KLE LAW ACADEMY BELAGAVI

(Constituent Colleges: KLE Society's Law College, Bengaluru, Gurusiddappa Kotambri Law College, Hubballi, S.A. Manvi Law College, Gadag, KLE Society's B.V. Bellad Law College, Belagavi, KLE Law College, Chikodi, and KLE College of Law, Kalamboli, Navi Mumbai)

STUDY MATERIAL

for

POLITICAL SCIENCE II: ORGANISATION AND INSTITUTIONS

Prepared as per the syllabus prescribed by Karnataka State Law University (KSLU), Hubballi

Compiled by

Dr. Chaitraprasad M.D., Asst. Prof.

Madhusudhan G, Asst. Prof.

Reviewed by

Dr. Chaitraprasad M.D., Asst. Prof.

K.L.E. Society's Law College, Bengaluru

TABLE OF CONTENTS			
SL.NO	**UNITS**	**TOPICS**	**PAGE NO**
01	**UNIT I**	**1) Constitution-**Meaning and importance; classification (comparative study & examples); conditions for good constitution.	**1-11**
		2) Conventions- meaning & importance; common law in UK	**12-17**
		3)Amendments- importance & need for; methods; India, USA, UK, France, &; Switzerland-Provisions for amendment.	**17-26**
		4)Forms of Government- a) Unitary- UK &; France b) Federal formation- USA, India, Swiss. c) Quasi federal governments.	**27-43**
02	**UNIT II**	**Organs of Government** **1) Legislature-** Meaning, functions &; Role, Unicameral Vs Bicameral, legislative process, normal budgetary Procedure.	**44-49**
		2)Executive-Meaning, types, functions; parliamentary &; non parliamentary; Plural executive- organization &; working (Swiss &; Russia).	**49-53**
		3) Civil Service- Meaning, features &; functions, Civil Service in India.	**53-81**
		4) Judiciary- Importance, Organization, functions, methods of protection-Judicial review.	**82-95**
		5)Montesquieu - Theory of **S**eparation of Powers- the pros &; cons	**96-98**

UNIT- I

1.1 MEANING & IMPORTANCE OF CONSTITUTION

SYNOPSIS

- ***Introduction***
- ***Meaning and Definition***
- ***Types of Constitution***
- ***Qualities of a Good Constitution***
- ***Importance of Constitution***

INTRODUCTION

Constitution is the supreme law of each State. It lays down rules regarding the organization, powers and functions of government. It also defines the basic features of the State and the relation between the citizens and the State. A country is run by the government, judicial bodies, its people, and most importantly by the Constitution. The constitution serves as the backbone of the country. Without it, the Law and Jurisdiction will not hold up and fall apart in no time, but they are meant to stand strong. The constitution is the embodiment of fundamental regulations and principles according to which the country, state, and its people are supposed to work. The term "Constitution" got its name as the word constitution means accumulation and gathering of various aspects. Similarly, the Constitution we are talking about also is an accumulation of many things that make up the organization of the Legal bodies of any nation. All the rules and principles that are to be established are worked up and wrote down in one place making all the things one single crafted manuscript. The Document formed after this whole procedure is known as the Constitution. But despite all of

this information, we still have a question in our mind that why is the constitution important, so let's discuss further on the topic. A country is run by the government, judicial bodies, its people, and most importantly by the Constitution.

The constitution serves as the backbone of the country. Without it, the Law and Jurisdiction will not hold up and fall apart in no time, but they are meant to stand strong. The constitution is the embodiment of fundamental regulations and principles according to which the country, state, and its people are supposed to work. The term "Constitution" got its name as the word constitution means accumulation and gathering of various aspects. Similarly, the Constitution we are talking about also is an accumulation of many things that make up the organization of the Legal bodies of any nation. All the rules and principles that are to be established are worked up and wrote down in one place making all the things one single crafted manuscript. The Document formed after this whole procedure is known as the Constitution.

CONSTITUTION: MEANING AND DEFINITION:

In simple words, we can say a Constitution is the constitutional law of the state. Constitutional law enjoys the position of being the supreme and fundamental law of the state. It lays down the organization and functions of the government of state. The Government can use only those powers which the Constitution grants to it.

1. “Constitution is the collection of principles according to which the powers of the government, the rights of the governed and the relations between the two are adjusted. **-Woolsey.**

2. “Constitution is a body of judicial rules which determine the supreme organs of state, prescribes their modes of creation, their mutual relations, their spheres of action and the fundamental place of each of them in relation to state.” **-Jellinek**

3. ” Constitution of a state is that body of rules or laws, written or unwritten which determine the organization of government, the distribution of powers to the various organs of government and the general principles on which these powers are to be exercised.” **-Gilchrist**

On the basis of these definitions it can be said that the Constitution is the sum total of the constitutional laws of the state.

It lies down:

(1) Organization and powers of the government;

(2) Principles and rules governing the political process;

(3) Relations between the people and their government; and

(4) Rights and duties of the people.

The government of state gets organized and works in accordance with the provisions of the Constitution. People get their rights protected from the constitution. No one, not even the government, can violate the Constitution.

TYPES OF CONSTITUTION:

1. Written Constitution:

A written constitution means a constitution written in the form of a book or a series of documents combined in the form of a book. It is a consciously framed and enacted constitution. It is formulated and adopted by a constituent assembly or a council or a legislature. **Garner** writes, "A written constitution is a consciously planned constitution, formulated and adopted by deliberate actions of a constituent assembly or a convention." It provides for a definite design of government institutions, their organizations, powers, functions and inter-relationships. It embodies the constitutional law of the state. It enjoys the place of supremacy. The government is fully bound by its provisions and works strictly in accordance with its provisions. A written constitution can be amended only in accordance with a settled process of amendment written in the constitution itself. It is a duly passed and enacted Constitution. The Constitutions of India, the USA, Germany, Japan, Canada, France, Switzerland and several other states, are written constitutions.

