

(*b*) no authority can interfere arbitrarily in the individual's way of life;

(*c*) a citizen can feel certain he will not be arrested unless he is charged with some definite breach of law.

(*iii*) Before the citizen can be punished, a breach of the law must be established in a lawful manner before an impartial tribunal.

(*iv*) Justice must be regarded as an end in itself, interpreting the law as it stands and uninfluenced outside the law by the wishes of the Parliament or the Government.

The concept of the rule of law was given a classical formulation by Dicey in the form of following propositions:

First, the rule of law guarantees liberty of person and property by implying that no person can be arbitrarily deprived of his life, liberty or property by arrest or detention except for a definite breach of law tried in and held so by a court of competent jurisdiction. Second, the rule of law ensures equality. That is, all persons are equal in the eye of law and subject to ordinary courts of

Notes

the country regardless of their private or public positions. Every individual is under the control of the law made by the Parliament or common law emanating from judicial decisions and under the jurisdiction of ordinary courts. Last, the rule of law means that the general principles of the English constitution are a result of judicial decisions determining the rights of private citizens in particular cases' brought before the courts, Simply stated, it implies that the legal rights of the people are not protected by the terms of a written constitution as in a country like the United States, they are safeguarded by the operation of ordinary laws and remedies available under these ordinary laws against those, whether public officials or private persons who interfere with these freedoms unlawfully.

All the three implications of the rule of law, as explained by the eminent English jurist, signify the existence of a democratic government operating on the maxim that the welfare of the people is the supreme norm of the land. Not only various fundamental freedoms are guaranteed to the people, free access to the courts is also assured to prevent and punish the wrong-doers. The peculiar thing about this is that the rule of law makes an unwritten charter of the essential liberties of the English people. It demonstrates that in Britain, it "is not necessary that in order to exist, a given right or liberty be expressly guaranteed in a statute or other formal act; by common law, it exists if in and so far as, it is not expressly forbidden and does not conflict with the rights of other." It is rightly commented that the rule of law "involves the absence of arbitrary power, effective control of and proper publicity for delegated legislation, particularly when it imposes penalties; that when discretionary power is granted and the manner in which it is to be exercised should, as far as practicable, be defined; that every man should be responsible to the ordinary law whether he be private citizen or public officer, that private rights should be determined by impartial and independent tribunals; and that private fundamental rights are safeguarded by the ordinary laws of the land."


Task What is Virginia's Plan?

American Constitutionalism

Like Englishmen, the Americans have the credit of being the constitution-worshippers with this line of difference that while the former do so without having a constitution in the form of an enacted document, the latter do it otherwise. However, the common point between the two is their conviction in this celebrated maxim that there should be a 'limited government', or the political organisation of the country should be circumscribed by a set of restrictions conducive to the protection of the essential liberties of the people. In other words, both the Englishmen and the Americans have their unflinching faith in the principle that certain prescribed procedure must be followed by the political decision-makers in making authoritative decisions and in the sense that there are certain decisions they may not make at all. Allied to this is their strong faith in this constitutional maxim that there is no single means of achieving a limited, or, correctly stated, constitutional government and that a strong and well-written constitution in and by itself is no guarantee of limited government. But neither is it meaningless.

Making of the Constitution: As the occurrence of a war seemed inevitable after the proclamation of the historic Declaration of Independence on 4th July, 1776 it was also felt necessary by the great leaders of the Second Continental Congress to establish a strong Central government working according to some precise documentary rules. Thus, the Congress that set up a committee to draft a Declaration also appointed another committee of one representative from each colony to prepare and digest the form of confederation to be entered into between all of them. As a result of this, a sort of formal Constitution came into being called the 'Articles of the Confederation and Perpetual Union' that was adopted at the next Congress on November 17, 1777 and that was subsequently ratified by all the 13 colonies.

Notes

Though the loose union of the American States made spectacular achievements under the Articles like the winning of war of independence, several inherent weaknesses were also felt. Thus, the eminent leaders thought in terms of revising them if the existing union was to be made 'perfect' and 'indestructible'. In not much time, opinion in favour of having a strong and perfect union of the American States gathered weight. The Annapolis Convention of Sept., 1786 attended by the delegates of five States resolved to call a convention of all the 13 States to revise the Articles "so as to render them adequate to the exigencies of government and the preservation of the union. Thus came into being Philadelphia Convention of May, 1787 having delegations appointed by all States except Rhode Island. In all 74 delegates were appointed, though 55 attended and, finally, 39 placed their signatures to testify the adoption of the Constitution.

The Philadelphia Convention met on 25th May, 1787 with a mind to suitably revise the Articles of the Confederation. Discussions, however, took a turn as some of the delegates submitted their own plans to provide a radical cure to the ills of the Confederation. The first constitutional scheme prepared under the leadership of Madison had submitted to Governor Randolph of Virginia (called the Virginia Plan) proposed a national executive, a national judiciary and a bicameral legislature with a lower house chosen directly by the people and the second one consisting of persons nominated by the State legislatures. The proposed national government was to have vast powers. Naturally it was opposed by the delegates coming from small States. William Paterson of New Jersey thus put his own design (called the New Jersey Plan) emphasising, in the main, unicameral legislature giving equal voice to all States, though Congress could have enlarged powers. Two other plans (one submitted by Pinckney of Connecticut and the other by Hamilton of New York) leaned more towards centralisation.

The way was thus cleared for the adoption of a new Constitution drafted by the Committee of Style under the chairmanship of Governor Morris of Pennsylvania on Sept. 15, 1787. One hurdle still remained and that was its ratification by the apprehended States. Three great campaigners (Iamilton, Madison and Jay) wrote a series of 85 articles under the fake name of 'Publicus' to persuade the leaders of the States that were later published as *The Federalist Papers*. The mission of the great leaders triumphed and the necessary work of ratification was completed with a unanimous vote in 3 and with a division in favour in 10 other States. Thus, the new constitution came into force on March 4, 1789.

Growth of the Constitution: The American Constitution has a distinguished record of its own growth that may be described as its incessant as well as organic development towards a successful democratic political system. However, when we compare the growth of the American Constitution with that of the British, the difference lies in the fact that while the latter is not a make but a growth, the former is both a make and a growth. Beginning from its grand inauguration in 1789, it has remained in a continuous process of growth and expansion. In many ways, the Constitution has grown and developed even beyond the expectations and plans of the Founding Fathers. Thus, the American Constitution, like every other Constitution of the world, is "not a static but a dynamic, a Darwinian not a Newtonian affair.

If the American Constitution is no more than the 'sap centre' of a system of government vastly larger than the stock from which it has branched, following important factors have played their part in this regard:

1. **Constitutional Amendments:** The Constitution provides a process of amending its provisions. This channel has been employed as a result of which twenty seven amendments have taken place so far. Any provision of the Constitution is amendable by the joint action of the Congress and the State legislatures. However, what makes it very rigid is the provision of special majority by which a proposal in the form of a bill must be passed by the Congress and State legislatures. It is true that the process of constitutional amendment is too rigid, difficult, even cumbersome, it has so far yielded result twenty seven times. These amendments have changed the shape of the original document to a considerable extent. For instance, the First Ten Amendments lay down the fundamental rights of the citizens. The thirteenth amendment abolishes the system of slavery. The seventeenth amendment provides for direct election of the Senators. The twenty second amendment debars a person to seek Presidential election for a third term. Thus, various

Notes

constitutional amendments have effected changes in the governmental system of the United States as originally established in 1789.

2. **Congressional Statutes:** The legislative authority of the federal government is vested in the Congress having Senate and House of Representatives as the upper and lower chambers respectively. The acts made by the Congress from time to time have done much to cover what could not be provided by the terms of the original Constitution and subsequent amendments. But one thing should be noted here: we are not concerned with every act passed by the Congress. Since the Constitution has set limits to the authority of the Congress, the American national legislature is not a sovereign law-making body and as there is a distinct difference between the constitutional law and the ordinary law of the land, our concern is here confined to those statutes passed by the Congress which have done to cover up the gaps contained in the provisions of the Constitution. However, since the process of amendment is too rigid, it can not be denied that the legislative authority of the Congress has done much to keep the Constitution in operation. For instance, the Constitution says nothing about the organisation of the cabinet, machinery of elections, composition of the various executive departments, organisation of the subordinate federal courts, management of national currency and banking, recruitment and working of the armed forces etc. All these affairs have been regulated by the laws passed by the Congress from time to time. The organisation and working of the constitutional committees, the requirement that all bills must be passed through three readings, the various rules for the regulation and control of debates etc. are governed by the acts of the Congress.
3. **Executive Decrees:** Likewise, the orders and decrees of the President have greatly contributed to the growth and expansion of the Constitution. It is observed that Presidents like Washington, Jackson, Lincoln, Wilson, Roosevelt, Kennedy, Nixon and Bush had an impact on the Constitution at least equal to that of any of the original framers. By their vigorous use of the Presidential powers, they made the Presidency an office of executive as well as legislative leadership. The institution of the cabinet, the practice of senatorial courtesy, the declaration of war and peace, the making of executive agreements, the use of extra-ordinary powers during the days of national emergency, the use of veto over Congressional legislation in an unqualified manner etc. may be cited among the leading instances of the fact that in the exercise of these powers, strong Presidents have taken and maintained positions virtually settling constitutional questions with some meaning or application never attributed to it. Some Presidents have even claimed that the Constitution means what they say and quite often their views have prevailed. Even the heads of the executive departments and other administrative officers have to act swiftly as per orders coming from the White House. It is the Supreme Court alone that can place an effective check on the administrative powers of the President, but it should be taken for granted that unless the executive orders and decrees are challenged, they remain the part of an ever-expanding constitutional fabric.
4. **Judicial Interpretations:** Certainly the judicial interpretations have played a very important part in the growth and expansion of the American Constitution. The judges interpret the Constitution and in the course of their interpretations, new meanings are given to its provisions. Justice Hughes once claimed that 'although the Americans are under a constitution, the Constitution is what the judges say it is.' It is indisputable that the Supreme Court has heavily contributed to the sphere of constitutional development. By the doctrine of implied powers, it has vastly increased the authority of the Congress in matters of legislation. By means of various decisions, it has enabled the federal government to control and regulate commerce, trade, industry, transport, communications, defence etc. Moreover, by the power of judicial review, the Supreme Court has made itself the guardian or protector of the liberties of the people and secured the credit of being a 'continuous constitutional convention at work.' It is owing to the very important part of the Supreme Court that the oldest written Constitution of the world has, for all its rigidity, shown remarkable elasticity. The truth seems to be that the Supreme Court "has read into the American Constitution many things which are not there visible to the naked eye. It has read out of the Constitution other things which are there as plain as print can make them."

Notes

5. **Usages and Conventions:** Finally, like its British counterpart, the American Constitution has also grown by usages and customs. These usages and customs are the product of the ages and though they have their basis neither in the laws nor in the judicial decisions, they are now essential parts of the basic framework of the fundamental rules of the government. The cabinet, courtesy of the Senate in matters of approving foreign treaties and appointments made by the President, working of the party system, and Presidential primaries and party conventions may be counted among the leading instances. Although the usages and conventions have attracted less attention than other methods of constitutional development, they have always been at work enlarging, altering and influencing the substance of the Constitution. It cannot be denied, however, that they have played a very important role in determining the actual governmental process, steadily developing the 'unwritten Constitution' and in some respects, turning the written provisions of the Constitution into unintended channels or into uses altogether contrary to what the Constitution makers had contemplated. One writer goes to the extent of saying that the "most complex revolution in our political system has not been brought about by amendments or by statutes, but by the customs of political parties in operating the machinery of government."

Thus, the bare outline of the American Constitution once drafted at the Philadelphia Convention of 1787 has been steadily filled in and expanded through formal amendments, Congressional enactments, Presidential decrees, judicial interpretations and customs and usages. This unbroken process of growth and expansion has enabled the Constitution to keep pace with time and to become increasingly democratic and thoroughly modernised. Thus, Lord Bryce once asserted that the "American Constitution has necessarily changed, as the nation has changed." Right is the observation of Charles Beard that it is a printed document explained by judicial decisions, precedents and practices, and illuminated by understanding and aspiration."

Critical Appreciation: By all means, the making of the American Constitution constitutes the first bold instance of 'documentary constitutionalism' in the world. For a very long time there was a tendency in the United States "to regard the Constitution as a new invention of political science." And yet certain points of criticism have been made to highlight the weaknesses of the Philadelphia Convention, the manner in which the great task was accomplished, and the provisions that ultimately had their incorporation into the fundamental law of the land. These may be put as under:

1. The Philadelphia Convention was not a truly representative body. The delegates were not elected by the people, they were nominated by the legislatures of the then colonies that had become States after the declaration of independence in 1776. A suggestion that the draft constitution should be submitted to the people for their approval in a referendum was defeated in the Philadelphia Convention. Hence, there was no popular approval of the Constitution that was inaugurated some two years after its ratification by the 3/4 of the then States.
2. The Constitution prepared by the Philadelphia Convention was not at all an original creation. It lacked originality in several important respects. Much was taken from the Constitution of the Massachusetts and the Articles of the Confederation.
3. The American Constitution is a product of the struggle between the Federalists and Anti-Federalists in which the former could impose their will on the latter. The Federalists (who desired a strong government at the Centre with President and Congress in opposition to far much power than really favoured by the Anti-Federalists) could win after a course of intense and bitter discussion. By virtue of having a good command over the art of argumentation and also because of having a higher national image, men like Hamilton, Madison, Jefferson, John Adams, Jay and, above all, George Washington could prevail upon the 'old patriots' like Patrick Henry, Richard Henry Lee, Samuel Adams, George Mason and Elbridge.
4. However, the most poignant criticism of the American Constitution is contained in the 'economic interpretations' furnished by a critic like Beard. According to him, the framers were largely motivated by economic self-interest. While substantiating his thesis, he says that most of the delegates were engaged in money lending, slave trade, using land for speculative purposes, and running mercantile and manufacturing concerns. No representation was given to the class of small farmers and wage earners.

Notes

As a matter of fact, the Constitution emerged as a 'bundle of compromises.' A distinguished student of the American Constitution makes a plausible observation when he adds: "Great men there were, it is true, but the convention as a whole was composed of men such as would be appointed to a similar gathering at the present time: professional men, business and gentlemen of leisure, patriotic statesmen and clever, scheming politicians; some trained by experience and study for the task before them, and others utterly unfit. It was essentially a representative body taking possibly a somewhat higher tone from the social conditions of the time, the seriousness of the crisis and the character of the leaders.

Salient Feature of the Constitution

The American Constitution framed by the Philadelphia Convention of 1787 and inaugurated two years after has served as a vital unifying force for the diverse population. Representing itself as the opposite model of the British fundamental law, it has offered an alternative design to the, lovers of a liberal-democratic order. It has its peculiar significance to the people of the United States who hold with ample pride and satisfaction that though many other elements have provided the cementing force to the structure of their political life, the most obvious and the most universally accepted element is their basic law formulated by their Founding Fathers. To them, it is this document that has sealed the significance of their War of Independence and served as a unifying force for their nation by putting together and establishing the centrifugal forces. Its salient features may be put as under:

1. An Enacted and A Written Constitution

The Philadelphia Convention of 1787 was a grand assembly of the leaders chosen by the legislatures of the then States and the Constitution made by this great assembly of great men was ratified by those who were elected by the people to do the august job while keeping their social, political and economic interests in their minds. It is evident from the language of the Preamble that reads: "We, the People of the United States, in order to form a more Perfect Union, establish Justice, insure domestic Tranquillity, provide for the common Defence, promote the general Welfare, and secure the Blessings of liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

The Philadelphia Convention gave a Constitution having seven Articles some of them being large enough to have sections within their detailed elaboration. The three main organs of the federal government - President as the executive, Congress as the legislature, and Supreme Court and subordinate federal courts as the judiciary — have their sanction in these provisions. Moreover, the functions and powers of the three major organs have been left to the States. The process of Amendment has also been laid down so that the words and phrases of the Constitution may be amended according to the exigencies of the situation. However, what has added to the richness of the provisions of the Constitution in an ever more but never less manner is the interpretative role of the judiciary. The final interpretations of the federal judiciary have given new meanings to the original provisions with the result that the American Constitution is said to have 5 pages along with 5,000 pages of judicial decisions made for the sake of their amplification.



Did u know? The first and foremost feature of the American Constitution finds place in its being a formulated instrument made by the eminent leaders of a nascent nation to establish what they termed 'limited government.'

2. Separation of Powers and Checks and Balances

It is true to say that no feature of American political system "is more characteristic than the separation of powers combined with precautionary checks and balances." It signifies that the power of Government is diverse and diffused in the hands of three organs - executive, legislature

Notes

and judiciary. The Founding Fathers adhered to the idea of separation of powers for the reason that, as Lord Acton aphorised, 'power corrupts and absolute power corrupts absolutely'. Whether sovereignty rests in an absolute monarch or the people, it is potentially dangerous and the only possible way out is to realise the political truth that power checks power. Madison had warned that any concentration and accumulation of powers in the hands of one, or few, or many, whether hereditary, elected, appointed or nominated, amounts justly to the very name of a tyrannical government.

As a result, the American constitutional system is based on the idea of separation of powers coming from the monumental contributions of Locke and Montesquieu and also from the language of the Constitution of Massachusetts. Art. I of the Constitution says: "All legislative powers herein granted shall be vested in a Congress." Art. III begins: "The judicial power... shall be vested in one Supreme Court and in such other inferior courts as Congress from time to time may ordain and establish." In its most dogmatic form, the American conception of the separation of powers may be summed up in the following propositions:

(*i*) There are three intrinsically distinct functions of government, the legislative, the executive, and the judicial;

(*ii*) These distinct functions ought to be exercised respectively by three separately manned departments of government; which should be constitutionally and mutually independent; and

(*iii*) A corollary doctrine stated by Locke - the legislature may not delegate its powers.

However, the Founding Fathers were scientists as well. They well understood that separation did not mean complete disconnection. Apart from incorporating the law as laid down by Locke and Montesquieu, they invented a new system of checks and balances whereby they enabled each organ of government to exercise control over others so that the fear of partial despotism could be dispelled. The new arrangement was devised to set off the disasters of water-tight compartmentalisation as well as to ensure that no branch of government would become autocratic or irresponsible even in its own sphere of activity. This means that no branch of government has been given unrestricted area of authority even in its own sphere in as much as the other two organs of government have been given a limited power of acting as checks in order to prevent the abuse of power. In a word, the principle of checks and balances "requires that after the main exercise has been allocated to one person or body, care should be taken to set up a minor participation of other persons or bodies."

This type of adjustment may be seen in this manner. The executive authority is with the President checked by the Congress and the Supreme Court. For instance, all appointments and foreign treaties made by the President are subject to Senatorial confirmation. Besides, the Congress can remove the President from office by the process of impeachment. Then, the President takes the oath of office before the Chief Justice to defend and protect the Constitution and the Supreme Court and federal courts, by virtue of their power of judicial review, may declare any order given by him *ultra vires* if it is found against the provisions of the Constitution or the due process of law. Likewise, the legislative power is vested in the Congress. It is provided that a bill passed by the Congress is under Presidential veto, but if the President rejects a bill and the Congress re-adopts it with a two-thirds majority, the Presidential veto is over-ridden. Then, the federal courts with Supreme Court at the top can exercise the power of judicial review and thereby determine the constitutional validity of any Congressional legislation either on the basis of authoritative interpretation of the constitutional provisions or due process of law. Finally, judicial branch is checked by the fact that the Congress can determine the number of judges and their salaries and emoluments, or limit their appellate jurisdiction, or even remove a judge by the process of impeachment. It all demonstrates the fact that this separation of powers combined with the precautionary checks and balances is, indeed, the 'primary feature of American government.

It is often said that the principle of separation of powers works well in the United States for the reason that there is the complementary system of checks and balances. But the real operation

Notes

has made the entire system work in a way that the operation of the principle of checks and balances has been undermined on one side by the growing leadership of the President and on the other by the dominant position of the judiciary headed by the Supreme Court. The rise of political parties and their way of functioning have tended to redistribute the power separated by the Constitution. This has established the leadership of the federal executive in the hands of the chief administrator called the President. Above all, there is the phenomenon of 'judicial despotism'. The federal judiciary, with Supreme Court has read into the Constitution many things which are not visible there to the naked eye; it has read out of it other things which are there as plain as print can make them. That is, the Supreme Court has established itself as the sole guardian of the Constitution and by virtue of this unique position come to hold the authority of being the 'final interpreter of the fundamental law of the land'.

3. A Rigid Constitution

A rigid Constitution is distinctly different from its flexible counterpart in the sense that its process of amendment is difficult as a result of which the difference between constitutional law and ordinary law becomes sharply visible. The laws of the Constitution and the laws made by the legislature in the normal course of its working are different from each other. The two flow in different channels, the former possessing a specially higher and sacred status than the latter. Thus, a special process is laid down in a rigid Constitution to carry out the work of amendment. The authority of the legislature is limited and it can not pass a bill of constitutional amendment exactly in the same manner as it does in the case of passing an ordinary legislative measure. It is clearly laid down that the bill of constitutional amendment should be adopted either by a special convention, or by a constituent assembly, or by the existing legislature with a special majority, or by the people through referendum, or by a majority of the governments of the units in a federal system, or by combination of them.

The most notorious example of a rigid Constitution is afforded by the fundamental law of the United States. The system has been condemned as cumbersome and undemocratic and it has also been proposed to substitute it with a more flexible and democratic procedure under which an amendment might be proposed by a simple majority of the two houses of the national legislature (Congress) and ratified by a majority of voters in the majority of the States, provided the latter were a majority of the total vote cast throughout the country. It is owing to the extremely rigid nature of the Constitution that only 27 amendments have taken place so far ever since its inauguration in 1789.

4. Presidential Form of Government

Britain is known for parliamentary form of government, America has the model of presidential government. The President is the head of the State as well as of the government. He is elected for a term of four years and may be re-elected. He appoints his ministers and may remove any minister or change his departments as per his pleasure. Since the executive and the legislature have been separated, the President and his ministers cannot be the members of the Congress. The President may send his message to the Congress and may go there to deliver it personally, but he cannot vote. The Congress cannot throw out the ministry by passing a vote of no-confidence. If the President is guilty of treason or of some grave misdemeanour, he may be removed by the process of impeachment.

5. Senate as the Powerful Upper Chamber

In most of the countries of the world, legislature is bi-cameral in which the lower house is made more powerful than the upper house. In the British Parliament, the House of Lords is a weak chamber while the House of Commons, for all practical purposes, means the Parliament. So is the case with the Senate of France and the Council of State of Switzerland. But in America Senate, being the upper chamber of the national legislature, is more powerful than the House of Representatives. It confirms all the appointments made and foreign treaties signed by the President. It sits as a court of impeachment to try the President, Vice-President, judges of the Supreme Court and federal courts etc. It is true that a money bill cannot be introduced in the Senate, but when it comes, after it is passed by the House, the Senate it may make any number

Notes

of amendments in it. In a situation of deadlock, the matter is sorted out by the compromise or conciliation committee having equal number of members from both the houses. On account of being senior and seasoned politicians of the country, the members of the Senate are expected to have their final say in this committee. So to call Senate as the upper house is to make a case of terminological inexactitude.

6. Judicial Supremacy

Whereas the English Constitution is known for the 'sovereignty of Parliament' as its dominant characteristic, judicial supremacy is said to be the outstanding feature of its American counterpart. The powerful position of the judiciary becomes a source of astonishment when one studies it in the context of the basic features of the American Constitution contained in the principle of separation of powers and checks and balances. The founding fathers vested judicial authority in the Courts as they vested legislative authority in the Congress and the executive authority in the President without making one superior to or supreme over another. It is clear from the language of the Constitution that the makers regarded the federal judiciary as "the third member of government trinity, no less important than the other two members." And yet the courts have enhanced their authority in course of time with the result that they have come to establish their supreme hold by virtue of this fact that they "have the right to review the activities of all agencies of government in order to determine whether they are legally and constitutionally valid."

The vesting of the power in the Court of interpreting the words and phrases of the Constitution has proved a blessing of the founding fathers to the authors of the great power of the federal judiciary what is known by the name of 'judicial review'. Ever since the days of Chief Justice Marshall, the judges of the Supreme Court and subordinate federal courts have been making use of this unique power in determining the validity of an impugned legislative or executive measure. Not only this, the judiciary has outstretched its arms so as to cover State legislation and administration also for this purpose. Thus, a situation has come where the federal judiciary has converted itself into a final arbiter of determining whether a law made by the Central or State legislatures or a decree promulgated by the executive is valid and, therefore, operative or not. Matters have reached a stage that the American Constitution is said to be, in the words of justice Hughes, 'what the judge says it is'.

The power of judicial review has certainly made the Supreme Court something more than an equal member of the government trinity. Viewed from one angle, it may be said to have become the third and super-chamber of the American national legislature; viewed from another, it may also be described as to have become a quasi-political body functioning not in a judicial vacuum but whirling in a political climate. The expression of 'due process of law' has become a dexterous tool in the hands of the judges to define what is due or not, and that too in the light of the obtaining political circumstances. The way the federal judiciary has acted in invalidating certain progressive measures has made it liable for the charge of being conservative and deliberately hostile to the advent of a system favourable to the interest of the economically weaker sections of the community. Thus, a critic like Laski has commented that the 'due process' has meant 'not a road but a gate and the thing it barred was an attempt to transform political democracy in the United States into social democracy.

Creation of the Russian Federation

The political and socio-economic order established by Lenin in 1917 and consolidated by Stalin started crumbling after 1970. The emerging wave of criticism hit at the era of Brezhnev (1969-82) as the period of slowing down (zamedleniye) and stagnation (zastoi). It paved the way for the inauguration of the new era of openness (glasnost) and restructuring (perestroika) under the leadership of Mikhail Gorbachov. He first used the word *glasnost* at a party conference on the point of ideology in December 1984 when he was Second Secretary to ailing Chernenkov. After taking charge in March, 1985 he put his 'new thinking' before the people in clear and strong terms. On 21 May, 1988 he said in a party meeting; "Certainly it is impossible today to describe in detail the concrete image of the future for which we are reaching through *perestroika*, but the basic

Notes

parameters and main features of which we call a qualitatively new state of society can and must be outlined. They can be outlined, because the chief orientations and tendencies of social change have already emerged."

In 1991 the post of the President of the Federation was created which was assumed by Boris Yeltsin as a result of his victory in the elections. He was the first executive head in the Soviet history to be elected by the popular vote. He set up a Constitutional Court having 19 judges elected for 12 years on a non-renewable term. In October, 1991 he announced an economic programme to establish a healthy mixed economy with a powerful private sector. In the following month, a law was made that extended citizenship of the Russian Federation to all who lived in this country at that time and to those living in other Soviet republics if they so requested. In December, 1991 Yeltsin created the Commonwealth of Independent States that included the Russian Federation and other sovereign States which were previously the constituent units of the Soviet Union leaving the three Baltic republics of Estonia, Latvia and Lithuania.


Notes

The RSFSR was the biggest constituent unit of the USSR. In April 1978 it adopted a new Constitution. In June 1990 it passed a declaration of republican sovereignty by 544 votes to 271 in its legislature and adopted the name of the Russian Federation.

On 12 June, 1991 Presidential election was held in which Yeltsin gained 57.3% of the votes by virtue of which he became the President of the Federation for next five years. In November, 1992 a bankruptcy law was made that permitted the winding up of the indebted enterprises. The system of central distribution of resources was established in 1993 and the work of overseeing privatisation was entrusted to the State Committee on the Management of State Property. It began with small and medium-sized enterprises. The Constitution of the Russian Federation was passed by the legislature in 1992 and then ratified by the people in a referendum held on 12 December, 1993. The making and promulgation of the Constitution of the Russian Federation should be hailed as the. first democratic experiment of the people who had so far been under the yoke of a totalitarian system. Yeltsin would be regarded as the Pericles of Russia in time to come. Russia is now a sovereign State as well as the most powerful member of a Confederation (Commonwealth of Independent States) created in 1991.

Salient Features of the Constitution

The Constitution of this country, known as the Fundamental Law of the Russian Federation, has these important features:

1. **A Liberal Document:** It establishes a popular system on the lines of other democratic countries of the world. It sanctions ideological or political diversity that automatically recognises a multi-party system. That is, now this country has no official ideology as was the case under the earlier Constitutions. All public associations have been made equal in the eye of law. No party or group can change this system by forcible means. Freedom of thought and expression has been guaranteed and judiciary has been assured an independent position. The provisions of the Constitution ensure free and fair periodic elections. It protects right to private property with right of inheritance. Nationalisation of private property by the state for a public purpose by the authority of law has been recognised. As a result of this, the system of private economy has been introduced in the country that was not allowed under the erstwhile socialist system. The Government has been made accountable to the legislature for its acts of commission and omission. A long list of the human rights and civil freedoms of the citizens has been included in the fundamental principles of the constitutional system.
2. **Supremacy of the Constitution:** The Constitution of Russia is written. It has 137 Articles. Chapter 1 specifies fundamental principles of the constitutional order wherein the norms of liberal constitutionalism may well be noted. Chapter 2 has a long list of human and civil

Notes

rights and freedoms. Provisions relating to the Federal Structure, the President of the Federation, the Federal Assembly, the Government of the Federation, and the Judiciary are contained respectively in Chapters; 3, 4, 5, 6 and 7. While some provisions relating to local government are Contained in Chapter 8, the following chapter has provisions relating to amendment and revision of the Constitution. Art. 15 makes it clear that the Constitution of the Federation has the supreme legal force applicable to the country as a whole. All laws and decrees of the Centre and of the governments of the constituent units must conform to it. In this direction, a notable point is that all laws must be officially published for the sake of general information. Since the provisions of the Constitution may be amended or revised by special majority of the two chambers of the Federal Assembly and a bill of this kind is subject to the final verdict of the people in the form of referendum, it is rigid like the Constitutions of Switzerland and France.

3. **Fundamental Principles:** Chapter 1 has a set of 16 principles that constitute the basis of the Russian constitutional system. It is given that 'Russia is a democratic federative law-governed State with a republican form of government'. Man and his rights and freedoms shall be the supreme value. The recognition, observance and protection of human and civil rights and freedoms shall be an obligation of the State. Power is vested in the multi-national people of the country who shall exercise it directly or through their elected deputies. Usurpation of power is prohibited. The Constitution shall be the supreme law of the land. The Russian Federation shall consist of the constituent units as republics (states), krays (areas), oblasts (regions) and cities of federal significance. The Russian Federation shall be a social state whose policy is aimed at creating conditions ensuring a worthy life and the free development of human personality. Private as well as public property shall be recognised. The organisation of the government shall be based on the principle of separation of functions. The system of local government shall be guaranteed. Ideological and political diversity shall be recognized and, for this reason, multi-party system shall prevail. The Russian Federation shall be a secular state. Finally, universally recognised principles and norms of international law as well as international agreements made by the state shall be an integral part of its legal system. It shows that under this Constitution, Russia is a democratic, federal, secular and social welfare state.
4. **Internationalism:** The Russian Constitution goes much ahead in the direction of including provisions pertaining to an international order than what is given in Japanese and German Constitutions. While the Japanese constitution of 1946 declares renunciation of war as an instrument of national policy, and the German Constitution of 1949 says about the commitment of the State to observe the principles of international law, the Russian Constitution says about the commitment of the state to the principles and norms of international law as well as international agreements made by it. Human rights and freedoms shall be recognised and guaranteed according to the universally recognized principles and norms of international law. The enumeration of the basic rights and freedoms in this Constitution should not be interpreted as a denial or dimunition of other universally recognised human and civil rights and freedoms. The Russian Federation shall grant political asylum to foreign citizens and stateless persons in accordance with the universally recognised norms of international law. A bill passed by the State Duma must be compulsorily examined by the Federation Council if it is related to war and peace. The Constitutional Court of the Russian Federation may strike down a law or an order of the government of the Centre or of any constituent unit if it is inconsistent with an international treaty made by the Federation.
5. **Environmentalism:** A novel feature of this Constitution should be traced in its recognition of the norms of sustainable development. It has provisions for the protection of a healthy environment. Everyone shall have the right to a favourable environment, reliable information on the state of environment and compensation for damages caused to one's health and property by the violation of environmental laws. Everyone shall have the duty to preserve nature and the environment and to treat the natural resources with care. Law-making on matters relating to land, water, forest, subsurface resources and environmental protection falls within the

Notes

jurisdiction of the governments of the Centre as well as of the constituent units. The Government of the Russian Federation shall ensure the implementation of a uniform State policy in the spheres of culture, science, health, social security and ecology. It shows that this Constitution has paid heed to the new norms of internationalism in the direction of safeguarding the environment for the health and life of the people and thus contributed to the development of international environmental law.

6. **Federal System:** The Constitution establishes a federal system by dividing powers between the federal government and the constituent units which number 89 in all. The exclusive powers of the Centre have been spelt out which include adoption and amendment of the Constitution and of federal laws, securing compliance of the Constitutions (charters and laws) of the constituent units with the Russian Constitution and federal laws, making foreign policy and conducting foreign relations, defence and security of the country, currency and money emission system, federal public services etc. It spells out concurrent powers of the Centre as well as of the constituent units as protection of human rights and civil freedoms, demarcation of State property, use of natural resources, safeguarding the environment, coordination of international and foreign economic relations etc. All other powers have been left to the constituent units. The Constitutional Court of the Federation has been given the power to interpret the terms of the Constitution and to settle legal disputes between the Centre and the constituent units or between the units themselves. The Russian Constitution has been declared the supreme law of the land.
7. **Quasi-Presidential Government:** The Russian Constitution has followed the pattern of the French Constitution by placing the head of the State (President) in a stronger position than that of the Government headed by the Prime Minister. The President proposes the name of the Chairman of the Government of the Federation (Prime Minister) that must be approved by the State Duma. In case the proposals of the President in this regard are rejected thrice, he shall dissolve the State Duma and then appoint a Prime Minister of his choice. He appoints Deputy Chairmen and other ministers of the Government on the advice of the Prime Minister. The ministry is responsible to the State Duma. This arrangement of ministerial responsibility resembles the parliamentary system of Britain, but the position of the President is not like that of a constitutional head who, like the British monarch, can do no wrong. The President has the power to accept, or not, the resignation of the Prime Minister and his ministers even after a motion of no-confidence is passed by the State Duma. Moverover, he can dissolve the State Duma in case it passes another motion of no-confidence against the Government within next three months. It shows that the responsibility of the Government to the State Duma is just a formality. The President presides over the sessions of the Government and, as such, his voice has its weight in the taking of decisions. He may dismiss the Prime Minister. He may remove the Deputy Prime Minister or any minister on the advice of the Prime Minister. It is clear that the Prime Minister has to act according to the wishes of the President, if he desires to live in office.
8. **Bi-Cameralism:** The Constitution has adopted the system of bicameralism by creating the Federation Council and the State Duma as the two chambers of the federal legislature. The old practice has been followed by not designating the two as the upper and the lower chambers as we find in other countries. However, the old tradition of declaring the national legislature as 'the highest body of the state' has been broken down. The State Duma looks like a lower chamber, as its 450 members are directly elected by the voters of the country. It approves the proposal of the President of the Federation relating to the appointment of the Chairman of the Government (Prime Minister) and may remove the Government by passing the motion of no-confidence. The Federation Council has 178 members as two representatives come from each constituent unit. In all other respects its powers are equal to those of the State Duma.
9. **Independence of Judiciary:** The Constitution has elaborate arrangements for the independence of judiciary. The work of administration of justice has been entrusted to the courts. It is required that the judges have higher education in law and must have been in the legal profession for not less than 5 years. Their appointments are made for a fixed duration. They are inviolable

Notes

and, as such, a judge cannot face criminal liability save in accordance with the procedure established by law. The trial of the accused should be open and fair. The Constitutional Court has the final power of judicial review whereby it may strike down any law or decree of the federal government or of the government of any constituent unit in case it is repugnant to the provisions of the Constitution. This power is also given to the subordinate courts. Art. 120 says that the judges shall be independent and be subordinate only to the Constitution and the federal laws. If the court finds that the act of any government body conflicts with law, it shall take a decision in accordance with the Constitution and federal law conforming to it.

10. **Fundamental Rights and Duties:** Chapter 2 has a very long list of human rights and civil freedoms. Here we may find all the celebrated rights of the people as prevailing in a democratic country like equality before law and its equal protection, freedom of thought and expression, prohibition of discrimination on any artificial ground as that of faith or nationality, inviolability of person and family life, free movement and residence in any part of the country, freedom to profess and practise any religion, right to form associations or unions, right to hold peaceful meetings, rigid to participate in the management of public affairs, right to elect and be elected and to take any public service, right to keep or dispose of private property, freedom for doing any literary or artistic activity, prohibition of making ex-post facto laws or putting a person in double jeopardy, right to social insurance in the event of old age or physical disablement, right to secure the nationality of a foreign state, right to have damages from the government in the event of its unlawful action, right to secure legal protection of these freedoms etc. At the same time, the citizens are duty-bound to abide by the Constitution and the laws of the land, to serve the motherland by rendering military service or service in any other form when called upon to do it, payment of legal taxes and levies, preserving the environment etc. The notable point is that here the Constitution has incorporated rights relating to the protection of environment and human rights as universally accepted.

Fundamental Principles of the Constitutional Order

Section I of the Constitution has a number of principles which lay down the basis of the Russian constitutional system. These are:

1. Russia or the Russian Federation is a democratic federative law-governed State with a republican form of government.
2. Supreme value shall be attached to man and his rights and freedoms. It shall be the obligation of the State to recognise, observe and protect human and civil rights and freedoms.
3. Russia is a democratic and multi-national State.
4. The sovereignty of the Russian Federation shall extend to its entire territory.
5. The Russian Federation shall have its constituent units, each shall have its own Constitution and laws, and all units shall be treated as equal.
7. The Russian Federation shall be a social state whose policy is aimed at creating conditions ensuring a worthy life and the free development of human personality.
8. The integrity of economic space, free flow of goods, services and financial resources, support of competition and the freedom of economic activity shall be guaranteed.
9. The principle of separation of functions shall be applied. As such, legislature, executive and judiciary shall be independent.
10. Local governments shall have a recognized independent status within the limits of their competence.
11. Ideological diversity shall be recognised.
12. Secularism shall be established.
13. The Constitution of Russia shall have supreme legal force and direct effect over the entire country.

Notes

14. Finally, no provision of the Constitution should be in conflict with these fundamental principles of the constitutional order and no principle may be changed except in accordance with the procedure established by the Constitution.

Human and Civil Rights and Freedoms and Obligations

Chapter II of the Russian Constitution specifies a long list of fundamental rights of the people which incorporate the points of 'human rights' as now accepted by all democratic countries of world. These are:

1. Equality before law and courts.
2. No discrimination on the grounds of sex, race, nationality, language, origin, descent, material and official status, place of residence, religion, beliefs, membership of public associations, or other circumstances.
3. Right to life, capital punishment to be given in rare cases.
4. Protection of human dignity, prohibition of torture, violence or severe humiliation.
5. Right to personal freedom or inviolability of person, freedom from arbitrary arrest and detention.
6. Inviolability of private and family life, protection of honour and good name, privacy of correspondence and communication.
7. Right to information, right of access to documents and materials affecting anybody's freedoms.
8. Inviolability of home.
9. Right to choose nationality and use native language and education.
10. Free movement, residence and settlement in any part of the country, right to go abroad and return.
11. Freedom of conscience and religion.
12. Freedom of thought and expression, prohibition of censorship of news.
13. Right to form associations or unions, including trade unions and to join or leave any association.
14. Right to peaceful assembly, marches and picketing.
15. Right to participate in the management of public affairs.
16. Right to elect and be elected or to secure a public service and take part in referendums.
17. Right to appeal to government bodies.
18. Right to private property.
19. Right to choose vocation and do labour.
20. Right to social security.
21. Right to protection of health.
22. Right to maintain favourable environment.
23. Right to education.
24. Freedom of literary, artistic, scientific, technical and other forms of creative activity and teaching.
25. Right to secure legal protection of freedoms.
26. Right to open and fair trial in a court.
27. Right to have qualified legal assistance.
28. Prohibition of ex-post facto laws.
29. Prohibition of double jeopardy.
30. Protection of the rights of under-trials and convicts.
31. Right to have damages from the State for its unlawful actions.
32. Recognition and honour of universal human rights.

Notes

33. State protection of Russian citizens living abroad, freedom from deportation and forced extradition.
34. Right to choose citizenship of a foreign State and enjoy double citizenship.
35. Right to political asylum.

The duties and obligations of the citizens are:

1. Caring for elders and parents by children above 18 yeas of age.
2. Payment of legal taxes and levies.
3. Preservation of nature, care of the natural resources and environment.
4. Defending the country and performing military service or services in any form for this sake.
5. Respecting the Constitution and laws of the Federation as well as norms of international treaties and universal human rights.

In fine, the Russian Constitution embodies all those rights which are honoured in a liberal - democratic system. If the words of Laski ring true that a state is known by the rights it maintains, then the Russian Federation is by all means a democratic State.

Federal System

The Russian Constitution establishes a federal system which is quite different from the system established by the Stalin Constitution of 1936 and by the Brezhnev Constitution of 1977 that was designated by the critics as 'quasi-federal', in spite of the fact that the complex mechanism of the constituent units remains by and large the same. It meets all the requirements of a federal system in the following manner:

First, the Constitution is written, rigid and supreme law of the land. It has 137 Articles and the method of amending it is quite difficult. It is the supreme law of the land. As such, all laws of the Centre as well as of the constituent units must conform to it.

Second, Art.71 spells out following powers of the Federation:

1. Adoption and amendment of the Constitution and federal laws; control over, and compliance therewith,
2. Federation structure and the territory of the Russian Federation,
3. Regulation and protection of human and civil rights and freedoms; citizenship of the Federation, regulation and protection of the rights of national minorities,
4. Establishment of the system of federal legislative, executive and judicial bodies, the procedure for their organization and activities, formation of federal and State government bodies,
5. Federal and State property and administration thereof,
6. Establishment of the basic principles of federal policies and federal programmes in the sphere of State, economic, ecological, social, cultural and national development of the Russian Federation,
7. Establishment of the basic legal principles for the unified market; financial, currency, credit and customs regulation; money emission; the basic principles of pricing policy, federal economic services, including federal banks,
8. Federal budget, federal taxes and levies, federal funds for regional development,
9. Federal power-engineering systems, nuclear power, fissile materials, federal transport, railways, information and communication, activities in space.
10. Foreign policy and international relations of Russia, international treaties of the Federation, issues of war and peace.
11. Foreign economic relations of the Federation,
12. Defence and security, military production, determination of the procedure for selling and purchasing weapons, ammunition, military equipment and other military hardware, production of poisonous substances and the procedure for their use.

Notes

13. Determination of the status and the protection of the State borders, territorial sea, air space, exclusive economic zone and the continental shelf of the Federation.
14. Judicial system, public prosecution, criminal-procedural and criminal-executive legislation, amnesty and remission, civil, civil-procedural legislation, legal regulation of intellectual property,
15. Federal collision law,
16. Meteorological service, standards, metric and time systems, goods and cartography, official statistics and book-keeping.
17. State awards and honorary titles of the Federation,
18. Federal State services.

A novel feature of this Constitution is that it has included a list of concurrent powers on the pattern of the Australian and Indian Constitutions. Art. 72 says about the 'joint jurisdiction' of the Russian Federation and the constituent units in these matters:

1. Measures to ensure the correspondence of Constitution and laws of the republics and the charters, laws and other normative legal acts of other units,
2. Protection of human and civil rights and freedoms, protection of the rights of national minorities, ensuring lawfulness, law and order, public security, border zone regimes,
3. Issues of possession, utilisation and management of land and of subsurface water and other natural resources,
4. Demarcation of State property,
5. Use of natural resources, protection of the environment and provisions for ecological safety, specially protected natural territories, protection of historical and cultural monuments,
6. General issues of upbringing, education, science, culture, physical education and sport.
7. Coordination of health care issues, protection of the family, maternity, fatherhood and childhood, social protection, including social security.
8. Carrying out measures against catastrophes, natural disasters, epidemics, and the rectification of their consequences,
9. Establishment of common principles of taxation and levies in the Russian Federation,
10. Administrative, administrative-procedural, labour, family, housing, land, water and forest legislation, legislation on sub-surface resources and on environmental protection,
11. Personnel of judicial and law enforcement bodies, lawyers, notaries,
12. Protection of the traditional habitat and the traditional way of life of small ethnic communities,
13. Establishment of general principles of the organisation of the system of State government and local government bodies,
14. Coordination of international and foreign economic relations of constituent entities of the Russian Federation, and observance of international agreements of the Russian Federation.

Finally, the Constitution provides for the creation of a Constitutional Court to settle legal disputes between the Federation and the constituent units, to interpret the provisions of the Constitution, and to determine the constitutional validity of the laws and decrees of the Federation and of the constituent units.

Though the Constitution of the Russian Federation meets all the requirements of the federal system, it has its own peculiar features which may be enumerated as under:

1. Admission into the Russian Federation and creation of a new constituent entity shall take place in accordance with the procedure established by federal constitutional law.
2. The status of a republic shall be determined by the Constitution of the Russian Federation as well as by the Constitution of the republic. But the status of all other units shall be determined by the Constitution of the Russian Federation and the charter of the unit concerned as adopted by its legislature.

Notes

3. Relations among the units of a republic may be regulated by a federal law or by a treaty between the government of the republic and the unit within it concerned.
4. The status of a constituent entity of the Russian Federation may be changed by mutual agreement between the Russian Federation and the constituent entity of the Russian Federation in accordance with federal constitutional law.
5. Russian language shall be the official language of the entire country. But the republics shall have the right to have their own official language.
6. The constituent units of foe Federation have autonomy in respect of areas or matters which are not covered under the exclusive and joint control of the Centre and the units as given above.
7. No federal law or act should conflict with the provisions of the Federal Constitution and so no law or act of any constituent unit should conflict with the Russian Constitution and the law or act of the Centre.
8. With a view to encourage cooperation and coordination between the Federal and the constituent units, it has been provided that they shall set up a kind of 'unified system of executive authority'.
9. The Centre is all-powerful in matters of circulation and stabilisation of currency.
10. The Russian Federation may participate in inter-state associations and transfer some of its powers to those associations in accordance with international agreements, provided it does not entail restrictions on human rights and freedoms and does not conflict with the basic principles of the constitutional order of the Russian Federation.

The Russian federal system is in operation and sometimes we hear of the secessionist movements in the units of Chechnya and Daghestan. Keeping it in view, a critic says that many of the disputed issues between the regions and the Centre are not clearly resolved by the Constitution despite general statements about jurisdiction and shared responsibilities. Since 1994, individual treaties have been negotiated with some of the more recalcitrant republics within the Russian Federation such as Tatarstan and Bashkortostan. The process involves a continued reliance on an individualised ad hoc approach to constructing federalism, a process likely to endanger continuing perceptions of favouritism and discrimination towards particular republics and regions.

Amendment and Revision of the Constitution

Constitution has provisions relating to its amendment and revision. These are:

1. Art. 134 says that such a proposal may be submitted by the President of the Federation, or by the Federation Council, or by the State Duma, or by the Federal Government, or by the legislative body of any constituent unit, or by groups consisting of not less than 1/5 of the members of the Federation Council or of the deputies of the State Duma.
2. Art. 135 says that the provisions of Chapter 1 (Fundamental Principles of the Constitutional Order) and of Chapter 2 (Human and Civil Rights and Freedoms) and of Chapter 9 may not be revised by the Federal Assembly of Russia. In case such a proposal is supported by 3/5 of the total number of the members of the Federation Council and of the State Duma, a Constitutional Assembly shall be convened. It may either reject the proposal or adopt a new draft by 2/3 majority of its total strength. After adoption., the draft shall be submitted for a referendum in which more than half of the electorate must take part and the decision in its favour must be supported by more than half of the voters taking part in it.
3. With regard to provisions contained in Chapters 3 to 8 of this Constitution, it is provided in Art. 136 that a proposal to this effect shall be adopted in accordance with the procedure established for the adoption of such a law and shall come into force after it has been approved by the legislative authorities of not less than 2/3 of the constituent units of the Russian Federation.
4. Finally, Art. 137 says that any amendment in Art. 65 of the Constitution (relating to the composition of the Russian Federation) shall be introduced on the basis of a federal

Notes

constitutional law on the admission to the Russian Federation and the creation within it of new constituent entities of the Federation or on changes in the constitutional and legal status of the constituent units of the Federation.

It shows that by nature this Constitution is rigid like the Swiss, French and German constitutions.

French Constitutionalism

The French people have their own notions about constitutionalism hinging on the touchstone of 'republicanism'—a term about which they have some general and well-understood outlines, though subtle differences persist among the leading political forces so far as the matter relating to essential details is concerned. It all begins from the Great Revolution when the people could establish their 'republican tradition that in a period of less than 10 years moved the country from a monarchy ruled virtually by the divine rights dogma of the Louis dynasty to a Republican Monarchy, and then to a Republic, thereon to a government by one party controlled in effect by a small directorate (under Robbespiere), known as the Committee of Public Safety, to a collegial dictatorship—the Directorate—and, finally, to a Consulate and an empire with the young Napoleon at its head. And yet the movement did not stop. Once again monarchy had its termination paving way for the advent of a full-fledged republican system until France had the bitter lessons of a dictatorial system during the Second World War at the hands of the Vichy regime. Even this system of uncontrolled Bonapartism had its termination. A new model of republicanism witnessed its establishment that failed to live beyond a period of 12 years when in 1958 the people hailed the return of Gen. de Gaulle and than a new constitution came into force.

The French concept of constitutionalism may, however, be said to have been swinging between the traits of parliamentary sovereignty on the one hand and a strong one-man rule on the other. The result is that questions like Who rules France? Who speaks for France? How France should be ruled? and the like have been bedevilling the minds of the people. One may find that sometimes the absolute monarch, sometimes the legislature, sometimes one man with the gun have been trying to solve the crucial issues.

The history of French constitutional experiments begins with the inauguration of the First Republic in 1792. We have already seen that the National Assembly adopted the 'Declaration of the Rights of Man and Citizen' in 1791 and then drafted a constitution on its basis. The form of government set up under the constitution was comparable with the traditional American system or with the British government before the establishment of the present cabinet system. In other words, it was based on the twin principles of separation of powers and sovereignty of the people. The powers of the monarch were drastically cut so as to make him a constitutional monarch, while the law-making body took the form of an unicameral Legislative Assembly of 745 members chosen for two years and distributed amongst the 83 Departments according to territory, population and direct taxes.

A basic change took place in 1793 when the Convention succeeded the Legislative Assembly that abolished the monarchy. A new constitution (called the Girondin Constitution) was presented that could not be voted in the Convention. Rather another constitution (called the Montagnard Constitution) was adopted in 1793 after its ratification by the people. It vested power in an Assembly, that was to be elected annually by direct universal manhood suffrage. It was empowered to issue decrees and pass laws, the latter being subject to the kind of optional referendum. The executive was to consist of a Council of 24 to be chosen one-half annually by a complicated process. The voters were to choose electors who in turn were to nominate candidates from amongst whom the legislative body was to select the actual members of the executive council.

This constitution was replaced in 1799 by the Constitution of the Consulate based on a plan framed by Abbe Sieyes considerably modified in a monarchical direction by Napoleon Bonaparte. Thus, Napoleon Bonaparte assumed all authority in his hands as the First Consul so much so that in 1804 he made a drastic change in the constitution so as to establish the First Empire. The constitutional charter of 1814, in a certain theoretical sense, marked the restoration of the *ancient regime* in view of the fact that the personal sovereignty of the king was definitely recognised. The king became the personal chief of the executive power and he alone possessed the initiative in

Notes

law-making. The Monarchy of the Restoration (established after the military defeat of Napoleon) was succeeded by the Monarchy of July when Charles X was supplanted by Louis-Phillipe and the constitutional charter of 1830 came into being. It marked some change so far as the position of the monarch was concerned. No reference was made to his divine rights as was done under the charter of 1814. Though the king entertained definite ambitions of being himself able to direct the policy of government, the principle of political responsibility of the ministers to the Chamber of Deputies became, in practice, clearly recognised and the general result was that the parliamentary system became better established in the French tradition.'

In a sense, the constitutional charter of 1830 established the system of limited monarchy. However, the 'Orleanist July Monarchy' met its end in the revolution of 1848 when the system of presidential government came into being. A new constitution came into force whereby the executive power was vested in the President elected directly by the people for a term of four years, while the legislative power was entrusted to the Assembly directly elected by the people for a term of three years.

Like its predecessor, the 'Second Empire' had its doom within a couple of years and once again return to the republican system took place in 1870 as a result of the military defeat of the king and the successful revolution of the people. It is called the Third Republic that lasted till 1940 — the longest period in the history of the republics of France. Constitutionalism under the Third Republic witnessed certain features that could be described as real movements in the direction of a republican system. For the first time, there was established a parliamentary system.

The Third Republic officially came to an end in 1940 when President Petain secured the constituent powers by the use of amending process in a way that he became the virtual despot of the country. He shelved the requirement of a constitutional amendment measure's ratification by the people and adopted the way of promulgating 'constitutional acts' one after another. Shortly after July, 1940 he declared himself as the head of the French State, assumed plenary powers, adjourned until further order the two chambers, and repealed all provisions of the constitution of the Third Republic that were inconsistent with his authoritarian position.

The Fourth Republic came into being in 1946 that failed to have a life of more than 12 years. A new constitution was adopted that placed the President in a very weak and the Parliament in a very strong position. It paid utmost adherence to the principles of a parliamentary government by vesting supreme authority in the Parliament, notably in the Lower House. The Prime Minister and his Cabinet governed as long as they had majority support in the National Assembly. The President of the Republic was elected by the Parliament and, like the British monarch, was the titular head of the state. The system of proportional representation in the elections enabled even very small political parties to have some seats in the national legislature and thereby form groups to face the government with the problem of its survival. Since the ministry was made accountable to the Parliament and, more-over, no party could be in a position to have a comfortable majority behind it, the Prime Ministers came and went away with the disturbing frequency as the majorities shifted back and forth in the National Assembly.

The result was that France earned the notorious distinction of having a system of political instability in view of the fact that 20 cabinets had their existence during a short period of 12 years. As such, the people came to understand the folly of cultivating a fanatic zeal for the parliamentary system. They could realise that the system under the previous constitution had the model of a 'paralysed republic'. The 'demand for reform' thus gathered more and more momentum in the direction of doing away with the system of an 'unmanageable legislature'. The crisis in Algeria provided a more calling force. The net result was that the nation reposed its faith in the leadership of Gen.de Gaulle who gave a new constitution that placed France under the Fifth Republic.

It is a well-known fact that Gen. de Gaulle was the most uncompromising critic of the constitution that had inaugurated the Fourth Republic and it was because of his stern attitude that he left the government and since then lived in retirement off and on revealing his forebodings about the erratic working of a constitution that had delivered an 'omnipotent' Parliament. However, the circumstances that helped to make his return possible was the transformation of the Algiers

Notes

demonstration into a movement in which the settlers and the army leaders in Algeria combined to demand a 'Government of Public Safety' headed by a strong man like him—a trend which, as time went on, was gathering support in France.

The result was that power was entrusted to the man known for being capable of giving 'a government of public safety.' The Parliament endorsed his appointment as the Prime Minister keeping in view the conditions that he had already made public along with its five terms that he would keep in mind while drawing up the new constitution—the principle of universal suffrage, the responsibility of the government to the parliament, the separation of legislative and executive powers, the independence of judiciary, and the provision for the possibility 'of organising the relations between the Republic and the associated peoples'. In addition to observing these five principles, de Gaulle gave further assurance to the National Assembly in person that in the new constitution the offices of the President and the Prime Minister would remain distinct.

The way for the making of the new constitution was thus paved. A small group of ministers and experts headed by the then Minister for Justice and later Prime Minister (Michael Debre) prepared the text in a period of two months. A special consultative committee composed of 39 members (2/3 elected by the Parliament and 1/3 nominated by Gen. de Gaulle) endorsed the proposed text after suggesting certain minor amendments. It was approved by the Cabinet and then debated and passed by the Parliament. Finally, it was submitted to a popular referendum on Sept. 20, 1958 which the people ratified by an overwhelming majority. All the 90 Departments voted in favour with 17,688,790 against 4,624,511 votes. Out of 84.8% of the electors, 79.15 cast their votes in favour. In Algeria 80% voters went to the polls out of which 96% voted for the new constitution, though French Guinea voted for independence. Subsequently elections took place and Gen. de Gaulle assumed the office of the President.

Salient Features of Constitution

The constitution of the Fifth Republic has been variously evaluated by the people of France ranging from those of its protagonists who have lauded it as a model of republicanism to those who have denounced it as 'a prelude to dictatorship'. Critics have coined words and phrases to highlight their reactions in this regard with the result that it has been described as 'a tailor-made constitution for Gen. de Gaulle', 'quasi-Presidential', 'a Parliamentary Empire', 'an unworkable document', 'the worst drafted in French constitutional history', 'ephemeral' and the like. Its salient features are an follows:

1. **A Written and Enacted Constitution**

   The Constitution of the Fifth Republic is a written document. Originally it had 89 Articles grouped into XVI Titles, but now it has 92 Articles grouped into XV Titles. It is a gift of the constitutional consultative committee that worked for a period of about two months in 1958 under the direction of Gen. Charles de Gaulle. It was endorsed by the Cabinet and then approved by the Parliament after much discussion in which the Gaullists managed to have their say. Finally, it was approved by the Departments and people with an overwhelming vote. Thus, like the constitution of a major country of the world as the United States or China, it is a brief document.

2. **A Rigid Instrument of Government**

   Unlike the Constitution of England, the French constitution is rigid. Here a special process of amending the provisions of the Constitution has been provided. Art. 89 of the Constitution contained in Title XIV provides for its revision. It says: "The initiative for amending the Constitution shall belong both to the President of the Republic on the proposal of the Premier and to the members of Parliament. The Government or Parliamentary bill for amendment must be passed by the two assemblies in identical terms. The amendment shall become definitive after approval by a referendum. Nevertheless, the proposed amendment shall not be submitted to a referendum when the President of the Republic decides to submit it to Parliament convened in Congress in this sense, the proposed amendment shall be approved if it is accepted by the three-fifth majority of the votes cast. The Secretariat of the Congress shall be that of the National Assembly. No amendment procedure may be undertaken or followed when the integrity of the territory is in jeopardy. The republican form of government shall not be subject to amendment."

Notes

3. Unitary System

Like England, France affords another leading example of a unitary system. The country is divided into territorial circumscriptions called 'departments' and these are subdivided into cantons, arrondissements, and communes, each having its own organs for certain purposes of local government, but the authority which they possess is very restricted; it is derived not from the Constitution but from the acts of Parliament. As a matter of fact, these local organisations are mere agents of the central government located at Paris and the exercise of powers left to them is subject to its wide control. However, unlike the unitary system of Britain, the unitary system of France is rooted both in history and sentiments of the people which justify that all French political systems 'always gravitate automatically and rapidly towards unity and homogeneity of powers.'

It is owing to this fact that after the First World War a movement of Regionalism (a movement that demanded the breaking up of the country into local units and giving them a real measure of local autonomy in order to relieve the Central government of some of its multifarious functions) could not gain success. Moreover, as a result of this, French unitary system is more rigid and centralised than that of Great Britain. Hence, the Constitution of the Fifth Republic retains the spirit of the earlier constitutions in this regard and indicates nothing more than the intention to vitalise French local government and to secure greater co-ordination of functions between the state departments and the units of local administration. Naturally the aspect of centralisation in the unitary system of France "is more significant also because the French state undertakes such a wide range of governmental activities"

4. Rule of 'Incompatibility'

The way the de Gaulle Constitution has managed to keep the legislative and executive departments apart and, at the same time, sought to establish the bond of conjunction between the two is really an innovation. It has led to the establishment of a peculiar model of government that may be termed both quasi-presidential and quasi-parliamentary, though the former appellation would be more appropriate. It provides for a Cabinet under a Prime Minister eventually led by the President whose members cannot be the members of the Parliament, but who are accountable to it. That is, France has a Cabinet without, what the English people call, a cabinet government.

Instances of the separation of the legislative from the executive organ can be found in various arrangements. Though the President is the real executive head, he is not accountable to national legislature; the Prime Minister and his ministers are responsible to the Parliament without being members of either house. It is provided that as a legislator joins the government, he shall forfeit his membership of the House that would be given to his 'substitute.' The legislature may show its no-confidence in the Government as a result of which it shall resign. The Prime Minister may himself table a resolution of confidence which, if not adopted, would amount to the defeat of the Government and thereupon its resignation would take place.

5. Quasi-Presidential Government

As pointed out above, the French government under the present Constitution pertains more to a quasi-presidential than to a quasi-parliamentary model in view of the fact that the authority of the President is far more extensive than that of the Prime Minister. The President is not at all a titutar head of the state like the English monarch, rather he has his prototype in his American counterpart. Moreover in certain respects he is more powerful than the American head of the state. He appoints his Prime Minister and other ministers on the advice of the Prime Minister. He also administers to them the oaths of office and secrecy and accepts their resignations. He presides over the cabinet meetings and thereby sees to it that the decisions of the government are taken in accordance with his wishes. It all shows the traits of a presidential government. On the contrary, the fact that not the President but the Prime Minister and his ministers are responsible to the Parliament indicates the incorporation of a parliamentary system in the French Constitution. The heavier point should, however, be traced in the position of the President who is the real working head of the state and also of the government.

Notes

6. 'Syncretisme'

The Constitution of the Fifth Republic may be said to introduce a system of multiple principles what the French people call *syncretisme*. It can be visualised in the following institutional arrangements provided by it:

(*i*) The Parliament is a bi-cameral organisation having Senate and the National Assembly in which the powers of the former are co-ordinate with that of the latter, except where the government decides to give the Assembly the last word.

(*ii*) Though the Prime Minister and his ministers cannot be the members of the Parliament, they are responsible to it.

(*iii*) The Prime Minister has both procedural and constitutional means of dominating the Parliament, including the National Assembly.

Making of the Republic of China

Japan's victory over Russia in 1905 gave a new impetus to the upsurge of Chinese nationalism. Now the 'maker of modern China' appeared. He was Dr. Sun Yatsen. Inspired by the three ideals – People's Nationalism, People's Democracy and People's Livelihood – he exhorted the people to follow him for making the revolution successful. As a result, the revolution of 1911 took place when the Manchu rule was overthrown and China became a republic. A new Constitution came into force and Dr. Sun Yat-sen made his nephew Yuan Shi-kai the President. However, the objective of the revolution was frustrated as the first President moved in the direction of establishing his personal rule. He abrogated the Constitution after a year of its inauguration and was prevented by death from crowning himself as the emperor. It shows that the revolution of 1911 failed the reason of which should be traced in the fact that the revolutionaries had little in common beyond overthrowing the Manchu dynasty, and because there "was little Chinese nationalism at the time to give support to the new republic".

The message of the revolution of 1911 was now carried by the Nationalist People's Party or the Kuomintang (former Alliance Society) that posed a serious threat to the dictatorial ambitions of the first President. What, however, came into the way of Chinese progress was the imperialistic expansion of Japan that in 1915 made notorious 21 demands on China. Fortunately, due to the pressures of Britain and the United States, the Japanese rulers modified their demands and there by secured a foothold in the mainland of China. The successor of the first President, Li Yung failed miserably and thus the Kuomintang (KMT) set up a separate government in the south with its capital at Canton. Moreover, the governors of certain provinces raised their own armies and they became 'war-lords'. Thus was ushered in the short era of war-lordism signifying that China "fragmented into a number of conflicting regional units, each based on locally recruited army, and often backed by one or the other of the great Powers seeking to defend their own interests."

The deteriorating situation could be checked in 1921 when Dr. Sun Yat-sen became the President of Chinese government in the south. He reorganised his KMT and then moved towards the north to deal with the formidable forces of war-lordism. The expedition took place under the command of Chiang Kai-shek. A new Constitution was adopted in 1924 and the Organic Law of the National Government was enforced in 1928.

The momentous development that took place at this stage was Dr. Sun's getting close to the communists to deal with the forces of internal disruption. He appreciated the idea of including the communists in the KMT as 'individuals' and not as party members. The Russian emissary Michael Borodin could persuade Dr. Sun to reorganise his KMT on the pattern of the Communist Party of the USSR he was also instrumental in the establishment of the Whampoa military academy which was headed by Chiang Kai-shek, though it had a large number of Russian military experts on its staff. The way for the infiltration of the communists was thus opened.

Differences between the communist and anti-communist elements grew up after the death of Dr. Sun in 1925 when Chiang held the office of the President. In 1927 he took to the course of totally suppressing the communists. The result was the downfall of the leadership of Ch'en Tuhsiu. The communists could not improve their position until Mao Tse-tung assumed the undisputed

Notes

leadership of the Chinese Communist Party in 1935 who had all along advocated guerilla tactics in place of positional warfare in meeting the KMT attacks and had looked upon the peasantry as the main revolutionary force in the country. However, as Chairman of the Chinese Soviet Republic set up in Kiangsi in 1927 (and abolished in 1937), he had earned popularity by advocating a policy of land reform that tolerated small land owners. What, however, forced Chiang Kai-shek to work in alliance with the communists was the imperialistic posture of Japan. It afforded a good occasion to the communists to fight against the Japanese forces during the second World War and yet weaken the foundations of the KMT by perfecting their guerilla based system and carefully building up their strength and popular support in the countryside.

When the second great war ended. China remained under the formal control of Chiang Kai-shek and his KMT, while the real power had well slipped into the hands of the communists. Facts indicate that by this time, the communists had established some 27 'liberated areas' with an aggregate population of 85 million and had enormously expanded the Red Army, now one million strong. A sort of civil war was now unleashed. To deal with this problem, the KMT government convened a national constituent assembly in November, 1946 that was boycotted by the communists and the Democratic League. The new Constitution was framed and enforced on the new year's day in 1947 that was declared invalid by the communists. Elections under the new Constitution took place in November, 1947 and Chiang was elected as the President. The KMT regime, however, lacked cohesion and corroded by snowballing corruption, rapidly alienated the sympathy of the people in the countryside as well as of the intellectuals and students in the towns. Despite the massive support of the United States, the KMT could not stem the tide of advancing communism and finally collapsed when Chiang Kai-shek escaped from the capital and sought refuge in the island of Formosa (Taiwan). Thus, on October 1, 1949 the People's Republic of China came into being. It heralded the significance of this remark that "under the communist dispensation, the monopoly of one would have to be asserted, something which even the strongest dynasties had never achieved."

Chinese Constitutionalism

The story of constitutionalism in China begins from 1912 when she became a republic and gave to herself the 'most modern type of Constitution' wereby on January 1, 1912 Sun Yat-sen was formally instituted as the President of the provisional republican government. On the same day, the National Council at Nanking adopted a provisional Constitution and the first national flag with five stripes representing the five races of the Chinese, Manchus, Mongols, Tibetans and the Moslems. However, the period which followed the revolution of 1911 became ripe with vast problems, complexities and confusion as a result of which power fell into the hands of the military despots who had little sympathy either for the discarded system or for the adoption of political democracy. Moreover, Sun's action of making Yuan his successor resulted in the abrogation of the provisional Constitution in 1913 and the inauguration of a period of political instability that could not be controlled until the Kuomintang established its firm control in 1923 and then adopted a 'Permanent Constitution of the Republic of China.' As declared in the Preamble, the new Constitution was made "with the object of establishing the national dignity and maintaining the national boundaries and in order to promote the welfare of the people and uphold the principles of humanity".

After the seizure of power by the communists in 1949, the work of making a new Constitution was entrusted to a committee set up by the Central People's Government on Jan. 13, 1953. The committee met under the chairmanship of Mao that prepared the new Constitution of communist China. It was adopted by the National People's Congress on Sept. 20, 1954. As claimed by the founder of the new regime, the Constitution recorded five fundamental changes in his country since the inception of communism – China's emergence as a really independent state after shaking off all shades of colonial dominations, termination of the centurie-sold hold of feudalism, achievement of internal peace and an unprecedented unification of the mainland after terminating the era of chaos, attainment of a higher degree of democracy after putting an end to the situation in which people had no power, and, finally, rehabilitation of the economy of the country with the co-operation of the Soviet Union. It was replaced by a new constitution in 1975.

Notes

The replacement of the Constitution of 1975 by a new one became a natural event after the death of Mao Tse-tung (Zedong) in Sept., 1976. The new regime under Hua Kuo-feng announced the revision of the Constitutions of the Communist Party and of the State as early as possible. It was officially declared that the new regime wanted to adopt a new constitution in order to make it more attuned to the economic and military modernisation which is the prime goal of leadership while possibly restoring a limited measure of liberalism in the treatment of diverse social groups and opinions'. It desired to pursue the policy of reverting to academic standards in education, introducing profit incentives for industrial workers and playing down the idea of 'class struggle' which created so much disturbance over the last ten years.

A brief survey of this Constitution shows that it presented a blend of the original provisions of the first formal constitution promulgated in 1954 and social and political development since then. It largely wrote off the 'radical' reforms of the era of the Cultural Revolution (1966-68).


Notes When the fourth constitutions of China was accepted?

Salient Features of the New Constitution

The new Constitution has four chapters. Chapter 1 contains a long list of 'General Principles'. Chapter II incorporates a comprehensive list of Fundamental Rights and Duties of the people. Chapter III specifies state structure. Its section (i) deals elaborately with the National People's Congress and its Standing Committee: section (ii) has some provisions for the President of the NPC; section (iii) covers the State Council in detail; section (iv) is about the Central Military Commission; section (v) has provisions for local People's Congresses and local people's governments at different levels; section (vi) deals with organs of self-government of national autonomous areas; and section (vii) provides for the system of People's Courts and People's Procuratorates. Chapter IV is about national flag, national anthem and national capital.

In first impression, the striking features of this Constitution are: restoration of the offices of the Head of the State with the designation of President assisted by a Vice-President (former chairman and vice-chairman), institution of a Central Military Commission to direct the armed forces, extension of the powers of the National People's Congress and its Standing Committee, introduction of the system of Premier's over all responsibility for the State Council, change in the institution of combining rural people's communes, management with government administration and establishment of special administrative regions where necessary, constitutional recognition to the principle of family planning, softer orientation towards the political system of the USSR (now Russian Federation) and its foreign policy, invitation to foreign individuals and firms to invest their money in China and, above all, elimination of bold and frequent references to the ideology and leadership of Mao. The salient features of the new Constitution may be enumerated as under:

1. **An Enacted and Rigid Constitution:** Like its predecessors, it is an enacted Constitution having 138 Articles grouped into four chapters. While the Preamble throws light on the achievements of the past and the goals of the future, Chapter I has general principles on which the new constitutional system is based. Chapter II deals with the fundamental rights and duties of the people. Chapter III deals with the structure of the State. It provides for the Central, provincial and local governments. It declares National People's Congress (NPC) as the highest organ of State power. Chapter IV mentions National Flag, National Emblem and the National Capital. The rigid nature of the constitution can be traced in the fact that the National People's Congress has been empowered to make any amendment in it by its 2/3 majority.
2. **Unitary System:** Though China is a very big country and the Constitution recognises the fact of multi-nationality, it, like its predecessor, provides for a unitary system of government. There is no division of powers. All powers, as a result, are with the Central government, while provincial, regional and local governments are under its full control. In other words, the entire

Notes

administration of the country is done from the national capital – Beijing. The Central government has been empowered to make changes in the powers and status of the administrative units located at the lower levels.

3. **Unicameral System:** Like its predecessor, the new Constitution provides a unicameral legislature. It is the National People's Congress having powers of legislation despite the fact that its deputies are to be chosen from the ranks of the people, units of provincial and regional administration, and armed forces. Though a quite unwieldy body, it has been given a Standing Committee that functions on its behalf during the inter-session period. One may marvel at the fact that not the Parliament as such as its small committee has been given the status of a continuously functioning national legislature.
4. **Vertical Rule and Dual Rule System:** State administration of China is based on two principles adopted by the Chinese founding fathers from the Soviet system. China is not a federal State and yet it has large units of regional and local governments which operate under the control of the Central government. Within 'vertical rule', central-level ministries and commissions under the State Council supervise the work of corresponding functional bodies at the lower levels of government. Within 'dual rule', government agencies are subject to control by the Communist Party as well as being subordinate to higher government bodies. Under vertical and dual rule, a county government, for example, would be subordinate to both the provincial government and to the county-level Communist Party organisation. "Such a system leads to complex and sometimes conflicting lines of authority within the Chinese bureaucracy, but it also reinforces two key aspects of governance and policy making in China – centralisation and Party domination."
5. **Fundamental Rights and Duties:** Like its predecessor, the new Constitution provides fundamental rights and duties, now in a largely comprehensive form. The citizens have been given the right to education, to elect and be elected on completing the age of 18 years, to work, to have rest and leisure, to get material assistance in old age or in the event of physical inability, to prevent transgression of duty by a public servant, and the like. The state has been enjoined to grant equal rights to women, protect marriage and the family and the just interests of the Chinese living abroad. Besides, freedoms relating to speech, assembly, expression, and correspondence have been guaranteed. Inviolability of person and home has also been recognised. The citizens have been granted right to profess and propagate atheism. No person can be arrested except by a decision of a People's Court or with the sanction of a public security organ. The state grants right of residence to any foreign national persecuted for supporting a just cause, for taking part in revolutionary movements, or for engaging in scientific activities. Besides, fundamental duties have been mentioned like supporting the leadership of the Communist Party, strengthening the socialist system and abiding by the Constitution and the laws of the country, protecting public property, observing family planning, respecting social ethics, safeguarding State secrets, defending the motherland and resisting aggression.
6. **Democratic Centralism:** In accordance with the celebrated system of a communist State as adopted under the previous arrangement, the principle of democratic centralism has been sanctified under the new dispensation as well. This system applies to the organisation of both the party and the government. Art.5 of Constitution of the Communist Party of 1973 says: "The organisational principle of the Party is democratic centralism. The leading bodies of the Party at all levels shall be elected through democratic consultation in accordance with the requirements for successors to the cause of the proletarian revolution and the principle of combining the old, middle-aged and the young. The whole Party must observe unified discipline. The individual is subordinate to the organisation, the minority is subordinate to the majority, the lower level is subordinate to the higher level, and the entire Party is subordinate to the Central Committee." The idea of democratic centralism is contained in the official affirmation that the leading units of the Party and the Government at all levels shall regularly meet and report their working to the respective Congresses or general body meetings, constantly listen to the opinions of the masses and accept their supervision. Party members have the right to criticise organisations and leading members of the Party at all levels and make proposals to them. If a party member

Notes

or an official holds different views with regard to the decisions or directions of the party or some governmental organisation, he is allowed to reserve his views and has the right to bypass the immediate leadership and report directly to highest levels, upto and including the Central Committee of the Party.

7. **Central Military Commission:** Another feature of the Constitution is the provision for the establishment of a Central Military Commission consisting of a Chairman, Vice-Chairmen and some members. Its term is linked with the term of the NPC. It function is to direct the armed forces of the country. (Art.93) Its members shall be elected by the NPC (by the SC when the NPC is not in session) and they shall be accountable to the NPC or its SC (Art.94). It has been done to reduce the hold of the military over the government.
8. **A 'Socialist' State:** Above all, the constitution declares China a committed State. It is peoples' democratic dictatorship led by the working class and based on the alliance of workers and peasants. There shall be only two kinds of ownership of the means of production socialist ownership by the whole people and socialist collective ownership by the working people. The State may allow non-agricultural individual labourers to engage in individual labour involving no exploitation of others, within the limits permitted by law and under unified arrangement by neighbourhood organisations in cities and towns or by production teams in rural people's communes. At the same time, these individual labourers should be guided on the road to socialist collectivisation step. The sector of the economy is the leading force in national economy The state may requisition by purchase, take over for use, or nationalise urban and rural land as well as other means of production under conditions prescribed by law.

General Principles

One important feature of the Constitution is the incorporation of a very long list of 'general principles' in Chapter I that constitute the foundations of the new fundamental law as well as the goal of the Chinese state. These are:

1. China is a socialist state under people's democratic dictatorship led by the working class and based on alliance of workers and peasants; sabotage of socialist system is prohibited.
2. All power is vested in the people and it is to be exercised through people's congresses at local and national levels.
3. All state organs are based on the principle of democratic centralism.
4. Equality of all nationalities and protection of the rights of the minorities is guaranteed.
5. Upholding uniformity and dignity of the socialist legal system and observance of the Constitution by all people and their institutions is ensured.
6. The state recognises socialist economy with public ownership of the means of production in the hands of the people and collective ownership by the working class.
7. State protection of public property is ensured; damage to public property is prohibited.
8. The state recognizes right of the citizens to own lawfully earned income, savings, houses and other property with right to inheritance.
9. The state shall undertake economic planning on the basis of socialist public ownership.
10. The state shall give permission to foreign enterprises, whether individual or collective, to invest their money in China and enter into economic co-operation with Chinese enterprises according to the law of the land.
11. The state shall make primary education universal and compulsory and encourage higher education and learning in the fields of science, technology, medicine etc.
12. The state shall endeavour for building a socialist spiritual civilization and inculcate civic virtues for the love of motherland.
13. The state shall also look towards family planning and protect and improve living environment.
14. The state shall make efforts for strengthening revolutionisation, modernisation and regularisation of the armed forces.

Notes

Fundamental Rights and Duties

Like the previous Constitution, the new Constitution contains a long list of fundamental rights and duties of the citizens. The notable point in this direction is that the number of fundamental rights and duties has been further enhanced. The fundamental rights may be enumerated as under:

1. Citizenship to all Chinese nationals and equality before law,
2. Right to vote and seek election for every citizen above 18 years of age without any discrimination,
3. Freedom of speech, assembly, association and demonstration,
4. Religious freedom without foreign domination over religious bodies and affairs,
5. Personal freedom, no arrest without approval of People's Procuratorate.
6. Inviolability of personal dignity, prohibition of insult, libel, false incrimination,
7. Inviolability of home, prohibition of unlawful search,
8. Protection of private correspondence except in cases relating to public security or investigation of a criminal charge,
9. Right to criticise administration, lodge complaints against a public servant and make suggestions for streamlining administration.
10. Right to work, State to provide employment and improve working conditions.
11. Right to rest, State to give vacation and prescribe working hours,
12. Right to insurance allowance after retirement,
13. Right to material assistance in old age, illness, physical disablement, particularly for soldiers, destitutes and martyrs,
14. Right to education for all-round development of personality.
15. Right to pursue scientific research and literary and artistic activities,
16. Equality of sex, equal pay for men and women for equal work.
17. State protection to marriages and family life, and
18. State protection to the rights and interests of the Chinese living in the country or abroad.

The fundamental duties of the citizens are:

1. To work and cultivate labour emulation.
2. To observe family planning, parents' duty to look after their children and children's duty to take care of their parents in old age or in needy circumstances.

Swiss Constitutionalism

Two strong impressions may be gathered from what we have said. First, democracy with its offshoots in the spheres of liberalism and federalism is the basic touchstone of the Swiss political system. Second, the history of Swiss political institutions is deceptively long owing to the fact that the people of this country did not live under a strong and unified government until late in the eighteenth century. Though the Swiss Confederation being the oldest of the existing federal states of the world and founded in the successful struggle of three districts called the Forest cantons against the over-lordship of Austria in the 13th century,it expanded to 13 States (cantons) when it was recognised as sovereign and independent by the Treaty of Westphalia of 1648. It was by all means a loose league of States with no strong central power at that time. And so it continued to have its chequered career through the storms and confusion of the French Revolution and Napoleonic Wars so much so that even in the general settlement of 1815 it "did not find its final basis of stability. It was still too loose, as was shown in a short civil war begun in 1847 by 7 Roman Catholic Cantons (Sonderbund) which, like the Southern Confederacy in the United States in 1861, attempted to secede from the general body. Revision of the Constitution immediately followed the defeat of the seceding cantons, and the constitution of 1848 transformed the old confederation

Notes

(Staatenbund) into a federal State Bunderstaat). The Constitution of 1848 was radically revised in 1874, and the Constitution of that year, subsequently amended in certain features, is the one under which Switzerland is governed today."


Notes

Switzerland now is divided into twenty-two cantons, self-governing as far as their local affairs are concerned, but united into a federation for national purposes.

The Constitution of 1848 was essentially the creation of a committee of 23 men elected by their colleagues in the Diet or, in the case of a few ecalcitrant cantons, appointed by its Chairman. As members of the Diet, most of them were also chief of their cantonal governments. The ones who came from the liberal cantons had also participated in the liberal devision of their cantonal Constitutions. The large majority were members of the legal profession, supplanted by a few merchants, two doctors and few high-ranking officers who had just returned from the Sonderbund War. Perhaps the most interesting characteristic of the participants was their relative youth. Four, including the Chairman of the committee, were in their thirties, the great majority were in their forties, and only six were over fifty. Only Neuchatel which was still nominally a principality under the monarch of Prussia and Apenzell-Inner Rhodes were not represented on the drafting committee.

Prior to its eventual ratification by the people and the cantons, the Constitution could be adopted as a result of compromise. While the advocates of centralism desired a strong Central government, the federalists were no less adamant on ensuring the principle of autonomy of the units. bicameral legislative system was thus accepted so that the units of the onfederation may have their representatives in the upper chamber of the ederal Assembly. Then, a peculiar pattern of a collegial executive was adopted so that no member of the government could exercise his authority in an arbitrary manner. Likewise, the idea of a powerful judicial authority as one having its manifestation in the United States was abhorred with the result that the Federal Tribunal was deprived of the power of judicial review of legislation. In fine, while the 'centralists' could be successful in devising a strong and unified government at the Centre, the federalists could emerge triumphant in reconciling the issue of a strong Central government with the freedom of the people and the autonomy of the cantons.

It was specifically given that the cantons would remain 'sovereign so far as their sovereignty is not limited by the Federal Constitution'. The powers of the Federal Government extended to diplomatic and military affairs as well as to certain other spheres such as posts, customs, weights, and measures and such other matters in which concerted action was deemed necessary with a view to achieving national unity. The executive power was vested in a Federal Council consisting of 7 members elected by the Federal Assembly. The legislative power was vested in a bicameral body called the Federal Assembly. While the National Council was given to represent the people, the Council of States was to have the representatives of the cantonal governments. The judicial authority was vested in the Federal Tribunal without power of judicial review. An important change in the direction of a strong and unified government at the Centre could be visualised in the provision that while the Constitution guaranteed sovereignty to the cantons, it authorised the Federal Government to intervene in the cantonal affairs without awaiting a request from the cantonal authority in the event of internal disturbances or threatened conflict between the cantons.

The most important feature of the Constitution of 1848 should, however, be traced in its provision for a strong and unified government system based on a federal model. It terminated the system of a loose Union of States as coming from five and a half centuries and set up a new model which, though formally designated as a 'Confederation', was the model of a federation. Thus, the transformation of a loose league of cantons into a federation of the units of 'Confederation' should be described as the dominant feature of the Constitution of 1848. Certainly, it afforded "an even more striking example than the United States of how conflicting state interests can be overcome,

Notes

without annihilating State identity, by the political device called federalism. Switzerland mocks all attempts to define nationality, for though the Swiss form a nation, with a solidarity which has resisted through the space of more than six centuries the multifarious attempts which have been made to undermine it, they have always lacked and still lack a common religion and a common language, while even their mountains do not form a ring which would make a natural boundary.

The Constitution of 1848 underwent a total revision in 1874 and it is in accordance with this revised Constitution, as amended from time to time, that Switzerland is governed today. It gave to the Federal Government centralised control over military affairs and initiative in unifying certain matters of commercial law. This was done to overcome the weaknesses observed in the army during its mobilisation in 1870-71. It also reinforced the anti-clerical provisions of the previous Constitution and added new powers to combat some of the abuses that had been observed in managing national economy. It introduced federal legislative referendum. It abolished separate judicial systems of the cantons and provided for the establishment of a uniform system. The Federal Tribunal, which under the previous constitutional dispensation had been more than a committee of the Federal Assembly entrusted with certain very limited judicial duties, was strengthened so as to make it a real federal court approximating to the model of the United States Supreme Court.

The most important features of the revised Constitution of 1874 should, however, be traced in strengthening the hold of the Federal Government. It not only increased the control of the Centre over armed forces, it also provided for the nationalisation of the railways under federal ownership and causing legislation to be referred to the entire Swiss people not as inhabitants of certain cantons but as a single, unified Court of Appeal. By all means, it marked the triumph of the Radicals who continued their movement for the centralisation of powers after the inauguration of the previous Constitution. The result was that the federalists who could have their lines incorporated into the constitution of 1848 in the form of important compromises had their defeat at the hands of their traditional opponents who would now not let them have the development of the Constitution in the direction of social and municipal privileges of the cantons.

Salient Features of the Constitution

The salient features of the Swiss Constitution framed in 1848 and revised in 1874 may be thus enumerated:

1. **A Written and An Enacted Document:** Like the Constitution of the United States, it is a written document having 123 Articles. It was framed by a committee of 23 persons some of whom belonging to the liberal cantons were elected by the members of the Diet and some others were appointed by the Chairmen of the recalcitrant cantons in 1848. It was revised in 1874. While the Constitution of 1848 converted the loose league of cantons into a federation of the units of the 'confederation', its revised form in 1874 gave to the federal government centralised control over military affairs and initiative in unifying certain matters of commercial law. As a matter of fact, it opened the way for the gradual infiltration of centripetal tendencies. It specifies the powers of the Centre and also enumerates some concurrent powers given to both the Centre and the cantons. It is the supreme law of the land.
2. **A Rigid Constitution:** Like the American Constitution, it is rigid as its process of amendment is very difficult. A bill of constitutional amendment passed by the Federal Assembly is to be ratified by the majority of the cantonal governments as well as by the majority of the voters in a referendum. At least, 1,00,000 voters or 8 cantons may initiate a proposal to be adopted by the Federal Assembly. If it is passed, then it is to be ratified by the majority of the cantons and a nation-wide referendum. If compared, it appears to be more rigid than that of the United States, for here the ratification is to be done the majority of the cantonal governments as well as by the majority of the votes taken in a referendum. But in a different respect, it is less rigid than that in view of the 'democratic' character of the people. The institutions of direct democracy (initiative and referendum) have made the matters easy. Moreover, at every stage the bill or proposal of amendment is to be passed by the simple majority of votes, while in America abill of constitutional amendment must be passed by 2/3 majority in each house of the Congress

Notes

and then by the same majority in the Congresses of at least $\frac{3}{4}$ States. This is the reason that while the American Constitution has so far been amended 27 times, the amendments of the Swiss Constitution have touched the figure of 80.