2. Unwritten Constitution:

An unwritten constitution is one which is neither drafted nor enacted by a Constituent Assembly and nor even written in the form of a book. It is found in several historical charters, laws and conventions. It is a product of slow and gradual evolution. The government is organised and it functions in accordance with several well settled, but not wholly written rules and conventions. The people know their Constitution. They accept and obey it, but do not possess it in a written form. An unwritten constitution cannot be produced in the form of a book. However, an unwritten constitution is not totally unwritten. Some of its parts are available in written forms but these do not stand codified in the form of a legal document or a code or a book. According to Garner, "an unwritten constitution is one in which most and not all, rules are unwritten and these are not found in any one charter or document." ***The Constitution of the United Kingdom is an unwritten constitution.***

Difference between Written and Unwritten Constitutions:

(1) A written constitution is written in the form of a book or document, whereas an unwritten constitution is not written in such a form.

(2) A written constitution is a made and enacted by a constituent assembly of the people. An unwritten constitution is the result of a gradual process of constitutional evolution. It is never written by any assembly.

(3) A written constitution is usually less flexible than an unwritten constitution. An unwritten constitution depends mostly on unwritten rules or conventions which do not require any formal amendment.

(4) A written constitution is definite. Its provisions can be quoted in support or against any power exercised by the government. An unwritten constitution cannot be produced in evidence. It has to be proved by quoting its sources and practices.

However, the difference between written and unwritten constitutions is not organic. A written constitution has written parts in majority. Along with these, it also has some unwritten parts in the form of conventions. In an unwritten constitution, most of the parts are unwritten and are not written in the form of a book. However, some of its parts are also found written in some charters and other documents.

3. Flexible Constitution:

A Flexible Constitution is one which can be easily amended. Several political scientists advocate the view that a flexible constitution is one in which the constitutional law can be amended in the same way as an ordinary law. Constitutional amendments are passed in the same manner by which an ordinary law is passed. British Constitution presents a classic example of a most flexible constitution. The British Parliament is a sovereign parliament which can make or amend any law or constitutional law by a simple majority. Laws aiming to affect changes in a constitutional law or in any ordinary law are passed through the same legislative procedure i.e., by a simple majority of votes in the legislature. Similarly, a Constitution is flexible when the procedure of amending it is simple and the changes can be made easily.

(A) Merits of a Flexible Constitution:

(i) First, a major merit of the flexible constitution is its ability to change easily in accordance with the changes in the social and political environment of the society and state.

(ii) Secondly, it is very helpful in meeting emergencies because it can be easily amended.

(iii) Thirdly, because of its dynamic nature, there are less opportunities for revolt. The constitution has the ability to keep pace with the changing times. The people do not feel the need for revolutionary changes.

(iv) Finally, since the flexible constitution keeps on developing with times, it always continues to be popular and remains up-to-date.

(B) Demerits of a Flexible Constitution:

(i) First, a flexible constitution is often, a source of instability. Flexibility enables the government in power to give it a desired dress and content.

(ii) Secondly, it is not suitable for a federation. In a federation, a flexible constitution can lead to undesirable changes in the constitution by the federal government or by the governments of federating units.

4. Rigid Constitution:

The Rigid Constitution is one which cannot be easily amended. Its method of amendment is difficult. For amending it, the legislature has to pass an amendment bill by a specific, usually big, majority of 2/3rd or 3/4th. For passing or amending an ordinary law, the legislature usually passes the law by a simple majority of its members. A rigid constitution is considered to be the most fundamental law of the land. It is regarded as the basic will of the sovereign people. That is why it can be amended only by a special procedure requiring the passing of the amendment proposal by a big majority of votes which is often followed by ratification by the people in a referendum. ***The Constitution of United States of America is a very rigid constitution.***

(A) Merits of a Rigid Constitution:

(i) First, a rigid constitution is a source of stability in administration.

(ii) Secondly, it maintains continuity in administration.

(iii) Thirdly, it cannot become a tool in the hands of the party exercising the power of the state at a particular time.

(iv) Fourthly it prevents autocratic exercise of the powers by the government.

(v) Finally, a rigid constitution is ideal for a federation.

(B) Demerits of a Rigid Constitution:

(i) First, the chief demerit of a rigid constitution is that it fails to keep pace with fast changing social environment.

(ii) Secondly, because of its inability to change easily, at times, it hinders the process of social development.

(iii) Thirdly, it can be a source of hindrance during emergencies.

(iv) Fourthly, its inability to easily change can lead to revolts against the government.

(v) Fifthly, a rigid constitution can be a source of conservativeness. It can grow becomes old very soon because it cannot Keep pace with times. Thus, there are both merits and demerits of Flexible and Rigid Constitutions. The decision whether a state should have a flexible or a rigid constitution, should be taken on the basis of the needs and wishes of society. No hard and fast rule can be laid down as to whether a state should have a flexible or a rigid constitution. In fact, a constitution must have both a certain degree of rigidity as well as an ability to change for keeping pace with the changing times. An excessive rigidity or excessive flexibility should be avoided. The Constitution of India is partly rigid and partly flexible. In several respects, it is a rigid constitution but in practice it has mostly worked as a flexible constitution.

5. Evolved Constitution:

An evolved constitution is one which is not made at any time by any assembly of persons or an institution. It is the result of slow and gradual process of evolution. Its rules and principles draw binding force from the fact of their being recognized as ancient, historical, time-tested and respected customs and conventions. Some of these conventions get recognized by law and hence become enforceable while others are followed because these are supported by public opinion, their practical utility and moral commitment in their favour. Evolved Constitutions is the product of

historical evolution and of political needs and practical wisdom of the people. The Constitution of Great Britain presents a key example of an evolved constitution.

6. Enacted Constitution:

An Enacted Constitution is a man-made constitution. It is made, enacted and adopted by an assembly or council called a Constituent Assembly or Constitutional Council. It is duly passed after a thorough discussion over its objectives, principles and provisions. It is written in the form of a book or as a series of documents and in a systematic and formal manner. The Constitutions of India the USA, Japan, China and most of other states are enacted constitutions.