3. **Plural Executive:** In all countries of the world, the executive is singular as it is headed by one person whether he is a President or a Prime Minister and the like. But the Federal Council of Switzerland is a unique model of collegial or plural presidency. It has seven members (ministers) and all of them are designated as the 'Presidents'. The salaries, allowances and powers of all the Presidents are equal. It is just for the sake of performing certain ceremonial functions that on the basis of seniority, one of them is designated as the President of the Confederation for one year and another as the Vice-President. Healthy conventions prevail whereby the Federal Assembly elects the same persons again and again for a term of four years. Not more than one President can belong to the same canton, while the cantons of Zurich, Berne and Vaud are invariably represented. Not only this, not more than two presidents should belong to the same political party. Hence, it is always like a coalition government. The whole arrangement is unique and, as Lord Bryce says, it "deserves best study".
4. **Federal System:** As in the United States, so here a federal system has been set up in spite of the fact that the Constitution declares this country a 'confederation'. The Constitution is the supreme law of the land. The powers have been divided between the Centre and the units (cantons). The subjects of national importance (as foreign affairs, military affairs, declaration of war and peace, post and telegraph, currency and coinage, railways, banking and commerce, higher education, settlement of cantonal disputes etc.) have been given to the Centre. There are some concurrent powers (as regulation of industries, control of the press, construction and upkeep of highways etc.) Which have been given to both the Centre and the cantons. The residuary powers have been given to the cantons., Federal Tribunal has been set up to interpret the words and provisions of the Constitution and to settle legal disputes between the Central and cantonal governments. Like the States of the USA, the cantons of Switzerland enjoy autonomy and so it, like its American counterpart, is appreciated for having a true federal system.
5. **Direct Democracy:** Modern democracy is known as 'representative government'. Power resides in the people, but it is exercised by the deputies chosen by the voters in periodic elections who are said to be accountable to their electors. This system prevails in Switzerland. But it has three peculiar institutions of direct democracy—initiative, referendum and landsgemeinde. Initiative signifies the right of at least one lakh voters to send a proposal to the Federal Assembly and to ask it to either adopt it in the form of a bill or refer it back to the final verdict of the people in a referendum. Referendum means that a bill of constitutional amendment or any 'urgent' bill, after it is passed by the national legislature, must be placed for the final verdict of the people, before it is put into operation. At least 50,000 voters or 8 cantonal governments may demand a referendum on any other bill. Thus, referendum places final veto power in the hands of the majority of the voters of the country. In five small cantons of this country, the system of town parliament prevails which is called 'landsgemeinde'. Each adult voter is the member of his town assembly and so elections for the cantonal legislature are not held here. Thus, Bryce lauds Switzerland as 'the ancestral home of democracy'.


Task

What do you mean by representative government?

As all modern political systems have undergone significant changes, the Swiss system cannot be taken as an exception. The State has increased its domain of activity and centripetal tendencies have also grown here. But the notable point is that the rulers of this country have been able "to realise the goal of a welfare state while preserving the wider domain of essential freedoms which constitute the principal heritage of a liberal tradition.

6.2 Amendment Process in the Constitution of USA and Switzerland

Notes

Amendment Procedure of USA

Methods of Proposal*	Method of Ratification**
1. By two-thirds votes of both the Houses of Congress	By legislatures in three-fourths (38) of the States or
2. By Constitutional Convention called by the Congress when petitioned do so by two-thirds (34) of the States.	By Conventions in the three-fourths (38) of the States.
* *Either of the two methods may be adopted.*	** *States may select either of the two courses unless the Congress specifically provides for one.*

The Founding Fathers of the American Constitution visualised that future situations would need a change in the constitutional provisions and thus they provided Article V which reads: "The Congress whenever two-thirds of both houses shall propose amendments to this Constitution, or on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of the three-fourths of the several States, or by Conventions by three-fourths thereof as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand, eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

It may be pointed out here that the difficult process of constitutional amendment was adopted in order to meet the then requirements of a confederal set up. The passionate attachment of the States (which joined the confederation) to their individual independence made them afraid of granting any authority to the Centre that might have ultimately deprived them of their sovereign rights. Hence, an arrangement was made whereby the power of constitutional amendment was given to both. As a result, the American Constitution can be amended with the bilateral action of the federal government located at Washington, D.C. and 3/4 of the State governments.

The language of the Constitution is certainly difficult, but it implies two things: First if the work of amendment is initiated by the Central government, then the bill must be passed by the Congress with a two thirds majority in each house and then referred to the State legislatures to be adopted by the two-thirds majority for the sake of its ratification. In case the three-fourths of the States so ratify, the bill shall be taken as finally passed. However, the Congress has the power of getting the work of ratification done either by the legislatures of Slates, or it may provide for special conventions there. In the case of 22nd amendment of 1951 the work of ratification in the States was done not by the legislatures but by special conventions.

Second, if the proposal of constitutional amendment is initiated by the State governments, it should be supported by at least two-thirds of the State legislatures. In such a case, the Congress shall convene a special convention where the proposal will be discussed and for adoption it is required that it must have the support of at least two-thirds majority. If the proposal is adopted by the constitutional convention, it shall be referred to the States for ratification. In the States the work of ratification will be done either by the legislatures or by the constitutional conventions as the Congress decides. However, for the sake of adoption two-thirds majority is needed and the proposal will be taken as finally passed when, in all, three-fourth (38) States give their verdict in favour of ratification. This method has not come into use so far.

Notes

The process of amending the American Constitution may be criticised on several grounds. First, it is extra-ordinarily difficult, for it is not an easy affair to obtain a two-thirds majority first of both the houses of the Congress and then such majority in three-fourths of the State legislatures. Second, it is undemocratic; since a sizable minority may veto the decision of the majority. A little more than one-third majority in the Congress and one-fourth majority in the States is sufficient to negative all achieved after great deliberations and efforts. Third, there is no prescribed time limit for ratification unless specifically determined by a resolution of the Congress. For instance, on one occasion the State of Ohio ratified an amendment bill after 80 years. Absence of such a prescription makes an important issue like a plaything for the States and an indefinite delay takes away the very purpose for which the work of amendment is initiated. Fourth, there is no popular check in the form of referendum over Central and State legislatures as we find in Switzerland and France. The entire work of making amendment in the Constitution is entrusted to a relatively small number of persons assembled in the Central and State legislatures.

Let us now study the process of amending the Swiss Constitution that is, indeed, a quite difficult affair owing to the fact that various methods of effecting a total or partial change admit of both the legislative and popular participation in this regard. We have already hinted that in this country the process of constitutional amendment is not at all an exclusive concern of the federal and cantonal legislatures, it requires the ratification of such measures by the people as well. What makes it really democratic, but also very rigid, is the fact that it "makes in every case the final sanction of the people an indispensable condition for the adoption of a proposed amendment and its incorporation in the constitution."

The process of amending the Constitution has been described in Chapter III of the Constitution of 1874 as amended in 1891. The distinctively peculiar thing in this direction is that the Constitution may be subjected to two types of revisions partial or total and in each case a different procedure has to be adopted. Thus, the process of amending the Swiss Constitution may be discussed under these two heads partial revision and total revision.

Partial Revision: It means amendment of any particular clause or clauses of the existing Constitution. Its procedure is as follows:

1. If the proposal has been passed by both the Houses of the Central legislature (Federal Assembly), it is referred to the people for ratification at the polls. If in such a case the majority gives its verdict in favour, it comes into force.
2. The people may take the initiative. If the proposal is put forth through a popular initiative in the form of general principles only, the general outline is put to popular vote and if it is supported by a majority of the voters, then the Federal Council drafts the amendment embodying the principles and the same is submitted to a fresh referendum. But the people may also present their proposal in the form of a complete draft of the desired amendment. In such a case, the proposal will be discussed in the Federal Assembly and after it has given its vote in its favour, it will be put to referendum. However, if the Federal Assembly does not agree with the proposed amendment, it may recommended its rejection or put forward its own counter-proposals and then submit them to a popular vote. In this way, the acceptance of the proposal emerging from a popular initiative or of an alternative proposal submitted by the Federal Assembly or the rejection of both, is left to the decision of the majority of voters and of the cantons.

Total Revision: It means replacement of the existing Constitution by an entirely new Constitution. Its procedure is as follows:

1. The proposal of amending the Constitution in full may come from the National Council or the Council of States, each House approving of it in a separate resolution. If the two Houses of the Federal Assembly approve of it, it is submitted to the people for their verdict at the polls. If it is approved by a majority of Swiss voters, it comes into force.
2. If the proposal is accepted by one House and rejected by other house the of Federal Assembly, or if the proposal is put through popular initiative (supported by at least 1,00,000 voters), the matter has to be submitted to a referendum. If a majority of the Swiss voters gives its decision

Notes

in favour of total revision, then fresh elections to both the Houses are held for the purpose of undertaking the revision and the new Federal Assembly after adopting it has to submit it to the people for ratification. If in this second referendum, the proposed matter is approved by a majority of the voters, as also of the cantons, the Constitution is accordingly revised.

The rigidity of the Swiss process of constitutional amendment has been softened by the practice of popular sovereignty. The Swiss people are so sensitive to their rights that they have not pondered over the need for a strong and independent judiciary as we find in the case of other Federal States particularly the United States. In 1939, they rejected a proposal that their Federal Tribunal be invested with the power of judicial review, because as a learned Swiss judge puts, they "saw in the judicial examination of constitutional law an infringement of the democratic principles." When the proposals for constitutional amendment have too frequently been made by the people themselves, they have never felt apprehensive of the legislative or executive despotism. Rappard lays emphasis on the fact that it "is easier for the Swiss people to amend their fundamental law than their ordinary statutes against the will of a hostile parliament."

Direct Democracy

In the Swiss constitutional system nothing is more instructive to a student of comparative governments than the institutions of direct democracy – initiative and referendum. They are perhaps the most remarkable agencies that democracy has produced, for they afford the channel of direct legislation by the people. No doubt, the instruments of direct democracy have been introduced in other countries also in varying degrees, but Switzerland is known for their most distinctively extensive use. That is, while in other parts of the world the agencies of direct democracy are like frills to adorn the constitutional costumes, in Switzerland they form the warp and woof of the political system. Thus, Switzerland has been regarded as the ancestral home of the devices of pure democracy. In the words of Prof. W.B. Munro, "In one form or another these institutions of direct democracy have been used, but they have spread along the major routes of democratic infection to various other countries including the United States."

Initiative: As pointed out above, initiative is one of the devices of direct democracy operating in Switzerland. It is a positive device in the hands of the voters whereby they may propose matters of legislation. Legislation is not an exclusive affair of the elected bodies as we find in other countries. In Switzerland the people may override the jurisdiction of the elected bodies; they may propose legislation and thereby justify their supremacy over their elected representatives. Moreover, in Switzerland, the scope of initiative covers not only the ordinary field of law-making, it also covers the sphere of constitutional amendment in part or full. Thus Hans Huber defines it as the right of a definite number of voters "to propose an amendment to the Constitution, the drafting of a law or a single constitutional or legal ordinance, or to demand a popular vote upon it."

In this way, initiative exhibits the inherent right of the voters to make their influence felt even in those cases where legislature may like otherwise. Obviously, it is different from the right of submitting a petition. A petition is a mere submission by the people to a body praying for the commission or omission of a particular thing and it depends upon that body to do as it thinks fit. But initiative is the vindication of the sovereign power of the people as it takes effect without regard to the wishes of the elected bodies. It stands on the assertion that the voters have an inherent right to propose matters of legislation and when ratified by a majority of their votes, it becomes a piece of law or Constitution, no matter it goes against the wishes of the elected representatives. Thus, initiative has been considered an arrangement whereby a specified number of voters "may prepare the draft of a law and may then demand that it either be adopted by the legislature or referred to the people for acceptance at a general or special election. If approved by the required majority, it then becomes a law."

As prevalent in Switzerland, initiative is of two kinds– constitutional and legislative. The right of constitutional initiative covers the whole or partial amendment of the Constitution of the Confederation. Under it a minimum of 1,00,000 voters may ask for a full or partial amendment of the Constitution. However, in the cantons there is legislative initiative as well. In all the cantons except where there is the system of town assembly (Landsgemeinde), a prescribed number of

Notes

voters may either propose a new law or submit to the Cantonal Council the principle on which they desire a new law to be formulated. In the latter case, the Council may refer to the people the specific matter and if it gets support of the majority, the Cantonal Council prepares the law and submits it to the people for their final acceptance or rejection.

The device of initiative is important in cases of constitutional amendments. In this direction, it is of two types – formulated and non-formulated or in general terms. When the demand of the voters is contained in the shape of a draft or in specific terms, the Federal Assembly accepts it for the approval of the people and of the cantons. If the voters send a general demand giving outline only, then it is the obligation of the legislature to draft, consider and pass the laws as desired by the required number of citizens subject to the ratification of the people.

Referendum: It is another device of direct democracy in Switzerland. It implies the process by which the verdict of the people is sought on a proposed law and on which the legislature has already expressed its opinion. In simple words, it means reference to the people for final approval. It is a device through which the people may demand that a particular resolution passed by the legislature should not come into force unless it is ratified by the electorate at the polls by a majority vote. In the words of Munro, it "is a device whereby any law which has been enacted by the legislature may be with held from going into force until it has been submitted to the people and has been accepted by them at the poll."

The device of referendum was introduced in Switzerland in 1778 much earlier than the agency of initiative that was adopted in 1892. Like initiative, referendum is of two types – compulsory or obligatory and optional or facultative. All constitutional amendments, partial or full, whether of the national or of cantonal Constitutions, are subject to referendum and, as such, no constitutional amendment can be finally effective until the resolution is ratified by a majority of the voters and of the cantons in the case of federal constitution. But the application of optional referendum is limited to the cases of ordinary legislation. A federal law which is of general importance and which is not declared as 'urgent' by the Federal Assembly must be submitted to the referendum if the demand to that effect is made by at least 50,000 qualified voters or by 8 cantonal governments.

Criticism: The working of the agencies of direct democracy has its own merits and demerits. Among the salient merits, it is, in the first place, pointed out that it is the surest means of discovering the wishes of the people and an excellent barometer of the political atmosphere. Second, it lays down that in Switzerland elected bodies are subject to the sovereign control of the people and thus it is this country alone where the doctrine of popular sovereignty has been realised in actual practice. Third, these devices have established a living and unbreakable connection between the government and the people and thus the deputies chosen by the people may never gain the arrogant status of representative bodies. Fourth, the working of the institutions of direct democracy disseminates political education among the people and inculcates in them a keen awareness of public issues and a deep sense of responsibility in discharging their civic duties. Above all, the application of the devices of direct democracy impart a moral character to the provisions of the Constitution and the laws and thus intensify the forces of habitual obligation. In a word, these devices justify the fact that the people in whom the sovereignty resides, "must themselves exercise the right of dissolution and the right of veto."

On the contrary, the working of direct democracy in Switzerland has its demerits. In the first place, it adversely affects the prestige and responsibility of the legislature. The legislature remains like not more than a drafting committee of the people. It reduces the element of responsibility in the normal functioning of legislative bodies. Second, the agencies of direct democracy give to the people what they hardly deserve. The people, in general, vote for the measures about which they do not know much and hence the fate of the very technical and specialized measures is decided by the votes of the largely ignorant masses. Thirdly, the working of referendum, in particular, has introduced a greater degree of conservatism. It is found that the people have often rejected a bill if it was found effecting a radical change. Finer has expressed the view that uninformed, unintelligent and vindictive people have very frequently wrecked progressive legislation. Fourth, the actual operation of referendum is so rigid that it leaves no room for a prudent voter to propose any amendment. He has to vote either 'yes' or 'no' and, thus, the result of the popular vote fails to

Notes

produce a correct reflection of the public opinion. Fifth, it is also found that the people do not take active interest in the affairs of every-day elections. There is a lot of lethargy and indifference owing to election-fatigues and thus the results of voting are based on the actions of a minority of the Swiss population. Hence, it is difficult to see how a law ratified by a narrow majority vote may command the willing obedience of the people. Christopher Hughes remarks that the Swiss themselves "are unanimous in deploring it."

6.3 Federal System of USA and Switzerland

Federal System of USA

The American Constitution affords the first best example of a federal system in the world for the patent reason that it exemplifies, in the most marked degree, the three essential characteristics, namely, the supremacy of a written and rigid Constitution, the division of powers, and the existence of an independent and impartial judiciary. Of course, even the American federal system, as we shall later see, has imbibed many traits of centralism, it is certain that the autonomy of the States is still existent. In spite of the increasing control of the Central government, the States have not been 'finished' and they are still important political entities in the American political system so much so that the Constitution "is meaningless unless taken in conjunction with the State Constitutions, which are not merely useful additions to it but its indispensable complement."

The American federal system meets the requirements of a true federal model. In the first place, it is written and rigid. It contains about 4,000 words and covers about ten printed pages and thus appears to be the briefest written Constitution in the world. It affords the first example of a written Constitution. Its rigid character becomes evident from the fact that it requires a special procedure to be followed for making an amendment. It has also been made clear that the Constitution is the fundamental law of the land. To quote the Constitution itself, "this Constitution and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby by anything in the Constitution or laws of any state to the contrary notwithstanding."

In the second place, the American Constitution enumerates the distribution of powers between the federal government and the governments of the units. The division of powers is made in one of the three ways. First, the powers of the federal government are enumerated and the rest are given to the units. Second, the powers of the units are specified and the rest are given to the Central government. Third, the powers of the Centre as well as of the units are enumerated so that there remains, as far as possible, no chance of conflict. The first method comes from the United States, the second one hails from Canada and the last one finds a glaring instance in the case of Indian federal system. However, it may be observed that the position of the units vis-a-vis the Centre remains strong when the first method is followed. And it is owing to this reason that the position of the American States is stronger than that of the provinces of Canada or the States of the Indian Union.

It follows that, in the United States, the Constitution has enumerated the powers of the federal government. The Congress has authority to make laws on the following subjects:

1. To levy and collect taxes, duties, imports and excises.
2. To borrow money on the credit of the United States,
3. To regulate commerce with foreign nations, and among the several States, and the Indian tribes,
4. To establish a uniform rule of naturalisation, and uniform laws on the subject of bankruptcies throughout the United States,
5. To coin money, regulate the value thereof, and of foreign coin and fix the standard of weights and measures,
6. To establish post offices and postal record,

Notes

7. To promote the progress of science and useful arts,
8. To constitute tribunals inferior to the Supreme Court,
9. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations,
10. To declare war,
11. To provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and
12. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers.

The last requirement of a federal system in the United States is fulfilled by the federal judiciary. The Supreme Court is the final interpreter of the Constitution. As such, it is this court which decides any dispute between the Centre and the States. Art. III. Sec.2 of the Constitution provides that to all controversies to which the United States shall be a party, to controversies between two or more States, between a State and a citizen of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof foreign States, citizens or subjects, the Supreme Court has original jurisdiction."

Undoubtedly, the United States furnishes a brilliant instance of a federal system, but its evaluation in the present form reveals that much has now changed what was originally designed. As the growth of centralism has been an inevitable feature of every federal system, the American federation has been no exception. With the advance of time and change of conditions and circumstances, the elements of centralism have developed so much so that even the States of the American union have been deprived of much of their autonomy what was granted to them under the Constitution. Truly speaking, the field of federal jurisdiction has expanded so greatly and the growth of centralism has been so unmistakable that many people in the United States have formed the opinion that if the movement in this direction is not checked, in near future the States "may be left like hollow shells operating primarily as field districts of federal departments and dependent upon the federal treasury for their support." In this direction, several reasons may be accounted for:

1. Political, economic and social changes have played their important part. The expansion of territory, growth of population, increasing fields of science and technology etc. all have advanced America from the position of a small and isolated nation with simple and agricultural economy to that of the most highly industrialised and probably the most powerful nation of the world.
2. The civil war over the question of slavery (1861-65) gave a strong verdict against the trends of separatism and the victory of the national government cemented the fact that the broad acts of the President and the Congress in carrying on the war and in the reconstruction that followed "left a heritage of expanded federal power never subsequently to be surrendered."
3. The Supreme Court has enormously increased the authority of federal government by laying down the doctrine of implied powers. As a final interpreter and guardian of the Constitution, it has ruled that such are the implicit powers of the Centre, if not expressed, inasmuch as with the march of time and coming of new conditions and circumstance the terms and phrases have developed such implications.
4. By the system of grants-in-aid the national government has immensely increased its authority at the expense of the autonomy of the States. He who pays the piper calls the tune, so the weight of obligation falls upon the State governments. It has rightly been visualised that the grants-in aid given by the Centre to the States "offer a middle ground between direct federal assumption of certain State and local functions and their continuation under exclusive State and local financing with haphazard coverage and diverse standards."
5. There is the fear of another great war in general and that of the spectre of communism and terrorism in particular. Since the State governments cannot defend themselves against an onslaught of any external power and since the fear of communism and terrorism pervades, naturally the upper hand of the national government has gained excessive weight.

Notes

6. There is the factor of people's confidence in the national government. The Centre has fulfilled its promises and rendered essential services to the people in a way that the bonds of local loyalty have become weak and, as a result, the national government "is almost a model of perfection when compared to some State capital which are graft-ridden, inefficient, and unable to provide the services that the people expected."

Federal System of Switzerland

The Swiss federal system presents a classic example of this type, although its designation as a 'confederation' has been a misnomer. It constitutes the basic feature of the Swiss governmental system and it is the chief instrument through which Switzerland has attained national unity without destroying the autonomy of the cantons. However, Switzerland is now by no means a confederation owing to the fact that the union is complete and secesion is not permitted.

The Swiss system meets every requirement of federalism. In the first place, it has a written and rigid Constitution. As a comparatively longer document, it goes into a good many details dealing with matters as fishing and hunting, qualifications of members of the liberal professions, sickness and burial of the indigent, cattle diseases, gambling houses, lotteries etc. Thus, the Constitution specifies much what otherwise should have been covered by ordinary legislation and its reason seems to lie in the fact that behind this plethora of details "is the desire for sharp delimitation of the respective competence of federal and cantonal powers." It is also due to the fact that the Constitution represents a compromise between the advocates of cantonal rights and those in favour of a strong federal government and therefore "tries to anticipate and prevent causes of internal friction and possibility to the civil strife."

The Constitution distributes powers of government between the Central and cantonal governments. It specifies the powers of the Centre, which include foreign relations, military affairs, declaration of war and peace, railways and federal roads, bridges, aerial navigation, posts and telegraph, wireless communication, banking and commerce, conservation of natural resources, coinage, paper money, higher education, settlement of cantonal disputes, laws relating to marriage, naturalisation and extradition etc. It also enumerates certain concurrent powers under the jurisdiction of both the central and cantonal governments such as regulation of industry and insurance, construction and upkeep of highways, control of the press and encouragement of education. The rest are the residuary powers given to the cantons. Two special points may be noted here. First, if there is a conflict on a concurrent subject, the law of the Centre shall prevail over the cantonal law. Second, the cantons have also been given the power to make non-political agreements with foreign states subject to the approval of the federal government.

Finally, there is the Federal Tribunal which takes cognizance of the conflict of competence between central and cantonal authorities. It also decides cases of public law between one canton and another. It hears appeals against violation of constitutional rights of citizens and appeals of private persons against violations of international treaties or agreements.

A word may be said about the constitutional status of the Swiss cantons. As we have already seen that the world 'confederation' is a misnomer, the cantons of Switzerland do not enjoy sovereignty. They have their share of autonomy. They are the original component parts of the federal system and they still retain their essential prerogatives. It is from them that the federal system draws its authority and derives its constitutional status. The Council of States represents the cantons on the basis of equality and in this respect corresponds to the American Senate. The cantonal governments maintain law and order and manage for education, elections, public works etc. They also execute laws made by the Central legislature. The legal personality of the units is thus preserved and they have not been 'finished' owing to the paramount fact that the "reserve of power is left with the cantons."

However, the Swiss federation is not free form the elements of centralization of powers. With the march of time and change in the socio economic pattern of life, the Central government has enhanced its authority. Since 1874 the federal authority has increased so as to cover civil and criminal law, alcoholic beverage, traffic, transportation, banking, social welfare projects, industrial legislation, public hygiene, etc. The finanical position of the federal government has been

Notes

strengthened by the creation of new sources of revenue. The factors of economic depression and demand for ever-increasing social services have played their part, but the factor of war has been very potent in this regard. During the second World War, the federal government was empowered to levy even direct taxes and excise duty, though the cantons received a share of revenue from these sources. Thus the augmentation of these federal powers "has necessarily exalted the prestige and influence of the government of the Confederation at the expense of the separate cantons."

If the Swiss federal system is compared with the federal system of the United States, three leading points of difference arise. First, in Switzerland the spheres of central and cantonal governments have not been divided into water-tight compartments. For instance, the cantons execute the laws of the Federal Assembly and cantonal authorities assist the federal government in various matters of national administration. The cantonal governments organise courts, appoint judges and lay down the procedure to be followed in cases of settlement of disputes and through these agencies the laws made by the Centre are enforced. The federal government guarantees to the cantons their territories, constitutions and sovereignty within specified limits. Third, since the Swiss Federal Tribunal, unlike the American Supreme Court, has no power of judicial review over federal legislation, the position of cantons in Switzerland has grown weaker than that of the United States. Obviously, the Swiss cantons cannot defend themselves from the onslaughts of central legislation.

Self-Assessment

1. Choose the correct options:

(*i*) A liberal democratic system has now come into being after the disintegration of the Union of Soviet Socialist Republics (USSR) in ..... .

(*a*) 1991 (*b*) 1982 (*c*) 1990 (*d*) 1989

(*ii*) Great Revolution of France took place in ..... .

(*a*) 1789 (*b*) 1788 (*c*) 1779 (*d*) 1899

(*iii*) The age of Tudor despotism ended with the golden age of ..... .

(*a*) Queen Elizabeth II (*b*) James I

(*c*) Queen Elizabeth I (*d*) None of these

(*iv*) The Philadelphia convention met on ..... with a mind to suitably revise the Articles of the confederation.

(*a*) 25th May, 1787 (*b*) 24th May, 1788

(*c*) 26th May 1857 (*d*) None of these

(*v*) On 12th June, 1991 presidential election was held in which ..... gained 57.3% of the votes by virthe of which he became the president of the federation for next five years.

(*a*) Brezhnev (*b*) Boris Yeltsin

(*c*) Yunn-Shi-Kai (*d*) None of these.

6.4 Summary

- The term 'constitution', when applied to a political society, embodies both a physical and a legal conception. In the former sense, it refers to the totality of constituent elements that form the physical make-up of the state as the factors of population and territory including the institutions of political machinery or administrative mechanism. But in the latter sense, it refers to a sum-total of statutes, charters, documents, and all written as well as unwritten (conventional) rules that constitute the organic public law of the state.
- While constitution refers to a body of rules that are essential for every political community, constitutionalism desires appropriate limitations whereby power is proscribed and procedure is prescribed.

Notes

- "Constitutionalism, then, governs two separate but related types of relationship. First, There is" the relationship of government with citizens. -Second, there is the relationship of one governmental authority to another, the dichotomy is not sharp, for the latter type of relationship is regulated largely as a means of increasing the effectiveness of the control imposed on the former type."
- The Parliament Act of 1911 crippled the powers of House of Lords and its amendment in 1949 further reduced the area of authority of the House in matters of passing a non-money bill. The rise of the two political parties had its own contribution to the development of English constitutionalism. It made the functioning of the parliamentary government a possibility.
- "A continuity of life to liberal institutions through many centuries when elsewhere they were dead or had never lived, permitted the growth of its own institutions among those communities in all parts of the world of which England herself was the mother and supplied the pattern of a constitution when the moment came for any newly liberated community to found one."
- The Manga Carta of 1215 established that even the king is subject to the law of the land and that the people have certain liberties which must be respected by him. The Petition of Right of 1628 denied taxation without the consent of the Parliament, prohibited arbitrary imprisonment, and biletting of royal soldiers on private residences, and also outlawed certain abuses of the royal power. Then, the Bill of Rights of 1689 laid the foundations of constitutional monarchy. These charters are the product of political crises and they contain the terms of settlement between the monarch and the people which occurred at various stages of constitutional development.
- The Parliamentary Reform Acts of 1832 and 1867 ending with the People's Representation Act of 1970 determine franchise and regulate elections in the country. The Parliament Acts of 1911 and 1949 establish the supremacy of the House of Commons over the House of Lords. The Habeas Corpus Act of 1679 secures personal liberty against arbitrary detention. The Judicature Acts of 1873 and 1876 provide for judicial organisations and procedure.
- Several matters of great constitutional importance are covered by the principles of common law. It is from these principles that the prerogatives of the Crown, the privileges of the members of Parliament and the liberties of the people flow. The origin of common law dates back to the fourteenth century when the courts began to lay down case law. They claimed authority to state the law at a time when the meetings of the Parliament were brief and infrequent and statute-making was in a stage of infancy.
- The most important feature of the British constitution rests not upon formal law as upon the usages and customs technically called the 'conventions'. These usages are the unwritten rules of political practice and they have been defined by John Stuart Mill as 'unwritten maxims of the constitution'.
- Commentaries on the English constitution written by eminent figures are also important in as much as they have systematised the diverse written and unwritten rules, established an understandable relationship between one rule of the constitution and the other, and then linked them into some degrees of unity by reference to central principles of the fundamental law of the land.
- Conventions of the constitution, a term popularised by Dicey, mean practices and usages hardened into unwritten rules of political behaviour. That is why, John Stuart Mill has called them 'unwritten maxims of the constitution' and Anson designated them as 'customs of the constitution'. They constitute an extra-legal phenomenon in as much as they do not find their place in the written rules adopted by a legislative or a judicial body. In other words, conventions mean 'constitutional practices', as Prime Minister Asquith said in the House of Commons in 1910, and they rest upon the usages developed over a long period of history. Hence, conventions of the constitution "are rules, or unwritten principles, understandings or maxims, of political behaviour. They are not established in statutes or judicial decisions or

Notes

parliamentary custom, but they are created outside of these to regulate political conduct that the statutes etc.

- The most important features of the revised Constitution of 1874 should, however, be traced in strengthening the hold of the Federal Government. It not only increased the control of the Centre over armed forces, it also provided for the nationalisation of the railways under federal ownership and causing legislation to be referred to the entire Swiss people not as inhabitants of certain cantons but as a single, unified Court of Appeal.
- The executive is singular as it is headed by one person whether he is a President or a Prime Minister and the like. But the Federal Council of Switzerland is a unique model of collegial or plural presidency. It has seven members (ministers) and all of them are designated as the 'Presidents'.
- Modern democracy is known as 'representative government'. Power resides in the people, but it is exercised by the deputies chosen by the voters in periodic elections who are said to be accountable to their electors.
- The Founding Fathers of the American Constitution visualised that future situations would need a change in the constitutional provisions and thus they provided Article V which reads: "The Congress whenever two-thirds of both houses shall propose amendments to this Constitution, or on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of the three-fourths of the several States, or by Conventions by three-fourths thereof as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand, eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."
- The Congress has the power of getting the work of ratification done either by the legislatures of Slates, or it may provide for special conventions there. In the case of 22nd amendment of 1951 the work of ratification in the States was done not by the legislatures but by special conventions.
- The process of amending the Constitution has been described in Chapter III of the Constitution of 1874 as amended in 1891. The distinctively peculiar thing in this direction is that the Constitution may be subjected to two types of revisions partial or total and in each case a different procedure has to be adopted.
- The proposal of amending the Constitution in full may come from the National Council or the Council of States, each House approving of it in a separate resolution. If the two Houses of the Federal Assembly approve of it, it is submitted to the people for their verdict at the polls. If it is approved by a majority of Swiss voters, it comes into force.
- In the Swiss constitutional system nothing is more instructive to a student of comparative governments than the institutions of direct democracy – initiative and referendum. They are perhaps the most remarkable agencies that democracy has produced, for they afford the channel of direct legislation by the people.
- The device of initiative is important in cases of constitutional amendments. In this direction, it is of two types – formulated and non-formulated or in general terms. When the demand of the voters is contained in the shape of a draft or in specific terms, the Federal Assembly accepts it for the approval of the people and of the cantons. If the voters send a general demand giving outline only, then it is the obligation of the legislature to draft, consider and pass the laws as desired by the required number of citizens subject to the ratification of the people.
- Political, economic and social changes have played their important part. The expansion of territory, growth of population, increasing fields of science and technology etc. all have advanced America from the position of a small and isolated nation with simple and agricultural

Notes

economy to that of the most highly industrialised and probably the most powerful nation of the world.

- The Constitution distributes powers of government between the Central and cantonal governments. It specifies the powers of the Centre, which include foreign relations, military affairs, declaration of war and peace, railways and federal roads, bridges, aerial navigation, posts and telegraph, wireless communication, banking and commerce, conservation of natural resources, coinage, paper money, higher education, settlement of cantonal disputes, laws relating to marriage, naturalisation and extradition etc.
- The Council of States represents the cantons on the basis of equality and in this respect corresponds to the American Senate. The cantonal governments maintain law and order and manage for education, elections, public works etc. They also execute laws made by the Central legislature. The legal personality of the units is thus preserved and they have not been 'finished' owing to the paramount fact that the "reserve of power is left with the cantons."

6.5 Key-Words

1. Direct Democracy : It is a form of democracy in which people vote on policy initiatives directly, as opposed to a representative democracy in which people vote for representatives who then vote on policy initiatives.
2. Bi-cameralism : It is the practice of having two legislatives or parliamentary chambers compromise bills.

6.6 Review Questions

1. Write a note on the constitution of UK, USA and Russia.
2. What are constitutional conventions? Discuss.
3. Discuss the features of Russian constitutions.
4. Briefly describe American constitutionalism.
5. Explain French constitutionalism. Discuss its features.
6. What are the salient features of Chinese constitution?
7. Write briefly about the Swiss constitutionalism.

Answers: Self-Assessment

1. (*i*) (*a*) (*ii*) (*a*) (*iii*) (*c*) (*iv*) (*a*) (*v*) (*b*)

6.7 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 7: Constitutional Structure: Executive

CONTENTS

Objectives
Introduction
7.1 British King and Prime Minister
7.2 The President of the USA, France, Russia, China and Plural Executive of Switzarland
7.3 Summary
7.4 Key-Words
7.5 Review Questions
7.6 Further Readings

Objectives

After studying this unit students will be able to:

- Explain the constitutional condition of British King and Prime Minister
- Describe the president of the USA, France, Russia, China and Plural Executive of Switzerland.

Introduction

In politics today, the word "executive" has two meanings. One is the dictionary definition, he who "carries out," as in the American Constitution the president is given the duty to "take care that the laws be faithfully executed." Derived from the latin exsequor, meaning "follow out," "execute" is used by both classical authors and the Roma law in the extended and particular sense of following out a law to the end: to vindicate or to punish. The Greek equivalents lambanein telos and ekbibazein are also similarly used. In this primary meaning, he American president serves merely to carry out the intention of the law, that is, the will of others—of the legislature, and ultimately of the people. But if any real president confined himself to this definition, he would be contemptuously called an "errand boy," considered nothing in himself, a mere agent whose duty is to command actions according to the law.

Going to his usual extreme, Kant has represented this meaning of the executive in the form of a syllogism, where the major premise is the legislative will, the minor premise or "the principle of subsumption" is the executive, and the conclusion is the judicial application to particulars. By this syllogistic form the executive function is separated rather artificially from the judicial, but it is definitely made subordinate to the legistive.

Yet it would be unwise for any legislature that is willing to accept Kant's major premise to speak openly of its executive as an errand boy, for to hurt the executive's pride would deminish his utility. So executive pride transcends the primary dictionary definition of "executive," but is captured perhaps in the phrase "law enforcement," which suggests that carrying out the law does not come about as a matter of course. "Law enforcement" implies a recalcitrance to law in the human beings who are subject to it, making necessary a claim by the executive to some of the authority and majesty of the law itself. To execute the law it is sometimes not enough for a policeman to ask politely; eschewing the role of an errand boy, he does something impressive to make himself respected. And if a policeman must be more than an errand boy, so too must a president.

Perhaps the authority of law is better connoted in the term "law enforcement" than is its majesty. The end of law as stated or implied in the law (the final cause) is a noble thought which we respect, to which we are dedicated, and for which government the idea of execution as law enforcement puts us in fear and reminds us of the reason why laws are made (the efficient cause): to dispel fear and

Notes

provide security. The latter makes use of legalized lawlessness, that is, of retaliatory or anticipatoryactions which would be illegal if they were not performed by the police. These are punitive actions, sometimes done so impressively as to suggest that the purpose of law is mainly to punish. Such action also permits or even requires the executive to gather in his person the power that enabled the first lawgiver to awe his unsettled subjects, and to exude the fearsomeness of a being who makes and executes his own law, as if he were an angry god. One would not suggest too muchin saying that executive pride smacks of tyr anny, so radically does it enlarge upon the instrumental executive.

It is all very well to speak sententiously of a govenment of laws, not of men, but to an executive that may be so much unsupported assertion of legislative pride. Legislators may fervently believe that to change behavior it is enough to pass a law. But laws that are mere executed, the executive must be given some or most or all of the legislative pride. By this view, a government of laws or all of the legislative pride. By this view, a government of laws addressed to men is reducible to a government of men.

Thus, recognizing executive pride, we find in the American Constitution that taking care to exeute the laws faithfully is only one of the imposed on the president, for the performance of which he is given several powers. Among them are powers that are neither executive in nature (the veto of legislation) nor subordinate (commander-in-chief of the army and navy). Moreover, he is vested with "the executive power," which according to Hamilton's famous argument, has a nature of its own, bounded only by necessily, that is not exhausted by the enumerated powers; and he takes an oath to faithfully execute not the laws but his office. But, for Kant, not only is the executive represented as a minor premise, but he is also described—with the covert, corrective realism that is as usual with Kant as his theoretical extremise—as a moral person of coordinate power with the other two powers. We see that the real, practical, informal executive is, if not a tyrant, far more powerful than the supposed, theoretical, formal executive.

He is also quicker and more masterful. In today's political science the term "decision-making" is sometimes applied indiscriminately to all governmental actions or toall actouns whatever, conveying a sense that all decisions are similar and none of them particularly "executive." It is admitted, however, that decisions sometimes follow one another in a series, and soone hears of "the legislative process," "the judicial process," and "the administrative process." But one does not hear of "the executive process." In actual usage, as distinguished from intent, executive decision-making retains a decisive aura and seems distinct from the general, workaday, reassuring process of ordinary "decision-making."

7.1 British King and Prime Minister

Monarchy

The office of the monarch constitutes, what Walter Bagehot says, the 'dignified executive'. However, the classical defence of the Victorian writer has undergone a great change. The fact that there is 'crowned republic' in Britain illustrates that the king "has been sold to democracy." And yet the existence of the king or queen is a matter of some confusion to the students of comparative governments belonging to a non-English country. The formal duties of a President of any other country of the world are easy to understand as they are stated in the constitution. Different is the case of Britain where the prerogatives of the monarch are nowhere written in an explicit form and no act of Parliament has been formally made to give them a clear expression if circumstances so required. Owing to this, the prerogative "remains a vague twilight area of residual powers, some of which, like the treaty power, are considerable."

King and Crown: The constitutional history of Britain represents a steady decline of the *body politic* in the sphere of Monarchy and the House of Lords. Before the Glorious Revolution of 1688 there was hardly any difference between the King and Crown as the power of the state was vested in the wielder of Crown. However, the growing process of democratization brought about a major change and the monarch was gradually compelled to transfer part of his powers to the other institutions like the Cabinet and the House of Commons. The result has been a twofold executive - powerful head of

Notes

the government called the Prime Minister and a relatively powerless head of the state called the King or Queen. This development has led to a situation calling for the English writers to make a legal distinction between the Monarch and the Crown of which he is a part. The position becomes clear with this aphorism that while monarch "is a person; the Crown is a symbol — the symbol of supreme executive power. This power used to be wielded by the monarch personally, but in modern constitutional monarchies it is exercised by the ministers of the Crown who are still formally the Queen's ministers but who are very much masters in their own house."

The English writers do not regard the Crown as a headgear of the king or queen; they consider it an institution vested with all powers of the government. That is why, Sir Sidney Low calls it 'a convenient working hypothesis' and Amos describes it as 'a bundle of sovereign powers, prerogatives and rights — a legal idea.'

It makes it evident that while the Crown is the repository of all powers, the king is just the head of the state with no authority in his hands. He is a titular head acting on the advice of the ministers who are accountable to the Parliament and ultimately to the electorate of the country. A long course of struggle between the kings and their people brought about a situation in which the real centre of power shifted from a concrete monarch to an abstract Crown. Today the Crown represents a synthesis of supreme authority vested in and exercised by the ministers and the Parliament acting in the name of the 'sovereign'. In a word, the Crown is the key-stone of the constitutional structure of Britain whose powers "are always used as the cabinet, supported by the Parliament, wants them to be used."

Title and Succession: The title and succession of the monarch are governed by the laws made by the Parliament. The Glorious Revolution of 1688 established the fact of the supremacy of Parliament over the king and laws made by the Parliament after this bloodless revolution determined various issues relating to the title and succession of the monarch. For instance, the Act of Settlement of 1701 provides that the Crown shall be hereditary in the line of the Princess of Sophia of Hanover so long as it remains Protestant. If a family has no heir within the prescribed degree, the Parliament may by its law bestow Crown on another family. However, the Statute of Westminster of 1931 has made it mandatory that such a decision of the Parliament shall be ratified by the Parliaments of the Commonwealth of Nations, if they pay final allegiance to the British monarch. The principle of heredity is determined by the rule of primogeniture at common law which means that an elder line is preferred to a younger one and that in the same line a male is preferred to a female.

There are other laws relating to the regency, incapacity of the king, and royal marriage. The Regency Act of 1953 lays down the first potential regent (below 18 years) shall be the Duke of Edinburgh and there after the Princess Margaret and then those in succession to the Throne who are of age. If the sovereign is abroad or unfit to work for some reason, there is a provision for the appointment of the Counsellors of State to act in the officiating capacity. The Royal Marriages Act of 1872 says that consent of the king is necessary to a marriage in case the person is below 25 years and the marriage might affect the question of succession; in case the person is above 25, no such consent is needed save a year's notice to the Privy Council. In 1936 the Royal Abdication Act came into force whereby the king may give up his office and then he becomes free from the limitations enjoined upon the great office.

Formal Powers of the Crown: It is, indeed, a peculiar feature of the British constitutional system that while the powers of the king have declined, the powers of the Crown have increased. The reason for this should be traced in the ever-growing process of democratisation. The powers of the Crown have emanated from two sources — the acts made by the Parliament and the prerogatives derived from the common law. While the laws made by the Parliament are explicit and are also amendable by it alone, "the prerogatives are the residue of discretionary or arbitrary authority which at any time is legally left in the hands of the Crown. While keeping in view that the powers of the Crown are vast and they are exercised not by the king as a person but by H.M.'s Government, it shall be worthwhile to mention then in the following manner:

He Crown has very important executive powers. As supreme executive head, it sees that all national laws are duly enforced and observed. It directs, supervises, and controls the work of administrative agencies, collects and expends national revenue, appoints administrative and judicial officers,

Notes

nominates ecclesiastical and defence authorities, regulates the conditions of service of the personnel, suspends and removes guilty officials, holds supreme command over the defence forces and in some respects supervises the work of local government. It conducts foreign relations, sends and receives ambassadors and other diplomatic agents, makes war and peace, signs treaties and international agreements.

The powers of the Crown are vast not only in executive matters but also in the field of legislation. It summons the session of the Parliament, prorogues it, and can dissolve the House of Commons. It delivers inaugural address when the Parliament meets which is called Speech from the Throne. It can create peers. All laws passed by the Parliament receive its assent for the sake of constitutional validity. It can promulgate ordinances in relation to its colonies. However, in one direction where its powers have increased immensely is that of delegated legislation whereby the departments have the power of issuing statutory instruments in order to keep the parent legislation in operation. This device has contributed to an immense increase in the powers of the civil servants. While it is required that such orders must be in conformity with the wishes of the Parliament and they, at a later date, must be approved by the parent institution, normally it happens that all such orders prevail as the Parliament suffers from shortage of time to discuss them in detail.

Then, the Crown has judicial powers. The judges of the local governments are appointed by the Crown. The Lord Chancellor is appointed by it. All issues which come before the judicial committee of the Privy Council are decided by it. It also exercises prerogative of mercy and may grant pardon to persons convicted of criminal offences. In this way, it is the fountain-head of justice. It is also head of the Church of England. As such, it appoints bishops, archbishops and deans. It also summons the ecclesiastical conventions of York and Canterbury and their acts require its assent. Besides, it also acts as the head of the Church of Scotland. By virtue of these ecclesiastical powers the monarch is called the 'defender of the faith'. It is required by the Act of Settlement that the wielder of the Crown must be a Protestant. Finally, it is said to be the fountain-head of honour and by virtue of this privilege, it bestows titles and honours and decorations on such subjects as have rendered meritorious services to the state.

Bagehot's Classic Interpretation: An eminent English writer Bagehot has given a graphic expression of the powers of the monarch. He says that the sovereign has still three rights - the right to be consulted, the right to encourage, and the right to warn. He continues that "a king of great sense and sagacity would want no others. The three rights maybe thus explained:

1. **Right to be Consulted:** The fact that the king acts on the advice of the Prime Minister does not imply that the sovereign has forfeited his prerogative of being consulted in the matters of public interest. It is possible that a Prime Minister like Palmerston may be admonished by a monarch like Queen Victoria for keeping her in the dark about certain important developments. He keeps himself in touch with important matters affecting his people and his country. If he so likes, he may call the Prime Minister for gathering necessary information. It is thus obligatory on the part of the Prime Minister to keep the monarch well-informed and obtain his consultation as well since under the constitution, as Sir Winston Churchill once said, the sovereign "has a right to be made acquainted with anything for which his ministers are responsible, and has an unlimited right of giving counsel to his government."
2. **Right to Encourage:** Then, the king by virtue of his long life and experience may be better informed and more experienced than the Prime Minister and thereby act better as a friend and guide of the government. As Prime Minister Peel said that "a king after a reign often years ought to know much more of the working of the machine of government than any other man in the country." When Queen Victoria withdrew from public life due to the death of Prince Consort, even a great leader and Prime Minister like Disraeli had to say: "For more than 40 years Your Majesty has been acquainted with the secret springs of every important event that has happened in the world and during that time have been in constant communication with all the most eminent men of your kingdom. There must necessarily have accrued to a sovereign so placed such a knowledge of affairs and of human character that the most gifted must profit by an intercourse with Your Majesty and the realm suffer by Your Majesty's reserve." This statement makes it quite plain that even a leading political leader has to look to the sagacious king for

Notes

some sound advice to clear his head. While the tenure of the Prime Minister is quite uncertain as he comes and goes with the political wind, the king enjoys a very long life and his association with many governments makes him a mentor by whom a wise minister is obliged. While recalling his personal experiences, former Prime Minister Clement Attlee once mentioned that the monarch by virtue of keeping himself continuously in touch with public affairs acquires great experience which the Prime Minister cannot have despite his long political career. Even a slight hint from the side of the king is a big counsel to the Prime Minister and he may easily depend upon it as the king is not at all involved in political intrigues of factions and groups.

3. **Right to Warn:** The advisory functions of the king have got an importance of their own and a wise and sagacious king should not press his counsels to the point of creating a crisis. The mystic aura of royalty and the traditional reverence for his highest office lend special weight to his counsels. A Prime Minister like Asquith in his memories notes that a monarch may not only advise his ministers, he can also point out objections and suggest alternative measures which the ministers accept with utmost respect. As he is the best informed member and the only one who cannot be forced, says Jennings, to remain quiet and his special status "gives him power to press his views upon the minister making a proposal and (what is sometimes even more important) to press them on the Minister who is not making proposals. He can do more, he can press those views on the Prime Minister, the weight of those authority may in the end produce the cabinet decision."

Reinterpretation of Jennings: Bagehot's assessment of the functions and powers of the monarch reflects a situation considerably out of date, but Jennings presents a more plausible explanation in this regard. Much change in the sphere of monarch's functions and powers has taken place since the time of Bagehot and his 'favourite Queen'. Among modern writers, Jennings illustrates that the functions and constitutional position of her monarch are governed by four factors — his office as an integral part of the constitutional set up, his place in the Commonwealth of Nations, his status as a social figure and, lastly, his personal equation.

1. The monarch is the integral part of the British constitutional system. The framework of cabinet government is such that it can not operate smoothy without the monarch. The monarch appoints the Prime Minister and other ministers and administers to them the oaths of office and secrecy; he summons and prorogues the Parliament and dissolves the House of Commons; he puts signatures on the bills passed by the Parliament and thereby affords them constitutional validity; he acts as the fountain-head of honour and justice as well as 'defender of the faith'.
2. The monarch provides the golden link of the empire, a lace that joins, like the different beads, the various parts of the Commonwealth of Nations. Though a titular head of the state, British king stands as the shield of imperialism and also as the symbol of peaceful relationship between the 'mother country' and its colonies whether dependent or self-governing dominions. The Commonwealth of Nations thus finds a cementing bond in the great office of the monarch as the dominions pay final allegiance to the king and the republics regard him as the 'symbol of friendship.'
3. Apart from being an integral part of the political system of the country, the monarch wields a great social influence. So exalted is the position of the monarch that the British people say that while the sovereign is in the Buckingham Palace, all is right with the realm. The monarch personifies the majesty of the state. Undoubtedly, the king holds the most dignified post of the nation. An appeal made by the king during the days of national crisis, vision granted by him to the people on ceremonial occasions, a word of counsel given by him to settle a major problem etc. all are the living proofs of the unique social position enjoyed by the monarch who by the long traditions of constitutional government has become representative of the people.
4. We come to the axiom of the personal equation of the monarch which is, indeed, the most important factor in determining his real and exalted position. His popularity and the role which he plays in the social and political life of his country is an undisputed affair evident from the fact that even now while the people think in terms of reforming the upper chamber of the Parliament on the lines of a democratic set up, no such thing is heard about the great office of the monarch.

Notes

Survival of Monarchy: Finally, we take up the issue of the survival of monarchy in this land of representative government. Much has already been discussed in this regard in the preceding pages and an account in this direction is rather like a recapitulation of what has been said earlier, though in a more systematic manner. It is a fact that the spirit of the time is going against the office of the king and over the last few decades the world has witnessed a steady decline of this ancient office at the sweeping hands of a democratic government. It is indeed, surprising to see that while the thrones are falling down with the lightning of the democratic thistle, the English people still sing the coronation chorus of 'Long Live the Queen' and thereby demonstrate the popular belief that five kings can never go from this world-one of Britain and other four of the playing cards. We may now mention these important reasons of the survival of monarchy in Britain:

1. The English people are essentially conservative and they do not want to change their old institutions radically. The experience of the Commonwealth Period (1649-60) drove home the lesson of even a despotic king's being better than a military dictator.
2. Britain has a cabinet government in which the monarch finds a fitting place. He is the only non-political member of the political machine in the hands of a cabinet having a Prime Minister and other ministers of either Labour or Conservative party. The phrase that 'king can do no wrong', or 'that he reigns but does not govern', is a proof of the fact that real authority is exercised by the ministers "responsible to the Parliament and the people, while the king is just a symbol of dignified executive.
3. It follows from the above point, that the existing system of British government can not operate well without the monarch. No elected person can replace the king in an equally suitable manner. An elected person shall not be free from the shackles of party politics and his short tenure of four or five years shall forfeit stability. The people will never pay that much of reverence to their elected chief as they do for their monarch. It is also possible that an elected person being the representative of the people and thereby in tune with people's minds in all respects will fail to drive out extreme radicalism. Political disputes are also likely to crop up between two elected heads - the President and the Prime Minister. Election of the head of the state shall also mean a lot of unnecessary expenditure and political convulsion.
4. The office of the monarch is not without many advantages on the national plane. The king proves himself to be indispensable in the working of the government and the promotion of the interests of the English people. It is he who invites the leader of the majority party in the House of Commons to form the government as desired by the electorate and it is he who dissolves the House to seek a fresh verdict of the people. A money bill is presented to the Commons with his formal recommendation and every bill passed by the Parliament becomes an act after receiving his assent. In addition to this, he acts as the friend, philosopher and guide of the government - a lighthouse to show path in the midst of ruffled waters. He also acts as mediator to iron out party differences and smoothening many rough edges in the existing postures and diminishing the virulence of the opposition.
5. Apart from some advantages at the national plane, the British monarchy is of some more advantages in the international sphere. The king is the head of the Commonwealth of Nations and all members either pay him final allegiance (if these are dominions) or regard him a symbol of friendship (if these are Republics). The king is a source of maintaining good relations with other countries of the world by means of matrimonial ties, grant of uniforms and personal goodwill visits.



Did u know? The distinction between King and Crown may be made more clear with the help of a few noteworthy points. First, the former is a living person, while the latter is the institution. As a person, king is born and he is to die one day; while the Crown is the permanent institution of Britain. The phrase that 'king is dead, long live the king' really means that the king as a person is no more, but may the office of monarch live long.

Notes

In a word, the monarch "is essentially a personal trustee or guardian of the constitution" The British monarch is not at all a mere figure-head as treated by the non-serious observers of British government and politics. True to say that he does not steer the ship, but he has to make certain that there is a man at the wheel. While admiring the system of constitutional monarchy in his country, Laski remarks: "Thus, far beyond doubt, the system of limited monarchy has been an unquestionable success in Great Britain. It has, so far, trodden its way with remarkable skill amid the changing habits of the time. Its success, no doubt, has been the outcome of the fact that it has exchanged power of influence; the blame for errors in policy has been laid at the door of ministers who have paid the penalty by loss of office."

Prime Ministerial Government

The most astonishing development in the sphere of the Westminster model should be discovered in the extremely powerful position of the Prime Minister calling for the rechristening of this form of political system as the Prime Ministerial Government. The classical doctrine of the Prime Minister's being 'first among equals' or *primus inter pares* now stands thoroughly discredited. Such an astounding development of the British constitutional system, however, found its best expression in the statement of R.H.S. Crossman who should be regarded as the author of a new doctrine. On the basis of his inside knowledge of the British government by virtue of having had close association with the Labour Prime Minister Wilson, Crossman could go to the final length of saying that the nomenclature of parliamentary or cabinet government was outdated in view of the very strong position of one man — the Prime Minister.

The discovery of Crossman made him a well-known figure in the field of the study of modern political systems. His findings led to the emergence of ample literature on the subject that virtually created a sort of interesting controversy on the vast powers end real position of the 'first elected monarch' of England. He has listed following relevant powers that the Prime Minister now wields.

1. The Prime Minister is the master of his Cabinet. As such, any minister fighting in the Cabinet for his Department can be sacked by the Prime Minister any day. The ministers must be constantly aware that their tenure of office depends on his personal decisions.
2. The Prime Minister decides about the agenda of the Cabinet. Here the Prime Minister has the last word. He decides (though in consultation with the Secretary to the Cabinet) what issues shall be fought out and what not.
3. The Prime Minister decides about the organisation of the Cabinet committees. What committees exist, how they are manned, above all, who are the chairmen — all this is entirely a concern of the Prime Minister.
4. The Prime Minister has almost monopoly of patronage. He personally controls the Honours List. He has an unchallenged and free hand in selecting new members of the House of Lords. It gives him a useful device for retiring ageing or incompetent minister without disgrace and purging his Government by promotions into the upper chamber.
5. Even more important than the control of the patronage is the control of the Civil Service which a Prime Minister has exercised — again since the period of Lloyd George.
6. The final power of the Prime Minister is his personal control of Government publicity. The Government's press relations are conducted by the Number 10 press department at its daily press conferences. That means, the people have a daily coherent, central explanation of what the Government is doing—an explanation naturally in terms the Prime Minister thinks right.

Thus on the basis of these 'relevant' powers of the Prime Minister, Crossman sums up: "It does not mean that he is a dictator; it does not mean that he can tell his Ministers what to do in their Departments. But it does mean that in the battle of Whitehall this man in the centre, this chairman, this man without a Department, without apparent power, can exert, when he is successful, a dominating personal control. This explains why a British Cabinet is always called a 'Wilson Cabinet' or a 'Macmillan Cabinet'. It is because every Cabinet takes its tone from the Prime Minister."

Notes

As already pointed out, the findings of Crossman invited comments from several eminent persons most of whom criticized him for going too much away from the plane of political reality. The sum and substance of the critics boils down to this essential point that though the powers of the Prime Minister have immensely grown, it is still incorrect to designate him as the singular ruler of the country. The position of the Cabinet is still quite strong and no Prime Minister can be in a position to arrogate to himself what really belongs to it. As such, the nomenclature of Cabinet Government is still in existence. While furnishing a plausible rejoinder to what Crossman has argued, G.W. Jones has put his own point to substantiate the existence of the 'Cabinet Government' in England. He has tried to assert: "Shared responsibility is still meaningful, for a Prime Minister has to gain the support of the bulk of his Cabinet to carry out his policies. He has to persuade it and convince it that he is right. Its meetings do not merely follow his direction. Debate and conflict are frequent. It cannot be bypassed and he cannot be art autocrat. To attempt to become one presages his political suicide."

Patrick Gordon Walker, who had the privilege of serving as a minister in the Labour Cabinet of Wilson, endorses the same point. According to him, although by the 1950s and, 1960s, the office of the Prime Minister has risen greatly in status and that he has acquired an authority different in kind from that of his colleagues, he is still not independent of the Cabinet. The Cabinet remains the sole source of political authority. On occasions and for a while, a partial Cabinet can act in its name, but the power of a partial Cabinet always depends upon the assurance that sufficient number of leading ministers shared in its decisions to secure the full authority of the Cabinet in the end. As he says: "A strong Prime Minister can be very strong. He can sometimes commit the Cabinet by act or words. But he cannot habitually or often do so. A Prime Minister who habitually ignored the Cabinet, who behaved as if Prime Ministerial Government were a reality – such a Prime Minister could come to grief. He would be challenged by his colleagues in the Cabinet and on occasion overridden. Theoretically, a Prime Minister could dismiss all his Ministers; but then he would present his critics in the party with potent leadership: Mr. Macmillan's mass dismissal in 1962 were generally held to have weakened him. Macmillan was less dominant in the new Cabinet that in his old. Prime Ministers may well, like Mr. Harold Wilson, regard Mr. Macmillan's slaughter as an example to be eschewed."

In this direction, we may refer to a sharp rejoinder given by Labour Prime Minister Harold Wilson. He says: "Cabinet is a democracy, not an autocracy. Each member of it, including the Prime Minister, seeks to convince his colleagues as to the course to follow. The Cabinet bears his stamp, it is true, on each and every policy issue, but it is the Cabinet not the Prime Minister who decides. The growth of Cabinet committee system is one factor which would restrain the overwhelming desires of a would-be dictator." In order to contradict the thesis of Crossman, he hazards the following propositions:

1. In peace time in this century and earlier, the Prime Minister in each decade has exercised, or has been able to exercise, more powers than his predecessor. But this is oecause, over the whole period, governments have exercised more power and influence. The Prime Minister has shared in this increased power, and almost certainly has increased his share. Now every action of the Prime Minister is personalized in the daily dramatization of politics which makes him. superior to, but by no means supreme over, his colleagues.
2. Arguments based on emergency situations such as world wars are inadmissible for peace time conditions. The Prime Minister is invariably accorded emergency powers, but these are limited in duration; still more, they are conditional on his maintaining parliamentary confidence, such as a coalition tends to ensure.
3. The arguments in support of the thesis of Prime Ministerial government entirely fail to allow for almost 180-degree differences in the style of individual, indeed successive, Prime Ministers. Constitutional rationalists fail to recognise that Cabinets, and Prime Ministers too, are essentially human and, being human, are essentially different. Harold Macmillan has been rightly praised as a successful Prime Minister, but this did not mean that he could impose his will.
4. Few Prime Ministers, except in war time and rarely then, could dictate to their Cabinets, except on the basis of consultation with their senior colleagues. Prime Ministers who have ignored or defied the maxim, particularly if they have refused to appoint anyone who has opposed their views or in any way given offence, and have instituted 'government by crony', have invariably paid the price. Chamberlain was an obvious, but not the only, example.

Notes

5. Another defect of the theorem of Prime Ministerial government is its unrealistic assumption that everything is static. There are things he might essay in a given situation, say after a successful government election, that he would hesitate to attempt if things were going badly for him in the Parliament.
6. If Richard Crossman is right in saying — and most historians support histhesis — that the situation Bagehot was describing was just about to end, so there is a case for saying that Richard Crossman's analysis failed to take account of the new checks and balances qualifying the power of the Prime Minister. These include certainly the greater power of Cabinet committees, not to mention the select committees, whose exteended power is one of Richard Crossman's achievements.

   Though none may agree wholly or in part with the argument of Crossman about redesignating the British form of government, none can deny this fact that the Prime Minister has become the most powerful institution in the political system of England.

Prime Minister

If the Cabinet is the most important institution of the English constitutional system, the Prime Minister by virtue of being its leader is the most powerful officer. He is the real head of the government, while the monarch above him is the titular head of the state. In the words of Ramsay Muir, while the Cabinet "is the steering wheel of the ship of the state, the Prime Minister is the steersman." The peculiar thing about this great office is that it has irresistibly grown since the times of Robert Walpole. Curiously, it has no legal basis: it is based on usages and conventions. It is bound with the designation of the First Lord of Treasury since 1721. Historical information reveals that for the first time in 1878 the title of the Prime Minister made appearance in a public document when Lord Beaconsfield signed the Treaty of Berlin.

It was reiterated in the Ministerial Salaries and Member's Pensions Act of 1965.


Notes

The Chequers Estate Act of 1917 made a passing reference, but the Ministers of the Crown Act of 1937 gave a legal recognition to this great office by assigning fifth position to the Prime Minister in order of precedence and also by specifying his salary and pension.

Appointment: The Prime Minister is appointed by the monarch. Invitation to form the government implies his appointment. Convention requires that the monarch must choose the leader of the majority party in the House of Commons who can run the government with a comfortable majority behind him. It makes the point clear that British government is plebiscitical. That is, the real choice is made by the people who register their electoral verdict by giving majority either to the Labour or to the Conservative party. The existence of two well-organised and disciplined political parties has made it essential that this office alternate between the two according to the verdict of the electorate.

The question of the appointment of the Prime Minister is based upon some well-established conventions. First, he must be a member of the House of Commons. That is, a peer cannot hold this office until he renounces his peerage as Sir Alec Douglas-Home had to do in 1963. This convention started in 1902 (after the exit of Lord Salisbury) and was confirmed in the event of 1923 when after the resignation of Bonar Law, the King invited Stanley Baldwin in preference to the ambitious Conservative candidate Lord Curzon. Second, he must be the leader of the party having clear majority in the House of Commons. In case a Prime Minister dies or resigns and the issue of appointing his successor comes up, the monarch may either consult its top-ranking leader before making up his mind, or may ask the party concerned to apprise him of its decision in this regard. For instance, after the resignation of Sir Anthony Eden in 1956, the Queen invited Macmillan to form the government on the advice of Sir Winston Churchill; likewise she invited Douglas-Home in 1963 on the advice of the outgoing Prime Minister.

Notes

However, there is some scope for monarch to exercise his discretion in this regard either to start or confirm a healthy practice, or to solve a major crisis. For instance, the monarch chose Ramsay MacDonald in 1931 in preference to Asquith although the Labour Party had behind it only about 1/3 of the members of the Commons. So, in 1940 the King chose Winston Churchill (not Neville Chamberlain) on the conviction that during the times of national crisis only a man like him would be able to requisition the support of the Conservatives as well as of most of the Labour members of the House of Commons. In both these cases, the choice of the monarch was appreciated by the people. However, it all happened under 'exceptional' circumstances, otherwise a constitutional monarch is expected to exercise his prerogative in a way that his motives are taken as 'sincere' by the people of the country. Herbert Morrison's assessment is appealing that the sovereign's choice "has much constitutional significance'. The choice may be a very delicate one and involve embarrassing complications. The sovereign would, of course, take all relevant considerations into account, and be at great pains not only to be constitutionally correct, but make every effort to see that the correctness is likely to be generally recognised."

Functions and Powers: The functions and powers of the Prime Minister not described in any law or any written part of the constitution but forming part of the world of unwritten maxims of the constitution are vast that make him capable of acting like an 'autocrat' in certain respects.

1. Soon after his appointment, the Prime Minister makes the list of his ministers specifying their portfolios. In this direction, he is caught up by some strong considerations which are of a political as well as personal nature. He has to include the names of his most loyal friends who constitute his 'inner cabinet'; then he takes those important men of his party who are the leaders of various groups and without their support it may not be possible for him to maintain unity and solidarity in the ranks of the party; then, the aspect of merit and competence has its own part and the Prime Minister pays due attention to the long experience and efficiency of his colleagues who would keep his government running well. In addition to these powerful considerations, the Prime Minister sees that various geographical areas of the country are, as far as possible, fairly represented; that some ministers are taken from the House of Lords and that some room is given to the men of younger generations in order to arrange for their political training. He cannot increase the total number of his ministers beyond 91.
2. If the Prime Minister is the maker of his government, he is also its unmaker. He may change the portfolios of his ministers and drop any offending colleague just by the hint of his displeasure. It has almost become like a theoretical proposition that the ministers act during the pleasure of the Parliament and the sovereign: the actual position is that they continue in office during the pleasure of the Prime Minister. This reason prompts Laski to say that the Prime Minister is 'central to the life and death of his ministers.'
3. The Prime Minister is not only the leader of the government, he is also the leader of the party. As such, he enjoys double leadership making his position unassailable on either front. When elections take place, the personality of the leader counts above all and a victory of the leadership is a reward given to him in the form of, what is called, the mandate of the people. Laski thus aptly suggests that a general election "is nothing so much as a plebiscite between two alternative Prime Ministers."
4. The Prime Minister is the dispenser of great offices. Apart from ministerial assignments, many other high officials like ambassadors, Lord Chancellor, Justices, Chairmen and members of the statutory commissions etc. are appointed by the monarch on the recommendation of the Prime Minister. The monarch is also the dispenser of justice and for this he appoints the judges, including Lord Justice of Appeals, on the advice of the Prime Minister.
5. The Prime Minister is the chief policy-maker. He convenes and presides over the meetings of the Cabinet. He decides as to what the Cabinet shall deliberate and discuss.
6. The Prime Minister acts as the general supervisor of government and co-ordinator of various departments. He sees to it that there is no rift among his ministers and if a matter comes up, he sees that it is amicably settled. There are various committees of the Cabinet, permanent and adhoc, which do the work of maintaining harmony and co-ordination. The Prime Minister may act as the chairman of any committee for this purpose.

Notes

7. The Prime Minister is the channel of communication between the Crown and the ministers. If the king wants to know anything about Cabinet's policy, the Prime Minister passes necessary information to him. So the ministers meet the monarch with Prime Minister's approval. There can be no communication between the monarch and the ministers without the consent of the Prime Minister.
8. The Prime Minister is the link between the Parliament and the ministers. He is the leader of the House of Commons though sometimes he may transmit some of his powers to his most trusted deputy. This privileged position makes his authority above that of his colleagues. In consultation with his Cabinet ministers, he decides the time of the session of the Parliament, prepares inaugural address of the monarch, decides about the time of adjournment and prorogation of the Parliament. He asks his ministers to move a bill in the Parliament, put some resolution for approval, and present budget or money bill after securing formal recommendation of the monarch. He also instructs his party whips to maintain discipline in the ranks of the party.
9. The Prime Minister performs many important function in the international sphere. Either personally or through his nominees he attends conferences of the Commonwealth of Nations and the United Nations. The presence of the British Prime Minister or his nominee at international gatherings is seen with special significance. It is the Prime Minister who makes authoritative pronouncements of his government's policy in international matters. Prosecution of war, mobilization of troops, conclusion of peace, negotiation of treaties etc. all demand expression of approval from the statements of the Prime Minister.
10. The Prime Minister is the leader of the nation. During days of national crisis, if time does not allow him to take his ministers in confidence, he may personally act or give immediate authority to his ministers to do the needful for facing a serious problem.

Position: It is obvious that the Prime Minister occupies a position of unmistakable supremacy in the constitutional structure of England. Lord Morley has called him *primus inter pares* meaning 'first among equals.' This observation is based on the view that the Prime Minister is like the captain of his team without any special power making him a master, if not the boss, of his colleagues. While all the members of the Cabinet stand on a footing of equality, speak with equal voice, and (excluding some rare occasions) are counted on the fraternal principle of one man one vote, the Prime Minister being head of the team enjoys no special position save that of being 'first among the equals'. Another view is given by Sir William Vernon Harcourt that the Prime Minister is 'a moon among lesser stars'. This phrase seems to recognize a lower position of the ministers as compared with that of the head. A moon among the lesser stars certainly has a higher position, but Harcourt corrects his real interpretation by adding that even this 'may not really be strong enough'.

If the classical aphorisms given by Morley and Harcourt need revision in the light of latest developments, the observation of Ramsay Muir also goes beyond the limit of plausibility. The English Prime Minister is neither a mere first among equals, nor can he be identified with a dictator. The fact is that he is a democratic leader of a democratic government working with the support of his democratic party. In the event of his wise handling of the situation he may win the support of all parties as Churchill had during the Second World War; on the other hand, by losing the confidence of his party or people, he may be 'dethroned' like Ramsay Maonald and Neville Chamberlain. He is, indeed, both a captain and a man at the helm. The dominant fact about the position of the Prime Minister "is that he must operate flexibly within the Parliamentary and Cabinet system in which power is distributed and which gives the Prime Minister as much command over the political situation as he can earn."

What lends weight to the observation that the English Prime Minister has become like a President or even a dictator draws sustenance from these following points: In the first place, the Prime Minister has become the deputy of the nation as a whole irrespective of the fact that he is chosen by a particular constituency. A general election is now an election of the Prime Minister. Second, a Prime Minister banking upon the force of electoral mandate feels amply free in the selection of his colleagues. He comes to have a strong position whereby he effectively controls his party without being restrained by it in a like manner. Important leaders of the party move around his table for the collection of ministerial awards. Third, the power of patronage has now enabled the Prime Minister to act as the master not

Notes

only of his cabinet but of the administration as a whole. The monarch is the fountain-head of honour, but all honours can be awarded by him to one whose name is recommended by the Prime Minister. Fourth, the Prime Minister is not only the controller of his party as well as of government, he has also become the real centroller of the army of civil servants. Above all, the Prime Minister has become the controller of the Parliament. His will becomes a law when an official bill is carried through the House of Commons, it cannot be obstructed by the House of Lords for ever, and the royal assent is a matter of constitutional formality. Moreover, there is no judicial check on him as the courts have no power of judicial review the like of which we find in the United States.

Let us reiterate what we have said above. The Prime Minister is yet far away from being dubbed as the President, much less an autocrat.

The fact of Cabinet's strong position wherefrom the strong position of the Prime Minister emerges cannot be lost sight of. Or as one leading English political figure endorses on the basis of his personal knowledge of the inside story of British government: "A strong Prime Minister can be every strong. He can sometimes commit the Cabinet by acts or words. But he can not habitually or often do so.''

7.2 The President of the USA, France, Russia, China and Plural Executive of Switzerland

The President of USA

The most powerful and spectacular office in the American constitutional system is occupied by the 'Chief Executive' called the President. A close look at the potentialities of his great office confirms the view that he exercises 'largest amount of authority ever wielded by a man in a democracy'. A substantial change has undergone this great, rather the greatest, office over the course of more than a hundred years highlighting which Hayman has observed that Presidential powers have so much increased that now he is the focus of federal authority and the symbol of national unity. The reason for this should be discovered in remarkable developments in domestic as well as foreign, particularly the latter, spheres. In 1966 Aaron Wildavsky conducted a survey of Presidential initiative and Congressional response in both internal and external matters from 1948 to 1964 and came to offer his striking conclusion that the United States has one President, but two presidencies, one for domestic affairs and the other for foreign policy. He noted with amazement: "Since World War II, Presidents have had much greater success in controlling the nation's defence and foreign policies than in dominating its domestic policies."

Term, Succession and Removal: The President is elected by the American people for a term of four years. The original Constitution was silent on the issue of his re-election. It simply stipulated that the President would hold office for a term of four years which undoubtedly allowed him indefinite re-eligibility. However, a practice developed whereby no President till 1940 ever held this office for more than two terms. In this way, a good tradition started by the earlier Presidents like Washington, Adams and Jefferson could not be broken by the coming incumbents until Franklin D. Roosevelt won election on the Democratic ticket for the third term in 1940 and then for a fourth one in 1944. It all happened against a resolution passed by the American Senate on the question of a third term for President Coolidge that any departure from the established tradition would be unwise, unpatriotic and fraught with peril to our free institutions. The result was the 22nd constitutional amendment of 1951 which debars a man to seek a third term and makes it clear that the period of the officiating President shall be counted as one term in case his stay in office exceeds the duration of two years.

We now turn to the important issue of Presidential succession. The original Constitution provides that if the President vacates his office, the Vice-President shall succeed him and in case both vacate it, the Congress shall settle the matter by means of a law. Vice-President-elect shall act as the officiating President until the next President qualifies. However, if both the President-elect and Vice-President-elect fail to qualify, then the Congress may provide by law as to who shall act as the President until the new President or Vice-President shall have qualified.

The American Congress adopted a resolution in 1965 which took the form of 25th constitutional amendment two years after. It provides: (1) The Vice-President shall become the President on the

Notes

death or resignation of the President. (2) On vacancy in the Vice-Presidency, the President shall nominate a Vice-President who takes office on confirmation of both the houses of Congress. (3) On a written declaration by the President that he is unable to discharge the duties of his office, the Vice-President shall become President (Acting) until the President declares his inability ended. (4) On a written declaration by the Vice-President and a majority of the principal executive officers or any other body provided by law that the President is unable, the Vice-President becomes Acting President.

The Constitution provides that the President can be removed by the process of impeachment in case he is guilty of treason, bribery or other high crimes of misdemeanour. The House of Representatives shall initiate the charges with a majority vote and the Senate act as the tribunal presided over by the Chief Justice of the Supreme Court. The President shall have every right of defence either in person or through his nominee. Resolution must be passed by two-thirds majority for conviction which makes the President liable to removal from office and any other disqualification. He is also liable for trial under ordinary judicial procedure. The instance of Andrew Johnson is available to show that the process of impeachment against a President was made use of in 1868. But the President was saved by one vote. In 1974 Nixon resigned against whom impeachment proceedings were initiated. In 1999 Clinton was impeached but the motion could not be passed by the required majority of votes.

Election: The Constitution lays down three qualifications for the President, namely, that he must be a natural-born citizen of the United States, that he must be at least 35 years of age, and that he must have been a resident of the country for at least 14 years. The procedure relating to the election of the American President (and also of the Vice-President) may be clarified with the help of three stages— nomination, formation of the electoral college, and his election by absolute majority. A major change in the mode of election of the President has occurred owing to the rise and growth of a political drama that has become a concern of the two major parties in which a 'third' man has no place at all. Since 1832 the two parties have been following the practice of choosing their candidates at the national conventions. The National Committee of each party consisting of one man and one woman elected from each State and territory plus the District of Columbia (in conformity with the rules and regulations laid down by its legislature and by party organisation) sets up machinery for the conduct of the national convention well in advance. The names of many 'favourite sons' are discussed, but in the end two names are chosen - one for the Presidency and the other one for Vice-Presidency. However, convention requires that the name of the sitting President must be approved, if he wants, to run for a second term. Usage also required that the team of two candidates must belong to two different States, even regions, of the country and the running mate (candidate for Vice-Presidency) should come from a 'doubtful State', that is, from a State in which his popularity may swell the votes of party's Presidential nominee. This work is over by the summer or monsoon of the election year and then the party sets up its national and State committees and headquarters for the nation-wide campaign.,

The next stage is the formation of electoral college. Each State elects members for this body according to its own laws. It chooses as many electors as it has Senators and Representatives in the Congress, the present strength being 538 (100 Senators, 435 Representatives and 3 others from Washington, D.C.) in all. A simple majority of 270 is needed to win, otherwise the matter has to be decided by the House of Representatives in the case of the Presidency and by the Senate in the case of the Vice-Presidency, each State having one vote irrespective of its physical size or population, or number of deputies in the Congress. Instances show that such has happened in 1800, 1824 and 1876 in the case of President and in 1837 in the case of Vice-President.

Polling day for the election of the electors falls on Tuesday after the first Monday in November. The ballot is secret and direct. Individual votes are counted State-wise and by custom the Presidential candidate receiving highest number of votes in a State is declared the winner of all the electoral votes of that State. After this the electors meet in their State capitals as required by the national law of 1934 on Monday after the second Wednesday in December to cast their votes — one for the President and the other one for the Vice-President. Then the ballot boxes are sealed and sent to the President of the Senate. Counting of votes takes place on January 6 and the President-elect takes oath of office on 20 January before the Chief Justice of the Supreme Court.

Functions and Powers: The American Presidency represents a curious mixture of the powers and position enjoyed by an executive potent enough to maintain order and ensure faithful execution of

Notes

the laws but not so strong as to assume the character of dictatorship. His strong executive authority is circumscribed by the arrangement of checks and balances. His determining voice in the sphere of administration is integrally linked with the checks of legislative and judicial organs of the federal government. That is why, Lincoln's Secretary of State (WH. Seward) could confidently say about this office: "We elect a king for four years and give him absolute power within certain limits which, after all, he can interpret for himself." Munro aptly observes: "Strength with safety was what the framers of the Constitution endeavoured to combine in the Presidential office adequate authority but with firm checks imposed upon it."

The functions and powers of the American President may be discussed under five heads — executive, legislative, financial, judicial and emergency. These are:

In the first place, we refer to the most important powers of the President relating to administration of the country. The Constitution vests in him executive authority. As head of the national administration, he assumes high technical responsibilities in the sphere of enforcement of the fundamental law of the land, laws made by the Congress and decisions given by the courts. He can employ military force to suppress a recalcitrant mob or a State of the American union. However, he has some discretion in determining the degree of vigour or leniency with which a particular law or judicial decision is to be enforced. The Constitution gives him the power to appoint (with the consent of the Senate) ministers, ambassadors, federal judges and many other officers of the United States. The convention of senatorial courtesy has given a lot of free hand to the President in this regard.

The Constitution empowers the President to appoint principal officers of the various departments (ministers) with the approval of the Senate and require their opinion in writing upon any subject relating to the duties of their respective offices. In this regard he may obtain their views either orally in a meeting or in writing, but he is not bound to accept them. Then, he is the chief foreign policy-maker and the accredited official spokesman of the country in international affairs. For this he not only appoints ambassadors and consuls but also negotiates agreements and concludes treaties with foreign governments and implements them after their ratification by the Senate. He has complete discretion in matters of recognising or derecognising a government and in his hands the act of recognition of a foreign government is both a constitutive and a declaratory function. However, the President has secured a novel way of implementing his foreign policy by circumventing the over-ridding control of the Senate. He may make 'gentlemen's agreements' or 'executive agreements' and thereby effect certain important commitments which need not be ratified by the Senate as they do not amount to being a foreign treaty. He may also restort to secret diplomacy and thereby make 'secret treaties' with foreign powers and refuse to make them public in the national interest.

Now we turn to legislative powers of the President. Here he plays a quite important part which becomes clear with the view of Potter that the Constitution puts him 'at the beginning and end of the legislative process'. The President is not merely the chief administrator and chief foreign policy-maker and its executor, he is also the chief legislator though in a different way. He has the positive power of initiating legislation through his messages containing information on the State of the Union. It is within his authority to read the message personally in the Congress and thereby add a good deal of weight to its contents by the charm of his physical presence, or get it read by his nominee. He can call extraordinary session of the Congress to consider some urgent matter. He may also issue executive orders (ordinances) and regulations having the force of law to be adopted by the Congress in time to come.

The most effective weapon in the hands of the President is his veto, power. The Constitution requires that all bills passed by the Congress (except constitutional amendment proposals) must be sent to the President for his assent. If he appends his signatures, the bill becomes law and is placed on the statute book. The President is given 10 days' time for taking action (Sunday excluded) and he may either give his assent or return it to the Congress with some recommendations. The veto of the President is absolute in the sense that he may reject a bill without assigning any reason. But the veto is qualified in the sense that if the Congress passes the same bill again with 2/3 majority, it becomes law without being referred to him for his assent. He has pocket veto also which means that in case the session of the Congress is adjourned within the period of 10 days and he takes no action on it, then the bill is

Notes

automatically killed. Historical evidence shows that American Presidents have made use of this power on many occasions, while his veto has been over-ridden by the action of the Congress in a few cases.

While referring to the judicial powers of the President, we find that he can grant reprieves and pardons for offences against the United States except in cases of impeachment. His authority in this regard does not apply in cases of violation of the State laws. A reprieve means postponement of the imposition of penalty, while a pardon is a release from liability for punishment and may be absolute or conditional. While an absolute or full pardon absolves the alleged offender of all charges and makes him innocent as if he never committed the offence, a conditional or partial pardon is subject to certain terms and may be withdrawn later if these are unfulfilled. The President may also grant pardon in the form of commutation of the sentence resulting in the shortening of the period of imprisonment or substitution of a big punishment with a lighter one. However, pardon may also take the form of amnesty granted to a group of offenders as Jefferson did for all persons convicted under the Sedition Act of 1798.

The financial power of the President covers the area of budget-making. The Budgeting and Accounting Act of 1921 abolished the executive office meant to assist the President in the discharge of his responsibilities of a Manager with regard to the expenditure of administrative agencies and replaced it with a Budget Bureau empowered to supervise the spending activities of various agencies and to advise the President on steps to be taken to introduce greater economy and efficiency in administrative services. The Bureau is headed by a Director who is appointed by the President and acts under his direction and control.

Lastly, we refer to the powers of the President during wars and national emergencies. The Constitution makes him the chief of the armed forces called into the service of the United States. He, thus, appoints officers of the armed services (with the ratification of the Senate) but can remove them at his will particularly during war times. The power to declare war lies with the Congress, but he can make a situation in which adoption of a resolution by the Congress becomes inevitable. Presidents like McKinley, Wilson and Roosevelt did so.

Allied with it is the case of national emergency. While the Constitution specifically provides nothing about the existence of a state of emergency and even the Supreme Court has the view that such a situation creates no new powers for the chief administrator, facts reveal that during times of emergency his authority is immensely increased which suggests his position as a prelude to his dictatorship.

Keeping all such points in view, Laski has correctly emphasised that the range of President's functions is enormous. He is the ceremonial head of the State. He is a vital source of legislative suggestion. He is the final source of all executive decisions. He is the authoritative exponent of nation's foreign policy.

American President Versus Brush Monarch and Prime Minister

While drawing a comparison between American President on the one side and British Monarch and Prime Minister on the other, Prof. Harold J. Laski well commented that the former is both more or less than the latter, and the more closely his office is studied, the more unique does its character appear. It means that the American President is similar to as well as different from the British monarch in several respects. A study of the resemblance between the two shows that both are the heads of their respective States. As such, entire administration is carried on in their names; they perform ceremonial functions, make high appointments, receive foreign dignitaries, issue important proclamations, give assent to bills passed by the respective legislatures and possess prerogative of mercy. One may say that these are just formal powers which the two heads possess, though a great difference of kind exists in the way of their actual exercise. While the American President does it all as per his individual judgement, the British monarch does it on the advice of his ministers. While the British monarch is just the head of the State, the American President is the head of the State as well as of the government and, for this reason, the ceremony in his case "is merely the decorative penumbra of office."

Apart from some formal features of resemblance between the American President and the British monarch, the features of difference are many that may be boiled down to this essential point that while the former is the real executive, the latter is the nominal head or the dignified executive. While

Notes

the British king can do no wrong, the American President can. In other words, it means that while the British monarch is like a 'magnificent cipher' doing hardly anything more than placing signatures on the papers prepared by the ministers, the American President rules according to his best judgement. He nominates his ministers and may remove them. He sends messages to the Congress and veto a bill though passed according to the intent shown therein. He makes important declarations relating to war and peace and signs treaties with foreign countries that he may submit for Senatorial ratification, or not by designating them as 'executive agreements'. Thus, the powers of the American President are vast so much so that by his critics he is labelled as 'the elected dictator for four years'.

True that the American President is far more powerful than the British monarch, the former is less powerful than the latter in certain other respects. The American President is elected for a term of four years and that one person cannot enjoy more than two terms. In contrast to this, the tenure of the British monarch is permanent and hereditary. Moreover, the monarch has a mystic aura of glory that a President may never possess. Being a man of politics, the President is treated as a partisan person. As such, his actions are criticised and he may be removed from office by the process of impeachment. Opposed to this, the British monarch is treated as 'above polities'; he remains immune from public criticism and the people offer him their sincere loyalty. Hence, the American President cannot enjoy the position of a 'dignified executive' that is enjoyed by the English sovereign.