Qualities of a Good Constitution:

1. Constitution must be systematically written.
2. It should incorporate the constitutional law of the state and enjoy supremacy.
3. It should have the ability to develop and change in accordance with the changes in the environment and needs of the people.
4. It should be neither unduly rigid nor unduly flexible.
5. It must provide for Fundamental Rights and Freedoms of the people.
6. It should clearly define the organization, powers, functions inter-relations of the government of the state and its three organs.
7. It must provide for the organization of a representative, responsible, limited and accountable government.
8. It must provide for:

(i) Rule of Law

(ii) De-centralization of powers

(iii) Independent and powerful Judiciary

(iv) A system of Local self-government

(v) A Sound Method of Amendment of the Constitution

(vi) Process and Machinery for the conduct of free and elections

9. The Constitution must clearly reflect the sovereignty of the people.
10. The language of the constitution should be simple, clear and unambiguous

The Constitution must empower the judiciary with the power to interpret, protect and defend the Constitution and the fundamental rights and freedoms of the people against the possible legislative

and executive excesses. These are the basic features which must be present in every good Constitution.

Importance of Constitution:

Each state has a Constitution which lays down the organization, powers and functions of the Government of the State. The government always works according to the Constitution, no law or order of the government can violate the Constitution. Constitution is the supreme law and all government institutions and members are bound by it.

Constitution enjoys supreme importance in the state because:

1. It reflects the sovereign will of the people.
2. It lies down of the aims, objectives, values and goals which the people want to secure.
3. It contains description and guarantee of the fundamental rights of the people.
4. It gives a detailed account of the organization of the government. The organization, powers and functions of its three organs of the and their interrelationship.
5. In a federation, the Constitution lays down the division of powers between the central government and the governments of the federating states/provinces. It is binding upon both the center and the state governments.
6. It specifies the power and method of amendment of the Constitution.
7. It lays down the election system and political rights of people.
8. It provides for independence of judiciary and rule of law.
9. The constitution governs all and no one can violate its rules.

Every democratic Constitution guarantees to the citizens a protection against arbitrary governmental actions. A democratic state, like India, has a written and supreme constitution which binds all its people and their government.

1.2 CONVENTIONS

SYNOPSIS

- **Meaning**
- **Introduction**
- **Characteristics**
- **Importance**
- **Conclusion**

MEANING

"Constitutional Convention is like a medicine which can cure even that disease which cannot be cured by the doctor", in simple words it is the convention which can cure all difficult situation where there is no law to govern such situations" The study of the constitutional convention is always anchored with an assumption that has been so far remained unchallenged. The constitution of India comprises both written rules enforced by the courts and unwritten rules or principles necessary for constitutional government. Talking about the constitutional conventions they are the informal and uncodified procedural agreement that is followed by the institution of the state. Written rules mandate that they are to be followed in particular specified situation and on the other hand the unwritten rules come into action when there is no given written rule to cover the situation at hand. Constitutional have always regarded to be the rules of political practices.

These conventions have the binding effect to those who apply these constitutional conventions; however, these conventions are not considered as laws as they are not enforced by the courts nor they are made by the legislature, still they are considered to be important. In India these constitutional conventions tend to play a very important role apart from the other laws. Can anybody believe in the fact that Indian Constitution being the lengthiest, bulkiest and the most detailed constitution in the world also follows the constitutional conventions? This clearly specifies that Indian constitution in itself does not deal with all aspect. It is due this fact only that

constitutional conventions are being followed. Convention has been considered as a tool or weapon which is used to deal with the complex situation where there is no specified law. This convention has been considered as a medicine to cure the disease which is not been able to be cured by the doctor in other words where there are no law constitutional conventions come into play.

INTRODUCTION

"Convention exists to protect some principles of the constitution that would be negatively impacted"- **Andrew Heard**. Constitutional Conventions are used as an instrument of national cooperation and the spirit of cooperation is the essential feature of the constitution. They are the rules elaborated for effecting that cooperation. These conventions are always referred as informal and uncodified procedural agreement that has been formed by the state to tackle that situation which has not been well interoperated in the constitution. These conventions have to play a vital role where law is silent. Since it is also an evident fact that these conventions are not enforced in the courts because the very important reason that is stated behind this is that the constitutional convention are not enumerated into the category of law and rules. These conventions are not interpreted by the court nor they are made by the legislature but still they assume importance in the modern scenario. Does anybody find the reason behind this? India is only the country with the highest document of laws and has framed the world's lengthiest, bulkiest and most detailed constitution of the world. But still India is dependent on these constitutional conventions for the proper functioning. Why this is so? The reason is very simple to understand. The main purpose in order to have the constitutional convention is that these conventions ensure that the legal framework of the Constitution retains its flexibility to operate in tune with the prevailing constitutional values of the period. Although conventions are not legally enforceable in the court and the sanction behind these conventions is moral and political, yet some conventions of the constitution which set the norms of behavior of those in power or which regulate the working of various part of the constitution and their relation to one another may be as important if not of greater significance as the written word of the constitution itself.

This is particularly true of the role of "Constitutional Convention" in a system of parliamentary democracy having the constitutional distribution of powers between two or more level of governments. Often constitutional conventions are more important than written constitutional provisions. Let's take an instance to clarify the importance of the Constitutional convention; the

President of India is empowered by the constitution to appoint the Prime Minister but the constitution provides no guidance as to who should be appointed as Prime Minister. Here in this complex situation the constitutional convention came into action by guiding the President in discharging his duty mentioned in the constitution. The term constitutional convention was first used by British Legal scholar **A.V Dicey**. Dicey wrote that the actions of political actors and institutions are governed by two parallel and complementary sets of rules:

1. The one set of rules are in the strictest sense "laws", since they are rules which (whether written or unwritten, whether enacted by statute or derived from the mass of custom, tradition, or judge-made maxims know [as the common law) are enforced by the courts.

2. The other set of rules consist of conventions, understandings, habits, or practices that— though they may regulate the conduct of the several members of the sovereign power, the Ministry, or other officials—are not really laws, since they are not enforced by the courts. This portion of constitutional law may, for the sake of distinction, be termed the "conventions of the constitution", or constitutional morality.