The points of resemblance and difference between the two may be easily mentioned after having a study of the American President versus British Prime Minister. Both are elected officials with supreme actual authority in their respective States. Thus, both are mighty figures in their respective States, both exercise leadership, both face public criticism, and both may be removed from office for certain acts of commission or omission. In fine, both govern and remain accountable for that. However, the points of difference between the two are vital that show each being more as well as less powerful than the other in certain important respects. For this purpose we may examine their position in the following directions:

1. In the sphere of administration, the American President is more powerful than the British Prime Minister. We have seen that the British Prime. Minister is bound by the principle of collective responsibility. He has to bank upon the advice and cooperation of his colleagues. Moreover, the fact of Cabinet's being responsible to the Parliament restricts the executive powers of the Prime Minister. The Prime Minister is always under the searching criticism of the Parliament. His policies must be approved by it. At any time the House may pass a vote of censure against the government, or the weight of public criticism may force him to quit or remove his controversial minister. In this way, executive authority of the Prime Minister is subject to the control of the Parliament. Different from this, the American President uses his executive powers independently. Nominations as well as foreign treaties made by him are ratified by the Senate as a matter of courtesy. His ministers are like his 'personal servants'. He acts according to his best judgement. Being the Commander-in-Chief of the armed forces, he may mobilise troops and make declarations regarding the conclusion of war or peace. The process of impeachment is too tedious that has so far remained virtually an otiose affair, while several Prime Ministers or their leading ministers have been removed or forced to quit by an adverse vote or unforgiving mood of the Parliament.
2. The British Prime Minister is more powerful than the American President in the legislative sphere. We have seen that the Cabinet decides about the time and dates of the session of the Parliament; inaugural address of the monarch is prepared by the Cabinet; daily proceedings of the House are conducted according to the time table prepared by the Cabinet; bills and resolutions are passed by the Parliament owing to the existence of majority behind it; and, above all, there is no fear of royal veto as the monarch acts on the advice of his ministers. It shows that the Prime Minister (along with his Cabinet) has usurped the inherent powers of the Parliament. In clear contrast to it, the American President can not usurp the powers of Congress. Though he may send messages to the Congress, or he may get certain bills passed by it, or that he may veto a bill passed by it, or that he may influence its working by some shrewd tractics like those of lobbying or charm of the patronage, but he cannot be a master of the national legislature. Instances are there when the Congress turned down what the President desired in his message, or that an

Notes

appointment or a foreign treaty made by the President was rejected by the Senate, or that a veto exercised by the President was overridden by the second attempt of the Congress in passing the same bill.

3. Likewise, in the financial sphere, the British Prime Minister is more powerful than the American President. The budget prepared by the Cabinet must be passed by the Parliament otherwise it would amount to the defeat of the ministry. The Prime Minister sees to it that his financial proposals are passed and all cut motions tabled by the Opposition are defeated. Thus, the budget is passed by the Parliament in the same form as described by the Prime Minister. Different from this, the budget submitted by the president to the congress may and may not be passedin in exactly the same from. It is subjected to serious criticism in the House as well as in the Senate and quite often we find that several amendments are passed the change the shape of the original budget to a considerable extent. Though the President may make use of some shrewd political tactics to have his budget passed, it is certain that he would not be able to do what the Prime Minister does to save his government.
4. The American President is more powerful than the British Prime Minister so far as his relationship with the party is concerned. In Britain there is a very Strong party discipline and no leader, even the Prime Minister, can flout it. The rules of the party bind all. In this way, the Prime Minister acts as an authorised spokesman of the party. He scrupulously tries to follow the rules of the party as he knows that his very existence in office depends upon the support of his party. Different from this, party system In the United States is a very loose affair and, the hands of the President are not tied by the constraints of his being a nun of the party that had nominated him.
5. Finally, there are some directions in which the American President is more powerful than the British Prime Minister. The latter is not the head of the State, while the former is. Thus, while the latter has several important things done by the monarch as he can not do them himself, the former does by virtue of being the head of the State. Thus, the American President may exercise his prerogative of mercy and thereby grant pardon, reprieve or amnesty. He may adjourn the Congress in the event of disagreement between both houses in this regard. He may also take extraordinary steps to meet national crises by virtue of being the Head of his state.

What it all reveals is that both are more as well as less powerful than each other in certain respects. The reason for this should be discovered in different kinds of political organisations as well as in varying forms of political cultures. The entire study under this head may be epitomised in this statement: While the British king reigns and his Prime Minister rules; the American President rules as well as reigns though without wearing the crown. As President Theodre Roosevelt once said that his position 'is almost like that of a King and Prime Minister reeled into one'.

The President of France

The President of the Fifth Republic of France, as already pointed out, is neither like a constitutional monarch of Britain, nor is he a replica of the American chief executive; he stands between the nominal sovereign of the United Kingdom (so far as his theoretical position is concerned) and the real executive of the United States with a considerably greater amount of tilt in favour of the latter. The reason for this may certainly be traced in the serious problems with which the nation was confronted on the eve of the termination of the Fourth Republic. The framers "wished to give the President the prestige and the prerogatives that would enable him to provide for the continuity of the state, to cement the bonds between France and the former colonies of the French union, and to supervise the functioning of the Constitution. The President is the 'keystone of the arch of the new Republic'-he is both the symbol and the instrument of reinforced executive authority."

Election: The French Constitution provides that the President shall be elected indirectly by an electoral college for a period of seven now 5 years vide an amendment of 2000 years. The idea of direct election was rejected in view of the 'past mistakes' which had enabled Napoleon I and Napoleon III to overturn the then democratic governments. Hence, it was provided that the President shall be elected by an electoral college of approximately 80,000 electors. Though composed in a highly complicated manner, this electoral college consisted of (a) grand electors by right, being members of the Parliament, local

Notes

government councils of the departments, mayors and deputy mayors of the municipal councils, and a number of municipal councillors in proportion to the population of each municipality, (b) additional delegates from municipalities of over 30,000 inhabitants, elected by the municipal councillors, and (c) members of the overseas territorial assemblies, the deputies and senators from there and representatives of overseas municipal councils. It was also provided that the mayors and deputies and municipal councillors who were also members of the Parliament must have substitutes, for the same man would be allowed to vote twice. It is aptly said: "It may be that, as a result, the Presidency will acquire some of the authority which de Gaulle certainly wished it had in the past, though the president clearly does not have the powers which he would certainly be granted in a presidential system."

The constitutional reform of 1962 was implemented by ordinances that simplified the electoral process. The present position is that the name of a candidate must be endorsed by 100 'notables' members of the Parliament or of the Social and Economic Council, or general departmental councillors and mayors (10 of whom would have to be elected representatives of Overseas departments and territories) and by making a deposit of 2,000 dollars to be forfeited if he fails to receive at least 5% of the votes polled. It is also provided that every candidate shall be given equal time to speak on the radio and television for his canvassing. The candidates securing more than 5% of the votes polled shall also receive a grant of $ 20,000 in a lump sum to cover their election expenses. It is, however, required that the winner must secure absolute majority of the electoral college. If no candidate wins more than 50% of votes, the election shall take place again within next two weeks in which only two candidates having highest number of votes shall be allowed to take part. No candidate could secure absolute majority in the first ballot in the elections of 1974 and de Estaing was declared successful in the second ballot by defeating Mitterand.

The Constitution is, however, silent on many important points. For instance, it nowhere mentions the age, length of residence and number of tenures of a person holding this office. More so, an easy channel has been left for an ambitious national leader to exalt his power even by introducing an innovation in clear violation of the terms of the Constitution. For instance, the electoral reform of 1962 is nothing but a major constitutional innovation effected without the observance of the specified procedure. The bogey of 'over-representation of the rural areas' was swindle to cover the ambition of the first President. And yet the position is not very clear. Many loopholes are there to be avoided which we highlighted in the previous election. It is true to say that the election of 1965—the first election under the revised arrangement—"did not settle the future of the constitution, though while campaigning for the Presidency, both Lecanuet and Mitterand introduced many caveats and promised reforms for the great autonomy and initiative of the Paliament and a restriction on the powers and personal leadership of the President."

The work of exercising supervision over the Presidential election and dealing with the allegations of irregularities and corrupt practices has been entrusted to the Constitutional Council. It is provided in the Constitution that the election of new President shall take place not less than 20 and not more than 35 days before the expiry of the term of the retiring President. If the office of the President falls vacant due to his death or resignation, the President of the Senate shall act in the officiating capacity until the next incumbent comes. If the Constitutional Council declares the President in office to be permanently incapacitated, the President of the Senate shall act as the President of the Republic until the election of a new President. This must take place within 20 to 35 days from the declaration made by the Constitutional Council in regard to the vacancy of office or incapacity of the office holder. It is clearly mentioned that the Acting President shall have powers of the office except some as relating to the dissolution of the National Assembly, reference of matter to the verdict of the people, conditions in which a government may be defeated and its obligations under circumstances, and the revision of the Constitution.

In 1976, Art. 7 of the Constitution was amended. It empowers the Constitutional Council to postpone Presidential election (i) if in the 7 days preceding final dates for the deposit of candidatures of person who had publicly announced his candidacy not more than 30 days before the date he died or was incapacitated, (ii) or if an officially accepted candidate died or was incapacitated before the first round of voting, in the event of death or incapacitated, of one of the two most successful on the

Notes

candidate's part for the second round, the Constitutional Council would declare that the whole election procedure must be gone through again, and the same would be the case in the event of the death or incapacity of one of the two candidates remaining in contention for the second round. In the light of the foregoing, the Constitutional Council would decide to extend for upto 35 days from the date of its decision the time limits for the holding of a presidential election as laid down in Art. 7 of the Constitution.

Functions and Powers: A look at the functions and powers of the President of the Fifth Republic brings home the fact that his authority "is formidable" Apart form executive and legislative powers usually granted to the head of the state in other democratic countries of the world, the French President has 'emergency' powers as well which leave in his hands a loaded gun to save his nation or finish his opponents in the name of national unity and security. Says Dorothy Pickles: "Like his predecessors under the Third and Fourth Republics, the President is politically irresponsible for acts carried out by him in pursuance of his functions, except in the case of high treason, for which he can be tried before the High Court of Justice. This provision is comprehensible in the case of a President who presides but does not govern, but less so in that of a President of the Fifth Republic who, even in normal circumstances, can exercise some degree of real power, and who, in an emergency, has the right to exercise almost unlimited power."

First, we discuss the executive powers of the President. The President is the head of the state as well as of the government, since all business of the government is conducted in his name and he presides over meetings of the cabinet which 'determines and directs the policy of the nation'. He appoints the Prime Minister and other ministers (on the recommendation of the Prime Minister) and terminates their functions when any one of them tenders his resignation. He presides over the meetings of the Council of Ministers and signs ordinances and decrees as decided by this body. He also makes appointments of civil and military officers of the state, State Councillors, the Grand Chancellor of the Legion of Honour, ambassadors and envoys extra-ordinary, Master Councillors of the Audit Office, prefects, representatives of the Government in the Overseas Territories, general officers, rectors of academies (i.e., regional divisions of the public educational system) and directors of central administration. These appointments are made by the President in the meeting of the Council of Ministers. It is provided that an organic law shall determine other posts and their conditions of service under which the President shall make appointments or delegate his powers to his nominees.

As head of the state, the President accredits ambassadors to foreign countries and receives foreign ambassadors in his country. As Commander of the armed forces, he presides over the high councils and committees of national defence. Whenever he has some doubts over the constitutional validity of an international treaty or agreement, he can refer the question for referendum over the decision of the State Council and can delay the ratification of the said treaty until the Constitution is amended in case the decision of the Council is favourable. In domestic sphere, he stands forth as the guarantor of national independence and protector of the territory and has been charged with the duty of ensuring respect for the Constitution. He speaks for the nation and incarnates the national will and he is the arbiter of national affairs. Finally, he has the prerogative of mercy and thus he can exercise his right to pardon a criminal or commute his punishment.

Then, the President has important legislative powers. He promugates the laws within 15 days following the transmission to the Government of the finally adopted law. Before the expiration of the time-limit, he may ask the Parliament for the reconsideration of the law or its certain parts and this recommendation cannot be refused. It is further provided that the President, on the proposal of the Government during the parliamentary session or on joint motion of the two Houses published in the Official Journal, may submit to a referendum any bill dealing with the organisation of governmental authorities, entailing approval of a Community agreement, or providing for authorisation to ratify a treaty that, without being contrary to the Constitution, might affect the functioning of existing institutions. When the referendum decides in favour of the bill, the President promulgates it within the time limit of 15 days. With the consultation of the Prime Minister and the Presidents of the National Assembly and the Senate, the President can declare the dissolution of the Assembly. Then, general elections shall take place at least 20 days before and at most 40 days after the dissolution. The National Assembly shall convene by right on the second Thursday following its election. However, if this

Notes

meeting takes place between the period provided for ordinary sessions, a session shall by right be held for a duration of 15 days.

The Constitution empowers the President to send messages to the two Houses of the Parliament. He can call the Parliament for special sessions to hear his messages. 'This message is to be read in the Assembly and the Senate but not to be debated. He appoints the President of the State Council and its three members out of nine. He can seek the opinion of the Constitutional Council in regard to the constitutional validity of organic laws and regulations made by the Parliament before they come into operation. It is obvious that the President has no veto power like his American counterpart to reject a bill or even, like the British king, he has no power of placing his signatures on the bill passed by the Parliament. According to a well-established convention, it may be discovered that he has a suspensive veto in the sense that he may ask the Parliament for the reconsideration of a bill as a whole or in part and his request cannot be refused.

In addition to these executive and legislative powers, the President has emergency powers also. Art. 16 of the Constitution lays down: "When the institution of the Republic, the independence of the nation, the integrity of the territory, or the fulfilment of its international commitments are threatened in a grave and immediate manner and when the regular functioning of the constitutional governmental authorities is interrupted, the President of the Republic shall take the measures commanded by these circumstances, after official consultation with the Premier, the Presidents of the Assemblies and the Constitutional Council. He shall inform the nation of these measures in message. These measures must be prompted by the desire to ensure to the constitutional governmental authorities, in the shortest possible time, the means of fulfilling their assigned functions. The Constitutional Council shall be consulted with regard to such measures. Parliament shall meet by right. The National Assembly may not be dissolved during the exercise of emergency powers by the President."

This provision places sweeping powers in the hands of the President by empowering him to take whatever steps he deems necessary and expedient to face the national crisis caused by a serious threat to the independence of the nation, the integrity of its territory or the fulfilment of international commitments, or when the regular functioning of the constitutional government is seriously interrupted. The actual use of authority under the provision of Art. 16 enables the President to secure more powers after their authorisation from the Parliament, or even delegate his emergency powers to the Cabinet if he is out of the country. For instance, President de Gaulle left a decree with his Cabinet (when he had gone to the United States in May, 1960) to make use of this particular power in case a rebellion broke out. Justification of this particular action of the President finds place not in the words of the Constitution as such as in the precedents of history. While discarding a note of dissent in this regard, de Gaulle recollected the case of President Lebrun who had told him that he had not been able to leave France in 1940, and so the resistance was delayed.

An enumeration of the functions and powers of the President confirms the view that he is not at all a nominal executive like the English monarch. He is the 'master' of the national executive which has taken the Parliament under its subservience. The President is the virtual 'master' of both the executive and the legislature and the behaviour of de Gaulle well confirmed the fears of his critics. Herman Finer points out: "By these powers the executive branch has been immensely strengthened; the Assembly has been put in a subordinate place, in which it has reason truly to fear intimidation by a determined President of the Republic." While taking the case of de Gaulle, Pickles holds that the Head of the Fifth Republic "regards both Government and Parliament as being, in their different ways, mere agents of the President. In fields which he considers vital, the President rules as well as reigns."

Actual Position: The actual position of the French President is a matter of debate. To the defenders of the Constitution, he is meant to be the head of the state as, according to the letter and spirit of the fundamental law of the land, he should be no more than that particularly during normal times. The chief engineer of this Constitution, Michael Debre, designates his political system as 'parliamentary' and the 'only one suitable for France'. If France has a parliamentary system of government, the position of the President despite a formidable list of his powers and prerogatives, remains like the President of the Indian Republic. On the contrary, it is asserted that France has a peculiar 'Presidential' system of government in which real power is in the hands of the President who keeps the Prime Minister as his nominee and who reigns as well as rules. It is evident from these points:

Notes

1. The strong position of the President, not found in a cabinet system of government, becomes evident form various directions where he uses his authority independently or in his own discretion. Nothing save his personal judgement is the decisive factor. President is the arbiter' — the custodian of the constitutional government. The powers of the President are 'over-riding' in matters of war, foreign policy, defence, internal peace and, above all, the functioning of the governmental institutions.
2. The President is the virtual master of his Council of Ministers. He not only presides over the meetings of the cabinet, he can also veto a decision. The position of the Prime Minister is extremely delicate ; he must support the President, or face his own downfall. The President does not 'designate' the Prime Minister (as under Third and Fourth Republics), he appoints him without mandate from the National Assembly. The Constitution nowhere makes it obligatory that the Prime Minister must secure mandate from the National Assembly prior to his becoming the Head of the Government, gathering ministers, and starting to work with full authority.
3. More astounding is the arrangement of 'counter-signatures'. It is stipulated in the Constitution that the acts of the President (excepting appointment and dismissal of the Prime Minister and other ministers, decision to hold a refrendum, dissolution of the National Assembly, use of emergency powers, sending messages to the Parliament, referring certain matters to the Constitutional Council, appointment of the President and the three members of the Constitutional Council, and referring organic laws and important matters of this body before promulgating them to test their constitutional validity) must be countersigned by the Prime Minister and other ministers if circumstances so require. But the astonishing feature of the French constitutional system is that the reponsibility is of the Prime Minister and of his Cabinet and not that of the President. The National Assembly can pass a vote of censure against the Cabinet but not against the President.
4. The President has the power to dissolve the National Assembly in his discretion for no other reason than to impose his point of view. His consultation with the Prime Minister and the Presidents of the National Assembly and the Senate is a mere formality. The decree of the President in this direction does not need approval of any other agency. The only limitation on the power of the President in this regard is that the new Assembly cannot be dissolved before the expiry of one year. It is understandable that, like the British Prime Minister, the French President has a very effective power in his hands to compel 'rival' politicians to come to terms with him. It is also conceivable that the President might use this weapon not merely to bring an unruly Assembly in discipline but also to get rid of a government with which he finds it difficult to get along.
5. There is the provision of referendum where the President can act in his discretion or on the recommendation of the Government if he so pleases. Art. 3 of the Constitution vests national sovereignty in the people who exercise it through their representatives and by means of a referenda. The initiative for submitting a question to the people for their vote at a referendum rests with the Government or the Parliament. It is laid down in Art. 11 of the Constitution that on the proposal of the Government during the session of the Parliament, or when the two Houses propose that a referendum be held on a bill dealing with the organisation of public authorities, approving a Community agreement or proposing notification of a treaty which, without being contrary to the Constitution, affects the functioning of institutions, the President may submit it for a referendum.
6. The emergency powers of the President, as provided under Art. 16 of the Constitution, are hailed by the supporters of the framers as the essential instrument to prevent the recurrence of any catastrophe like that of 1940, these are also taken as a channel of legal dictatorship by those who may be called the critics of the Constitution. Although the President is constitutionally required to consult four agencies (Prime Minister, President of the National Assembly, President of the Senate and President of the State Council), he is the sole judge to determine whether the circumstances so warrant or not. It is in his discretion to decide when the declaration should be made and what necessary steps should be taken to face that crisis.

Notes

7. The President is the 'guide' of the nation. He is the final source and holder of the power of the state and the only man to hold and delegate The authoority of the State. Really speaking, he can hold in his hands all powers of the state provided he holds the office by virtue of an election and as long as his reforms are approved by the people. In domestic as well as in foreign affairs, his office has become the real centre of policy-making. A strong leader like de Gaulle is capable of, according to the language of this Constitution, taking any measure even without the consultation of his Government and the Parliament no matter it pertains to the withdrawal of the country from the North-Atlantic Treaty Organisation or instigation of the French people of Quebec in Canada to stage a demand for more autonomy. It is all due to the fact that he "is deeply involved in politics and can no longer be considered as an 'irresponsible head of the state' like the British Crown."

In a word, the President occupies the most celebrated office in the French constitutional system. He is the President of the Republic as well as of the entire French community. As France has a unitary system of government and the model of government is quasi-Presidential, it is understandable to regard the President as the single-most powerful and important authority of the state. Pickles is right in her judgment that public interests is focused on him and not on the Prime Minister, and the President takes great care to see that the spotlight remains on him." It is well observed: "In France, the President is not only head of the state, the symbolic and ceremonial leader of the country, but also possesses substantial policy-making and executive power.....As long as a single party controls both the executive and the legislature, the powers of the French President are immense. The President combines the independent power of the. U.S. President - notably, command of the executive establishment and independence from legislative control — with the powers that accrue to the government in a parliamentary regime —namely, control over Parliament's agenda and its day-to-day activity, and the ability to dissolve Parliament and force new general election. Moreover, the government — usually under the President's direction, controls Parliaments more tightly than other democratic regimes do. The result is a greater degree of executive dominance within the French political system than in virtually any other democratic nation. And the President occupies the office at the very top of this commanding edifice."

The President of Russia

Art. 80 says that the President shall be the head of the State. He shall be elected for a term of four years by the citizens of the Russian Federation on the basis of universal, equal and adult suffrage. Any citizen of Russia who has completed the age of 35 years and has resided in the country on a permanent basis for at least ten years may be elected. The manner of the election shall be determined by a federal law. Like the German Constitution, the Russian Constitution says that one person cannot hold more than two consecutive terms. It is different from the American system where a person cannot have more than two terms either consecutively or otherwise. He shall take the oath of loyalty to the people in the presence of the members of the Federation Council, the State Duma and the Constitutional Court before assuming his office.

Art. 92 makes it clear that the President shall exercise his powers after taking the oath until his term expires and a newly elected President has been sworn in. The office may fall vacant in the event of his death, resignation, persistent physical inability, or impeachment. In the event of his persistent inability for reasons of illness, his duties shall be delegated to the Prime Minister (Chairman of the Government of the Russian Federation), but he shall have no right to dissolve the State Duma, or call a referendum, or submit proposals for amendments in or revision of the Constitution. It is also provided that the next Presidential election shall be held before the expiration of three months from the date of the early termination of the Presidential office.

Art 93 has the provision of removal of the President by impeachment. He may be charged by the State Duma for high treason or some grave crime. A resolution to this effect must be passed in the State Duma by 2/3 majority of the whole House and then approved by the Federation Council in the like manner. It is required that such a move be initiated by at least 1/3 members of the State Duma that must be endorsed by a resolution of a special commission set up by it. Before the matter is finally decided in the Federation Council, it is also necessary that a decision be taken by the Supreme Court

Notes

of the Federation in support of the allegation made by the State Duma and then a similar decision be taken by the Constitutional Court confirming that the established procedure for bringing charges against the President has been duly followed. Finally, it is required that the decision to impeach the President be taken by the Federation Council within three months after the charge is framed by the State Duma. In other words, the procedure of impeachment has these steps:

1. At least 1/3 members of the State Duma should initiate the move of impeachment. The charge or charges framed by them must be approved by a special commission set up by the House for this purpose.
2. The view of the Supreme Court of the Federation must be taken for ascertaining the commission of the crime by the action of the President.
3. The matter must be referred to the Constitutional Court for having its view whether the established procedure has been followed.
4. A resolution to impeach and remove the President must be passed in each House of the Federal Assembly by 2/3 majority of the total membership.
5. The Federation Council must adopt a resolution to this effect within three months after the State Duma brings the charges against the President.

The Constitution enumerates the functions and powers of the President in detail. First, in the executive sphere, his functions, are as under:

1. To appoint the Chairman of the Government of the Federation (Prime Minister) with the consent of the State Duma, and to appoint ministers on the advice of the Prime Minister,
2. To preside over the meetings of the Government (Ministry) of the Federation,
3. To take action on the decision relating to the resignation of the Government,
4. To nominate to the State Duma a candidate for appointment to the post of a Chairman of the Central Bank of the Russian Federation and to raise before it the issue of his removal,
5. To appoint and remove the Deputy Chairman of the Government (Vice-Prime Minister) according to the advice of the Chairman, (Prime Minister).
6. To recommend names to the Federation Council for the posts of the judges of the Constitutional Court, Supreme Court, Supreme Arbitration Court and the Prosecutor-General of the Russian Federation and judges of other federal courts.
7. To form and head the Security Council of the Federation whose status shall be determined by a federal law,
8. To approve the military doctrine of the Federation,
9. To form or organise the Administration (Secretariat) of his office,
10. To appoint and dismiss ambassadors and plenipotentiary representatives of the Federation,
11. To appoint and dismiss Supreme Commanders of the defence forces of the Federation,
12. After consultation with the appropriate committees and commissions of the chambers of the Federal Assembly, to appoint and recall diplomatic representatives of the Federation serving in foreign States and international organisations.
13. As Supreme Commander of the defence forces, to introduce martial law in the country or in some of its parts in the event of any aggression or its threat according to the terms of federal constitutional law and to inform the Federal Assembly in this regard immediately.
14. To introduce a state of emergency in the whole country or in its part according to the terms of federal constitutional law and then inform the Federal Assembly immediately in this regard,
15. To issue edicts and regulations with binding effect on the whole country in accordance with the terms of the Constitution of the Federation and other federal laws.

Art. 84 specifies his legislative powers as under:

1. To announce elections to the State Duma in accordance with the Constitution of the Federation and other federal laws,

Notes

2. To dissolve the State Duma in accordance with the terms of the Constitution,
3. To announce referendums according to the terms of the Constitution,
4. To submit draft laws to the State Duma,
5. To sign and promulgate federal laws.
6. To address the Federal Assembly with annual messages on the situation in the country and on the basic objectives of the internal and foreign policy of the State.

The diplomatic powers of the President, as given in Art. 86, are:

1. To frame or direct the foreign policy of the Federation,
2. To hold negotiations and sign international treaties of the Federation,
3. To sign instruments of ratification,
4. To receive letters of credence and letters of recall of the diplomatic representatives accredited to his office.

Besides, the President has some other powers which may be enumerated as under:

1. The Constitution spells out obligations of the President in general as (i) to protect and preserve the Constitution, (ii) to guarantee protection of the human rights and freedoms, (iii) to adopt measures to safeguard the sovereignty, independence and unity of the State, (iv) to ensure coordinated functioning and interaction of all bodies of the Government, (v) to determine the basic objectives of the home and foreign policy of Russia, and (vi) to represent the Federation in international relations. It must be done in accordance with the provisions of the Constitution.
2. To use conciliatory procedure so as to resolve disputes between the federal government and the governments of the constituent units and to refer that matter to an appropriate court in the event of non-agreement; to suspend any law or act of a constituent unit on the ground of being against the Russian Constitution, or against any federal law, or against international commitments of the Federation, or against human and civil rights and freedoms, until the issue is resolved by an appropriate court,
3. To settle matters relating to the citizenship of Russia and granting political asylum; to bestow State awards and confer honorary titles and supreme military and special titles and to grant pardon.

The President of China

Since China is a republic, it is headed by the President with a Vice-President under him. Both are elected by the National People's Congress for a term of five years. That is, the term of the President and the Vice-President is concurrent with that of the NPC and, as in the USA, it is limited to two consecutive terms. A citizen of China having right to vote and above 45 years of age may hold this post. He performs some important functions as:

1. To enforce laws and decrees made by the National People's Congress or its Standing Committee,
2. To appoint and remove the Prime Minister, Deputy Prime Ministers, Ministers, heads of the commissions, Secretary-General of the State Council and Auditor-General,
3. To confer awards and honours on the distinguished figures of his country.
4. To grant amnesty to the offenders or the sentence of a criminal,
5. To enforce martial law and to mobilise armed forces for the defence of the country,
6. To represent his country at international conferences,
7. To appoint and recall Chinese ambassadors to foreign countries and to receive foreign envoys for maintaining international relations, and
8. To confirm or repeal treaties made with foreign States.

It may, however, be pointed out that the Chinese President performs his functions with the formal nod of the NPC or its Standing Committee. He performs his executive functions through the State Council that is responsible to the NPC or its Standing Committee. He has no veto power over the bills

Notes

passed by the NPC or the decrees promulgated by its Standing Committee. It shows that he is not a powerful figure like the Presidents of America and France. However, as this post is held by a powerful leader of the Communist party, his actual position very much depends on his place in the Party hierarchy. It is well said: 'The position is largely ceremonial, though it has always been held by a senior party leader and has sometimes been used as a base for advancing one's personal power."

The Plural Executive of Switzerland

Plural Executive: In all countries of the world, the executive is singular as it is headed by one person whether he is a President or a Prime Minister and the like. But the Federal Council of Switzerland is a unique model of collegial or plural presidency. It has seven members (ministers) and all of them are designated as the 'Presidents'. The salaries, allowances and powers of all the Presidents are equal. It is just for the sake of performing certain ceremonial functions that on the basis of seniority, one of them is designated as the President of the Confederation for one year and another as the Vice-President. Healthy conventions prevail whereby the Federal Assembly elects the same persons again and again for a term of four years. Not more than one President can belong to the same canton, while the cantons of Zurich, Berne and Vaud are invariably represented. Not only this, not more than two presidents should belong to the same political party. Hence, it is always like a coalition government. The whole arrangement is unique and, as Lord Bryce says, it "deserves best study".

President: One of the Councillors is designated as the President and the other as the Vice-President by the Federal Assembly for one year. According to an established practice, this is done on the basis of seniority and the office rotates among the seven Councillors. A new member of the Council serves beneath all his seniors and the retiring President goes to the bottom of the list. Hence, it is quite obvious that in case a Federal Councillor serves for more than a period of seven years, he may get two terms (though not consecutively) of the Presidency. For instance, S.G. Motta enjoyed five terms, Herr Muller three, and Dr. Phillippe Eter four.

The President of the Federal Council is also known as the President of the Swiss Confederation. But the designation of the presidency is a matter of courtesy. The Swiss executive is plural or collegial which automatically implies that it has no single head. The Swiss President is neither the *primus inter pares*, nor the party boss, nor the chief administrator. After the expiry of his one year term, he becomes one like others and during the term as well, he acts like a chairman having formal precedence over others. He receives salary equal to his other colleagues except a small remuneration for meeting the cost of official entertainments; he gets no palatial residence or special transport, nor is there any grandeur of his high office. The decisions are taken by the majority of votes and the President has the right of casting vote to break a tie. It is thus clear that the Swiss President "is, strictly speaking, no such person because there is no such office."

Of course, the Swiss President neither reigns nor governs, he is given the position of formal precedence over his colleagues for the simple reason that there are certain ceremonial functions which cannot be performed simultaneously by persons more than one. He appoints ambassadors, receives and sees off foreign guests, represents the Confederation at home and abroad, and to a limited extent, possesses emergency powers. The Swiss Presidency is thus a matter of ceremonial necessity. Unlike the American President, he does not select his colleagues, or appoint officials, or veto bills or negotiate treaties, or send messages, or act as the real executive; nor like the British Prime Minister he plays instrumental in the choice of his colleagues and their ways of working. On the whole, it brings to its holder only a nominal honour, and thus the Swiss people "are apt to forget who their President is just now, although they are likely to know by name the majority of the members of the Federal Council."

Functions and Powers: Article 102 of the Swiss Constitution contains a long list of the functions and powers of the Federal Council which for the sake of a convenient study may be grouped under these heads:

1. The Federal Council is the executive arm of the federal government. It conducts the affairs of the Confederation in accordance with federal laws and decrees. It must ensure due observance of the Constitution, the laws and decrees of the Confederation and federal treaties. It supervises the guarantee of cantonal constitutions given by the Federal Assembly and, as such, it examines

Notes

whether the cantonal constitution has anything contrary to the Federal Constitution. It looks into matters relating to the execution of judgements of the Federal Tribunal and of agreements and arbitration awards concerning disputes between the cantons. All federal appointments, except those entrusted to the Federal Assembly or Federal Tribunal, are made by the Federal Council. It examines the treaties made by the cantons either with each other or with a foreign state and may recommend their annulment to the Federal Assembly if they are detrimental to the interests of the Confederation. It conducts foreign relations, safeguards external interests of the nation, ensures external safety of the country and looks for the maintenance of Swiss independence and neutrality. It also looks for the maintenance of law and order and if the cantonal governments fail in their task, it may intervene according to the directions of the Federal Assembly. It also supervises official conduct of all officers and employees of the federal administration. It has the charge of Federal Army and all branches of administration thereof vested in the Confederation. In the situation of emergency, when the Federal Assembly is not in session, it is empowered to call out troops and deploy them as it thinks fit.

2. In the legislative sphere, the Federal Council submits projects of laws and arêtes to the Federal Assembly and gives its preliminary advice upon projects which the cantons or Councillors may send up to it. The usual procedure is that the Federal Council submits a message or report accompanied by a draft embodying the action which Federal Council wishes the Federal Assembly to take. The draft forms the basis of the discussion in the commission of each chamber of the Assembly. Thus, the Council may initiate legislation and the Assembly adopt it with certain amendments. The Federal Council also examines laws and ordinances of the cantons that have to be submitted for its approval and supervises the branches of cantonal administration where such supervision is incumbent upon it. It gives an account of its work to the Federal Assembly in each ordinary session, presents to it a report on the internal conditions in the country and foreign relations of the Confederation, and recommends for its consideration such measures which it thinks necessary or useful for promoting general welfare. Although the members of the Council cannot be the members of the Assembly, they may sit in either House, participate in the debates and answer questions. They also attend the meetings of parliamentary committees which examine the bills and by virtue of their expert knowledge and their influence, they may succeed in having an effective say in the matter under discussion.
3. The Council administers federal finances and prepares the budget and submits accounts of federal receipts and expenditure. As such, it collects revenues and supervises expenditure authorised by the legislature.
4. It has some powers of a judicial nature. It hears appeals of private individuals against decisions of various departments and also against decisions of the Federal Railway Administration. It also has appellate jurisdiction over decisions of the cantonal governments in cases relating to discrimination in elementary schools, differences arising out of treaties relating to trade, patents, military taxation, questions about occupation and settlement, consumption taxes, customs, cantonal elections, and gratuitious equipment of the militia. However, the Federal Council does not enjoy full authority in this field, because the appeals against its decisions may be taken to the Federal Administration Court.

Special Features: From the preceding account of the organisation and functions of the Federal Council it becomes clear that it is a unique institution. However, its special features may by summed up as under:

1. The Swiss executive is plural or collegial. It means that it has no single head. The President enjoys nothing but a formal precedence over his colleagues and after a period of one year retires according to the principle of rotation by seniority.
2. Though elected by the national legislature after every four years, or even earlier, the Swiss executive enjoys a very long tenure of stability. This stability means more than the mere fact that once elected, the Federal Council unusually cannot be dismissed before the end of the normal term of four years.

Notes



Task Why the Swiss executive is called plural or collegial executive?

3. Although the Federal Council is virtually a permanent body enjoying enormous powers, it is subordinate to the national legislature essentially owing to the theory of Swiss Constitution that the executive is not an independent or co-ordinate branch of government. The Council really acts according to the policy which originally emanates from the Assembly.
4. The Swiss executive does not correspond to the type of British cabinet. It is true that, like the British cabinet, it is the child of the legislature, and its members take part in the deliberations of the Federal Assembly, the Swiss executive is quite different. Its members are not picked up by a single leader ; they cannot enjoy the membership of the legislature after being so chosen, their total number is fixed ; they belong to different political parties and thus reveal unity in diversity; above all, they are not individually or collectively responsible to the legislature.
5. The Swiss executive is different from the American cabinet. Although, its tenure is characterised by stability and its members do not enjoy the membership of the national legislature, none of the seven Councillors is like the American President or his secretaries. Unlike the case of American cabinet, the seven members of the Council are elected by the national legislature in a joint sitting and the President of the Council possesses nothing similar to the American head of the state except the official designation. Besides, while the American executive works independently of the legislative control owing to the system of the separation of powers, the Swiss system is different where the Councillors take a very prominent part in the deliberations of the Assembly and pocket their pride if their wishes are turned down.
6. The Swiss executive is virtually a non-partisan body. The members of the Council are not chosen from the party having majority in the lower house of the national legislature. Rather they are a heterogeneous group of politicians belonging to different major parties who are chosen in view of their capability of administration. The party lines are not so rigid and it is administrative skill, mental grasp, good sense, tact and temperament by which the case of a particular candidate is adjudged.

On the whole, the Swiss executive is neither parliamentary nor presidential; it is unique by itself. Plurality instead of singularity, diffusion of executive authority instead of concentration, non-partisanhood in the midst of party politics, stability instead of periodic elections by the national legislature, and its working under the control of the national legislature and ultimately of the people may be cited as its special characteristics. Obviously, the Swiss executive is without its parallel.

Self-Assessment

1. Choose the correct options:

(*i*) The prime minister is the link between the parliament and the ..... .
(*a*) Judiciary (*b*) Chief Minister (*c*) President (*d*) Ministers

(*ii*) The American Congress adopted a resolution in ..... which took the form of 25th constitutional amendment two years later.
(*a*) 1955 (*b*) 1965 (*c*) 1950 (*d*) 1960

(*iii*) The impeachment proceedings were made against Nixon in ..... .
(*a*) 1974 (*b*) 1985 (*c*) 1971 (*d*) 1973

(*iv*) The functions and powers of the American President may be under ..... .
(*a*) executive and legislative (*b*) financial
(*c*) judicial and emergency (*d*) All of these

(*v*) The constitutions empowers the ..... to send messages to the two houses of the parliament.
(*a*) Prime minister (*b*) President
(*c*) Governor (*d*) Chief minister

7.3 Summary

Notes

- The constitutional history of Britain represents a steady decline of the *body politic* in the sphere of Monarchy and the House of Lords. Before the Glorious Revolution of 1688 there was hardly any difference between the King and Crown as the power of the state was vested in the wielder of Crown.
- The result has been a twofold executive - powerful head of the government called the Prime Minister and a relatively powerless head of the state called the King or Queen. This development has led to a situation calling for the English writers to make a legal distinction between the Monarch and the Crown of which he is a part.
- A long course of struggle between the kings and their people brought about a situation in which the real centre of power shifted from a concrete monarch to an abstract Crown. Today the Crown represents a synthesis of supreme authority vested in and exercised by the ministers and the Parliament acting in the name of the 'sovereign'. In a word, the Crown is the key-stone of the constitutional structure of Britain whose powers "are always used as the cabinet, supported by the Parliament, wants them to be used."
- The title and succession of the monarch are governed by the laws made by the Parliament. The Glorious Revolution of 1688 established the fact of the supremacy of Parliament over the king and laws made by the Parliament after this bloodless revolution determined various issues relating to the title and succession of the monarch.
- The principle of heredity is determined by the rule of primogeniture at common law which means that an elder line is preferred to a younger one and that in the same line a male is preferred to a female.
- There are other laws relating to the regency, incapacity of the king, and royal marriage. The Regency Act of 1953 lays down the first potential regent (below 18 years) shall be the Duke of Edinburgh and there after the Princess Margaret and then those in succession to the Throne who are of age. If the sovereign is abroad or unfit to work for some reason, there is a provision for the appointment of the Counsellors of State to act in the officiating capacity.
- It is, indeed, a peculiar feature of the British constitutional system that while the powers of the king have declined, the powers of the Crown have increased. The reason for this should be traced in the ever-growing process of democratisation. The powers of the Crown have emanated from two sources — the acts made by the Parliament and the prerogatives derived from the common law. While the laws made by the Parliament are explicit and are also amendable by it alone, "the prerogatives are the residue of discretionary or arbitrary authority which at any time is legally left in the hands of the Crown.
- He Crown has very important executive powers. As supreme executive head, it sees that all national laws are duly enforced and observed. It directs, supervises, and controls the work of administrative agencies, collects and expends national revenue, appoints administrative and judicial officers, nominates ecclesiastical and defence "authorities, regulates the conditions of service of the personnel, suspends and removes guilty officials, holds supreme command over the defence forces and in some respects supervises the work of local government.
- The powers of the Crown are vast not only in executive matters but also in the field of legislation. It summons the session of the Parliament, prorogues it, and can dissolve the House of Commons. It delivers inaugural address when the Parliament meets which is called Speech from the Throne.
- The Crown has judicial powers. The judges of the local governments are appointed by the Crown. The Lord Chancellor is appointed by it. All issues which come before the judicial committee of the Privy Council are decided by it. It also exercises prerogative of mercy and may grant pardon to persons convicted of criminal offences. In this way, it is the fountain-head of justice.
- It is possible that a Prime Minister like Palmerston may be admonished by a monarch like Queen Victoria for keeping her in the dark about certain important developments. He keeps

Notes

himself in touch with important matters affecting his people and his country. If he so likes, he may call the Prime Minister for gathering necessary information.

- The advisory functions of the king have got an importance of their own and a wise and sagacious king should not press his counsels to the point of creating a crisis. The mystic aura of royalty and the traditional reverence for his highest office lend special weight to his counsels.
- The monarch provides the golden link of the empire, a lace that joins, like the different beads, the various parts of the Commonwealth of Nations. Though a titular head of the state, British king stands as the shield of imperialism and also as the symbol of peaceful relationship between the 'mother country' and its colonies whether dependent or self-governing dominions. The Commonwealth of Nations thus finds a cementing bond in the great office of the monarch as the dominions pay final allegiance to the king and the republics regard him as the 'symbol of friendship.'
- The English people are essentially conservative and they do not want to change their old institutions radically. The experience of the Commonwealth Period (1649-60) drove home the lesson of even a despotic king's being better than a military dictator.
- Britain has a cabinet government in which the monarch finds a fitting place. He is the only non-political member of the political machine in the hands of a cabinet having a Prime Minister and other ministers of either Labour or Conservative party. The phrase that 'king can do no wrong', or 'that he reigns but does not govern', is a proof of the fact that real authority is exercised by the ministers "responsible to the Parliament and the people, while the king is just a symbol of dignified executive.
- The office of the monarch is not without many advantages on the national plane. The king proves himself to be indispensable in the working of the government and the promotion of the interests of the English people. It is he who invites the leader of the majority party in the House of Commons to form the government as desired by the electorate and it is he who dissolves the House to seek a fresh verdict of the people.
- The distinction between King and Crown may be made more clear with the help of a few noteworthy points. First, the former is a living person, while the latter is the institution. As a person, king is born and he is to die one day; while the Crown is the permanent institution of Britain. The phrase that 'king is dead, long live the king' really means that the king as a person is no more, but may the office of monarch live long.
- The classical doctrine of the Prime Minister's being 'first among equals' or *primus inter pares* now stands thoroughly discredited. Such an astounding development of the British constitutional system, however, found its best expression in the statement of R.H.S. Crossman who should be regarded as the author of a new doctrine.
- The Prime Minister is the master of his Cabinet. As such, any minister fighting in the Cabinet for his Department can be sacked by the Prime Minister any day. The ministers must be constantly aware that their tenure of office depends on his personal decisions.
- The Prime Minister decides about the organisation of the Cabinet committees. What committees exist, how they are manned, above all, who are the chairmen — all this is entirely a concern of the Prime Minister.
- The final power of the Prime Minister is his personal control of Government publicity. The Government's press relations are conducted by the Number 10 press department at its daily press conferences. That means, the people have a daily coherent, central explanation of what the Government is doing—an explanation naturally in terms the Prime Minister thinks right.
- A Prime Minister who habitually ignored the Cabinet, who behaved as if Prime Ministerial Government were a reality – such a Prime Minister could come to grief. He would be challenged by his colleagues in the Cabinet and on occasion overridden. Theoretically, a Prime Minister could dismiss all his Ministers; but then he would present his critics in the party with potent leadership:

Notes

- The Prime Minister is invariably accorded emergency powers, but these are limited in duration; still more, they are conditional on his maintaining parliamentary confidence, such as a coalition tends to ensure.
- If the Cabinet is the most important institution of the English constitutional system, the Prime Minister by virtue of being its leader is the most powerful officer. He is the real head of the government, while the monarch above him is the titular head of the state.
- Historical information reveals that for the first time in 1878 the title of the Prime Minister made appearance in a public document when Lord Beaconsfield signed the Treaty of Berlin.
- The Prime Minister is appointed by the monarch. Invitation to form the government implies his appointment. Convention requires that the monarch must choose the leader of the majority party in the House of Commons who can run the government with a comfortable majority behind him.
- In case a Prime Minister dies or resigns and the issue of appointing his successor comes up, the monarch may either consult its top-ranking leader before making up his mind, or may ask the party concerned to apprise him of its decision in this regard. For instance, after the resignation of Sir Anthony Eden in 1956, the Queen invited Macmillan to form the government on the advice of Sir Winston Churchill; likewise she invited Douglas-Home in 1963 on the advice of the outgoing Prime Minister.
- Soon after his appointment, the Prime Minister makes the list of his ministers specifying their portfolios. In this direction, he is caught up by some strong considerations which are of a political as well as personal nature. He has to include the names of his most loyal friends who constitute his 'inner cabinet'; then he takes those important men of his party who are the leaders of various groups and without their support it may not be possible for him to maintain unity and solidarity in the ranks of the party; then, the aspect of merit and competence has its own part and the Prime Minister pays due attention to the long experience and efficiency of his colleagues who would keep his government running well.
- If the Prime Minister is the maker of his government, he is also its unmaker. He may change the portfolios of his ministers and drop any offending colleague just by the hint of his displeasure. It has almost become like a theoretical proposition that the ministers act during the pleasure of the Parliament and the sovereign: the actual position is that they continue in office during the pleasure of the Prime Minister. This reason prompts Laski to say that the Prime Minister is 'central to the life and death of his ministers.'
- When elections take place, the personality of the leader counts above all and a victory of the leadership is a reward given to him in the form of, what is called, the mandate of the people.
- The Prime Minister is the dispenser of great offices. Apart from ministerial assignments, many other high officials like ambassadors, Lord Chancellor, Justices, Chairmen and members of the statutory commissions etc. are appointed by the monarch on the recommendation of the Prime Minister.
- The Prime Minister acts as the general supervisor of government and co-ordinator of various departments. He sees to it that there is no rift among his ministers and if a matter comes up, he sees that it is amicably settled.
- The Prime Minister is the link between the Parliament and the ministers. He is the leader of the House of Commons though sometimes he may transmit some of his powers to his most trusted deputy
- The Prime Minister performs many important function in the international sphere. Either personally or through his nominees he attends conferences of the Commonwealth of Nations and the United Nations. The presence of the British Prime Minister or his nominee at international gatherings is seen with special significance.
- The most powerful and spectacular office in the American constitutional system is occupied by the 'Chief Executive' called the President. A close look at the potentialities of his great office confirms the view that he exercises 'largest amount of authority ever wielded by a man in a democracy'.

Notes

- The President is elected by the American people for a term of four years. The original Constitution was silent on the issue of his re-election. It simply stipulated that the President would hold office for a term of four years which undoubtedly allowed him indefinite re-eligibility.
- The result was the 22nd constitutional amendment of 1951 which debars a man to seek a third term and makes it clear that the period of the officiating President shall be counted as one term in case his stay in office exceeds the duration of two years.
- The American Congress adopted a resolution in 1965 which took the form of 25th constitutional amendment two years after.
- On a written declaration by the President that he is unable to discharge the duties of his office, the Vice-President shall become President (Acting) until the President declares his inability ended.
- The Constitution provides that the President can be removed by the process of impeachment in case he is guilty of treason, bribery or other high crimes of misdemeanour. The House of Representatives shall initiate the charges with a majority vote and the Senate act as the tribunal presided over by the Chief Justice of the Supreme Court. The President shall have every right of defence either in person or through his nominee. Resolution must be passed by two-thirds majority for conviction which makes the President liable to removal from office and any other disqualification.
- The Constitution lays down three qualifications for the President, namely, that he must be a natural-born citizen of the United States, that he must be at least 35 years of age, and that he must have been a resident of the country for at least 14 years.
- A major change in the mode of election of the President has occurred owing to the rise and growth of a political drama that has become a concern of the two major parties in which a 'third' man has no place at all. Since 1832 the two parties have been following the practice of choosing their candidates at the national conventions.
- A simple majority of 270 is needed to win, otherwise the matter has to be decided by the House of Representatives in the case of the Presidency and by the Senate in the case of the Vice-Presidency, each State having one vote irrespective of its physical size or population, or number of deputies in the Congress.
- The American Presidency represents a curious mixture of the powers and position enjoyed by an executive potent enough to maintain order and ensure faithful execution of the laws but not so strong as to assume the character of dictatorship.
- The Constitution empowers the President to appoint principal officers of the various departments (ministers) with the approval of the Senate and require their opinion in writing upon any subject relating to the duties of their respective offices. In this regard he may obtain their views either orally in a meeting or in writing, but he is not bound to accept them.
- The President is not merely the chief administrator and chief foreign policy-maker and its executor, he is also the chief legislator though in a different way. He has the positive power of initiating legislation through his messages containing information on the State of the Union. It is within his authority to read the message personally in the Congress and thereby add a good deal of weight to its contents by the charm of his physical presence, or get it read by his nominee. The most effective weapon in the hands of the President is his veto, power. The Constitution requires that all bills passed by the Congress (except constitutional amendment proposals) must be sent to the President for his assent. If he appends his signatures, the bill becomes law and is placed on the statute book. The President is given 10 days' time for taking action (Sunday excluded) and he may either give his assent or return it to the Congress with some recommendations. The veto of the President is absolute in the sense that he may reject a bill without assigning any reason.
- He has pocket veto also which means that in case the session of the Congress is adjourned within the period of 10 days and he takes no action on it, then the bill is automatically killed.

Notes

- A reprieve means postponement of the imposition of penalty, while a pardon is a release from liability for punishment and may be absolute or conditional. While an absolute or full pardon absolves the alleged offender of all charges and makes him innocent as if he never committed the offence, a conditional or partial pardon is subject to certain terms and may be withdrawn later if these are unfulfilled.
- The financial power of the President covers the area of budget-making. The Budgeting and Accounting Act of 1921 abolished the executive office meant to assist the President in the discharge of his responsibilities of a Manager with regard to the expenditure of administrative agencies and replaced it with a Budget Bureau empowered to supervise the spending activities of various agencies and to advise the President on steps to be taken to introduce greater economy and efficiency in administrative services.
- The President of the Fifth Republic of France, as already pointed out, is neither like a constitutional monarch of Britain, nor is he a replica of the American chief executive; he stands between the nominal sovereign of the United Kingdom (so far as his theoretical position is concerned) and the real executive of the United States with a considerably greater amount of tilt in favour of the latter. The President is the 'keystone of the arch of the new Republic'—he is both the symbol and the instrument of reinforced executive authority."
- The French Constitution provides that the President shall be elected indirectly by an electoral college for a period of seven now 5 years vide an amendment of 2000 years. The idea of direct election was rejected in view of the 'past mistakes' which had enabled Napoleon I and Napoleon III to overturn the then democratic governments.
- The Presidency will acquire some of the authority which de Gaulle certainly wished it had in the past, though the president clearly does not have the powers which he would certainly be granted in a presidential system."
- The constitutional reform of 1962 was implemented by ordinances that simplified the electoral process. The present position is that the name of a candidate must be endorsed by 100 'notables' members of the Parliament or of the Social and Economic Council, or general departmental councillors and mayors (10 of whom would have to be elected representatives of Overseas departments and territories) and by making a deposit of 2,000 dollars to be forfeited if he fails to receive at least 5% of the votes polled.
- For instance, the electoral reform of 1962 is nothing but a major constitutional innovation effected without the observance of the specified procedure. The bogey of 'over-representation of the rural areas' was swindle to cover the ambition of the first President.
- The work of exercising supervision over the Presidential election and dealing with the allegations of irregularities and corrupt practices has been entrusted to the Constitutional Council. It is provided in the Constitution that the election of new President shall take place not less than 20 and not more than 35 days before the expiry of the term of the retiring President.
- Apart form executive and legislative powers usually granted to the head of the state in other democratic countries of the world, the French President has 'emergency' powers as well which leave in his hands a loaded gun to save his nation or finish his opponents in the name of national unity and security.
- The President is the head of the state as well as of the government, since all business of the government is conducted in his name and he presides over meetings of the cabinet which 'determines and directs the policy of the nation'. He appoints the Prime Minister and other ministers (on the recommendation of the Prime Minister) and terminates their functions when any one of them tenders his resignation.
- The President has important legislative powers. He promugates the laws within 15 days following the transmission to the Government of the finally adopted law. Before the expiration of the time-limit, he may ask the Parliament for the reconsideration of the law or its certain parts and this recommendation cannot be refused.

Notes

- The Constitution empowers the President to send messages to the two Houses of the Parliament. He can call the Parliament for special sessions to hear his messages. 'This message is to be read in the Assembly and the Senate but not to be debated.
- The Presidents of the Assemblies and the Constitutional Council. He shall inform the nation of these measures in message. These measures must be prompted by the desire to ensure to the constitutional governmental authorities, in the shortest possible time, the means of fulfilling their assigned functions. The Constitutional Council shall be consulted with regard to such measures. Parliament shall meet by right. The National Assembly may not be dissolved during the exercise of emergency powers by the President."
- The President is the 'guide' of the nation. He is the final source and holder of the power of the state and the only man to hold and delegate The authoority of the State.
- Art. 80 says that the President shall be the head of the State. He shall be elected for a term of four years by the citizens of the Russian Federation on the basis of universal, equal and adult suffrage. Any citizen of Russia who has completed the age of 35 years and has resided in the country on a permanent basis for at least ten years may be elected. The manner of the election shall be determined by a federal law.
- It is different from the American system where a person cannot have more than two terms either consecutively or otherwise. He shall take the oath of loyalty to the people in the presence of the members of the Federation Council, the State Duma and the Constitutional Court before assuming his office.
- Art. 92 makes it clear that the President shall exercise his powers after taking the oath until his term expires and a newly elected President has been sworn in. The office may fall vacant in the event of his death, resignation, persistent physical inability, or impeachment. In the event of his persistent inability for reasons of illness, his duties shall be delegated to the Prime Minister (Chairman of the Government of the Russian Federation), but he shall have no right to dissolve the State Duma, or call a referendum, or submit proposals for amendments in or revision of the Constitution.
- Art.93 has the provision of removal of the President by impeachment. He may be charged by the State Duma for high treason or some grave crime. A resolution to this effect must be passed in the State Duma by 2/3 majority of the whole House and then approved by the Federation Council in the like manner.
- The view of the Supreme Court of the Federation must be taken for ascertaining the commission of the crime by the action of the President.
- To appoint the Chairman of the Government of the Federation (Prime Minister) with the consent of the State Duma, and to appoint ministers on the advice of the Prime Minister,
- After consultation with the appropriate committees and commissions of the chambers of the Federal Assembly, to appoint and recall diplomatic representatives of the Federation serving in foreign States and international organisations.
- China is a republic, it is headed by the President with a Vice-President under him. Both are elected by the National People's Congress for a term of five years. That is, the term of the President and the Vice-President is concurrent with that of the NPC and, as in the USA, it is limited to two consecutive terms. A citizen of China having right to vote and above 45 years of age may hold this post.
- The Chinese President performs his functions with the formal nod of the NPC or its Standing Committee. He performs his executive functions through the State Council that is responsible to the NPC or its Standing Committee. He has no veto power over the bills passed by the NPC or the decrees promulgated by its Standing Committee. It shows that he is not a powerful figure like the Presidents of America and France. However, as this post is held by a powerful leader of the Communist party, his actual position very much depends on his place in the Party hierarchy.
- The executive is singular as it is headed by one person whether he is a President or a Prime Minister and the like. But the Federal Council of Switzerland is a unique model of collegial or

Notes

plural presidency. It has seven members (ministers) and all of them are designated as the 'Presidents'. The salaries, allowances and powers of all the Presidents are equal.

- Not more than one President can belong to the same canton, while the cantons of Zurich, Berne and Vaud are invariably represented. Not only this, not more than two presidents should belong to the same political party. Hence, it is always like a coalition government. The whole arrangement is unique and, as Lord Bryce says, it "deserves best study".
- One of the Councillors is designated as the President and the other as the Vice-President by the Federal Assembly for one year. According to an established practice, this is done on the basis of seniority and the office rotates among the seven Councillors. A new member of the Council serves beneath all his seniors and the retiring President goes to the bottom of the list.
- The President of the Federal Council is also known as the President of the Swiss Confederation. But the designation of the presidency is a matter of courtesy. The Swiss executive is plural or collegial which automatically implies that it has no single head. The Swiss President is neither the *primus inter pares*, nor the party boss, nor the chief administrator. After the expiry of his one year term, he becomes one like others and during the term as well, he acts like a chairman having formal precedence over others. He receives salary equal to his other colleagues except a small remuneration for meeting the cost of official entertainments; he gets no palatial residence or special transport, nor is there any grandeur of his high office.
- The Swiss President neither reigns nor governs, he is given the position of formal precedence over his colleagues for the simple reason that there are certain ceremonial functions which cannot be performed simultaneously by persons more than one. He appoints ambassadors, receives and sees off foreign guests, represents the Confederation at home and abroad, and to a limited extent, possesses emergency powers.
- The Federal Council is the executive arm of the federal government. It conducts the affairs of the Confederation in accordance with federal laws and decrees. It must ensure due observance of the Constitution, the laws and decrees of the Confederation and federal treaties.
- In the legislative sphere, the Federal Council submits projects of laws and arêtes to the Federal Assembly and gives its preliminary advice upon projects which the cantons or Councillors may send up to it. The usual procedure is that the Federal Council submits a message or report accompanied by a draft embodying the action which Federal Council wishes the Federal Assembly to take.
- The Swiss executive is plural or collegial. It means that it has no single head. The President enjoys nothing but a formal precedence over his colleagues and after a period of one year retires according to the principle of rotation by seniority
- The Swiss executive does not correspond to the type of British cabinet. It is true that, like the British cabinet, it is the child of the legislature, and its members take part in the deliberations of the Federal Assembly, the Swiss executive is quite different. Its members are not picked up by a single leader ; they cannot enjoy the membership of the legislature after being so chosen, their total number is fixed ; they belong to different political parties and thus reveal unity in diversity; above all, they are not individually or collectively responsible to the legislature
- The Swiss executive is virtually a non-partisan body. The members of the Council are not chosen from the party having majority in the lower house of the national legislature. Rather they are a heterogeneous group of politicians belonging to different major parties who are chosen in view of their capability of administration. The party lines are not so rigid and it is administrative skill, mental grasp, good sense, tact and temperament by which the case of a particular candidate is adjudged.

7.4 Key-Words

1. Monarchy : It is a form of government in which sovereignty is actually nominally embodied in a single individual.
2. Plural executives : A title of a chief officer or administrator especially one who can make significant decisions on her/his own authority.

Notes

7.5 Review Questions

1. Distinguish between British King and Prime Minister
2. Briefly explain the role of USA President.
3. Write a short note on the role President of China
4. What are the constitutional conditions of British King.
5. Discuss the role of plural executives of Switzerland.
6. What do you mean by King and Crown.

Answers: Self-Assessment

1. (*i*) (*d*) (*ii*) (*b*) (*iii*) (*a*) (*iv*) (*d*) (*v*) (*b*)

7.6 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 8: Constitutional Structure: Legislature

CONTENTS

Objectives
Introduction
8.1 Composition and Powers of the British Parliament
8.2 US Congress and Swiss Federal Assembly
8.3 Russian and French Parliament and National People's Congress of China
8.4 Summary
8.5 Key-Words
8.6 Review Questions
8.7 Further Readings

Objectives

After studying this unit students will be able to:

- Describe the composition and powers of the British Parliament
- Know the US Congress and Swiss Assembly
- Explain the Russian and French Parliament and National People's Congress of China.

Introduction

Traditionally, legislation is considered the only sphere of representative assemblies. Representative assemblies are in fact referred to as the legislature, although it is always agreed that these assemblies do not have exclusive control over legislation nor are they concerned only with legislation. Politically speaking, the function of making laws is nowadays atleast as much carried on by the central bureaucracy, which drafts all important bills in England, India, U.S.A and other countries. The political function of representative assemblies today is not so much the initiation of legislation as the carrying on of popular education and propaganda and the integration and co-ordination of conflicting interests and viewpoints.

Moreover, the functions of the legislature are not identical in every country. They entirely depend upon the form of Government. Their functions, their prestige, etc. differ from country to country.

8.1 Composition and Powers of the British Parliament

The British Parliament is a bi-cameral body having monarch and the two chambers — House of Lords and House of Commons — respectively as the upper and the lower ones. It is, however, important to note that the House of Lords, despite being the older chamber and one time being the Parliament of the land, has lost its former power and glory and become hardly anything more than a revising and delaying institution subservient to the will of the House of Commons. It is rightly commented that after Monarchy, the House of Lords represents another major institution of the British government in decline. Though abolished with the Monarchy in 1649 and restored with it in 1660, this House has been in a state of increasing control of the Commons so much so that the Parliament Act of 1911 (with its amendment in 1949) has clipped its wings and thereby left it in a helpless situation of being more or less like an ornamental chamber. More astounding is the fact, that unlike Monarchy, the Lords have not given a tough fight to protect their old rights in the face of their grim opposition by the people or their popular chamber.

Notes

House of Lords

Organisation: The House of Lords consists of the members of six categories. In the first place, there are the princes of the royal blood who usually take no part in its proceedings. Second, there are all hereditary peers and peeresses of England above the age of 21. This category of peers constitutes a large number of the members of the House of Lords and the eldest of a peer of this category gets peerage in succession after the death of his father unless he disclaims it within a year of the death of his father. Third, there are Scottish peers. Prior to 1963, there were only 16 peers from Scotland elected for each Parliament by the body of peers, but the Peerage Act of 1963 has conferred membership of the House on all peers. Fourth, there are life peers and peeresses created under the provisions of the Life Peerage Act of 1958. Fifth, there are 9 Law Lords appointed by the monarch under Appellate Jurisdiction Act of 1876 for the performance of judicial functions during their life only. Last, there are 26 spiritual peers including two Archbishops of York and Canterbury and three bishops of London, Durham and Winchester respectively. The rest 21 are taken on the basis of seniority list of bishops.

In November, 1999 the British Government made a law to reduce the number of hereditary peers (who had the right to sit and vote in the Lords) from 750 to 92. In May, 2000 the Government set up the House of Lords Appointment Commission to make recommendations on the appointment of non-political peers including people's peers. It has taken over the role previously played by the Political Honours Scrutiny Committee. The Commission is an independent body responsible for vetting all nominations to the Sovereign for membership of this House to ensure that they meet the highest standards of propriety. In order to make the House a more representative body, now anyone in the United Kingdom is entitled to nominate himself-herself or any other person. But this Commission would expect that such a person is known for his/her integrity and independence and has a significant record of achievements in the chosen field or way of life. In April, 2001 the Queen announced her intention to bestow non-political life peerages on 15 people preferred by this Commission.

Peerage is a great privilege to those who want to receive certain apolitical advantages without oscillating through the channel of the House of Commons. The Lords enjoy freedom of speech and also freedom from arrest while the House is in session. They can individually approach the king to discuss public affairs or recording their protest against decision of the majority in the House in its Journals. But the biggest disqualification of a peer is that he can not take part in the elections of the House of Commons. The Peerage Act of 1963 enables a peer to disclaim his peerage and thereby seek election to the House of Commons. Thus, a man of political ambitions may disclaim his peerage and thereby seek election to the House of Commons to become the Prime Minister of the country if circumstances so favour as we find in the case of Sir Alec Douglas-Home.

Functions and Powers: The House of Lords is summoned and prorogued simultaneously with the House of Commons but adjourned separately. It meets for four days a week - Monday to Thursday - and for about two hours a day unless the matter before it is of an exceptionally important nature. Its quorum is 3, but a minimum attendance of 30 is required to pass a bill. Its average attendance (particularly after the Reforms Act of 1957) is about 200. Its presiding officer is the Lord Chancellor who takes his chair called the 'woolsack'. But his position is very weak as contrasted with the office of the Speaker of the House of Commons. Convention requires that the members must address the whole House as 'My Lords' instead of addressing the chairman only. The questions regarding procedure are decided by the Houseand not by the chairman. For instance, if two or more members stand up to take the floor of the House, not the chairman but the House decides theissue of recognition. The proceedings are normally conducted in a very orderly manner and if there is some lapse, the matter is to be dealt with by the House itself. The Lord Chancellor may take part in the deliberations of the House only when he is a peer. But while doing so, he must step away from the 'woolsack' and even vote on party lines like any other member of the House. He has no casting vote. It is, therefore, obvious that the position of the Lord Chancellor is not strong as that of the Speaker of the House of Commons.

It has now become an established fact that the House of Lords is a weak chamber as it has become subservient to the will of House of Commons. Its functions are rather ceremonial which may be

Notes

classified into five parts. First, as an upper chamber of the Parliament, it has legislative powers. It is required that a bill must be passed by both the Houses of the Parliament before going to the monarch for his assent. The Parliament Act of 1949 has given it the delaying power over non-money bill for a period of one year only in as much as if a bill is passed by the House of Commons in two successive sessions with the interval of one year between its first introduction and third reading of its second attempt, the bill shall be presented to the monarch without the concurrence of the Lords. The House of Lords has the power of delaying the passage of a money bill for a period of not more than a month. That is, the House of Lords is a quite powerless chamber in money matters.

In addition to these legislative and financial powers, the House of Lords has executive powers — control over the ministers. Its members may ask questions from the ministers, put resolutions and motions for discussion, appreciate or criticize the policy of the government and may go to the extent of rejecting a statutory instrument. A very important constitutional crisis took place in June, 1968 when the Lords rejected an order-in-council issued by the Labour Government of Prime Minister Wilson desiring imposition of sanctions against the illegal white government of South Rhodesia. The Lords exercised the logic of the difference between a bill and an order-in-council. Thus, the Lords manifested an attitude of hostility towards Labour Government's Rhodesian policy and a Tory peer (Lord Salisbury) went to the length of calling the government 'a criminal in policeman's uniform.'

The House of Lords has some judicial powers. It is still the highest court of appeal in civil and criminal cases for England and Northern Ireland and in civil cases for Scotland. These cases are heard and decided by the Lords of Appeal only. It is still a court for people impeached by the House of Commons. Finally, it has constituent powers. For example, the duration of the House of Commons as determined by the Parliament Act of 1911 cannot be changed without the concurrence of this chamber. In this regard the provision of time-limit (as given in the Parliament Acts of 1911 and 1949) are not applicable. Hence, the Lords can block a bill desiring any change in this direction by an adverse vote.

Reform Movement: The weak position of the House of Lords has been a matter of much discussion, even merriment, and many attempts have been vainly made to make some reforms in its composition and ways of functioning. The reform movement of the House of Lords dates back to the middle part of a 19th century when democratisation of the

Composition of the House of Lords (2002)

Political Parties	Lords Temporal		Lords Spiritual	Total
	Hereditary Peers	Life Peers		
Conservative	50	173	-	223
Labour	4	191	-	195
Liberal-democrat	5	56	-	61
Cross-Bench	32	141	-	173
Others	-	31	-	57
Total	91	592	26	709

* In June 2001, one hereditary peer was declared bankrupt and therefore he became ineligible to attend the house.

Source: *National Statistics of UK*, (London: HMSO, 2002), p.45

House of Commons started. The first Reform Act of 1832 and the Chartist agitation thereafter added to the growing importance of the lower house of the Parliament. This process had its definite impact upon the issue of democratization of the House of Lords in some measure. In 1869 Lord Russell proposed the creation of life-peers and in 1888 Lord Salisbury desired the gradual creation of 50 peers, but both these ideas were rejected. The Lansdowne Plan of 1909 proposed a House of Lords of 330 members — 100 chosen by the whole body of peers, 100 to be appointed by the Crown, 123 to be elected by the House of Commons sitting in regional groups, 5 bishops to be chosen by the body of clergymen and 2 from the princes of the royal blood. This scheme was also rejected.

Notes

The first important event took place in 1918 when a committee of 30 members chosen equally from both the Houses was set up under the chairmanship of Lord Bryce. It recommended that the total membership of the House be reduced to 327 out of whom 3/4 be elected by the members of the House of Commons by the method of proportional representation, the rest of the members be selected from amongst the peers by a joint Standing Committee of the two Houses. It was also provided that the members be elected for a period of 12 years out of whom 1/3 would retire after every fourth year. Then, it proposed that a joint committee of the two Houses would decide whether a bill was money bill or not, and if there was any disagreement between the two, the matter be settled by a joint committee of 60 members, 30 from each chamber.

This scheme had the same fate. In 1922 the House of Lords debated and adopted a resolution declaring that it would welcome a reasonable measure limiting and defining the membership and dealing with defects inherent in the Parliament Act of 1911. In 1925 there was a discussion of a plan brought to the House of Lords by Birkenhead. In 1928 Lord Clarendon suggested that the House of Lords should consist of 150 members elected by the body of peers and 150 nominated by the Crown according to the strength of various parties in the House of Commons. In 1932 Lord Salisbury proposed a House of Lords consisting of 300 members — 150 to be elected by the peers for 12 years and 150 to be nominated by the Crown for the same period. It also desired that the power of deciding whether a bill was money bill or not should be transferred from the Speaker to a joint body of both the Houses.

As already visualised, the Labour Party has been highly critical of the anachronistic character of the House of Lords. When the Labour Government came into being in 1964, the way was opened. The Government presented a White Paper on November, 1,1968 highlighting: (i) Right to vote in the upper chamber to be restricted to about 230 created peers, (ii) Selection of some members on the basis of special knowledge, experience and interest in the problems of Scotland, Wales, North Ireland and other regions of the United Kingdom, (iii) Right of participation in the debates of the House of Lords to all hereditary peers and retention of their membership till the end of their life; (iv) Permission to the peers for taking part in parliamentary elections, (v) Number of ecclesiastical peers to be reduced from 26 to 16; (vi) Delay of public bills by the House of Lords for a period of not more than 6 months from the date of disagreement between the two houses; (vii) Increase in the number of ministers from the House of Lords; (viii) Review of the procedure and functions of the House of Lords after the implementation of these proposals. A bill based on these points was moved in the House of Commons and, despite its crossing the stage of second reading, was withdrawn by the Prime Minister in April 1969 in the face of strong opposition in the committee by some Labour back-benchers.

Parliament Acts of 1911 and 1949: What has given a great blow to the powers and prestige of the upper and older chamber of the British Parliament is not the movement for its reform in the direction of its democratisation as desired by so many leading politicians but the acts of the Parliament passed by the obstinate House of Commons over the head of 'reductant' but helpless House of Lords. The first legislative measure of 1911, as well shall see, definitely reduced the Lords to a subordinate position and the amended act of 1949 put a further check on its rump authority in non-financial matters. However, the effect of both these acts has been to demonstrate that the upper house of the English Parliament is no longer a co-ordinate authority with the lower one and even its usefulness as a revising chamber is quite doubtful.

The Lords could not read the writing on the wall and they chose a wrong wicket by rejecting the budget of the Liberal ministry in 1909. Prime Minister Asquith sought the verdict of the people on this issue and when the same party could be returned to power, it became clear that the people were with the government of the Liberal party. In this triumphant situation the monarch agreed with the proposal of the Prime Minister to swamp the House of Lords with newly created peers. The threat of the Prime Minister worked and in the absence of a hostile opposition from the side of the Lords the bill was rushed through both the Houses and became the Parliament Act of 1911 after receiving royal assent.

The Parliament Act of 1911 has important provisions. First, it makes the House of Lords powerless in matter of money bills by specifying that such a bill must be passed by this House within a period of one month. That is, a delaying power of one month is sanctioned so that the House of Lords must adopt it despite its reluctance, otherwise it would go to the monarch for his assent. Any change in the

Notes

money bill, according to this Act, is possible when the Commons is agreed with certain points raised in the House of Lords and thereby takes the bill back from the Lords in order to incorporate that change.

Second, in non-financial matters, it limited the power of the Lords to delay the passage of a bill for not more than two years if the House of Commons obdurately desired to adopt it. It provided that a bill passed by he House of Commons three times in successive sessions and each time ejected by the Lords might be presented to the monarch for his assent provided a period of two years had elapsed between the initial proceeding of the bill in the House of Commons and its final adoption in the House in the third session.

Finally, it has defined the term 'money bill' so as to include measures relating not only to taxation but also to audits and appropriation and authorised the Speaker of the House of Commons to decide the issue whether a bill, in question, is money bill or not. This Act has laid down the normal term of the House of Commons as of five years.

The Parliament Act of 1911 was a triumph of the Liberal genius; the amended act of 1949 marked the same for the Labour party. As a result of the victory of the Labour party in the elections of 1945, the passage became clear and the amended act of 1949 came into being. This act makes an improvement upon the former in the sense that now the House of Lords can delay the passage of a non-money bill for a period of one year only. It provides that a non-money bill may become law despite its being rejected by the House of Lords if it has been passed by the House of Commons in two successive sessions and if one year has elapsed between the date of the second reading in the first session in the House of Commons and the final date on which the bill is passed by the House of Commons for the second time.

The effect of these acts has been to deprive the House of Lords of any real powers in matters of passing a bill already adopted by the House of Commons. It has confirmed the conviction of Spencer Walpole that when a minister "consults Parliament, he consults the House of Commons," and when the Queen dissolves the Parliament, she "dissolves the House of Commons". What Ramsay Muir wrote about the Parliament Act of 1911 is applicable to the amended Act of 1949 as well that it "has reduced the House of Lords to a definitely subordinate position. It is no longer, in any sense, a co-ordinate authority with the House of Commons, but only a revising and delaying body; and not very effective even for that purpose.

House of Commons

The House of Commons is not only the lower chamber of the British Parliament, it is the only powerful wing of the King-in-Parliament. Since the monarch never makes use of his veto power and since the wings of the House of Lords have been clipped by the Parliament Acts of 1911 and 1949, what is called sovereignty of Parliament has really come to mean the supremacy of the House of Commons — something that has been characterized as the 'most characteristic institution of British democracy'. It has also been described as the "major political body in a bicameral legislature, omnicompetent and sovereign."What Woodrow Wilson wrote in 1885 still holds good that the deliberations of the Commons "are dramatic and exciting, because they do more than decide the contents of a law; they decide the reputations and fate of men who are or want to be in ministerial office. For the cabinet is a small group of members of Parliament who sit in and lead the Commons in legislation and the conduct of the administration."

Composition: The House of Commons consists of the elected representative (646 in 2005) chosen from single-member constituencies on the basis of one adult, one-vote system. All British subjects of either sex of above 18 years of age living in whatever part of Her Majestry's Dominions are eligible to vote. However, the minimum age of 21 is required to be elected to the House or serve in the Jury. Disqualified are the lunatics, bankrupts, persons convicted of high crimes, clergymen of the established Churches of England and Scotland and the peers of the United Kingdom, the holders of certain offices under the Crown, holder of judicial offices, civil servants, members of the regular and armed police services, members of the legislature of any country outside the Commonwealth and holders of other public offices listed in the House of Commons' Disqualifications Act of 1957.

Notes

The normal tenure of the House of Commons (as provided by the Parliament Act of 1911) is of five years. If a member resigns or dies in office, bye-election is held to fill that seat. However, the process of resigning a seat is fictitious. In view of the established convention, a member of the House is expected to discharge a public duty and he should, for this sake, not resign his office until he accepts some other office under the Crown. Thus, a member intending to resign applies to the Speaker for his appointment as the Steward of Chiltern Hundreds or the Steward of Manor or Northstead; he soon gets appointment and thereby relinquishes his membership as well. The House can prolong its life beyond five years in times of grave national crisis. For instance, elections due in 1940 remained postponed till 1945 on account of Britain's involvement in the Second World War. The normal duration of the House can not be changed until the Parliament Act of 1911 is revised with the concurrence of both the Houses of Parliament.

According to a well-established convention, the Parliament must meet at least once a year to pass certain essential bills (like renewal of Army Act) and the budget. The session normally begins in October and continues till the autumn of next year with certain breaks on holidays. Then it is prorogued and the unfinished business lapses. The session begins with an inaugural speech delivered by the monarch in the House of Lords where the Commoners are also present. The House meets for five days a week (from Monday to Friday). Certain business is exempt from normal closing time and other business may be exempted if the House so chooses, so that it often sits later than 10 p.m. on the first four days of the week, and all-night sittings are not uncommon.

Functions and Powers: The House of Commons is essentially a law-making body. The Parliament Act of 1911 lays down that a money bill shall be initiated in the House of Commons and the Lords must pass it within a period of one month. As regards non-money bills, the powers of both the Houses are co-ordinate, though the real situation is different.

It is provided by the Parliament Act of 1949 that in case a non-money bill passed by the Commons is rejected by the Lords and if the Commons re-adopts it in its successive session causing an interval of one year, the concurrence of the Lords is not needed. That is the obduracy of the Lords can not do anything beyond the delay of one year against the determination of the Commons. Facts show that all important non-money bills are normally introduced in the House of Commons.

Curiously, now the executive powers of the House of Commons are more important than its legislative powers. The fact that the king can do no wrong implying responsibility of the ministers has left in the hands of the Commons a major power to exercise control over the ministers. The members may ask questions from the ministers to show that they exercise check over the government. Motions of adjournment may be moved (generally by the members of the opposition) to hold discussion on a matter of urgent public importance. The opposition may go to the last extent of tabling a censure motion to highlight the 'crimes' of the government and, if such a motion is carried through, it amounts to the fall of the government. All statutory instruments issued by the departments to keep the laws of the Parliament in operation are placed before the House for approval. When the statutory instruments are put before the House, any member may raise a point that such and such instrument has violated the decision of the House and then the House may hold a debate to pass or reject the order in question. The House may outvote the government by disapproving its policy, rejecting a bill moved by a minister, cutting the budget, or passing a motion of no-confidence.



A non-money bill passed by the Commons must be passed by the House of Lords to avoid a crisis leading to further dimunition of its rump authority.

The House of Commons has financial powers as well. It is said that the purse of the nation is in the hands of the Commons. All money bills and budget must be passed by the Parliament. It is the government which prepares a money bill and budget and presents them to the House with monarch's formal recommendation. Until the budget is passed by the Parliament, no part of it can be implemented. The Cabinet sees to it that the budget is passed by the House according to its policy. The discussion over the demands of ministers gives to the members (particularly of the Opposition) an opportunity

Notes

for accusing the government of its acts of commission and omission. No member of the House can propose a new tax, he can certainly propose a cut. In case a cut motion is carried through, fall of the government follows. True to say that the Cabinet depends upon the support of majority behind it and the budget is passed by the House as it decides and desires, but the weight of criticism does not go in vain and a sensible Prime Minister pays attention to the various 'crimes' of the government highlighted by the fiery critics.

Then, the House has certain judicial powers as well. If a person contempts the privileges of the House, he may be arrested under a warrant signed by the Speaker and brought before the bar of the House. It depends upon the House to release him after admonition or award punishment. No judicial body can sit in judgement over the verdict of the House given in this direction. The House has its privileges committee to study a matter referred to it and then submit its report to the House for necessary action.

It is sometimes said that the House of Commons has transferred much of its real power in favour of the government (Cabinet) and consequently become subservient to the ministers. Samuel H. Finer holds that its primary function "is to sustain a government; its secondary function is to criticise it." That is, the House has hardly any real power beyond the ventilation of grievances. It has no legislative initiative as hardly any bill moved by a private member has the chance of being adopted until it is supported by the Cabinet. The House is thus a registering body for passing a bill or a budget or approving a policy measures presented by the Cabinet. It is, likewise, argued that such a body of more than six hundred members can neither legislate nor govern; its main task "is still what it was when it was first summoned; not to legislate, but to secure full discussion and ventilation of all matters, legislative or administrative, as the condition of its giving assent to Bills whether introduced by the government or by private members or its support to ministers.

Speaker: The Speaker is the presiding officer of the House of Commons. His designation is derived from the fact that in the early day of the twelfth and thirteenth centuries, only the presiding officer of the House of Commons — which was then a petitioning and not a law-making body — had the right to speak on behalf of the House to the monarch. It was this officer who took the petitions and resolutions of the House to the king and had a talk as the only 'speaker' (representative) of the House. Situation has fundamentally changed now when the House of Commons has become the real Parliament of the country in which the Speaker speaks very little and whenever he opens his lips, he speaks not to the House but for the House. On the occasion of his re-election to this office in 1945, Douglas Clifton Brown said: "As Speaker, I am not the Government's man, nor the Opposition's man. I am the House of Commons' man' and, I believe, above all, the back-benchers' man....as Speaker, I cherish the dignity of the 'office very much."

It follows that the Speaker is a member of the House of Commons and he is elected by it. There is a very healthy convention that 'once a Speaker, always a Speaker.' It implies that the Speakership is a very exalted office and its holder may continue to occupy it till he likes. When the House of Commons is dissolved, he still continues to hold his office until the new Speaker is chosen. However, it is required by a well-established custom that the Speaker returns unopposed as he contests election from some constituency as a man of no party. His non-political character is his best qualification entitling him to-seek reelection and return unopposed.

Whenever there is a vacancy due to death or voluntary retirement, the nomination is made by the leader of the majority party after consultation with the leader of the opposition. Hence, names of those members are withdrawn where there are objections and, in these conditions, the name of a backbencher is preferred as he is an unknown or a non-controversial figure. After this formal nomination, the ceremony of his election in the House of Commons takes place. His name is proposed by a member and seconded by another and soon the result is out as there is no other name in the field. After the elections when the new House meets, the name of the same Speaker is preferred and his election is just a formality. However, the House elects a Deputy Speaker. As another convention has come up to elevate the Deputy Speaker to the post of the Speaker, it may be said that the formality of the election has more importance in the case of Deputy Speaker than that of the Speaker. This is called the tradition of continuity.

Notes

The functions and powers of the Speaker may be discussed under three heads - as presiding officer of the House, as executive officer of the House and, finally, as the defender of the dignity of the House. In the first place, the Speaker is the chairman of the House and by virtue of this capacity he acts as its presiding officer. He acts as the chairman (unless the House meets as Committee of the Whole House) when the House meets, calls the meetings in order, recognizes the members who want to speak, asks a member to withdraw words or apologise in the event of making an unparliamentary expression, names a member if his behaviour-is repeatedly offensive to the dignity of the House, maintains discipline in the House and even asks his Sergeant-at-arms to push out a member if he refuses to leave the chamber. He conducts the business of the House and gives his ruling on the points of order raised by some members. He was casting vote to break a tie. The Parliament Act of 1911 has given to him the exclusive power of deciding whether a bill, in question, is a money bill or not.

Then, the Speaker has some executive powers. He issues writs and warrants. He appoints the chairmen of various committees. His staff includes clerk, Librarian and Sergeant-at-arms who are always at his call. If a person is found to have contempted the dignity of the House, he is arrested and brought before the House as per orders signed by the Speaker. It is upto the House to free the detained person after verbal admonition, or give a sentence of imprisonment. Such a decision of the House is implemented by the Speaker. Occasionally, he presides over constitutional conferences. It is his business to maintain discipline in the galleries and the lobbies and any violation of the rules by a person is subject to the judicial authority of the Speaker.

Finally, the Speaker is the defender of the dignity of the House. He acts as the spokesman of the House before the House of Lords and the monarch. If there is any encroachment on the powers of the House, the Speaker defends the House. For instance, when a minister refuses to answer a question despite persistent demands of the opposition, the Speaker rules whether the minister must give an answer or not, or whether he should be allowed to protect himself behind the cover of public interest. He also protects the interests of the minority sections and other back-benchers. It is his discretion to rule whether a question or a resolution is admissible or not. The debates of the House are published under his authority and he may order any portion of the minutes to be expunged if there is anything violative of the parliamentary behaviour and decorum.

In fine, the office of the British Speaker is the most dignified for the simple reason that he is taken to be infalliable like the Pope. His non-political character is the best asset to command respect and discipline from all sides. Even the rustle of his official robe, once Disraeli said, is enough to check an incipient riot. His office is the peculiar example in the world to be synonymous with political neutrality. The reason of his greatness lies in the fact that soon after his election to the august office, he rises above party strife and rigorously cuts off his party affiliations. He gives no chance of suspicion and even when he has to exercise his casting vote, he behaves in a way as to maintain the status quo. It is commented: "Outside, no less than inside, of the House of Commons, the Speaker abstains from every form and suggestion of partisanship.

He never publicly discusses or voices an opinion on party issues; he never attends a party meeting; he has no connection with party newspapers; he never sets foot in a political club; he never mingles with his fellow members socially in the (Westminster Palace's) tea rooms: he does not even make a campaign for his own election."

The Opposition

While keeping in view the case of English representative democracy, Macaulay once remarked that the Government and the Opposition constitute the 'fore and the hind legs of a democratic stag'. Truly so, the cabinet government in England finds opposition as 'an integral part of the working constitution' what is called 'H.M.'s Loyal Opposition.' What was regarded as 'immoral', 'unpatriotic' and 'factious' by the favourite politicians of King George III, has now become an essential part of the parliamentary government having five cardinal characteristics. First, it is 'organised' as it presents a united challenge to the government on all issues it chooses to contest. Second, it is 'permanent' as it does not band and disband according to the waves of political ups and downs. Third, it is 'representative' as it consists of dedicated political leaders originally connected with the people of the country. Fourth, it is

Notes

'alternative' as it remains ready to form an alternative government if the Cabinet falls. Last, it is 'participant' as it takes part in the deliberations of the House and remains prepared to co-operate with the government chiefly during times of grave national crisis.

The Opposition has a well-recognised and respected place in the British parliamentary system of government. Since Britain is a two-party state, one party wins absolute majority and forms the government, the other forms the Opposition. Political power alternates between the Conservative and the Labour parties according to the verdict of the electorate. The most notable characteristic of the Opposition is that it is well-organised. It has its leader and also a 'shadow cabinet'. The Leader of the Opposition draws salary from the exchequer and has his office inside the building of Parliament. He has his own whips and holds separate party meetings. He is rightly taken as the 'obverse of the leader of the House'.

The Opposition performs certain important functions. In the firs place, as its name indicates, it oppose the government. Lord Randolph Churchill observes that the business of the Opposition is to oppose. This is, however, an advance on the earlier formula of Tierney that the duty of the Opposition is to propose nothing, to oppose everything, and to turn out the government. It is due to this reason that the Opposition criticises the government with the intention of exposing its weaknesses ultimately amounting to its downfall. The Leader of the Opposition and his team (called shadow cabinet) ask searching questions from the ministers, demand debate on adjournment motions, and sometimes try to carry through their cut motions in order to effect the 'defeat' of the government.

However, the real business of the Opposition is not to place obstructions in the way of the government by making unnecessary opposition at every step. It is required that the opposition must be constructive. The Opposition must oppose objectionable policies and try to force the government to modify them. The views of men like Sir Randolph Churchill and Tierney are out-of-date and they fail to depict the constructive side of the argument. Irrelevant arguments do not pay, rather they recoil and the opposition has to suffer. What is really needed is that the opposition must support the government where it is indispensable, it must oppose where it can put forward a better and more useful course. Herman Finer says: "The tight organisation of the Opposition confronts the Government with a planned, continuous and inescapable set of critics, who have assumed the responsibility for Opposition. The Opposition has status."

This constructive aspect of the opposition has to be scrupulously kept in mind by the leaders of the Opposition for the simple reason that while it "puts the Government on trial, it too is simultaneously on trial. The character and ability of the leaders of the Opposition and the Prime Minister are being rigorously assessed in public contest every minute." Since the final authority is in the hands of the people, the Opposition has to see that its line of attack on the Government must be appreciated by the people in order to have a favourable wind for elections to come. It is aptly said: "The most it can hope for is to shame so many of the Government's supporters into abstention that the Government's stand is morally condemned in the eyes of the nation; and it may well have to wait till the next election to reap the fruits."

Then, the function of the Opposition is not to oppose the Government, even in a constructive manner, at all times. It should co-operate with the Government in times of national crisis. There may be a national government consisting of the leaders of the Opposition to save the country from disaster. Hence, the leaders of the Opposition, in addition to keeping the Government under searching criticism, place an alternative programme before the people and express their willingness and capability to form the government if the chance is provided. Says Herman Finer: "Indeed, its responsibility is so 'governmental', as it were, that rebellions sometimes occur within the Opposition among individuals who want to be more pugnacious. On every question, the Government presents a clear policy for all the nation to see; and the Opposition presents a searching alternative so that the pre-occupied masses are invited to compare and choose."

As a word of conclusion, it is safe to say that without a concerted opposition, the collectively responsible Cabinet would not be spurred on its highest merits. Around the Opposition, there "is a nucleus of a dozen or so men who sit on the front Opposition bench with the leader. They are virtually the alternative Government. So Samuel H. Finer argues that the attacks of the Opposition "can create a

Notes

mood among the electorate. Its speeches bring many tears, but never turn a vote, though it can capture votes outside the House of Commons. It is to the electorate that its criticism is directed. For though the cabinet has power, the power is contingent; it faces a dedicated enemy which is armed with procedural privileges and commands an organised national following. And all the Government says and does is staked on the hazard of the few votes three or four in every hundred — that can turn it out. However, it would be a far-fetched view to say that the Parliament has almost declined, if not demised. There is ample evidence even today to illustrate the "undoubted popularity of parliamentary broadcasts, including television, the widespread excitement revealed at general elections; the ready sale of books about every aspect of Parliament, the respect accorded to leading parliamentarians and, above all, the never-failing queues for seats in the galleries of the House of Commons."

8.2 US Congress and Swiss Federal Assembly

The legislative organ of the American federal government is known by the name of the Congress. Originally a body of 26 Senators and 65 Representatives, it now consists of 100 and 435 members in the upper and lower chambers respectively. In addition to this enlargement of size, a great deal of difference has occurred in other directions as well. The way its two chambers are organised, and, more particularly the manner in which they are influenced by local and regional considerations through the instrumentality of interest groups, has made its proper study a very complex affair. As Woodrow Wilson suggestively adds: "Like a vast picture thronged with figures of equal prominence and crowded with elaborate and obtrusive details, Congress is hard to see satisfactorily and appreciatively at a single standpoint. Its complicated form and diversified structure confuse the vision and conceal the system which underlies its composition. It is too complex to be understood without an effort, without a careful and systematic process of analysis, consequently very few people do understand it, and its doors are practically shut against the comprehension of the public at large."

Special Features: The organisation, working and functions and powers of the Congress reveal following salient features:

1. It is a bi-cameral body having Senate and House of Representatives as the upper and lower chambers respectively. The Senate is organised on the federal principle of equal representation to all units of the Union regardless of their geographical or demographic compositions. Each State sends two members whether it is big like New York or small like Nevada. But the lower house is organised on the principle of territorial representation—on demographic basis with the provision of at least one member from each State. Thus the quota of every State is fixed and the work of allocation of electoral districts is with the States subject to the over-riding jurisdiction of the Congress and the Supreme Court.
2. Originally the method of the election of the Senator was indirect. But the 17th constitutional amendment of 1913 made a change in this regard to combat the menacing tendency of electoral corruption. As a result, the Senators are now directly elected by the same body of voters in each State as the people choose their Representatives.
3. Each house of the Congress is the judge of the eligibility of its members and may even go to the length of disregarding a constitutional point while allowing or refusing a person to take his seat in either chamber. For instance, in 1806 the Senate admitted Henry Clay of Connecticut when he was below 30 years of age. In 1926 it refused to let Frank L. Smith of Illinois and William S. Vare of Pennsylvania take their seats in the house on the plea that they had spent too much money in their elections. Likewise, the House of Representatives in 1900 excluded Bringham Robert of Utah to take his seat on the charge that he was a polygamist.
4. There is a big gap in the duration of the life of a Senator and a Representative. While the former is elected for a term of six years, the latter for two years. It is true that there is no bar on the times a person may be elected, yet it is clear that the life of a Representative is far too short a period which discourages eminent politicians to have their place in the popular chamber of the national legislature.
5. While the Founding Fathers wanted the House to act as the barometer of national opinion and the Senate as a body to protect the interests of the component units of the union, the situation

Notes

has changed to the extent that the Senate alone has taken upon itself the onus of protecting the interests of the States as well as of the nation as a whole. Obviously, the position of the lower house has been overshadowed to a very large extent.

6. One more direction where the Senate has belied the hopes of the framers of the Constitution lies in the development of a custom called 'Senatorial courtesy'. The Constitution-makers wanted a salutary check on the authority of the President, but over the period of last 200 years or so, the check has developed into a system of organised political blackmail. Everything is determined by the yardstick of political friendship.
7. The two houses of the Congress work without strong party discipline. There are floor leaders belonging to both the parties, but they are no match to the whips of the English Parliament. The members act freely and the passage of a measure requires the support of each other on the basis of temporary alliances or adjustments. This is called log-rolling.
8. The character of the bills moved in the Congress shows that the members (particularly of the lower house) are much guided by local and regional interests for the sake of obliging their constituents with rewards and thereby keeping their electoral prospects high. Due to the usage of locality rule, the members of the popular chamber fight for petty gains (like the opening of some federal office in their constituency) and a legislative benefit secured for their sake goes by the name of 'pork-barrel'.
9. Owing to the absence of strict party discipline, the American Congress works under the influence of pressure groups fighting for their respective interests. While the candidate for Presidentship fights elections on the basis of national and international issues, Senators and Representatives solicit votes on the basis of local and regional matters. Besides, the legislators exist and thrive on the support of organised catalytic groups and they can not frustrate the expectations of their 'masters' in the interest of their own electoral prospects.
10. The Congress is not a sovereign law-making body like the British Parliament. Its powers of law-making are limited by the terms of the Constitution. Moreover, a bill passed by the Congress is subject to the veto of the President which may be over-ridden when it readopts the same bill by 2/3 majority. However, what can not be over-ridden is the veto of federal judiciary with Supreme Court at the top. The judges by virtue of their power of judicial review may declare any law passed by the Congress as *ultra vires* if it is found to be violative of the constitutional provisions or due process of law.
11. The Congress works on the principle of separation of powers and checks and balances. The Constitution has vested legislative authority in it. It has also put it under the control of the President on one side and of the courts on the other. Because of the system of separation of powers, the Congress and the President cannot combine and if there is any such tendency, the Supreme Court is there to undo it.
12. Lobbying is a peculiar American institution. The members of the Congress succumb to the techniques of the professional lobbyists who influence them with threat, inducement and promise to do or not to do a particular thing inside the legislative chamber. It is found that even Congressmen resort to the practice of lobbying for the protection and maintenance of some specific interests.

Functions and Powers: The Congress has the power to make laws on the following important subjects:

1. To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States.
2. To borrow money on the credit of the United States; and regulate commerce with foreign nations and among several states.
3. To establish an uniform rule of naturalisation, and uniform laws on the subject of bankruptcies.
4. To coin money, regulate the value thereof, and of foreign coin, fix the standards of weights and measures; and to provide for the punishment of counterfeiting the securities and currency coin of the United States.

Notes

5. To establish post office and post roads; and to promote the progress of science and useful arts.
6. To constitute tribunals inferior to Supreme Court; and to define and punish piracies and felonies committed on the high seas and offence against the law of nations.
7. To declare war, grant letters of marque and reprisal and make rules concerning captures on land and water; to raise and support armies but ho appropriation of money to that use shall be for a longer term than two years; and to provide and maintain a navy.
8. To make rules for government and regulation of the land and naval forces.
9. To provide for calling forth the militia to expedite the laws of the union, suppress insurrections and repel invasions.
10. To provide for organising, arming and disciplining the militia.

However, this is not at all what comes under the authority of the Congress. Over a period of more than 200 years, it has gained other powers called 'implied powers' or those powers which can be reasonably inferred or deduced from the powers specifically mentioned in the Constitution, or powers which are necessary and proper for the execution of the delegated powers. Thus, for example, the power to establish federal banks, to create naval and military academies and to construct highways and bridges etc. have come within the scope of Congressional authority by virtue of the doctrine of implied powers laid down by the Supreme Court. It may, however, be kept in mind that implied powers "do not give the federal government a blank cheque to do anything it wishes. If that were true, the system would be unitary rather than federal. Implications be made only from some specifically delegated powers."

However, the Congress has got other powers as well—electoral, constituent, executive, directing, supervisory and inquisitorial, judicial and financial.

1. Among its constituent powers, we find that a bill of constitutional amendment must be passed by both the chambers by 2/3 majority of the members present and voting. On a petition submitted by 2/3 States, it shall summon a constitutional convention and lay down rules of its business. The Congress has also developed some powers in this regard whereby it may lay down time-limit within which the States are required to ratify or reject a bill of constitutional amendment.
2. The electoral powers of the Congress are also important. The Constitution lays down that a candidate for Presidency or Vice-Presidency must secure absolute majority of the electoral college, otherwise the mater shall be decided by the Congress. The House of Representatives shall choose one out of the three securing highest number of votes for the Presidency and the Senate shall choose one out of the two having largest number of votes for Vice-Presidency.

   But the voting pattern shall be on the basis of 'one State one vote'. Besides, the House elects its own Speaker and the Senate elects its President *pro tempore*.
3. The executive powers of the Congress include confirmation of all appointments and foreign treaties (made by the President) by the Senate and approval of the proposal of making war and peace by a resolution of both the houses. Both the chambers appoint their own officers and committees. Then, the powers of direction supervision and are directly related. It is resolved by the Congress whether a new department, bureau or commission is to be set up. It may expand agencies, consolidate them or abolish them altogether. In addition, it defines their powers, sanctions appropriation of funds, authorises the employment of personnel and reviews their work periodically. For example, the Legislative Re-organisation Act of 1946, requires Congressional standing committees to exercise continuous vigilance over the execution of laws falling within their respective spheres.
4. The inquisitorial powers of the Congress include appointment of committees to investigate some matters of alleged misappropriation or scandal.
5. We may refer to the judicial powers of the Congress. Both chambers are master of the eligibility' of their members. Even a duly elected member may be disallowed to take his seat in the house on some ground of corruption after a resolution is passed by simple majority. Each house can expel a member if its 2/3 majority so desires. Besides, each house can also make some relaxation in the qualifications of candidate for its membership. However, the most important task is the

Notes

process of impeachment whereby the House of Representatives has power of initiating the charge against the President, Vice-President and other high public officers and the Senate, after hearing both the parties, gives its verdict by its 2/3 majority.

6. In regard to financial matters, the Congress controls the purse of the nation. The Constitution ordains the financial supremacy of the Congress by specifying that no money shall be drawn from the treasury but in consequence of appropriation made by a law. The money bill originates in the House of Representatives and becomes low after it is passed by the Senate. The budget is prepared by a bureau but the President submits it to the Congress and its provisions are implemented after it is passed by the Congress.

Critical Appreciation: The fact of decline of the Congress can not be rebutted even by the American writers in view of the salient fact that the leadership of the executive has usurped the inherent powers of the legislature in ever political system whether parliamentary or presidential. So far as the American political system is concerned, the Congress has lost much of its power curiously by playing a co-operative as well as competitive role in relation to the authority of the President. The problem is that it loses itself when it acts in a co-operative spirit and thereby becomes the object of criticism on the ground of being a second fiddle to the operation of the Presidency; likewise, it loses when it takes scuffle with the President as he perforce makes use of some shrewd ways to immunise himself from the control of the federal legislature and that causes the enhancement of the authority of the former at the expense of the powers of the latter. It is too much to talk of the power of impeachment whereby the Congress may remove a President in as much as the process is too tedious and the Americans may hardly appreciate such an action of the Congress.

The American Congress is certainly a weaker organ of the federal government. It is weaker than the President on one side and the Supreme Court on the other. The Senate has developed the convention of courtesy' and thereby given a long rope to the Chief Executive; the Supreme Court has taken advantage of the weapon of judicial review and thereby circumscribed the inherent powers of the representatives of the people. Certain 'notorious' practices (like those of gerrymandering, log-rolling, pork barrel, lobbying etc.) have contributed to the decline of the position of the federal legislature. Emphasis on local and regional interests and discreet role of pressure agencies have robbed the Congress of its real authority and significance.

Swiss Federal Assembly

The national legislature of Switzerland is known by the name of Federal Assembly. It is a bi-cameral body having Council of Status and National Council as the upper and lower chambers respectively. In the words of the Constitution, it is repository of supreme authority of the Confederation, subject of the rights of the people and the cantons. In this respect, Swiss Federal Assembly resembles the English Parliament and the American Congress.


Notes

The striking point of difference is that the powers of both the chambers are equal. Hence, Strong says that the Swiss legislature, like its executive, "is unique ; it is the only legislature in the world the powers of whose upper house are in no way different from those of the lower."

Composition: The Council of States (Standerat) corresponds to the American Senate in respect of its composition. Every full canton has two seats in this house, while every half canton has one regardless of its size or population. As a result, its total strength is 46. Each canton has its own laws to determine the mode of election of the deputies, the length of their term of office and the allowances paid to them. This arrangement is certainly different from the patterns of American and Indian federal systems. This system of election is not available in the cantons having landsgemeinde. The cantons also reserve the right to recall or replace their representatives. There is no uniformity in regard to their terms of office; in some Cantons it is four years, in others it is three years and, in some others it is for a single year only.

Notes

The National Council (Nationalrat) is the representative chamber of Swiss Parliament. It has 200 members elected directly by the people by means of proportional representation with list system and secret ballot. The minimum age of a voter is 20 years and now discrimination on the ground of sex has been abolished. Each canton, whether half or full, forms an electoral constituency and seats are allotted to it according to the ratio of one for every 24,000 of the total population. It is required that each canton must send at least one representative to the lower house. As the cantons are represented in this chamber in proportion to their population, there are naturally wide differences in the allocation of seats. Thus, Zurich (because of being the biggest canton) has the highest number of seats (35). It is specified that a clergyman or a member of the Federal Council or Federal Tribunal or of any department of the Federal Government can not be elected as its deputy.

The term of this House is of four years. But mid-term polls may take place in case the two chambers fail to agree over a proposal for constitutional revision. It elects its own President and Vice-President for one year. Neither of them is eligible for re-election in the consecutive year. Custom requires that the Vice-president should be elevated to the post of the President. When the House meets in its normal session in the months of March, June, September and December or in any extra-ordinary session, the President acts as the Chairman. He regulates the business, protects privileges and dignities of the house, and uses his casting vote to break a tie. But his office is honorary, neither as exalted as of his English counterpart, nor as influential as we find in the case of the parliamentary leaders and those men who have been so fortunate as to attain it to enjoy a special prestige among their party associates.

The sessions of both the chambers are held concurrently but in separate houses. However, joint sessions take place for definite purposes as to elect the members of the Federal Council, Federal Tribunal, Federal Insurance Tribunal, Chancellor of the Confederation, Commander-in-Chief of the armed forces, grant of pardon or amnesty and resolution of disagreement between them. When such a sitting takes place, decisions are taken by the majority of votes and the President of the National Council presides over the joint session.

Functions and Powers: The functions and powers of the Swiss Federal Assembly may be discussed under four heads - legislative, executive, judicial and constituent.

1. As regards legislative powers, it is competent to enact all laws and decrees dealing with matters failing under the jurisdiction of federal authorities. It determines and enacts necessary measurers to ensure due observance of national Constitution. It also votes on treaties and constitutional amendments. It passes all federal laws and legislative ordinances, considers and passes the annual budget, approves state accounts and authorises public loans floated by the federal government. It can demand all kinds of information on the administration of the Confederation and direct questions to the national executive.
2. It exercises important executive functions also. In its joint session it elects seven members of the Federal Council and designates one of them as its President, elects 26 judges of the Federal Tribunal and designates one of them as its President, elects twelve substitute judges for the national judiciary, also elects one Commander-in-Chief during war times, elects one Chancellor to work as the General Secretary of the Federal Council, and elects the members of the Federal Insurance Tribunal. It declares war and peace and ratifies alliances and treaties. All treaties concluded by the cantons among themselves or with foreign states must be confirmed by the Federal Assembly provided they are referred to it either by the cantons or by the Federal Council. In case a cantonal government fails to execute federal laws and regulations, the Federal Assembly decides on the nature of intervention against the recalcitrant party.
3. As regards its judicial powers, it exercises the prerogative of granting pardon and amnesty. It deals with conflicts of jurisdiction between different federal authorities. It also hears appeals against the decisions of the Federal Council relating to administrative disputes.

Notes

4. It has powers of constitutional amendment. However, here its powers are subject to popular verdict. When both Houses agree to revise the Constitution, either wholly or partially, the proposed revision is submitted to the people for their acceptance. In case one of the chambers does not agree to the proposed revision, the matter is referred to the people for their decision. If the majority of the electorate votes for revision, new elections to the Federal Assembly take place and when the new legislature adopts that bill (which is a foregone conclusion), the matter is referred to the people as well as to the Cantons for their final ratification.

Criticism: Despite the fact that the Swiss Parliament has been called by its Constitution as the repository of supreme authority, it remains to be pointed out that its real authority has much declined due to various reasons associated with the institutions of direct democracy and other practices of this ancestral home of democracy. The process of direct legislation has contributed to its decline in a very great measure. Its major decisions are subject to the veto of the people. Many important bills are piloted by the members of the Federal Council who submit them with a well-reasoned report highlighting the urgency of the matter. A well-known Swiss writer admits that the federal legislature "cannot be designated a parliament in particular because it cannot be put out of office by a vote of lack of confidence."

8.3 Russia and French Parliament and National People's Congress of China

The Russia Parliament

The parliament Federaln Assembly has proven to be a modestly authoritative authoritative and effective body despite the turmoil surrounding its creation. Several features distinguish it from its predecessor institutions. One is the important role played by party factions in organizing the proceedings of the lower house, the State Duma. The **Federation Council**, by contrast, refuses to organize itself along partisan lines. Another is its bicameral structure; its two chambers differ markedly in the way their seats are filled, the way in which they operate, and in their powers and responsibilities. The Duma, as the lower or popular house, has the right to originate legislation except for certain categories of policy which are under the jurisdiction of the Federation Council. As Figure 1 shows, upon passage in the State Duma, a bill goes to the Federation Council for consideration. The Federation Council can only pass it, reject it, or reject it and call for forming an agreement commission comprising members of both houses to iron out differences. If the Duma rejects the upper house's changes, it can override the Federation Council by a two-thirds vote and send the bill directly on to the president.

When the bill has cleared parliament, it goes to the president for signature. If the president refuses to sign the bill, it returns to the Duma. The Duma may pass it with the president's proposed amendments by a simple absolute majority, or override the president's veto, for which a two-thirds vote is required. The Federation Council must then also approve the bill, by a simple majority if the president's amendments are accepted, or a two-thirds vote if it chooses to override the president. On rare occasions, the Duma has overridden the president's veto and it has overridden Federation Council rejections more frequently. In other cases, the Duma has passed bills rejected by the president after accepting the president's amendments. Since 1994, the parliament and president have generally avoided provoking a conflict that could trigger a major constitutional crisis, although under Yeltsin they sometimes came close to the brink.

The State Duma has emerged as an assertive and active body. Unlike the Federation Council, the Duma is organized by party faction. Representatives of its factions—one from each registered group regardless of size—comprise its steering body, the Council of the Duma. The Council of the Duma makes the principal decisions in the Duma about the legislative agenda and proceedings, and acts on occasion to broker compromise agreements that overcome deadlocks among the deeply opposing political groups represented in the Duma. The Duma also has a set of 28 standing committees. Some, such as the budget committee, have become influential in shaping national economic policy. Both on distributive issues, such as the budget, and on regulatory policy, Such as legal reform, the government and president often seek to compromise with the Duma in shaping legislation rather than reverting to the use of presidential decree power to break stalemates over policy.

Notes

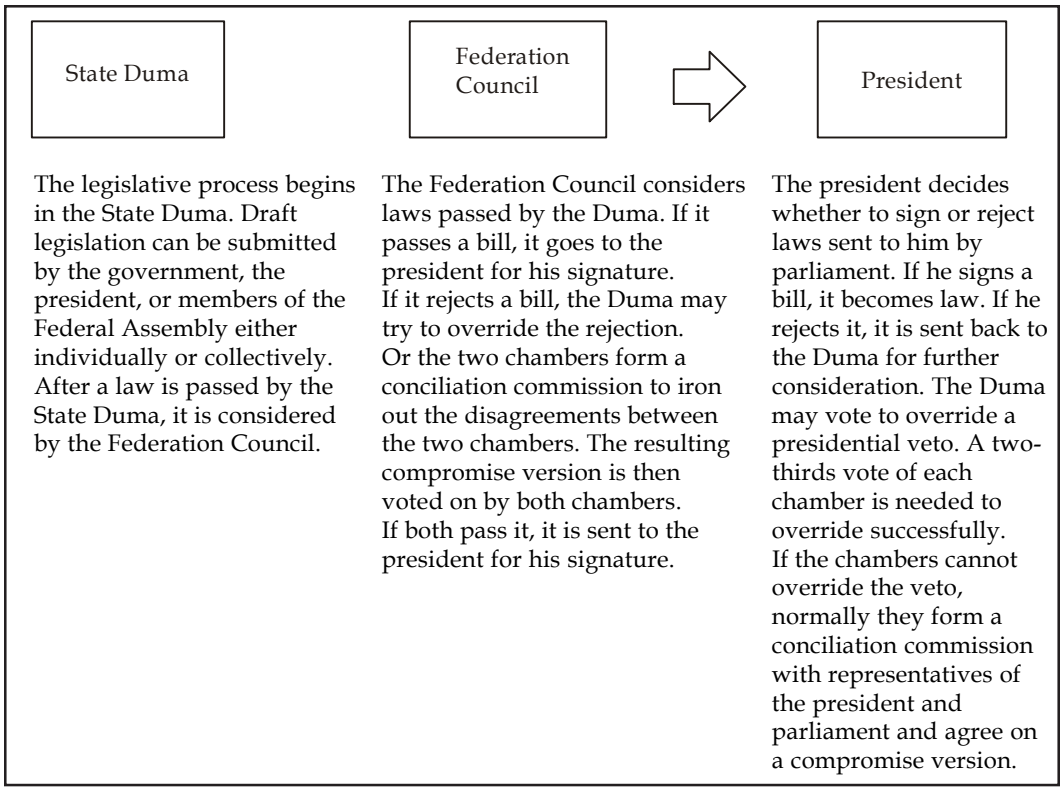


Figure: The Legislative Process

The Federation Council is designed as an instrument of federalism in that (as in the United States Senate) every constituent unit of the federation is represented in it by two representatives. Thus the populations of small ethnic-national territories are greatly overrepresented compared with more populous regions. Until a major reform pushed through by President Putin in the spring of 2000, its members were the heads of the executive and legislative branches of each constituent territory of the federation; it would be as if the governors and assembly speakers of each state in the U.S. made up the members of the U.S. Senate. Now, however, each governor and each regional legislature names a representative to the Federation Council to serve on a full-time basis. The governors appoint their representatives, who are then confirmed by the legislatures; the regional legislatures elect their representatives.

The Federation Council has important powers. Besides acting on bills passed by the lower house, it is also called upon to approve presidential nominees for high courts such as the Supreme Court and the Constitutional Court. Its approval is required for **presidential decrees** declaring martial law or a state of emergency, and any actions altering the boundaries of territorial units in Russia. It must consider any legislation dealing with taxes, budget, financial policy, treaties, customs, and declarations of war.

The new members named in 2000 and 2001 were a diverse group. Many had extensive experience in regional and federal politics. Many had no previous ties to the regions that sent them. About a quarter of the new members were high-level business executives. In its new composition, the Federation Council has consistently supported President Putin and his program, and has passed nearly every law he has proposed even when the legislation directly countered the interests of the regions. The members have found the credentials (and immunity from all criminal prosecution) that go with parliamentary membership to be useful to them in lobbying for the interests of the regions that delegated them. But both among members and the political elite generally there continues to be a great deal of dissatisfaction over the current role of the chamber and most observers believe that the current law on the composition of the chamber should and will be replaced by one providing that the

Notes

members of the upper house are popularly elected. This must be reconciled in some way, however, with the constitutional requirement that the two members of the chamber from each of Russian 89 territorial subjects represent the executive and legislative branches.

Executive-Legislative Relations

Both the constitution and the realities of Russia's political system tilt the balance of power between president and parliament strongly in the president's favor. Yet as great as the president's powers vis-a-vis parliament are, they should not be exaggerated. Certainly the constitution makes it far harder for the parliament to remove the president than for the president to dissolve parliament. As in the United States, the legislature's sole device for forcing out the president is impeachment.

Parliament's power to check the president has little to do with the threat of impeachment, however. Rather it stems from the need for the parliament's approval of all legislation, and the requirement of parliamentary confidence in the government. Since a presidential decree may not contradict federal law or the constitution, a law has greater legitimacy in the eyes of the public and bureaucracy than a decree. A president would rather win passage of his policies in parliament, therefore, than to enact them by decree.

Relations between president and parliament during the Yeltsin period were often stormy. The first two Dumas, elected in 1993 and in 1995, were dominated by the communist and other leftist factions hostile to President Yeltsin and the policies of his government. This was particularly true in areas of economic policy and privatization. On other issues, however, such as matters concerning federal relations, the Duma and president often reached agreement—sometimes against the resistance of the Federation Council, whose members fought to protect regional prerogatives.

The election of 1999 produced a Duma with a pro-government majority. President Putin and his government worked to build a reliable majority base in the Duma for their legislative initiatives comprising a coalition of four centrist political factions. The members of these factions depend heavily on the Kremlin for political support, personal benefits, and the promise of help in the next election campaign. Generally, the progovernment factions in the Duma need the Kremlin much more than the Kremlin needs them.

The French Parliament

A study of the political system of the Fifth Republic leaves an impression that the Parliament is the 'step-child' under the new constitutional dispensation." It is, indeed, a major departure from the old tradition that the legislature is no longer the sole embodiment of the sovereignty of the people. The Constitution establishes a fundamentally different system under which the lower house (National Assembly) and the upper one (Senate) "are more nearly co-equal than they were in the Fourth Republic, although both are diminished in stature compared with the power of the executive." Whereas the organisation of the legislature under the old system was dubbed as "incomplete bicameralism" or modified unicameralism ; the present system "may be considered as a strongly modified parliamentarism."

Composition of National Assembly and Senate: Like British Parliament and American Congress, the French Parliament is bi-cameral having Senate and National Assembly as the upper and lower chambers respectively. However, the arrangement of two chambers is well in conformity with the old tradition of the Third and Fourth Republics with three exceptions. First, the upper chamber has a changed name ; it is no longer the Council of the Republic as under the Fourth Republic, it is Senate as it was under the Third Republic. Second, the powers of the Senate have been increased in order to make it a more or less equally powerful chamber as compared with the powers of the National Assembly except in matters of passing money bills or censuring the government. Last the 'principle of incompatibility' has been introduced to debar a minister from retaining his seat in the Parliament for no other reason than to depoliticise the government or reduce the temperature of politics.

Like the House of Commons of Britain and the House of Representatives of the United States, the lower house of the French Parliament is organised on the basis of direct election. Its strength is 577. The minimum age for voting is 21 years, while for being elected to the Assembly, it is 23 years.

Notes

Convicts and persons declared undischarged bankrupts and others deprived of their civil rights are not eligible for the membership of either house. Besides, members of the boards of nationalised industries, directors of companies which receive state aid or hold Government contracts, and persons who hold any office (paid) on behalf of a member-state of the Community or any foreign power or an international organisation are not eligible for membership.


Notes

For the upper house the minimum age for being elected is 35 years. It is required that the candidates must have completed their military service and they must be French citizens of at least 10 years' standing.

The total membership of the Senate has been fixed. It is 330 out of which 304 represent metropolitan France, 15 represent Overseas Departments and overseas Territories and 12 represent Frenchmen living abroad. The metropolitan seats are distributed among the 'departments' each having 1 seat for the first 150,000 inhabitants and additional ones for each additional 250,000 or fraction thereof. Each electoral college is composed of (1) local parliamentary deputies, (2) members of the departmental councils, and (3) representatives of the municipalities according to the size of various municipal councils. All the members of the electoral colleges number about 115,000 in all. About 400 communes with over 9,000 inhabitants choose their delegates by proportional representation, while others with less than 37,000 inhabitants choose their delegates by absolute majority allowing three ballots to attain this.

It is laid down in the Constitution that the matters relating to the qualifications, emoluments, terms, conditions of incompatibility etc. of the members of Parliament shall be determined by Organic Laws. Thus an organic law was passed to abolish the 'notorious' system of proportional representation in the elections of National Assembly and substituted in its place the single-member constituency system with a second ballot in case no candidate succeeds in obtaining absolute majority of the votes polled at the first ballot. It shall be determined by the organic law as to what shall be the conditions governing the replacement of deputies of the National Assembly and members of the Senate who are either appointed as ministers or resign their seats. A very innovatory arrangement in this regard is the election of the alternates or 'substitutes', that is 'dummy' candidates, who take seat in the Parliament when a member dies or resigns his seat particularly on the being a minister.

Like the term of the British House of Commons, the National Assembly is elected by the people for a period of 5 years. However, it may be dissolved earlier by the President. It is required that the President must seek the opinions of the Prime Minister and the presiding officers of the two Houses before promulgating his decree, though the matter lies in his discretion. The Senate, like its American counterpart, is a permanent body with the difference that while the members of the latter are indirectly elected for a period of 6 years, 1/3 retiring every second year, the members of the former are elected by an electoral college for a period of 6 years, 1/2 retiring every third year. According to a law made in 2003, the Senators are to be elected for a term of 6 years, with 1/2 seats renewable after every three years and to be allocated through a combination of majority voting and proportional representation. From 2010 the number of the Senators would be increased to 346 and the minimum age of eligible candidates to the Senate would be reduced from 35 to 30 years.

Sessions and Presiding Officers: The Constitution lays down that the Parliament shall convene by right in two ordinary sessions in a year. The first session begins on the first Tuesday of October and lasts till the third Friday of December. That is, it lasts for nearly 74 days and is mainly concerned with the passing of the budget. The second session begins on the last Tuesday of April and cannot continue for more than three months. It is concerned mainly with the passing of ordinary legislative matters. It is understandable that the President has no right to convene the ordinary session of the Parliament, for it is held as a matter of right. However, he may call an extra-ordinary session of the Parliament at any time to consider 'urgent' business. It shall usually be done on the advice of the Prime Minister, because the decree issued by the President in this regard must be countersigned by the Prime Minister. Parliament may itself hold its extraordinary session by right.

Notes

Each House of the Parliament has its presiding officers and a bureau. The chairman of the National Assembly is not called the Speaker as in other democratic countries, he is designated as the 'President' elected by the house for the duration of the chamber. The chairman of the Senate, called the President, is elected by the chamber for a term of three years. That is, his election is renewed after every partial organisation. The Presidents of both houses are elected by secret ballot with absolute majority of the membership of the house at the first and second ballots, but a relative majority is deemed sufficient at the third ballot. The presiding officers of both houses perform functions usually granted to the chairman of a democratic chamber like maintenance of order and discipline in the chamber, recognising and naming the members, allowing debates, giving ruling and counting votes to declare the result etc. In addition to these conventional functions, they are also consulted by the President when he wants to declare emergency or dissolve the National Assembly. Each house elects its own bureau consisting of the President, Vice-President(6 for the Assembly and 4 for the Senate), secretaries (12 for the Assembly and 4 for the Senate) and 'questeurs' who are responsible for the administrative and financial arrangement of the house. The functions of the bureau as a body relate to the organisation and supervision of the different services in the house ; they also pertain to the rendering of advice to the presiding officer in matters put before the house.

The powers and position of the presiding officers of the Assembly and of the Senate appear unusual to a student of comparative government and politics who keeps in his mind the cases of English and American representative systems. The presiding officer of National Assembly is a partyman like the American Speaker, but his position is inferior to the President of the Senate in order of precedence. In case there is a dispute between the Government and the President of the National Assembly over the question of constitutional validity of a bill moved by a private member, the matter is to be settled by the Constitutional Council. It makes the French Speaker (President of the National Assembly) subservient to the control of a non-legislative agency. Finally, the election of the President of the Assembly for the full duration the house (though it has been devised as an improvement upon the situation of the pre-1958 period when he was elected for a year only) is still inherent with the serious lacuna that a longer and safer tenure has strengthened his position of staying in politics while being in the chair demanding non-partisanship.

Functions and Powers: We have seen that the framers of the new Constitution were successful in breaking the 'teeth' of the National Assembly by making it subservient to the will of the Government. It, however, does not imply that French Parliament is a prototype of the National People's Congress of China which is hardly anything more than a constitutional rubber-stamp in the hands of the arch-leadership of the ruling party. It is said that the de Gaulle Constitution establishes a 'rationalised' Parliament in view of the fact that its two ordinary sessions are allowed as a matter of right subject to the arrangement of extraordinary sessions either convened by the President (on the advice of the Prime Minister) or by its own members, that it can legislate only on 'matters defined in the Constitution', that the order of business is now fixed by the Government, that the President of National Assembly is elected for the full duration of the house and of the Senate for a period of three years, that the Parliament is no longer free to establish its own standing orders, that the number of parliamentary committees is reduced, that Government bills come before the house as a whole for discussion, and last, that the Government has the right to reject all amendments and to demand a single vote on its own text with only those amendments which it accepts—a procedure known as the 'blocked' vote.

The functions and powers of the Parliament may be discussed under three heads—(i) relating to law-making, (ii) control over Government, and (iii) supervision over the President. First we take up the legislative powers of the Parliament where it has a circumscribed authority. A very peculiar arrangement is provided by Art. 34 of the Constitution which divides the field of legislative competence into two parts. In the first category come the laws which shall establish the rules concerning:

1. civil rights and the fundamental guarantees granted to the citizens for the exercise of their public liberties ; the obligations imposed by the national defence upon the persons and property of citizens;
2. nationality, status and legal capacity of persons, marriage contracts, inheritance and gifts;

Notes

3. determination of crimes and misdemeanours as well as the penalties imposed therefor; criminal procedure, amnesty ; the creation of new judicial systems, and the status of magistrates ;
4. the basis, the rate and the methods of collecting taxes of all types, the issuance of currency;
5. the electoral system of the parliamentary' assemblies and the local assemblies;
6. the establishment of categories of public institutions;
7. the fundamental guarantees granted to civil and military personnel employed by the state; and
8. the nationalisation of enterprises and the transfer of property of enterprises from the public to the private sector.

To the second category belong a number of items where the Parliament can make laws determining the general principles regarding their organisation. These are:

1. General organisation of the national defence;
2. Free administration of local communities, the extent of their jurisdiction and their resources:
3. education;
4. property rights, civil and commercial obligations ;
5. legislation pertaining to employment, unions and social security;
6. laws pertaining to national planning determining the objectives of the economic and social action of the state.

The Constitution makes a distinction between the two types of laws by specifying that in regard to the first the Parliament lays down underlying 'general principles' and also determines the details of their application ; in regard to the second category, it confines only to the enunciation of 'fundamental principles' without going into the details. It may be pointed out that the distinction between the 'law' and the" 'rule-making', as designed here, is a very perplexing affair and the scope of one seems to overlap that of the other. It is also laid down in the Constitution that the enumeration of the legislative power can be enlarged by means of an organic law only.



What is the difference between general and functions Principles?

Apart from legislative powers, the Parliament exercises control over the Government. Both houses may ask questions from the Ministers and may go to the length of accusing the Prime Minister of various 'crimes of commission and omission.' However, the right of censuring the Government is with the National Assembly alone. It is provided that at least 1/10 members of the Assembly may sign a notice of moving a censure motion. After the lapse of at least 48 hours of the tabling of the motion, the debate shall take place and in case the motion is carried through by absolute majority of the Assembly, the Government will have to resign. This is the most specific way of throwing out the Government. However, the Government must resign in case a vote of confidence (tabled by it) is not adopted by simple majority, or when the Bill staked with confidence in the Government at the initiative of the Prime Minister falls through after a motion signed by at least 1/10 members of the Assembly is adopted by the absolute majority of the house. In order to prevent the indignant members of the Assembly from misusing their weapon of control over the Government (as happened till 1958), it has been provided that the same signatories cannot introduce another censure motion against the Government during the rest of the session if their motion falls, though this restriction is not applicable to a situation where the Prime Minister stakes the life of his Government with the passage of a bill. To keep the Government safe from the hazards of responsibility to the Parliament, it has also been provided that while simple majority is required to save the Government, absolute majority is needed for causing its fall.

Finally, the Parliament has been given some power to exercise supervision over the President. It is laid down in the Constitution that the President, before making his declaration of the state of emergency or dissolution of the National Assembly, shall consult the Presidents of the two houses. It is also

Notes

necessary that the President must send a message to the Parliament specifying conditions which motivated him to make use of his emergency powers. The President cannot dissolve the National Assembly during the state of emergency, nor can he dissolve it until it has enjoyed a life of at least one year. The Parliament can exercise control over the foreign policy of the President by the negative means of censuring the Government. Finally, it is provided that the Parliament shall authorise the declaration of war and the prorogation of martial law (though decreed in the meeting of the Council of Ministers) shall be authorised by it alone after the period of 12 years.

It is easy to form an impression that the authority of the French Parliament is of a very attenuated kind. It appears that serious arrangements have been devised to keep the legislature in a position weaker than that of the executive

Special Features: An account of the functions and powers of the legislature highlights the fact that French Parliament is not a very strong organ of the national government if its authority is compared with that of the executive under the President. The Parliament is not at all a sovereign law-making body like its British counterpart, nor is it as powerful as the American Congress working within the legislative arena earmarked by the Constitution according to the system of separation of powers and checks and balances. Its authority neither resembles the legislature of a parliamentary government where the executive can be out-voted by the popular chamber by a resolution passed by simple majority, nor does it look akin to the powers of a legislature organised on the principle of presidential model where the law-making organ of the government has freedom to operate within its allotted 'legislative sphere,' what to say of a legislature modelled on the convention theory where the government runs according to the will of the deputies elected by the people.

That the new Constitution places the Parliament under the subservience of the executive (Government) is evident from following main points.

1. The Government does not depend upon the reckless behaviour of the legislature as it was in the past. Nothing but a censure motion passed by the National Assembly with its absolute majority (signed by at least 1/10 of its total membership) is required to throw out the Government. It is hardly conceivable that the Government would be thrown out by the simple majority of the House in case a motion of confidence initiated by the Prime Minister falls through. The system of 'interpellation' is no more in existence to facilitate the task of the indignant legislators to defeat a Government for no other reason than to satisfy their political hunger for ministerial rewards. Moreover, the right to dissolve the National Assembly is the most formidable weapon in the hands of the President of the Republic to create fear in the minds of the ambitious and irresponsible deputies.
2. The enhancement of the powers of the Senate has gone to the benefit of the Goverment at the expense of the authority of the National Assembly. It is provided that a bill must be passed by both the houses and in the event of disagreement, it is the Government which shall take the initiative of either calling a joint meeting of the two houses through a conference committee in order to settle the dispute, or it may ask for the reconsideration of the bill by the National Assembly and thereby override the veto of the Senate in case the bill is passed by the Assembly. Every situation seems to go to the benefit of the executive when there is a difference of opinion between the two houses. It is the Government that alone can end a deadlock between the two houses either by calling them to reconsider the bill in question, or by asking the National Assembly (if the difference persists) to pass the bill and thereby over-ride the veto of the Senate.
3. There is Constitutional Council—an extra-legislative body—to sit over the head of the legislature. Not only the sphere of legislation is restricted where the Parliament can operate: more serious is the provision that the Constitutional Council would (particularly at the initiative of the Government) prevent the Parliament from 'over-stepping' its powers. It is laid down in the Constitution that all organic laws, prior to their promulgation, must be deemed constitutional by this extra-legislative (mainly judicial) body. It is also stipulated that in the event of difference of opinion on the bill regarding its constitutional validity, the matter is to be settled neither by the Presidents of the two Houses nor by the Government but by the Constitutional Council.

Notes

4. What has put a great premium on the inherent power of the Parliament is the provision of delegated legislation in the new Constitution. The Constitution empowers the Government to pass by ordinances measures which may be necessary for the execution of its programme but which are normally in the domain of law. Such measures can be passed only by the authorisation of Parliament and hold good for a limited period only. Art. 37 of the Constitution empowers the Government to regulate matters which are not governed by laws but by means of official orders. Art. 38 says that the Government may ask the Parliament to authorise it to promulgate ordinances on items coming under the domain of law.
5. The powers of the Parliament in regard to electoral disputes have been vested in the Constitutional Council. The Senate and the House of Representatives of the United States have a right to disqualify an elected member of their chamber on the charge of having indulged in corrupt practices. Likewise, the House of Commons is the sole judge of the eligibility of its members. But the Parliament of France has been deprived of this inherent power under the present Constitution. Any matter relating to the regularity of elections and referendum or use of corrupt means in the elections falls under the jurisdiction of the Constitutional Council and not under the authority of the Parliament.

It all makes the point clear that under the Fifth Republic the Parliament of France is neither a sovereign law-making body like its English counterpart, nor is it a powerful legislative organ as found in other democratic countries following the English model; more so it is not even as powerful as the American Congress where the national legislature has its earmarked area of law-making and, in addition to that, has some checks over the executive and the judiciary.

System of Commissions and Legislative Process: Now we turn to the study of the commissions (committee system) and legislative process to illustrate the fact that the Parliament of France works in a way which is quite different from the ways of the British Parliament and the American Congress. What is slightly similar to the American practice is that under the new Constitution, the powers of the committees have been cut to make the house powerful as has happened in the United States after the 'revolution of 1911' to finish the menace of Cannonism. But the study of legislative process leaves the same impression that the powers of the Parliament have been usurped by the written rules of the Constitution and not by the unwritten maxims of the fundamental law of the land which are called conventions of the constitution in Britain.

Commissions: The Parliament of France works with the help of its commissions or committees as known in other countries like Britain and the United States. Both Houses have their own commissions and their staff; they are called 'permanent commissions' as they are formed for the whole session, while some temporary or *ad hoc* commissions may also be set up for a specific purpose. The Constitution has fixed the number of commissions at six less to encourage departmental interconnections but more to discourage lobbying from outside forces. Each commission appoints from among its members its own bureau consisting of a president, 2 vice-presidents, 2 secretaries in the smaller commission ; I president, 4 vice-presidents and 4 secretaries in the bigger ones. The meetings are arranged and convened by the President.

Like the American system, the commissions of the Parliament perform an important role as the bills *are* first discussed here before they and taken up by the house. On receiving a bill, the commission appoints ; rapporteur, whereas the Finance Commission sets up a rapporteur-generaper government department. If the commission so desires, it may be assisted by a civil servant . The commission may hold its meetings *in camera* or in public and examine witnesses and interested parties if so authorised by the Parliament in advance. A precis of proceedings is published weekly without record of voting and minutes are available to the members of Parliament, though special care is taken to maintain the secrecy of an 'important' matter.

The rapporteur of the commission is charged with the work of guiding the commission from the standpoint of legislative policy, while the President sees to it that the link between the Parliament and the commission is maintained. As the debates over the bill proceed, the rapporteur keeps the minutes. When finance is involved, the Commission on Finance must send its rapporteurs to the commission in-charge of the bill, where they have a consultative part. Representation on the

Notes

commissions must be allowed to the Economic and Social Council in case of a bill under discussion has a bearing on its life or working. The commissions submit their reports to the house after consideration, but the Government or 50 deputies may move the discharge of a bill to the National Assembly.

The commissions of the French Parliament resemble the committees of the English Parliament in the sense that their number is limited to 6 (by Art. 43) and they are not 'specialised' groups. It is a different thing that an *ad hoc* commission may be set up for a specific work.

However, the large number of members in each committee is the result of a deliberate thinking: the new Constitution strives to make the strength of a committee rather 'unwieldy' so that each commission includes many others that the 'experts' who, as during the previous regimes, desired fighting private battles with the ministers.

What is, indeed, striking to note here is that the new arrangement has deprived the commissions to behave like the masters of their creators. It is the house which takes final decision on the adoption or rejection of a bill and the commission cannot go to the final length of changing the bill in question to the point of its 'derecognisability.' It seeks "to reduce drastically the power of the committees from one of complete control of the legislative process to that of advice given to the House on the line to take on the bill in general and on the various clauses." However, the utility of the commission system is undeniable. As Herman Finer notes: "The commissions save the Assembly from being swamped by the deluge of private members' bills, the proposal of which is allowed without limit. Secondly, they are essential to the production of coherent and consistent laws, considering that the cabinets have not lived long enough to assure this.'

Commissions

	Assembly		Senate
1.	Church, Family and Social Affair	1.	Cultural Affairs
2.	Foreign Affairs	2	Economic Affairs and Planning
3.	National Defence and Armed Forces	3.	Foreign Affairs, Defence and Armed Forces
4.	Finance, Economy and Planning	4.	Social Affairs
5.	Constitutional Laws (Legislation and General Administration)	5.	Finance, Budgetary Control and Nation's Economic Accounts
6.	Production and Exchange	6.	Constitutional Laws,
7.	Procedure of the Assembly (Temporary)		Legislation, Universal Suffrage, Procedure and General Administration

Legislative Process: The right to move a bill is available to a minister as well as to an ordinary member of both the Houses with two differences—first a finance bill must originate in the National Assembly and, second, a bill moved by a minister is called a 'project', while a bill moved by an ordinary member is called a 'proposal' or 'proposition'. The mover has to draft his bill himself, but the minister may take the help of his secretariat. There is no office of the Parliamentary Counsel in France as it is in Britain to draft official bills according to the policy of the cabinet. It is provided in the Constitution (Art. 40) that bills and amendments introduced by the members of the Parliament shall not be considered when their adoption would result either in the dimunition of public financial resources or in the creation or increase of certain public expenditures.

A bill is first sent to a bureau of the House in which it originates. It is immediately referred to the appropriate committee or commission in the printed form and consists of a brief explanation of what it expects to achieve. The Government may demand that the bill be sent to a special committee, to be established for that special purpose, rather than to one of the six permanent commissions and this request must be honoured vide Art. 43 of the Constitution. Then, the committee studies the bill and submits its report to the House within a period of 3 months unless otherwise suggested. In certain

Notes

cases, the bills may be referred by the committee to the Economic and Social Council for an advisory opinion. The committee holds debate and then refers the bill back to the House with its report.

After this, the bill comes before the House as a whole. It depends upon the House to pass the bill or kill it, no matter what the report of the committee says. It is also possible that the bill may be referred back to the committee for reconsideration. No major amendment must be placed as the committee has already studied such a proposal before referring it to the House concerned. When the general discussion is over, the debate takes place article-wise. Decision is taken by vote. The old practice of 'proxy' voting has been abolished whereby a present member could cast as many votes as he liked for all who were absent. Art. 47 of the Constitution provides that the right to vote is a personal affair and one member may vote for another in absentia in case an organic law is made to authorise so, but no member may be delegated more than one vote.

After the bill crosses this stage (called first reading), it goes to the second house for concurrence. If the second house adopts it, it is referred to the President of the Republic for promulgation within 15 days except, of course, where he makes use of his suspensive veto to return the bill to the Parliament for reconsideration, or when the matter is disputed and the issue is referred to the Constitutional Council for examining whether the Parliament has gone beyond its enumerated powers or not. In this case the issue of constitutional validity of the bill shall be adjudicated by the Constitutional Council. In case the bill is returned to the Parliament for reconsideration by the President of the Republic, it is upto the Parliament to readopt it or not in accordance with the wishes of the President. However, as the President enjoys a very strong position and the bill comes to him after debates in the two houses where his own ministers take part, it is inferrable that the President's wishes must have been honoured by the two houses before the adoption of that bill.

It is quite possible that the two houses may disagree over the adoption of a bill. In the event of disagreement, the bill is returned to both the houses for reconsideration, what may be termed second reading, until the Government has declared the matter officially 'urgent'. In case there is no agreement either at the stage of first reading (when the Prime Minister has declared the bill 'urgent'), or when the difference of opinion persists after the reference of the bill for second reading, the Prime Minister has the right to demand the meeting of a conference committee consisting of equal number of members of both the houses and its resolution may be submitted by him for the approval of the Assembly and the Senate. When such a committee meets, it shall not discuss any proposal of amendment but resolve to pass or reject the bill in question.

Another contingency may arise when the report of the conference committee (in favour of the adoption of the bill) is not accepted by either house of the Parliament or when the disagreement persists to block the passage of the bill, then the Government may ask the National Assembly for the third and final reading of the bill. In this situation the decision of the Assembly shall be final and the bill passed by it shall go to the President of the Republic for its promulgation within 15 days without the concurrence of the Senate. It shows that in the event of irreconcilable differences between the two houses, the decision of the popular chamber is final which automatically implies favourable initiative of the Goverment in advance.

At various places the new Constitution authorises legislation by means of an organic law. The process of passing this type of law is almost identical as discussed above with the difference that such a bill may be deliberated and voted only after a period of 15 days following its introduction. In case, it is further provided, such a bill is passed by one house and rejected by the other, the National Assembly shall have second reading on such a bill and register its approval by absolute majority. Among other points of difference, it may be mentioned that a bill of this kind must be passed by both the houses in an identical manner when the text of the bill deals with the functions of the Senate and that the bill must be submitted to the Constitutional Council for examination in regard to the issue of its constitutional validity.

There is a different procedure for the adoption of a money bill. Such a bill may be initiated by any member of the National Assembly, but the budget is presented by the Minister for Finance. After the presentation of a money bill or budget, it is soon referred to the Finance Committee for consideration. This budget is reported out by the general rapporteur of this commission who, in his initial speech on

Notes

the floor of the National Assembly, deals primarily with financial situation rather than with specific items. General discussion over the money bill or budget begins after the report of the Finance Committee.

The class of wage-earners and salaried personnel has its own organised groups, the most important of which is the General Confederation of Labour—C.G.T. (*Confederation General du Travail*), It includes many industrial unions of craftsmen, steel workers, artisans etc. Its directive medium is the National Confederation Committee that is elected by the delegates to the annual National Congress. The French Confederation of Democratic Labour—CFDT— is very much like the CGT in respect of its organisation. Most of its members desist from adopting the tactics of the communist leaders who have been in power in the CGT. A militant section of this organisation left it to form the National Confederation of Labour —CNT— that is said to be influenced with the philosophy of anarchism.

The interests of the farmers, particularly the richer ones, are represented by the National Federation of Fanners—FNSEA. It claims the membership of 700,000 farmers. As this organisation is largely dominated by the richer sections of the peasantry, the socialists, communists and others have also formed their splinter groups. For instance, the socialists have their General Confederation of Workers, the communists run their General Confederation of Agriculture, Farm Workers, the Catholics and the MRP work through various Catholic Action Groups, while a dynamic and small group of agriculture experts, technicians and intellectuals has organised the National Council of Young Farmers.

While the business and labour-agrarian groups constitute the volatile element of pressure group politics in France, a brief reference may be made to the organisation of the intellectuals and the veterans. The most important organisation of the 'intellectuals' is the Confederation of the Intellectual Workers of France. A very loose organisation of some 400,000 members representing about 80 association, it includes printers, painters, writers, journalists, teachers and like. A special point to be noted about this organisation is that the members have sharp differences on the merits of economic issues and the strategy of action to be adopted for protecting and promoting- their interests. The League of the Rights of Man founded at the time of the *Dreyfus Affair* champions the cause of freedom of the press, maintenance of individual liberty and opposes all forms of authoritarianism. It is mostly dominated by the 'left'. The teachers have their Federation of National Education. The students have their own organisations like National Students Union of France that remain concerned with the advancement of their own status and well-being in the form of scholarships, loans, living quarters etc.

Finally, we refer to the associations of the army officers and the veterans that are dominated by different shades of political forces. The 'centrists' have their National Union of Veterans, the 'communist-minded' have their Republican Association of the Veterans, the 'radicals' have their National Federation of the Republican Veterans, while the 'socialist-minded' have their Federation of Workers and Peasant Veterans. All these organisations of officers, non-commissioned officers and graduates of the different military schools have their own groups that largely concentrate on obtaining pensions and other financial privileges. During the times of Algerian crisis and war in Indo-China, there came into being the French Union of the Associations of Veterans and War Victims.

Not the variety of organised groups but their role in the politics of the country is of real importance that places France in a category quite different from that of England and the United States. It can be visualised in the fact that interest groups play a very powerful and, at the same time, a very irresponsible role not because the political system of this country pertains to the hitherto parliamentary, now quasi-parliamentary system, but for the reason that the people have a different temperament and their sectional interests "tend to take precedence over the national interest."

Lobbying is the main tactic of the business pressure groups. The owners of hotels, gas stations, liquor distillation centres, automobile productions, oil companies and the like have their powerful groups engaged in influencing the legislators and administrators. These 'lobbies' give financial support to the candidates at the time of elections, induct their own men into the high ranks of the bureaucratic administration, release their own journals and handouts in an attempt to sway the public opinion in their own favour and do a lot of other things that brings them close to their American counterparts so far as the method of action is concerned. Their agents are very much in the National Assembly and

Notes

the Senate to support or oppose a bill as per their interest. In case their purpose in not served in the legislative world, they shift their attention to the world of administration where every interest "attempts to 'colonise' the government in a number of ways: by influencing administrators, by offering them important jobs in their own organisations, by representing them with facts and figures that appear to be convincing."

Critical Appreciation: However, the political behaviour of the interest groups in France is much different from that of their Anglo-American counterparts in view of the fact that here pressure groups, like political parties, frequently take to the course of agitation and violence in which the part of the communists is too obvious. The multi-party system of this country with the tradition of violent revolutions is responsible for making the position of institutional and anomic groups more important than that of the situation obtaining in Britain. The Communist Party has its 'supporters' in the trade union organisations and certain institutional groups (like the Catholic Church) have their colonies in the political parties with the result that the parties and pressure groups interpenetrate each other.

Such a study of the existence and articulation of interest organisations in the politics of France shows that here political pluralism has a very fragmented character. Not the existence of so many political parties and groups but the state of isolation and the process of disintegration engage our attention. The differences between different groups, even among the important figures of the same group, have been so deep that they have not been able to act in unison. Quite often the groups have failed to generate a common strategy with the result that no definite rule of political behaviour can be laid down after making a study of pressure group politics in this country. One is struck with the fact that even the groups of the workers and intellectuals have sharp differences so much so that one may suggest the existence of an isolative political culture in this country. Though at times of great national crisis, unity has been achieved around the 'myth of France', yet the content of national symbols "has always given rise to disagreement—the interpretations of Jaures and Maurras, Renan and Daudet, being obviously incompatible. The real France has never been able to produce a legal France in its image.

It is due to this that while the 'bourgeois' interests have been in a position of advantage due to the practical application of their secret lobbying tactics, the 'proletarian' organisations have suffered. The political ineffectiveness of the labour organisation stems from a relatively late development of an organised working class movement and also from the tendency of French trade unionists to divide themselves between rivals, if not warring ideological camps. Moreover, the failure of the movement of syndicalism had its own impact on the working class movement of France. A large section of the workers felt disillusioned when it found that the official policy of the Confederation (CGS) was wrong as it was based on the belief that working class victories could be won not piecemeal through parliamentary means but, in one major push, through the general strike. Moreover, a section of the ultra-leftists was taken aback when it found that most of the workers' unions took a pro-bourgeois stand during the days of the First World War. The result was that the ultra-leftists (communists) formed an organisation (CGTU) that was disbanded in 1936 when the Popular Front came into being and a large section of the 'leftists' rejoined the CGT dominated mostly by the socialists.

The state of disintegration is still plaguing the politics of pressure groups to the extent that neither political parties nor pressure groups have been able to form an autonomous sub-system of their own. There is much of anomism and Poujadism in the political behaviour of various interest groups that places the stasiological politics of France in a category different from its Anglo-American counterparts. In fact, the significance of many institutional and anomic interest groups "is directly related to the uneven effectiveness of associational interest groups, the absence of any effectively aggregative party system, and its fragmented or isolative political culture. Parties and interest groups in France do not constitute differentiated, autonomous political subsystems. They interpenetrate one another."

National People's Congress and its Standing Committee

Like its predecessor, the new Constitution declares the NPC as the 'highest organ of State power'. During its absence its Standing Committee has highest legislative authority. Its term is fixed at five years. As a unicameral Parliament, it consists of one house having Deputies elected by the provinces,

Notes

autonomous regions, and municipalities under the Central government, and the armed forces. The number of Deputies and the manner of their election shall be determined by law. The Standing Committee will start work for holding elections two months before the expiry of the term of the NPC, but the holding of elections may be postponed in exceptional situations. A decision to this effect must be taken by 2/3 majority of the Standing Committee. The term of the NPC may be extended for any duration, but it is laid down that fresh elections shall take place within one year of the expiration of the abnormal situation. The NPC shall meet at least once in a year. The session shall be convened by the Standing Committee. The special or extra-ordinary session of the NPC may also be convened either by the Standing Committee or when 1/5 Deputies of the NPC so desire. Before the commencement of the session, the NPC shall elect a Presidium to conduct its proceedings.

The Constitution specifies functions and powers of the NPC in a very elaborate manner. These are:

1. To amend the Constitution,
2. To supervise enforcement of the Constitution,
3. To enact and amend basic statutes concerning criminal offences, civil affairs, State organs and other matters,
4. To elect President and Vice-President of the Republic,
5. To confirm the nominations of the Premier, Vice-Premiers, State Councillors, Ministers in-charge of departments and commissions, Auditor-General and Secretary-General of the State Council after their names are recommended by the President,
6. To elect the Chairman and members of the Central Military Commission,
7. To elect the President of the Supreme People's Court,
8. To elect the Procurator-General of the Supreme People's Procuratorate,
9. To examine and approve the plan for national economic and social development and report on its implementation,
10. To examine and approve the State Budget and report on its implementation,
11. To alter or annul inappropriate decisions of the Standing Committee of the NPC,
12. To approve the establishment of provinces, autonomous regions and municipalities directly under Central Government
13. To decide on the establishment of special administrative regions and the system to be introduced there,
14. To decide matters relating to war and peace, and
15. To exercise such other functions and powers as the highest organ of State power should require.

Besides, the NPC has the power to recall or remove the President, Vice-President, Premier, Vice-Premiers, State Councillors, Ministers in-charge of ministries and commissions, Auditor-General and Secretary-General of the State Council, Chairman and members of the Central Military Commission, President of the Supreme People's Procuratorate and Procurator-General of the Supreme People's Procuratorate.

A technical difference is made between ordinary and constitutional legislation. It says that all bills and statutes must be passed by absolute majority of the House, but constitutional amendment bills proposed either by the State Council or by 1/5 members of the NPC must be passed by 2/3 majority of all deputies of the NPC. In this sense, the new Constitution has a rigid character at least for the sake of an argument.

With a view to retain the former system, the NPC has been provided with a Standing Committee consisting of a Chairman, Vice-Chairmen, a Secretary-General and some members, but none shall simultaneously hold any office in any of the administrative, judicial or procuratorial organs of the state. It is also provided that its term is linked with the term of the NPC, but it shall continue to work until the new SC is composed. A new arrangement is that its President and Vice-President cannot serve for more than two consecutive terms. Another important point to be taken note of at this stage is that now its functions and powers have been enlarged. These are:

Notes

1. To interpret the Constitution and supervise its enforcement,
2. To enact and amend statutes except those made by the NPC,
3. To enact partial supplements (when the NPC is not in session) and make amendments to statutes enacted by the NPC, provided they do not contravene the basic principles of these statutes,
4. To interpret statutes,
5. To examine and approve (when NPC is not in session) partial adjustments to the plan for national economic and social development and to the state budget that deem necessary in the course of their implementation,
6. To supervise the work of the State Council, Central Military Commission, Supreme People's Court and Supreme People's Procuratorate,
7. To annul those administrative rules and regulations, decisions and orders of the State Council that contravene the Constitution or the statutes,
8. To annul those local regulations or decisions of the organs of the State power of provinces, autonomous regions and municipalities directly under the Central government that contravene the Constitution, the statutes or the administrative rules and regulations,
9. To decide (when (NPC is not in session) on nomination by the Chairman of the Central Military Commission and other members of this body,
10. To appoint and remove the Vice-Presidents and judges of the Supreme People's Court, members of its judicial committees and the President of the Military Court at the suggestion of the President of the Supreme People's Court,
11. To appoint and remove the deputy Procurators-General and procurators of the Supreme People's Procuratorate, members of its procuratorial committee and Chief Procurator of the military procuratorate at the request of the Procurator-General of the Supreme People's Procuratorate,
12. To approve the appointment and removal of the chief procurators of the people's procuratorates of the provinces, autonomous regions and municipalities directly under the Central government,
13. To decide on the appointment and recall of plenipotentiary representatives abroad,
14. To decide on the ratification or abrogation of treaties and important agreements concluded with foreign. States,
15. To institute systems of titles and ranks for military and diplomatic personnel and of other specific titles and ranks,
16. To institute state medals and titles of honour and decide on their conferment,
17. To decide on the granting of special pardons,
18. To decide (when NPC not in session) on the proclamation of state of war in the event of armed attack on the country and in fulfilment of international treaty obligations concerning common defence against aggression,
19. To decide on general or partial mobilisation,
20. To decide on the enforcement of martial law throughout the country or in some part, and
21. To exercise such other functions as the NPC may assign to it.

The Chairman of the NPC presides over trie meetings of the Standing Committee. It has been made responsible to the NPC.

The present Constitution makes some important arrangements relating to the functioning of the NPC. For instance, Art. 70 provides that it shall appoint Nationalities Committee, Law Committee, Foreign Affairs Committee, Overseas Committee and other necessary committees to examine, discuss and draw up relevant bills and draft resolutions according to the directions of the NCP or its SC. These committees shall work under the control of the NPC or its SC, while the NPC or its SC may appoint, when necessary, inquiry committees to look into a specific question. The Deputies have been given the right to move bills and proposals, address questions that the ministers must answer in a responsible manner. No Deputy can be arrested without the consent of the President of the NPC,

Notes

nor can be punished for speaking or voting in the NPC or its SC. The Deputies are enjoined to live in contact with their electors and play an exemplary role in abiding by the Constitution. The voters may exercise supervision over their elected Deputies and may recall them.

A critic may point out that the national legislature of China is neither a sovereign law-making body like the British Parliament, nor like a non-sovereign but by no means entirely powerless Congress of the United States. It is merely an ornamental organisation like the Supreme Soviet of the erstwhile USSR with this line of difference that it is a uni-cameral body. The Deputies of the NPC, one may easily understand, are the handpicked persons who assemble for a very negligible span of time just for putting a seal of constitutional validity on the actions of the elite of the ruling party. In view of the too unwieldy size (as consisting of 3,040 Deputies in 1980), the NPC may be said to bring representatives from the provinces and autonomous regions into a massive display of public unity. Thus, what Linebarger said about the NPC under the previous constitution applies even now that it is the model of a 'sham parliament'. Or, as a critic says, the NPC, like the earlier one, "may perform a communication and implementation role similar to that performed by the Central Committee of the Chinese Communist Party."

Self-Assessment

1. Choose the correct options:

(*i*) In May, ... the Government set-up the House of Lords Appointment Commission to make recommendations on the appointment of non-political peers including people's peers.
(*a*) 2000 (*b*) 2001 (*c*) 2003 (*d*) 1999

(*ii*) The House of Commons is the ..... chamber of the British Parliament.
(*a*) upper (*b*) lower (*c*) both (*a*) and (*b*) (*d*) None of these

(*iii*) Duma was produced with a pro-government majority in the election of ..... .
(*a*) 1999 (*b*) 2000 (*c*) 2001 (*d*) 2002

(*iv*) The British Government made a law to reduce the number of hereditary peers from 750 to 92 in. ..... .
(*a*) November, 1999 (*b*) October 1998 (*c*) April 1989 (*d*) January 1999

(*v*) The Parliament Act of ..... lays down that a money bill shall be initiated in the house of commons and the Lords must pass it within a period of one month.
(*a*) 1912 (*b*) 2000 (*c*) 1915 (*d*) 1911.

8.4 Summary

- The British Parliament is a bi-cameral body having monarch and the two chambers — House of Lords and House of Commons — respectively as the upper and the lower ones. It is, however, important to note that the House of Lords, despite being the older chamber and one time being the Parliament of the land, has lost its former power and glory and become hardly anything more than a revising and delaying institution subservient to the will of the House of Commons.
- In November, 1999 the British Government made a law to reduce the number of hereditary peers (who had the right to sit and vote in the Lords) from 750 to 92. In May, 2000 the Government set up the House of Lords Appointment Commission to make recommendations on the appointment of non-political peers including people's peers. It has taken over the role previously played by the Political Honours Scrutiny Committee.
- Some reasons are given to prove that the House of Lords should be ended as it is a political anachronism in the country serving no useful purpose like the fifth wheel of a coach.
- It is said that its composition is thoroughly undemocratic. It consists of the peers, mostly hereditary and life peers, who represent nobody but themselves.
- The House of Lords is a body of very rich persons and it protects their interests alone. It has been called a citadel of wealth. Most of its members are managers and proprietors of big

Notes

industries and many of them are related to the leading business magnates. It shows the class character of the House of Lords.

- The class character of the House of Lords has made it a sworn defender of the policies of the Conservative party. It is irrevocably wedded to the programmes desired by the Conservative party. The result is that whenever there is a Conservative government, it finds its natural support in the House of Lords, but when there is a Labour Government, it finds its natural opposition, sometimes hostile, in this body.
- The House is characterised by mass absenteeism. Its quorum is only three while total membership exceeds one thousand. It is essential that there be at least 30 members to pas a bill. General attendance is hardly one hundred.
- The House of Lords performs hardly any positive service to the country. It has become so powerless that it cannot exercise effective control over the government and can do nothing beyond the delay of one month in the passage of money bill and of a year in case of other bills.
- In contrast to the argument of abolishing the House of Lords, some reasons are given to justify the existence of this body on account of some of its useful services. There are:
- The British people are essentially conservative and they do not favour any radical view of finishing their old institutions.
- An argument applicable to the utility of an upper chamber, that it acts as a check on the hasty, rash and ill-considered legislation, is applicable in this direction as well. A bill passed by the House of Commons (other than a money bill) can be revised by the Lords in a way possibly acceptable to the House of Commons causing no disagreement between the two chambers; it can also be rejected by it to cause the delay of at least one year in which a healthy public opinion may come up to act as a potential check upon the haste of the lower chamber.
- The House of Lords still performs some useful services. It acts as the highest court of appeal in civil and criminal cases for England and Northern Ireland and in civil cases for Scotland and Wales. A look at the history of British politics shows that it has seen the services of many distinguished leaders of the country. The quality of the debates is of a very high order.
- By way of conclusion, it may be pointed out that the House of Lords should not be ended but mended in a way that it no longer lives like a political anachronism and its reformed character does not come into the way of the authority of the House of Commons. It should neither be a replica of the lower House rendering it superfluous; nor should it be entrusted with some potential power making it a mischievous organ of the Parliament. Indisputable is the fact that the House of Lords, a rendezvous of retired statesmen and a storehouse of knowledge and administrative experience, has proved to be a very good revising and delaying chamber.
- It has also been described as the "major political body in a bicameral legislature, omnicompetent and sovereign."
- The House of Commons is essentially a law-making body. The Parliament Act of 1911 lays down that a money bill shall be initiated in the House of Commons and the Lords must pass it within a period of one month.
- The House of Commons has financial powers as well. It is said that the purse of the nation is in the hands of the Commons. All money bills and budget must be passed by the Parliament. It is the government which prepares a money bill and budget and presents them to the House with monarch's formal recommendation.
- The functions and powers of the Speaker may be discussed under three heads - as presiding officer of the House, as executive officer of the House and, finally, as the defender of the dignity of the House. In the first place, the Speaker is the chairman of the House and by virtue of this capacity he acts as its presiding officer. He acts as the chairman (unless the House meets as Committee of the Whole House) when the House meets, calls the meetings in order, recognizes the members who want to speak, asks a member to withdraw words or apologise in the event of making an unparliamentary expression, names a member if his behaviour-is repeatedly offensive to the dignity of the House, maintains discipline in the House and even asks his Sergeant-at-arms to push out a member if he refuses to leave the chamber.

Notes

- The Opposition has a well-recognised and respected place in the British parliamentary system of government. Since Britain is a two-party state, one party wins absolute majority and forms the government, the other forms the Opposition.
- The legislative organ of the American federal government is known by the name of the Congress. Originally a body of 26 Senators and 65 Representatives, it now consists of 100 and 435 members in the upper and lower chambers respectively.
- The Congress is not a sovereign law-making body like the British Parliament. Its powers of law-making are limited by the terms of the Constitution. Moreover, a bill passed by the Congress is subject to the veto of the President which may be over-ridden when it readopts the same bill by 2/3 majority.
- The executive powers of the Congress include confirmation of all appointments and foreign treaties (made by the President) by the Senate and approval of the proposal of making war and peace by a resolution of both the houses.
- The Congress controls the purse of the nation. The Constitution ordains the financial supremacy of the Congress by specifying that no money shall be drawn from the treasury but in consequence of appropriation made by a law.
- The national legislature of Switzerland is known by the name of Federal Assembly. It is a bi-cameral body having Council of State s and National Council as the upper and lower chambers respectively.
- The National Council (Nationalrat) is the representative chamber of Swiss Parliament. It has 200 members elected directly by the people by means of proportional representation with list system and secret ballot. The minimum age of a voter is 20 years and now discrimination on the ground of sex has been abolished.
- The term of this House is of four years. But mid-term polls may take place in case the two chambers fail to agree over a proposal for constitutional revision.
- It exercises important executive functions also. In its joint session it elects seven members of the Federal Council and designates one of them as its President, elects 26 judges of the Federal Tribunal and designates one of them as its President, elects twelve substitute judges for the national judiciary, also elects one Commander-in-Chief during war times, elects one Chancellor to work as the General Secretary of the Federal Council, and elects the members of the Federal Insurance Tribunal.
- The parliament Federaln Assembly has proven to be a modestly authoritative authoritative and effective body despite the turmoil surrounding its creation. Several features distinguish it from its predecessor institutions.
- The Federation Council can only pass it, reject it, or reject it and call for forming an agreement commission comprising members of both houses to iron out differences. If the Duma rejects the upper house's changes, it can override the Federation Council by a two-thirds vote and send the bill directly on to the president.
- The State Duma has emerged as an assertive and active body. Unlike the Federation Council, the Duma is organized by party faction. Representatives of its factions—one from each registered group regardless of size—comprise its steering body, the Council of the Duma.
- The Federation Council has important powers. Besides acting on bills passed by the lower house, it is also called upon to approve presidential nominees for high courts such as the Supreme Court and the Constitutional Court. Its approval is required for **presidential decrees** declaring martial law or a state of emergency, and any actions altering the boundaries of territorial units in Russia.
- The Constitution establishes a fundamentally different system under which the lower house (National Assembly) and the upper one (Senate) "are more nearly co-equal than they were in

Notes

the Fourth Republic, although both are diminished in stature compared with the power of the executive."

- Thus an organic law was passed to abolish the 'notorious' system of proportional representation in the elections of National Assembly and substituted in its place the single-member constituency system with a second ballot in case no cadidate succeeds in obtaining absolute majority of the votes polled at the first ballot.
- The Constitution makes a distinction between the two types of laws by specifying that in regard to the first the Parliament lays down underlying 'general principles' and also determines the details of their application ; in regard to the second category, it confines only to the enunciation of 'fundamental principles' without going into the details.
- The Constitution has fixed the number of commissions at six less to encourage departmental interconnections but more to discourage lobbying from outside forces. Each commission appoints from among its members its own bureau consisting of a president, 2 vice-presidents, 2 secretaries in the smaller commission ; I president, 4 vice-presidents and 4 secretaries in the bigger ones. The meetings are arranged and convened by the President.
- The interests of the farmers, particularly the richer ones, are represented by the National Federation of Fanners—FNSEA. It claims the membership of 700,000 farmers. As this organisation is largely dominated by the richer sections of the peasantry, the socialists, communists and others have also formed their splinter groups.
- Lobbying is the main tactic of the business pressure groups. The owners of hotels, gas stations, liquor distillation centres, automobile productions, oil companies and the like have their powerful groups engaged in influencing the legislators and administrators.
- The term of the NPC may be extended for any duration, but it is laid down that fresh elections shall take place within one year of the expiration of the abnormal situation. The NPC shall meet at least once in a year. The session shall be convened by the Standing Committee. The special or extra-ordinary session of the NPC may also be convened either by the Standing Committee or when 1/5 Deputies of the NPC so desire. Before the commencement of the session, the NPC shall elect a Presidium to conduct its proceedings.
- A technical difference is made between ordinary and constitutional legislation. It says that all bills and statutes must be passed by absolute majority of the House, but constitutional amendment bills proposed either by the State Council or by 1/5 members of the NPC must be passed by 2/3 majority of all deputies of the NPC. In this sense, the new Constitution has a rigid character at least for the sake of an argument.
- The present Constitution makes some important arrangements relating to the functioning of the NPC. For instance, Art. 70 provides that it shall appoint Nationalities Committee, Law Committee, Foreign Affairs Committee, Overseas Committee and other necessary committees to examine, discuss and draw up relevant bills and draft resolutions according to the directions of the NCP or its SC.
- The Deputies of the NPC, one may easily understand, are the handpicked persons who assemble for a very negligible span of time just for putting a seal of constitutional validity on the actions of the elite of the ruling party.

8.5 Key-Words

1. House of Lords : The house of Lords is the upper house of the parliament of the United Kingdom.
2. House of commons : The House of Commons is the lower house of the parliament of the United Kingdom which, like the House of Lords, meets in the palace of West minister.

Notes

8.6 Review Questions

1. Discuss the powers of British Parliament.
2. Write a note on the composition of British Parliament.
3. Briefly explain the following:
   (*i*) Russian Parliament (*ii*) French Parliament

Answers: Self-Assessment

1. (*i*) (*a*) (*ii*) (*b*) (*iii*) (*a*) (*iv*) (*a*) (*v*) (*d*)

8.7 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 9: Constitutional Structure: Judiciary

CONTENTS

Objectives
Introduction
9.1 US Supreme Court and Judicial Review
9.2 Judicial Systems of UK, Russia and France
9.3 Federal Tribunal or Federal Judiciary of Switzerland
9.4 Summary
9.5 Key-Words
9.6 Review Questions
9.7 Further Readings

Objectives

After studying this unit students will be able to:

- Explain the US Supreme Court and Judicial Review.
- Know the Judicial System of UK, Russia and France.
- Discuss the Federal Judiciary of Switzerland.

Introduction

The judiciary is probably the most important organ of the government. A country may have a very good legislature and an excellent executive, but if it does not have an independent and impartial judiciary its constitution has no significance. The term judiciary is used to designate "those officers of the government whose function is to apply the existing law to individual cases." It is the responsibility of these officers to discover relevant facts in any case and protect the innocent from injury by either the executive or legislative branch of government. When this is lacking the liberty of the people is in danger. In fact no civilized state can be envisaged without a judicial organ. Chancellor Kent has remarked in this regard: "Where there is no judicial department to interpret and execute the laws, to decide controversies and to enforce right, the government must perish by its own imbecility, or the other departments of government must usurp powers for the purpose of commanding obedience to the destruction of liberty."

The chief function of the judiciary is to administer justice. It decides disputes between individuals and individuals and the State. In deciding the cases the judges investigate and determine the facts, after examination of evidence and witnesses, and try to decide the cases according to the existing laws. But if the case is not covered by an existing law the judges decide the cases on the basis of their knowledge, commonsense and experience. These decisions serve as precedents to be applied and followed by others in similar or analogous cases. In such cases the judges perform quasilegislative functions. It is true that these decisions of the judges are not binding on future decisions, but much respect is attached to them. In countries like England judicial precedents are an important source of Law. They are usually termed as 'judge made law' or 'case law'.

The judiciary also acts as the interpreter and guardian of the constitution. In all countries with written constitutions, the judiciary usually has the power to consider the propriety of the laws of the legislature and orders and ordinances of the executive and can declare them as unconstitutional or *ultra vires* if they are at variance with the provisions of the constitution. This power of the judiciary is termed as 'power of judicial review' and first originated in U.S.A. in 1803 when Chief Justice Marshal applied the same in the famous case of *Marbury v. Madison*. In short under the power of judicial review, the

Notes

judiciary can declare a law as unconstitutional if it is convinced that a right, privilege or immunity guarantee by the constitution or laws is being denied to the citizens. This power of determining the constitutionality or otherwise of any act is enjoyed by the judiciary in almost all the federations. But in England, where the Parliament is supreme, the judiciary has not been given the authority to pronounce upon the validity of the laws, because in England the constitution is what the Pariament says it is.

Another important function of the judiciary in a modern state is to act as the guardian of individual liberty. In all democratic countries it is the duty of the judiciary to protect the individual against all possible encroachments by the state. It may be noted here that earlier the courts could take action only after an individual had been denied some freedom or liberty in violation of an existing law. But now the parties have not to wait unil their rights are actually violated. They can appeal to the courts if they have sufficient reasons to believe that attempts whould be made to violate their rights. The Courts can then issue orders prohibiting such attempts through its 'injunctions'or 'restraining orders'. If the authority to whom such orders are issued, disobeys them, the courts possess the right to punish such an authority for its contempt.

In countries like England the Courts also enjoy the power of making declarations regarding the actual requirements of law; on the request of the interested parties. In such cases there is no need of going through the legal formalities of a trial. It may be noted that this power is not enjoyed by the courts in U.S.A.

Sometimes the judiciary is also vested with certain advisory powers. The legislature or the executive may request the judiciary to give its opinion on any question of law. In India the Supreme Court has been given this function. The President of India can refer any case to the Supreme Court for its advisory opinion regarding the constitutionality of an act. Some time back the President of India referred the case regarding the conflict to jurisdiction between the legislature and the judiciary of the Supreme Court for its opinion. However, the Supreme Court of U.S.A. does not enjoy any such powers. It gives its opinion on the constitutionality of a law only when it comes in the form of a specific case.

Apart from the powers enumerated above, the modern judiciary also performs a number of other functions, which are not strictly judicial in character. Thus, sometimes the courts have to take up the administration of a property pending the final settlement. In such cases the court appoints a receiver or administrator to take over the property and administer it subject to its orders.

In India sometimes the judiciary is called upon to decide cases of election. Under Article 71 of the constitution the Supreme Court can function as an election tribunal to decide all disputes arising out of the election of the President or the Vice-President.

The judiciary also performs other miscellaneous functions like granting of licences, nationalisation of aliens, performance of marriage ceremonies etc.

Thus we find that the judiciary in modern times performs numerous functions apart from its judicial functions.

9.1 US Supreme Court and Judicial Review

Supreme Court

It is quite clear from the language of the American Constitution that the Founding Fathers, while endeavouring to implement the system of separation of powers associated with the arrangement of checks and balances considered the Supreme Court sitting at the apex of the federal judiciary as the 'third member of governmental trinity, no less important than the other two members.' Apart from setting up three separate departments acting as a check upon one another, equally more compelling reason was the federal pattern which informed the framers to install an independent and impartial judiciary for the sake of interpreting the words and phrases of the fundamental law of the land and acting as a referee in matters of constitutional dispute between the national and state governments. However, many important changes took place in the American political system as a result of which the original design of checks and balances could not survive as the judiciary assumed most powerful

Notes

position. Munro rightly holds that the development of the Supreme Court into a final arbiter of constitutional disputes "is one of America's most important contributions to the science of government."

Organisation: The Constitution is silent on the issues of number, qualifications, salaries, emoluments and period or service of the judges of the Supreme Court. It empowers the Congress to cover these matters by legisiation.As a result, the Supreme Court came into being in 1789 according to a law made by the Congress with a Chief Justice and six associate Judges. The number of associate judges was increased to 9. The judges are nominated by the President subject to their ratification by the Senate. As there is no constitutional or ordinary law specifying the qualifications of a judge, it is clear that the matter depends upon the political action of the President. In the absence of clear cut constitutional or legal requirements, the President is free to appoint anyone for whom Senatorial confirmation can be obtained. Terms are for good behaviour. Temporary suspensions are probably constitutional, if surrounded by safeguards, but short of impeachment there is no way of compelling an aged, lazy, incompetent, or corrupt judge to vacate his office. Facts illustrate that though the Constitution of the United States says nothing about the qualifications of a judge, actual practice may be found to have imposed three requirements in this regard - that he must have a formal legal training, that he must hail from a family having a high social status, and that he must be having a political standing in the country.

The appointment of a judge is made on a permanent basis for life and it is a matter of his will to retire at the age of 65 (after 15 years of service) or resign at the age of 70 after serving for ten years. His service is secure during his 'good behaviour'. In case the House of Representatives initiates a charge against a judge based on the allegation of treason, bribery or other high crime of misdemeanour, the matter goes to the Senate where a resolution passed by 2/3 majority is required to remove the accused from office and punish him with future disqualifications. So far only 9 judges of constitutional courts have been impeached of whom 4 were convicted. Samuel Chase was the only judge of the Supreme Court to stand trial on the charges of impeachment.

Jurisdiction and Judicial Review: The annual session of the Supreme Court opens on first Monday of October and runs till the end of June or so. Special sessions may be called by the Chief Justice during the period of adjournment in the event of some matter of unusual or urgent importance. The Chief Justice presides over sessions and conferences of the Court and announces its verdicts, but he does not command a special position as a matter is decided by vote. In case the Chief Justice is absent, the session is presided over by a judge having precedence over others, the matter being settled by the rule of seniority based on the point of length of service, and date of birth in case the appointment of judges is of the same date. The Court hears a case for a period of two weeks meeting on days from Tuesday to Friday. On Saturday the judges meet *in camera* and register their views so that the judgement is delivered in public on Monday.

The Supreme Court has both original and appellate jurisdiction which may be thus clarified:

	Original Jurisdiction		Appellate Jurisdiction
1.	Action by the United States	1.	From lower districts courts against a State.
2.	Action by a State against a State.	2.	From State courts when a federal question is involved.
3.	Cases involving ambassadors and other public ministers.		
4.	Actions by a State against citizens of another State or aliens (here jurisdiction is not exclusive).		

Apart from this, what has made the Supreme Court the most powerful organ of the federal government is the weapon of judicial review in the hands of the judges. The power of judicial review implies that the courts have the right to declare an order passed by the executive or a law made by the legislature

Notes

inoperative in case and to the extent there is the violation of the constitution. In America the judges apply the second criterion of 'due process of law' as well while using the power of judicial review for the reason that, in the eyes of the judges, it is an historic safeguard against arbitrary governmental actions affecting life, liberty and property of the people. Prof. H.J. Abraham defines the term to mean the power of any court "to hold unconstitutional and hence unenforceable by law, any official action based upon it, and any illegal action by a public official that it deems ... to be in conflict with the Basic Law, in the United States its Constitution."



Did u know? The Supreme Court does not exercise advisory jurisdiction. It has consistently 'rebuffed' the President and the Congress to advise on "abstract' point. However, the judgement of the Supreme Court is final and no appeal can lie against it.

By virtue of this distinctive attribute, any federal court can declare an impugned executive or legislative measure unconstitutional, but the Supreme Court has final authority in this regard. It is a fact that the Constitution does not specifically empower the courts in this regard, but the power has been wielded by virtue of 'reading into the fundamental law of the land' by the judges of the Supreme Court. It is true to say that the power of judicial review in the hands of the judges has come by prescription. The first instance took place in 1803 when Chief Justice Marshall gave his historic judgement in the case of *Marbury v. Madision*. For the sake of clarity, four implications of this decision may be put as under:

1. That the Constitution is a written document that clearly defines and limits the powers of government;
2. That the Constitution is a fundamental law and thus superior to the ordinary law passed by the Congress.
3. That the act of Congress which is contrary to and in violation of the fundamental law is void and cannot bind the courts; and
4. That the judicial power conferred by the Constitution together with the oath to uphold Constitution which the justices take on the assumption of office, requires that the courts should declare when they believe that the acts of Congress are in violation of the Constitution.

From 1803 onwards, the Supreme Court has made use of this innovatory power and thereby established a strong and also unchallengeable position that, as Justice Frankfurter once confidently asserted, it has 'become the constitution'. However, it may be pointed out that the scope of judicial review is not unlimited. The exercise of this distinctive attribute is tied up and these considerations ought to be kept in view. First, the power is a clear proof of the judicial supremacy empowering the judges to determine whether an executive order or a legislative measure is in conformity with the constitutional provisions and thereby 'valid' or not. Second, it is not a prospective but a retrospective power which means that an executive order or a legislative enactment made in the past is *ultra vires* of the Constitution and so inoperative. Third, the federal judiciary of the United States can make use of this power in regard to 'federal questions' and thus exercise this prerogative even in cases of executive orders and legislative measures issued by the State governments. Fourth, there is nothing like an automatic exercise, of this power. The courts can not take any initiative in this direction ; they can decide the matter only when it is brought before them by the aggrieved party. Last, the Supreme Court is the 'masterless man' in this regard and it can change its own view as the circumstances demand.

Critical Appreciation: Undoubtedly, the distinctive attribute of judicial review has exalted the position of federal judiciary at the expense of the powers of the executive and the legislature and thereby given a rude setback to the system of checks and balances so well devised by the framers of the Constitution. However, it may be commented that the power of judicial review in the hands of federal judges is not without its utility. Apart from being a source of occasional irritation to the President, to the Congress and to the State governments, it has protected the republican-federal system of the United States. The Supreme Court has been lauded as the continuous constitutional convention at work. Through this power, the Supreme Court has acted as the guardian of the national constitution,

Notes

protecting its fundamental principles from encroachments by legislative and executive branches of the national government and also from the governments of the component units of the American union.