Another scholar who defined well the aspect of these conventions was Peter Hogg and he defined it as follows-

"Conventions are rules of the constitution which are not enforced by the law courts. Because they are not enforced by the law courts they are best regarded as non-legal rules, but because they do in fact regulate the working of the constitution, they are an important concern of the constitutional lawyer. What conventions do is to prescribe the way in which legal powers shall be exercised. Some conventions have the effect of transferring effective power from the legal holder to another official or institution. Other conventions limit an apparently broad power, or even prescribe that a legal power shall not be exercised at all".

Characteristics of the Constitutional Conventions

1. Conventions are the rules that define non legal rights, powers and obligation of the office holder in the three branches of the government namely as the Executive, Legislature and Judiciary or the relations between the governments and government organs.

2. Conventions in most of the cases can be stated only by the general terms and their applicability in certain cases being clear, but in certain cases they are referred to be as uncertain and debatable.

3. The Constitutional conventions are distinguishable from rule of law, though they may be equally important or in certain cases they are more important than the law laid down. The power of these conventions can be seen that these conventions can modify the application or enforcement of Rule of Law.

Constitutional Conventions develop over time and are not outlined in any document. Conventions grow out of the practices and precedents determine their existence. Such precedents are not authoritative like the precedent of the court of law. "Every act is a precedent but not every precedent creates rule"

Sir Ivory Jennings suggested that in order to establish a constitutional convention, three questions must be asked?

1. What are precedents?
2. Did the Actors in the precedents believe that they are bound by a rule?
3. Whether there is good reason to believe the rule?

A single precedent with a good reason may be enough to establish the rule. A wrong string of precedent without such a reason will be of no avail, unless the person concerned themselves to be bound by it. As earlier stated, conventions grow out of and are modified by the practice. At any given time, it may be difficult to say whether a practice has become a convention or not? Constitutional convention does not come from certain number of sources, their origin is amorphous and nobody has the function of deciding whether conventions exist or not.

Importance of Conventions in Indian Constitution

Despite the fact that our Indian Constitution is a detailed Constitution, the framers of the Constitution left certain matters to be governed by conventions, which gives the holders of constitutional offices some extra powers of discretion in respect of such circumstantial matters. Conventions lubricate the loop holes left at the joints in the constitutional structure and secure them against coagulation. The main purpose of the Constitutional conventions is to ensure that the legal framework of the Constitution retains its flexibility to operate in tune with the prevailing constitutional values of the time. Despite the fact that these all conventions are not enforceable legally and the sanction behind them is moral and political, some conventions of the Constitution set such norms of behavior which regulates psychology of those in power. These also regulate the working of the various parts of the Constitution and their relations with one another, may be as

significant, if not of greater importance, as the written word of the Constitution itself. One lamentable fact of the Indian Constitutional situation is that enough attention has not been paid to the evolution and observance of the right codes of conduct and conventions. Even the code of conducts and conventions developed in the previous years has been broken too lightly in the working years. There is an increasing trend to depend upon to extra-Constitutional methods to force settlement of political or economic issues—imaginatively or really, as the case may be. This would be a cause for concern even in a small multi religious country. In India, which is a heterogeneous country of huge dimensions, this cannot be a matter of grave dread. Hence, natural reaction would be that the loopholes in the Constitution which have permitted abnormal developments should be plugged. It is urged that, if these Constitutional conventions do not work, suitable constitutional safeguards must be provided. If appropriate conventions are not followed and the discretion provided under certain situations is misused, the whole system may become a deadwood at the first place. In order that these situational conventions and codes of conduct get evolved, it is essential that the officials holding the constitutional offices should be selected amongst the persons of admitted competence and integrity and provided with reasonable security of tenure.

Conclusion

According to Dicey, constitutional conventions are means whereby the discretionary authority of the government is regulated. The main purpose of these conventions is to guide the use of the constitutional discretion. Thus, every time there is a general election or there might be the situation in which members can request for dissolution of the House of People, the questions that always arises is that whom will the President invite to form the next government? What if the President invites someone to form a government who does not have a clear majority in the Lok Sabha? Will the President need to the advice of the Cabinet to dissolve the House? These are some of the important questions to which the Constitution provides no answer to anyone else. These might be that complex situation in which no law or no constitution of country has answer. The thing that solves all these situations is “Constitutional conventions”. These constitutional conventions are referred as “Catalyst” which makes certain things possible which in absence would not be possible. It is also a evident fact that some of the constitutional conventions are well established and may be relied upon those conventions absolutely. While some of these conventions are vague and may

lead to manipulation for political purpose. There have always been demand for the codification of these constitutional conventions but if these conventions are codified then in such scenario the nature of the flexibility of these conventions will be lost. Therefore, the main purpose of the Constitutional Conventions is to ensure that the legal framework of the Constitution retains its flexibility to operate in tune with the prevailing constitutional values of the period, or even in those times of complex situation it helps the Constitution to adapt and make amends according to the needs and desire of the changing times, as the Founders of our Constitution couldn't have foreseen and safeguarded the Constitution from future loopholes and hence left certain matters to be governed by the constitutional conventions as they are as important, and have "a greater significance, as the written word of the Constitution itself".

1.3 AMENDMENTS

SYNOPSIS

- **Introduction**
- **Procedure for Amendment**
- **Types of amendments**
- **Amendments under article 368**
- **Amending the U.S. Constitution**
- **Amendment to UK Constitution**
- **Amendments to the Constitution of France**

INTRODUCTION

An amendment is a change or an addition to the terms of a contract, a law, or a government regulatory filing. Any such document can be amended with the consent of the parties involved. Amendment**,** in government and law, an addition or alteration made to a constitution, statute, or legislative bill or resolution. Amendments can be made to existing constitutions and statutes and

are also commonly made to bills in the course of their passage through a legislature. Since amendments to a national constitution can fundamentally change a country's political system or governing institutions, such amendments are usually submitted to an exactly prescribed procedure. The purpose of amendments is to provide a law with the protection of the federal government. States are unable to pass any law that violates with an amendment. Amendments typically reflect the changing societal views of the people and are to protect the people from unfair state legislature.