9.2 Judicial Systems of UK, Russia and France

Judicial System of United Kingdom

The United Kingdom does not have a single body of law applicable throughout the realm. Scotland has its own distinctive system and courts; in Northern Ireland, certain spheres of law differ in substance from those operating in England and Wales. A feature common to all UK legal systems, however—and one that distinguishes them from many continental systems—is the absence of a complete code, since legislation and unwritten or common law are all part of the "constitution."

The main civil courts in England and Wales are 218 county courts for small cases and the High Court, which is divided into the chancery division, the family division, and the Queen's Bench division (including the maritime and commercial courts), for the more important cases. Appeals from the county courts may also be heard in the High Court, though the more important ones come before the Court of Appeal; a few appeals are heard before the House of Lords, which is the ultimate court of appeal for civil cases throughout the United Kingdom. In Scotland, civil cases are heard at the sheriff courts (corresponding roughly to the English county courts) and in the Outer House of the Court of Session, which is the supreme civil court in Scotland; appeals are heard by the Inner House of the Court of Session. Trial by jury in civil cases is common in Scotland but rare in the rest of the United Kingdom.

Criminal courts in England and Wales include magistrates' courts, which try less serious offenses (some 96% of all criminal cases) and consist most often of three unpaid magistrates known as justices of the peace, and 78 centers of the Crown Court, presided over by a bench of justices or, in the most serious cases, by a High Court judge sitting alone. All contested cases receive a jury trial. Cases involving persons under 17 years of age are heard by justices of the peace in specially constituted juvenile courts. Appeals may be heard successively by the Crown Court, the High Court, the Court of Criminal Appeal, and in certain cases by the House of Lords. In Scotland, minor criminal cases are tried without jury in the sheriff courts and district courts, and more serious cases with a jury in the sheriff courts. The supreme criminal court is the High Court of Justiciary, where cases are heard by a judge sitting with a jury; this is also the ultimate appeals court.

All criminal trials are held in open court. In England, Wales, and Northern Ireland, 12-citizen juries must unanimously decide the verdict unless, with no more than two jurors dissenting, the judge directs them to return a majority verdict. Scottish juries of 15 persons are permitted to reach a majority decision and, if warranted, a verdict of "not proven." Among temporary emergency measures passed with the aim of controlling terrorism in Northern Ireland are those empowering ministers to order the search, arrest, and detention of suspected terrorists and permitting juryless trials for terrorist acts in Northern Ireland.

Central responsibility for the administration of the judicial system lies with the lord chancellor (who heads the judiciary and also serves as a cabinet minister and as speaker of the House of Lords) and the home secretary (and the secretaries of state for Scotland and for Northern Ireland). Judges are appointed by the crown, on the advice of the prime minister, lord chancellor, or the appropriate cabinet ministries.

The United Kingdom accepts the compulsory jurisdiction of the International Court of Justice with reservations.

The main civil courts in **England** and **Wales** are:

- Magistrates' Courts
- County Courts for small cases and
- the High Court, which is divided into
- the Chancery Division,

Notes

- the Family Division, and
- the Queen's Bench Division (including the maritime and commercial courts), for the more important cases.

Appeals from the **County Courts** may also be heard in the *High Court*, though the more important ones come before the *Court of Appeal*.

Appeals from the **Court of Appeal** are lodged with the *House of Lords*, which is the ultimate court of appeal for civil cases throughout the United Kingdom.

In **Scotland**, *civil* cases are heard at the sheriff courts (corresponding roughly to the English county courts) and in the Outer House of the Court of Session, which is the supreme civil court in Scotland; appeals are heard by the Inner House of the Court of Session. Minor *criminal* cases are tried without jury in the sheriff courts and district courts, and more serious cases with a jury in the sheriff courts. The supreme criminal court is the High Court of Justiciary, where cases are heard by a judge sitting with a jury. This is also the ultimate appeals court.

1. The House of Lords

The House of Lords is the final Court of Appeal in both criminal and civil matters for England, Wales and Northern Ireland. For Scotland it is the final Court of Appeal only for civil matters. The House of Lords and the Privy Council are the only Courts of the United Kingdom with jurisdiction over all parts of the countries forming the Union.

A petition may only be presented with the permission of the Court below or with the permission of a Committee of the House of Lords. Permission is only granted if the case involves a point of law of public importance. The House of Lords may depart from precedents laid down in its own previous judgments if it considers that the interests of justice require it to do so.

2. The Supreme Court

The judges of the Supreme Court of the United Kingdom are known as Justices of the Supreme Court, and they are also Privy Counsellors. Justices of the Supreme Court are granted the courtesy title Lord or Lady for life.

The Supreme Court is a relatively new Court being established in October of 2009 following the Constitutional Reform Act 2005. Formerly, the Highest Court of Appeal in the United Kingdom was the House of Lords Appellate Committee made up of Lords of Appeal in Ordinary, also known as Law Lords, which with other Lord Justices now form the Supreme Court. Such Law Lords were allowed to sit in the House of Lords and were members for life.

The Supreme Court is headed by the President and Deputy President of the Supreme Court and is composed of a further ten Justices of the Supreme Court.

The Justices do not wear any gowns or wigs in court, but on ceremonial occasions they wear black damask gowns with gold lace without a wig.

The Supreme Court embraces the *Court of Appeal* and the *High Court* which has both appellate and first instance jurisdiction. The High Court has inherent jurisdiction to control the activities of inferior courts and of the executive. This inherent jurisdiction can be abrogated by statute. By statute appeals from the Crown Court arising from trials on indictment go to the Court of Appeal. Appeals on other matters go to a Divisional Court of the High Court.

(*i*) The Court of Appeal

The Court of Appeal hears appeals in both criminal and civil cases. It sits in two divisions, the Civil Division and the Criminal Division.

The **Court of Appeal (Civil Division)** hears

(*a*) appeals from the *High Court*

(*b*) appeals from the *County Courts* and

(*c*) appeals from a number of *tribunals* and *other bodies*.

When hearing appeals, it has the jurisdiction and powers of the court or tribunal from which the appeal is brought. In most civil cases before an appeal may be brought it is

Notes

necessary to obtain permission to appeal either from the lower court or from the Court of Appeal itself. The exceptions are in family matters and in cases where the liberty of the subject is involved.

The **Court of Appeal (Criminal Division)** hears:

(*a*) appeals from *the Crown Court* arising from trials on indictment

(*b*) cases referred to it by the *Criminal Cases Review Commission*

(*c*) appeals from *Divisional Courts* in criminal cases.

The Court can affirm the sentence of the Court, quash the conviction, or quash a conviction and order a new trial.

(*ii*) The High Court

The High Court sitting as a *Divisional Court* exercises the supervisory jurisdiction of the High Court over inferior courts (such as coroner's courts and magistrates' courts) and of the executive by the process known as "judicial review". The Divisional Court will consider the issues of law as applied to the facts found by the magistrates. There is only one High Court for the whole of England and Wales.

The High Court is divided into three Divisions:

(*a*) the Family Division,

(*b*) the Chancery Division and

(*c*) the Queen's Bench Division.

Within each Division there are a number of specialist Courts and Lists. For example:

Chancery Division: the Bankruptcy Court, the Companies Court and the Patents Court;

Queen's Bench Division: Admiralty Court, the Commercial Court, the Administrative Court and the Technology and Construction Court.

Most **criminal matters** come before a Divisional Court of the **Queen's Bench Division**, but civil cases from magistrates involving family and child custody matters go to a Divisional Court of the Family Division. The **Family Division** deals with matters relating to personal status, marriage and its dissolution.

The **Chancery Division** includes litigation concerning bankruptcy, the dissolution of partnerships, intellectual property, etc.

The Crown Court

The Crown Court is the Court where serious criminal cases (eg. murder, manslaughter, rape and other serious crimes) are tried by a Judge and Jury. There is only one Crown Court, but it sits in about 90 locations around England and Wales of which the most famous is the Central Criminal Court (or " Old Bailey"). An accused person appears first in the Magistrates' Court which may send him for trial at the Crown Court. Some of the most serious cases may only be tried in the Crown Court. Others may be tried either in the Crown Court or in the Magistrates' Court, but in the case of the latter cases, the Magistrates may commit the Defendant for sentence by the Crown Court. The Crown Court hears appeals from Magistrates' Courts by way of rehearing. Appeals against conviction or sentence on indictment in the Crown Court go to the Court of Appeal. Where there has been a Crown Court rehearing of a case which was appealed from a Magistrates' Court, the procedure by way of case stated to a Divisional Court on a point of law remains available.

County Courts

There are about 400 County Courts throughout England and Wales divided into Regional Circuits. Some matters, such as many housing or consumer credit matters can only be commenced in the County Court. In other matters, the County Courts have concurrent jurisdiction with the High Court. Some County for resolution of smaller value commercial

Notes

claims. A number of County Courts are specially designated to have admiralty, bankruptcy or family jurisdiction. Very small claims in the County Court will be determined by a District Judge. Other matters will be determined by a Circuit Judge.

(*iii*) Magistrates' Courts

The civil jurisdiction of Magistrates' Courts is concerned with matters such as licensing of pubs, restaurants and shops, and family matters such as maintenance orders for children. Appeals go to a Divisional Court.

With a very few exceptions all criminal prosecutions commence in the Magistrates' Court. Magistrates have limited powers of sentencing. If either prosecutor or defendant is aggrieved by the decision of a magistrates' court on a question of law, the court can be asked to "state a case" for the opinion of the *High Court*. A defendant aggrieved by a conviction may also ask for the case to be reheard in the *Crown Court*.

Specialist Tribunals

Many civil matters are dealt with by specialist tribunals. For example, there are *Employment Tribunals* which deal with labour disputes, unfair dismissals and discrimination cases in the workplace. *Social Security tribunals* hear cases involving the award of pensions and other state benefits. There are numerous other specialist tribunals.

1. Chancery Division of the High Court

The Bankruptcy Court

The Bankruptcy Court has jurisdiction over individual insolvency matters - but it should be noted that in England and Wales, corporate insolvencies are dealt with in the Companies Court.

The Patents Court

The matters assigned to the Patents Court are essentially all those concerned with patents or registered designs. There are assigned specialist Judges.

The Companies Court

The Administrative Court

The Judges of this Court hear cases under which a citizen wishes to challenge the legality of action or inaction by a Minister, Government Department or other public authority by the procedure known as "*Judicial Review*". The Court also handles various appeals from inferior courts and tribunals.

2. Queen's Bench Division of the High Court

The Admiralty Court

Admiralty cases are principally concerned with collisions at sea and cases of damage to cargo on seagoing voyages. A particular characteristic of the Admiralty jurisdiction is that cases may be commenced against a vessel ("in rem") by arresting the vessel.

The Commercial Court

Commercial claims include any case arising out of trade and commerce in general, including any case relating to a business document or contract, the export or import of goods, the carriage of goods by land, sea, air or pipeline, insurance and re-insurance, banking and financial services,

The Court has its own registry (which it shares with the Admiralty Court) and all interlocutory hearings are before judges of the court instead of before the deputy judges known as masters or registrars found elsewhere in the court system.

The Technology and Construction Court

The Technology and Construction Court, formerly known as the Official Referees' Court, exists to deal with those cases where examination of much detail is required, eg. construction disputes involving multiple parties, architects, engineers, contractors and sub-contractors.

Notes

The Privy Council

The international jurisdiction of the Privy Council of the time when it acted as the final court of appeal throughout the British Empire, in each case applying the law of the jurisdiction from which the appeal came, remains for some Commonwealth Countries, the Channel Islands, the Isle of Man and the British Overseas Territories.

The Privy Council also has some domestic jurisdictions, principally concerned with final appeals in matters relation to professional discipline for medical practitioners, dentists, opticians, veterinary surgeons, osteopaths, chiropractors and professions supplementary to medicine.

A new jurisdiction for the Privy Council is related to devolution issues (questions relating to the competences and functions of the legislative and executive authorities established in Scotland and Northern Ireland, the competence and functions of the Assembly established in Wales).


Task What do you mean by 'Old Bailey'?

Judicial System of Russia

The Russian Constitution has made an achievement by making provisions for the independence of judiciary. Art. 118 says that the administration of justice shall be vested in the courts. Judicial authority shall cover civil, criminal, administrative and constitutional varieties. The creation of special or extraordinary courts shall not be permitted. The judicial system is established according to the terms of the Constitution and federal laws. With a view to maintain independence of judiciary these provisions have been made:

1. The judges shall be the citizens of the Russian Federation, be above, 25 years of age, must have higher qualifications in law and have served in the legal profession for not less than five years, the federal law may require additional requirements.
2. The judges shall be independent. They shall have the power to examine the validity of any act or of a law in the event of its conflict with the provisions of the Constitution and thereby hold supremacy of law.
3. More important is the provision that the judges shall be irremovable. The powers of a judge may be terminated or suspended only on the grounds of and in accordance with the procedure established by law.
4. The judges shall be inviolable. As such, a judge cannot face criminal liability otherwise than in accordance with the procedure established by federal law.
5. The hearing or examination of a case in all courts shall be open. Cases may be heard in close sessions in a situation permitted by a federal law. The examination of criminal cases by default in courts shall not be permitted except in a situation permitted by law. Judicial proceedings shall be conducted on the basis of controversy and the equality of the parties concerned. Where legally required, judicial proceedings shall be conducted with the participation of a jury.
6. Finally, it is given that the courts shall be financed from the federal budget and should ensure the possibility of the complete and independent administration of justice according to the requirements of a federal law.

The Constitution provides for three apex courts — Constitutional Court, Supreme Court and Supreme Arbitration Court. The President appoints the judges of these courts with the consent of the Federal Council. It implies that the nominations of the judges made by the President shall be approved by the upper house of the Federal Assembly. It resembles the American system where the appointments of the judges made by the President are ratified by the Senate. But appointments of the judges of other federal courts are made by the President according to the provisions of a federal law. The powers and procedure of all the courts shall be determined by a federal constitutional law.

Notes

The Supreme Court is the highest judicial body of the Federation for civil, criminal, administrative and other cases examined by courts of arbitration; it exercises judicial supervision over their activities in the procedural forms envisaged by federal law and shall provide interpretation on issues of judicial proceedings. The Supreme Arbitration Court of the Federation is the highest judicial body for settling economic disputes and other cases examined by courts of arbitration; it exercises judicial supervision over their activities in the procedural forms envisaged by federal law and provides interpretation on issues of judicial proceedings.

The Constitutional Court of the Federation consists of 19 judges. It is the custodian of the Constitution. At the request of the President, or of the Federation Council, or of the Government, or of the Supreme Court, or of the Supreme Arbitration Court, or of any legislative or executive department of any constituent unit of the Russian Federation, this Court hears and decides whether or not an impugned law or action of the Centre or of the government of any constituent unit is in conformity with the provisions of the Russian Constitution or of any treaty signed by the Centre. It also settles disputes between government bodies of the Centre and between government bodies of the Centre and the constituent units of the Federation. It interprets the provisions of the Constitution at the request of the President, or of any chamber of the Federal Assembly of the Centre, or of some such body of a constituent unit. It also exercises the power of judicial review by looking into the validity of a law or action of the Central or regional and local governments as to whether it is in violation of the constitutional rights and freedoms of the citizens. It also decides whether a particular international treaty signed by the Centre is consistent with the provisions of the Constitution. In case the Constitutional Court strikes down any law or order or treaty on the ground of its unconstitutionality, it shall not be enforceable.

Federation Council, this Court may issue a resolution on the observance of the established procedure for bringing charges of treason or of other grave crimes against the President of the Federation.

The provisions of the Constitution demonstrate a marked change in the judicial process of this country by virtue of making arrangements for an independent judiciary. But in one respect the tradition of the earlier Soviet Constitutions has been maintained. The offices of the Prosecutor-General and of subordinate prosecutors have been included in the domain of judicial authority. More than this, the whole structure has been given a centralized form like the system of procuratorate as established under the Stalin and the Brezhnev constitutions. Art. 129 says that the office the Prosecutor-General of the Russian Federation shall be a single centralised structure in which public prosecutors are subordinated to higher public prosecutors. The Prosecutor-General shall be appointed and dismissed by the Federation Council on the recommendation of the President. The prosecutors of the constituent units of the Federation shall be appointed by the Prosecutor-General with the consent of the government of the unit concerned. All other prosecutors shall be appointed by the Prosecutor-General of the Federation. The powers of the Prosecutor-General of the Federation shall be determined by a federal law.

The operation of the Russian political system should, however, be appreciated with a sense of caution. Democratic institutions are developing, of course, but things will take time to consolidate themselves. When the Constitutional Court established by Yeltsin in June 1991 over-ruled some of the actions of the President, he dubbed it as an activist role of the judiciary and dissolved it. He also dissolved the sitting Parliament in October, 1993. The result was that the Parliament and the Constitutional Court were recreated according to the wishes of the President. He also managed to restructure the powers of the Courts by urging the Federal Assembly to make laws in this regard. Hence, it is commented: "Executive centralism is prevalent at least in theory.. .Russia has traditionally lacked an independent judiciary., but since independence some steps have been taken towards the separation of the judicial system from the political authorities." Those who see things from close quarters find that the dominant role of bureaucracy is still there. Prof. Garvil Popov, former Mayor of Moscow, testifies to it in these words: "The country's old command system, the core of which was the Communist Party viewed power exclusively as an instrument for achieving its own ends. It has gone now. But this does not mean that it has been replaced by democratic rule. Only a system capable of organising certain aspects of society's life outside the state system, that is on an independent basis, can act as a real alternative to bureaucracy. Today bureaucracy reigns everywhere."

Notes

An American critic thus says: "The new Russian Constitution adopted in December, 1993 shifts the balance of power decisively in the direction of the executive branch. The structure embodied in the new Constitution resembles the French presidential system in many ways, but some critics in Russia call it an authoritarian Constitution, because it places so many powers in the President's hands. As in France, the Russian Constitution creates ample room for conflict between the legislative and executive branches. However, a combination of factors (including constitutional provisions, political culture, political party fragmentation and regionalism) work to give more powers to the Russian President than the French president. The constitution designates the President as the head of the state, but, unlike in Germany, he does not have a figurehead position. At the same time, the Constitution places executive power in the government of Russia, which is headed by the Prime Minister. The structure envisages conflict between the President and the legislative branch, because the President's party or supporters do not necessarily hold the balance of power in the Parliament."

Judicial System of France

After making a study of the executive headed by the President assisted by the Prime Minister and the Council of Ministers and the Parliament having National Assembly and Senate as the lower and upper chambers repectively, it shall be worthwhile to present a brief account of the judicial and advisory organs that have a rather less significant role in the political system of France in view of the fact that the French do not appreciate the 'trinity theory' whereby government is regarded as consisting of three separate and independent organs; in stead they subscribe to 'duality theory' whereby executive and legislature are treated as separate and independent organs of the government, while judiciary is regarded as a subordinate branch of the former.

The French judicial system, as it obtains now, may be said to have three main characteristics:

1. It ensures independence of judiciary. If justice is to operate efficiently, the judicial authority must be protected from the pressures of the legislature as well as of the executive; this independence is ensured by the creation of the Higher Council of Magistracy and a Special Statute for members of the judicial body. The method of the appointment of judges has been laid down so as to keep the incumbents free from outside pressures. Moreover, a *Special Statute* for judges and public prosecutors has been framed which guarantees the satisfactory unfolding of their careers. It has been devised to make the nature of judicial offices more attractive. The judges and public prosecutors have been assured of a more rapid promotion. No member of the Bench may receive a new posting without his consent even if it is a matter of promotion. The principle of 'irremovability' of Judges has also been incorporated.
2. There is the separation of administrative and judicial authorities. The rule forbids judicial tribunals to settle diputes of law involving administration. It is based on the law of 16-24 Aug., 1970 that (vide its Art. 13) says: "The judicial functions are distinct and will always remain separate from the administrative functions; judges shall not, without exceeding their powers, interfere in any way whatsoever with the operation of the administrative bodies, nor summon administrators before them by reason of their functions. The proper application of this principle requires, on the one hand, that the administration must have the means to resist encroachment by the judicial courts and, on the other that those involved may have at their disposal procedures enabling them to find the competent judge. The procedure of the conflict of competence comes into play only to guarantee the autonomy and independence of the administration vis-a-vis the judicial courts which can thus never lay claim to a field in which the administrative courts deem themselves competent."
3. There is the double degree of jurisdiction which makes it possible for any party to an action or trial to appeal to a superior court against a decision rendered by an inferior court; it is an old rule; but while under the *ancien regime* the appeal was a means for the king to assert his rights, it has now become a guarantee of good justice. That is why, an appeal is always brought before a court that is higher in the hierarchy than the one which made the first decision; litigants are thus assured that their case will be settled by the judges who are more competent and more experienced. A decree of 22nd December, 1958 introduced an all-important reform in the matter

Notes

by superseding all special courts of the second degree ; in all cases, the appeal is now brought before the Court of Appeal.

Organisation of Judicial System: The organisation of the judicial system of France has a hierarchical design of its own. First of all, we refer to the Supreme Council of Justice. The Constitution of the Fourth Republic set up the Supreme Council of the Magistracy (Higher Council of Judiciary) for the maintenance of the independence and impartiality of the judges. The new Constitution retains the old body though with reduced powers.

It is provided in Art. 65 of the Constitution that the Supreme Council of Justice shall be presided over by the President of the Republic and the Minister for Justice shall be its *ex officio* Vice-President to act as the presiding officer when the President of the Republic is not available.

This body now consists of 9 members appointed by the President of the Republic in accordance with the provisions of the organic law. It presents nominations for the judges of the Court of Causation and for First President of the Court of Appeal. It gives its opinion under the conditions to be determined by an organic law, on proposals of the Minister of Justice relating to the nomination of other judges. It may be consulted on the questions of pardon under conditions to be determined by an organic law. It also acts as a disciplinary council for judges. In such cases, it is presided over by the First President of the Court of Causation. It is noteworthy that while under the Fourth Republic, the Supreme Council appointed and promoted the judges, under the new Constitution it has been empowered to advise the Government in matters relating to the appointment of the judges of the Court of Causation and of the First President of the Court of Appeal.

Then, there is the High Court of Justice. Art. 67 of the Constitution lays down that it shall be composed of the elected members of Parliament in equal number by the National Assembly and the Senate after each general or partial election to these assemblies and it shall elect its own President from amongst its members. An organic law shall determine the composition of the High Court, its rules and also the procedure to be followed there. Art. 68 says that the President of the Republic shall not be accountable for actions performed in the exercise of his office except in the case of high treason. He may be indicted only by the two assemblies ruling by identical vote in open balloting and by an absolute majority of the members of the said assemblies. He shall be tried by this High Court of Justice. It further lays down that the members of the Government shall be liable for actions performed in the exercise of their office and deemed to be crimes and misdemeanours at die time they were committed. The procedure defined above shall be applied to them, as well as to their accomplices, in the case of conspiracy against the security of the state. In the cases provided for by the present paragraph, the High Court of Justice shall be bound by the definition of crimes and misdemeanours, as well as by the determination of penalties, as they are established by the criminal laws in force when the acts are committed.



Notes It makes the President of the Republic the guarantor of independence of the judicial authority to be assisted by the Supreme Council of Justice in the discharge of this important function. The composition of the Supreme Council is to be determined by the organic law of the Parliament.

According to the provisions of an organic law, the High Court of Justice consists of 24 members, 12 chosen by each house from among its members following a general election in the case of the National Assembly and partial renewal in the case of the Senate. Its most important function is to try the President of the Republic on charges of high treason and the ministers or their accomplices on the charge of plotting against the security of the State. However, three important points must be kept in view in this regard. *First*, the decision to bring a 'party' before the court must be taken by both the Houses and not by the National Assembly alone as under the Fourth Republic. *Second*, the vote is no longer secret as it is by open ballot. *Last*, the sentence on a President of the Republic found guilty of high treason is no longer to be determined on the basis of rules laid down in the penal code. However,

Notes

this requirement is retained in the case of other offenders dealt with by the High Court of Justice.

Different from the Anglo-Saxon system of law and justice, the judicial system of France is two-tiered 'ordinary' and 'administrative'. While the ordinary jurisdiction is concerned with private and criminal actions, all grievances of the citizens against the state (including units of local government but not nationalised corporations) go to the administrative courts. In both sections there are hierarchical judicial institutions and there is a Court of Conflicts (composed of the judges of both the hierarchies) to settle difficult cases of jurisdiction. While ordinary courts decide on the basis of codes, the administrative courts (while using the statute book) give case-law and general principles of considerable weight.

Administrative law is the unique contribution of France. As Dicey says, it covers no less than the whole realm of relationship between public authorities and the individual. Strangely enough, this variety of law is based to a very large extent on judicial precedents with which the legislature does not ordinarily interfere and which the aministrative courts themselves alter only gradually. And yet it remains to be commented that the entire system of administrative law is much complicated which, according to an observer, becomes comprehensible only when one remembers that it was designed to control the overly powerful administrative staff. More astounding is the point that the importance of administrative law outweighs the value of ordinary justice which is considered as an integral part of the democratic system.

9.3 Federal Tribunal or Federal Judiciary of Switzerland

Composition: The youngest of the three organs of Swiss national government is the Federal Tribunal or the Supreme Court consisting of 26 judges and 12 alternates or substitutes elected by the Federal Assembly in its joint session for a period of six years. One of the judges is elected as its President and the other as its Vice-President for a term of two years, neither of whom can be re-elected for the next consecutive term. The Constitution does not lay down rigid qualifications except that a judge may be eligible for the election of National Council and that he should not be a member of the Federal Assembly or Federal Council or some other department of the government. The Constitution requires that all the three linguistic areas of Switzerland should find adequate representation. However, a convention has developed whereby only men of forensic ability and experience are elected and then re-elected as long as they 'live or care to serve'. It has its seat at Lausanne, the capital of Vaud canton, as a token of satisfaction to the French-speaking people of the country who have had some lingering feeling of dissatisfaction over the importance of Berne - German-speaking capital city in the canton of Berne.

Jurisdiction: The jurisdiction of the Federal Tribunal extends over civil and criminal cases and other issues of public law. Its civil jurisdiction covers all suits between the Confederation and the cantons and between the Cantons themselves. Suits filed by an individual or a corporation on one side and the Confederation on the other, provided that the former are the plaintiffs and the amount involved in the dispute is 8,000 francs or more, also lie with this Court. It also decides cases between the individuals where the amount exceeds 10,000 francs and when the two parties request to take jurisdiction. It further decides cases relating to loss of nationality or disputes concerning citizenship between the communes of different cantons. Art. 114 of the Constitution further confers on it powers to ensure uniform application of laws relating to commerce and transactions affecting movable property, suits for debt and bankruptcy, protection of copyright and industrial inventions. Finally, it has appellate jurisdiction over cantonal courts in all cases arising under federal laws where the amount in dispute exceeds 8,000 francs.

On the criminal side, the Federal Tribunal has jurisdiction, original and exclusive, in cases of high treason against the state and revolt and violence against federal authorities, crimes and offences against the law of nations, political crimes and misdemeanours which are either the cause or consequence of disorders and disturbances necessitating armed federal intervention and, finally, offences committed by the officials appointed by a federal authority before the Tribunal by that authority. In criminal cases the Tribunal holds assizes from time to time at fixed centres in which the country is classified for the purpose. In these assizes a section of the Tribunal sits with a jury chosen by a lot from the neighbouring villages.

Notes

Then, the Federal Tribunal has a restricted constitutional jurisdiction. It takes cognizance of conflict of competence between federal authorities on the one side and cantonal authorities on the other, disputes in public law between cantons, and appeals against violation of constitutional rights of citizens and appeals of private persons against violation of international agreements or treaties. In all cases of conflict of competence, it is the power of the Court to uphold the federal Constitution against ordinary laws and decrees of the cantons and the cantonal Constitution against ordinary laws and decrees of the cantons. Its power of judicial review is limited to cantonal governments alone and, as such, it can invalidate cantonal laws and look into the constitutional validity of cantonal executive actions. It is not only that the Tribunal has no power to question the constitutionality of federal laws, it is specifically required by the Constitution to treat all federal laws as constitutional and to enforce them.

However, the Swiss judicial system is quite different from the American model. There are no subordinate courts and the Federal Tribunal stands alone. Nor has it separate officials to execute judgment. Its power of judicial review does not cover federal laws and decrees. It may further be added that although conflicts of jurisdiction between cantonal and federal authorities are decided by the Federal Tribunal, the conflicts of jurisdiction between the Federal Council and the Federal Tribunal are decided by the Federal Assembly. As a result, the Swiss Federal Tribunal cannot have the position enjoyed by its American counterpart where, as Justice Frankfurter once confidently asserted, 'the Supreme Court is the Constitution.' It is pointed out that "to endow it with the right of disavowing federal statutes would therefore be to impose on a much weaker court a much heavier burden than that under the American judiciary sometimes seems to be staggering."

Self-Assessment

1. Fill in the blanks:

(*i*) The appointment of a Judge is made on a permanent basis for life and it is a matter of his will to retire at the age of ..... (after 15 years of service) or resign at the age of ..... after serving for 10 years.

(*ii*) The main civil courts in England and Wales for small cases are ..... .

(*iii*) Cases involving persons under 17 years of age are heard by justices of the peace in specially constituted ..... .

(*iv*) The court of Appeal hears appeals in both criminal and ..... cases.

(*v*) The judges of the Supreme court of the United Kingdom are known as ..... of the Supreme Court.

9.4 Summary

- The chief responsibility of the judiciary is to administer justice, according to the existing laws. When the case cannot be decided in accordance with the existing law the judges decide the same on the basis of their knowledge, commonsense and experience. Such decisions serve as precedents for similar cases in future and form an important source of law.
- The judiciary acts as the guardian of the constitution and reserves the right to declare the law passed by the legislature and orders issued by the executive as unconstitutional if they violate the constitution. The power of judicial review is enjoyed by the judiciary in all federations. In Great Britain, however, the judiciary cannot pronounce upon the constitutional validity of laws, because the law is what the Parliament says it is.
- The judiciary also acts as guardian of individual liberty and protects the individual against all possible encroachments by state. The Courts can also issue orders or injunctions restraining the authorities from violating the rights.
- In England the Courts possess the power of making declaratory judgements, which eliminates the formalities of a trial.
- Judiciary enjoys advisory powers in India and can advise on the constitutionality of an Act, before it is finally adopted. The U.S. Supreme Court does not enjoy any such power.

Notes

- The Constitution is silent on the issues of number, qualifications, salaries, emoluments and period or service of the judges of the Supreme Court. It empowers the Congress to cover these matters by legisiation. As a result, the Supreme Court came into being in 1789 according to a law made by the Congress with a Chief Justice and six associate Judges. The number of associate judges was increased to 9.
- It is a fact that the Constitution does not specifically empower the courts in this regard, but the power has been wielded by virtue of 'reading into the fundamental law of the land' by the judges of the Supreme Court. It is true to say that the power of judicial review in the hands of the judges has come by prescription.
- The federal judiciary of the United States can make use of this power in regard to 'federal questions' and thus exercise this prerogative even in cases of executive orders and legislative measures issued by the State governments.
- The judges of the Supreme Court of the United Kingdom are known as Justices of the Supreme Court, and they are also Privy Counsellors. Justices of the Supreme Court are granted the courtesy title Lord or Lady for life.
- The Supreme Court is headed by the President and Deputy President of the Supreme Court and is composed of a further ten Justices of the Supreme Court.
- The Justices do not wear any gowns or wigs in court, but on ceremonial occasions they wear black damask gowns with gold lace without a wig.
- The Supreme Court embraces the *Court of Appeal* and the *High Court* which has both appellate and first instance jurisdiction. The High Court has inherent jurisdiction to control the activities of inferior courts and of the executive. This inherent jurisdiction can be abrogated by statute. By statute appeals from the Crown Court arising from trials on indictment go to the Court of Appeal. Appeals on other matters go to a Divisional Court of the High Court.
- The Crown Court is the Court where serious criminal cases (eg. murder, manslaughter, rape and other serious crimes) are tried by a Judge and Jury. There is only one Crown Court, but it sits in about 90 locations around England and Wales of which the most famous is the Central Criminal Court (or "Old Bailey").
- The civil jurisdiction of Magistrates' Courts is concerned with matters such as licensing of pubs, restaurants and shops, and family matters such as maintenance orders for children. Appeals go to a Divisional Court.
- With a very few exceptions all criminal prosecutions commence in the Magistrates' Court. Magistrates have limited powers of sentencing. If either prosecutor or defendant is aggrieved by the decision of a magistrates' court on a question of law, the court can be asked to "state a case" for the opinion of the *High Court*. A defendant aggrieved by a conviction may also ask for the case to be reheard in the *Crown Court*.
- "The new Russian Constitution adopted in December, 1993 shifts the balance of power decisively in the direction of the executive branch. The structure embodied in the new Constitution resembles the French presidential system in many ways, but some critics in Russia call it an authoritarian Constitution, because it places so many powers in the President's hands.
- The Constitution places executive power in the government of Russia, which is headed by the Prime Minister. The structure envisages conflict between the President and the legislative branch, because the President's party or supporters do not necessarily hold the balance of power in the Parliament."
- "The judicial functions are distinct and will always remain separate from the administrative functions; judges shall not, without exceeding their powers, interfere in any way whatsoever with the operation of the administrative bodies, nor summon administrators before them by reason of their functions. The proper application of this principle requires, on the one hand, that the administration must have the means to resist encroachment by the judicial courts and,

Notes

on the other that those involved may have at their disposal procedures enabling them to find the competent judge.

- There is the double degree of jurisdiction which makes it possible for any party to an action or trial to appeal to a superior court against a decision rendered by an inferior court; it is an old rule; but while under the *ancien regime* the appeal was a means for the king to assert his rights, it has now become a guarantee of good justice.
- Then, there is the High Court of Justice. Art. 67 of the Constitution lays down that it shall be composed of the elected members of Parliament in equal number by the National Assembly and the Senate after each general or partial election to these assemblies and it shall elect its own President from amongst its members. An organic law shall determine the composition of the High Court, its rules and also the procedure to be followed there.
- Its most important function is to try the President of the Republic on charges of high treason and the ministers or their accomplices on the charge of plotting against the security of the State. However, three important points must be kept in view in this regard. *First*, the decision to bring a 'party' before the court must be taken by both the Houses and not by the National Assembly alone as under the Fourth Republic. *Second*, the vote is no longer secret as it is by open ballot. *Last*, the sentence on a President of the Republic found guilty of high treason is no longer to be determined on the basis of rules laid down in the penal code.
- Administrative law is the unique contribution of France. As Dicey says, it covers no less than the whole realm of relationship between public authorities and the individual. Strangely enough, this variety of law is based to a very large extent on judicial precedents with which the legislature does not ordinarily interfere and which the aministrative courts themselves alter only gradually.
- The youngest of the three organs of Swiss national government is the Federal Tribunal or the Supreme Court consisting of 26 judges and 12 alternates or substitutes elected by the Federal Assembly in its joint session for a period of six years. One of the judges is elected as its President and the other as its Vice-President for a term of two years, neither of whom can be re-elected for the next consecutive term.
- The Constitution requires that all the three linguistic areas of Switzerland should find adequate representation. However, a convention has developed whereby only men of forensic ability and experience are elected and then re-elected as long as they 'live or care to serve'.
- The jurisdiction of the Federal Tribunal extends over civil and criminal cases and other issues of public law. Its civil jurisdiction covers all suits between the Confederation and the cantons and between the Cantons themselves.
- The Federal Tribunal has jurisdiction, original and exclusive, in cases of high treason against the state and revolt and violence against federal authorities, crimes and offences against the law of nations, political crimes and misdemeanours which are either the cause or consequence of disorders and disturbances necessitating armed federal intervention and, finally, offences committed by the officials appointed by a federal authority before the Tribunal by that authority.
- In all cases of conflict of competence, it is the power of the Court to uphold the federal Constitution against ordinary laws and decrees of the cantons and the cantonal Constitution against ordinary laws and decrees of the cantons. Its power of judicial review is limited to cantonal governments alone and, as such, it can invalidate cantonal laws and look into the constitutional validity of cantonal executive actions.
- The Swiss judicial system is quite different from the American model. There are no subordinate courts and the Federal Tribunal stands alone. Nor has it separate officials to execute judgment. Its power of judicial review does not cover federal laws and decrees. It may further be added that although conflicts of jurisdiction between cantonal and federal authorities are decided by the Federal Tribunal, the conflicts of jurisdiction between the Federal Council and the Federal Tribunal are decided by the Federal Assembly.

Notes

9.5 Key-Words

1. Judiciary : The system of law courts that administer justice and constitute the judicial branch.
2. Jurisdiction : It is the practical authority granted to a formally constituted legal body or to a political leader to deal with and make pronouncements on legal matters and, by julisdiction to administer justice within a defined area of responsibility.

9.6 Review Questions

1. Discuss the rule and functions of US Supreme Court.
2. Write a descriptive note on the federal judiciary of Switzerland.
3. Briefly describe the Judicial Systems of
   (*i*) United Kingdom (*ii*) Russia
   (*iii*) Switzerland (*iv*) France

Answers: Self-Assessment

1. (*i*) 65, 70 (*ii*) 218 country
   (*iii*) Juvenile Courts (*iv*) civil
   (*v*) justices

9.7 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 10: Party System

CONTENTS

Objectives
Introduction
10.1 Meaning, Definition and Classification of Political Parties
10.2 Functions of Political Parties
10.3 Kinds of Party System
10.4 Summary
10.5 Key-Words
10.6 Review Questions
10.7 Further Readings

Objectives

After studying this unit students will be able to:

- Understand the Meaning, Definition and Classification of Political Parties
- Explain the Functions of Political Parties
- Discuss the Kinds of Party System

Introduction

In contemporary states it is difficult to imagine there being politics without parties. Indeed, in only two kinds of states today are parties absent. First, there are a few small, traditional societies, especially in the Persian Gulf, that are still ruled by the families who were dominant in the regions they control long before the outside world recognized them as independent states. Then there are those regimes in which parties and party activities have been banned; these regimes are run either by the military or by authoritarian rulers who have the support of the military. While these interludes of party-less politics can last for some years, ultimately the suppression of parties has proved to be feasible only as a temporary measure. As the military authorities relax their grip on power, or as unpopular policies stir discontent, so parties start to re-emerge from 'underground' or from their headquarters abroad. The difficulty that regimes have in suppressing party politics is one indicator of just how central parties are to governing a modern state.

If the conduct of both politics and government in modern states seems to require that there be political parties, this does not mean that parties are always revered institutions. Far from it. In some countries there is a long-standing distrust of parties. This is especially true in the United States where anti-party sentiments are evident from the very founding of the slate in the late eighteenth century. At times this anti-partism has manifested itself in moves to restrict the activities of parties. For example, at the beginning of the twentieth century, Progressive reformers in many of the American states introduced laws that prohibited parties from contesting local government elections. This did not prevent them from participating informally in these elections, but it did bring about a significant reduction of party activity at this level of politics. Moreover, even in countries where extensive party involvement in public lire appeared to have a high degree of public acceptance, dissatisfaction with politics could rebound on all the major parties. For example, in Germany in 1993 a protest movement calling itself 'Instead of Party' won seals in the Hamburg provincial parliament. And organizations that are recognizably parties may deliberately not use the word 'party' in their name, because of the connotations that word has. This has been true of the Gaullists in France and of the Northern League in Italy.

Notes

Given that parties are so important in the modern state, the next question to ask is—what precisely are they? In answering this we immediately come up against a problem. As many observers have noted, attempting a definition of 'party' is rather like attempting to define an elephant—anyone who has seen one knows what one looks like, but providing a definition for a person who happens never to have come across one is rather difficult. The problem is that of identifying precisely the boundaries between parties and other kinds of social and political institutions. For virtually every definition of a party produced by political scientists it is possible to find some institutions that are recognizably parties that do not conform with the definition in some significant way.

In most cases the long-term purpose of this interaction is for the party to take over control of the state, either on its own or in conjunction with other parties, but there are some exceptions that prevent us from thinking of this as a defining characteristic of a party.

- The goal of some parties is to bring about the ultimate dissolution of an existing state rather than to exercise power within it. For example, orthodox Marxists in the late nineteenth century saw the role of the Communist Party as helping to bring about the demise of the capitalist state; later, under Communism, there would be no role for the party. Again, Gandhi saw the Indian National Congress as a body that should dissolve once it had gained its objective of Indian independence from Britain. Today there are parties, such as the Bloc Quebecois, many of whose members have the ultimate objective of taking the province out of the Canadian federation, rather than exercising power within it.
- As a tactic to achieve its ultimate objective of bringing down a regime, a party may choose not to engage in one activity usually associated with 'exercising power', namely helping to form a government. In the French Fourth Republic, for example, the Communist Party usually obtained about a quarter of the vote. But, after 1947, even if other parties had been willing to have it in the government, it would probably not have chosen to do so. It believed it could effect better leverage for bringing down the regime by acting explicitly as an anti-regime party.
- There are some political groupings that call themselves parties, and which engage in some political activities associated with parties such as contesting elections, but whose purpose is either to entertain or to ridicule politics as an activity. Parties like the Rhinoceros Party in Canada or the Monster Raving Loony Part in Britain fall into this category.

10.1 Meaning, Definition and Classification of Political Parties

Meaning of Political Parties

According to Michael Curtis, it is notoriously difficult to define accurately a political party. The reason is that the views of the liberal and Marxist writers differ sharply on this point. Not only this, even the views of the English liberals differ form their American counterparts. The most celebrated view among the English leaders and writers is that of Burke who holds that a political party is "a body of men united for promoting the national interest on some particular principles in which they are all agreed." Reiterating the same view, Disraeli defined political party as "a group of men banded together to pursue certain principles."

So, according to Benjamin Constant, a party is "a group of men professing the same political doctrine." The key point in all these definitions relates to the issue of 'principles' of public importance on which the members of a party are agreed.

But the American view is different in the sense that here a political party is taken as an instrument of catching power. No significance is attached to the key point of 'principles' of national or public importance in which 'all are agreed.' A party is just a platform or a machinery for taking part in the struggle for power: it is a device for catching votes; it is an agency to mobilise people's support at the time of elections; it is an instrument for the aggregation of interests that demand their vociferous articulation. "We define a political party generally as the articulate organisation of society's active political agents, those who are concerned with the control of governmental powers and who compete for popular support with another group or group holding divergent views. As such, it is the great

Notes

intermediary which links social forces and ideologies to official governmental institutions and relates them to political action within the larger political community."

Such a view of political party makes it hardly distinguishable from a pressure or an interest group. A 'specific interest' may constitute the foundation of a political party. Thus, differences between or among political parties may be sought on the basis of specific interests. For this reason, Dean and Schuman observe that political parties have become essentially political institutions to implement the objectives of interest groups." A similar vein may be discovered in the interpretation of Grotty who says: "A political party is a formally organised group that performs the functions of educating the public.... that recruits and promotes individuals for public office, and that provides a comprehensive linkage functions between the public and governmental decision-makers."

But basically different from the English and American views is the Marxist view on the theme of political party as elaborated by Lenin. Here a political party is taken as a 'vanguard' of the social class whose task is to create class consciousness and then to prepare the proletariat for a bloody and violent revolution. Every party is a class organisation. The 'bourgeois' parties of whatever name have their vested interest in the maintenance of the *status quo*, but the party of the workers (communist party) has its aim at the overthrow of the existing system and its substitution by a new system in which power would be in the hands of the working class and the society under the rule of this party would be given a classless character so as to eventuate into a stateless pattern of life in the final stage of social development. As Lenin says: "The communist party is created by means of selection of the best, most classconscieres, most self-sacrificing and far—sighted workers.....The communist party is the lever of political organisation, with the help of which the more progressive part of the working class directs on the right path the whole of proletariat and the semi-proletariat along the right road." It is true that political parties grew as a faction in the early modern age, but now a distinction between the two is made.

Opposed to this, party is a respectable term. Its members take part in the struggle for power on the basis of some definite policies and programmes and they observe the sanctity of constitutional means. So it is said that while "a party acts by counting heads, a faction acts by breaking heads." But parties are 'specialised associations' and they become more complex, organised and bureaucratic as a society approaches the modem type."



Did u know? Faction is a bad term, because its members take part in disruptive and dangerous activities so as to paralyse the working of a government.

Definition of Political Parties

Group of persons organised to acquire and exercise political power. Formal political parties originated in their modern form in Europe and the U.S. in the 19th century. Whereas mass-based parties appeal for support to the whole electorate, cadre parties aim at attracting only an active elite; most parties have features of both types. All parties develop a political programme that defines their ideology and sets out the agenda they would pursue should they win elective office or gain power through extra parliamentary means. Most countries have single-party, two-party, or multiparty systems. In the U.S., party candidates are usually selected through primary elections at the state level. Political system in which individuals who share a common set of political beliefs organise themselves into parties to compete in elections for the right to govern. Single-party systems are found in countries that do not allow genuine political conflict. Multiparty and two-party systems represent means of organising political conflict within pluralistic societies and are thus indicative of democracy. Multiparty systems allow for greater representation of minority viewpoints; since the coalitions that minority parties must often form with other minority parties to achieve a governing majority are often fragile, such systems may be marked by instability.

Notes

Marxist Concept of Parties

Revolutionary Marxists reject all spontaneist illusions according to which the proletariat is capable of solving the tactical and strategic problems posed by the need to overthrow capitalism and the bourgeois state and to conquer state power and build socialism by spontaneous mass actions without a conscious vanguard and an organised revolutionary vanguard party based upon a revolutionary programme tested by history, with cadres educated on the basis of that programmeme and tested through long experience in the living class struggle. The argument of anarchist origin, also taken up by ultraleftist "councilist" currents, according to which political parties are by their very nature "liberal-bourgeois" formations alien to the proletariat and have no place in workers councils because they tend to usurp political power from the working class, is theoretically incorrect and politically harmful and dangerous. It is not true that political groupings, tendencies, and parties come into existence only with the rise of the modern bourgeoisie. In the fundamental (not the formal) sense of the word, they are much older. They came into being with the emergence of farms of government in which relatively large numbers of people (as opposed to small village community or tribal assemblies) participated in the exercise of political power to some extent (e.g., under the democracies of Antiquity) Political parties in that real (and not formal) sense of the word are a historical phenomenon the contents of which have obviously changed in different epochs, as occurred in the great bourgeois-democratic revolutions of the past (especially, but not only, in the great French revolution). The proletarian revolution will have a similar effect. It can be predicted confidently that under genuine workers democracy parties will receive a much richer and much broader content and will conduct mass ideological struggles of a much broader scope and with much greater mass participation than anything that has occurred up to now under the most advanced forms of bourgeois democracy. This argument is unhistorical and based on an idealist concept of history. From a Marxist, i.e., historical-materialist point of view, the basic causes of the political expropriation of the Soviet proletariat were material and socioeconomic, not ideological or programmematic. The general poverty and backwardness of Russia and the relative numerical and cultural weakness of the proletariat made the long-term exercise of power by the proletariat impossible if the Russian revolution remained isolated; that was the consensus not only among the Bolsheviks in 1917-18, but among all tendencies claiming to be Marxist.

Contemporary Views about the Parties

In contemporary view a political party is a political organisation that seeks to attain and maintain political power within government, usually by participating in electoral campaigns. Parties often espouse an expressed ideology or vision bolstered by a written platform with specific goals, forming a coalition among disparate interests. Formal political parties originated in their modem form in Europe and the U.S. inthe 19th century. Whereas mass-based parties appeal for support to the whole electorate, cadre parties aim at attracting only active elite; most parties have features of both types. All parties develop a political programme that defines their ideology and sets out the agenda they would pursue should they win elective office or gain power through extra parliamentary means. Most countries have single-party, two-party, or multiparty systems. In the U.S., party candidates are usually selected through primary elections at the state level.

Classification of Political Parties

The Elitist Parties

There are thus six types of party systems in Western democracies. At one extreme are the broadly based parties of the two-party system countries: the United States is the most perfect case of this type, but four other countries closely approximate this model and they only diverge in as much as they have a small centre party and are divided ideologically between conservatives and socialists. At the other extreme, the votes of the electors are spread fairly evenly, in groups of not much more than 25% and in many cases much less than 25% over the whole ideological spectrum, as in Holland, Switzerland, France, and Finland. Between these two poles, one finds four types of party systems: five countries have two-and-a-half-party systems: among them, three have a smaller centre party, while the other

Notes

two have a smaller left-wing party. The five remaining countries are multiparty systems with a dominant party, three of them having a dominant socialist party opposed by a divided right, largely because of the presence of an agrarian sentiment in the countries concerned, while the other two have a strong right-wing party opposed by a divided left, largely because of the presence of a substantial Communist party. Although America is considered a two-party system, there are hundreds of smaller third parties and minor parties that play an integral role in American politics. Most of these small parties will never come close to sending legislators to Washington. Others like Minnesota's depression-era Farmer-Labour Party would prove vital to the evolution of politics in the state. The Democratic Party is the largest and oldest party in America. It is a liberal party, which denotes its tendency to favor farmers, workers, underrepresented minorities, and unions. The party frowns upon the unchecked power of businesses and strives to reform the tax system to benefit the lower classes. Their voter base includes African Americans, environmentalists, Catholics, Jews, and in general, those with lower annual incomes. Their support spikes in major urban areas. Although fiscally centrist, the party has established itself as socially liberal. The party supports programmes like affirmative action and many of its members favour the legalisation of gay marriage, the abolition of the death penalty, and an economy buttressed by government intervention. The Republican Party is also known as the "Grand Old Party," or GOP.

Mass Parties

1. **Socialist Parties:** Socialist candidates and election programmemes pre-dated socialist parties. The British Labour Party was founded in 1900, as the Labour Representation Committee, one of its components being the Independent Labour Party, founded in 1893. The oldest socialist party in a leading country is the German Social Democratic Party, the SPD, which can trace its origins to the German Workers' Party, whose Gotha Programmeme of 1875, was fiercely criticized by Marx. The first socialist candidate in a US presidential election ran in 1892, (and got 0.19 per cent of the vote); no socialist party has ever established itself there. Although there were prominent socialists in France during the Revolution (and during the uprising of 1848, the continuous history of socialist parties in France dates back only to 1905. The reason for the late development of socialist parties was the late enfranchisement of the working class, where their mass support has always lain. Hardly had socialist parties started to benefit from the widening of the franchise when they were split as under by the First World War. Many of the leaders of the socialist movements in combatant countries continued to preach international socialism, but their followers deserted them. Only when the war was going very badly for all combatants did anti-war socialism revive, in 1916-18.
2. **A Political Party:** It described as a communist party includes those that advocate the application of the social principles of communism through a communist form of government. The name originates from the 1848, tract Manifesto of the Communist Party by Karl Marx, Friedrich Engels. The Leninist concept of a communist party encompases a larger political system and includes not only an ideological orientation but also a wide set of organisational policies. There currently exist hundreds, if not thousands, of communist parties, large and small, throughout the world. Their success rates vary widely: some are growing; others are in decline. In five countries (the People's Republic of China, Cuba, North Korea, Laos, and Vietnam) communist parties retain dominance over the state.
3. **Fascist Parties:** The National Fascist Party was an Italian party, created by Benito Mussolini as the political expression of fascism. The party ruled Italy from 1922 to 1943, under an authoritarian system. It is currently the only party whose reformation is explicitly banned by the Constitution of Italy: "it shall be forbidden to reorganise, under any form whatever, the dissolved fascist party" ("Transitory and Final Provisions", Disposition XII).

Intermediate Type Parties

Some of the Communist parties in power in developing countries do not differ significantly from their counterparts in industrialised countries. This is certainly true of the Communist Party of the Socialist Republic of Vietnam and the Workers' Party of North Korea. There have always been,

Notes

however, countries in which the single party in power could not be characterised in terms of a traditional European counterpart. This observation applies to, for example, the former Arab Socialist Union in Egypt, the Neo-Destour Party in Tunisia (renamed the Destour Democratic Rally), and the National Liberation Front in Algeria, as well as many other parties in black Africa. Most of these parties claimed to be more or less Socialist or at least progressive, while remaining far removed from Communism and, in some cases, ardent foes of Communism. President Nasser attempted to establish a moderate and nationalistic Socialism in Egypt. In Tunisia the Neo-Destour Party was more republican than Socialist and was inspired more by the example of the reforms in Turkey under Kemal Ataturk than by Nasserism. In black Africa, single parties have often claimed to be Socialist, but with few exceptions they rarely are in practice. Single parties in developing countries are rarely as well organised as Communist parties. In Turkey the Republican People's Party was more a cadre party than a mass-based party. In Egypt it has been necessary to organise a core of professional politicians within the framework of a pseudoparty of the masses. In sub-Saharan Africa the parties are most often genuinely mass based, but the membership appears to be motivated primarily by personal attachment to the leader or by tribal loyalties, and organisation is not usually very strong. It is this weakness in organisation that explains the secondary role played by such parties in government. Some regimes, however, have endeavoured to develop the role of the party to the fullest extent possible. The politics of Ataturk in Turkey were an interesting case study in this regard. It was also Nasser's goal to increase the influence of the Arab Socialist Union, thereby making it the backbone of the regime. This process is significant in that it represents an attempt to move away from the traditional dictatorship, supported by the army or based on tribal traditions or on charismatic leadership, toward a modem dictatorship, supported by one political party. Single-party systems can institutionalise dictatorships by making them survive the life of one dominant figure.

10.2 Functions of Political Parties

The political parties perform several important functions in modern political system that may be enumerated as under:

1. The parties unite, simplify and stabilise the political process. They bring together sectional interests, overcome geographical disturbances, and provide coherence to sometimes divisive government structures. For instance, the American Democratic Party provides a bridge to bring together the southern conservatives and northern liberals; the German Democratic Party bridges the gulf between the Protestants and the Catholics in Germany. In federal systems all political parties emphasise the uniting of different governmental structures, the extreme case being of South Africa. In this way, political parties tend to provide the highest common denominator.
2. Political parties struggle for capturing power; they strive to form order out of chaos. They seek to widen the interests they represent and harmonise these interests with each other. Though interest articulation is performed by pressure groups, the work of interest aggregation is done by the parties. For instance, the Conservative Party of Britain, in spite of the nature of its internal organisation and distribution of power, depends upon the support of diverse economic, social and geographical sections in English politics. All parties strive to extend the area of their support.
3. In a liberal democratic system the parties use means of mass media to give political education to the people. The parties may organise and control some unions or organisations for 'occupational and social implantation'. (Hening and Pindar) In a totalitarian system the party in power works for the mobilisation of support by activating the population by means of rallies, uniforms, flags and other displays of unity to emphasise the identification of the individual with the political party.
4. While increasing the scope of political activity and widening the base of popular participation, political parties perform the important function of recruiting political 1eaders. Men in authority are recruited through some channel. In political systems having weak and ill-organised political parties, power remains in the hands of the elites that are recruited from the traditional groups like hereditary ruling families or military organisations. In totalitarian countries where only one party is in power, political recruitment is made from the ranks of the same party. It is only

Notes

in countries having a liberal-democratic order that competitive party system prevails and political recruitment is made from different political parties.

5. Political parties present issues; they set value goals for the society. All parties have philosophical bases, no matter how blurred and no matter how divorced from the actual political behaviour of the party they are. Though American political parties, what R. A. Dahl says, have 'ideological similarity and issue conflict', they have no disagreement on the fundamental goals of the society. The two parties of Ireland (Fianna Fail and Fine Gael) are prototypes of two parties of the United States in respect of their 'ideological similarity and issue conflict' nature.
6. Political parties serve as the broker of ideas by selecting a number of issues and focussing attention on them. In a democratic system revolutionary parties (or those hostile to the established order as such) act not as conciliatory elements in aggregating the largest number of common interest but as focal points of discontent and organised opposition. The compromise needed in democratic political behaviour is never acceptable to them. These parties may adhere to the political left, as the communist parties do, or to the right as done by the fascist party in Italy and Nazi party in Germany (in the period before second World War), or the Poujadists in France, or to revolutionary nationalism as with Aprista in Peru, or the Revolutionary Nationalist Movement as in Bolivia. In a non-democratic system, revolutionary parties may not simply be the mechanism through which the political system operates, they may be the real core of the system itself with power being exercised by party leaders rather than by the government officials.
7. In newer and developing nations of the world where political habits and traditions are yet to grow up, political parties perform the job of political modernisastion. That is, they strive to give a particular shape to the government, provide the main link between different social and economic groups, constitute the chief agency for political education and socialisation, break down traditional barriers and act as the binding force in communities divided by groups based on tribal affiliations, religious denomination or sectarian origin. The role of the Congress Party in India may be said to be the best example of this kind where the great leaders played a significant role in framing the constitution and then running the administration of the country on the lines of parliamentary democracy so as to have secularisation of the pohty.
8. Political parties also perform social welfare functions that may be termed their 'non-political' activities. The parties work for the alleviation of the sufferings of the people during the days of famine, drought, epidemics, wars etc. They also work for the eradication of social evils like illiteracy, untouchability, ignorance, poverty etc. In Australia citizens may lead their life from cradle to grave within the frame of organisations linked to a party which include not only trade union and welfare groups but also stamp collecting societies, pigeon clubs, and weight-lifting associations.

Viewed thus, we may not endosse the view of Bryce that political parties "have two main functions—the promotion by argument of their principles and the carrying of decisions," though this part of his statement may be accepted that the main function of political parties is to offer politics and programmes and translate them into action after being in power.


Notes

Political parties provide a link between the government and the people. They seek to educate, instruct and activate the electorate. That is, they perform the job of political mobilisation, secularisation and recruitment.

10.3 Kinds of Party System

The most simplified way of classifying different party systems is to put them into three broad categories—one-party system, bi-party system, and multi-party system, though a student of empirical political theory may discover some more forms within the three broad forms on the basis of a neater division of the party systems. We may briefly discuss them as under:

Notes

With the emergence of a communist state in Russia in 1917 under the leadership of Lenin, one-party system came into being. The Bolsheviks became the Communist Party that established a new kind of political order called 'dictatorship of the proletariat'. The Stalin Constitution of 1936 frankly prohibited formation of any other political party. It had its own form in Italy when Mussolini gradually finished all other parties by 1925 and then established the dictatorship of his Fascist Party. So it happened in Germany under Hitler after 1934. He finished all other parties and on 9 July, 1939 claimed: "The political parties have now been fully abolished. The National Socialist Party (NAZI) has now become the state."

The model of one-partyism covered other countries of the world as well. Spain, Portugal, Mexico and a large number of Central and East European states (like Yugoslavia, Albania, Bulgaria, Hungary, Poland, Romania, Czechoslovakia and East Germany) had the same experiment. After the second World War, it had its expression in China under the leadership of Mao. We may also take note of the fact that military dictators followed the same pattern as Egypt under Arab Socialist Union of Col. Nasser, Burma under Socialist Party of Gen. Ne Win Indonesia under Golkar Party of Gen. Suharto and Iraq under Baath Party of Saddam Hussain..

Some cogent arguments are given in favour of one-party system so as to remove the stigma of its being 'undemocratic'. These are:

1. It is urged that the single party is the reflection of national unity. Democratic pluralism sacrifices the general interest of the nation for private and sectional interests in the cracked mirror of parties with the result that the country no longer recognises its own image. The single party preserves the unity of the nation and looks at all problems from the national point of view.
2. This model is said to reflect the social unity of the people. As contended by the Marxists, each party is an expression of the social class. Since a communist society has a singular character, it is a 'state of the toilers, it must have only one political party. Different political parties may exist only in a bourgeois country where different social classes exist.
3. A single-party state is 'a bearer of ideals', 'an incarnation of faith', 'a moral or an ethical system', ' a new religion'. As such, a single party can alone function in its defence. "The development of the single party coincides with the rebirth of the state religions in the new forms they have assumed in the contemporary world; we have a religious state rather than a State religion."

But all such arguments are unconvincing in view of the fact that this one-party model is antithetical to the working of a democratic system. It is another name of a totalitarian system whether of the right (fascism) or of the left (communism). "The one-party state is founded on the assumption that the sovereign will of the state reposes in the leader and his political elite. This authoritarian principle found expression first in monarchies and more recently in dictatorships. Needing a monopoly of power to survive, the dictatorship abolishes all opposition parties. In order to stifle recurring resistance, it is driven to adopt techniques of physical coercion such as *purge* and *liquidation*, and to employ measures of psychological coercion through extensive and vigorous propaganda campaigns."



What do you mean by 'dictatorship of the proletariat'?

Then, we may take up the case of *bi-party system*. Here power alternates between two major parties. There may be some more parties in the country, but they are of no consequence in the struggle for power. Britain is its leading instance where power alternates between the Conservative and the Labour parties. The Liberal and the Communist parties are there, but they have hardly any place of significance. Some regional parties are also there as Irish Nationalists and Plaid Cymru of Scotland, but their position is almost negligible. So in the United States, the Democratic and the Republican parties dominate the scene. Though Britain and the United States are the two leading cases in this direction, one important point may be stressed here that while the two parties of Britain may be distinguished on the basis of the policies and programmes, the lines of distinction between the two American parties are not clear in view of the fact that they have 'ideological similarity and issue conflict.'

Notes

This model has its own merits and demerits. Its merits are:

1. It ensures successful working of the parliamentary form of government. The party getting absolute majority forms the government, the other party forms the opposition. In this way, the government and the opposition form the fore and back legs of a democratic stag. The ministers feel secure in their position; they know that they may not be voted out by the opposition party so long as they are united and their ranks have the mark of solidarity.
2. The stability of government has its natural effect on the efficiency of administration. The government is in a position to maintain and effectively pursue its policies and programmes.
3. This system keeps a good option before the people. In general election, they give their verdict in favour of one party. But when they feel dissatisfied with the working of the party, they may put another party in power. The opposition party always ensures the formation of an alternative government.
4. Each major party plays a positive and constructive role so as to win the sympathy of the electorate. It behaves in a very responsible way so that the other party may not cash political capital out of its objectionable act of commission and omission.

In short, the bi-partyism "is the only method by which the people can at the electoral period directly choose its government. It enables the government to drive its policy to the statute book. It makes known and intelligible the result of its failure. It brings an alternative government into immediate being." So Barker says: "Multiply the sides, and you get a tangle of cross-threads which perplex the mind."

But it has its demerits too which are:

1. It puts limits on the choice of the electorate. The voters are bound to choose only one of the two alternatives before them. It may be that they dislike both and yet they have to give their verdict in favour of either. In this way, it puts definite limits on the expression of public opinion.
2. It is said that the division of the nation into only two political parties "must obviously be more or less unreal or arbitrary, since it would be absurd to suggest that there could ever be only two schools of thought in a nation."
3. It strengthens the position of the government (cabinet) to the extent that the position of the legislature (parliament) is undermined. The ministers enjoy a safe tenure and they do not bother much for the criticism of the opposition leaders. The party in power is backed by a comfortable majority with the result that the authority of the legislature is declined. It leads to the emergence of 'cabinet dictatorship."
4. It substitutes blind devotion for intelligent appreciation and choice in both the leaders and the led. The leaders of the two major parties get undue importance and the followers lose their individuality.

In spite of this, it may be said that while single-party system is dictatorial, bi-party system is democratic.

Finally, we take up the case of *multi-party system*. It signifies the existence of many political parties, big and small, in the country. The alternation of power takes place between parties more than two; it is also possible that coalition governments are formed which work successfully. France, Holland, Belgium, Germany, Italy, Switzerland, Canada, Australia, South Africa and India are the leading instances here.

The panorama of party system is so fluid that a good number of pressure groups behave like political parties. The cases of fragmentation and polarisation of political parties may also be taken note of. It is also possible that some minor political organisations emerge at the time of elections and then they disappear. But the most essential fact remains that three, four, or even more parties manage to share power.

As we have seen in the case of bi-party system, so here we may note its merits and demerits. Its merits are:

1. It gives ample choice to the voters. They may examine and cross-examine the policies and programmes of different parties and then give their verdict in favour of one, or of few they like best. That is, it widens the choice of the electors and provides avenues of their satisfaction.

Notes

2. It gives adequate representation to numerous interests of the people. Political parties may widen their base by means of having alliances with organised interest groups. Obviously, such a system has the merit of elasticity and mobility.
3. It also protects the individuality of a self-respecting person. In case he is not satisfied with the working of one party, he may leave it and join some other party of his choice. Since other parties are there, he may opt for anyone of them without any fear of being condemned by this or that party in particular.
4. Above all, it acts as a powerful check on the trend of despotism. The leaders of a party cannot act arbitrarily in dealing with the rank and file. The ministers also have to act in a responsible way. In a coalition government dictatorial position of any party is impossible.

But it has its demerits too. These are:

1. The large number of political parties creates a lot of confusion. It is possible that no party is in a position to have stable majority. As a result, the government would not enjoy stability. Coalitions may be formed and deformed from time to time with the result that the tenure of a government is as short as that of a month as in the case of French cabinets under the Fourth Republic (1946-58).
2. It encourages small groups to enter into the arena of struggle for power. The result is that the legislature is converted into a theatre of conflicting factions. Local and sectional interests dominate the scene. Considerations of general interest are ignored.
3. The fact of the instability of government and the role of powerful interest groups mar administrative efficiency and seriously affect smooth working of the mechanism of political organisation.
4. The mushroom growth of political parties coupled with the fact of their frequent fragmentation and polarisation obstruct the creation of a healthy public opinion and a healthy opposition capable of offering sound prospects of an alternative government in the country.

In the end, it may be asked as to which model is the best of all. No final conclusion can be given here, though this much maybe said that the model of one-partyism is undemocratic. But the models of bi-partyism and multi-partyism are quite democratic. And if it is further asked as to which of the two is better? Now it may be said the both models are equally good and it depends upon the local conditions of a country as to which model she should adopt. The main requirement is that the system should be successful in its operation. Britain and America are well satisfied with the stability of their bi-party system. Other countries like Switzerland and Germany are also satisfied with the stable character of their multi-party system. A fine conclusion would be: "In any event the advantages and disadvantages of either system are relative to the intelligence and culture of the community. The essential thing is that government should rest on as broad a basis of opinion as possible, maintaining, in spite of its party character, the unity of a whole people"

Critical Appreciation

Now we may look into the issue of merits and demerits of the party system and then have a peep into the possible way out. The merits of the party system may be enumerated as under:

1. It is argued that political parties are in accord with human nature. The people of a country have different nature and temperament due to which they have different social, economic and political ideas. It is on account of this fact that groups and factions of the people have always been in esistence, though it is a different matter that they have assumed some new names in modern times.
2. Political parties have an importance of their own in modem times of democracy that "rests in its hopes and doubts upon the party system. There is the political centre of gravity." A party acts as the vehicle of ideas and opinions of the people and a powerful instrument for holding elections. Without political parties the electorate would be highly diffused and atomised and opinions too variant and dispersive. Hence, the true reason for the existence of the party is bringing public opinion to a focus and framing issues for the political verdict."

Notes

3. Parties unite the people of a country by means of political mobilsation and recruitment. They not only place issues and matters before them, they give national character to local and regional issues. The leaders move from one part of the country to another; they have a set of followers hailing from different parts and regions of the country. They meet, they discuss, and then they decide matters in a way so that a semblance of public interest may be accorded to them. The result is that the working of the parties enables the people to distinguish between regional and national matters and accordingly shape their ideas and attitudes. So it is said that the parties "gather up the whole nation into fellowships, and they lead in the sense of bringing to the individual citizen a vision of the whole nation, otherwise distant in history, territory and futurity."
4. Parties act as a check against the tendency of absolutism what is also known by the nicknames of 'Caesarism' and 'Bonapartism.' When one party forms government or few parties form a coalition to hold power, other parties play the role of opposition. It not only keeps the government vigilant, it also prevents it from being arbitrary and irresponsible. The leaders of the opposition expose acts of corruption, scandals and maladministration in which great men in power are involved. Thus, great leaders like Prime Minister Macmillan of England and President Nixon of the United States had to resign. Lowell, therefore, endorses: "The parties enable the people to hold the government in check. The constant presence of a recognised opposition is an obstacle to despotism."
5. The parliamentary form of government cannot operate without the role of political parties. The party getting majority in the elections forms the government and other parties form the opposition. The Prime Minister is the leader of the majority party and theministers are his partymen. If the ruling party resigns, the opposition parties may be given the chance to form the alternative govenment. One may easily grasp the point that type of government cannot separte if there is no party system in the country. Bryce says that "if there is no party voting, and everybody gave his vote in accordance with his own, perhaps crude and ill-informed, opinions, parliamentary government of the English type could not go on."
6. It is also said that political parties impart political education to the people. The leaders of the parties deliver public speeches, they lead processions and stage demonstrations, release pamphlets and books, publish newspapers and periodicals and do many other things to have the participation of the people in the domain of politics as far as possible. By organised campaigns and movements of the political parties the people are awakened; they understand the value of their political rights; they get lessons of political socialisation; they come forward with their demands, which the government has to meet within the framework of the fundamental rules of the state.
7. Parties save a country from political turmoils created by crafty leaders. They appraise issues and counter-issues and then apprise the people of their respective merits and demerits. They may also warn and forewarn the people of certain consequences entitling from the commission or omissions on certain counts. In other words, great leaders may put a check on the irresponsible behaviour of the younger or distracted leaders whose doings may lead to unwarranted situations of public resentment. Only strong parties may give a constructive direction to the enthusiasm of the people.

But the party system has its demerits too. We may enumerate them as under:

1. The rise and development of party system is like an unnatural political phenomenon. Different parties demonstrate an artificial agreement among people who profess to have identical views. The disagreement with their opponents is, in the same fashion, based on artificial grounds. Thus, reason is dominated by passions and emotions and the people agree to disagree in most of the controversial situations just for the sake of sticking to their pretentious convictions. As a result of this, groupism and factionalism develop that create conditions of ill-will and confrontation. We may also take note of the fact that party system divides a community into irreconcilable camps which seek to degrade each other. "It tends to make the political life of the country machine-like or artificial. The party in opposition, or, as it is sometimes called, the outs is always antagonistic to the party in power or the ins."

Notes

2. Political parties, in most of the cases, fight for their own interests. The members look at every important point from the viewpoint of their party interest. As a result, in many situations, the general interest is sacrificed at the altar of sectional interests. It narrows the vision of the members, because they are more concerned with the gains of their party and not with the gains of the community as a whole. Scramble for the 'spoils' goes on so that all benefits may be grabbed by the men of the party and, more than that, by the group of the party in power.
3. Party system destroys the individuality of man. Whatever is decided by the party bosses must be obeyed and followed by others. The dissenters are not taken happily; they are taken to task for saying or doing anything against the rules or traditions of the party. There is hardly any scope for most of the members to exercise their initiative in important policy matters. It is a small coterie that rules the roost, the rank and file are like hand-raisers or carpet unrollers. In case some man of initiative or enterprise displays his intrinsic mettle, it is not unlikely that he may face the situation of a 'purge' or some other punitive action.
4. Parties become an instrument in the hand's of vested interests. Big social and economic organisations hire politicians for their selfish purposes. They finance political parties and provide them necessary resources for contesting elections. When such party leaders get high political officies, they do for the interest of their solicitors. Powerful pressure groups establish their links with party leaders and thereby manage to set up their 'colonies' in the important areas of public administration. In such a situation, the real policy-makers and the real administrators of a country are not the so-called 'representatives' of the people, they are the 'agents' or powerful interests having influential positions in the ranks of political parties.
5. Party system creates unnecessary politicisation from the level of national government to that of municipal and rural administration.

Thus, the men of merit and integrity are replaced by the men of politics at all levels. The trends of hollowness and insincerity grow more and more; favouritism and nepotism also develop side by side. It all causes 'degradation of political life by sectional interests'.

As a matter of fact, party system has its strong as well as weak sides and if a verdict is to be given on the charges, it will hold it neither 'guilty', nor 'not guilty', but 'greatly exaggerated'. In spite of its weaknesses, the existence of political parties is essential. Therefore, the way out should be the reform of the system so that it may work as satisfactorily as possible. The successful working of party system in some leading democratic countries of the world should be referred to at this stage. Hence, we endorse some suggestions for the successful working of political parties:

1. The number of political parties should not be unduly large. It is good that a country has four or five big political parties and the alternation of power takes place among them smoothly. A statutory check should be imposed on the proliferation of political parties.
2. When a new party is created, it should be put on a period of probation and it should be recognised only after it has proved its *bona fides*. For this purpose, there should be very specific as well as stringent rules and regulations.
3. The policies and programmes of every political party should be scrutinised. Recognition should be given to a party if it has a distinct policy of its own. If some parties have similar programmes, they should be merged. Importance should be given to the principles and not to the whims and caprices of the personalities.
4. It is also necessary that only those parties should be allowed to function, which have faith in democratic and constitutional means. No leniency should be shown to a party that expresses its resolve to break the constitution or to subvert the democratic system by violent and insurrectionary methods.
5. The funds of parties should be audited from time to time so that it may be given for public information as to wherefrom they could get the funds and on what items the money was spent. Lavish funding to political parties by private agencies should be banned.

Self-Assessment

Notes

1. Choose the correct options:

(*i*) A political party is an institution that
- (*a*) Seeks influence in a state
- (*b*) Attempting to occupy positions in government
- (*c*) Usually consists of more than single interest in the society.
- (*d*) All of these.

(*ii*) The independent labour party was founded in
(*a*) 1893 (*b*) 1894 (*c*) 1857 (*d*) 1888

(*iii*) The National Fascist party was
(*a*) German party (*b*) a Canadian party
(*c*) a Italian party (*d*) None of these

(*iv*) Parties act as a check against the tendency of absolutism what is also known as
(*a*) Caesarism (*b*) Bonapartism (*c*) both (*a*) and (*b*) (*d*) None of these

(*v*) The National Fascist Party ruled Italy from
(*a*) 1922 to 1943 (*b*) 1900 to 1930 (*c*) 1913 to 1947 (*d*) 1920 to 1950.

10.4 Summary

- A body of men united for promoting the national interest on some particular principles in which they are all agreed." Reiterating the same view, Disraeli defined political party as "a group of men banded together to pursue certain principles.
- "We define a political party generally as the articulate organisation of society's active political agents, those who are concerned with the control of governmental powers and who compete for popular support with another group or group holding divergent views. As such, it is the great intermediary which links social forces and ideologies to official governmental institutions and relates them to political action within the larger political community."
- Thus, differences between or among political parties may be sought on the basis of specific interests. For this reason, Dean and Schuman observe that political parties have become essentially political institutions to implement the objectives of interest groups.
- A political party is a formally organised group that performs the functions of educating the public.... that recruits and promotes individuals for public office, and that provides a comprehensive linkage functions between the public and governmental decision-makers."
- The 'bourgeois' parties of whatever name have their vested interest in the maintenance of the *status quo*, but the party of the workers (communist party) has its aim at the overthrow of the existing system and its substitution by a new system in which power would be in the hands of the working class and the society under the rule of this party would be given a classless character so as to eventuate into a stateless pattern of life in the final stage of social development.
- Faction is a bad term, because its members take part in disruptive and dangerous activities so as to paralyse the working of a government.
- All parties develop a political programme that defines their ideology and sets out the agenda they would pursue should they win elective office or gain power through extra parliamentary means.
- Multiparty and two-party systems represent means of organising political conflict within pluralistic societies and are thus indicative of democracy. Multiparty systems allow for greater representation of minority viewpoints; since the coalitions that minority parties must often form with other minority parties to achieve a governing majority are often fragile, such systems may be marked by instability.

Notes

- The general poverty and backwardness of Russia and the relative numerical and cultural weakness of the proletariat made the long-term exercise of power by the proletariat impossible if the Russian revolution remained isolated; that was the consensus not only among the Bolsheviks in 1917-18, but among all tendencies claiming to be Marxist.
- All parties develop a political programme that defines their ideology and sets out the agenda they would pursue should they win elective office or gain power through extra parliamentary means. Most countries have single-party, two-party, or multiparty systems. In the U.S., party candidates are usually selected through primary elections at the state level.
- The Democratic Party is the largest and oldest party in America. It is a liberal party, which denotes its tendency to favor farmers, workers, underrepresented minorities, and unions.
- The first socialist candidate in a US presidential election ran in 1892, (and got 0.19 per cent of the vote); no socialist party has ever established itself there.
- The Leninist concept of a communist party encompasses a larger political "system and includes not only an ideological orientation but also a wide set of organisational policies. There currently exist hundreds, if not thousands, of communist parties, large and small, throughout the world. Their success rates vary widely: some are growing; others are in decline.
- The parties unite, simplify and stabilise the political process. They bring together sectional interests, overcome geographical disturbances, and provide coherence to sometimes divisive government structures.
- In federal systems all political parties emphasise the uniting of different governmental structures, the extreme case being of South Africa.
- Political parties provide a link between the government and the people. They seek to educate, instruct and activate the electorate. That is, they perform the job of political mobilisation, secularisation and recruitment.
- In political systems having weak and ill-organised political parties, power remains in the hands of the elites that are recruited from the traditional groups like hereditary ruling families or military organisations. In totalitarian countries where only one party is in power, political recruitment is made from the ranks of the same party. It is only in countries having a liberal-democratic order that competitive party system prevails and political recruitment is made from different political parties.
- In a democratic system revolutionary parties (or those hostile to the established order as such) act not as conciliatory elements in aggregating the largest number of common interest but as focal points of discontent and organised opposition.
- Political parties also perform social welfare functions that may be termed their 'non-political' activities. The parties work for the alleviation of the sufferings of the people during the days of famine, drought, epidemics, wars etc.
- In Australia citizens may lead their life from cradle to grave within the frame of organisations linked to a party which include not only trade union and welfare groups but also stamp collecting societies, pigeon clubs, and weight-lifting associations.
- With the emergence of a communist state in Russia in 1917 under the leadership of Lenin, one-party system came into being. The Bolsheviks became the Communist Party that established a new kind of political order called 'dictatorship of the proletariat'.
- "The development of the single party coincides with the rebirth of the state religions in the new forms they have assumed in the contemporary world; we have a religious state rather than a State religion."
- "The one-party state is founded on the assumption that the sovereign will of the state reposes in the leader and his political elite.
- Britain is its leading instance where power alternates between the Conservative and the Labour

Notes

parties. The Liberal and the Communist parties are there, but they have hardly any place of significance.

- The stability of government has its natural effect on the efficiency of administration. The government is in a position to maintain and effectively pursue its policies and programmes.
- Each major party plays a positive and constructive role so as to win the sympathy of the electorate. It behaves in a very responsible way so that the other party may not cash political capital out of its objectionable act of commission and omission.
- It is said that the division of the nation into only two political parties "must obviously be more or less unreal or arbitrary, since it would be absurd to suggest that there could ever be only two schools of thought in a nation."
- The large number of political parties creates a lot of confusion. It is possible that no party is in a position to have stable majority. As a result, the government would not enjoy stability. Coalitions may be formed and deformed from time to time with the result that the tenure of a government is as short as that of a month as in the case of French cabinets under the Fourth Republic (1946-58).
- The mushroom growth of political parties coupled with the fact of their frequent fragmentation and polarisation obstruct the creation of a healthy public opinion and a healthy opposition capable of offering sound prospects of an alternative government in the country.
- Political parties have an importance of their own in modern times of democracy that "rests in its hopes and doubts upon the party system. There is the political centre of gravity." A party acts as the vehicle of ideas and opinions of the people and a powerful instrument for holding elections.
- Parties unite the people of a country by means of political mobilsation and recruitment. They not only place issues and matters before them, they give national character to local and regional issues.
- The parliamentary form of government cannot operate without the role of political parties. The party getting majority in the elections forms the government and other parties form the opposition. The Prime Minister is the leader of the majority party and theministers are his partymen. If the ruling party resigns, the opposition parties may be given the chance to form the alternative govenment.
- Political parties, in most of the cases, fight for their own interests. The members look at every important point from the viewpoint of their party interest. As a result, in many situations, the general interest is sacrificed at the altar of sectional interests.
- Parties become an instrument in the hand's of vested interests. Big social and economic organisations hire politicians for their selfish purposes. They finance political parties and provide them necessary resources for contesting elections.

10.5 Key-Words

1. Polarisation : It is the process by which the public opinion divides goes to the extremes.
2. Dictatorship : As an autocratic form of government in which the government is ruled by an individual-a dictator.

10.6 Review Questions

1. What do you mean by Party System?
2. Discuss the functions of political parties.
3. Explain the kinds of party
4. Define party system.

Notes

Answers: Self-Assessment

1. (*i*) (*d*) (*ii*) (*a*) (*iii*) (*c*) (*iv*) (*c*) (*v*) (*a*)

10.7 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 11: Pressure Groups

CONTENTS

Objectives
Introduction
11.1 Meaning and Nature of a Pressure Groups
11.2 Difference between Political Parties and Pressure Groups
11.3 Kinds and Role of Pressure Groups
11.4 Summary
11.5 Key-Words
11.6 Review Questions
11.7 Further Readings

Objectives

After studying this unit students will be able to:

- Understand the Meaning and Nature of a Pressure Groups.
- Know the Difference between Political Parties and Pressure Groups.
- Discuss the Kinds and Role of Pressure Groups.

Introduction

Recent studies of the role of pressure groups in the sphere of modern empirical political theory have appeared as a refined version of the philosophical and deductive theories of pluralism. Here the atomistic liberalism of Locke and the idealistic collectivism of Green that had their clear manifestation in the works of great pluralists like Figgis, Maitland, Cole and Laski have been replaced by, what may be called, analytical pluralism of David Truman, V.O. Key, Jr. and Earl Latham who have taken inspiration from Bentley's *The Process of Government* published in 1908. The group theorists, as they are called, take it for granted that society is a mosaic of numerous groups living in interaction with each other. Curiously, the groups make claims on the government and the government, in turn, acts as the adjuster or the balancer of the interests of the social groups. The result is that each of the major social groups "tends to associate itself with a distinctive interpretation of politics or ideology." The emphasis on the dynamics as well as the processes in group theory "is essentially a criticism of the formalism and static quality of the institutional approach to political analysis that was prevalent in the early phase of the twentieth century. In addition, the tenacious insistence of group theorists on the central position of the group was a reaction not only to the atomistic individualism of the so-called classical liberals but also to a kind of simple psychologism that purported to deal with social events in terms of human ideas and ideals without a very adequate theory of perception.

11.1 Meaning and Nature of a Pressure Groups

The politics of pressure groups hinges on the psychological foundation of self-interest. It is the cardinal factor of self-interest that forces men to be in unison with other 'like-minded' ones in order to enhance their position and power to the point of gaining recognition, legitimisation and realisation of their specific interest. That is, it depends upon the fact that "a man's skin sits closer to him than his shirt. And so men think more carefully, as a rule, about their immediate concern than about their general welfare; they are more likely to perceive their own interests in politics than the larger framework. "However, the interests of a man are many and multifold. He lives not in a 'universe' but in a 'multiverse' of interests, unless he is a recluse or a man living away from the life of his community.

Notes

Keeping this in view, it is noted that the study of pressure group politics must be made within the general framework of man's diverse interests and issues coming out of their interaction, inter-relation and interpenetration. As J.D.B. Miller says: "The individual is then a universe of interests; their orbits intersect, their influences upon him vary with time and circumstances. It is the exceptional man (in a developed society) who serves only a single interest all the time".

It follows that the individuals live in a 'multiverse' of interests. They have many interests and struggle for their protection, furtherance and realisation. A social whole is a 'vast complex of gathered union' some of which are clearly organised bodies, while others are amorphous collections of individuals having ephemeral existence or appearing only at certain times. As a member or supporter of a political party, an individual may agree to reduce his independence to the position of a cog in the machinery of a political organisation, yet he may keep himself free to move in and join other'para-political' organisations called pressure or interest groups for the protection and promotion of his interests. These basic divisions are inevitable and permanent, but the social system manages to accommodate them and keep them in some sort of balance, though uneasy, as the situation of balance changes its pattern from time to time. Through the interpenetration and interplay of various conflicting interests, people, in the main, "learn to live with one another, through a sense of interdependence, through a sense of what is possible, and through the intervention of the forces of law and order".

It may now be possible to frame a simple definition of the term 'pressure group'. It is employed "to describe any collection of persons with common objectives who seek their realisation through political action to influence public policy. Still more simply, an interest group is any that wants something from the government". Prof. Maclver says: "When a number of men united for the defence, maintenance or enhancement of any more or less enduring position or advantage which they possess alike in common, the term 'interest' is applied both to the group so united and to the cause which unites them. In the sense, the term is most frequently used in the plural, implying either that various similar groups or advantages combine to form a coherent complex, as in the term vested interests or that the uniting interest is maintained against an opposing one, as in the expressions conflict of interest or balance of interests. Interests so understood usually have an economic-political character.

A pressure group has been defined as "an organised aggregate which seeks to influence the context of governmental decisions without attempting to place its members in formal governmental capacities". Thus, the important aspects of the pressure group activity "are that pressure groups are firmly part of the political process and that they attempt to reinforce or change the direction of government policy, but donot wish, as pressure groups, to become the government. They range from powerful employer organisations and trade unions operating at the national level to small and relatively weak local civic groups trying to improve local amenities". A peculiarly American interpretation of the term 'pressure groups' has been given by Henry A. Turner who says: "By definition, pressure groups are non-partisan organisations which attempt to influence some phase of public policy. They do not themselves draft party programmes or nominate candidates for public office. Pressure associations do, however, appear before the resolutions committees of the political parties to urge the endorsement of their programme as planks in the parties' platforms. They often attempt to secure the endorsement of both major parties and thus remove their programme from the arena of partisan controversy. Many groups are also active in the nomination and election of party members to public offices".