PROCEDURE FOR AMENDMENT

The Constitution of India provides for a distinctive amendment process when compared to the Constitutions of other nations. This can be described as partly flexible and partly rigid. The Constitution provides for a variety in the amending process. This feature has been commended by Australian academic Sir Kenneth Where who felt that uniformity in the amending process imposed "quite unnecessary restrictions" upon the amendment of parts of a Constitution. An amendment of the Constitution can be initiated only by the introduction of a Bill in either House of Parliament. The Bill must then be passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting. This is known as special majority.

There is no provision for a joint sitting in case of disagreement between the two Houses. The Bill, passed by the required majority, is then presented to the President who shall give his assent to the Bill. If the amendment seeks to make any change in any of the provisions mentioned in the provision to article 368, it must be ratified by the Legislatures of not less than one-half of the States. Although there is no prescribed time limit for ratification, it must be completed before the amending Bill is presented to the President for his assent. Every constitutional amendment is formulated as a statute. The first amendment is called the "Constitution (First Amendment) Act", the second, the "Constitution (Second Amendment) Act", and so forth. Each usually has the long title "An Act further to amend the Constitution of India".

TYPES OF AMENDMENTS

The original constitution provided for three categories of amendments. The first category of amendments is those contemplated in articles 4 (2), 169, 239A (2), 239AA (7b), 243M (4b), 243ZC (3), 244A (4), 356 (1)c, para 7(2) of Schedule V and para 21(2) of Schedule VI. These amendments can be affected by Parliament by a simple majority such as that required for the passing of any ordinary law. The amendments under this category are specifically excluded from the purview of article 368 which is the specific provision in the Constitution dealing with the power and the procedure for the amendment of the Constitution. Article 4 provides that laws made by Parliament under article 2 (relating to admission or establishment of new States) and article 3 (relating to formation of new States and alteration of areas, boundaries or names of existing States) effecting amendments in the First Schedule or the Fourth Schedule and supplemental, incidental and consequential matters, shall not be deemed to be amendments of the Constitution for the purposes of article 368. For example, the States Reorganization Act, 1956, which brought about the reorganization of the States in India, was passed by Parliament as an ordinary piece of legislation. In Mangal Singh v. Union of India (A.I.R. 1967 S.C. 944), the Supreme Court held that power to reduce the total number of members of Legislative Assembly below the minimum prescribed under article 170 (1) is implicit in the authority to make laws under article 4.

Article 169 empowers Parliament to provide by law for the abolition or creation of the Legislative Councils in States and specifies that though such law shall contain such provisions for the amendment of the Constitution as may be necessary, it shall not be deemed to be an amendment of the Constitution for the purposes of article 368. The Legislative Councils Act, 1957, which provided for the creation of a Legislative Council in Andhra Pradesh and for increasing the strength of the Legislative Councils in certain other States, is an example of a law passed by Parliament in an exercise of its powers under article 169. The Fifth Schedule contains provisions as to the administration and control of the Schedule Areas and Scheduled Tribes. Para 7 of the Schedule vests Parliament with plenary powers to enact laws amending the Schedule and lays down that no such law shall be deemed to be an amendment of the Constitution for the purposes of article 368. Under Para 21 of the Sixth Schedule, Parliament has full power to enact laws amending the Sixth Schedule which contains provisions for the administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram. No such law will be deemed to be an amendment of the Constitution for the purposes of article 368.

The second category includes amendments that can be effected by Parliament by a prescribed 'special majority'; and the third category of amendments includes those that require, in addition to such "special majority", ratification by at least one-half of the State Legislatures. The last two categories are governed by article 368. **Ambedkar** speaking in the Constituent Assembly on 17 September 1949, pointed out that there were "innumerable articles in the Constitution" which left matters subject to laws made by Parliament. Under article 11, Parliament may make any provision relating to citizenship notwithstanding anything in article 5 to 10. Thus, by passing ordinary laws, Parliament may, in effect, provide, modify or annul the operation of certain provisions of the Constitution without actually amending them within the meaning of article 368. Since such laws do not, in fact, make any change whatsoever in the letter of the Constitution, they cannot be regarded as amendments of the Constitution nor categorized as such. Other examples include Part XXI of the Constitution—"Temporary, Transitional and Special Provisions" whereby "Notwithstanding anything in this Constitution" power is given to Parliament to make laws with respect to certain matters included in the State List (article 369); article 370 (1) (d) which empowers the President to modify, by order, provisions of the Constitution in their application to the State of Jammu and Kashmir; provisos to articles 83 (2) and 172 (1) empower Parliament to extend the lives of the House of the People and the Legislative Assembly of every State beyond a period of five years during the operation of a Proclamation of Emergency; and articles 83(1) and 172 (2) provide that the Council of States/Legislative Council of a State shall not be subject to dissolution but as nearly as possible one.

Amendments under article 368

Part-xx Article 368 (1) of the Constitution of India grants constituent power to make formal amendments and empowers Parliament to amend the Constitution by way of addition, variation or repeal of any provision according to the procedure laid down therein, which is different from the procedure for ordinary legislation. Article 368 has been amended by the 24th and 42nd Amendments in 1971 and 1976 respectively. The following is the full text of Article 368 of the Constitution, which governs constitutional amendments. New clauses 368 (1) and **368** (3) were added by the 24th Amendment in 1971, which also added a new clause (4) in article 13 which reads, "Nothing in this article shall apply to any amendment of this Constitution made under article 368." The provisions in italics were inserted by the 42nd Amendment but were later declared unconstitutional by the Supreme Court in Minerva Mills v. Union of India in 1980. After the 24th

amendment, Article 4(2), etc. of the constitution are superseded/made void by article 368 (1) which is the only procedure for amending the constitution however marginal may be the nature of the amendment. The Supreme court ruled that the constituent power under article 368 must be exercised by the Parliament in the prescribed manner and cannot be exercised under the legislative powers of the Parliament.

368. Power of Parliament to amend the Constitution and Procedure therefor:

(1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in –

(a) article 54, article 55, article 73, article 162, article 241 or article 279A or

(b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or

(c) any of the Lists in the Seventh Schedule, or

(d) the representation of States in Parliament, or

(e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

(3) Nothing in article 13 shall apply to any amendment made under this article.

(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article whether before or after the commencement of section 55 of the

Constitution (Forty second Amendment) Act, 1976 shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.

As per the procedure laid out by article 368 for amendment of the Constitution, an amendment can be initiated only by the introduction of a Bill in either House of Parliament. The Bill must then be passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting. There is no provision for a joint sitting in case of disagreement between the two Houses. Total membership in this context has been defined to mean the total number of members comprising the House irrespective of any vacancies or absentees on any account vide Explanation to Rule 159 of the Rules of Procedure and Conduct of Business in Lok Sabha.

The Bill, passed by the required majority, is then presented to the President who shall give his assent to the Bill. If the amendment seeks to make any change in any of the provisions mentioned in the proviso to article 368, it must be ratified by the Legislatures of not less than one-half of the States. These provisions relate to certain matters concerning the federal structure or of common interest to both the Union and the States viz., the election of the President (articles 54 and 55); the extent of the executive power of the Union and the States (articles 73 and 162); the High Courts for Union territories (article 241); The Union Judiciary and the High Courts in the States (Chapter IV of Part V and Chapter V of Part VI); the distribution of legislative powers between the Union and the States (Chapter I of Part XI and Seventh Schedule); the representation of States in Parliament; and the provision for amendment of the Constitution laid down in article 368. Ratification is done by a resolution passed by the State Legislatures. There is no specific time limit for the ratification of an amending Bill by the State Legislatures. However, the resolutions ratifying the proposed amendment must be passed before the amending Bill is presented to the President for his assent.

Amending the U.S. Constitution

Current efforts by some state legislatures and other groups to amend the U.S. Constitution have brought forth questions about the process for doing so. The Founding Fathers, in crafting the Constitution, believed it should not be easy to amend the nation's founding document and principles.

Authority to Amend the U.S. Constitution

Article V of the United States Constitution outlines basic procedures for constitutional amendment.

1. Congress may submit a proposed constitutional amendment to the states, if the proposed amendment language is approved by a two-thirds vote of both houses.
2. Congress must call a convention for proposing amendments upon application of the legislatures of two-thirds of the states (i.e., 34 of 50 states).
3. Amendments proposed by Congress or convention become valid only when ratified by the legislatures of, or conventions in, three-fourths of the states (i.e., 38 of 50 states).

Amendments Proposed by Congress

To date, Congress has submitted 33 amendment proposals to the states, 27 of which were ratified. The 27th Amendment, which prevents members of Congress from granting themselves pay raises during a current session, was ratified in 1992—202 years after it was first submitted to the states. The following steps must be completed for an amendment proposed by Congress to be added to the United States Constitution.\

Step 1. Passage by Congress. Proposed amendment language must be approved by a two-thirds vote of both houses.

Step 2. Notification of the states. The national archivist sends notification and materials to the governor of each state.

Step 3. Ratification by three-fourths of the states. Ratification of the amendment language adopted by Congress is an up-or-down vote in each legislative chamber. A state legislature cannot change the language. If it does, its ratification is invalid. A governor's signature on the ratification bill or resolution is not necessary.

Step 4. Tracking state actions. Proposed amendments must be ratified by three-fourths of the states in order to take effect. Congress may set a time limit for state action. The official count is

kept by Office of the Federal Register at the National Archives. Legislatures must return specific materials to show proof of ratification.

Step 5. Announcement. When the requisite number of states ratify a proposed amendment, the archivist of the United States proclaims it as a new amendment to the U.S. Constitution. Actual certification is published immediately in the Federal Register and eventually in the United States Statutes-at-Large.

State legislatures often call upon Congress to propose constitutional amendments. While these calls may bring some political pressure to bear, Congress is under no constitutional obligation to respond. The U.S. Constitution does not contain a provision requiring Congress to submit a proposed amendment upon request by some requisite number of states.

AMENDMENT BY CONSTITUTIONAL CONVENTION

In addition to constitutional amendments proposed by Congress, states have the option of petitioning Congress to call a constitutional convention. Legislatures in two-thirds of states must agree, however. While the convention process has yet to be triggered, efforts to do so are not new. In fact, they may be "as old as the republic." Unofficial sources report convention applications being filed as early as 1789. Interest in a U.S. constitutional convention has peaked and waned several times over the decades. In the early 1900s, direct election of senators was a hot topic. In the 1940s and 1950s, federal taxing power was the focus of many applications. Two issues came close to triggering conventions during the 1960s to 1990s—apportionment and a balanced federal budget.

The current wave of interest began around 2010. Its focus is not a single issue nor is it being driven by one organization. Various groups are pushing their viewpoints—be they conservative, liberal, populist or progressive—and are urging action. On the one hand, legislation calls for a convention on a broad array of topics, such as limiting authority of the federal government, balanced federal budget, campaign finance reform, congressional term limits or federal debt. On the other hand, some legislation proposes to rescind previous calls for a convention.

AMENDMENT TO UK CONSTITUTION

Parliament may, by Act of Parliament, amend any of the following provisions of this Constitution -

Article

1. Chapters 1,2 and 3;
2. Articles 34 to 36 in Chapter 4;
3. Articles 40, 41, 44,47 to 49 and 50 in Chapter 5;
4. Articles 52 to 57 and 70 in Chapter 6;
5. Articles 78 and 79 and Schedules 1 and 2;
6. Articles 83 to 86, 88 and 89 in Chapter 8 and Part 1 of Schedule 3;
7. Chapters 9 and Schedules 4 and 5,10, 11 and 12.

The Bill for the Act is passed if, at its final reading, it is supported by the votes of –

1. not less than two-thirds of all the members of the House of Commons; and
2. not less than two-thirds of all the members of the Second Chamber.