Pressure groups play their part in every political society. It would be worthwhile to enumerate their characteristic features to highlight their different dimensions and areas of operation in order to understand the working of a modern political system from a micro-angle of vision. An enquiry in this regard starts with the presupposition that practical or applied politics is a matter of continual tension, of unstable equilibrium between various conflicting interests of the people. Any attempt in the direction of considering as to how these interests take their shape to emerge in the form of political forces having their definite impact upon the nature and working of a political system naturally becomes a matter of great significance. Keeping in mind the picture of organised groups operating in a political system, the characteristic features of pressure groups may be enumerated thus:

Notes

1. A specific interest is the root of the formation of a pressure group. It follows that there can be no group unless there is a specific interest forcing the individuals to actively resort to political means in order to improve or defend their positions, one agianst another. As birds of the same feather flock together, individuals having a common interest come together to fight for the protection and promotion of their interests. As this fight requires active participation for the sake of potential articulation, it becomes essential that the members of a group have a serious and stable base. That is, there is no group at all where a body of people take things non-seriously, or they disperse after signing a resolution or witnessing a football match. In the true sense, a particular organised group "claims to represent, not only those who are actually members of it, but also all those who are potentially members of it, by virtue of some common characteristic which they share with the groups.
2. Pressure groups play the role of hide-and-seek in politics. That is, they feel afraid of coming into politics to play their part openly and try to hide their political character by the pretence of their being non-political entities. It sometimes creates the problem of their political character and it becomes a matter of dispute to say whether a particular group is a political entity or not as it seems to confine its interest to the domain of economics or sociology. The part played by them for the sake of expediency leads to the problem of their role identification. It may, nevertheless, be pointed out that the role of pressure groups dwindles between the poles of full politicisation like that of political parties and non-politicisation like that of social or cultural organisations. Eckstein is very right in his assessment that pressure group politics "represents something less than the full politicisation of groups and something more than utter depoliticisation: it constitutes an intermediate level of activity between the political and the apolitical".
3. The above point leads to the issue of differentiation between a pressure group and a political party. While the latter is a bigger organisation committed to certain principles and programmes and plays an open role in the politics of the country, the former has a limited clientele and strives to play the role of either a splinter group within a political party or shifting its loyalty and support from one party to another and, at the same time, pretending its aloofness from politics. However, both have a political complexion. While a political party plays politics by virtue of its profession, a pressure group does likewise for the sake of expediency. They, for this reason, resemble each other in being "informal and extra-constitutional agencies that provide a good deal of propulsion for the formal constitutional system".
4. Keeping in view the degree of political involvement, pressure groups may be termed either 'sectional' or 'cause' groups. They may also be called political and semi-political groups.


Notes

They are political or sectional groups when they have a long-range interest and strive to have a part in the political process for the common needs of their members which are not of a transient kind.

In contrast, cause groups are formed for a very short occasion to protect or propagate a certain belief, as religious or humanitarian, and all of their activities are by no means related to the process of governmental activity. While the former "represent a section of the community" and their concern is confined to looking after the interest of their members (as farmers or labourers or businessmen), the latter represent some belief or principle (as abolition of capital punishment) and "seek to act in the interest of that cause".

Viewed in a wider perspective, pressure groups may be classified into four parts-'institutional' groups (like government departments) which exist to perform functions and keep the governmental process

Notes

in operation, 'non-association' groups based on class, kinship, religion or other traditional characteristic bases of communication being informal, or intermittent, 'anomic' groups appearing in the form of spontaneous uprisings like demonstrations, processions, marches, riots, etc. and 'associational groups formally organised to represent the interests of particular persons also to enjoy the advantages that such association provides in dealing with other political structures.

11.2 Difference between Political Parties and Pressure Groups

In a technical sense, a political party may be distinguished from a pressure group on these grounds:

1. A party is a very big unit having a membership in thousands, even millions, but a group is a comparatively very small entity having its membership in hundreds and thousands. It is possible that a political party may be a small organisation having a few hundred or thousand members(as Sokka Gakkai of the Buddhists in Japan) and there the line of distinction between a political party and a pressure group may be blurred.



A pressure group is described as an instrument of interest articulation.

2. But a party is a federation or an alliance of many interests. It includes persons belonging to various walks of life like businessmen, workers, farmers, lawyers, and the like. So a party is regarded as an instrument of 'interest aggregation'.
3. But the most important point of distinction between the two is that while a political party plays its part in the political process of the country 'openly', pressure groups do so by involving themselves in the game of 'hide and seek'. A party has its registered offices, constitution, flag, membership records, list of office bearers, and it frankly and proudly owns responsibility for certain actions in the field of politics, a pressure group pretends to remain politically neutral while being very much involved in the game of struggle for power. It is for this reason that most of the pressure groups prefer to operate in the field of politics through the medium of some political parties. We may also take note of the fact that while some pressure groups have open and permanent links with a political party (as British business interests with Conservative Party and labour unions with the Labour Parly), others have their shifting links as per the exigencies of the situation.

11.3 Kinds and Role of Pressure Groups

Kinds of Pressure Groups

The pressure groups of a country may be put into different categories. For instance, the organisations of the industrialists, producers, manufacturers, and entrepreneurs may be included in the category of business groups, the bodies of the agriculturists may be included in the category of peasant groups, the associations of the workers engaged in industrial enterprises may be included in the category of labour groups and the like. Since people of all professions (like lawyers, engineers, doctors, teachers, technicians etc.) have their own associations, these may be put together in the category of professional groups. Then, there are a very large number of religious, communal and communitarian bodies that may be treated as pressure groups in their own right when they do something, directly or indirectly, overtly or covertly, to affect the administration of the country. In addition to this, we may prepare a long list of many spontaneous and anomic units like unions of the students and organisations of the militants who may take part in the political process of the country at the spur of the moment and who may go to indulge in activities of violence to any extent. In short, the pressure groups of a country may be put into business, labour, peasant, religious and communitarian, and anomic categories. This may be termed horizontal classification of pressure groups. But a vertical classification may be made on the basis of their network at local, regional, provincial, national and international levels.

Notes



A group is always based on some specific interest. It fights for the protection and promotion of that interest. The interest may be like enhancement of wages and allowances, or the increase of price of agricultural commodities, or conservation of a particular language and culture.

G. A. Almond presents a classification of his own having four important categories as:

1. **Institutional Groups:** This is a new category invented by Almond. It includes departments of the state like legislature, executive, bureaucracy and judiciary in the category of pressure groups. The finding of Almond is that even an organ of government can create 'inputs' that may have the form of 'outputs'. For instance, the bureaucrats may influence the ministers and then a decision is taken so as to protect and promote the interest of the administrators.
2. **Associational Groups:** This category includes all leading pressure groups of a country about which we have said above. The organisations of the businessmen, workers, farmers, professionals etc. may be referred to here. These are formally organised and largely registered bodies having their constitutions, rules organisations, finances, records of activities and the like.
3. **Non-Associational Groups:** In this category we may refer to some groups having informal organisation. These are based on the factor of kinship, religion, tribal loyalties, social traditions and the like. These bodies have an intermittent existence. They appear and disappear from time to time. That is, these bodies appear when some important ceremony or function is to be done, or some important matter is to be taken up by the 'community'. These groups may be seen in the backward communities of the world.
4. **Anomic Groups:** This category includes all those organisations whose behaviour is unpredictable. They may do anything at the spur of the moment like an angry child. Such organisations often act spontaneously and indulge in activities of violence and extremism. Students' unions and youth organisations are the best examples of this category.



Why a pressure group is described as an instrument of interest articulation?

Role of Pressure Groups

But the most important part of our study relates to the role of these numerous pressure groups a the political process of a country. It may be seen in these important directions:

1. **Legislature:** Pressure groups try to induct their chosen persons into the legislature. They take part in the war of nominations when political parties distribute 'tickets' to their candidates on the eve of the elections. They take interest in writing party's election manifestos, because anything written in it or omitted from it bears out its significance when the party forms its government. They collect funds and spend that amount on the canvassing campaigns of the candidates. Every possible effort is made to have the candidates of choice elected; conversely, it implies that 'unfavourable' candidates should be defeated. Thereafter, the groups manage to keep contact with the legislators so that their services may be requisitioned for any purpose like asking questions from the ministers, putting adjournment and call attention motions, supporting or opposing a particular bill or a particular part of the budget, passing or vetoing a resolution in the house and so on. A group of such legislators makes a 'lobby'.
2. **Executive:** As executive has become the most important department of state in modern times, pressure groups attach utmost importance to filling high executive posts with the men of their choice. They know that a favourable President, or a Prime Minister, or even an influential cabinet minister may do much for the sake of their benefit. In a presidential system entire focus is laid

Notes

on the office of the President, but in a parliamentary system such a focus is laid on the Prime Minister and key cabinet ministers. These are the real decision-makers and since their number is quite small, the pressure groups feel that it is easier to have access to this small core of great administrators than to the very large community of the legislators. We may note so many instances when pressure groups make every effort to dislodge a Prime Minister or his ministers if their decisions adversely affect the interests of the pressure groups. Cases of corruption and maladministration are exposed by interest groups so as to dislodge an unfavourable minister from the position of influence. It is also possible that some big and powerful groups may have easy access to the ministers on the basis of their power of money or on the show of their manpower that may be of great use to them at the time of elections.

3. **Bureaucracy:** It is said that bureaucracy is a politically neutral organ of government. But a student of empirical political theory would not endorse this view. No part of government can be free from the tugs and pull of politics. The bureaucrats have their own interests. The leaders of the pressure groups manage to establish their links with the bureaucrats of the country. Here they find the safest berth. The legislators are 'laymen' in most of the cases and their tenures are quite short, the minister are also 'laymen' and their tenures are quite shorter, but the bureaucrats are 'experts' in the field of administration and their tenures are quite long. To have easy and close access to the permanent civil servants of the country is what the groups really want. This they can achieve by keeping the top public servants in good humour, by offering them 'gifts' and 'benevolences,' or by giving them 'rewards' on various pretexts. The bureaucrats may oblige their solicitors by putting remarks on the file or by drafting a circular letter in a way that goes to protect their interests. It is also possible that in the name of being, 'expert' the permanent officials determined the ground of national policy to be adopted and implemented by the government of the country.

4. **Judiciary:** It is a political affair. There fore, leading pressure groups take active interest in the nomination of the judges. They try to manipulate things in a way that the names of their 'favourites' are picked by the head of the state and eventually high judicial offices are occupied by them. If there is provision for the ratification of such names (as by the Senate in the United States), the pressure groups engage 'lobbyists' to have then purpose served. It is likely that some groups resent the appointment of a particular person as a judge of the Supreme Court and then they may ask 'filibusters' to make it ineffective. Apart form this, there are some other ways to influence the judges as honouring them at specially arranged public functions, arranging seminars and symposiums to hear their legal observations and, in return, paying them 'suitable honorariums.' But some other ways may also be adopted to terrorise the judges as giving something against their integrity to the press, bombarding their homes and offices with mails and telephones, and preparing ground for their 'impeachment'.

In addition to what we have said above about the role of pressure groups, two points should be borne in mind. First, it all applies to a democratic country where the society is pluralistic and political process is 'open.' But differant is as the case of countries with singularistic social system and 'closed ' process of politics. In 'totalitarian' countries pressure groups exist but thay have to play a 'unidirectional' role. All groups which criticise or oppose the leader and his party in power are forcibly suppressed. It is a different thing that such groups become 'underground' and manage to come up their a successful *coup* or in the changed political atmosphere. Second, even in the case of democratic countries, it should be remembered that what we have said above applies to the advanced countries of the Western world. It does not apply to the 'developing' societies to the same extent where the level of 'political culture' is still very low. But the essential fact remains that pressure groups play their part in the political process of every country whether modern or traditional, democratic or totalitarian. Their role affects the working of the government and, in turn, the government "functions to establish and maintain a measure of order in the relationship among groups".

Critical Appreciation

The role of numerous pressure groups in the political process of a country has been differently evaluated by the students of this subject. In its defence, it is said that interest groups have opened a

Notes

very wide channel of study and thereby broadened the scope of political science to include rather every association or group committed to the protection and promotion of its interest through government activity. Politics is struggle for power and, as such, all agencies that take part in it should be the concern of a student of this discipline. Then, it is also said that numerous pressure groups act in concert with political parties and thereby make the operation of a democratic system successful. The relationship between political parties and organised interest groups is like a two-way traffic. In collaboration with political parties groups make the operation of democratic system possible, and along with that act as an effective check on the arbitrary exercise of power at any place in the political system. In this way, the mechanism of checks and balances remains in operation. It is a fact that if a democratic system cannot be operated without political parties, then it should also be noted that political parties can not sustain themselves without the help of pressure groups.

But the critics of this kind of politics have their own set of arguments. They contend that pressure groups are always ridden with sectional and local interests. Their role in most of the cases draws sustenance from sheer selfish considerations. The ideal principle of Rousseau's 'general will' is undermined. The shrewd leaders of the groups don't bother for the consideration of 'public interest' or for the sanctity of 'proper means.' The techniques of exercising pressures by means of strikes, agitations, demonstrations, riots, lobbying, filibustering, log-rolling etc. make a mockery of the whole democratic system. More and more demands in the form of 'inputs' come, and it becomes more and more difficult for the rulers to convert them into 'outputs.' It may also be seen that some pressure groups recklessly indulge in activities subversive of law and order as a result of which numerous problems of peace and safety crop up. Disorder becomes the order of the day and-the government is forced to deal with such organisations as ruthlessly as possible. Friedrich says: "Where the interests are sharply divided, certain of these groups have proceeded to take over the government and to revolutionise it in such a way as to suit their particular needs and conception".

Existence and Articulation of Pressure Group Politics

If politics means the reconciliation of interests by the role of group pressures, it becomes all the more essential to examine the forces which have their impact upon the governmental process by means of their potential articulation. Believing that many pressure groups, unlike political parties, are not solely political organisations and that they do not possess the tendency to prefer politics at every turn of time, it is yet to be admitted that they provide a significant channel of popular representation. They are, in short, second or auxiliary circuit of representation. A study of pressure groups after the study of party system makes a sister-analysis in view of the fact that while the party system provides political representation, the network ot pressure groups and their operation constitutes the functional part. It is irrespective of the fact that by no means do all such groups, or even a majority of them, "normally have the slightest concern in what the government is up to; but at any point of time, they might be so concerned and might wish to try to influence its policy".

In order to examine the existence and articulation of pressure groups in various countries of the world, we may classify world political systems into four categories-presidential, parliamentary, presidential-cum-parliamentary and totalitarian. First, we take up the case of a country having presidential , system of government like the United States where the legislature and the executive are separated from **each** other and, for this reason, the pressure groups have to exercise their influence upon two organs of the government separately. They have their eyes fixed mostly on the President who is the virtual ruler of the country and when they fear some frustration, they apply their potential articulation through the legislative bodies with the result that there is pressure and cross-pressure to bear upon the government. Lobbying assumes a very serious, proportion to act as a counterblast to the authority of the President and thus we often notice the cases of deadlock between the President and the Congress.

Even if the legislature and executive are found to have a similar outlook going to the detriment of the interest groups, they have a resort to judicial intervention to make that executive order or legislative enactment null and void. Moreover, in the absence of a strong and well-organised party system the legislators and the President as well as his ministers do not work according to the 'official' party line which not only affords them ample freedom of action but brings about a marked line of difference

Notes

between an individual's political behaviour and group action. Thus, there "is the paradoxical situation that the most popular theory is one of individualism as the correct basis of political action, whereas actual political practice depends very much upon group intervention".

The same degree of freedom of action for the interplay of pressure groups is not allowed in a parliamentary system of the British model where political parties on the basis of their numerical strength form either the Government or the Opposition and run their organisation on the basis of strict discipline. Besides, the party commanding majority in the popular chamber forms the government and thereby implements its policy and programme as given in the party manifesto or announced at the platform. And yet it does not imply that there are no pressure groups in Britain. Sir Winston Churchill once frankly admitted: "We are not supposed to be an assembly of gentlemen who have no interests of any kind. That is ridiculous. That might happen in Heaven, but not happily here".

The main point of difference between the American and British patterns of government is that in Britain, unlike the United States, the "pork-barrel is kept locked up in 10, Downing Street". The machinery of legislative process at the Westminster is propelled not by the force of pressure groups emerging in the shape of open or clandestine lobbying but by the decision-making agency of the executive (cabinet) which formulates the policy of national administration and makes the Parliament and the entire administration run accordingly. It is a different thing that the party in power accommodates the interests of a particular group in its programme and thereby frustrates the advantages of others, as instead of legislation "depending upon pressure groups, it depends upon whether the Government (and the civil servants) want to introduce it, and however much the Government finds it convenient to consult with interests affected, it insists that the policy shall be determined by itself alone".

In the British political system the functions of the interest groups and political parties "are sharply differentiated. Interest groups articulate political demands in the society, seek support for these demands among other groups by advocacy and bargaining, and attempt to transform these demands into authoritative public policy by influencing the choice of political personnel, and the various processes of public policy-making and enforcement. Political parties tend to be free of ideological rigidity, and are aggregative, i.e., seek to form the largest possible interest group coalitions by offering acceptable choices of political personnel and public policy. Both interest group systems and the party systems are differentiated, bureaucratised and autonomous. Each unit in the party and interest group system comes into the 'market', so to speak, with an adjusting bargaining ethos. Furthermore, the party system stands between the interest group system and the authoritative policy-making agencies and screens them from the particularistic and disintegrative impact of special interests. The party system aggregates interests and transforms them into a relatively small number of alternative general policies. Thus, this set of relationships between the party system and the interest group system enables choice among general policies to take place in the cabinet and parliament, and assures that the bureaucracy will tend to function as a neutral instrument of the political agencies".

Pressure groups play a very powerful, and also a very irresponsible role in France not because her political system is quasi-parliamentary but because French people have a different temperament and their sectional interests "tend to take precedence over the national interest". It is, in other words, owing to the fact that this country has never accepted the full "mplications of parliamentarism like the people of Britain but retained a peculiar situation of the predominant position of the National Assembly before the de Gaulle Constitution of 1958 and of the President after the termination of the Fourth Republic. However, the existence and articulation of pressure groups in France has a very striking feature in that while they are 'solidly organised', they "are also divided that they often fail to generate a common strategy and action".

The multi-party system of France with traditions of violent revolutions is responsible for making the position of institutional and anomic groups more important than that obtaining in Britain. The Communist Party has its groups in the trade union organisations and certain institutional groups (like the Catholic Church) have their colonies in the political parties (like CFTC) with the result that the parties and pressure groups interpenetrate each other. In fact, the significance of institutional and anomic interest groups "is directly related to the uneven effectiveness of associational interest groups, the absence of an effectively aggregative party system, and its fragmented or isolative political culture.

Notes

Parties and interest groups in France do not constitute differentiated, autonomous political subsystems. They interpenetrate one another".

This type of articulation of interest groups has resulted in blurring the borderline between social and political systems and accentuating the tendency of high incidence of anomic interest articulation, what the French people call 'poujadism'. Though a country of Europe having much of a parliamentary system of government even under the Fifth Republic, the lobbies of France "are quite similar in their methods of action to American lobbies. They give financial support to candidates; they place their spokesmen in the legislature and in the Civil Service; they have their own journals and hand out news releases in an attempt to away public opinion to their point of view; they often exact pledges from the candidates they support and sponsor study committees in the legislatures to promote their own interests".

Almond in his paper on a comparative study of interest groups and the political process further puts: "When parties control interest groups they may, and in France do, inhibit the capacity of interest groups to formulate pragmatic specific demands; they impart a political-ideological content to interest group activity. When interest groups control parties, they inhibit the capacity of the party to combine specific interests into programmes with wider appeal. What reaches the legislative process from the interest groups and through the political parties are, therefore, the 'raw' unaggregated demands of specific interests, or the diffuse, uncompromising, or revolutionary and reactionary tendencies of the Church and the movements of the right or left. Since no interest group is large enough to have a majority, and the party system cannot aggregate different interests into a stable majority and a coherent opposition, the electoral and legislative processes fail to provide alternative effective choices. The result is a legislature penetrated by relatively narrow interests and uncompromising ideological tendencies, a legislature which can be used as an arena for propaganda, or for the protection of special interests; by veto or otherwise, but not for the effective and timely formulation and support of large policy decisions. And without a strong legislature, special interests and ideological tendencies penetrate the bureaucracy, and undermine its neutral, instrumental character".

A comparison of British and American pressure groups creates the impression that they "only have overweening power in parliamentary systems when the element of parliamentarism is not strong enough to withstand them". Now we take up the case of a country having totalitarian form of government. It is wrong to assume that pressure groups have their operation only in a free and democratic country. These groups do exist and operate even under a totalitarian system with the difference that they "tend not to be independent: the embodiment of the goals of the system by associations requires the creation of new associations which donot have any internal legitimacy and thus rely on the political system to grow and to be maintained". In contrast to the situation of a democratic country, pressure groups in an authoritarian system are allowed a very circumscribed role and serve merely "as instruments of the state for securing ends which are state-determined, or they may become part of the facade of government for legitimising decisions".

As a corollary to the above case, we may refer to a system of one party's monolithic position in the midst of weak and disarrayed opposition. Such a political system is quite different from the totalitarian model for the obvious reason that here opposition is not forbidden. Such type of 'dominant non-authoritarian party systems' are usually to be found where nationalist movements "have been instrumental in attaining emancipation". The line of difference between a totalitarian system and a political system run by a single powerful political party lies in the fact that while pressure groups operate in the former by means of intrigues, denunciation, passing the buck and other such oblique methods, they operate in the latter without facing the onslaughts of purge and suppression and discover their place within the structure of the party in power.

Finally, a reference should be made to the developing societies where pressure groups do exist though in a rudimentary and poorly organised form. The techniques they often adopt are of a very crude type. When a serious crisis comes, the military supervenes to finish the obtaining order and establish its dictatorship by virtue of its coherent organisation, similarity of outlook and the capacity to organise the coup. In such a society other interests "may be powerless to move because of their lack of organisation and discipline; they will have to come to terms with the colonels, but will retain some strength, since the colonels cannot run the state without at least some cooperation from them".

Notes

Whether it is a free or a totalitarian, a developing or a developed country, the existence and articulation of interest groups cannot be ignored, though it may be manifest or latent, specific or diffuse, general or particular, instrumental or affective in style. It is *manifest* when it is an explicit formulation of a claim or a demand; it is *latent* when it takes the form of behavioural or mood cues which may be read and transmitted into the political system; it is *specific* when it takes the form of a request for a particular legislative measure and a subsidy; it is *diffuse* when it takes the form of a general note of dissatisfaction or resentment; it is *general* when the demands are couched in general class or professional terms and it is *particular* when they are put in individual or family terms; it is *instrumental* when it takes the form of a bargain with consequences realistically spelled out; finally, it is *affective* when it takes the form of simple expression of anger or gratitude etc.

Heywood's Analysis of Pressure Groups and their Merits and Demerits

Distinction between Political Parties and Pressure Groups

1. Parties aim to exercise government power by winning political offices (small parties may nevertheless use elections more to gain a platform than to win power).
2. Parties are organised bodies with a formal 'card carrying' membership. This distinguishes them from broader and more diffuse social movements.
3. Parties typically adopt a broad issue focus addressing each of the major areas of government policy (small parties, however, may have a single issue focus, thus resembling interest groups).
4. To varying degrees, parties are united by shared political preferences and a general ideological identity.

Merits of Interest Groups

1. They strengthen representation by articulating interests and advancing views that are ignored by political parties, and by providing a means of influencing government between elections.
2. They promote debate and discussion, thus creating a better informed and more educated electorate, and improving the quality of public policy.
3. They broaden the scope of political participation, both by providing an alternative to conventional party politics and by offering opportunities for grass-roots activism.
4. They check government power and, in the process, defend liberty by ensuring that the state is balanced against a vigorous and healthy civil society.
5. They help to maintain political stability by providing a channel of communication between government and the people, bringing outputs into withinputs.

Demerits of Interest Groups

1. They entrench political inequality by strengthening the voice of the wealthy and privileged, those who have access to financial, educational, organisational or other resources.
2. They are socially and politically divisive, in that they are concerned with the particular, not the general, and advance minority interests against those of society as a whole.
3. They exercise non-legitimate power, in that their leaders, unlike politicians, are not publicly accountable and their influence bypasses the representative process.
4. They tend to make the policy process closed and more secretive by exerting influence through negotiations and deals that are in no ways subject to public scrutiny.
5. They make societies ungovernable, in that they create an array of vested interests that are able to block government initiatives and make policy unworkable.

Andrew Heywood: *Politics*, pp. 248 and 277.

Critical Appraisal

The existence and articulation of organised interest groups in every political system has been dubbed as a sinister development, an exercise in partial as opposed to total representation and the interplay

Notes

of unprincipled and corrupt forces undermining the existence of what Rousseau called 'general will'. In the politics of pressure groups it is the shrewd and corrupt leadership which enjoys a position of special advantage. Then, the behaviour of these groups is hardly democratic either towards other groups operating in the country or even towards those which come to render their support on some occasions. The organisation of leadership and other hierarchical units operates in the hands of unscrupulous persons indulging in quite selfish and irresponsible ways. Their game of hide-and-seek in politics brings about a situation of their difference with political parties with the result that they cannot be held to account for their policies, their leaders cannot be turned out of public office and punished at the polls. Finally, it appears that though selfish and narrow interests effectively organise, important and socially significant ones go unrepresented. "The battle between producers and consumers, for example, is notably uneven".

Various pressure groups operating in a political society are viewed with moral indignation and alarm owing to their sinister penetration in the mechanism of modern representative system. It is further charged that the technique of lobbying, as practised by these groups, constitutes a whole congeries of abuses, corruption and fraud manifestly weakening people's faith in the system of popular government. While referring to the sinister interplay of pressure groups behind the legislative process in the American Congress, Woodrow Wilson discovered that the wishes of the Congress were really the wishes of the interest groups. It is also contended that any degree of appreciation of the role of pressure groups in a modern political system becomes reminiscent of the Fascist corporate state. Hence, it "may be said that the genuine representative significance of all organisations arising in connection with men's activities within the total context of modern industrial life has become sufficiently apparent to make it necessary to reckon them as pretenders to the throne of government. Where the interests are sharply divided, certain of these groups have proceeded to take over the government and to revolutionise it in such a way as to suit their particular needs and conceptions. Such efforts accompanied by dictatorial methods relapse into crude techniques of government which violate the fundamental premises of constitutional limitation".

Despite these objectionable points, the utility of pressure groups in the working of a modern constitutional system cannot be dismissed. Exponents of the group theory of politics and others subscribing to the school of modern pluralism emphasise the fact that there is an organic relationship between the individual and the groups owing to which the individuals "are the heirs of the head, while the groups are limbs on which the body depends". If political parties are inevitable for the working of a modern democratic system, pressure groups have their own significance in the political process. Any fear of contradiction between individual and group political participation can be avoided by looking upon politics as a process rather than as a simple relationship between formal structures of a political system. It is unwise to purge or finish conflicting interests, rather the task "remains of distilling the general public interest out of the often-conflicting special interests which constitute part of the whole".

It leads to the satisfying conclusion that there is every need for keeping control over the interest groups in order to regulate their existence and working to the best possible extent. It is necessary to assure that, while making their contribution to the political process of a country, the groups are not allowed to lose their touch with their own members or other groups of the society, or doing anything against public interest or general good. The case of public recognition of group participation carries with it the understanding that interest groups conform to the same standard of political behaviour which is expected from the individual electors. True that the unorganised individuals at the ballot box have often become powerless to achieve anything in contrast to the highly organised lobbies with their direct access to the centre of power, but there remains nothing to prevent the state from reforming and regulating the pressure groups which exist and enjoy power without responsibility.

The real significance of pressure groups in a political society must be examined in the light of two main considerations. First, they are of numerous advantages to political parties and thereby contribute to the sustenance of the modern representative system. Power corrupts man and power alone checks power. The pressure groups thus act as a powerful check upon the arbitrary exercise of power and as they themselves are prone to abuse their share of power, it is essential that various interest groups be allowed to act as a check upon one another in order to establish and sustain the system of 'checks and

Notes

balances'. It also implies that when the groups act as a check upon the government, the latter must see to it that the activity of group politics is saved from deterioration to the extent of vitiating or destroying the political system itself. As Verney holds: "The use of the term 'pressure groups' suggests that outside interests are obtaining special favours at the expense of the public, but it is also true that groups help to prevent Governments from imposing unfair burdens on the unorganised masses. Moreover, where party programmes tend, of necessity, to be general, group policies and proposals can be usefully specified". Second, the utility of pressure groups must be examined in the light of new approach to the meaning of politics. Politics is a struggle for power creating conflicts and tensions and then discovering and offering their solutions and adjustments. As Miller says: "Politics rests ultimately upon the conflict and accommodation of interests, brought into being by the manifold inequalities of a society; broadly speaking, political decision will follow the course along which it is led by the relative strength of interests".

Self-Assessment

1. Fill in the blanks:

(*i*) A party is a very ..... unit having a membership in thousands but a grent is a comparatively very ..... entity having its membership in hundreds and thousands.

(*ii*) Institutional Groups is a new category invented in ..... .

(*iii*) Cases of corruption and inadministration are exposed by ..... .

(*iv*) Anomic groups include (tick the correct option)

(*a*) organisation whose behaviour is unpredictable

(*b*) groups having informal organisations

(*c*) all leading pressure groups of a century

(*d*) None of these

11.4 Summary

- The politics of pressure groups hinges on the psychological foundation of self-interest. It is the cardinal factor of self-interest that forces men to be in unison with other 'like-minded' ones in order to enhance their position and power to the point of gaining recognition, legitimisation and realisation of their specific interest.
- A pressure group has been defined as "an organised aggregate which seeks to influence the context of governmental decisions without attempting to place its members in formal governmental capacities".
- Pressure associations do, however, appear before the resolutions committees of the political parties to urge the endorsement of their programme as planks in the parties' platforms. They often attempt to secure the endorsement of both major parties and thus remove their programme from the arena of partisan controversy.
- Pressure groups play their part in every political society. It would be worthwhile to enumerate their characteristic features to highlight their different dimensions and areas of operation in order to understand the working of a modern political system from a micro-angle of vision.
  1. A specific interest is the root of the formation of a pressure group. It follows that there can be no group unless there is a specific interest forcing the individuals to actively resort to political means in order to improve or defend their positions, one agianst another.
  2. Pressure groups play the role of hide-and-seek in politics. That is, they feel afraid of coming into politics to play their part openly and try to hide their political character by the pretence of their being non-political entities.
- Pressure group politics "represents something less than the full politicisation of groups and something more than utter depoliticisation: it constitutes an intermediate level of activity between the political and the apolitical".

Notes

- They are political or sectional groups when they have a long-range interest and strive to have a part in the political process for the common needs of their members which are not of a transient kind.
- viewed in a wider perspective, pressure groups may be classified into four parts-'institutional' groups (like government departments) which exist to perform functions and keep the governmental process in operation, non-associationa groups based on class, kinship, religion or other traditional characteristic bases of communication being informal, or intermittent, 'anomic' groups appearing in the form of spontaneous uprisings like demonstrations, processions, marches, riots, etc.
- A party is a very big unit having a membership in thousands, even millions, but a group is a comparatively very small entity having its membership in hundreds and thousands. It is possible that a political party may be a small organisation having a few hundred or thousand members(as Sokka Gakkai of the Buddhists in Japan) and there the line of distinction between a political party and a pressure group may be blurred.
- A party has its registered offices, constitution, flag, membership records, list of office bearers, and it frankly and proudly owns responsibility Tor certain actions in the field of politics, a pressure group pretends to remain politically neutral while being very much involved in the game of struggle for power.
- A group is always based on some specific interest. It fights for the protection and promotion of that interest. The interest may be like enhancement of wages and allowances, or the increase of price of agricultural commodities, or conservation of a particular language and culture.
- Pressure groups try to induct their chosen persons into the legislature. They take part in the war of nominations when political parties distribute 'tickets' to their candidates on the eve of the elections.
- Thereafter, the groups manage to keep contact with the legislators so that their services may be requisitioned for any purpose like asking questions from the ministers, putting adjournment and call attention motions, supporting or opposing a particular bill or a particular part of the budget, passing or vetoing a resolution in the house and so on. A group of such legislators makes a 'lobby'.
- As executive has become the most important department of state in modern times, pressure groups attach utmost importance to filling high executive posts with the men of their choice.
- Cases of corruption and maladministration are exposed by interest groups so as to dislodge an unfavourable minister from the position of influence. It is also possible that some big and powerful groups may have easy access to the ministers on the basis of their power of money or on the show of their manpowei that may be of great use to them at the time of elections.
- No part of government can be free from the tugs and pull of politics. The bureaucrats have their own interests. The leaders of the pressure groups manage to establish their links with the bureaucrats of the country.
- It is also possible that in the name of being, 'expert' the permanent officials determined the ground of national policy to be adopted and implemented by the government of the country.
- Leading pressure groups take active interest in the nomination of the judges. They try to manipulate things in a way that the names of their 'favourites' are picked by the head of the state and eventually high judicial offices are occupied by them.
- All groups which criticise or oppose the leader and his party in power are forcibly suppressed. It is a different thing that such groups become 'underground' and manage to come up their a successful *coup* or in the changed political atmosphere.
- The relationship between political parties and organised interest groups is like a two-way traffic. In collaboration with political parties groups make the operation of democratic system possible, and along with that act as an effective check on the arbitrary exercise of power at any place in the political system.

Notes

- Friedrich says: "Where the interests are sharply divided, certain of these groups have proceeded to take over the government and to revolutionise it in such a way as to suit their particular needs and conception".
- If politics means the reconciliation of interests by the role of group pressures, it becomes all the more essential to examine the forces which have their impact upon the governmental process by means of their potential articulation.
- A study of pressure groups after the study of party system makes a sister-analysis in view of the fact that while the party system provides political representation, the network ot pressure groups and their operation constitutes the functional part.
- Lobbying assumes a very serious, proportion to act as a counterblast to the authority of the President and thus we often notice the cases of deadlock between the President and the Congress.
- Even if the legislature and executive are found to have a similar outlook going to the detriment of the interest groups, they have a resort to judicial intervention to make that executive order or legislative enactment null and void.
- The main point of difference between the American and British patterns of government is that in Britain, unlike the United States, the "pork-barrel is kept locked up in 10, Downing Street".
- Both interest group systems and the party systems are differentiated, bureaucratised and autonomous. Each unit in the party and interest group system comes into the 'market', so to speak, with an adjusting bargaining ethos.
- Pressure groups play a very powerful, and also a very irresponsible role in France not because her political system is quasi-parliamentary but because French people have a different temperament and their sectional interests "tend to take precedence over the national interest".
- The multi-party system of France with traditions of violent revolutions is responsible for making the position of institutional and anomic groups more important than that obtaining in Britain.
- Though a country of Europe having much of a parliamentary system of government even under the Fifth Republic, the lobbies of France "are quite similar in their methods of action to American lobbies.
- When parties control interest groups they may, and in France do, inhibit the capacity of interest groups to formulate pragmatic specific demands; they impart a political-ideological content to interest group activity.
- A comparison of British and American pressure groups creates the impression that they "only have overweening power in parliamentary systems when the element of parliamentarism is not strong enough to withstand them".
- The existence and articulation of organised interest groups in every political system has been dubbed as a sinister development, an exercise in partial as opposed to total representation and the interplay of unprincipled and corrupt forces undermining the existence of what Rousseau called 'general will'.
- Various pressure groups operating in a political society are viewed with moral indignation and alarm owing to their sinister penetration in the mechanism of modern representative system.
- Exponents of the group theory of politics and others subscribing to the school of modern pluralism emphasise the fact that there is an organic relationship between the individual and the groups owing to which the individuals "are the heirs of the head, while the groups are limbs on which the body depends".
- The real significance of pressure groups in a political society must be examined in the light of two main considerations.
- The utility of pressure groups must be examined in the light of new approach to the meaning of politics. Politics is a struggle for power creating conflicts and tensions and then discovering and offering their solutions and adjustments.

Notes

11.5 Key-Words

1. Pressure group : An interest group that endeavours to influence public policy and especially government and legislation.
2. Autonomous : Acting independently or having the freedom to do so.

11.6 Review Questions

1. Discuss the meaning and nature of presure group.
2. Differentiate between Political Parties and Pressure Group.
3. What is the role of Pressure Group? Discuss.
4. Write a short note on the Pressure Groups.

Answers: Self-Assessment

1. (*i*) Big, small (*ii*) Almond
   (*iii*) Interest group (*iv*) (*a*)

11.7 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 12: Politics of Representation and Participation

CONTENTS

Objectives
Introduction
12.1 Meaning and Theory of Representation
12.2 Representation and Election System
12.3 Political Participation of USA, UK, Russia, France and China
12.4 Summary
12.5 Key-Words
12.6 Review Questions
12.7 Further Readings

Objectives

After studying this unit students will be able to:

- Understand the Meaning and Theory of Representation
- Explain the Representation and Election System.
- Describe the Political Participation of USA, UK, Russia, France and China

Introduction

All modern political systems claim to be based, though in varying degrees, on what Rousseau termed, 'the will of the people'. Since it is impossible for the people to meet and exercise the functions of government as a collective body in modern times on account of vast size of the state and wide enfranchisement of the people, this claim finds its implementation in some form of representation through which the rulers of a state are given the right to act for those who choose them. Thus, representation has come, as suggested by Lord Acton; as 'the vital invention of modern times'. A massive transformation has, however, occurred in the realm of representation so much so that classical theory, in this direction, coming from John Stuart Mill and A.V. Dicey, (implying that legitimate authority means political power flowing from the people to the parliament and from the parliament to the government) "is no longer true in an era when parliament is not necessarily the mediator between government and people and when the executive power may claim to be the embodiment of legitimacy, as does de Gaulle in France."

12.1 Meaning and Theory of Representation

The term 'representation' has its general as well as particular connotations. In general terms, it means that any corporate group, whether church, business concern, trade union, fraternal order or state, that is too large or too dispersed in membership to conduct its deliberations in an assembly of all its members is confronted with the problem of representation, if it purports to act in any degree in accord with the opinion of its members. Such a definition of the term is too loose to be applied to a particular form of representation. We are here concerned with its particular meaning as applicable to the realm of politics. In this sense, representation "is the process through which the attitudes, preferences, viewpoints and desires of the entire citizenry or a part of them are, with their expressed approval, shaped into governmental action on their behalf by a smaller number among them, with binding effect upon those represented." While in agreement with this definition of the term, in question, a German social theorist Robert von Mohl offers his unpretentious interpretation. According to him, representation "is the process through which the influence which the entire citizenry or a part of

Notes

them have upon governmental action is with their expressed approval, exercised on their behalf by a small number among them, with binding effects upon those represented."

The two definitions of representation, given above, deserve examination and comments. As Friedrich suggests, "we speak advisedly of *influence* rather than participation or control, since the large number of citizens is not very likely to participate in or effectively to control governmental action. We use the general expression 'governmental action' rather than legislation, because all kinds of governmental activities might be subjected to popular influence. By suggesting further, that influence of a part of citizenry, as well as the whole, may be represented, we recognise the representative quality of the American Senate. Group representation is more ancient than the representation of the whole people in any case. Finally, the most essential part of this descriptive definition is contained in the phrase: 'with the expressed approval'. This approval is expressed presumably in the constitutional provisions regarding representative institutions — the particular institutions of that constitutional order, as well as the general principle. In short, it is this phrase that we recognise as the constitutional setting of such representation.



What do you mean by Representation?

Curtis is of the view that the term 'representation' "is inherently ambiguous" and, for this reason, representative government "may have different meanings." While carrying his point further, he says: "For some it is analogous to the activity of a lawyer acting on behalf of a client; for others it means that the representer approximates the characteristics of the represented. Some see the representers as embodying the declared interests of the represented; others view his function as acting on behalf of his constituents in the way he thinks most desirable." The basic reason is that different attitudes on representation "mirror the various views on the relationship between the rulers and the ruled." Samuel Beer has pointed out five typologies of views in this connection:

1. The traditional conservative position based on the desirability of order, degree, authority and hierarchy holds that the common welfare is represented by a monarch or a government charged with formulating a political programme.
2. The traditional whig or aristocratic view is based on the idea of a balanced constitution symbolising the differences of rank in the society. Men of reason and judgment deliberate on affairs without the need for a mandate from an electorate to guide or bind them, while an elected body like the house of Commons represented the common interest.
3. The liberal view sees national welfare and common good as represented by a parliamentary assembly made up of individuals rather than of corporate bodies, though under middle class domination, emphasising a property qualification for the franchise and based on approximate quality of electoral areas.
4. For men of radical view, representation is based on the unified will of the people binding individuals together. This will, regarded as the ultimate sovereign in the community, is in practice the will of the majority, expressed either directly or through interest groups.
5. Modern conservative democrats and modern socialist democrats see representation in terms of a government based on disciplined political parties with social classes as basic units, and also related to functional groups. The voters are thus faced with the situation of choosing either of the two parties (representing social classes) for the sake of their representation.

While we may agree with or differ from the five-fold categorisation of Beer, we may safely endorse the view of Prof. Ball that the theories of representation may be put into two broad categories — liberal-democratic and collectivist-socialist. The liberal-democratic theories of representation have these characteristics.

Notes

1. Here is emphasis on the importance of individual rights, especially the inviolability of individual's property and the necessity of limiting the powers of government to protect these rights. Liberal-democracy implies not only an extension of the franchise but an equality of voting rights. The representative represents individuals, their opinions and their interests, and therefore he is elected according to geographically demarcated constituencies and not according to classes, occupational distinctions or distinct social interests.
2. Man is a rational being and he can identify his own opinions; he is also aware of the wider claims of the community. He will, therefore, use his vote in an intelligent manner and is consequently entitled to share in the selection of the representatives.
3. There should be universal adult franchise, secret ballot and fair and free periodic elections. Constituencies should be earmarked for the recruitment of the representatives acting according to the will of their electors; the business of the elected assembly is to protect the interests of its constituents against any encroachment made by the executive or by the majority acting in the name of 'general good'.


Did u know? The authority of the representative is not only created by the constituent power, but it is subject to change by the amending power under the constitution."

Opposed to this is the theory of representation as given by the socialists or collectivists whose salient features may be thus pointed out:

1. Emphasis should be laid not on the individual but on the class. The assemblies should represent not the individuals and their opinions but the majority class whose interests have been subordinated by middle-class parliaments.
2. Democracy means the presence of social equality and absence of economic exploitation. Representation should, thus, be governed by this important consideration.
3. There may be different parties and groups to represent social interests in the pre-socialist period; there must be only one party when the era of socialism is ushered in. The existence of the Communist party alone is justified on the ground of the absence of class conflicts.

As claimed by the writers in the socialist countries, their representative system differs from a bourgeois system in matters of principle. They deprecate the bourgeois representative system as a process of growing emasculation and limitation and instead admire their own system as being dependent upon the line of popular self-government and self-administration the model of which can be seen in the Soviets of the former USSR and the communes of China. Socialist countries have also adopted a number of direct democratic devices and institutions such as method of recall, rural and town meetings, system of imperative mandate, role of social activists, popular initiative of legislation and the like so as to demonstrate that it ''should be a distortion of the institution of socialist representation if all these existing traits were ignored in a study of the organs of state power, the representative institutions. It is thus maintained that socialist representation is a form of indirect democracy which is increasingly completed with a series of direct democratic institutions, and which is absorbing these institutions or part of them."

Two important points strike us here from what we have discussed above. First, it is not easy to define the term 'representation' in a precise manner. Differences exist as to whether needs and common values of the whole community or with particular needs of the individuals or special interests of the social class in conflict wiht each other. Acute differences in view also exist on the point as to which individuals, groups or parties are to be considered as genuine representatives and what kind of people ought to be chosen to act for others. Second, the political representatives should in no sense be treated as 'duplicate of the average citizens.

Notes

Representation and Responsiveness: Role of the Representative and Doctrine of the Legislative Mandate

The way the subject of representation has been discussed by eminent writers has led to the rise and development of different theories. Keeping it in view, L.P. Baradat has referred to these important theories:

1. **Reactionary Theory:** As given by Thomas Hobbes and Alexander Hamilton, it is based on the need for order and authority. The executive (preferably a strong monarch or a President) and a legislature subject to its authority serve public interest. While they should be open to popular input, being of superior knowledge and judgment, they should not be hindered by popular sentiment. It is the duty of the people to support the state and accept governmental policies willingly in the confidence that the politicians have acted in the best interest of the people.
2. **Elitist Theory:** It stands on the assumption that the 'chosen best' are capable of representing people's interest. It is the element of merit that really counts. Elitists like Pareto, Mosca and Michels recognise no place for the role of popular control. The rule of the 'chosen few' is the best arrangement to serve public interest.
3. **Conservative Theory:** Supported by leaders like Edmund Burke and James Madison, it sanctions popular control without encouraging public participation in the governing process. In this variant, the people choose those who are to govern them from an elite group. Yet the people do not have the right to instruct their representatives or even, compel them to reflect a particular position on a given issue. If, however, the officials do not satisfy the public, they may replace them by other members of the elite in the next election.
4. **Liberal Theory:** As given by thinkers like John Locke and Thomas Jefferson, it lays down that all people are essentially equal and, for this reason, capable of ruling. This mass-oriented theory requires the representative to act as a messenger for his constituents rather than as a policy-maker. Hence, the public officials are obliged to vote the way their constituents desire.
5. **Radical Theory:** As advanced by great democrats like Rousseau, it calls for the greatest amount of popular input. Rejecting the case of representative government altogether, it holds that only the people themselves are capable of representing their own views on important issues. In this way, this theory alone supports the case of pure democracy.

A comparative study of different theories on the subject of representation, as given above, leaves the impression that none but the liberal theory should be described as acceptable to most of the people in the present age of democracy.

The issue of 'representation' has also been studied through the analysis of 'responsiveness' of a system. For instance, Lowenberg and Kim have laid more emphasis on the 'responsive' aspect of the representation. According to them, from the vantage point of view of the members of parliament, responsiveness includes: a conceptualisation of the constituents who comprise their partners in relationship; the use of various channels of communication through which to listen and hear; and the propensity to consider and answer the demands of the constituents. Reference should be made to the view of Eulau and Karps at this stage who have described four possible components of responsiveness in this manner:

1. 'Policy responsiveness' where the target is the great public issues that agitate the political process.
2. 'Service responsiveness' which involves the efforts of the representative to secure particularised benefits for individuals or groups in his constituency.
3. 'Allocation responsiveness' that refers to the representative's effort to obtain benefits for his constituency through pork-barrel exchanges in the appropriations, process through administrative interventions.
4. 'Symbolic responsiveness' that involves public gestures of a sort that create a sense of trust and support in the relationship between the representative and his constituents.

The notable feature of the assertion of these two writers is that not one but all components should be taken into the representational nexus. In other words, it "is configuration of the component aspects

Notes

of responsiveness that might yield a viable theory of representative government under modern conditions of social complexity."

Political philosophers and writers have since long considered the problem of proper relationship between the rulers and the ruled. This issue has become of more immediate significance with the development of representative government. The question arises as to what is the proper function of a representative whom the people have chosen to act for them in matters of legislation. Garner points out three positions in this regard:

1. The representative is regarded as a deputy, a delegate or an agent of the particular constituency which elects him, charged primarily with procuring legislation for the advancement of the local interests of his constituency, obtained appropriations of money for the constitution of public works therein, and of securing other favours which lie within the powers of the legislature or government to bestow.
2. He may be regarded as the representative of the whole state, elected to consult with other representatives and charged primarily with the case and advancement of the general interests, and only secondarily with the promotion of the particular interests of the immediate constituency.
3. He may be regarded as the mouthpiece or the spokesman of the political party which is in majority in the constituency from which he is elected and, as such, he is bound by the will of his party whatever may be his own personal views in regard to the expediency or wisdom of particular legislative policies.



What was the tripartite typology?

John Wahlke has suggested a tripartite typology by which the role of a representative can be analysed:

1. The *trustee-deputy* role, according to which a deputy can see himself as a delegate of his constituents and be willing to accept instructions, or can act as he thinks necessary without seeking their advice or consultation.
2. The *facilitator-neutral* role, according to which the representative consults interest groups and others to different degrees and attempting to perform some services for his constituents.
3. *The district-state or country role*, according to which the deputy decides whether the interests of his own area or that of the country as a whole should predominate in his actions

However, within the framework of legislative functioning, Joseph la Palombara divides the role of the legislators into these categories:

1. **The Ritualist:** He is the law-maker *par excellence* whose expertise centres on the process of turning proposals into legislation. He regularly attends the sessions of the chamber as well as its committees and follows the intricacies of procedures very scrupulously.
2. **The Opportunist:** He is not interested in the law-making function of the legislature but tries to raise his status for other purposes.
3. **The Tribune:** He is deeply involved in the articulation of interests, in the communication of demands, in the task of discovering what is desired by his constituents or the voters in general.
4. **The Broker:** He tries to aggregate conflicting interests.
5. **The Inventor:** He finds his major role in the creation of public policies that make of legislative outputs reasonably workable responses to many of the needs and requests that the legislature must confront.

We may say that the theory regarding the role of a representative has undergone serious transformation in modern times owing to new conditions and circumstances. The idea of the role of a representative in early stages of the development of a representative regime was to regard the deputy as the special agent of the class or estate, nobility, clergy, commons, peasantry or town population which chose

Notes

him, that he was subject to its instructions, that he was immediately accountable to it, and that he could be recalled by it at any time. In short, his role "was more analogous to that of a diplomatic agent than that of a modern representative, who, according to the generally prevailing view, possesses the full power of legislation, freedom of deliberation and of voting, and is not subject to instruction or recall." Different from this is the modern view that holds that the delegate should not be treated as the 'representative of a particular department' but of the entire nation and that no instruction should be given to him.

Of the merits of the three views in regard to the nature of the legislative mandate mentioned above, opinions of eminent leaders and statesmen differ, though they alike agree that the doctrine of taking a representative as a mere mouthpiece of the constituents is a vicious one. Such a view "not only subordinates the national or general interests to the assumed interests of particular localities, but it tends to narrow the horizon of the representative and thereby lower the level of character of the legislature, tends to deter men of large ability from serving in it, and accentuates the control of the political party over its representatives. The classic statements of Edmund Burke is very important in this regard who (in his address to the constituents of Bristol in 1780) said: "The parliament is not a congress of ambassadors from different and hostile interests, which interests each must maintain as an agent and advocate against other agents and advocates. But parliament is a deliberative assembly of nation, with one interest that of the whole where not local purposes, not local prejudices, ought to guide, but the general good resulting from the general reason of the whole. You choose a member, indeed, but when you have chosen him, he is not a member of Bristol, but he is a member of Parliament."

It is true that the representative ought not to sacrifice his opinion, his mature judgment, and his enlightened conscience to the whims and fancies of his constituents. The system of the recall of a legislator is a rank nuisance, for it is always amenable to its gross misuse and its incorporation in the law of the American states for example, may be described just as an instrument of political control exercisable by the party leadership rather than by the voters. We may not agree with the French doctrine of the *mandat imperatif* (imperative mandate) that reduces the representative to the role of a conduit pipe or a telephone wire through which the views and commands of the party are communicated to the legislature. As a matter of fact, a representative, though chosen by the people of a particular area, becomes the representative of the nation as a whole and not that of any group or corporation and the like. "This rule may, however, not apply so rigorously where the representative has pledged himself before the election to act in a certain manner, the question of his duty to obey instructions is somewhat simplified, for then a departure therefrom would be a breach of honour and of good faith such as no representative can afford to be guilty of.

12.2 Representation and Election System

Territorial Representation: The system of territorial or geographical representation implies that for the purpose of holding an election in a particular territory, the whole area should be divided into a number of electoral districts that may, or may not, coincide with the administrative districts into which the country is divided. These electoral districts are termed 'constituencies.' The constituencies may be either single-member or multi-member. When the total area is divided into as many electoral districts as there are representatives to be elected and one representative is chosen from each constituency, it is called a single-member constituency. Different from this, when the whole area is divided into a small number of constituencies, and two or more representatives are elected from each of them, it constitutes the model of a 'multi-member' constituency.

Single-member constituencies are relatively small geographical areas, usually approximately equal in population to each other and sometimes identical with political divisions of the country as in a country like India, France, Norway and Switzerland. The usual method is that the candidate with the highest number of votes is declared successful. The result is decided by the majority of votes. This method has the virtue of being quite simple; it tends to limit the number of parties and occasionally fosters a two party system as in Britain or a single-dominant party system as hitherto in India. However, this system is inequitable. We may take note of the fact that in most of the cases, the successful candidate gets less than absolute majority of votes. In order to do away with this defect, either alternative vote system or run-off ballot system (also called the second ballot system) is adopted. It

Notes

has its application (as in France) where the election is cancelled if no candidate gets absolute majority of votes and it is held again in which only two candidates (who had secured highest number of votes in the cancelled election) are allowed to contest. In Ireland single transferable vote system has been adopted for the same purpose.

In multi-member constituencies the most usual electoral system is some form of proportional representation, the chief advantage of which is to obtain a more accurate parliamentary representation of electoral opinion, it may be that the country as a whole is reduced to a single constituency with as many seats as possible as we find in Israel, Monaco and the Netherlands. Here parliamentary representation is allocated to parties in proportion to votes received in the country as a whole. It may also be that the country as a whole is divided into certain groups, each group having as many seats as possible as we find 23,28 and 32 parliamentary seats respectively in Denmark, Sweden and Italy.

Proportional Representation: The model of proportional representation stands on the principle that the votes should be 'weighed, not counted'. It has three ingredients: (i) there is a multi-member constituency; (ii) a candidate is elected not by gaining an absolute or relative majority but by obtaining a quota of votes that is equivalent to total number of votes cast and divided by the number of seats to be filled, and (iii) there is a mathematically exact, as far as possible, representation of the electorate in the legislature.

A question arises as to how proportional representation system can be put to application. For this sake, two methods have been evolved— single transferable vote system and list system. They may be discussed as under:

1. **Single Transferable Vote System:** It was first evolved by a Danish minister Carl Andrae in 1793 that was presented in a refined form by Thomas Hare in England in 1851. It is sometimes called the Hare System. Hare, however, could not make it free from the basic defect that has now been removed. According to this system, the voter is given a paper having names and symbols of all candidates on its left side and blank columns on its right side. He has to fill these blank columns with figures of 1,2,3 and so in order to mark his order of preferences. He may fill all the columns or some of them, but it is required that the marking of preferences should be done correctly, otherwise his ballot paper shall be declared invalid.

   At the time of counting, all invalid papers are cancelled and the total number of valid ballot papers is divided by the number of seats to be filled up plus 1, and then the figure of 1 is added to the quotient. In case the remainder is more than half of the denominator, the figure of 1 is further added to the quotient. This is called electoral quota. This formula may be presented thus:

$$\text{Electoral Quota} = \frac{\textit{Total no. of valid votes}}{\textit{Total no. of seats} + 1} + 1$$

   For instance, if there are 107 votes polled in an election and out of which 17 are declared invalid, then there remain 90 valid votes. If the total number of seats is 4, the electoral quota would be:

$$90 \div 5 = 18 + 1 = 19$$

   After this, counting begins.

   A candidate securing votes equal to or more than that of the quota is declared successful. If some seats remain vacant, the candidate having least number of votes is eliminated and his votes are transferred to other candidates according to the order of second preference marked by him. This process continues and votes are transferred according to subsequent preferences until all the seats are filled up, or only the required number of candidates remains in the field after the elimination of other candidates. In this way, only those candidates are declared elected who obtain the quota after the transfer of surplus votes or the votes of those candidates who have procured the least number of votes at the polls and are, therefore, progressively eliminated.

2. **List System:** Here the candidates are grouped in lists according to the labels of their political parties. Each party submits a list of its chosen candidates equal to the number of seats to be

Notes

filled up or even less than that. The voter is asked to vote for a particular list that also means his preference to the candidates in the order given in that very list. It is a different thing that in some countries the voters are given extra freedom to show their individual preferences to the candidates as well. At the time of counting, election quota is determined in the same manner as given above. Then, it is seen which party has secured votes in what percentage and the seats are apportioned between or among them according to the same percentage. Suppose a party secures 50 per cent votes in an election for 20 seats in all, it has a title for inducting its 10 members in the legislature in the same order as given by it in the declared list. It may be that some parties either fail to have a clear-cut percentage entitling them for certain seats, or they may have to forego some of their percentage of votes. In such a situation, the party may take its surplus percentage to the adjoining or some other multi-member constituency and get its claim duly adjusted by capturing one seat or more by the accumulation of rump surpluses, or it may lend its surplus percentage to some other party so that a seat is obtained by them for a common candidate.

The system of proportional representation may be appreciated for several reasons. It is said that it is the best way to ensure representation to all sections of the people as far as possible. It gives political education to the masses and a sense of security to those people or parties that are in minority. It leads to the recognition of political parties in respect of their stands on social and economic problems. The independence of the voters is secured and an effective check on the practices of electoral corruption can be put. It recognises the nature of modern political parties as based not altogether on sectional divisions but on social and economic problems of national importance. As Lord Acton says: "It is profoundly democratic, for it increases the influence of thousands who would otherwise have no voice in the government and it brings men more near an equality by so contriving that no vote shall be wasted and that every voter shall contribute to bring into a parliament a member of his own."

It is true that the system of proportional representation provides a more accurate representation of electoral divisions and ensures some representation to minority groups, classes, races and their parties, it also inevitably creates or perpetuates a multi-party system with possible undesirable consequences for a stable or effective government. It may prevent the development of disciplined parties and encourage factional groups in the parties and frequent and temporary party alliances. France of the pre-1958 period had the worst experiments with the proportional representation system. It is rightly said that the success of the Nazi party of Hitler in the elections of 1932-33 was partly owing to the prevalence of this system in Germany. A French jurist Esmein expressed his vigorous opposition to the whole idea of proportional representation system in these words: "To establish the system of proportional representation is to convert the remedy supplied by the bicameral system into a veritable poison; it is to organise disorder and emasculate the legislative power; it is to render cabinets unstable, destroy their homogeneity, and make parliamentary government impossible."

While appreciating the system of majority representation and finding fault with the system of proportional representation, Jean Blondel says ; 'The majority system has the great advantage of being simple to administer. It is also easy to understand: the candidate who wins the most votes is elected. In systems of proportional representation, rules are more complex, so much so that they may sometimes defeat their own purpose. It is not immediately clear who has been elected or why, and the process may be lengthy, if preferential votes have to be transferred ... Quotas or quotients have to be calculated and the result, although fair, may not always seem to be so. There is also an often noted tendency to manipulate the system, for instance, by introducing candidates in order to split the vote so as to benefit from the mechanics of the quotient calculation. Proportional representation is not a panacea. It works well in many countries, but the majority system has achieved generally acceptable results in others."

Minority Representation: The issue of minority representation is, indeed, a very delicate affair. While democracy means majority rule, it does not at all mean suppression of the minorities. We appreciate the classic statement of Mill that the minorities should be adequately represented as 'an essential part of democracy'. As he asserted: "Nothing is more certain than that the virtual blotting out of minority is no necessary or natural consequence of freedom, but instead is diametrically opposed to the first principle of democracy: representation in proportion to numbers." Mill frankly admits that in a representative system of government, majority must rule and the minority yield to its will, but from this it does not follow that the minority should have no representation at all. As he says:

Notes

A majority of the electors would always have a majority of the representatives; but a minority of the electors would always have a minority of the representatives. Man for man they would be as fully represented as the majority, and unless they are, there is not equal government, but a government of inequality and privilege— contrary to all just government, but above all contrary to the principle of democracy which professes equality as its very root and foundation."

It is not an easy job to offer a standard and precise definition of the term 'minority,' because the very nature of this problem differs from place to place and from people to people. A minority means a group of persons numerically smaller than others. Such a simple definition fails to carry any definite sense for the obvious reason that it does not specify the actual condition or conditions relating to the factor of numerical dimension. Thus, a better definition of this term shall be to treat the minorities "as groups held together by the ties of common descent, language or religious faith and feeling themselves different in these respects from the majority of the inhabitants of a given political entity." It is also stated. "The term 'minority' includes only those non-dominant groups in a population which possess and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population."


Notes

"In any really equal democracy, every or any section would be represented, not disproportionately but proportionately.

For the sake of convenience, in matters relating to the political study, one may say that a minority means a group of persons whose race, or language, or religion is different from that of the persons in majority. The factor of subjective consideration is inapplicable in this direction. Thus, a group of people feeling like a minority does not constitute a minority. There can be no factor like choice or will, though the factor of force (as in the case of the Negroes in the United States) cannot be entirely ruled out. It is necessary that the people in minority should be concerned with preserving their separate identity and thus not be willing to have their assimilation with the people in majority. For this reason, the depressed classes of India should not, and cannot, betaken as belonging to the minorities, since they donot wish to preserve their characteristics which are markedly different from those of the rest of the population. "Rather, they like to be assimilated with the majority, but are prevented from doing so by the opposition from within the ranks of the majority party."

It is now widely believed that the minorities should be adequately represented. This is possible only when some special devices are adopted. We may refer to certain special methods evolved for the sake of minority representation:

1. **Second Ballot System:** Under this system, it is required that the successful candidate must secure more than 50 per cent of the votes polled. If no candidate secures absolute majority, the election is cancelled and only two candidates (who had secured highest votes in the cancelled election) are allowed to contest. The result is that the successful candidate wins absolute majority. Such a method slightly betters the position of the minorities inasmuch as they may have a political bargain with one of the candidates before giving their choice in his favour.
2. **Alternative Vote System:** It is also known as the contingent or preferential vote system. Here single transferable vote system is used whereby electoral quota is obtained by dividing the total number of valid votes by 1 + 1 = 2 and then adding the figure of 1 to the quotient in order to see that the successful candidate gains absolute majority either in the first count or by the transfer of votes according to subsequent preferences of the voters. The voters are given a ballot paper having names and symbols of the candidates printed on the left side with blank columns on the right side. He has to show his order of preferences for candidates by putting the figures of 1, 2, 3, etc. in the blank columns. The candidate securing votes upto the figure of electoral quota or more than that is declared successful, otherwise the candidate with least number of votes is eliminated and his votes are transferred to other candidates in accordance with the order of preferences given in the ballot papers. This process continues until one candidate secures absolute

Notes

majority, or until one candidate remains in the field after elimination of others having votes less than those of him. Here again, the minorities may have a political bargain with a particular candidate and thus reap the dividends of their floating votes.

3. **Limited Vote System:** It requires that there should be at least three seats in a multi-member constituency and the voter be given votes less than the number of seats; they should also not be allowed to cast more than one vote for a candidate. We may, for instance, say that a voter be given two votes in a three-member constituency. In this situation the position of the minorities is improved a little and they may have a chance of capturing one seat if they are fairly large, united and well organised.
4. **Single Vote System:** It prevails in a multi-member constituency with one vote of each voter. The candidates are elected on the basis of the majority of votes. The position of the minorities is much improved in this system inasmuch as they may cast their votes for their own candidate, while the votes of the persons in majority are sure to be divided among different candidates.
5. **Proxy System:** Under it, a voter may cast, his vote for one candidate in a multi-member constituency. A minimum number of votes is fixed and a candidate securing that point is declared elected. It is also provided that those who vote for a candidate who fails to be sucessful, may vote again for others so that the unfilled posts may be filled up. Obviously, this would require either a preferential ballot or one which is most secret.
6. **Cumulative Vote System:** Under this system, each voter has as many votes as there are seats and he is allowed to cast his votes either for different candidates, or he may give all votes to a particular candidate. It is obvious that the persons in minority may cast their all votes in favour of their own candidate. It is also known as plumping vote system.
7. **Weightage:** It means that the persons in minority may be given some extra benefits. That is, they may be entitled for more votes than those given to the persons in majority. For instance, in India the Muslims and Christians in pre-independence period were given two votes—one for the elections in general constituencies and one for the election of a candidate of their own community.
8. **Reservations:** There may be the system of reservation of seats or nominations by the head of the state. We may see that in our country seats are reserved for the Scheduled Castes and Scheduled Tribes at the time of elections, while some Anglo-Indians may be nominated as members in the Union and State legislatures.

Though we may not refute the wisdom of a great democrat like Mill who said that the minorities should be given adequate representation and some special arrangement should be made for this purpose so that some seats be shared by them, it should also be borne in mind that nothing should be done for the sake of appeasing them. It should also be carefully noted that the special benefits or favours given to them are not converted into vested interests harmful to the interests of the nation as a whole. Let the minorities have the right to preserve and protect their religion, language, race, culture, etc. and let the state afford them special safeguards for this purpose. However, let it also be carefully noted that these privileges are not misused for purely selfish purposes. What the Indian Supreme Court has ruled in the Gujarat University Case of 1974 (that the state cannot interfere with the management of educational institutions established and run by a minority community), for instance, opens the way for the perpetration and perpetuation of exploitation particularly in the academic field. If such a situation ever arises, suitable steps should be taken, including an amendment of the provisions of the fundamental law of the land, so that the minorities are not allowed to make mischief in the name of privileges given to them.

Functional Representation: The system of functional representation has been suggested by a good number of social and political theorists as a better and more efficacious alternative to the system of territorial representation. It desires that the basis of representation should not be the territorial

Notes

distribution of seats or even the selection of the representatives on the basis of some proportion, rather it should be according to the occupational composition of the society. Thus, it is not only a reaction against the system of territorial representation, it is also against the systems of proportional and minority representations as discussed above. The keynote of this idea is that the social, economic and professional groups, having special interests of their own should find a place in the national legislature. The so-called 'democratic' system of territorial representation should, thus, "be replaced by a system of professional, occupational or functional representation which would disregard territorial lines which are largely artificial and donot mark off precisely the boundaries which separate the real interests of the various classes of which modern societies are composed."

The idea of functional representation derives inspiration from the social set up prevalent in the middle ages when community groups had their autonomous character. Thus, a section of the evolutionary socialists, known as the Guild Socialists, presented it in a revised form that sought to impart a new meaning to the idea of democracy. For instance, Duguit said that the general will could find proper expression through the representation of various groups. Well-known English Fabians like Sidney Webb and Mrs Beatrice Webb recommended a new constitution for the 'socialist commonwealth of Britain' based on the principle of functional representation. However, its best exponent is G.D.H. Cole who said: "All true and democratic representation is, therefore, functional representation... It follows that there must be in the society as many separately elected groups of representatives as there are distinct groups of functions to be performed".

The idea of functional representation took a concrete form in the post-first World War period. The territorial system of representation was replaced in Russia by a system based on the vocational principle for the All-Russian Congress in which miners, iron workers, farmers, professional men and other classes were allowed to choose their own representatives without regard to territorial lines. The same idea found its application in Italy where the Senate was reorganised on the functional basis as desired by Mussolini's doctrine of a corporate state. Various social, industrial and cultural organisations were also given representation in the chamber of deputies. The Weimer constitution of 1919 also created a national economic council in Germany representing special interests of labour, capital and consumers. The constitutions of Yugoslavia and Poland provided for the establishment of advisory councils (consisting of functional representatives) to collaborate with the legislature in the formulation of projects of legislation in regard to social and economic problems. Its example could be seen in Indonesia (before 1965) when President Soekarno, in accordance with his plan of 'Guided Democracy,' reorganised his parliament in a way consisting of the representatives of the armed forces, women, local bodies and others. It was virtually a model of composite legislature in which the idea of functional democracy was applied to some extent. President Suharto revived it in his People's Consultative Assembly having 920 members out of which 460 constituted the parliament.


Task What do you mean by Proxy System?

Though the idea of functional representation has an attraction of its own, its demerits far outweigh its merits. It makes the legislature an arena of conflicting functional groups with the result that sectional interests over-ride national interest. It is also a very tedious job to make a standard census of all social and economic occupations and then decide in terms of their adequate representation. Thus, it is rightly said that an equitable distribution of representation of various interests is impossible. It lays too much emphasis on the autonomy of the social groups that becomes a sort of potential challenge to the sovereign authority of the state. Prof. Herman Finer well visualises that this idea "does not proceed from the integration of the community and then tempers this with the representation of differences, but it proceeds at once from the postulate of integration into a large number of separate communities whose ultimate integration is thenceforward to be fabricated." Coker and Rodee, while attacking the

Notes

plan of representation on the basis of economic or occupational groups, point out that such groups "are indefinite and impermanent in their composition. Many essential occupations form no distinct interests in relation to fundamental political questions."

Characteristic Representation: It may be taken as a little different form of functional representation. It is argued that the legislative chamber should be a microcosm of the social composition. As such, the representative drawn from a particular segment of the society alone can represent or articulate its interests. For instance, the women understand the problems and interests of the women and so they alone can represent the women folk. It cannot be appreciated in view of the fact that if representation is given to sectional groups on any basis whatsoever, then nobody will care for the public good or national interests. Indeed, it "may simply be a recipe for social division and conflict."

Concluding Observations: Though proportional, minority and functional representation systems have merits of their own, it cannot be denied that their demerits far outweigh their merits. It is just for this reason that the system of territorial representation is considered to be the best one in the midst of other systems of representation in order to apply it to a democratic state. However, a successful operation of the territorial or geographical representation system needs taking of certain important steps that may be enumerated as under:

1. There should be universal adult franchise system. The formula of 'one person, one vote' should be scrupulously adhered to. Thus, any discrimination on artificial grounds like those of property in Portugal (where a minimum tax payment is required), or sex as in Saudi Arabia, San Marino and Paraguay (there is no female franchise), or standard of literacy as in Brazil (where illiterates are not given right to vote) etc., is a slur on the name of representative government.
2. Representation should be given to the really competent and incorruptible people. The system of representative democracy demands from the representative the duty to devote himself to the cause of public service and this important function cannot be discharged unless the deputy chosen by the people is both competent and immune from the bonds of material temptations. It becomes the sacred duty of the voters themselves to see that their choice goes for the really deserving politicians.
3. A concerted attempt should be made both by the constituents and their legislators chosen through the medium of political parties to strengthen the constitutional regime. Thus, parties going to either extremes, from rank rightism to rank leftism, should be discouraged. It is also needed that ultra-revolutionary parties should be banned.
4. The number of political parties should be controlled. Laws should be made for the regulation of party system. Statutory provisions can be made for granting recognition to political parties on the basis of election results as we have in our country. It is also necessary that some penalties should be imposed on the defeated candidates so that the field of elections remains confined to the really serious contestants. We in India have a statutory arrangement for the forfeiture of security deposit of a defeated candidate in case he does not get at least 1/6 of the total votes polled. In Germany, a candidate must get at least five percent of the votes polled to have state subsidy for his election expenses. If a party fails to secure at least five per cent of the total votes polled, it farfeits its claim to any seat in the national legislature.
5. Thus, schemes of electoral reforms should be adopted with a view to produce the best possible type of representatives.


Notes

The *raison d" etre* of a legislature is not only to reflect the opinion of the nation as a whole that ascribes to it the title of being the'mirror of the nation', but to maintain good government.

Notes

Critical Appraisal

It should be remembered that the system of representation has no workable alternative of its own. The agencies of direct democracy like those of initiative and referendum (as operating in Switzerland) may hardly serve the really desired purpose. Historical experiences show that the real value of these agencies of direct participation is not as substantial as it seems to be on a theoretical plane. The device of referendum as it has been adopted in some countries (like France and Australia) to over-ride a decision of the legislature on a matter of great constitutional importance has not been as fruitful as it is claimed to be. What is left for us is that the system of representation should be made as usefully workable in the prevailing conditions of the country as possible. As Strong suggests: "Schemes of electoral reform, whose object is to produce the best possible type of legislature, may therefore have to sacrifice something of the ideal electorate. The reflection of the opinion of the electorate in the legislature is only partially feasible and not always desirable. Any conceivable system of election is at best an arbitary attempt to approximate to a correspondence between the electors and the elected body. Government must, after all, be relative to the conditions of the society it governs, and account must always be taken of the peculiarities of the people to which it in each case applies."

Undeniable is the fact that the subject of representation has an importance of its own in the study of modern democratic system. As such, the 'responsiveness' of the deputy needs its proper examination in the light of social and economic conditions of the country. Besides, the proper role of a representative should be examined in the context of different institutional and regional situations. Indeed, this subject is so complex that it, according to Prof. R.B. Jain, embraces these significant aspects: (a) his role perception, role expectation and role performance in different institutional contexts, (b) his socialisation process, (c) his constituency linkages, (d) his relationship with other representatives and the emerging collective behaviour, (e) his relationship with his own partymen in and outside the representative bodies, (f) his support-bases, and (g) his individual, ideological, sociological and psychological make-up which in actual reality compose his personal traits and condition his behaviour in the legislative bodies. Important studies can be made in the sphere of comparative politics by keeping the above points in view.

The subject of 'representativeness' has not yet been properly discussed. It is also deplorable that the representatives of the people have also done a lot to devalue their own position by showing indifference to the norms of proper representation. Thus, Herman Finer regrets that "no particular profession or training offers the royal road to the proper legislator, but that any one is eligible who has involved immersion in the life of the society and has acquired rigorous reflection and the use of mind and his assertion that the more ample the variety in the legislature, then the better."

12.3 Political Participation of USA, UK, Russia, France and China

Participation in USA

Participation by Voting

Ordinary citizens can participate in a nation's politics in various ways, but voting is widely regarded as the most important. Indeed, some analysts argue that having regular, free, and competitive elections for public office is the most important difference between democratic and nondemocratic systems.

Most political scientists believe that since voting in elections is the main way in which ordinary citizens in all democracies actually participate in their nations' governing processes, **voting turnout**—the percentage of all the people eligible to vote who actually do so—is one of the most important indicators of any democratic system's health. Studies of voting turnout in the world's democracies, like that in Table 12.1, usually find that the turnout is lower in United States than in any other democracy except Switzerland.

Not only does Table 12.1 show that the U.S. has the next-to-lowest average voting turnout in the world, but it is also true that in U.S. presidential elections turnout has declined steadily since 1960, with the worst showing being 49 percent in 1996 (turnout is generally even lower in midterm congressional and state elections—it was 39 percent in 2002).

Notes

Many commentators view this finding as an alarming symptom of a deep sickness in America. They say it reflects a widespread popular feeling that election outcomes don't really matter, that the whole

Table 12.1: Average Voting Turnout in Elections to Lower House, 1961-1999

Nation	Average Turnout
Australia	95
Belgium	92
Italy	90
Sweden	88
New Zealand	87
Germany	86
Canada	75
United Kingdom	75
France	75
Japan	69
India	59
United States	52*
Switzerland	52

† Compulsory voting law

* Presidential elections

Source: *Adapted from Mark N. Franklin, "The Dynamics of Electoral Participation," in Lawrence LeDuc, Richard G. Niemi, and Pippa Norris, eds., Comparing Democracies 2 (Thousand Oaks, CA: Sage Publications, 2002), Table 12.1.*

governmental system is rigged against ordinary people, and so there is no good reason why people should bother with voting.

When voting turnout is calculated in exactly the same way in the United States as it is in other democracies—as a percentage of registered voters— the American record looks much better. The point, though technical, is important. In America, as in most of the world's other democracies, citizens' names must appear on voting registers before they can legally vote. But the United States differs from other nations in one important respect: in most other countries, getting on the register requires no effort by the voter. Public authorities take the initiative and do the work to get all eligible citizens enrolled, and as a result almost every citizen of voting age is on the register. In the United States, by contrast, each state regulates **voting registration**, and in most states would-be voters must make an effort to get on the register; no public official will do it for them. Moreover, in most democratic countries when voters move from one part of the country to another, they are automatically struck off the register in the place they leave and are added to the register in the place they move to, all with no effort on their part. In contrast, when people move from one U.S. state to another they are not automatically added to the register in their new state.

In 1993 Congress passed the "Motor Voter" act, which was intended to make registration much easier and thereby increase voting turnout. The legislation requires the states to allow citizens to register when applying for a driver's license, to permit registrations by mail, and to provide registration forms at public assistance agencies such as those distributing unemployment compensation and welfare checks. Even so, turnout in the 1996 presidential election *dropped* to 49 percent, one of the lowest figures of the twentieth century. It rose to 52 percent in 2000.

Notes

Most political scientists applaud the new law, and most were puzzled by the sharp decline in 1996. Some, however, point out that America's status as a low-turnout country is an artifact of the way turnout is measured. They point out that turnout can be measured in two ways that give markedly different results. One is to take a percentage of all registered voters, which, in most democracies, is nearly identical with the number of eligible persons. The other, which is generally used in the United States, is to take a percentage of all persons of voting age— including not only unregistered persons and persons who have moved but have not re-registered, but even noncitizens of voting age.

One study has found that when turnout in the U.S. is compared with that in 24 other democracies and when the measure used is percent of persons of voting age, the U.S., with an average turnout of 52.6 percent in presidential elections, ranks 23rd, lower than in any other democracy except Switzerland. However, when the measure is percent of registered voters, the U.S. jumps to an average turnout of 86.8 percent, which makes it 11th highest.

Another explanation for America's low voting turnout arises from the fact that American voters are called on to cast far more votes than the citizens of any other country (only Switzerland comes close). In the parliamentary democracies, the only national elections are those for the national parliament, in which voters normally vote for one candidate or for one party. They also vote periodically for a candidate or a party in the elections for the city or rural district in which they live. In the federal systems, they also vote for a member of their state or provincial parliament. Hence, in most democracies other than the United States and Switzerland, the typical voter makes a total of only four or five voting decisions over a period of four or five years.

In the United States, the combination of separation of powers, federalism, the direct primary, and, at the state and local level, the initiative and referendum means that citizens may be faced with several *hundred* electoral decisions in a period of four years. At the national level, voters are called on to vote in the presidential primaries of their parties, and in the general election to decide (mostly) between the Democratic and Republican candidates. They are also expected to vote in primary elections and general elections every two years for members of the House of Representatives and twice in every six years for members of the Senate. At the state and local level not only are the leading executive officials (governors and mayors) and members of the legislatures nominated in primary elections and elected in general elections, but in most states and localities a considerable number of other offices that are appointed positions in most other democracies—for example, state secretaries of state, attorneys general, treasurers, superintendents of education, judges, school superintendents, and members of local school boards, sanitary commissions, park commissions, and so on—are selected by much the same primary-plus-general election procedures. In addition, about half the states regularly hold elections on initiatives and referendums, in which the public votes directly on questions of public policy.

Thus American citizens are called on to vote far more often than those of any other country except Switzerland. Surely the opportunity to vote in free, fair, and competitive elections is a sine qua non of democratic government, and therefore a good thing. Yet a familiar saying is that there can be too much of a good thing, and many Americans leaving their polling places after casting their ninetieth (or more) vote of the year are likely to conclude that the sheer number of voting decisions in America is a case in point.

Participation by Other Means

Voting, of course, is only one of several ways citizens can participate in politics. They can also serve in office, work in political parties, donate money to candidates, parties, and causes, attend rallies, take part in street demonstrations, send letters, telegrams, faxes and e-mail messages to their elected representatives, write letters and op-ed pieces to newspapers, call radio and TV talk shows, try to persuade families and friends, file lawsuits against public officials, and so on. These other forms of participation have not been studied as extensively as voting, but Russell Dalton has collected some interesting comparative data on conventional and unconventional forms of participation in the United States and some Western European countries.

Notes

The responses in citizens of France are more likely than citizens of the United States, Great Britain, or West Germany to participate in demonstrations and political strikes, whereas Americans are more likely than the others to persuade other people how to vote and to work with citizen groups.

Several other studies have found that the form of participation most frequently claimed by Americans is voting in elections (53 percent), followed by stating their political opinions to others (32 percent), contributing money to campaigns (12 percent), displaying political bumper-stickers and signs (9 percent), and attending political meetings or rallies (8 percent). Only 4 percent report belonging to a political club or working for a political party.

In short, Americans participate in politics in ways other than voting in elections as much or more than the citizens of the other Western democracies for whom we have reliable information. These data certainly do not support the conclusion that Americans are in any way more alienated or lazier than the citizens of other democracies.

Political Participation in UK

Participation

If political participation is defined as paying taxes and drawing benefits from public programs, then everyone is involved, for public policies provide benefits at every stage of life, from maternity allowance to mothers through education, employment and unemployment benefits, health care, and pensions in old age.

An election is the one opportunity people have to influence government directly. Every citizen aged.

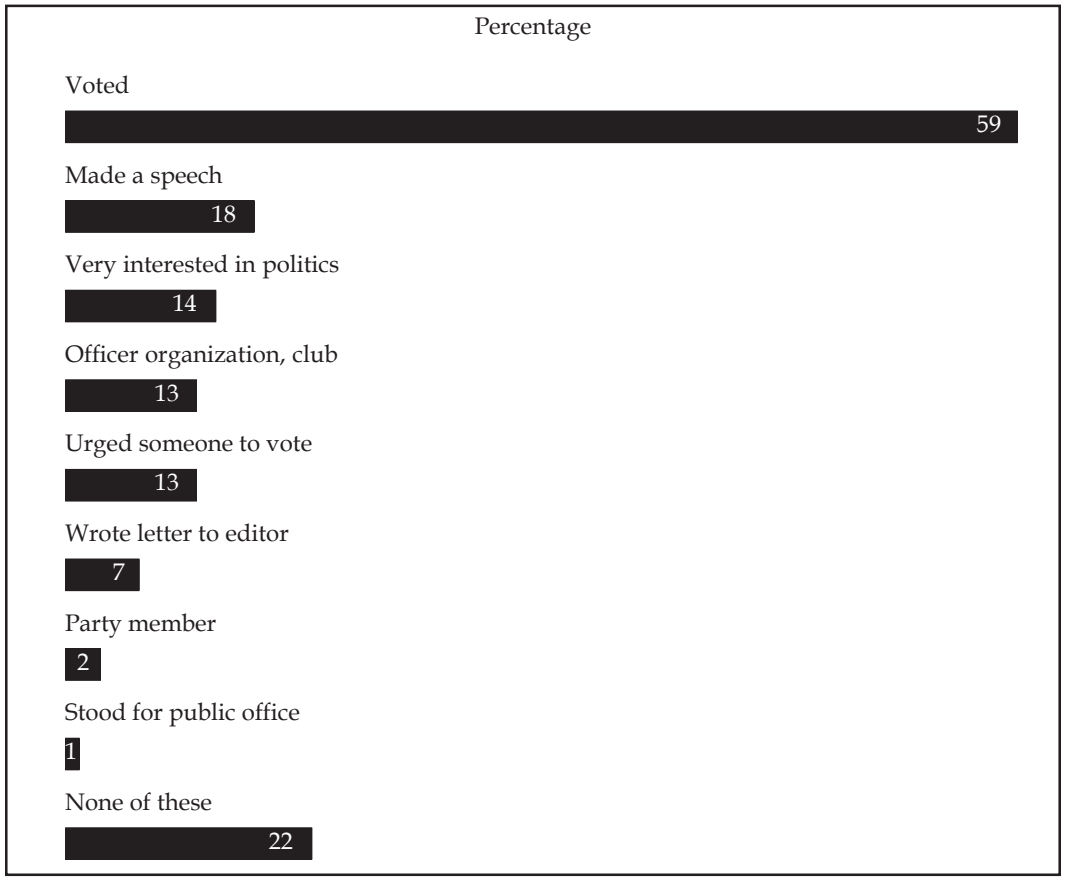


Figure: Participation in Politics

Source: *MORI public opinion survey, January-March, 2001 pooling 14,010 interviews, as reported in Robert Worcester and Roger Mortimore, Explaining Labour's Second Landslide. London: Politico's, 2001.*

Notes

18 or over is eligible to vote. Local government officials register voters, and the list is revised annually, ensuring that nearly everyone eligible to vote is actually registered. Turnout at general elections has averaged 77 percent since 1950. However, it fell to 59.4 percent at the 2001 election. Casting a vote is the only political activity of the majority of British people. When asked about their interest in politics, most people are lukewarm. Depending on the measure used, from 1 to 18 percent can be described as involved in politics. If elected office is the measure of political involvement, the proportion drops to 1 percent.

The wider the definition of political participation, the greater the number who can be said to be involved in politics, at least indirectly. More than half of adults belong to an organization that can act as an interest group, such as an anglers' club concerned about the pollution of a local stream or the Automobile Association, which represents motorists. But most people join organizations such as sports or automobile clubs for nonpolitical purposes. For example, only a limited minority of trade union members take an interest in the political activities of their union, and half do not vote Labour, the party that unions support. Many ad hoc groups reflect local concern about a single issue—for example, the need for a stop sign when there has been an accident in a neighborhood. The concentration of politics and media in London makes it possible for a London-based protest meeting with a few thousand people to get press coverage, even though those participating are only one-one-hundredth of 1 percent of the electorate.

Political Recruitment

We can view recruitment into politics deductively or inductively. The deductive approach defines the job to be done and individuals are recruited with skills appropriate to the task; this is the route favored by management consultants. Alternatively, we can inductively examine the influences that lead people into politics and ask: Given their skills and motives, what can such people do? The constraints of history and institutions make the inductive approach more realistic.

The most important political roles in Britain are those of Cabinet minister, higher civil servant, and intermittent public person, analogous to informal advisers to presidents. Each group has its own recruitment pattern. To become a Cabinet minister, an individual must first be elected to Parliament and spend years attracting positive attention there. Individuals enter the civil service shortly after leaving university by passing a highly competitive entrance examination; promotion is based on achievement and approval by seniors. Intermittent public persons gain access to ministers and civil servants because of their expertise or position in organizations outside politics, or because they are personally trusted by leading politicians.

In all political roles, experience is positively valued. Starting early on a political career is usually a precondition of success. But aspiring Cabinet ministers are not expected to begin in local politics and work their way gradually to the top at Westminster. Instead, at an early age an individual becomes a "cadet" recruit to a junior position such as a parliamentary assistant to an MP or a "gofer" for a Cabinet minister. This can lead to a central political role after gaining skill and seniority.

Political Participation in Russian

In a democracy, citizens take part in public life both through direct forms of political participation, such as voting, party work, organizing for a cause, demon-strating, lobbying, and the like, and more indirect forms of participation, such as membership in civic groups and voluntary associations. Both kinds of participation influence the quality of government. By means of collective action citizens signal to policy makers what they want government to do, and it is through channels of participation that activists rise to positions of leadership. But, despite the legal equality of citizens in democracies, levels of participation across groups in the population vary with differences in resources, opportunities and motivations. The better-off and better-educated tend to be dis-proportionately involved in political life everywhere, but in some societies the disproportion is much greater than in others.