1 Parliament may, by Act of Parliament, amend any of the provisions of this Constitution.

2 The Bill for the Act is passed if, at its final reading, it is supported by the votes of —

1 not less than two-thirds of the members of the House of Commons present and voting, where that two thirds is not less than half of all the members of the House of Commons; and

2 not less than two-thirds of the members of the Second Chamber present and voting, where that two-thirds is not less than half of all the members of the Second Chamber.

A Bill for the amendment of any provisions of Articles 53 to 55, which has been passed as the case may be, shall not be presented to the Head of State for Assent unless it has been ratified by at least two-thirds of the Assemblies, by the affirmative votes of a majority of the members present and voting in each such Assembly.

1. A Bill for the amendment of this Constitution —

1 which provides that any part of the United Kingdom should cease to be so; and

2 shall not be presented to the Head of State for Assent unless it has been approved by a majority of the registered voters in that part of the United Kingdom voting in a referendum held solely for that purpose.

2.Act of Parliament shall provide for the holding of referenda for that purpose. .

3. The conduct of the referendum shall be under the supervision of the Electoral Commission.

A Bill for the amendment of this Constitution shall not be presented to the Head of State for Assent unless there is endorsed upon it, as the case may require —

1 a certificate of the Speaker of the House of Commons, signed by the Speaker.

2 a certificate of the Speaker of the Second Chamber, signed by the Speaker.

For the purpose of this Constitution, the expression "amendment", in relation to this Constitution or any Article or provision of any Article, includes —

1 revocation, with or without re-enactment, or the making of different provision in lieu;

2 modification, whether by omitting, or altering, or inserting additional provision, or otherwise; and

3 suspension of operation for any period or the termination of any such suspension.

Nothing in this Article affects the terms of Article I of the Anglo-Irish Agreement 1985, or section 1 and Schedule 1 of the Northern Ireland Constitution Act 1973 for such time as these measures are in force.

Title XVI: AMENDMENTS TO THE CONSTITUTION OF FRANCE

ARTICLE 89 The President of the Republic, on the recommendation of the Prime Minister, and Members of Parliament alike shall have the right to initiate amendments to the Constitution. A Government or a Private Member's Bill to amend the Constitution must be considered within the time limits set down in the third paragraph of article 42 and be passed by the two Houses in identical terms. The amendment shall take effect after approval by referendum. However, a Government Bill to amend the Constitution shall not be submitted to referendum where the President of the Republic decides to submit it to Parliament convened in Congress; the Government Bill to amend the Constitution shall then be approved only if it is passed by a three-fifths majority of the votes cast. The Bureau of the Congress shall be that of the National Assembly. No amendment procedure shall be commenced or continued where the integrity of national territory is placed in jeopardy. The republican form of government shall not be the object of any amendment.

1.4 FORMS OF GOVERNMENT

SYNOPSIS

- **Introduction**
- **Federal State**
- **Federal Features**
- **Unitary State**
- **Unitary Features**
- **Salient Features of UK Constitution**
- **Unitary vs. Federal Features**
- **US Federal System**

FEDERAL AND UNITARY FORMS OF GOVERNMENT

Introduction

On the basis of relations between the central government and the units, the governments are classified as unitary and federal. In a unitary system of government, all powers are vested in Centre while in a federal system; the powers are divided between the center and the states by the constitution. The constitution of India provides a federal system even though it describes India as union of states. The term union of states implies that states have no freedom to recede from India. Indian Constitution is also called quasi-federal because it has features of both federal and unitary types of governments. It has been called a unique blend of unitary and federal features by the Supreme Court. The key federal features are written constitution; concept of constitutional supremacy; complex procedure of amendment of constitution in certain matters; an independent

judiciary; clear division of powers via 7th schedule; provision of Rajya Sabha {it is a federal feature as states have been given representation in this house} etc.

Unitary features include strong Centre; absence of separate constitution of states, right of parliament to amend major portions of constitution, unequal representation in Rajya Sabha, states not given guarantee of territorial integrity, single constitution; single citizenship; flexibility of constitution; integrated judiciary; appointment of state governor by the center; all India services and emergency provisions, single election machinery for state / center government elections, CAG office which looks into the accounts of both states and union etc.

A FEDERAL STATE

A federation has well-established dual polity or dual government viz., the federal government and the state governments. The force of the government is divided between the federal and state governments which are not subordinate to one another but coordinate bodies that are independent within their respective allotted spheres. Therefore, the existence of co-ordinate authorities independent of each other is the foundation of the federal principle. A Constitution which embodies a federal system is said to possess the following five characteristics:

Federal Features

1. **Distribution of Powers**

An essential feature of a federal Constitution is the distribution of powers between the central government and the governments of the several units (provincial governments) forming the federation. Federation means the distribution of the power of the State among a number of co-ordinate bodies, each originating from and controlled by the Constitution.

2. **Supremacy of the Constitution**

This means that the Constitution should be binding on the federal and state governments. Neither of the two governments should be in a position to override the provisions of the Constitution relating to the powers and status which each is to enjoy. This requirement is satisfied if the 6upremcy or overriding authority is accorded only to the provisions relating to the division of

powers. Other provisions of the Constitution, which do not relate to the relationship between the Centre and the units, need not be supreme.

3. **Written Constitution**

The Constitution must necessarily be a written document. It will be practically impossible to maintain the supremacy of the Constitution, unless the terms of the Constitution have been reduced into writing.

4. **Rigidity**

This feature is a corollary to the supremacy of the Constitution. Here rigidity does not mean that Constitution is unamendable or not subject to change. It simply means that the power of amending the provisions of the Constitution which regulates the status and powers of the federal and state government should not be confined exclusively either to the federal or state governments, but must be a joint act of both. As regards the provisions of the Constitution that are not concerned with the federal system there is no need to maintain the same rigidity.