The Importance of Social Capital

A healthy fabric of voluntary associations has been recognized since de Tocqueville's time as an important component of democracy. As political scientist Robert D. Putnam has shown, participation

Notes

in civic life builds social capital—networks of reciprocal ties of trust and obligation among citizens that facilitate collective action. Where social capital is greater, people treat one another as equals rather than as members of social hierarchies. They are more willing to cooperate in ways that benefit the society and improve the quality of government by sharing the burden of making government accountable and effective. For example, where people feel less distance and mistrust toward government, governments are better able to float bonds to provide improvements to community infrastructure. People are more willing to pay their taxes, so that government has more revenue to spend on public goods—and less ability and less incentive to divert it into politicians' pockets. It is not only capitalism, but also, to a large extent, democratic government, that rests on people's ability to cooperate for the common good.

In Russia, however, social capital has been thin, and state and society have been separated by mutual mistrust and suspision. State authorities have usually stood outside and above society, extracting what resources they needed from society but not cultivating ties of obligation to it. To a large extent, the gap between state and society still exists today in Russians' attitudes and behavior. Thus, although Russians turn out to vote in elections in rather high numbers, participation in organized forms of political activity (that is, not simply talking about politics with others and engaging in protest) is low. Opinion polls show that most people believe that their involvement in political activity is futile, and have little confidence that government serves their interests.

Since the late 1980s, political participation in Russia has seen a brief, intense surge followed by a protracted ebb. Low participation appears to reflect a collapse of people's faith that life can be improved through the political process. Alienation of the populace from the state has long characterized Russian political culture. Still, although few Russians belong to social organizations and most doubt they can influence government through political participation, Russians today *do* take elections seriously and value their freedom to participate in public life as they choose.

Participation in voluntary associations in contemporary Russia is extremely low: according to survey data, 90 percent of the population do not belong to any sports or recreational club, literary or other cultural group, political party, local housing association or charitable organization. Only 1 percent report being a member of a political party. About 13 percent report attending church at least a few times a year, and about 17 percent report being members or labor unions. These are very passive forms of participation in public life. But even when these and other types of participation are taken into account, however, almost 60 percent of the population still are outside any voluntary public associations.

This is not to say that Russian citizens are *psychologically* disengaged from public life. Half of the Russian adult population reports reading national newspapers "regularly" or "sometimes" and almost everyone watches national television "regularly" (81 percent) or "sometimes" (14 percent). Sixty-nine percent read local newspapers regularly or sometimes. Sixty-six percent discuss the problems of the country with friends regularly or sometimes and 48 percent say that people ask them their opinions about what is happening in the country. A similar percentage of people discuss the problems of their city with friends. Russians do vote in high proportions in national elections—higher, in fact, than their American counterparts.

Moreover, Russians prize their right to participate in politics as they choose, including the right *not* to participate. Today's low levels of political participation are a reflection of the low level of confidence in political institutions and the widespread view that ordinary individuals have little influence over government. In one late 2000 survey, 85 percent of the respondents expressed the opinion that they have no influence to affect the decisions of the authorities. In another survey, 60 percent said that their vote would not change anything; only 14 percent of the respondents thought that Russia was a democracy while 54 percent said that "overall" it is not a democracy. The political authorities are viewed very negatively (except for Putin). Fifty-five percent of the respondents in a survey in late 2000 said that the authorities are concerned only with their own material wellbeing and career. Another 13 percent regarded them as honest but weak, while another 11 percent considered them honest but incompetent.

Popular disengagement from politics was stimulated by the disappointment of expectations that the change from communism to democracy would improve people's lives. In the late 1980s and early

Notes

1990s there was a great surge of popular participation. It took multiple forms, including mass protest actions such as strikes and demonstrations, as well as the creation of tens of thousands of new informal organizations. But following the end of the Soviet regime, this wave subsided. The disengagement and skepticism reflected in public opinion today certainly reflects disillusionment with how conditions have turned out.

Elite Recruitment

Elite recruitment refers to the set of institutional mechanisms in a society by which people gain access to positions of influence and responsibility. It is closely tied to the forms of political participation in a society, because it is through participation in community activity that people take on leadership roles, learn civic skills such as organization and persuasion, develop networks of friends and supporters, and become interested in pursuing political careers. In the Soviet regime, the link between participation and elite recruitment was highly formalized as the communist party took pains to recruit the population into a variety of officially-sponsored organizations, such as the communist party, youth leagues, trade unions, and women's associations. Through such organizations, the regime identified potential leaders and gave them experience in organizing group activity.

And those individuals who were approved for the positions on *nomenklatura* lists were informally called "the *nomenklatura*." Many citizens regarded them as the ruling class in Soviet society.



The party reserved the right to approve appointments to any position which carried high administrative responsibility or which was likely to affect the formation of public attitudes. The system for recruiting, training and appointing individuals for positions of leadership and responsibility in the regime was called the **nomenklatura** system.

The democratizing reforms of the late 1980s and early 1990s made two important changes in the process of elite recruitment. First, the old *nomenklatura* system crumbled along with other Communist Party controls over society. Second, although most members of the old ruling elites adapted themselves to the new circumstances and stayed on in various official capacities, the wave of new informal organizations and popular elections brought about an infusion of new people into elite positions. Thus the contemporary Russian political elite consists of some people who were recruited under the old *nomenklatura* system together with a smaller share of individuals who have entered politics through new democratic channels. The political elite has not simply reproduced itself from the old regime to the new but neither has it been completely replaced. Rather, it has been expanded to accommodate the influx of new, often younger, politicians who have come in to fill positions in representative and executive branches. Many members of the old guard have successfully adapted themselves to the new conditions, and, drawing upon their experience and contacts, have found high-status jobs for themselves in business and government. At the same time, many young politicians have entered political life through the electoral process.

But there are two major differences between elite recruitment in the old system and the present. The *nomenklatura* system of the Soviet regime ensured that in every walk of life, those who held positions of power and responsibility were approved by the party. They thus formed different sections of a single political elite and owed their positions to their political loyalty and usefulness. Today, however, there are multiple elites (political, business, scientific, cultural, etc.), with no one overarching mechanism for grooming and selecting their members. Second, there are multiple channels for recruitment to today's *political* elite. Some of its members are old-guard party and state officials who have found niches for themselves in state administration in the present regime. But others are new-wave politicians who have climbed the ladder of success in elections or entered the political elite after careers in business or science. Therefore, depending on which elite group we examine, we see a mixture of old and new channels of recruitment.

Notes

One of the most marked changed to have ocurred since the fall of the Soviet regime has been the formation of a new business elite. To be sure, many of its members come out of the Soviet *nomenklatura*, as old guard bureaucrats discovered ways to cash in on their political contacts. Money from the Communist Party found its way into the establishment of as many a thousand new business ventures, including several of the first commercial, banks. As early as 1987 and 1988, officials of the Communist Youth League (Komsomol) began to see the possibilities of cashing in the assets of the organization and started liquidating the assets of the organization in order to set up lucrative business ventures, such as video salons, banks, discos, tour agencies, and publishing houses. They took advantage of their insider contacts, obtaining business licenses, office space, and exclusive contracts with little difficulty. Some bought (at bargain basement prices) controlling interests in state firms that were undergoing privatization, and a few years later found themselves millionaires or billionaires.

Other members of the new business elite rose through channels outside the state. Many, in fact, entered business in the late 1980s, as new opportunities for legal and quasi-legal commercial activity opened up. A strikingly high proportion of the first generation of the new business elite comprised young scientists and mathematicians working in research institutes and universities. The new commercial sector sprang up very quickly: by the end of 1992 there were nearly one million private businesses registered, with some 16 million people working in them. The new business elite is closely tied to the state. Powerful financial-industrial conglomerates have formed close and often collusive relations with ranking state administrators and legislators.

Businesses need licenses, permits, contracts, exemptions and other benefits from government; political officials in turn need financial contributions to their campaigns, political support, favorable media coverage, and other benefits that business can provide. The atmosphere of close and collusive relations between many businesses and government officials has nurtured widespread corruption and the meteoric rise of a small group of business tycoons popularly, known as "oligarchs" who took advantage of their links to President Yeltsin's administration to acquire, control of some of Russia's most valuable companies. The pervasive influence of money on politics has deepened the problem of corruption at all levels of government and daily life.

Political Participation in France

In most democracies, no form of political participation is as extensive as voting. Although France is a unitary state, elections are held with considerable frequency at every territorial level. Councilors are elected for each of the more than 36,000 communes in France, for each of the 100 departments (counties), and for each of the 22 regions. Deputies to the National Assembly are elected at least once every five years, and the president of the Republic is elected (or reelected) at least once every seven years (every five years after 2002). In addition, there are elections for French representatives to the European Parliament every five years since 1979.

France was the first European country to enfranchise a mass electorate, and France was also the first European country to demonstrate that a mass electorate did not preclude the possibility of authoritarian government. The electoral law of 1848 enfranchised all male citizens over the age of 21, but within five years this same mass electorate had ratified Louis Napoleon's coup d'etat and his establishment of the Second Empire. Rather than restrict the electorate, Napoleon perfected new modern techniques for manipulating a mass electorate by gerrymandering districts, skillfully using public works as patronage for official candidates, and exerting pressure through the administrative hierarchy.

From the Second Empire to the end of World War II, the size of the electorate remained more or less stable, but it suddenly more than doubled when women 21 years of age and older were granted the vote in 1944. After the voting age was lowered to 18 in 1974, 2.5 million voters were added to the rolls. By 2002, there were more than 40 million voters in France.

Electoral Participation and Abstention

Surprisingly, in both the Third and the Fourth Republics general disenchantment with parliamentary institutions never prevented a high turnout at national elections. Since the consolidation of republican institutions in 1885 (and with the one exception of the somewhat abnormal post-World War I election

Notes

of 1919), electoral participation never fell to less than 71 percent of registered voters, and in most elections participation was much higher.

Table 12.2 French Referendums (R) and Second Ballots of Presidental Elections (P), 1958–2002 (Voting in Metropolitan France)

			"Yes" Votes + Votes for Winning Candidate			"No" Votes + Votes for Losing Candidate		
Date	Registered Voters (millions)	Abstentions (percentage registered)	(percentage registered)	(percentage cast)	Winner	(percentage registered)	(percentage cast)	Loser
9/28/58(R)	26.6	15.1	66.4	79.2		17.4	20.7	
l/8/61(R)	27.2	23.5	55.9	75.3		18.4	24.7	
4/8/62(R)	27.0	24.4	64.9	90.7		6.6	9.3	
10/28/62(R)	27.6	22.7	46.4	61.7		28.8	38.2	
12/19/65(P)	28.2	15.4	44.8	54.5	De Gaulle	37.4	45.5	Mitterrand
4/18/69(R)	28.7	19.4	36.7	46.7		41.6	53.2	
6/15/69(P)	28.8	30.9	37.2	57.5	Pompidou	27.4	42.4	Poher
4/23/72(R)	29.1	39.5	36.1	67.7		17.2	32.3	
5/19/74(P)	29.8	12.1	43.9	50.7	Giscard d'Estaing	42.8	49.3	Mitterrand
5/10/81(P)	35.5	13.6	43.8	52.2	Mitterrand	40.1	47.8	Giscard d'Estaing
5/8/88(P)	38.2	15.9	43.8	54.0	Mitterrand	37.3	46.0	Chirac
11/6/88(R)	37.8	63.0	26.1	80.0		6.5	20.0	
9/20/92(R)	37.1	28.9	34.9	50.8		33.8	49.2	
5/7/95(P)	39.9	20.1	39.5	52.6	Chirac	35.6	47.4	Jospin
9/24/00(R)	39.6	69.7	18.6	73.2		6.8	26.8	
6/5/02(P)	41.2	20.3	62.0	82.2	Chirac	13.4	17.8	Le Pen

Source: *Official results from the Ministry of the Interior.*

Voting participation in elections of the Fifth Republic has undergone a significant change and fluctuates far more than during previous republics. Abstention tends to be highest in referendums and European elections, and lowest in presidential contests, with other elections falling somewhere in between (see Table 12.2).

In 2002, a new record was set for abstention in a presidential election, when 27.9 percent of the registered voters stayed home. During the 1980s, the normal level of abstention in legislative elections increased substantially, and remains high. In the 2002 legislative election, an abstention rate of 35.6 percent set a record for legislative elections for any of the French republics. The elections for the European Parliament always attract relatively few voters, but in 1999 more than half the registered voters stayed home (slightly more than in 1994). For referendums, a new record was set in 2000: almost 70 percent of the registered voters chose not to vote in a (successful) referendum to reduce the presidential term from 7 to 5 years (after the elections of 2002).

Notes

These high and growing levels of abstention, which are such a striking departure from what had come to be regarded as the norm, are not equally distributed among the electorate. Abstention has grown faster among voters of the left than among voters of the right, and faster in working-class constituencies than in more middle-class constituencies. Rising abstention seems linked to a larger phenomenon of change in the party system. Since the late 1970s, voters' confidence in all parties has declined, some of which is expressed through growing abstention rates among voters who formerly voted for both right and left. The highest" abstention rates in 2002 were among those voters who expressed no preference between parties of the right and left.

Abstention from voting is one aspect of the major structural change in the French party system. Even when the abstention level declined to around 30 percent during the electoral cycle of 1992-1997, it never reverted to the pre-1981 average. Nevertheless, in contrast with the United States, among the 90 percent of the electorate that is registered to vote, individual abstention appears to be cyclical and there are almost no permanent abstainers. In this sense, it is possible to see abstention in an election as a political choice (42 percent of them in 2002 said that they abstained because they had no confidence in politicians.

As in other countries, age, social class, and education were and remain important factors in determining the degree of electoral participation, both registration and voting. The least educated, the lowest income groups, and the youngest and oldest age groups vote less frequently.

Voting in Parliamentary Elections

Since the early days of the Third Republic, France has experimented with a great number of electoral systems and devices without obtaining more satisfactory results in terms of government coherence. The stability of the Fifth Republic cannot be attributed to the method of electing National Assembly deputies, for the system is essentially the same one used during the most troubled years of the Third Republic. As in the United States, electoral districts (577) are represented by a single deputy who is selected through two rounds elections. On the first election day, candidates who obtain a majority of all votes cast are elected to parliament; this is a relatively rare occurrence because of the abundance of candidates. Candidates who obtain support of less than 12.5 percent of the registered voters are dropped for the "second round" a week later. Other candidates voluntarily withdraw in favor of a better-placed candidate close to their party on the political spectrum. For instance, pre-election agreements between Communists and Socialists (and, more recently, the Greens) usually lead to the weaker candidate withdrawing after the first round, if both survive. Similar arrangements often exist between the Rally for the Republic (RPR) and the Union for French Democracy (UDF), although more recently they have not competed in the same district even on the first round. As a result, generally three (or at most four) candidates face each other in the second round, in which a plurality of votes ensures election.

This means that the first round is somewhat similar to American primary elections, except that in the French case the primary is among candidates of parties allied in coalitions of the left or center-right. In the end, bipolarity generally results. There is considerable pressure on political parties to develop electoral alliances, since those that do not are placed at a strong disadvantage in terms of representation.

The National Front is more or less isolated from coalition arrangements with the parties of the center-right in national elections (though less at the subnational level). Consequently, in 2002, with electoral support of 11.1 percent, none of the Front candidates was finally elected. In comparison, the Communist Party benefited from an electoral agreement with the Socialists: With a mere 4.7 percent of the vote, 21 of their candidates were elected. Not surprisingly, the leading party (or coalition of parties) generally ends up with a considerably larger number of seats than is justified by its share in the popular vote.

Voting in Referendums

As we have seen, French traditions of representative government frowned on any direct appeals to the electorate, mainly because the two Napoleons used the referendum to establish or extend their

Notes

powers. The 1958 constitution of the Fifth Republic made only modest departures from the classic representative model. Although the constitution was submitted to the electorate for approval, the direct appeal to the voters that it permitted under carefully prescribed conditions was hedged by parliamentary controls.

Between 1958 and 1969 the French electorate voted five times on referendums (see again Table 12.2). In 1958 a vote against the new constitution might have involved the country in a civil war, which it had narrowly escaped a few months earlier. The two referendums that followed endorsed the peace settlement in the Algerian War. In 1962, hardly four years after he had enacted by referendum his "own" constitution, General de Gaulle asked the electorate to endorse a constitutional amendment of great significance: to elect the president of the Republic by direct popular suffrage. Public opinion polls reveal that both popular election of the president and consultation of the electorate by referendum on important issues are widely approved. Favorable attitudes toward the referendum and the popular election of the president, however, did not prevent the electorate from voting down another proposal submitted by de Gaulle in 1969, thereby causing his resignation. Nothing in the constitution compelled de Gaulle to resign, but his highly personal concept of his role, no longer accepted by a majority of the electorate, made his resignation inevitable.

Since 1969 there have been only four referendums. President Georges Pompidou called a referendum for the admission of Britain to the Common Market. (For the results of referendums and presidential elections between 1958 and 2000, see Table 12.2) The first referendum during the Mitterrand period, in 1988, dealt with approval for an accord between warring parties on the future of New Caledonia; the referendum was a condition of the agreement. Sixty-three percent of the voters stayed home, but the accord was approved. The electorate was far more extensively mobilized when the question of ratifying the so-called Maastricht Treaty on the European Union was submitted to referendum in September 1992, and the results were far more significant for the future of French political life. The 2000 referendum– on reduction of the presidential term from seven to five years– was overwhelmingly approved (by 73 percent of those who voted), but the referendum was most notable for the record number of abstentions—almost 70 percent.

Public opinion polls indicate that the referendum as a form of public participation is regarded favorably by the electorate. It ranked just behind the popularly elected presidency and the Constitutional Council, among the most highly approved institutional innovations of the Fifth Republic. In one of its first moves, the new government under President Jacques Chirac in 1995 passed a constitutional amendment that expanded the use of the referendum in the areas of social and economic policy.

Voting in Presidential Elections

Presidential elections by direct popular suffrage are for French voters the most important expressions of the general will. After the presidential elections of 1965, it became evident that French voters derived great satisfaction from knowing that, unlike past parliamentary elections, national and not parochial alignments were at stake, and that they were invited to pronounce themselves effectively on such issues. The traditional and once deeply rooted attitude that the only useful vote was against the government no longer made sense when almost everybody knew that the task was to elect an executive endowed with strong powers for seven years. Accordingly, turnout in presidential elections, with one exception, has been the highest of all elections.

The nomination procedures for presidential candidates make it very easy to put a candidate on the first ballot, far easier than in presidential primaries in the United States. So far, however, no presidential candidate, not even de Gaulle in 1965, has obtained the absolute majority needed to ensure election on the first ballot. In runoffs, held two weeks after the first ballot, only the two most successful candidates face each other. All serious candidates are backed by a party or a coalition of parties, the provisions of the law notwithstanding. Nevertheless, with a record number of candidates in 2002 (16), this proposition was stretched to the limit.

Notes

If all the presidential campaigns have fascinated French voters and foreign observers, it is not only due to the novelty of a nationwide competition in a country accustomed to small constituencies and local contests. Style and content of campaign oratory have generally been of high quality. Because the formal campaigns are short and concentrated, radio, television, and newspapers are able to grant candidates, commentators, and forecasters considerable time and space. The televised duels between the presidential candidates in the last four elections, patterned after debates between presidential candidates in the United States, but longer and of far higher quality, were viewed by at least half of the population.

Informal campaigns, however, are long and arduous. The fixed term of the French presidency means that, unless the president dies or resigns, there are no snap elections for the chief executive as there are from time to time in Britain and Germany. As a result, even in the absence of primaries, the informal campaign begins to get quite intense years before the election. In many ways, the presidential campaign of 2002 began well before the new millenium.

Just as in the United States, electoral coalitions that elect a president are different from those that secure a legislative majority for a government. This means that any candidate for the presidency who owes his nomination to his position as party leader must appeal to an audience broader than a single party. Once elected, the candidate seeks to establish political distance from his party origins. Although at the time of his first election he was more closely identified as a party leader than his predecessors in the presidency, Mitterrand successfully established the necessary distance between party and office, which explains a great deal about his political success in 1988. Francois Mitterrand was the first president in the history of the Fifth Republic to have been elected twice in popular elections. Jacques Chirac has now accomplished this same achievement.

Although the 2002 presidential election deeply divided all of the major parties, the process of coalition building around presidential elections has probably been the key element in political party consolidation and in the development of party coalitions since 1968. The prize of the presidency is so significant, as we shall see, that it has preoccupied the parties of both the right and the left since the 1960s and influences their organization, their tactics, and their relations with one another.

Political Participation in China

In the communist party-state, political participation, interest articulation, and interest aggregation are processes that are different from those normally, found in liberal democratic systems. The source of difference is, of course, different conceptions of the relationship between leaders and citizens: the notion of guardianship is fundamentally incompatible with liberal democratic notions of representation. The Communist Party organization claims to represent the interests of all society, but it rejects, as unnecessary and unacceptable, organized interest groups independent of the Communist Party and political parties other than the communists. While there has been change in political processes in recent decades, the "officially acceptable" forms of political participation, interest articulation, and interest aggregation in the Chinese political system nonetheless continue to reflect the relationship of guardianship between party and society. Although moderated somewhat by the mass line, which emphasizes consultation, this relationship essentially structures political participation as a hierarchical top-down process, restricts interest articulation to individual contacting of officials, and leaves little place for interest aggregation outside the Communist Party. This section discusses political participation; the next section explores interest articulation and aggregation.

Officially Acceptable Political Participation

An important aspect of political reform undertaken after Mao's death in 1976 has been the redefinition of what constitutes "officially acceptable" political participation in the Chinese system. This is part of the process of political liberalization within a framework of Communist Party dominance. Guidelines for the new political participation are evident in three categories of rule changes that have routinized participation and reduced its burden for ordinary Chinese. The changes reflect an

Notes

official reaction against the disruption that characterized mass participation in the Maoist years (especially during the Cultural Revolution), an official assumption that economic growth is predicated on order and stability, and an official recognition that changes in economic relationships require adjustments in political relationships.

The first category of rule changes involves political participation, which has become essentially optional for ordinary Chinese since the early 1980s. In the first 30 years of communist rule, for a broad range of political activities, failure to participate was considered tantamount to opposition to the communist regime. Today, politics intrudes far less in the lives of ordinary Chinese. The scope and demands of politics have shrunk. The single most important measure signifying this change is the official removal, in 1979, of all class and political labels. After 30 years, Chinese are no longer formally identified by class background or past "political mistakes." Not only does politics no longer dominate daily life, but in the diminished sphere of political activities, political apathy is no longer risky for ordinary Chinese. Certainly, local leaders continue to mobilize people for some activities (voting, for example), but political participation is no longer widely enforced in an atmosphere of coercion.

The second category has been the assiduous avoidance by the regime to rouse the mass public to realize policy objectives. In the Maoist years, by contrast, the quintessential form of political participation was the **mass mobilization campaign**— intensive, large-scale, disruptive group action, implemented by grassroots leaders. The Great Leap Forward launched in 1958 and the Cultural Revolution launched in 1966 were essentially mass campaigns, on a gargantuan scale (with some unique features, of course). Typically in mass campaigns, grassroots party leaders, responding to signals from the political center, roused ordinary Chinese to achieve regime goals of various sorts, often aimed at identified categories of enemies—such as "counter-revolutionaries" in 1950-1951, the "landlord class" in 1950-1952, "rightists" in 1957, and "unclean cadres" in 1962-1963. Mass campaign methods were adopted for nonpolitical objectives too, such as the ill-conceived and ecologically harmful effort to eradicate "four pests" (sparrows, rats, flies, and mosquitoes) in 1956. Participation in campaigns was virtually compulsory. In the highly politicized environment that characterized all campaigns, lack of active enthusiasm was equated with lack of support for regime goals. Although undoubtedly a burden for the vast majority, the campaigns presented opportunities for the politically ambitious. For leaders at the grassroots, campaigns were opportunities to demonstrate to their superiors an ability to mobilize the masses to achieve extraordinary results. For some ordinary citizens, campaigns were opportunities to demonstrate activism and other political qualifications that might gain them membership in the Communist Party. For a great many others, however, campaigns were opportunities to settle personal scores by playing them out as political struggles. Not surprisingly, many political campaigns were accompanied by violence, justified in lofty political terms. Only three years after Mao's death, Chinese leaders issued an official rejection of mass campaigns as a mode of political participation. Many leaders who emerged at the top echelons of power in the late 1970s had themselves been victims of persecution in the Cultural Revolution. The social disorder of campaigns was rejected as antithetical to the new priority of economic growth.

The third category was the rejection of mass mobilization as the dominant mode of political participation. Chinese leaders have instead encouraged ordinary citizens to express their opinions and participate in politics through a variety of regular official channels, some new, others newly revived: offices of letters and visits, centers and telephone hotlines to report abuses of power, and letters to newspaper editors, for example. Not least of all, the authorities have introduced important reforms in elections. As a consequence, political participation in China is varied and extensive in scope. In addition to the "officially acceptable" political activities noted above, Chinese regularly engage in personal contacting of officials to voice their concerns and (less regularly) a number of "officially unacceptable" activities: Table 12.3 shows findings from a survey conducted in Beijing in the late 1980s. The extent of citizen participation in a wide range of activities— about a decade after Mao's death—is quite remarkable, not at all the picture of Maoist mobilization.

Notes

Table 12.3 Political Participation in Beijing, 1983-1988 (Percent reporting having participated in political act)

Political Act	Percent
Voting for deputies to local people's congress, 1988	72.3
Voting for deputies to local people's congress, 1984	62.4
Contacting leaders of workplace	50.9
Complaining through bureaucratic hierarchy	42.8
Voting for leaders in workplace	34.7
Using connections (*guanxi*)	19.2
Complaining through trade unions	18.8
Working with others to solve social problems	16.1
Complaining through political organizations	14.9
Slowing down on the job	12.5
Writing letters to government officials	12.4
Giving gifts in exchange for help	8.2
Persuading others to attend campaign meetings for deputies	8.9
Complaining through people's congress deputies	8.6
Persuading others to attend campaign meetings or briefing meetings at workplace	7.7
Organizing others to fight against leaders	7.5
Writing letters to newspaper editors	6.7
Persuading others to vote for certain leaders in workplace elections	6.1
Persuading others to vote for certain deputies in local people's congress elections	5.2
Whipping up public opinion against workplace leaders	5.0
Persuading others to boycott unfair workplace elections	4.6
Reporting to complaint bureaus	4.0
Requesting audience with higher authorities	3.8
Persuading others to boycott unfair local people's congress elections	3.7
Bringing cases to court	1.7
Writing "big-character posters"	1.1
Participating in strikes	0.9
Participating in demonstrations	0.5

Source: Tianjian Shi, Political Participation in Beijing *(Cambridge, MA: Harvard University Press, 1977), p. 94. Based on survey conducted in 1988-1989.*

Elections and an electoral connection between citizens and leaders are integral to liberal democratic conceptions of representation. For this reason, governments and nongovernmental organizations in liberal democracies have paid close attention to electoral reforms in China. Indeed, many have provided support of various sorts (to train a new corps of election workers, for example), and the Chinese authorities have accepted this support. How do the electoral reforms fit into the framework of Communist Party guardianship?

Elections to local people's congresses in the Maoist years were political rituals, featuring no candidate choice and no secret ballot. Voters directly elected deputies to township-level congresses only; at higher levels, deputies were elected by congresses at the level immediately below. Such elections served as vehicles of regime legitimation, popular education, and political socialization—but they

Notes

did not really allow ordinary citizens to choose representatives. In 1979, a new election law introduced direct election of deputies to county-level congresses, mandated secret ballots rather than public displays of support, and required the number of candidates to be one and a half times the number of deputies to be elected. Although local Communist Party organizations continue to play a key leadership role in election committees, essentially vetting candidates, not all candidates can win under current rules. Some officially nominated candidates lose elections. Indeed, some candidates officially designated for government office (which requires initial election to congresses) lose elections. A growing number of candidates who are not communist party members have competed and won in elections. A smaller number of government executives nominated by deputies are not official candidates and win without official endorsement. An electoral victory signifies some degree of popular support, while losing signifies a problematic relationship with the mass public. At a minimum, the new rules are a means for the Communist Party organization to gauge popular views about local officials, diversify the pool from which leaders are recruited, and monitor local leaders. To be sure, the new rules have not produced radical change. Nor can such an outcome be expected without further change in rules: no platform of opposition to the Communist Party is permissible, and competition in elections to people's congresses is restricted to the township and county levels.

In 1997 and 1998, Jiang Zemin and the NPC proclaimed their support for more popular participation and more competition in elections to township people's congresses. The idea was neither new nor borrowed from the liberal democratic tradition. It emerged from a decade of practical experience with one of the more controversial political reforms of the post-Mao years: grassroots democratization in the Chinese countryside, formally approved in November 1987 when the NPC, after over a year of debate, passed a provisional version of the Organic Law on Village Committees. A final revised version was passed in November 1998. The law defines **village committees** as "autonomous mass organizations of self-government," popularly elected, in elections featuring choice among candidates, for three-year terms and accountable to a village council comprised of all adult villagers.

The introduction of popularly elected village committees in 1987 had not been a commitment to process but a gamble on outcomes by leaders at the political center. It was designed to strengthen state, capacity to govern in the aftermath of agricultural decollectivization. In the early 1980s, the people's communes had been dismantled and replaced with township governments. Land and other production inputs were divided among peasant households to manage on their own, free markets were opened, most obligatory sales to the state were abolished, and private entrepreneur-ship was promoted. The results of these reforms were successful by most economic standards, but disastrous in their consequences for rural leadership. As villagers gained greater economic initiative and autonomy, the power of the Chinese party-state to exact compliance was enormously weakened. By the mid-1980s, village leadership had seriously atrophied. Leaders were enriching themselves at the expense of the community, and villagers were resisting their efforts to implement unpopular policies. Violent conflicts between villagers and village leaders had become common. The revitalization of village committees in 1987 was designed to make the countryside more governable by increasing accountability. Presumably, villagers would be more responsive to leaders elected from below rather than those imposed from above as before.

With an average size of about 1,200 people, villages are small communities, where most adults have lived and worked together for decades—and could, therefore, be expected to know and elect capable and trustworthy leaders to manage village affairs. Presumably too, newly elected village leaders could serve as loyal agents of the Chinese party-state, guaranteeing policy implementation, acting as the "legs" of the township governments above them. Success required village management by leaders elected in processes featuring broad participation by ordinary villagers, electoral choice, and transparent procedures.

In 1997 and 1998, when top leaders affirmed the experience of village elections, most villages had undergone at least three rounds of elections, with enormous local variation in implementation. In many (perhaps most) villages, the village Communist Party branch controlled candidate nomination, there was no candidate choice for the key position or village committee director, and voting irregularities were common. Even in villages that made serious progress—with genuinely competitive elections, widespread popular participation in candidate nomination, and scrupulous attention to

Notes

voting procedure—real managerial authority often resided not with the popularly elected village committee but with the village Communist Party branch. Fifteen years after passage of the draft law, too little is known to generalize about overall progress in village elections, its determinants, or its consequences. Certainly, to the degree that the practices of grassroots democracy acquire the force of routine and expectations accumulate, however slowly, among nearly 900 million Chinese in more than 900,000 villages, political participation in the countryside will change profoundly. The 1998 version of the law cautioned against a liberal democratic understanding of where this process is meant to lead, however. A newly added article asserts the role of the Communist Party (not noted in the 1987 draft) in guaranteeing that village committees exercise their democratic functions.

Officially Unacceptable Political Participation

More dramatic than the reforms that have redefined officially acceptable political participation has been the political action of ordinary Chinese in city streets and squares beginning in the late 1970s. With strikes, marches, posters, petitions, and occupation of public spaces, ordinary citizens have acted as if political reform comprehended or condoned mass political action and public disorder. The official record suggests the contrary, however. In 1980, the right to post "big-character posters" (usually criticisms of leaders, written by individuals or groups and posted on walls), introduced during the Cultural Revolution, was removed from the Chinese constitution, and in 1982 the constitutional right to strike was rescinded. As for mass protests, the official view was made clear in 1979 with the introduction of the "four fundamental principles" that political participation must uphold: (1) the socialist road, (2) Marxism-Leninism-Mao Zedong Thought, (3) the people's democratic dictatorship, and (4) the leadership of the Communist Party. Of these principles, only the last is necessary to restrict political participation effectively, as the content of the first three has become what party leaders make of it. Participants (especially organizers) face real risks of physical harm and criminal punishment. Why then did ordinary citizens engage in mass protests with increasing frequency in the 1970s and 1980s? Why has urban worker and peasant unrest-increased in the 1980s and 1990s?

Different sorts of "officially unacceptable" political participation have different explanations, but none can be explained without reference to the post-Mao reforms. On the one hand, economic reforms have produced some socially unacceptable outcomes: more (and more visible) inflation, unemployment, crime, and corruption, for example. Rural unrest has typically been triggered by local corruption and exaction of excessive (often illegal) taxes and fees. Peasant unrest sparked by these sorts of problems is by no means uncommon. Urban unrest— strikes, slowdowns, and demonstrations—has increased too, as state enterprises struggle to survive in the socialist market economy. Many enterprises have engaged in massive layoffs; others have been unable to pay bonuses and pensions. For the first time since 1949, many urban Chinese have been living on fixed incomes, no incomes, or unpredictable incomes as the cost of living increases. Since the beginning of industrial reform in the mid-1980s, the threat of urban unrest due to inflation and unemployment has consistently constrained plans of China's leaders to shut down large loss-making state enterprises.

In 1989, a different sort of urban unrest captured the attention of the world news media and, consequently, of the world. The demonstration that brought a million people to Tiananmen Square was the third major political protest movement since Mao's death. The first was in 1978-1979, the second in 1986-1987. All three differed fundamentally from the mass campaigns of the Maoist years, all were officially unacceptable, all were linked in some important way to official reforms and reformers, and all ended in failure for mass protesters (and resulted in setbacks to official reforms too).

Despite links between protesters and official reformers, the post-Mao movements were not mass mobilization campaigns. As they were not explicitly initiated by the regime, once underway they could not be easily stopped with an official pronouncement from the political center. Instead, the authorities turned to coercive force wielded by the police, the armed police, and ultimately the army to terminate the protests with violence. The protests were officially unacceptable. This had less to do the substance of their demands than with their form of expression. The official consensus since December 1978 has been that the most important priority for China is economic growth, with social order and stability as prerequisites for growth. Mass protests are distinctly disorderly. Further, as a

Notes

form of political participation, mass protests are a symptom of regime failure in two senses. First, by turning to the streets to articulate their demands, protesters demonstrate that official channels for expressing critical views are not working and that they do not believe the Communist Party claim that it can correct its own mistakes. Second, protesters are clearly not alienated from politics: while they reject official channels of participation, they are not politically apathetic; indeed, they articulate explicitly political demands despite serious risks and the difficulty associated with organizing outside the system. In short, political protests signify that mass political participation can neither be contained within official channels nor deterred with liberalization and a better material life.

For the most part, despite some radical elements, the protests have not been blatantly antisystem in their demands. This does not appear to be merely strategic. Rather, the protests are something of a rowdy mass counterpart to the official socialist reform movement, exerting more pressure for more reform, and (while officially unacceptable) often linked with elite reformers. In the **Democracy Movement** of 1978-1979, Deng Xiaoping publicly approved many of the demands posted on Democracy Wall and published in unofficial journals, which called for a "reversal of verdicts" on individuals and political events. The demands were an integral part of the pressure for reform that surrounded the meetings of top leaders in late 1978, allowing elite reformers to argue for major changes in policy and political orientation. The poster campaign and unofficial journals were tolerated. To be sure, when a bold dissident named Wei Jingsheng demanded a "fifth modernization," by which he meant democracy of a sort never envisaged by the communists, the Chinese authorities promptly sentenced him to a 15-year prison term (ostensibly for revealing state secrets) and introduced the "four fundamental principles" to establish the parameters of acceptable debate.

When the Communist Party congress convened in late 1987, party leader Zhao Ziyang acknowledged conflicts of interest in society at the current time. The years 1988 and 1989 were high points for political liberalization. The political criticism expressed in Tiananmen Square in 1989 largely echoed public views of elite reformers in the party and government. From the perspective of communist authorities, the real danger in 1989 was not the content of mass demands but the organizational challenge: students and workers organized their own unions, independent of the party, to represent their interests. The challenge was exacerbated by an open break in elite ranks, when Zhao Ziyang voiced his support for the protesters and declared his opposition to martial law. Other party and government leaders and retired elders, including Deng Xiaoping, many of whom had been victims of power seizures by youths in the Cultural Revolution, viewed the problem as a basic struggle for the survival of the system and their own positions. The movement was violently and decisively crushed with tanks and machine guns in the **Tiananmen massacre** of June 4, 1989.

All three protests ended in defeat for the participants: prison for the main protest organizers in 1979, expulsion from the Communist Party for intellectual leaders in 1987, and prison or violent death for hundreds in 1989. The defeats extended beyond the mass protest movement to encompass setbacks to the official reform movement too. When demands for reform moved to the city streets, more conservative leaders attributed the social disorder to an excessively rapid pace of reform. The result was a slower pace or postponement of reforms. Twice, the highest party leader was dismissed from office as a result of the mass protests (Hu Yaobang in 1987 and Zhao Ziyang in 1989), and the official reform movement lost its strongest proponent.

Self-Assessment

1. Fill in the blanks:

(*i*) Reactionary theory is given by ..... .

(*ii*) Elitist Theory stands on the assumption that the ..... are capable of representing people's interest.

(*iii*) Edmund Burk and James Madison supported the theory of ..... .

(*iv*) John Locke and Thomson Jefferson has given the theory of ..... .

(*v*) The Ritualist is the ..... .

Notes

12.4 Summary

- The term 'representation' has its general as well as particular connotations. In general terms, it means that any corporate group, whether church, business concern, trade union, fraternal order or state, that is too large or too dispersed in membership to conduct its deliberations in an assembly of all its members is confronted with the problem of representation, if it purports to act in any degree in accord with the opinion of its members.
- Representation "is the process through which the attitudes, preferences, viewpoints and desires of the entire citizenry or a part of them are, with their expressed approval, shaped into governmental action on their behalf by a smaller number among them, with binding effect upon those represented.
- Group representation is more ancient than the representation of the whole people in any case. Finally, the most essential part of this descriptive definition is contained in the phrase: 'with the expressed approval'. This approval is expressed presumably in the constitutional provisions regarding representative institutions — the particular institutions of that constitutional order, as well as the general principle.
- The traditional conservative position based on the desirability of order, degree, authority and hierarchy holds that the common welfare is represented by a monarch or a government charged with formulating a political programme.
- The liberal view sees national welfare and common good as represented by a parliamentary assembly made up of individuals rather than of corporate bodies, though under middle class domination, emphasising a property qualification for the franchise and based on approximate quality of electoral areas.
- Modern conservative democrats and modern socialist democrats see representation in terms of a government based on disciplined political parties with social classes as basic units, and also related to functional groups. The voters are thus faced with the situation of choosing either of the two parties (representing social classes) for the sake of their representation.
- The authority of the representative is not only created by the constituent power, but it is subject to change by the amending power under the constitution."
- Democracy means the presence of social equality and absence of economic exploitation. Representation should, thus, be governed by this important consideration.
- Socialist countries have also adopted a number of direct democratic devices and institutions such as method of recall, rural and town meetings, system of imperative mandate, role of social activists, popular initiative of legislation and the like so as to demonstrate that it ''should be a distortion of the institution of socialist representation if all these existing traits were ignored in a study of the organs of state power, the representative institutions. It is thus maintained that socialist representation is a form of indirect democracy which is increasingly completed with a series of direct democratic institutions, and which is absorbing these institutions or part of them."
- The executive (preferably a strong monarch or a President) and a legislature subject to its authority serve public interest. While they should be open to popular input, being of superior knowledge and judgment, they should not be hindered by popular sentiment.
- Rejecting the case of representative government altogether, it holds that only the people themselves are capable of representing their own views on important issues. In this way, this theory alone supports the case of pure democracy.
- The issue of 'representation' has also been studied through the analysis of 'responsiveness' of a system. For instance, Lowenberg and Kim have laid more emphasis on the 'responsive' aspect of the representation.
- A candidate securing votes equal to or more than that of the quota is declared successful. If some seats remain vacant, the candidate having least number of votes is eliminated and his votes are transferred to other candidates according to the order of second preference marked by him.

Notes

- The system of proportional representation may be appreciated for several reasons. It is said that it is the best way to ensure representation to all sections of the people as far as possible.
- A voter may cast, his vote for one candidate in a multi-member constituency. A minimum number of votes is fixed and a candidate securing that point is declared elected. It is also provided that those who vote for a candidate who fails to be sucessful, may vote again for others so that the unfilled posts may be filled up.
- The system of functional representation has been suggested by a good number of social and political theorists as a better and more efficacious alternative to the system of territorial representation. It desires that the basis of representation should not be the territorial distribution of seats or even the selection of the representatives on the basis of some proportion, rather it should be according to the occupational composition of the society.
- "All true and democratic representation is, therefore, functional representation... It follows that there must be in the society as many separately elected groups of representatives as there are distinct groups of functions to be performed".
- The constitutions of Yugoslavia and Poland provided for the establishment of advisory councils (consisting of functional representatives) to collaborate with the legislature in the formulation of projects of legislation in regard to social and economic problems.
- It is just for this reason that the system of territorial representation is considered to be the best one in the midst of other systems of representation in order to apply it to a democratic state.
- The formula of 'one person, one vote' should be scrupulously adhered to. Thus, any discrimination on artificial grounds like those of property in Portugal.
- Representation should be given to the really competent and incorruptible people. The system of representative democracy demands from the representative the duty to devote himself to the cause of public service and this important function cannot be discharged unless the deputy chosen by the people is both competent and immune from the bonds of material temptations. It becomes the sacred duty of the voters themselves to see that their choice goes for the really deserving politicians.
- The number of political parties should be controlled. Laws should be made for the regulation of party system. Statutory provisions can be made for granting recognition to political parties on the basis of election results as we have in our country.
- The subject of 'representativeness' has not yet been properly discussed. It is also deplorable that the representatives of the people have also done a lot to devalue their own position by showing indifference to the norms of proper representation.
- Most political scientists believe that since voting in elections is the main way in which ordinary citizens in all democracies actually participate in their nations' governing processes, **voting turnout**—the percentage of all the people eligible to vote who actually do so—is one of the most important indicators of any democratic system's health.
- When voting turnout is calculated in exactly the same way in the United States as it is in other democracies—as a percentage of registered voters— the American record looks much better. The point, though technical, is important. In America, as in most of the world's other democracies, citizens' names must appear on voting registers before they can legally vote. But the United States differs from other nations in one important respect: in most other countries, getting on the register requires no effort by the voter.
- In the United States, the combination of separation of powers, federalism, the direct primary, and, at the state and local level, the initiative and referendum means that citizens may be faced with several *hundred* electoral decisions in a period of four years. At the national level, voters are called on to vote in the presidential primaries of their parties, and in the general election to decide (mostly) between the Democratic and Republican candidates.
- An election is the one opportunity people have to influence government directly. Every citizen aged 18 or over is eligible to vote. Local government officials register voters, and the list is revised annually, ensuring that nearly everyone eligible to vote is actually registered. Turnout at general elections has averaged 77 percent since 1950.

Notes

- The wider the definition of political participation, the greater the number who can be said to be involved in politics, at least indirectly. More than half of adults belong to an organization that can act as an interest group, such as an anglers' club concerned about the pollution of a local stream or the Automobile Association, which represents motorists.
- A healthy fabric of voluntary associations has been recognized since de Tocqueville's time as an important component of democracy. As political scientist Robert D. Putnam has shown, participation in civic life builds social capital—networks of reciprocal ties of trust and obligation among citizens that facilitate collective action. Where social capital is greater, people treat one another as equals rather than as members of social hierarchies.
- Participation in voluntary associations in contemporary Russia is extremely low: according to survey data, 90 percent of the population do not belong to any sports or recreational club, literary or other, cultural group, political party, local housing association or charitable organization. Only 1 percent report being a member of a political party. About 13 percent report attending church at least a few times a year, and about 17 percent report being members or labor unions.
- Popular disengagement from politics was stimulated by the disappointment of expectations that the change from communism to democracy would improve people's lives. In the late 1980s and early 1990s there was a great surge of popular participation. It took multiple forms, including mass protest actions such as strikes and demonstrations, as well as the creation of tens of thousands of new informal organizations. But following the end of the Soviet regime, this wave subsided. The disengagement and skepticism reflected in public opinion today certainly reflects disillusionment with how conditions have turned out.
- One of the most marked changed to have ocurred since the fall of the Soviet regime has been the formation of a new business elite. To be sure, many of its members come out of the Soviet *nomenklatura*, as old guard bureaucrats discovered ways to cash in on their political contacts. Money from the Communist Party found its way into the establishment of as many a thousand new business ventures, including several of the first commercial, banks.
- The atmosphere of close and collusive relations between many businesses and government officials has nurtured widespread corruption and the meteoric rise of a small group of business tycoons popularly, known as "oligarchs" who took advantage of their links to President Yeltsin's administration to acquire, control of some of Russia's most valuable companies. The pervasive influence of money on politics has deepened the problem of corruption at all levels of government and daily life.
- France was the first European country to enfranchise a mass electorate, and France was also the first European country to demonstrate that a mass electorate did not preclude the possibility of authoritarian government. The electoral law of 1848 enfranchised all male citizens over the age of 21, but within five years this same mass electorate had ratified Louis Napoleon's coup d'etat and his establishment of the Second Empire.
- For referendums, a new record was set in 2000: almost 70 percent of the registered voters chose not to vote in a (successful) referendum to reduce the presidential term from 7 to 5 years (after the elections of 2002).
- The highest" abstention rates in 2002 were among those voters who expressed no preference between parties of the right and left.
- The stability of the Fifth Republic cannot be attributed to the method of electing National Assembly deputies, for the system is essentially the same one used during the most troubled years of the Third Republic. As in the United States, electoral districts (577) are represented by a single deputy who is selected through two rounds elections. On the first election day, candidates who obtain a majority of all votes cast are elected to parliament; this is a relatively rare occurrence because of the abundance of candidates. Candidates who obtain support of less than 12.5 percent of the registered voters are dropped for the "second round" a week later.
- Presidential elections by direct popular suffrage are for French voters the most important expressions of the general will. After the presidential elections of 1965, it became evident that

Notes

French voters derived great satisfaction from knowing that, unlike past parliamentary elections, national and not parochial alignments were at stake, and that they were invited to pronounce themselves effectively on such issues. The traditional and once deeply rooted attitude that the only useful vote was against the government no longer made sense when almost everybody knew that the task was to elect an executive endowed with strong powers for seven years. Accordingly, turnout in presidential elections, with one exception, has been the highest of all elections.

- In the communist party-state, political participation, interest articulation, and interest aggregation are processes that are different from those normally, found in liberal democratic systems. The source of difference is, of course, different conceptions of the relationship between leaders and citizens: the notion of guardianship is fundamentally incompatible with liberal democratic notions of representation. The Communist Party organization claims to represent the interests of all society, but it rejects, as unnecessary and unacceptable, organized interest groups independent of the Communist Party and political parties other than the communists.
- The first category of rule changes involves political participation, which has become essentially optional for ordinary Chinese since the early 1980s. In the first 30 years of communist rule, for a broad range of political activities, failure to participate was considered tantamount to opposition to the communist regime. Today, politics intrudes far less in the lives of ordinary Chinese. The scope and demands of politics have shrunk. The single most important measure sig-nifying this change is the official removal, in 1979, of all class and political labels.
- The second category has been the assiduous avoidance by the regime to rouse the mass public to realize policy objectives. In the Maoist years, by contrast, the quintessential form of political participation was the **mass mobilization campaign—** intensive, large-scale, disruptive group action, imple-mented by grassroots leaders. The Great Leap Forward launched in 1958 and the Cultural Revolution launched in 1966 were essentially mass campaigns, on a gargantuan scale (with some unique features, of course).
- The third category was the rejection of mass mobilization as the dominant mode of political participation. Chinese leaders have instead encouraged ordinary citizens to express their opinions and participate in politics through a variety of regular official channels, some new, others newly revived: offices of letters and visits, centers and telephone hot-lines to report abuses of power, and letters to newspaper editors, for example.
- In 1979, a new election law introduced direct election of deputies to county-level congresses, mandated secret ballots rather than public displays of support, and required the number of candidates to be one and a half times the number of deputies to be elected. Although local Communist Party organizations continue to play a key leadership role in election committees, essentially vetting candidates, not all candidates can win under current rules. Some officially nominated candidates lose elections. Indeed, some candidates officially designated for government office (which requires initial election to congresses) lose elections. A growing number of candidates who are not communist party members have competed and won in elections.
- The revitalization of village committees in 1987 was designed to make the countryside more governable by increasing accountability. Presumably, villagers would be more responsive to leaders elected from below rather than those imposed from above as before.
- In 1997 and 1998, when top leaders affirmed the experience of village elections, most villages had undergone at least three rounds of elections, with enormous local variation in implementation. In many (perhaps most) villages, the village Communist Party branch controlled candidate nomination, there was no candidate choice for the key position or village committee director, and voting irregularities were common.
- In 1989, a different sort of urban unrest captured the attention of the world news media and, consequently, of the world. The demonstration that brought a million people to Tiananmen Square was the third major political protest movement since Mao's death. The first was in 1978-1979, the second in 1986-1987. All three differed fundamentally from the mass campaigns of the Maoist years, all were officially unacceptable, all were linked in some important way to official

Notes

reforms and reformers, and all ended in failure for mass protesters (and resulted in setbacks to official reforms too).

- In the **Democracy Movement** of 1978-1979, Deng Xiaoping publicly approved many of the demands posted on Democracy Wall and published in unofficial journals, which called for a "reversal of verdicts" on individuals and political events. The demands were an integral part of the pressure for reform that surrounded the meetings of top leaders in late 1978, allowing elite reformers to argue for major changes in policy and political orientation.
- The defeats extended beyond the mass protest movement to encompass setbacks to the official reform movement too. When demands for reform moved to the city streets, more conservative leaders attributed the social disorder to an excessively rapid pace of reform. The result was a slower pace or postponement of reforms. Twice, the highest party leader was dismissed from office as a result of the mass protests (Hu Yaobang in 1987 and Zhao Ziyang in 1989), and the official reform movement lost its strongest proponent.

12.5 Key-Words

1. Enfranchisement : Freedom from political subjugation or servitude.
2. Elitist theory : It is the theory of state which seeks to describe and explain the power relationships in contemporary society.

12.6 Review Questions

1. What is meant by representation? Discuss the theory of Representation.
2. Discuss briefly the following:
   (*i*) Political participation in France
   (*ii*) Political participation in UK
   (*iii*) Political participation in Russia
3. Explain the Representation and Election System.

Answers: Self-Assessment

1. (*i*) Thomas Hobbes and Alexander Hamilton (*ii*) Chosen best
   (*iii*) Conservative (*iv*) Liberal
   (*v*) Law-maker.

12.7 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 13: Political Parties

CONTENTS

Objectives
Introduction
13.1 Meaning of Political Parties
13.2 Political Parties in USA, UK, Russia and France
13.3 Structure and Role of the Communist Party in China
13.4 Interests Groups or Pressure Groups in USA, UK, Russia and France
13.5 Summary
13.6 Key-Words
13.7 Review Questions
13.8 Further Readings

Objectives

After studying this unit students will be able to:

- Understand the Meaning, Definition and Importance of Political Party.
- Discuss the Political Parties in USA, UK, Russia and France.
- Explain the Role of Communist Party in China.
- Know the Interest Groups in the USA, UK, Russia and France.

Introduction

Modern democracy has procreated the system of political parties and organised interest (pressure) groups as an indispensable factor in its operation. The reason behind it is that the representative system lays stress on the maximisation of political participation by enjoining upon the members of the political elites to take the people, as much as possible, in confidence either for the sake of demonstrating their faith in the myth that 'the voice of the people is the voice of God', or to justify the very legitimacy of their leadership and authority. It also indicates the fact of political modernisation by desiring the involvement of more and more people in the political process of the country with a critical and secular outlook. Hence, in this chapter an attempt has been made to discuss the themes of political parties, organised interest groups and elites which play an important part in the formulation of public policies and whose role determines the working of a democratic system.

13.1 Meaning of Political Parties

According to Michael Curtis, it is notoriously difficult to define accurately a political party. The reason is that the views of the liberal and Marxist writers differ sharply on this point. Not only this, even the views of the English liberals differ form their American counterparts. The most celebrated view among the English leaders and writers is that of Burke who holds that a political party is "a body of men united for promoting the national interest on some particular principles in which they are all agreed." Reiterating the same view, Disraeli defined political party as "a group of men banded together to pursue certain principles." So, according to Benjamin Constant, a party is "a group of men professing the same political doctrine." The key point in all these definitions relates to the issue of 'principles' of public importance on which the members of a party are agreed.

But the American view is different in the sense that here a political party is taken as an instrument of catching power. No significance is attached to the key point of 'principles' of national or public importance in which 'all are agreed.' A party is just a platform or a machinery for taking part in the

Notes

struggle for power: it is a device for catching votes; it is an agency to mobilise people's support at the time of elections; it is an instrument for the aggregation of interests that demand their vociferous articulation. "We define a political party generally as the articulate organisation of society's active political agents, those who are concerned with the control of governmental powers and who compete for popular support with another group or group holding divergent views. As such, it is the great intermediary which links social forces and ideologies to official governmental institutions and relates them to political action within the larger political community."

Such a view of political party makes it hardly distinguishable from a pressure or an interest group. A 'specific interest' may constitute the foundation of a political party. Thus, differences between or among political parties may be sought on the basis of specific interests. For this reason, Dean and Schuman observe that political parties have become essentially political institutions to implement the objectives of interest groups." A similar vein may be discovered in the interpretation of Crotty who says: "A political party is a formally organised group that performs the functions of educating the public.... that recruits and promotes individuals for public office, and that provides a comprehensive linkage functions between the public and governmental decision-makers."

But basically different from the English and American views is the Marxist view on the theme of political party as elaborated by Lenin. Here a political party is taken as a 'vanguard' of the social class whose task is to create class consciousness and then to prepare the proletariat for a bloody and violent revolution. Every party is a class organisation. The 'bourgeois' parties of whatever name have their vested interest in the maintenance of the *status quo,* but the party of the workers (communist party) has its aim at the overthrow of the existing system and its substitution by a new system in which power would be in the hands of the working class and the society under the rule of this party would be given a classless character so as to eventuate into a stateless pattern of life in the final stage of social development. As Lenin says: "The communist party is created by means of selection of the best, most classconscieres, most self-sacrifing and far— sighted workers.....The communist party is the lever of political organisation, with the help of which the more progressive part of the working class directs on the right path the whole of proletariat and the semi-proletariat along the right road."

It is true that political parties grew as a faction in the early modern age, but now a distinction between the two is made. Faction is a bad term, because its members take part in disruptive and dangerous activities so as to paralyse the working of a government. Opposed to this, party is a respectable term. Its members take part in the struggle for power on the basis of some definite policies and programmes and they observe the sanctity of constitutional means. So it is said that while "a party acts by counting heads, a faction acts by breaking heads." But parties are
'specialised associations' and they become more complex, organised and bureaucratic as a society approaches the modern type."

13.2 Political Parties in USA, UK, Russia and France

Party System in USA

Like Britain, the emergence of party system in the United States is a matter of extra-constitutional growth. As already pointed out, it has belied the sincere expectations of those founding fathers who had deliberately sought to envisage a framework of government which, as Madison said, would be free from the 'violence of the faction.' In spite of the solemn warning issued by the greatest leader of the nascent American nation (Washington) against the sinister role of political parties, the growth of party system occurred gradually but incessantly. His successors took note of the same 'pernicious' development and Jefferson in his farewell address had to observe that political parties "are likely, in the course of time and things, to become potent energies by which cunning, ambitious and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government." "The inevitability could not be undone" and, as Munro says, the calls for a partyless politics "fell on deaf ears." So much so that by the middle of the nineteenth century, party system became a recognised fact of the American political life. It is well observed: "The American party system consists of two major elements, each of which performs in specified ways or follows customary behaviour pattern in the total system. To remove or alter the role of one element would destroy the system or create new one."

Notes

General Features: Since the party system of every country has some special features of its own, the salient characteristics of the American party system may be enumerated as under:

1. America is known for having a bi-party system. The Democrats and the Republicans are the two major parties and the power alternates between them. In a strict sense, America may be described as having a multi-party system as there have been several 'minor' parties, though their value is equal to nothing as they have never been able to make a tilt in the distribution of power.
2. The American parties lack the essential ingredient of what is meant by the 'party' in other democratic countries of the world. The element of ideology is missing. The two parties differ on issues as they are, not on the lines of ideological commitments.
3. The American parties may be described as federations of specific interests. The absence of the ideological factor has made them like coalitions of interests. Leading American writers admit that no political association can be more motley than their Democratic Party and the Republicans, for all their sterner commitments to principle and respectability are very much less of an army with a hundred different banners. Both parties are happily described as a vast enterprise in 'group diplomacy'.
4. The structure of the American political parties is marked by decentralisation of authority and consequent enfeebling of discipline to an exaggerated degree. Both parties may be regarded as loose confederacies of States parties since the locus of power is not there at the Centre. Each party has its units at the Centre and below, i.e., at the State and local levels where its unit looks like an independent, self-sustaining, sovereign force in the balance of political forces.
5. The American party system not only exhibits the total absence of what is ill-named as 'bossism', it also shows that both parties pick up candidates for the Presidency or important seats in the Senate from amongst those who have never held their membership. That is, each party may go for the rank 'outsiders' in matters of nominations for the top elective posts.

In fine, the American party system displays "more pluribus (plurality) than unuum (uniformity)." It would not be wrong to say that the structure of each American party smacks of a peculiar brand of feudalism "with few enforceable pledges of faith, feudalism in which the bonds of mutual support are also loose that it often seems to border on anarchy, feudalism in which one party does not even have a king."

Absence of Ideology: The absence of ideology and its presence in a different sense in the American party system is certainly a surprising feature having no comparison with its British counterpart. An analysis of voting behaviour in the Congress reveals that there is hardly a single issue that brings about a clear-cut division between the two parties and a sizable proportion of their members is invariably found on each side of the controversy. Herman Finer goes to the extent of saying that in America there is only one political party – Republican-cum-Democratic Party -divided into two nearly equal halves by habits and the contest for office. In the earlier days of the Constitution the division appeared more clear, but with the passage of time, it blurred so much so that Lord James Bryce in his scholarly study could maintain that the great parties of America were like two bottles of liquor each having a different label but no wine.

Much change in this regard has also occurred owing to quick progress of the country in the economic sphere. Now the factors of economics and regionalism are so inextricably intermixed with each that the basic elements of 'agriculture' v. 'industry', or the menacing features of 'solid north' v. 'solid south' no longer figure prominently. Each party, as says Brogan, is basically traditional marked off from its rival, not by any doctrine or class but by ancestry and geographical distribution of strength. Leading American writers endorse that no party "ever enlisted the undivided support of any entire economic interest or group or geographical section." Laski has put his impression in these words that the American party system "is more like a bloc of interests than a system of principles." It may be easily found that both parties "are interested in the votes of men, not in the principles, and they care not at all whether the votes they father are bestowed with passion or with indifference – so long as they are bestowed and counted. The task that they have uppermost in mind is the construction of a victorious majority, and in a country as large and diverse as ours this calls for programmes and candidates having as nearly universal an appeal as the imperatives of politics will permit."

Notes

Party System at Work: We have seen that the American party system lacks the essential traits of a responsible party system finding their place in a party's adopting a reasonably clear programme and having some centralised authority to exercise effective control over all subordinate units. Though either of the two parties wins national elections relating to the offices of the President, the Senators and the Representatives, it is difficult to say as to what mandate is with it. One may draw some broad points from the survey of important utterances made by the candidates during the time of election campaigns, but a thing like voters' mandate is either missing altogether or it is too general, even vague, not explicit. And yet the working of the American party system shows that they perform, though with uneven success, on account of this fact that they are only one of the several forces working towards co-ordination in the government.

A study of the American party system in its operational dimension reveals that they are very active at the time of the elections of the President, the Senators and the Representatives. It does not mean that they are out of work after the election business is over. Their prominent role can be understood when the session of the Congress starts. Matters relating to the election of the Speaker, formation of the committees and the election of their chairmen, introduction of bills and debates thereon etc. are all conducted on party lines. The appointments made by the President are governed by party consideration, so is with their ratification by Senate. The result is that the highest bureaucrats of the country are usually of the same party as the President aids in communication and co-ordination. In this way, the party 'helps to bind the disparate formal institutions of the political system together."



The members of the President's party in the Congress form a natural starting point for his attempts to influence the Congress and, for this reason, are called "President's friends".

Since the American constitutional system is based on the principle of separation of powers, decision-making agencies are different and also disparate. The parties play the role of a co-ordinator. At the same time, the supplementary structure of checks and balances enables them to establish a sort of interlinking bond between different organs of the department. Thus, we find that President not being a member of the Congress manages to influence the legislative behaviour. It also happens that while the Presidency is captured by one party, the Congress by another. In such a situation there occurs the 'deadlock of democracy'. And yet it is the loose party system of the United States that acts as the resolver of conflicts. One may ask as to how does it happen? The answer is that often persons "jump the party tracks and work at cross-purposes with their fellow party member. This occurs within the Congress, within the bureaucracy, between the Congress and the President, between the President and the bureaucracy, and on and on."

Critical Appreciation: The party system of the United States and the United Kingdom resemble in a few but differ in many respects. First, we take up the case of some points of resemblance. In the first place, both countries are well-known for having a bi-party system. The Conservative and the Labour parties in England and the Democrats and the Republicans in the United States are the examples of the two major parties. Moreover, while some other or minor parties exist in both the countries, they have no real significance as the alternation of power invariably takes place between the two leading parties. One may say that, is rather a superficial point as the very nature of the American party system is basically different from that of the United Kingdom. Second, party system in both countries is a matter of extra-constitutional growth. Political parties have no place in the written parts of the constitutions of the two countries under reference. The evolution of party system in both countries is a matter of conventional development.

The points of difference between the American and British party systems are vital. In the first place, while British party system stands on the basis of the principles or a definite ideology, there is nothing like it in the case of the American party system. American parties have never been bodies of men united on some general principles into concrete form by legislation and by administration. It is considered wise to begin by accepting the fact that the emptiness of the names of the two great

Notes

American parties may be significant, not of the emptiness of the role of parties, but of the fact that they cannot be understood, if they are judged in European, or more strictly British, term.

Political Parties in UK

It is one of the celebrated axioms of modern politics that the organisation and working of political parties is indispensable for running a political system particularly one committed to the ideal of a liberal-democratic order. Undoubtedly, it is the political parties which make the system of representative government workable in as much as without them there "can be no unified statement of principle, no orderly evolution of policy, no regular resort to the constitutional device of parliamentary elections, nor of course any of the recognized institutions by means of which a party seeks to gain or maintain power." As such, Britain being a model of representative government can be no exception. Rather, the peculiar thing about this country is that here the distribution of power "is primarily a function of the cabinet government and the British parliamentary system. So long as the parties accept the system of government, effective decision-making authority will reside with the leadership groups thrown up by the parliamentary parties (of whom one of the most important individuals is the party leader); and they will exercise this authority so long as they retain the confidence of their respective parliamentary parties."

Origin: British party system, like the constitution itself, has an evolved character. As such, the history of its origin and growth dates back to the early phase of the modern period when two conditions contributed to the evolution of the party system, namely, the movement that the Parliament should become a legislative body in all its essentials with its rights fully established and that there should be political issues of a broad and deep character on which the people may combine themselves in group. The rise of the political parties became natural after the Restoration Movement (1660) when in 1679 a conflict developed over the passage of the Exclusion Bill. This bill was designed to forestall the succession of James II as the King of England after the death of Charles II. When the line of cleavage grew very sharp, the monarch (Charles II) dissolved the Parliament. Soon after, the supporters of the bill strongly petitioned for the calling of another Parliament and thus they came to be known as 'Petitioners', while their opponents became the 'Abhorers'. In due course, the former became the Whigs and the latter the Tories.

Liberals started thereafter. A remarkable development took place at this stage that resulted in the establishment of the third party, called the Labour party in 1920. It consisted of the representatives of several labour unions. In due course, the Liberal party declined and its place was taken by the Labour making Britain once again the example of a bi-party system. The Labour Party had first chance to be in power in 1929 when Ramsay MacDonald was appointed as the Prime Minister.

Main Characteristics: The party system of Britain has its own characteristics that may be discussed briefly as under:

1. Britain affords the brilliant case of a two-party system. Once there were two factions called 'Petitioners' and 'Abhorers'; then they became 'Whigs' and 'Tories'; the Whigs were replaced by the 'Labour' with the result that the country came to have two parties known as 'Conservative' and 'Labour'. In a wider sense, the party system of Britain docs not rule out the existence of other or 'third' parties. Even now there are some small organisations like Scottish Nationalists in Scotland and Plaid Cymru in Wales. However, what entitles Britain for being a model of bi-party system is that only two major political parties play a determining part in the mechanism of representative government. Power alternates between the two parties.
2. Quite misleading are the names of the major political parties of Britain. While the Conservatives have not invariably been opposed to change tooth and nail, the Liberals and now the Labourites have also not been propagating reforms vigorously. Within the ranks of both there have been many shades of opinion. The only point that may be added by way of generalisation is that the persons of a conservative temperament have by tradition gravitated to the Tory (Conservative) party, while men of a liberal disposition have done the some first for the Whig and now for the Labour party.

Notes

3. The two parties of Britain have their sharp ideological distinctions despite the fact that both have no faith in the doctrine of scientific socialism. While the Conservative party stands for the protection and promotion of the interests of the affluent class having control over the means of production and distribution, the Labour Party does the same by and large for the class of the workers. Moreover, while the Conservative party stands for the survival of British imperial dignity and for this reason strives for the retention of British hold over the poor and backward parts of the world, the Labour Party desires peace and liquidation of capitalism in the national and of colonialism in the international spheres.
4. A very important feature of British political parties should be traced in their being well-organised and disciplined and by virtue of that in their enjoying a hard core of electoral support. There is rigorous discipline due to which political maladies like cross-voting and floor-crossing are uncommon. The well-organised and highly disciplined character of the party system has made the working of cabinet system not only successful but an ideal for other countries to follow and to emulate.
5. It is due to this that events of violent manifestations do not occur in this country the like of which we may find in a country like France. Influencing the electorate by means of publications, speeches and sometimes by strikes done by the labour organisations are the principal ways by which political parties take part in the political process of the country. Any attempt to make use of violence or undemocratic action is carefully avoided. The result is that the two major parties remain like well-organised bodies and act in a way that gives stability as well as strength to the cabinet system of government.


Notes

British political parties have their full and unflinching faith in using democratic and constitutional means to realise their aims and objectives.

Conservative Party: As stated above, the Conservative party has never been a body of thoroughly superstitious men. Its name hardly denotes its essential nature. As such, instead of calling it an organization of the opponents of reform, democracy and social justice, it would be more appropriate to describe it as a body of those who obdurately value their traditions and precedents and desire change at a very slow pace as far as possible. Under the leadership of men like Peel and Disraeli, for instance, it showed its 'militantly progressive' orientation. Hence, no one, as says a leading American writer, with a knowledge of English political history, "would contend that it has always been the party of reaction, or of obstruction to progress." Normally, the Conservatives oppose change or reform, but they accept it willy-nilly when they have to do it. One of their leaders once rightly said that they are 'cautious and circumspect reformers.'

What deserves attention at this stage is that the Leader occupies a very important position. He is appointed for an indefinite period as there is no provision for annual election, though he lives under strict supervision of his party MPs and he may be forced to quit in case he commits a serious lapse. If the party gets clear majority, he becomes the Prime Minister, if the party is in the opposition, he selects his 'shadow cabinet'. Whips are appointed by him. His authority is by no means absolute in as much as the committee of the backbenchers (1922 Committee as it is called) may impeach him for his acts of commission or omission and thereby force him to take a different line of action.

Let us now look into the factor of ideology. As already pointed out, this party stands for broad principles that may be enumerated as under:

1. It believes that the nation is sustained by the existence of different social classes playing their part on the basis of merit. Ability and not accidents of wealth or birth should be the guiding consideration. No class should be favoured over or against another.
2. Freedom is the *sine qua non* of human life and its progress. Stress should be laid on the significance of free enterprise. The wider the choice, the greater scope for the development of self-reliance.

Notes

3. State activity in the economic sphere should be limited. There should be no attempt in the direction of nationalisation of private industries until it is warranted by the exigencies of the situation.
4. National institutions should be protected and honoured. As such, due respect should be given to the honour and greatness of the monarchy and the House of Lords.
5. British imperial interests should be safeguarded. Britain should play an effective role in the European Union for maintaining her political and economic power and prestige.

Labour Party: The Labour Party is a more socially representative organisation. It draws strength mainly from the middle class intelligentsia and manual workers. Its members are of four main categories: 'professions' (like university and college teachers), 'minor professions' (like journalists, organisers, public lecturers, insurance salesmen), small businessmen (like shopkeepers, accountants and executives) and 'working class occupations' (like labourers, artisans, clerks, etc.). In the main, the composition of the party is dominated by the 'professions' and 'workers'. The members of this party are of two types – individual (belonging to a constituency branch) and indirect (belonging to an affiliated trade union or Socialist Society). Individual members are required to pass an eligibility test of not being a member of any other party or ancillary organisation. No such test is required for affiliated members, and some of these can not even be classed as party sympathisers. Officers at local and national level must be individual members of the party.

The Labour Party is committed to the doctrine of democratic socialism. Different from the socialist parties of the European countries, it has a socialism of its own based on the doctrine of Fabianism. The writings of such thinkers as Morris, Shaw, Cole and Tawney have helped furnish a native socialist tradition more influential than imported continental ideas. On the other hand, such writers reflect the mood and the spirit of British socialism; they rarely mould it. The party's policies and aspirations seem to be determined far more by prevalent political circumstances than by the pre-conceived philosophies. For this reason, the socialism of the Labour Party is fundamentally at variance with that of Marx. Its commitment to the principle of "common ownership of the means of production, distribution and exchange" did become a hot gospel for stalwarts, but party policy was never subsequently moulded in such a way that wholesale nationalisation could be a real possibility. "The Labour Party's brand of socialism has been tempered by the exercise of power. The chief aim has become the establishment of a Labour government rather than the bringing about of socialism."

The broad principles on which the Labour Party stands may be described as follows:"

1. Man is inherently good and that institutions and societies are mostly to blame for making him behave badly and live miserably. Democracy, therefore, should be extended from the sphere of politics to that of economics and society.
2. It follows that scramble for private profit should be substituted by co-operative fellowship. Private firms and economic enterprises should be brought under social ownership and control. Key industries should be nationalised, the rest democratised.
3. It stands for the establishment of a welfare state so that private economy is placed under the regulation of social control. Social welfare services are performed by the State.
4. It desires that national institutions conform to the establishment of genuine democracy. As such, the privileges of the Lords should go.
5. There should be collective co-operation among the nations of the world. The United Nations should be strengthened so that there is peace in the world. Dependent peoples of the world should have freedom.

Political Parties in Russia

One important point that makes the Russian Federation fundamentally different from the Soviet Union is the prevalence of multi-party system and the rise of a number of interest groups some of which are also known as social and protest movements. Gone are the days when the communist Party was the state and only such groups could play their part in the political process of the country which had the patronage of the ruling party. Some of the parties are so small that they look like

Notes

pressure groups and may be taken not as 'transmission belts' but as alternative political blocs. One of the most important of these new groups was the Democratic Russia Movement which formed the base of support for Yeltsin's leadership. It represented a broad coalition of forces, opposed to the dominance of the Communist party which wanted Russia to gain enough autonomy to move more quickly to the direction of market reform and democratization, concepts that were still only vaguely defined at that time".

Russia has a multi-party system. About half a dozen parties take part in the Presidential and Parliamentary elections and manage to secure sizeable number of votes. Still, the party system is in a formative stage. These parties are known by the name of their supreme leaders which shows that they are formed not on the basis of some clear-out programme but on the personality of a leader. They do not have a firm social base or their stable constituencies. The process of fragmentation and polarisation is also at work as a result of which the parties and electoral coalitions are fluid. Parties and blocs frequently splinter, join with others, and rename themselves making it difficult for the public to hold parties and politicians accountable for their actions (or inaction) and to know whom to vote for (or against). Alternative policy approaches are not clearly articulated by a viable opposition party or coalition. As a result of all this fragmentation and flux, many voters have become apathetic or confused. The weakness of political parties has also hindered the government's ability to develop a firm base of political support for its policies".

The multi-party system of the Russian Federation is dis-organised and indisciplined. There are more than two dozen parties and blocs, big and small, as Agrarian Party, All-Russian Union for Reunion, Democratic Party of Russia, Majority Party, New Names, Our Home is Russia, Party of Economic Freedom, Russian All-People's Union, Russia's Democratic Choice, Free Labour Party, Peasants Party of Russia, Republican Party of Russia, Social Democratic Party of Russian Federation, Communist Party of Russia, Liberal Democratic Party, Congress of Russian Communities, Forward Russia, Party of Russian Unity and Accord, Democratic Russian Movement, Free Democratic Party of Russia etc. Some parties are like blocs as Women of Russia and Yabloko. Derzhava is an alliance of some parties as Russian Christian Democratic Movement, State Renaissance Party, Soyuz and Social Democratic People's Party.

None but the Communist Party of Russia has an ideology of its own. It stands on the principles of Marxism-Leninism. The policies and programmes of other parties are vague and when some party fights for interest of a particular section of the people, it looks like an interest group. For instance, the Agrarian Party and Peasants Party of Russia fight for the interests of the farmers and demand agricultural reforms along with dissolution of collective farm system. Other parties as Party of Economic Freedom and Republican Party of Russia demand mixed economy and liberalisation in the economic sphere. The Social Democratic Party of the Russian Federation has a socialist programme as it demands a democratic system ensuring social participation of the employers and the workers and protection of human rights. It may be taken as a mildly leftist organisation. The Russian Christian Democratic Movement and Majority Party have a rightist orientation.

Political Parties in the France

France is ill-known not for having a multi-party system as for leaving an observer baffled in drawing plausible conclusions from the drama of complication and simplification of political parties and groups, including 'clubs' and 'families', in which the rightists, the leftists, and the centrists have peculiar roles to play. One is perplexed at the spectacle of different organisations coming closer on one occasion and running for on another, merging with one today and splitting with another tomorrow, now presenting one configuration and then switching over to another with the result that a serious observer develops certain impressions that enthuse him to jump from one point to another without being capable of laying down certain definite rules of the political behaviour of different parties and groups.

Party System

The French party system "is unique in the Western world, and probably in the world as well". The reason for this should be traced in the special traits that the party system of this country possesses and which may be enumerated as under:

Notes

1. France is notoriously known for having a multiplicity of political parties. In a general election more than a dozen 'national' parties and, in addition to that, a varying number of less important formations take part with the result that quite a large number of organisations secure representation in the national legislature. The point of peculiarity, however, lies in the fact that this multiplicity is always in a fluid position. So loosely organised and so indisciplined are the political parties of France and, at the same time, they are so extremely volatile and so excessively resilient that they split and break with considerable ease and eagerness showing that the trends of complications and simplification run together. As a result, the drama of re-unions and rearrangements has become a normal feature of the stasiological politics of France.
2. There is a lot of diversity in the organisation and attitudes of French political parties. They cover a range extending from communism on the extreme left to mild fascism (Gaullism) on the extreme right, while some attach great importance to political principles and doctrines and would expel members who stray openly or continuously from the orthodox path. Some parties appear to have no general principles at all, while others lack even a coherent policy. For instance, 'radicalism' has been described as a state of mind, while 'conservatism' as a collection of interests often in conflict with each other.
3. The element of ideological make-up is virtually missing in all parties excluding the communists. There is no party in France that may be treated like the Conservative or Labour parties of England in respect of its political commitment to the 'right' or to the 'left'. Likewise, there is no party that may be identified with the Republican or Democratic parties of the United States that are like 'vote mobilisation' machines. Even now the *Central national des Independents* is not a party as such as it is a loose federation of different units despite the fact that most of the members of this organisation profess the creed of conservatism. Nearly all parties, excluding the communists, advocate the elements of radicalism, individualism, conservatism, free trade, protestantism, and social reformism in varying degrees.
4. Apart from diversity in respect of organisation and attitude, the political parties of France make confusion still worse confounded by using terminologies that mean something to one and something else to another. The national mind of France is largely theoretical, not practical in politics. An average Frenchman is inclined to pursue an ideal striving to realise his conception of a perfect form of society and feels reluctant to give up any part of it for the sake of attaining so much as lies within his reach. The French people want to follow their own bent of mind than to imitate others. Thus, they do not appreciate the idea of subordinating their views in the name of party discipline.
5. The multiplicity of party system coupled with the diversity of organisation, and attitude draws sustenance not only from the factors of sociology and economics, it also derives its source from the geographical composition of the country. It is pointed out that both history and geography have to be linked, if one is to account for the permanence of certain traditions in some areas more than in the others. Right and Left, the anti-revolutionary right and the revolutionary left as well as other forms of right and left, are written in the countryside, as are geographically located, the areas of the deep religious areas of practice and the areas of de-Christianisation'.

It is owing to these reasons that the political atmosphere of France always remains at the fever pitch, being a characteristic of ever-growing number of interpellations, personal bickerings and perpetual strifes. Naturally this country is bedevilled by a multiplicity of political parties, passionate and internally fissiparous. The party members live in a state of constant flux often shifting their loyalty from one group to another and success comes to those who are adept in the art of manipulation rather than being consistent supporters of a certain policy. From the above account, it is obvious that political parties in France are weak in their structure, loose in organisation, lacking in definite commitments and followed by heterogeneous and rather fickle clienteles.

Leading Political Parties: As pointed out above, France under the Fifth Republic has a controlled multi-party system in which the tendencies of the 'right', the 'left' and the 'centre' may be visualised, though one may also notice the phenomenon of cross-infiltration of the three trends in different political organisations leaving aside the case of the Communist Party. Let us examine the cases of the following major political parties:

Notes

Union of New Republic: Gaullism is the most important movement of France which has been in existence particularly since 1946. First as the Rally of the French People (RPF), it started its political career under the inspiring leadership of Gen. de Gaulle. Feeling highly critical of the constitution of the Fourth Republic, de Gaulle resigned and went into forced retirement, while he allowed his trusted followers to play their part in the politics of the country. In the elections of 1956 the number of the Gaullists declined considerably with the result that a section organised itself into a new formation called the Social Republicans. However, with the return of de Gaulle to power in 1958, all Gaullists rallied under his leadership and the Union of New Republic (UNR) came into being.

Very curious is the story of the role of this party in the recent politics of France. Though formed after the triumph of de Gaulle, the great leader in 1958 refused to give his formal support to this party and even denied its members to associate his name with this organisation. The reason was that, as a shrewd leader, de Gaulle sought to use this organisation as per his political interests without aligning himself formally with it. He preferred to have it like a ready-made platform that he would make use of at his discretion instead of letting it grow into the form of a coherent party that might come with its own demands or emerge as a potential challenge to his authority. As a result, while de Gaulle could thrive at the almost unflinching allegiance of his supporters, the latter failed to get as much capital from the political personality of their supreme leader. It was due to the tailor-made support of the UNR that de Gaulle could emerge victorious in the first and second Presidential elections and that he could also win the referendum on the constitutional reform of 1962 with flying colours, though the Gaullists could not show a remarkable success in the parliamentary elections.


Notes The 'myth of two Frances', that is, divison of France into northern and sothern parts of the country divided by the river Loire. It may be visualised in the eastern and western regions of the country also.

In certain respects, Gaullism is identified with Fascism in view of the fact that the RPF was inspired by the towering personality of a single leader (de Gaulle) and that it "combined demands for radical social change with intense nationalism. It was anti-parliamentary, anti-trade union and virulently anti-communist. Its most distinctive positive policy, apart from the constitutional reforms demanded by its leader, was the association of capital and labour in a way reminiscent of corporatism. Yet, with some Jewish traders, it never succumbed to anti-semitism that had earlier disfigured the Right in France and the real parallel are perhaps Bonapartism and Boulangism. Finally, de Gaulle's determination to come to power legally probably, prevented the RPF from developing further fascist characteristics". The surprising part of the study is that after the establishment of the Fifth Republic, the UNR became a basically different organisation in the sense as it was formed to support de Gaulle in power, not to win power for him; it was formed by the supporters of de Gaulle without his being involved, not by de Gaulle to attract supporters.

Finally, it should also be taken note of that the trend of 'left Gaullism' developed and that too with the 'private' blessings of the great leader. A progressive section of the UNR took to a different line. The victory of Estaing as the President in the elections of 1974 is a clear indication of this trend. One is, however, not very sure that the movement of Gaullism would continue to save the country from relapsing into the morass of political instability. It cannot be ruled out that new leaders may emerge on the political scene not to let the UNR remain like the poodle of a single leader-like de Gaulle, Pompidou or Estaing. If so happens, nothing would break the UNR more quickly than the setting up of factions inside the Party and the organisation of joint groups with other parties. However, if such leaders come smoothly without creating difficult succession problems, the UNR "can hope to survive and new style be imposed upon the Right and the Centre-Right of French politics and, indeed, indirectly on the Left as well,"

Communist Party: It is the most active political party of France which "provides an interesting picture of the role and tactics of a dictatorial Marxist party inside a democracy". It was formed in Dec, 1920

Notes

by a vote of many members of the Socialist Party who desired to join the Third International and although the Comintern was dissolved in 1943, the party "is still Bolshevised in spirit, principles and organisation". Obviously, it used its vote to mainly negate whatever was proposed except when it suited the then Soviet Union. In other words, it is definitely anti-American in denouncing France's servitude to the Wall Street for Marshall Aid, membership of the North Atlantic Treaty Organisation, and other military pacts. It has opposed the official policy of supporting German rearmament or aggressions in various parts of Africa and Asia. Its ultimate goal is social revolution. It calls for the reconstruction of France and its industry, the modernisation of agriculture, provision of food for the people, the restoration of a sound financial position, and protection of the health of the people. In 1950 it evolved a special programme for the benefit of the rural areas. Its tactics have been exceptionally opportunistic on many occasions and it has been condemned for inciting sabotage, riots and violence and sedition in the colonial areas.

Socialist Party: Founded in 1879 and though close to the Communist Party, the Socialist Party (PSU) "stands worlds apart, because it is rooted in the principle of responsible democracy and civil rights." Originally it represented a fusion of two separate and antagonistic groups—the liberal reforming and parliamentary led by Jean Jaures comprising the majority and working with the radicals and the second one of revolutionary Syndicalists and Marxists led by Jules Guesde. In 1920 there was a split when its 15,000 members and 13 deputies joined the Communist Party. It is referred to officially by the initials of S.F.I.O. meaning *Section Francaise del Internationale Ouvriere* or the French Section of the Second International i.e., the Socialist International founded in 1905.

This party is the defender of the Democratic Republic of France and stands for the programmes of nationalisation, welfare state, planned economic investment, public housing, industrialisation, educational opportunity, more equal tax structure, more municipal liberty and more local welfare services. It has also supported French membership of the Brussels Treaty, North Atlantic Treaty Pact, the Schuman Plan, the European Common Market and the Euratom. It is an advocate of extended Self-government and economic development of the colonies, but not outright independence. In the elections of 1956 it captured 100 seats in the National Assembly and formed government under the Premiership of Guy Mollet. In the elections of 1958, it suffered heavy losses; its strength in the National Assembly decreased to 40 and so it refused to join the cabinet. The party remained in opposition but supported President de Gaulle on the question of crushing insurrection in Algeria.

Radical Party: It was founded in 1901. Its official name is the *Parti Radical or et Radical Socialiste*. It is organised around local notables, committees and provincial newspapers. It had a very strong influence under the Third Republic, but now it is nothing more than a congeries of departmental groups, a battle of the federations, and unblendable assemblage of interests and policies, highly personalised. Its members have always been detachable from the main body for the purpose of joining left, right and centre coalitions. It has stood for return to the constitution of the Third Republic, single-member districts, governmental economy, amnesty to tax-evaders and safeguards for the interests of the tenants. However, it has been divided on sliding scales for wages, welfare policies, tax increases, and the budgets. However, it is pro-West and thus insists on French membership of the military pacts. In the crisis of 1958 it was sadly split. The conservatives led by Andre Morice joined the right and Soustelle in voting for de Gaulle first as the Prime Minister and then as the President of the Republic.

This party has its nation-wide structure by electing delegates from the local *comites* up through cantonal and then departmental federations.

But their federations are highly independent of Paris headquarters even in the choice of the candidates and electoral strategy. It has an annual National Congress consisting of the elected delegates. Editors of the Radical owned newspapers are its ex-officio delegates. Day-to-day decisions especially when the cabinets are in crisis, are made by the Executive Committee of 70 composed of the representatives of party members, members of party chambers, and a small contingent of party officials in consultation with the parliamentary group.

Small Parties: In the political proces of France, some minor parties have a role of their own in view of the fact that they exploit regional and local issues so as to attract the sympathy of the voters. On certain crucial issues, the viewpoints of the major parties become analogous and so the voters prefer

Notes

to cast their votes in favour of small parties which have a divergent stand that sometimes coincides with their wishes. The National Front is an organisation of those who want France for the French'. They find the cause of growing unemployment and increasing number of crimes in the immigration of the foreign people. Hence, they are branded as 'racists'. Its leader Jean Marie Le Pen contested the presidential election in and, though he was defeated, the pro-chirac voters hoped that his ideas would be taken seriously into account by the newly elected President.

Then, there is a party of the environmentalists called the 'Greens'. They are critical of nuclear experiments and of all measures that pollute the environment. It has no commitment to any ideology and so it is neither rightist nor leftist. Its leaders as Waechter and Brice Lalonde have often laid stress on the prime need for maintaining a healthy and polution-free environment. These parties have no chance to be in power, but they play a notable part by raising crucial issues and soliciting the sympathy of the people by exploiting their sentiments. Their voice has its effect on the working of the governing coalitions.



What do you mean by Gaullism and Fascism?

France is under the de Gaulle constitution. Despite de Gaulle's opposition to political parties on the ground that they nurture divison, instablility, and paralysis, the emergence of powerful political parties has played a key role in buttressing cohesion, stability and leadership within the Fifth Republic. An important development has been the emergence of governning coalition of political parties. Moreover, there has been a powerful tendency for parties to coalesce into two opposing coalitions facing each other across the left-right divide."

Critical Appreciation: As a matter of fact, the party system of France defies characterisation on certain specific lines. Though it is a model of multi-partyism, it is not so in the strict sense of the term. It offers a unique case where several political parties and groups, including splinter and fringe organisations, called 'clubs' and 'families', play the part of actors in the stasiological drama of the country without having permanent commitments to certain social, economic or political norms that may make them identifiable with the political parties of other democratic countries. One is struck with the fact that there is no party in France that may be identified even with the Liberal Party of England known for its flexible political attitudes. And while one may appreciate the trend of integration after the electoral reform of 1961 resulting in the simplification or configuration of political parties, it cannot be said with confidence that this trend would last so as to become the normal feature of French party system.

A student of French politics is, however, beset not with the multipliplicity of parties or groups, what really agitates his mind is that he cannot find himself safe in making precise, even general, statements about the policies and programmes of a party, excluding the Communists, showing its permanent commitments—something that constitutes the hallmark of a political party. It has become all the more important ever since Gaullism has dominated the scene. So loose is the movement of Gaullism that its frontiers or implications cannot be drawn with any degree of confidence. A leading French leader Chariot endeavours to place the doctrinaire Gaullists into three broad categories—a group whose ideas centre on the State, a group whose central idea is the 'common good' and the left-wing social Gaullists, each of them drawing on de Gaulle himself for their distinctive inspiration.

Even in this too general a version of the dominant movement of France, its real implications cannot be traced out. In fine, a study of French party system presents both a matter of special interest and peculiar difficulties aggravated more since the inauguration of the reformed electoral system in 1962 the reason for which should be traced in the fact that all political forces of this country relate themselves to a certain concept of the French nation-state as well as to a particular attitude to their history. All political parties, groups and their sub-parts, big or small, as Stead says, "like to claim themselves sound strand of French tradition," The result of all is that analysis of French Political Parties "is a rich subject of study which was has not ceased to fascinate the French; but the entry into the study is difficult and can be painful."

Notes

13.3 Structure and Role of the Communist Party in China

The Communist Party of China occupies an important position in the political system of China. Like Communist Parties in other Communist countries it performs functions which are radically different from the functions performed by parties in liberal democratic system. Even in comparison to the Communist Party of Soviet Union, the Communist Party of China occupies as a unique position. In so far as in Russia the revolution was brought about not by the Bolshevik Communist Party alone, on the other hand in China the credit for ushering the revolution rests with the Communist Party, which worked both against the local Kuomintang (National Party), the Japanese aggressors. After the accomplishment of the revolution the Communist Party became the chief guiding force and began to determine the major policies and decisions of the government.

In fact Mao established the Communist Party with a view to provide an organizational structure through which the State could exercise its dictatorship on behalf of the proletarist and from which all the authority flowed. He asserted that "any attack on the party as such would be in the nature of a rebellion, an attack on the system and an attempt to subvert the state." According to Prof. Gargi Dutt, Mao recreated party structure which had three features. Firstly, it was created under the watchful eyes of the army, which naturally came to acquire a leading voice in the selection of members. Secondly, most of the important positions both at the central as well as provincial and local levels were reserved for the men. Thirdly, a number of new faces were mainly taken from the army, even though some were picked up from the masses.

Organisation: Like Communist Parties in other countries the Communist Party of China is organised on the principle of 'democratic centralism', which means that all leading party organs are constituted on the basis of election by the lower organ and are accountable for their working to them at specified intervals. On the other hand centralism implies that all important decisions are taken by the top party organs and the lower organs faithfully implement these decisions. In other words it implies that "the individual is subordinate to the organisation, the minority is subordinate to the majority, the lower level is subordinate to the higher level and the entire party is subordinate to the Central Committee".

Another notable feature of the party organisation in China is its hierarchical structure. The lowest organ of the party is known as cell which is constituted in factories, schools, colleges and even street. Cell can be formed by any 20 party members. The main task of the cell is to prepare new members for the party and propagate Mao's ideology. It also tries to promote labour discipline. The next organ of the party is the Municipal Party Congress which is constituted by the cells and supervises their working. It meets once a year. Above municipal party Congress stands provincial Congress which is responsible for organising the party work within their respective areas. Above the provincial Congress stands the National Party Congress which is elected by the Provincial Congresses for a period of five years, and is the highest organ of the party. It formulates the policies and programmes of the party and can also revise or amend the party constitution. It is quite an unwieldy body and works through the Central Committee.

The Central Committee is appointed by the National Party Congress and directs all the work of the party when the National Party Congress is not in session. It supervises the work of all party cadres and keeps watch on the working of lower party organisations. The Central Committee works through Polit Bureau which actually takes all important party decisions. The members of Polit bureau are elected by the Central-Committee. Above the Polit Bureau stands the Standing Committee which includes all top ranking party members. It takes all important decisions subject to the approval of the Polit Bureau and the Central Committee.

In addition the Party has a Secretariat which is responsible for the execution of its policy. It also looks after the daily routine work of the Central Committee. Apart from this there exist a large number of party control commissions.

Role of the Communist Party: As noted above, the Communist Party of China has been assigned a dominant role in the political system of the country. According to Ward and Macridis, "In the politics of China, the Chinese Communist Party is clearly the decision making centre and implementing

Notes

organ which brooks no rival in its monopoly of power. Its members staff all the important positions in the government and society. Its ideology is the only officially propigated doctrine, mandatory for non-members and members of the party alike. While the C.C.P. is not identical with the government, it controls the government in the fullest sense of the term". For the sake of convenience the role of the Communist Party of China may be studied under the following heads:

1. **As Defender of Revolution:** The Communist Party of China not only spearheaded the revolution in the country but also acts as the defender of the revolution. It tries to curb the anti-revolutionary elements and has openly worked for the abolition of colonialism and feudalism. So far the party has firmly dealt with the anti-revolutionary elements and contributed to the consolidation of the gains of the revolution in China.
2. **Guide and Philosopher:** The Communist Party of China acts as the guide and philosopher of the Chinese people and shows them the direction. The members of the Communist Party by the self example try to inculcate a spirit of dedication and selflessness among the people and prepare them to make all kinds of sacrifices for the good of the country.

   The Party also imparts education to the people in the teachings of Marxism, Leninism and Maoism and thus strengthen their faith in communism.
3. **Control over Government:** In China the Communist Party exercises firm control over government and all important governmental positions are held by the important party leaders. The Constitution of China clearly states that "The Communist Party of China is the core of leadership of the whole Chinese people. The working class exercises the leadership over the state through its vanguard, the Communist Party". The key position of the Communist in the government is evident from the fact that it sponsors candidates for various elected bodies; the Prime Minister and other members of the State Council are appointed on the recommendations of the Party and are accountable for their working to the party. In fact the party and the government are so inter-linked in China that it is indeed difficult ta draw a line of demarcation between the two. Generally the policies are formulated by the party and the Government merely implements those policies. The absence of an independent judiciary, which could possibly ensure constitutional government, further contributes to the pre-eminent position of the party. In fact the judges themselves try to promote party programmes and policies. The Party also fully controls the industry, trade and commerce. Even the trade unions are controlled by the party. In fact the Communist Party so much dominates the government that it has been asserted that in China it is the Communist Party which rules the country.

Conclusion

The Communist Party of China occupies important position in the political system of China. In fact it played a unique role in bringing the revolution and dominated the policies and decisions after the revolution.

The Communist Party of China is organised on the principle of democratic centralism. Democracy is found in the election of various organs of the party, with the lower organ electing the higher one. Centralism is evident in the decision which are taken by the top party organs and the lower organs faithfully carry out the decisions. The Party has hierarchical structure with cell as the basic unit. Cells are formed in factories, schools, colleges and even streets. They propagate party's ideology and programme. Above the cell stand the Municipal Party Congress, the Provincial Congress and the National Party Congress. The National Party Congress creates Central Committee which works through Polit Bureau. Above the Polit Bureau stands the Standing Committee which contains all leading party leaders and takes all important decisions. The Party also has a Secretariat and certain other control commissions.

Role: Communist Party has significant role in the Chinese system. It is the decision-making centre and implementing organ and has monopoly of power. (1) It acts as defender of revolution and tries to curb anti-revolutionary elements. (2) It works as guide and philosopher of people and inculcates spirit of dedication and selflessness among the people. (3) It preaches Marxian-Leninist and Maoist ideology among people. (4) It exercises firm control on government. It sponsors candidates for various

Notes

elected bodies; recommends appointment of Prime Minister and other ministers etc. Generally it formulates all policies which are implemented by the government. Therefore it is correctly said that in China it is the Communist Party which rules.

13.4 Interest Groups or Pressure Group in USA, UK, Russia and France

Interest Groups or Pressure Groups in USA

A novel feature of the American political system should be discovered not in the operation of a representative democracy through political parties taking part in the biennial elections of the Congress and the quadrennial elections of the President but in the role of several interest organisations operating at every level through which the people sharing common economic or social characteristics or policy objectives struggle for the protection and promotion of their specific interests. There is no dearth of such groups, though only some of them may be taken for the purpose of our study as they play their part in the determination of an official policy or in the implementation of some governmental law or order.

General Characteristics: In the United States, there are literally thousands of pressure groups of varying size, structure, functions and influence ranging from the National Association of Manufactures (NAM) and American Federation of Labour - Congress of Industrial Organisation (AFL-CIO), American Medical Association, American Bar Association, American Civil Liberties Union etc. to local and social or cultural groups like Southern Christian Leadership Conference and Urban League. Our concern, in the main, is with those principal organisations which seek to affect public policy. The salient features of their operation may be put as under:

1. Pressure groups in the United States are numerous; they are also autonomous to a very great extent. The reason for this lies in America's being a vast democratic country with a federal system and having a huge population dedicated to the ideals of mammon-worship and pragmatism. The party system is too weak to keep the numerous groups in order. The result is that organised groups feel nothing like committed to a particular political party. Not only this, the role of groups is so potential that it determines the behaviour of the political parties in most of the cases and not *vice versa.*
2. The constitutional system of the United States is such that the pressure groups find ample scope for making their influence felt. There is separation of powers coupled with the system of checks and balances with the result that the decision of one department may be checked by another. Interest groups thus fix their attention at all centres of decision-making, including its implementation. American political system stands on the principle of separation of powers whereby the will of the President cannot become a law in every case and that the federal judiciary may strike down any order of the President or any law of the Congress on the ground of its being *ultra vires* of the Constitution. Mostly the groups have their eyes fixed on the President as he is the virtual ruler of the country, but when they fear some frustration, they make their potential articulation through the legislative bodies with the result that there is pressure and cross-pressure upon the government. Sometimes, lobbying assumes a very serious proportion to act as a counterblast to the authority of the President as a result of which there occurs, what is called, the deadlock of democracy.
3. What makes the subject of American pressure groups a matter of interesting study as well as an object of denunciation is their technique of lobbying. It means exercising pressure on public officials in order to have the purpose served, though in a strict sense its application is taken as confined to persuade and influence the members of the Congress who are concerned with the business of legislation. In actual practice, the scope of lobbying has now covered almost every nook and corner of the American administration whether at the national, or state, or local level. Not only this, sometimes the lobbyists go the the final extent of bearing their weight upon the public officials by all means, whether proper or improper, that becomes 'grass-roots lobbying'. Though one may find glimpses of the use of this technique even in other countries like Britain and France, it may be said that the magnitude of lobbying in the United States has no parallel in

Notes

the world. Legitimate use of this technique is contained in the observation of a leading Congressman: "Lobbying is an essential part of the representative government, and it needs to be encouraged and appreciated."

Lobbying: The technique of lobbying implies putting influence on the men in authority roles, it covers every sphere of the government whether legislative, or executive, or judicial. It would be too simple a view to agree with the phraseology of the law of 1946 or the interpretation of the Supreme Court of 1954 that the scope of this tactic is limited to influencing the members of the Congress only. Today no branch of American government can be said to be immune from the onslaught of the technique of lobbying. The strictly legal implication is thus totally unrealistic in view of the fact that the executive agencies "have given considerable leeway in implementing legislation through interpretation and administrative rule-making. In addition, the groups wish to influence policy proposals that are often authored in the agencies and then sponsored by Congressmen: For their part, members of the Congress branch want the co-operation and political support of their clientele in their dealing with Congress."

No doubt, the technique of lobbying has its own set of evils, but the Americans have their own notions about its legitimacy. To them it may be regulated but not outlawed as its abolition would amount to the infringement of the essential liberties relating to speech, expression and assembly as provided in the Constitution by the First Ten Amendments. To them the principal method of regulating lobbying is disclosure rather than control. They agree that the statutory definition of this term has been unclear and the enforcement of the Federal Regulation of Lobbying Act of 1946 minimal. It is clear from the fact that so far disclosures have been few giving limited information and thus their effects have been of a questionable nature. It is also feared by many people that severe restrictions on the tactic of lobbying would hamper legitimate methods of influencing the decision-makers without checking more serious abuses. To them, the consolidated and highly effective opposition of the lobbies cannot be lost sight of. Moreover, it is also emphasised that there should be no ban on the desire of some capable men who want "to keep open avenues to a possible lobby career they may wish to pursue later."

Critical Appeciation: The existence and articulation of interest groups has been denounced by the critics for being opposed to the doctrine of the genuine representation of, what Rousseau called, the general will. It is also said that in this type of politics a very shrewd and corrupt leadership enjoys a position of special advantage at the expense of the position of others who are more deserving than them. It is also alleged that the behaviour of the interest groups is hardly democratic either towards their own members or other groups operating at the same level. The manner of 'hide and seek in polities' as shown by the groups not only differentiates them with political parties, it also makes them immune from public accountability. All these evils of the politics of influence are very much existent in the United States, though other democratic countries of the world cannot be said to be exceptions in this regard.

If the politics of pressure groups has its weaknesses, it has its strong sides also. According to leading American people, such type of politics makes its own important contribution to the successful operation of their democratic system. The interest groups "play an indispensable function in identifying the interests in the society to which the political system must respond. They also serve to increase participation and to clarify issues in connection with the other great input function of the political system — leadership selection. Pressure groups thus offer an important supplement to the official system of representation. By permitting a more precise expression of special interests than can be expected through the broad political parties or through district's Representative, pressure groups may prevent a sense of alienation and enhance the stability of the system."

Pressure Groups or Interest Group in UK

Pressure group politics has been defined as the 'field of organised groups possessing both formal structure and real common interests in so far as they influence the decisions of public bodies, or alternatively, in so far as they seek to influence the process of government. A pressure group plays the role of hide and seek in politics and, as such, it becomes fundamentally different from a political party that plays its part openly in the political process of the country. Moreover, the range of interest

Notes

of a pressure group is so limited that its role in the politics of the country varies from one point of time to another. Thus, a group maintains the peculiar life of being in as well as out of politics as per the involvement of its specific interest. It may be found that by no means all organised groups, or even a majority of them, normally have the slightest concern in what the government is up to, but at any point of time they might be so concerned and might wish to try to influence the official policy.

Though a subtle line of distinction between the two can be drawn, it should be borne in mind that the relationship between the pressure groups and political parties has become quite inextricable. While the former perform the job of interest articulation, the latter perform the fuction of interest aggregation. Thus, both act like twins in giving representation to the interests of the people with this line of difference that while the latter provide the main representation, the former the auxiliary one. In other words, while the political parties provide territorial representation, the pressure groups do the same for the sake of functional representation. The relationship between the two has become so close that, in practice, "functional representation exists side by side with territorial representation."

General Characteristics: In Britain there are literally thousands of pressure groups of varying size, structure, functions and influence from the Confederation of British Industries and the TUC on the one hand to local, social and cultural groups on the other although, as a political study, our concern is primarily with those principal organisations that seek to affect public policy as long as they do so. The groups are, moreover, by no means a new phenomenon although detailed academic interest in the politics of pressure groups is of a comparatively recent past. The Convention of Royal Burghs in Scotland which can be traced back to the fourteenth century is generally regarded as the oldest surviving organized group in Britain. In the eighteenth century there emerged a good number of political associations that agitated for the democratisation of the Parliament. The name of the Committee for the Abolition of the Slave Trade formed in 1807 was a much successful body. The Anti-Corn Law League was an outstandingly successful pressure group of this period. A new development took place after the middle of the last century when several organisations, big and small, allied themselves with the leading political parties – Whigs or Liberals and Tories or Conservatives. However, the emergence of the Labour Party has a significance of its own as it grew out like "a combination of various pressure groups from the trade union and socialist movements."

One of the dominant facts of the British political system today is that pressure groups have become 'a growing force'. However, certain broad features can be discerned in this regard:

1. Since Britain has a full-fledged democratic set-up, there is no limit on the size and working of the pressure groups. As a result, numerous are the pressure groups right from business organisations to labour and professional unions.
2. Britain is a unitary state with a stable bi-party system. As there is the concentration of central authority in the hands of the government situated at London, pressure groups are bound to direct their activities towards the machinery of a single central government. Here the nature of pressure group politics becomes basically different from that of its American counterpart where federalism has affected not only the governmental but also the non-governmental spheres of life. Moreover, as Britain is known for having a stable bi-party system, most of the groups live in clandestine relationship with one of the major political parties.
3. British pressure groups scrupulously observe the norms of democracy and constitutionalism. Hardly we hear about the role of anomic organizations that emerge like spontaneous outfits to vitiate the normal atmosphere of the country.

What is really impressive about the nature of the politics of pressure groups in Britain is that their number and nature are not of an astonishingly complex variety and that their political behaviour does not smack of an irresponsible way of doing things for the sake of protecting and promoting their specific interests. Unlike their counterparts operating in other democratic political systems like those of America and France, British pressure groups "today are more concerned with details and administration and are perhaps more powerful and successful (if vocal) as a result."

Structure and Organisation: A major illustration of the British pressure groups can be presented on the basis of their general structure and organisation, kind and nature of the interests they represent, the weight of authority they seek to exercise, the methods they want to employ and the like. Broadly

Notes

speaking, they fall into two main types with a hybrid in between. While some like business groups, co-operative and trade unions defend economic interest, others promote special causes such as pacifism, nuclear disarmament, protection of animals and children. An initial distinction can also be made between sectional interest groups like the Automobile Association or the Institute of Directors and cause groups like the League Against Cruel Sports or National Viewers and Listeners Association that are bodies created specifically to lobby on behalf of some general cause.

Though a detailed catalogue of the British interest groups can be made, it cannot be lost sight of that all of them do not have equal significance in the political process of the country. Sectional interests always dominate because they are specific, not general, and for this reason they have a potential membership of active workers and leaders. These sectional groups may be classified as business, labour and professional groups. While the business groups include the vast number of industrial, commercial and managerial bodies like the Institute of Directors, Confederation of British Industries, British Bankers Association of British Chambers of Commerce, National Federation of Building Trade Employers etc., labour groups are primarily the TUC and the individual unions. Then, there are the professional groups like British Medical Association, National Union of Teachers and Royal Institutes of Architects and Surveyors. The cause groups are formed for some purpose of general good like prevention of cruelty to animals and children, abolition of capital punishment, reform of prison conditions, preservation of rural England, maintenance of international peace and security etc.

What deserves particular mention at this stage is that a neat and water-tight division of British interest groups cannot be made on account of the nature of their organisation and working. While the categories of business and labour groups can be chalked out without much difficulty in view of their economic character, others may not be categorised in the like manner. For this reason, any categorization of interest groups looks like being arbitrary or incomplete, by all means, it may be regarded as illustrative though not a conclusive presentation of the matter under study.

Operational Dimension: What is of special significance in the study of pressure groups is their operation in the political process of the country that varies from country to country according to the nature of the political system. Two important points should, however, be given at this stage that have their peculiar place in the British political system. First, Britain has a stable two-party system with the result that while business groups invariably support the Conservatives, the labour groups do the same for the Labour party. And though the professional groups are by and large free from such ideological ties, they change their stands from time to time as per their specific interests. Second, the operational dimension of pressure group politics covers three distinct areas — executive, legislature and the public in general.

Of the three levels of pressure group activity mentioned above, the exercise of pressure on the Government and Civil Service "is the most direct and most important sphere of influence, as the concentration of constitutional authority in the hands of the central government, and in the executive machine particularly, means that pressure on Parliament and the public is used only as a means of indirectly influencing the Government. Also the most likely success for pressure groups is in the field of administrative and legislative action, and here it is influence with executive that is most valuable. Government departments and private associations generally co-operate with each other, since both sides stand to gain through such activities as the exchange of information and the sharing of each other's goodwill. Between government administrators and private associations, there is an extensive system of both formal and informal contracts.

The nature of public administration has now become such that the Government relies upon outside bodies for technical advice and information, for co-operation in the framing of legislation, and for help in the implementation of its policy. For instance, the Ministry of Agriculture relies heavily upon the NFU for membership of some 50 agricultural advisory committees, from the Beer' Diseases Advisory Committee. The Government cannot ignore some organisations like County Councils Association and the Association of Municipal Corporations over the reform of local government. Some bodies actually administer legislation on behalf of the Government; for example, the Law Society administering Legal Aid and the Royal Society for the Prevention of Accidents acting as a Government agent. In addition to the formal machinery for contact between the Government and the outside bodies, pressure groups are able to exert influence upon individual ministers and civil servants in

Notes

less formal ways. After having a close look at this development of the British political system, Beer has laid down his doctrine of 'quasi-corporatism'.

Pressure group activity at the Parliamentary level is easily visible. A group that has failed to have satisfaction from a minister or a civil servant, may try to exert pressure by taking the matter to the Parliament. Thus figures in lobbying or contracting MPs for raising a matter, putting a resolution, demanding discussion, and supporting or opposing a particular measure. It may be done through the representatives sitting in the House of Commons who could win elections with the active help and cooperation of some interest groups, or other ways can be adopted to influence the MPs. Some pressure groups may engage the services of professional lobbyists called Parliamentary Agents. Some groups like the NFU have local Parliamentary correspondents to maintain contact with their local MPs. The role of these MPs may, thus, be seen in their actions, by words or deeds, in tabling a motion or supporting a bill whether in the House or in its committees. Amendments to the official bills can be made at the isntigation of pressure groups, with the Confederation of British Industries and other pressure groups being particularly active with regard ot hte passage of the Finance Bill thoruhg the House of Commons each year.

The role of pressure groups in the working of the Parliament is usually checked by the very firm discipline exerted on each party by the Whips, but sometimes a particular interest group may win enough sympathy in the House with both the majority party and the Opposition to force a minister to change his mind. Pressure groups have the greatest chance, of influencing legislation in Parliament when the normal party alignment is broken. If there is a dissension among Government back-benchers with regard to a particular piece of official policy, this can be exploited by the opponents of the policy. Thus, in 1964-66, Parliament business groups opposed to the steel nationalization benefited from the dissent among Labour backbenchers over Government's proposals. Earlier in 1957, a combination of the Labour Opposition and some Conservative backbenchers had persuaded the Conservative Government to postpone the operating date of the Rent Act to the satisfaction of the tenants' interest groups.

It should, however, be added at this stage that the influence of the business and labour groups waxes and wanes according to the complexion of the government in which the weight of the public opinion has its own place. Moreover, while the labour groups do enjoy the privilege of exercising influence on the Labour government, the influence of the business even on the Conservative government is not absolute but conditional. It is qualified by the voting power of the working class, for Conservative party has to keep the support of some 7 million labour voters in order to stay in or get back into power. The essential fact, however, remains that "for better or for worse, such self-government, as the English people now enjoy today is one that operates *by and through the lobby*".

Critical Appreciation: There is no doubt that pressure groups can be seen performing a number of valuable service in the British political system in various ways. Their activity smacks of participation in the decision-making process between general elections and also acts as a healthy check over, as well as a prime mover of, the parliamentary government. The groups provide information, administrative co-operation and public and political supports. It can be argued that those who are most closely affected by Government activity should be most closely consulted and should be able to influence policy. Indeed, pressure groups are indispensable to the executive for the part they play in policy-making and also in administration. Thus, pressure groups draw people into the process of government and at the same time break down party domination of political process, bringing to the fore issues like capital punishment, which might otherwise lie outside the sphere of party politics.

The weak side of the pressure group politics can not be lost sight of. It is rightly contended that pressure group politics can not be identified with mass politics in as much as not all sections of the people take part in it, nor are they capable of exerting influence in a more or less equal measure. The 'concurrent majority' as represented by the powerful pressure groups is seen as having too much power as compared with the 'numerical majority' as represented in the Parliament. Thus, the rise in the importance of pressure group politics has led to the emergence of a new hierarchy of political influence, based on the organization of group interests, producing what has been described as 'new Medievalism whereby a person "is politically important only in so far as he belongs to a group. The leadership of pressure groups is often unrepresentative and authoritarian, as it has to be powerful if

Notes

it is to be in a position to negotiate. The secrecy in decision-making is to a large extent inevitable."

There should be no doubt that pressure groups influence government policy and, in turn, the government influences pressure group activity with limited amounts of coercion and no bribery. Each needs the other. For this reason, it shall be highly imprudent to suggest measures that may outlaw the operation of organized groups. As factions are bound to play their part in the democratic process, so is the case with interest groups. As in many relationships, close ties may at times produce harmony and at times strain. The process of continuous contract and bargaining is dialectical exchange of influence, resulting in policies that are often the product of the dialectic, and not specifically of one or the other group. As a matter of fact, so close has been the relationship between the political parties and pressure groups on the one side and government activity and political process of the country on the other that the two can not be extricated. It is due to this that there is a two-way traffic between those who really rule and those whose interest are at stake because of their ruling. The merit of the whole phenomenon is that a sort of workable.

Pressure Groups or Interest Group in Russia

In the Soviet Union several interest groups (as Komsomols, Octoberists, Pioneers, Writers' Union etc.) existed which were subordinate to the Communist Party and which served as a conduit for its ideological influence and political control. But now the conditions have basically changed. The workers, the employees and the professionals have formed their unions and the functioning of those associations has changed which existed under the rule of the Communist Party in the Stalinist and post-Stalinist periods. The Federation of Independent Trade Unions FITU) is no longer an arm of the Communist Party. The workers have formed their trade unions at the regional and local levels. The Writers' Union and the Cinematographers' Union are the examples of professional groups. The Women Movement though registered under the election law, is not a party as such, it is an interest group of the women of Russia. The notable point is that now dissident and protest movements often occur here. Andrei Sakharov, who was thrown behind the bars, was freed in 1986 and then he freely participated in the reform process till his death three years after. Alexander Solzhenitsyn, who was exiled from the country, came back in 1994. It shows that in the Russian Federation led by Yeltsin, the people "increasingly refused to allow Communist Party organisations to define their interests for them, but in stead expressed their interests for themselves".

In the end, we may say that the political system of the Russian Federation is no longer totalitarian as it was in the Soviet Union. A liberal-democratic order replaced the communist order established by Lenin and strengthened by his successors like Stalin, Khrushchev and Brezhnev.

Gorbacho v read the pulse of the time and he started the process of change that saw its consolidation at the hands of Yeltsin. It had fonr integrated mplications-liberalisation and then attempted democratisation of the political system, dismantling State dominance of the economy a search for new forms of collective identity to replace those provided by the old commnnist ideology, and process of economic integration into the world of states and exposure to ideas and goods from the western world."

Pressure Groups or Interest Groups in France

A study of the role of pressure groups in the political system of France has an importance of its own despite the fact that here the term 'interest organisation' has for a long time been used in a pejorative sense. Formerly the term had essentially moral implications as the French people differentiated between altruistic groups and those working to further their own personal ends. They designated the latter as interest groups and placed those working towards the general welfare in another category. However, this distinction failed to survive under the weight of changing conditions of politics. The traditional approach broke down after the development of modern political science in France that witnessed the devaluation of Rousseau's general will as well as other democratic myths with the result that today the leading political scholars of this discipline identify interest groups on none other than the criterion of whether they succeed or fail to establish compatibility of their ends with those of the general welfare.

Notes

General Characteristics: Though France is a free and open society with a plural culture that manifests itself in the existence and operation of different political parties and groups, the existence and articulation of interest organisations in this country has its own characteristics that may be enumerated as under:

1. The culture of France has its salient trait in the absence of a stable consensus that has its definite impact on the existence and operation of both the political parties and the pressure groups. As there are several parties, so there are numerous groups, both deriving inspiration from the events of the past. It may be said that group divisions in this country are characterised by their multiplicity, their intense ideological character and, what may be termed, the tenacity of 'group memories'. The divisions may be seen on regional, social, economic, cultural and political lines, most of them are related to old quarrels on issues like economic freedom versus *dirgisme*, the perennial question *scolaire*, the vague but ever present conflict between Left and Right which reflects differences more in tendency and style than in substance.
2. The process of fragmentation of groups into sub-groups coupled with their further disintegration creates a very perplexing spectacle. One feels astonished at the fact that even social and economic groups whose objective interest appears to have a common denominator are divided and further split into smaller splinter organisations so much that infiltration and cross-infiltration of one type of people into another has become a moral affair of the stasiological politics in France. The veterans, fanners, workers, artisans and middle classes merchants, teachers, students and public servants are all spread out among a great number of organisations with conflicting political affiliations and ideological outlooks. "There is no other major political system where the multiplicity of professional and occupational groups is compounded to such an extent by the ideological element. The interest groups are 'politicised', that is, impregnated with political attitudes".
3. The fact of diversity and multiplicity, as given above, is so outstanding that it prevents both the parties and the pressure groups to form an autonomous sub-system in the realm of politics. Sometimes, it appears that there is much of non-differentiation between the parties and groups. As such, either a blurred boundary line between the two exists, or it would be too tedious a job to draw such a line of demarcation. The features of division are so sharply set in the historical consciousness of the people that they do not forget the past with the result that the existing lines of cleavage are more sharpened and making of compromises becomes a still more difficult job.
4. Most of the people of France lack the tendency of rigid political commitments. They have a flexible temperament like the Americans with the result that no political party can claim its invariable support from a particular section or class of the society. Naturally, it enhances the position of the groups at the cost of the parties. Most of the people consider the party they vote for as only one of the groups that represent them and not necessarily the one which represents them best, even politically. To many voting is a means of recording ideological preferences, more than a means of choosing a delegate.

   In normal times the citizenry aligns itself with political groupings identified with the traditional political ideologies.
5. Owing to the absence of a strong and disciplined party system, the politics of interest groups has a flourishing form in France. One of the commonest political illusions is the belief that the removal of the party whip would force the politician to search according to the dictates of his conscience for that nebulous ideal called the 'general will'. In the real world party discipline often constrains a member, but it protects him too. It helps to screen him against the demands of influential groups which claim to control marginal votes in his constituency. And it greatly reduces the danger of parliamentary corruption, since it is easier to enforce responsibilities upon a party than upon an individual. Political morality is low where authority is diffused. Responsibility in France is not enforced by a coherent opposition upon a government with undisputed power.

Kinds of Pressure Groups: As pointed out above, pressure groups exist in France in all walks of life—social, economic, political and the like. Almost every interest group is solidly organised with

Notes

the result that one may hardly make a complete census of all such organisations. It is on account of this essential fact that while the political parties do not, and also cannot, represent all 'interests' of the society, the groups have to fill the void. The result is that pressure groups "represent all the forces at work in political life rather than political parties and groups". An eminent student of this subject endorses that "for every conceivable interest group, there seems to be an association or a spokesman. If we look at the Paris telephone directory under 'association' or 'union' or 'syndicate', we shall quickly realise that there is no possible interest that does not have an office or an organisation in France. What is more, for each single interest there are *many* associations".

Organised groups in France vary from very large and representative entities like the National Council of French Employers to quite small ones giving sectional representation like the National Federation of Republic and Veterans. Moreover, while there are some leading business organisations having a distinctly economic character like that of National Council of Small and Medium-Size Business, there are others having a purely academic character like that of the Confederation of Intellectual Workers of France. The workers have their own trade union organisations, the most important of which is the General Confederation of Labour. We may study the leading interest organisations of France grouped into some important categories in the following manner:

In the first place, we take up the case of business and employers' organisations. The name of CGPF (*Confederation Generale de la Production Francaise*) renamed as CNPF (*Counsel Nationale du Patronat Francaise*) in 1945 deserves mention here. This organisation is said to have been born in an unfriendly environment. Though the new Council was technically a federation covering all types of firms, small and medium-size enterprises were organised under Leon Gingembre into a semi-independent Confederation called the CGPME (*Confederation Generale des Petites at Moyennes Enterprises*) which because of the large number, smaller income of its members and the general cult of the 'petit', could afford to be more militant. When the employers of large firms felt somewhat uncertain of their rights, a section of the *Petronat* organised into a *Centre des Jeunes Patrons* aimed at more progressive attitudes and criticised typical bases for their conservatism.

Probably the most solidly organised professional group in France is that of the businessmen. It includes industrialists, corporation managers, bankers and merchants. It is the CNPF that, as claimed by its leaders, includes almost a million firms, which employ about 6 million wage earners and salaried personnel. Besides individual firms, it also includes other business associations, of which the CNPME (Counsil Nationale des Petiteset Moyens Enterprises) is one together with organisations representing particular industries such as chemicals, steel and shipbuilding. Its function are: (a) to establish a liaison between industry and commerce, (b) to represent business firms before the public authorities, (c) to undertake studies for the purpose of improving the economic and social conditions of the country;, and (d) to provide information to its members. The Council speaks on behalf of many powerful interests. Its representative character and its huge size "render it somewhat inflexible and immobile, and its highly diversified membership makes it difficult to arrive at a common attitude on particular issues".

The class of wage-earners and salaried personnel has its own organised groups, the most important of which is the General Confederation of Labour—C.G.T. (*Confederation General du Travail*), It includes many industrial unions of craftsmen, steel workers, artisans etc. Its directive medium is the National Confederation Committee that is elected by the delegates to the annual National Congress. The French Confederation of Democratic Labour—CFDT— is very much like the CGT in respect of its organisation. Most of its members desist from adopting the tactics of the communist leaders who have been in power in the CGT. A militant section of this organisation left it to form the National Confederation of Labour —CNT— that is said to be influenced with the philosophy of anarchism.

The interests of the farmers, particularly the richer ones, are represented by the National Federation of Farmers—FNSEA. It claims the membership of 700,000 farmers. As this organisation is largely dominated by the richer sections of the peasantry, the socialists, communists and others have also formed their splinter groups. For instance, the socialists have their General Confederation of Workers, the communists run their General Confederation of Agriculture, Farm Workers, the Catholics and the MRP work through various Catholic Action Groups, while a dynamic and small group of agriculture experts, technicians and intellectuals has organised the National Council of Young Farmers.

Notes

While the business and labour-agrarian groups constitute the volatile element of pressure group politics in France, a brief reference may be made to the organisation of the intellectuals and the veterans. The most important organisation of the 'intellectuals' is the Confederation of the Intellectual Workers of France. Avery loose organisation of some 400,000 members representing about 80 association, it includes printers, painters, writers, journalists, teachers and like. A special point to be noted about this organisation is that the members have sharp differences on the merits of economic issues and the strategy of action to be adopted for protecting and promoting their interests. The League of the Rights of Man founded at the time of the *Dreyfus Affair* champions the cause of freedom of the press, maintenance of individual liberty and opposes all forms of authoritarianism. It is mostly dominated by the 'left'. The teachers have their Federation of National Education. The students have their own organisations like National Students Union of France that remain concerned with the advancement of their own status and well-being in the form of scholarships, loans, living quarters etc.

Finally, we refer to the associations of the army officers and the veterans that are dominated by different shades of political forces. The 'centrists' have their National Union of Veterans, the 'communist-minded' have their Republican Association of the Veterans, the 'radicals' have their National Federation of the Republican Veterans, while the 'socialist-minded' have their Federation of Workers and Peasant Veterans. All these organisations of officers, non-commissioned officers and graduates of the different military schools have their own groups that largely concentrate on obtaining pensions and other financial privileges. During the times of Algerian crisis and war in Indo-China, there came into being the French Union of the Associations of Veterans and War Victims.

Not the variety of organised groups but their role in the politics of the country is of real importance that places France in a category quite different from that of England and the United States. It can be visualised in the fact that interest groups play a very powerful and, at the same time, a very irresponsible role not because the political system of this country pertains to the hitherto parliamentary, now quasi-parliamentary system, but for the reason that the people have a different temperament and their sectional interests "tend to take precedence over the national interest".

Lobbying is the main tactic of the business pressure groups. The owners of hotels, gas stations, liquor distillation centres, automobile productions, oil companies and the like have their powerful groups engaged in influencing the legislators and administrators. These 'lobbies' give financial support to the candidates at the time of elections, induct their own men into the high ranks of the bureaucratic administration, release their own journals and handouts in an attempt to sway the public opinion in their own favour and do a lot of other things that brings them close to their American counterparts so far as the method of action is concerned. Their agents are very much in the National Assembly and the Senate to support or oppose a bill as per their interest. In case their purpose in not served in the legislative world, they shift their attention to the world of administration where every interest "attempts to 'colonise' the government in a number of ways: by influencing administrators, by offering them important jobs in their own organisations, by representing them with facts and figures that appear to be convincing".

Critical Appreciation: However, the political behaviour of the interest groups in France is much different from that of their Anglo-American counterparts in view of the fact that here pressure groups, like political parties, frequently take to the course of agitation and violence in which the part of the communists is too obvious. The multi-party system of this country with the tradition of violent revolutions is responsible for making the position of institutional and anomic groups more important than that of the situation obtaining in Britain. The Communist Party has its 'supporters' in the trade union organisations and certain institutional groups (like the Catholic Church) have their colonies in the political parties with the result that the parties and pressure groups interpenetrate each other.

Such a study of the existence and articulation of interest organisations in the politics of France shows that here political pluralism has a very fragmented character. Not the existence of so many political parties and groups but the state of isolation and the process of disintegration engage our attention. The differences between different groups, even among the important figures of the same group, have been so deep that they have not been able to act in unison. Quite often the groups have failed to generate a common strategy with the result that no definite rule of political behaviour can be laid down after

Notes

making a study of pressure group politics in this country. One is struck with the fact that even the groups of the workers and intellectuals have sharp differences so much so that one may suggest the existence of an isolative political culture in this country. Though at times of great national crisis, unity has been achieved around the 'myth of France', yet the content of national symbols "has always given rise to disagreement—the interpretations of Jaures and Maurras, Renan and Daudet, being obviously incompatible. The real France has never been able to produce a legal France in its image.

It is due to this that while the 'bourgeois' interests have been in a position of advantage due to the practical application of their secret lobbying tactics, the 'proletarian' organisations have suffered. The political ineffectiveness of the labour organisation stems from a relatively late development of an organised working class movement and also from the tendency of French trade unionists to divide themselves between rivals, if not warring ideological camps. Moreover, the failure of the movement of syndicalism had its own impact on the working class movement of France. A large section of the workers felt disillusioned when it found that the official policy of the Confederation (CGS) was wrong as it was based on the belief that working class victories could be won not piecemeal through parliamentary means but, in one major push, through the general strike. Moreover, a section of the ultra-leftists was taken aback when it found that most of the workers' unions took a pro-bourgeois stand during the days of the First World War. The result was that the ultra-leftists (communists) formed an organisation (CGTU) that was disbanded in 1936 when the Popular Front came into being and a large section of the 'leftists' rejoined the CGT dominated mostly by the socialists.

The state of disintegration is still plaguing the politics of pressure groups to the extent that neither political parties nor pressure groups have been able to form an autonomous sub-system of their own. There is much of anomism and Poujadism in the political behaviour of various interest groups that places the stasiological politics of France in a category different from its Anglo-American counterparts. In fact, the significance of many institutional and anomic interest groups "is directly related to the uneven effectiveness of associational interest groups, the absence of any effectively aggregative party system, and its fragmented or isolative political culture. Parties and interest groups in France do not constitute differentiated, autonomous political subsystems. They interpenetrate one another."

Self-Assessment

1. Fill in the blanks:

(*i*) The communist party of ..... occupies important position in the political system.

(*ii*) NAM is the interest group of ..... .

(*iii*) The name of CGPF remamed as ..... .

(*iv*) Gaullism is the most important movement of ..... .

(*v*) Socialist Party was founded ..... .

13.5 Summary

- "The American party system consists of two major elements, each of which performs in specified ways or follows customary behaviour pattern in the total system. To remove or alter the role of one element would destroy the system or create new one."
- America is known for having a bi-party system. The Democrats and the Republicans are the two major parties and the power alternates between them. In a strict sense, America may be described as having a multi-party system as there have been several 'minor' parties, though their value is equal to nothing as they have never been able to make a tilt in the distribution of power.
- The structure of the American political parties is marked by decentralisation of authority and consequent enfeebling of discipline to an exaggerated degree. Both parties may be regarded as loose confederacies of States parties since the locus of power is not there at the Centre.
- The American party system displays "more pluribus (plurality) than unuum (uniformity)." It would not be wrong to say that the structure of each American party smacks of a peculiar brand of feudalism "with few enforceable pledges of faith, feudalism in which the bonds of

Notes

mutual support are also loose that it often seems to border on anarchy, feudalism in which one party does not even have a king."

- Pressure groups in the United States are numerous; they are also autonomous to a very great extent. The reason for this lies in America's being a vast democratic country with a federal system and having a huge population dedicated to the ideals of mammon-worship and pragmatism.
- American political system stands on the principle of separation of powers whereby the will of the President cannot become a law in every case and that the federal judiciary may strike down any order of the President or any law of the Congress on the ground of its being *ultra vires* of the Constitution.
- In actual practice, the scope of lobbying has now covered almost every nook and corner of the American administration whether at the national, or state, or local level. Not only this, sometimes the lobbyists go the the final extent of bearing their weight upon the public officials by all means, whether proper or improper, that becomes 'grass-roots lobbying'.
- The strictly legal implication is thus totally unrealistic in view of the fact that the executive agencies "have given considerable leeway in implementing legislation through interpretation and administrative rule-making.
- A pressure group plays the role of hide and seek in politics and, as such, it becomes fundamentally different from a political party that plays its part openly in the political process of the country. Moreover, the range of interest of a pressure group is so limited that its role in the politics of the country varies from one point of time to another.
- The relationship between the two has become so close that, in practice, "functional representation exists side by side with territorial representation."
- Britain is a unitary state with a stable bi-party system. As there is the concentration of central authority in the hands of the government situated at London, pressure groups are bound to direct their activities towards the machinery of a single central government. Here the nature of pressure group politics becomes basically different from that of its American counterpart where federalism has affected not only the governmental but also the non-governmental spheres of life.
- An initial distinction can also be made between sectional interest groups like the Automobile Association or the Institute of Directors and cause groups like the League Against Cruel Sports or National Viewers and Listeners Association that are bodies created specifically to lobby on behalf of some general cause.
- A major illustration of the British pressure groups can be presented on the basis of their general structure and organisation, kind and nature of the interests they represent, the weight of authority they seek to exercise, the methods they want to employ and the like.
- The nature of public administration has now become such that the Government relies upon outside bodies for technical advice and information, for co-operation in the framing of legislation, and for help in the implementation of its policy.
- The role of these MPs may, thus, be seen in their actions, by words or deeds, in tabling a motion or supporting a bill whether in the House or in its committees. Amendments to the official bills can be made at the isntigation of pressure groups, with the Confederation of British Industries and other pressure groups being particularly active with regard ot hte passage of the Finance Bill thoruhg the House of Commons each year.
- Pressure groups have the greatest chance, of influencing legislation in Parliament when the normal party alignment is broken. If there is a dissension among Government back-benchers with regard to a particular piece of official policy, this can be exploited by the opponents of the policy.
- The leadership of pressure groups is often unrepresentative and authoritarian, as it has to be powerful if it is to be in a position to negotiate. The secrecy in decision-making is to a large extent inevitable."

Notes

- The culture of France has its salient trait in the absence of a stable consensus that has its definite impact on the existence and operation of both the political parties and the pressure groups.
- "There is no other major political system where the multiplicity of professional and occupational groups is compounded to such an extent by the ideological element. The interest groups are 'politicised', that is, impregnated with political attitudes".
- The result is that pressure groups "represent all the forces at work in political life rather than political parties and groups". An eminent student of this subject endorses that "for every conceivable interest group, there seems to be an association or a spokesman. If we look at the Paris telephone directory under 'association' or 'union' or 'syndicate', we shall quickly realise that there is no possible interest that does not have an office or an organisation in France.
- The peculiar thing about this country is that here the distribution of power "is primarily a function of the cabinet government and the British parliamentary system. So long as the parties accept the system of government, effective decision-making authority will reside with the leadership groups thrown up by the parliamentary parties (of whom one of the most important individuals is the party leader); and they will exercise this authority so long as they retain the confidence of their respective parliamentary parties."
- The history of its origin and growth dates back to the early phase of the modern period when two conditions contributed to the evolution of the party system, namely, the movement that the Parliament should become a legislative body in all its essentials with its rights fully established and that there should be political issues of a broad and deep character on which the people may combine themselves in group. The rise of the political parties became natural after the Restoration Movement (1660) when in 1679 a conflict developed over the passage of the Exclusion Bill.
- The party system of Britain docs not rule out the existence of other or 'third' parties. Even now there are some small organisations like Scottish Nationalists in Scotland and Plaid Cymru in Wales. However, what entitles Britain for being a model of bi-party system is that only two major political parties play a determining part in the mechanism of representative government. Power alternates between the two parties.
- The two parties of Britain have their sharp ideological distinctions despite the fact that both have no faith in the doctrine of scientific socialism. While the Conservative party stands for the protection and promotion of the interests of the affluent class having control over the means of production and distribution, the Labour Party does the same by and large for the class of the workers.
- A very important feature of British political parties should be traced in their being well-organised and disciplined and by virtue of that in their enjoying a hard core of electoral support. There is rigorous discipline due to which political maladies like cross-voting and floor-crossing are uncommon.
- The Conservative party has never been a body of thoroughly superstitious men. Its name hardly denotes its essential nature. As such, instead of calling it an organization of the opponents of reform, democracy and social justice, it would be more appropriate to describe it as a body of those who obdurately value their traditions and precedents and desire change at a very slow pace as far as possible.
- If the party gets clear majority, he becomes the Prime Minister, if the party is in the opposition, he selects his 'shadow cabinet'. Whips are appointed by him. His authority is by no means absolute in as much as the committee of the backbenchers (1922 Committee as it is called) may impeach him for his acts of commission or omission and thereby force him to take a different line of action.
- The Labour Party is a more socially representative organisation. It draws strength mainly from the middle class intelligentsia and manual workers. Its members are of four main categories: 'professions' (like university and college teachers), 'minor professions' (like journalists, organisers, public lecturers, insurance salesmen), small businessmen (like shopkeepers, accountants and executives) and 'working class occupations' (like labourers, artisans, clerks, etc.).

Notes

- The Labour Party is committed to the doctrine of democratic socialism. Different from the socialist parties of the European countries, it has a socialism of its own based on the doctrine of Fabianism.
- "The Labour Party's brand of socialism has been tempered by the exercise of power. The chief aim has become the establishment of a Labour government rather than the bringing about of socialism."
- One important point that makes the Russian Federation fundamentally different from the Soviet Union is the prevalence of multi-party system and the rise of a number of interest groups some of which are also known as social and protest movements.
- Russia has a multi-party system. About half a dozen parties take part in the Presidential and Parliamentary elections and manage to secure sizeable number of votes. Still, the party system is in a formative stage. These parties are known by the name of their supreme leaders which shows that they are formed not on the basis of some clear-out programme but on the personality of a leader.
- None but the Communist Party of Russia has an ideology of its own. It stands on the principles of Marxism-Leninism. The policies and programmes of other parties are vague and when some party fights for interest of a particular section of the people, it looks like an interest group. The Social Democratic Party of the Russian Federation has a socialist programme as it demands a democratic system ensuring social participation of the employers and the workers and protection of human rights. It may be taken as a mildly leftist organisation. The Russian Christian Democratic Movement and Majority Party have a rightist orientation.
- France is ill-known not for having a multi-party system as for leaving an observer baffled in drawing plausible conclusions from the drama of complication and simplifcation of political parties and groups, including 'clubs' and 'families', in which the rightists, the leftists, and the centrists have peculiar roles to play.
- The element of ideological make-up is virtually missing in all parties excluding the communists. There is no party in France that may be treated like the Conservative or Labour parties of England in respect of its political commitment to the 'right' or to the 'left'. Likewise, there is no party that may be identified with the Republican or Democratic parties of the United States that are like 'vote mobilisation' machines.
- The multiplicity of party system coupled with the diversity of organisation, and attitude draws sustenance not only from the factors of sociology and economics, it also derives its source from the geographical composition of the country.
- Naturally this country is bedevilled by a multiplicity of political parties, passionate and internally fissiparous. The party members live in a state of constant flux often shifting their loyalty from one group to another and success comes to those who are adept in the art of manipulation rather than being consistent supporters of a certain policy.
- The surprising part of the study is that after the establishment of the Fifth Republic, the UNR became a basically different organisation in the sense as it was formed to support de Gaulle in power, not to win power for him; it was formed by the supporters of de Gaulle without his being involved, not by de Gaulle to attract supporters.
- It is the most active political party of France which "provides an interesting picture of the role and tactics of a dictatorial Marxist party inside a democracy". It was formed in Dec, 1920 by a vote of many members of the Socialist Party who desired to join the Third International and although the Comintern was dissolved in 1943, the party "is still Bolshevised in spirit, principles and organisation".
- Founded in 1879 and though close to the Communist Party, the Socialist Party (PSU) "stands worlds apart, because it is rooted in the principle of responsible democracy and civil rights."
- This party is the defender of the Democratic Republic of France and stands for the programmes of nationalisation, welfare state, planned economic investment, public housing, industrialisation, educational opportunity, more equal tax structure, more municipal liberty and more local welfare services.

Notes

- This party has its nation-wide structure by electing delegates from the local *comites* up through cantonal and then departmental federations.
- There is a party of the environmentalists called the 'Greens'. They are critical of nuclear experiments and of all measures that pollute the environment. It has no commitment to any ideology and so it is neither rightist nor leftist. Its leaders as Waechter and Brice Lalonde have often laid stress on the prime need for maintaining a healthy and polution-free environment.
- France is under the de Gaulle constitution. Despite de Gaulle's opposition to political parties on the ground that they nurture divison, instablility, and paralysis, the emergence of powerful political parties has played a key role in buttressing cohesion, stability and leadership within the Fifth Republic.

13.6 Key-Words

1. Republican : An advocate of a republic, a form of government that is not a monarchy or dictatorship, and is generally associated with the rule of law.
2. Lobbying : It is the act of attempting to influence decisions made by officials in the government.
3. Gaullism : Gaullism is a French political ideology based on the thought and action of Resistance Leader then president Charles deGaulle.

13.7 Review Questions

1. Discuss the importance of political parties.
2. Explain the political parties in USA and France.
3. Distinguish between Political Parties and Pressure Groups.
4. Explain the role of communist parties in China.
5. Discuss interest groups in UK and USA.

Answers: Self-Assessment

1. (*i*) China (*ii*) United States
   (*iii*) CNPF (*iv*) France
   (*iv*) 1879

13.8 Further Readings



1. Almond, G.A. et., 2000: Comparative Politics: A World View, New York: Harper/ Collins.
2. Palekar, S.A., 2009: Comparative Politics and Government, New Delhi, PHI Learning Pvt. Ltd.
3. Johari, J.C., 2006: New Comparative Government, New Delhi: Lotus Press

Notes

Unit 14: Globalization

CONTENTS

Objectives
Introduction
14.1 Meaning, Nature and Dimensions of Globalization
14.2 Globalization and Comparative Politics
14.3 Responses from Developed and Developing Societies
14.4 Summary
14.5 Key-Words
14.6 Review Questions
14.7 Further Readings

Objectives

After studying this unit students will be able to:

- Understand the Meaning, Nature and Dimensions of Globalization.
- Explain the Globalization and Comparative Politics.
- Describe the Responses from Developed and Developing Societies.

Introduction

Freedom and equality are the two boons which everyone desires. Rousseau says that 'man is born free, but he is everyshare in chains.' But the leaders of the American and French revolutions integrated the boon of liberty with that of equality. The two boons should embrace all spheres of human life whether social, economic or political. Moreover, they should prevail at all levels whether local, national, regional or international. Movements for the achievement of both the boons led to the creation of democratic system at the national level. Similar movement to universalise it has now assumed the name of globalisation. A student of political science has to see that the two boons are best reconciled through public participation in social, cultural, economic and political affairs. But it can be done in different ways and by different means. Thus, this theme finds its place in the field of comparative politics as "the study of how freedom and equality are reconciled around the world."

14.1 Meaning, Nature and Dimensions of Globalisation

In the last decade of the twentieth century the world saw the rebirth of history and politics and the death of territoriality and national identity. Francis Fukuyama of the United States regards it as "the universalisation of western liberal democracy as the final form of human government." Bertrand Badie of France calls it "end of territories of the nation-state." An American columnist Thomas Friedman identifies it with "the integration of trade, finance and information that is creating a single global market and culture." Robertson describes it as 'universalisation of particularism and particularisation of universalism'. It simply means that now what is local is global and *vice versa*. Thus, Anthony Giddens says: "Globalisation is the intensification of world-wide social relations which link distant localities in such a way that local happenings are shaped by events occurring many miles away and *vice versa*."

One may say that globalisation is not something strikingly new. As a matter of fact, people in ancient and medieval times moved from place to place to spread their religion, culture or cult, or to sell their goods, or to popularise their mission and the like. Indian goods were sold in the British markets. The Persian and the Chinese travellers came to India with their goods or with an anxiety to have the

Notes

knowledge of philosophy. During the middle ages the people moved from place to place to propagate their art and architecture. Columbus went out to discover India. The adventurous traders of Europe moved to the countries of Africa and Asia and Latin-America. Thus, the process of interactions amongst different people of the world continued. Now the same process is very fast and active the reason of which may be traced in the marvellous developments in the fields of science and technology. The whole world has become, in the words of Marshal McLuhan, like a 'global village'. In the estimate of Keohane and Nye, the old globalisation was 'thin' and 'extensive', the new globalisation is 'thick' and 'intensive'. Globalisation is a system in which human beings are no longer part of isolated communities that are themselves linked through narrow channels of diplomatic relations or trade. Entire societies are now directly 'plugged in' to global affairs."

If so, three dimensions of globalisation may be taken note of— socio-cultural, economic and political.

1. **Socio-Cultural Dimension:** Globalisation has its definite impact on the social and cultural life of the people. Traditional institutions are growing weak and new identities are emerging that do not belong to any community or nation in particular. New developments in the field of information technology transform the cultural patterns of a people's life by making them accustomed to wear American garments, eat Chinese food, drink French whisky, listen English pop music and the like. It appears that a global society is emerging built on shared values and ideals that poses a serious challenge to the fanatics of 'swadeshi'.
2. **Economic Dimension:** Globalisation is very much visible in the sphere of markets, trade, goods and financial investments. It also extends to flows of services, technology, information and ideas across national boundaries. Globalisation has its natural linkage with liberalisation, because capital is flowing and multi-national companies and corporations are spreading their network across the countries of the world. So new terms are coming into currency as Disneyfication, McDonaldisation and Coca-Colonisation. Foreign direct investment is a world-wide phenomenon. Assisted by more open markets and reduced costs for transportation, many MNCs control assets and make huge profits often rivalling the GDPs of the countries in which they do business.
3. **Political Dimension:** The political aspect of globalisation has an importance of its own, because it affects the nation-state system that has had its long history since the Westphalia treaty of 1648. It has affected the external aspect of sovereignty and entailed the end of the welfare state. It is creating a new model of state that acts in collaboration with a number of non-state actors. The borders of the states have become outdated on account of the assault of information technology. Television network has demolished the 'iron curtain' and the 'bamboo curtain'. Political globalisation "may bring about a more peaceful world order, constraining the tendencies towards violent conflict by constraining the capacity and autonomy of states."

In other words, Social relations— that is the countless and complex ways that the people interact with and effect upon each other - are more and more being conducted and organised on the basis of a planetary unit. By the same token, country locations and, in particular, boundaries between territorial states are, in some important senses, becoming less central to our lives, although they do remain significant. Globalisation is thus an on-going trend whereby the world has in many respects and at a gradually accelerated rate become one relatively boundless social sphere.

In this way, the case of globalisation has certain salient features which may be enumerated as under:

1. Many things happen in contemporary world largely irrespective of territorial distances and borders.
2. It involves a complex mix of concurrent tendencies towards cultural convergence on the one hand and an increase in groups differentiation on the other.
3. It has not brought about the end of geography, it has created a new super-territorial sphere alongside and inter-related with old territorial geography.
4. Within globalisation social relations acquire a host of non-territorial qualities.
5. Crucial conditions for effective sovereignty are removed, system is dissolved in a deluge of electronic and other flows.

Notes

6. It is not dissolving the state, but it has not left the state untouched either. New role of state in super-territorial sphere should be examined.
7. It highlights interdependence of states in the international sphere.

After the disintegration of the Red Empire (USSR) in 1991, signifying the end of the Cold War, a new world has emerged and globalisation is its ideology. According to the United Nations Development Report, 1999, the 'world has changed.'



Globalisation refers to processes whereby social relations require relatively distanceless and borderless qualities, so that human lives are increasingly played out in the world as a single place.

14.2 Globalisation and Comparative Politics

We have seen that globalisation is the 'ideology' of today having its definite impact on the socio-cultural; economic and political spheres. For our purpose, the political dimension of globalisation is particularly important. 'It has affected the nature and working of the nation-state system and is creating conditions for global governance. Its implications have their own significance in the domain of comparative politics. The impact of globalisation on the operation of the state system may be seen in these directions:

1. Modern state is regarded as a sovereign entity which, according to the interpretations of Hobbes, Austin and Hegel is omnipotent. Globalisation has put a check on this assumption. The autonomy of the states has been restricted to a considerable extent. They have to follow the directives of international bodies like the World Trade Organisation, International Monetary Fund, World Bank and the like. The nation-state is still a sovereign entity, but its sovereignty stands eroded to a certain extent that is identified with their 'loss of control'. In a true sense, it is not a diminution of legal and actual control over the process of determining policy directions, but rather a diminution of their capacity to *achieve* these policies once they have been set.
2. In the economic sphere, globalisation has created the model of a contracted and atrophied state. As a result of the de-territorialisation of the nation-state, products and capital of rich countries flow with least hindrance. The leaders of the multi-national corporations influence the policy-makers of the poor and backward countries and their track-II diplomacy constrains the autonomy of the planners of such states. It is endorsed in the UN Document that "national borders are also breaking down in economic policy as multilateral agreements and the pressures of staying competitive in global markets constrain the options for national policy and as multinational corporations and global crime syndicates integrate their operation globally."
3. The growing trend of globalisation has strengthened the case of 'new social movements' which desire to establish a 'civil society' in the countries of the world where it is non-existent. The movements of the human rights activists, the environmentalists and the feminists may be referred to at this stage. Not only this, the powerful states of the world have invented the plea of interfering in the internal affairs of a weak state in the name of protecting human rights there, or destroying the forces of 'terrorism' sheltered there that pose a serious threat to the life and property of the people living in other parts of the world.
4. Globalisation is creating a transnational state with trans-national citizenship. As the people of one stock move and settle down in some other country as citizens, in the words of W.Kymlicka, a kind of multi-cultural citizenship comes up. If the citizens of one West European country may reside, serve and settle down permanently in any other country belonging to the European Union, he would naturally have the benefit of post-national or trans-national citizenship in course of time. If this process goes on unchecked, a day may come when Goldsmith's dream of 'man's citizenship of the world' and Tagore's vision of a 'universal man' become a reality.

Notes

5. Globalisation has forced the nation-states to retreat from their welfare activities. New issues as cross-border terrorism, environmental pollution, nuclear proliferation, spread of infectious diseases and emergence of forces inciting ethnic and racial conflicts immediately engage their attention. The retreat of the state from the realm of popular entitlements, health, education, employment, preservation of natural resources and the like has enabled the non-governmental organisations and the leaders of the social movements to come forward to fill the 'vacuum'.

Globalisation is a world-vide process which "is unfolding in different parts of the world with different meanings and different connotations. It is neither a singular condition nor a linear process." If so, the trend of globalisation has its own relevance in the domain of comparative politics for two pertinent reasons. First, because of the thickening of connections between people across countries, it breaks down the distinction between international relations and domestic politics, making many aspects of domestic politics subject to global forces. Second, it can also affect politics in other directions, essentially 'internationalising' domestic issues and events. "Given that globalisation deepens and widens international connections local events, even small ones, can have ripple effects throughout the world."

In short, globalisation presents a number of potential issues and implications for comparative politics. A student of this subject is expected to know about variations in the operation of different political systems of the world. As a result of the blurring and shrinking of time and space, old political institutions need to be 'transformed'. The meaning and nature of the terms like state, sovereignty, government, power, legitimacy, development, people's participation, political recruitment, revolution, citizenship etc. need revision or reinterpretation so as to save themselves from being obsolete or irrelevant. As O'Neil observes: "These changes before us are at once uncertain and potentially profound. We stand at the end of one era in comparative politics and at the rise of a new one, whose possible changes may be profound - for good or ill - and whose outcome we cannot foresee."

Trans-National State

The Treaties of Westphalia (1648) are said to have created the model of modern nation-state, the Treaty of Rome (1957) may have the credit of progeniting the model of a trans-national state. The six states of Western Europe (Italy, France, West Germany, Belgium, Netherlands and Luxemburg) created the European Economic Community that became European Community after some time and after the Maastricht Treaty of 1992 became the European Union. Presently it is a body of 25 states and the number may increase in due course to realise the dream of 'Common European Home'. All the members have a common currency (Euro) and a common foreign and defence policy. The European Commission with its seat at Brussels is the executive wing of the EU whose decisions are binding on all the members and the European Court (with its seat at Strasbourg) is there to settle the legal disputes among the members and its decision is final. The citizens of a member-state may freely move in the territory of another member-state, may join educational institutions of their choice, and may also do some business or work without any hindrance there.

It is certainly the model of a trans-national state in which all the member- states have the benefit of pooled sovereignty. Its salient characteristics may be noted as under:

1. Citizens of the members-states have the right to free movement, gainful employment and residence within the boundaries of the E.U.
2. The laws of the Union prohibit discrimination based on nationality among workers of the member-states with regard to employment, social security, trade union rights, living and working conditions, and educational and vocational training.
3. The law of the Union obliges host states to facilitate teaching of the languages and culture of the countries of origin within the framework of normal education and in collaboration with those countries.
4. The Commission of the EU recommends full political rights in the long run for the citizens of the member-states living in other countries of the Union.
5. The state is not the exclusive locus of power within its own territorial boundaries. Its powers are limited, and so the powers of the Union in relation to individual member-states are limited.

Notes

It boldly suggests "the multi-nationalisation of previous domestic activities and intensification of the intermeshing of decision-making in international frameworks." Here is a new and emerging model of multi-national or trans-national state. The state that is usually regarded as a set of political institutions that hold the monopoly of the means of physical violence has undergone a change. "A major shift has occurred with regard to the steering of the state activities in Western democracies over the last two decades. It is a shift from classic bureaucracy placing the emphasis on process steering to New Public Management (NPM).

For this reason, it is said that even in the age of globalisation the model of nation-state has not been replaced by any functional model. And yet it cannot be lost sight of that the model of such a state is emerging and may fully grow in time to come as projected by Zielonka. As things stand now, it is clear that the idea of sovereignty 'as an indivisible, illimitable, exclusive and perpetual form of public power is defunct."


Notes

A trans-national state is known for having a divided sovereignty, for it is not the sole centre of power within its own territorial boundaries. It does not possess 'coercive powers' of its own in the form of army, police and courts. It exists on the 'willing surrender of the aspects of sovereignty'.

14.3 Responses from Developed and Developing Societies

Policy Concerns of Less Developed Countries

The impact of the current process of globalization is extremely uneven, both within and between nations. Consequently, it has resulted in rising income inequalities within countries as well as between countries. The less developed countries experience a more skewed income distribution, which is attributed largely to the shift in labour demand. If has also led to greater polarization across countries because technology—the prime factor responsible for the current wave of economic globalization - still remains concentrated in a small body of already industrially advanced countries. Also, sudden spurts and shift in the direction of speculative capital often have triggered financial crisis more in the capital-starved less developed countries than elsewhere.

Placed in such a situation, the policy concerns of the less developed countries are largely a response to the evolving structural divide between them and the industrially advanced countries. So much so, globalization is perceived by the less developed countries to be a system typified by the apex economic institutions such as the IMF and WTO in which the more developed countries advance their national interests to the detriment of the less developed countries especially in areas such as trade and capital investment. Some among the less developed countries feel that the current globalization process has led to the worsening of the structural poverty in many countries. At the same time, under the pressure of economic globalization many of them have to resort to external debt, which have further contributed to the deceleration of the growth in real terms.

Domestic Policy Responses

Given the adverse impact of the current economic globalization and given also the constraints in which the less developed countries are placed, most of these less developed countries are engaged in devising policy measures the prime objective of which is not so much as to engage themselves in the process of globalization than as to how to engage effectively with it. Therefore, most policy measures aim at either reshaping the impact or redirecting the globalization process to their advantage. Policy rationale also underlines the means that would facilitate the less developed countries have access to the positive benefits of globalization and at the same time help mitigate the adverse consequences.

Notes

To that extent the less developed countries with very few exceptions have by and large evolved their policy framework that underscores irreversibility of the policy measures-be it in terms of structural adjustment or trade liberalization. At the same time they also underline that the policy mix will be such that it would ensure some modicum of social safety net to overcome the problems of marginalisation and impoverishment.

In respect of the adverse effects of the current economic globalization, many of the developing countries are engaging their attention on reforming, to the extent possible, the international trading and financial institutions to cater to their critical economic needs. Leading among these are countries such as India which have taken initiatives to reexamine the evolving rules of the WTO in respect of issues such as intellectual property rights, anti-dumping restrictions, subsidies to agriculture and other countervailing measures. Another concern relates to enlarging the developing countries' market access in the industrially advanced countries of the world. Cumulatively their demands are in respect of expanding their access to international trade through seeking lowering of tariff, and exemptions on a number of non-tariff barriers. In this connection, mention may be made of the less developed countries seeking support in the WTO to seek revision in the standards of sanitary and phyto-sanitary requirements regarding their exports especially towards the European Union.

While the afore-mentioned concerns largely relate to trade matters, the less developed countries are also making demands in respect of issues relating to foreign direct investment. In this context the highly indebted poor countries are seeking initiatives that would minimize their debt burdens. Specifically in this connection they are demanding debt relief measures that would help reduce the levels of poverty and attendant economic hardships in their domestic economy. Secondly, they are also making efforts that would bring about increasing rate of flow of private foreign direct investment in order to meet their current economic bind. In their effort to attract foreign direct investment efforts are afoot to reduce if not eliminate, the risk perceptions of potential portfolio and direct investors and also by improving the credibility of their public financial institutions.

Initiatives at the International Level

Aware of the immediate adverse impact of economic globalisation, the less developed countries had joined the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) with two objectives-first, to deal with the backlog issues relating to textile exports and agricultural subsidies and second, to remove GATT rules regarding anti-dumping and countervailing duties. They were less inclined to negotiate on the newer areas which meant opening their infant service sector, removing all restrictions on foreign direct investment and rewriting their patent laws. These requirements, they felt were unwarranted intrusion into their economic space.

So, they put up a united front against the intrusion of new areas such as service sector, investments and international property rights. Yet, their efforts were met with stiff opposition from the advanced countries. In the final analysis, all that the less developed countries could achieve in respect of service sector, investment and intellectual property rights were as follows:

Service Sector

In the Uruguay Round, what was finally agreed upon was that the service sector will have to be liberalized but based on multilaterally agreed and legally enforceable rules to govern trade and services such as most favoured nation (MFN) treatment, transparency of laws and regulations, recognition of operating licences and arrangement for dispute settlement. However, thanks to the concerted effort of the less developed countries, several exceptions have been made in the service sector. Yet, the less developed countries had to concede liberalization in such service sectors as advertising, construction and engineering.

Intellectual Property Rights

So far in respect of intellectual property rights, the Uruguay Round provided for an international system for the protection of such rights to be embodied in a legal institutional set up called World Intellectual Property Organisation (WIPO).

Notes

Perceiving the WIPO protection as inadequate, the developed countries launched a strong initiative to create an extended and tighter international system for the protection of intellectual property rights. In the final outcome, the scope of the Uruguay Round has been expanded to increase the life of privileges granted or rights conferred, to enlarge the geographical spread and to create an enforcement mechanism.

Investment Measures

The investment measures embodied in the agreement on Trade Related Investment Measures (TRIMS) listed a comprehensive set of measures such as not permitting practices like local content requirements, export obligations, restrictions on imports of certain raw materials or components. At the same time, existing measures will have to be notified to the designated international authority and will have to be phased out over two years in the case of developed countries and five years in the case of less developed countries. Exception to this rule was permitted only if the country in question is faced with a serious balance of payments problem.



What do you understand by the term 'Economic Globalisation'?

Dispute Settlement Mechanism

The creation of an integrated dispute settlement body is yet another major achievement of the Uruguay Round meeting the demands of the less developed countries. Now thanks to the creation of the dispute settlement body, there are firm time limits which apply to the various stages of dispute settlement process. What, however, disadvantages the less developed countries is the requirement that calls for a consensus in respect of rejecting a panel report. However, what advantages the less developed countries is that no requirement of a consensus is called for in accepting the report of the dispute settlement body. In this way these new procedures are seen to be in the interests of smaller countries bringing their complaints against larger countries.

Creation of World Trade Organisation

The creation of World Trade Organisation (WTO) is part and parcel of the multilateral agreement arrived at the Uruguay Round. Its main purpose is to facilitate implementation, administration and operation of GAIT 1994. In effect, it gives permanence to GATT. Two main distinctive features of WTO are: (1) nations seeking admission to WTO must accept all decisions from around as a package which includes agreements on trade in services, intellectual property rights and trade related investment measures; and (2) nations acceding to WTO are required to be bound by the new integrated dispute settlement mechanism encompassing the three areas of goods, services and technology.

WTO and the Less Developed Countries

Most developing countries have accepted the WTO regime though reluctantly. The debate is still raging in many countries over the consequences of their signing the WTO treaty. The critical question that is debated is what are the risks and gains from the WTO regime for the developing countries. Some general issues have been highlighted. They are as follows:

Agriculture

One area where the predominantly agricultural countries of the less developed world are jubilant is gaining major benefits in the agricultural sector. Successes in reining agricultural support programmes in the industrially advanced countries and regions such as United States, Japan and the European Union are expected to render net gains to less developed countries' agricultural exports for the comparative and competitive advantage these agricultural countries enjoy. However, at the same

Notes

time, certain apprehensions have surfaced regarding the WTO's ruling in favour of reduction in subsidies for agriculture, phasing out of public distribution system and compulsory market access to agricultural imports.

Textiles and Apparels

Less developed countries with an edge in the manufacture of textiles and apparels have benefited from the multi-fibre agreement (MFA) for progress in unraveling the MFA is expected to bring major benefits to these countries. Yet there is a cause for concern because the phasing of MFA is accompanied by a system of what is known as "transitional selective safeguards" whose operational details have not yet been defined. This in turn could restrict the growth in exports of textiles by the less developed countries. Also, there are already anti-dumping laws in hands of the industrially advanced countries which they may use to restrict the textile export from less developed countries.

Tariffs on Industrial Goods

The prospects of reduction in industrial tariffs have greatly improved. Yet, the benefits are not likely to be substantial because already the tariffs on imported industrial goods are low, besides the proposed tariff cuts are likely to be concentrated in areas of less importance to developing countries.

Services

In the area of services, the less developed countries notwithstanding their demands have still to work out a viable way out for the export of skilled and unskilled labour, negotiations for which are still in the very initial stages. The only compensation is that several of the areas for liberalization in the service sector are yet to be negotiated.

Intellectual Property Rights

Intellectual property is the area where new and tougher rules would put the less developed countries to greater hardship. Despite the efforts made by several of the developing countries including India, not much success has yet been achieved. For, after all, in some of the identified sectors like chemical and pharmaceutical products, biotechnology and propagation of improved varieties of seeds and microbiological processes for developing new fertilizers and pesticides the developing countries may have to make royalty payments to the industrially advanced countries. Some of the expressed fears of the less developed countries such as non-availability of needed technology at affordable costs, the pre-empting of domestic technological capacities by the more advanced countries and the incidence of restrictive business practices by the TNCs are admittedly justified. It is in these areas the less developed countries may have to evolve a concerted policy posturing within the forum of the WTO.

Trade Related Investments

Yet another area in which the less developed countries need to evolve a concerted policy response is trade related investments. Otherwise, the current regime on trade related investments will severely jeopardise the ability of the less developed countries to regulate the foreign capital inflows in accordance with their objectives and priorities. Besides, it will also weaken the domestic capital goods sector and arrest the growth of indigenous technological capacity.

Needed Policy Framework

The overall response of the less developed countries towards the current phase of globalization is based on their justified fears and apprehensions. As has been stated earlier, the less developed countries as a whole have made the right choice not as much to disengage themselves but to engage in an effective manner in the current globalization process. At the domestic level, the policy responses are based on the rationale that at all odds they will have to insert themselves into the global economy with a view to benefit by it and at the same time make an effort to minimize the adverse and deleterious consequences. Towards this effort, while the less developed countries are, to the extent possible making efforts to come up with a policy package-be it in terms of structural adjustments or trade

Notes

liberalization-their concern justifiably is to work in concert at the multilateral level and under the WTO regime to reshape the globalization process. In doing so, the less developed countries have evolved common strategies to realize their goals. As has been mentioned on specific issues such as TRIPS, TRIMS, trade in services, tariffs on industrial goods etc. the less developed countries have collectively placed their views in the successive WTO meetings. Though me outcome of these negotiations have not been as yet encouraging, these meetings at least have brought the less developed countries to come together and present what would be described as the shared responses. Admittedly the task ahead for the less developed countries is daunting. Yet, given the 'rule-based' trade regime that has come into being under the auspices of the WTO the less developed countries will have to put their efforts in evolving new rules of the game.

Components of Globalization

The components of globalization include GDP, industrialization and the Human Development Index (HDI). The GDP is the market value of all finished goods and services produced within a country's borders in a year, and serves as a measure of a country's overall economic output. Industrialization is a process which, driven by technological innovation, effectuates social change and economic development by transforming a country into a modernized industrial, or developed nation. The Human Development Index comprises three components: a country's population's life expectancy, knowledge and education measured by the adult literacy, and income.


Notes

The degree to which an organization is globalized and diversified has bearing on the strategies that it uses to pursue greater development and investment opportunities.

The Economic Impact on Developed Nations

Globalization compels business to adapt to different strategies based on new ideological trends that try to balance rights and interests of both the individual and the community as a whole. This change enables businesses to compete worldwide and also signifies a dramatic change for business leaders, labor and management by legitimately accepting the participation of workers and government in developing and implementing company policies and strategies. Risk reduction via diversification can be accomplished through company involvement with international financial institutions and partnering with both local and multinational businesses.

Globalization brings reorganization at the international, national and sub-national levels. Specifically, it brings the reorganization of production, international trade and the integration of financial markets. This affects capitalist economic and social relations, via multilateralism and microeconomic phenomena, such as business competitiveness, at the global level. The transformation of production systems affects the class structure, the labor process, the application of technology and the structure and organization of capital. Globalization is now seen as marginalizing the less educated and low-skilled workers. Business expansion will no longer automatically imply increased employment. Additionally, it can cause high remuneration of capital, due to its higher mobility compared to labor.

The phenomenon seems to be driven by three major forces: globalization of all product and financial markets, technology and deregulation. Globalization of product and financial markets refers to an increased economic integration in specialization and economies of scale, which will result in greater trade in financial services through both capital flows and cross-border entry activity. The technology factor, specifically telecommunication and information availability, has facilitated remote delivery and provided new access and distribution channels, while revamping industrial structures for financial services by allowing entry of non-bank entities, such as telecoms and utilities.

Deregulation pertains to the liberalization of capital account and financial services in products, markets and geographic locations. It integrates banks by offering a broad array of services, allows entry of new providers, and increases multinational presence in many markets and more cross-border activities.

Notes

In a global economy, power is the ability of a company to command both tangible and intangible assets that create customer loyalty, regardless of location. Independent of size or geographic location, a company can meet global standards and tap into global networks, thrive and act as a world class thinker, maker and trader, by using its greatest assets: its concepts, competence and connections.

Beneficial Effects

Some economists have a positive outlook regarding the net effects of globalization on economic growth. These effects have been analyzed over the years by several studies attempting to measure the impact of globalization on various nations' economies using variables such as trade, capital flows and their openness, GDP per capita, foreign direct investment (FDI) and more. These studies examined the effects of several components of globalization on growth using time series cross sectional data on trade. FDI and portfolio investment. Although they provide an analysis of individual components of globalization on economic growth, some of the results are inconclusive or even contradictory. However, overall, the findings of those studies seem to be supportive of the economists' positive position, instead of the one held by the public and non-economist view.

Trade among nations via the use of comparative advantage promotes growth, which is attributed to a strong correlation between the openness to trade flows and the affect on economic growth and economic performance. Additionally there is a strong positive relation between capital flows and their impact on economic growth.

Foreign Direct Investment's impact on economic growth has had a positive growth effect in wealthy countries and an increase in trade and FDI, resulting in higher growth rates. Empirical research examining the effects of several components of globalization on growth, using time series and cross sectional data on trade, FDI and portfolio investment, found that a country tends to have a lower degree of globalization if it generates higher revenues from trade taxes. Further evidence indicates that there is a positive growth-effect in countries that are sufficiently rich, as are most of the developed nations.

The World Bank reports that integration with global capital markets can lead to disastrous effects, without sound domestic financial systems in place. Furthermore, globalized countries have lower increase in government outlays and taxes, and lower levels of corruption in their governments.

One of the potential benefits of globalization is to provide opportunities for reducing macroeconomic volatility on output and consumption via diversification of risk.

Harmful Effects

Non-economists and the wide public expect the costs associated with globalization to outweigh the benefits, especially in the short-run. Less wealthy countries from those among the industrialized nations may not have the same highly-accentuated beneficial effect from globalization as more wealthy countries, measured by GDP per capita etc. Although free trade increases opportunities for international trade, it also increases the risk of failure for smaller companies that cannot compete globally. Additionally, free trade may drive up production and labor costs, including higher wages for more skilled workforce.

Domestic industries in some countries may be endangered due to comparative or absolute advantage of other countries in specific industries. Another possible danger and harmful effect is the overuse and abuse of natural resources to meet new higher demands in the production of goods.

One of the major potential benefits of globalization is to provide opportunities for reducing macroeconomic volatility on output and consumption via diversification of risk. The overall evidence of the globalization effect on macroeconomic volatility of output indicates that although direct effects are ambiguous in theoretical models, financial integration helps in a nation's production base diversification, and leads to an increase in specialization of production. However, the specialization of production, based on the concept of comparative advantage, can also lead to higher volatility in specific industries within an economy and society of a nation. As time passes, successful companies, independent of size, will be the ones that are part of the global economy.

Notes

Self-Assessment

1. Choose the correct options:

(*i*) The disintegration of the Red Embire (USSR) in ..... .
(*a*) 1991 (*b*) 1989 (*c*) 1992 (*d*) 1993

(*ii*) Modern state is regarded as a sovereign entity, according to ..... .
(*a*) Hobbes (*b*) Austin (*c*) Hegel (*d*) All of these

(*iii*) Presently trans-national state is a body of ..... .
(*a*) 21 states (*b*) 22 states (*c*) 25 states (*d*) None of these

(*iv*) A trans-national state is known for having a ..... .
(*a*) Divided sovereignty (*b*) Sole centre of pover
(*c*) United power (*d*) None of these

(*v*) MFN stands for ..... .
(*a*) Most favourite nation (*b*) Multi favoured nations
(*c*) Most favoured nation (*d*) None of these.

14.4 Summary

- The objective of the lesson is to understand the varied impact that globalization has made on the developing countries and assess the general and the specific responses of the developing countries across the world. The emphasis here is to study specifically the impact of the globalization process on the developing countries in order to understand the different responses with which the developing countries are evolving policy packages to meet the challenges posed by globalization.
- It is widely acknowledged that the current globalization has resulted in rising income inequalities within countries as well as between countries. It has also led to greater polarization across countries because technology-the prime factor responsible for the current wave of economic globalization, still remains concentrated in a small body of already industrially advanced countries. Placed in such a bind, the policy concerns of the less developed countries is largely a response to the evolving structural divide between them and the industrially advanced countries. So much so, globalization is perceived by the less developed countries to be a system typified by the apex economic institutions such as the IMF and WTO in which the more developed countries advance their national interests to the detriment of the less developed countries especially in areas such as trade and capital investment. Some among the less developed countries feel that the current globalization process has led to the worsening of the structural poverty in many countries.
- While the afore-mentioned concerns largely relate to trade matters, the less developed countries are also making demands in respect of issues relating to foreign direct investment.
- In the final analysis, what the less developed countries have achieved is far from adequate. Now, most developing countries have accepted the WTO regime though with considerable reluctance and reservation. Yet, concerted efforts are made by the developing countries to use the WTO forum for evolving a 'rule based' multilateral mechanism that would enable them to enhance their gains and at the same time help minimize the rigours and the adverse effects of the current economic globalization. In this effort, the less developed countries have evolved common strategies to realize their goals. Yet, the task ahead for the less developed countries is by all means challenging.
- Globalisation has its definite impact on the social and cultural life of the people. Traditional institutions are growing weak and new identities are emerging that do not belong to any community or nation in particular.

Notes

- The political aspect of globalisation has an importance of its own, because it affects the nation-state system that has had its long history since the Westphalia treaty of 1648. It has affected the external aspect of sovereignty and entailed the end of the welfare state. It is creating a new model of state that acts in collaboration with a number of non-state actors.
- For our purpose, the political dimension of globalisation is particularly important. 'It has affected the nature and working of the nation-state system and is creating conditions for global governance. Its implications have their own significance in the domain of comparative politics.
- Globalisation is a world-vide process which "is unfolding in different parts of the world with different meanings and different connotations. It is neither a singular condition nor a linear process.
- The citizens of a member-state may freely move in the territory of another member-state, may join educational institutions of their choice, and may also do some business or work without any hindrance there.
- The state is not the exclusive locus of power within its own territorial boundaries. Its powers are limited, and so the powers of the Union in relation to individual member-states are limited.
- A trans-national state is known for having a divided sovereignty, for it is not the sole centre of power within its own territorial boundaries. It does not possess 'coercive powers' of its own in the form of army, police and courts. It exists on the 'willing surrender of the aspects of sovereignty'.
- The less developed countries experience a more skewed income distribution, which is attributed largely to the shift in labour demand. If has also led to greater polarization across countries because technology—the prime factor responsible for the current wave of economic globalization-still remains concentrated in a small body of already industrially advanced countries.
- The less developed countries feel that the current globalization process has led to the worsening of the structural poverty in many countries. At the same time, under the pressure of economic globalization many of them have to resort to external debt, which have further contributed to the deceleration of the growth in real terms.
- In the Uruguay Round, what was finally agreed upon was that the service sector will have to be liberalized but based on multilaterally agreed and legally enforceable rules to govern trade and services such as most favoured nation (MFN) treatment, transparency of laws and regulations, recognition of operating licences and arrangement for dispute settlement.
- Two main distinctive features of WTO are: (1) nations seeking admission to WTO must accept all decisions from around as a package which includes agreements on trade in services, intellectual property rights and trade related investment measures; and (2) nations acceding to WTO are required to be bound by the new integrated dispute settlement mechanism encompassing the three areas of goods, services and technology.
- At the domestic level, the policy responses are based on the rationale that at all odds they will have to insert themselves into the global economy with a view to benefit by it and at the same time make an effort to minimize the adverse and deleterious consequences. Towards this effort, while the less developed countries are, to the extent possible making efforts to come up with a policy package-be it in terms of structural adjustments or trade liberalization-their concern justifiably is to work in concert at the multilateral level and under the WTO regime to reshape the globalization process.
- Globalization compels business to adapt to different strategies based on new ideological trends that try to balance rights and interests of both the individual and the community as a whole. This change enables businesses to compete worldwide and also signifies a dramatic change for business leaders, labor and management by legitimately accepting the participation of workers and government in developing and implementing company policies and strategies.
- In a global economy, power is the ability of a company to command both tangible and intangible assets that create customer loyalty, regardless of location. Independent of size or geographic location, a company can meet global standards and tap into global networks, thrive and act as

Notes

a world class thinker, maker and trader, by using its greatest assets: its concepts, competence and connections.

- The World Bank reports that integration with global capital markets can lead to disastrous effects, without sound domestic financial systems in place. Furthermore, globalized countries have lower increase in government outlays and taxes, and lower levels of corruption in their governments.
- One of the major potential benefits of globalization is to provide opportunities for reducing macroeconomic volatility on output and consumption via diversification of risk. The overall evidence of the globalization effect on macroeconornic volatility of output indicates that although direct effects are ambiguous in theoretical models, financial integration helps in a nation's production base diversification, and leads to an increase in specialization of production. However, the specialization of production, based on the concept of comparative advantage, can also lead to higher volatility in specific industries within an economy and society of a nation.

14.5 Key-Words

1. Globalisation : Globalisation in a literal sense is international integration. It can be described as a process by which the people of the world are unified into a single society.
2. Trans-national State : Involving or operating in several nations or nationalities; Multinational corporations.

14.6 Review Questions

1. What do you mean by the term Economic Globalisation? Discuss.
2. What are the major policy concerns of the less developed countries towards the current globalisation process?
3. Discuss the general receptions of the less developed countries towards globalisation?
4. What are the demands of the less developed countries in respect of trade and investment in the current phase of globalisation?
5. Explain how globalisation affects developed countries.

Answers: Self-Assessment

1. (*i*) (*a*) (*ii*) (*d*) (*iii*) (*c*) (*iv*) (*a*) (*v*) (*c*)

14.7 Further Readings



1. B. Ramesh Babu ed., *Changing Global Political/ Ideological Context and Afro-Asia: Strategies for Development* (New Delhi: South Asian Publishers, 1996).
2. Harry Magdoff, Globalization: *To What End?* (New York: Monthly Review, 1992).