5. **Independent and impartial authority of Courts**

The legal supremacy of the Constitution which is an essential feature of a federal State makes it necessary that there must be an authority above both, the federal government and the component state governments to decide whether they are operating under the frame of the Constitution in desired manner. This aspect of involves two connected matters. Firstly, there must be some authority, normally the courts of law to maintain the division of powers not only between the state governments, but also between the federal government on one hand and the state governments on the other. The courts of law are vested with power to declare laws made by the federal or state governments, ultra vires on the ground of excess of power. Secondly, to constitute a final Supreme Court which should not be dependent upon the federal or state governments and should be armed with the final authority to interpret the Constitution. A perusal of the provisions of the Constitution of India reveals that the political system introduced by it possesses all the aforesaid essentials of a federal polity. The Indian Constitution establishes a dual polity. The dual polity consists of the

Union at the Centre and the States at the periphery, each endowed with powers to be exercised in the field assigned to them respectively, by the Constitution. The powers of the Union and the States are clearly demarcated. The Constitution is written and supreme. Enactments in excess of the powers of the Union or the State Legislatures are invalid. Moreover, an amendment which makes any changes in the status or powers of the Centre or the State Legislatures is invalid. Further, any amendment which makes changes in the status or powers of the Centre or the units is possible only with the concurrence of the Union and of a majority of the States. Finally, the Constitution establishes a Supreme Court to decide disputes between the Union and the States or between the States and to interpret finally the provisions of the Constitution.

UNITARY STATE

A State is unitary when it is governed constitutionally as one single unit, with one constitutionally created legislature. All power is top down. In federal system, power is divided between federal units. A unitary State is a sovereign State governed as one single unit in which the Central government is supreme and any administrative divisions (subnational units) exercise only powers that the Central government chooses to delegate. Thus, while in a federal State, both the Central government and State governments derive their authority from the same Constitution, in a unitary State, the State governments derive their authority as delegated by the Central government.

UNITARY FEATURES OF INDIAN CONSTITUTION

1. **Union of States**

Article 1 of the Constitution describes India as a "Union of States", which implies two things: firstly, it is not the result of an agreement among the States, as it is there in federations and secondly, the States have no freedom to secede or separate from the Union. Besides, the Constitution of the Union and the States is a single framework from which neither can get out and

within which they must function. The Indian federation is a union because it is indestructible and helps to maintain the unity of the country.

2. **Power to form new States and to change existing boundaries**

In the USA, it is not possible for the federal government to unilaterally change the territorial extent of a State but in India, the Parliament can do so even without the consent of the State concerned. Under Art 3, Centre can change the boundaries of existing States and can carve out new States. This should be seen in the perspective of the historical situation at the time of independence.

At that time there were no independent States. There were only Provinces that were formed by the British based on administrative convenience. At that time States were artificially created and a provision to alter the boundaries and to create new States was dept so that appropriate changes could be made as per requirement. It should be noted that British India did not have States similar to the States in the USA. Thus, the States in India do not enjoy the right to territorial integrity.

3. **Unequal Representation in the Legislature**

The equality of units in a federation is best guaranteed by their equal representation in the Upper House of the federal legislature (Parliament). However, this is not applicable in case of Indian States. They have unequal representation in the Rajya Sabha. In a true federation such as that of United States of America every State irrespective of their size in terms of area or population, sends two representatives to the Upper House i.e. Senate.

4. **Single Constitution**

There is a single Constitution for both Union and the States. There is no provision for separate Constitutions for the States, except for Jammu and Kashmir. In the USA and Australia, the States have their own Constitutions which are equally powerful as the federal Constitution. Nor the States of India can propose amendments to the federal Constitution. As such amendments can only be made by the Union Parliament.

5. **Single citizenship**

India follows the principle of uniform and single citizenship, but in the USA and Australia, double citizenship is followed. This means that people are citizens of both the federal State and their own State which has its own Constitution.

6. **More powers to the Central government in the list of subjects**

In India, the distribution of powers has made the Central government very strong. In the Schedule VII which contains the distribution of powers among units of federation, the Union list consists of 100 subjects whereas there are only 61 subjects in the State list. Again, in the Concurrent list, there are 52 subjects. In case of an overlap or conflict, the Constitution secures the predominance of Union list over Concurrent and State lists as well as that of Concurrent list over State list. Even the Residuary powers (the power to make laws on those subjects which have not been mentioned in any of the lists) have been given to the Union government, which are otherwise given to federal units in conventional federations such as USA and Australia.

7. **Power to make laws on the subjects in State list**

The Parliament has the exclusive authority to make laws on the 100 subjects of the Union list, but the States do not have such exclusive rights over the State list. Under certain circumstances, the Parliament can legislate on subjects of State list. This power is exercised only on the matters of national importance and that too if the Rajya Sabha agrees with 2/3rd majority. There are five such situations as mentioned below:

i. Under Art. 249, if the Rajya Sabha passes a resolution with not less than 2/3rd majority, authorizing Parliament to make laws on any State subject, on the ground that it is expedient or necessary in the national interest, then Parliament can legislate over that subject. Such laws shall be in force for only 1 year and can be continuously extended any number of times but for not more than one year at a time.

ii. Under Art 250, if national emergency is declared under Art 352, the Parliament has the right to make laws with respect to all the 61 subjects in the State list automatically i.e. the State list is transformed into the Concurrent list.

iii. Under Art 252, if the Legislatures of two or more States request the Parliament to legislate on a particular State subject, the Parliament can do so. However, such legislation can be amended or repealed only by the Parliament.

iv. Under Art 253, the Parliament can make laws even on subjects in the State list to comply with the international agreements to which India is a party. The States cannot oppose such a move. An example or this is the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 which was enacted for giving effect to the Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region convened by the Economic and So-vial commission for Asia and Pacific held at Beijing in 1992.

v. Under Art. 356, if President's rule is imposed in a State the power of the legislature of that State become exercisable by or under the authority of the Parliament. This gives the Parliament full powers to legislate on any matter included in the State list.

vi. In **financial matters** too, the States depend upon the Union to a great extent. The states do not possess adequate financial resources to meet their requirements. During emergency, the Centre exercises full control over the States' finances.

8. Emergency provisions

The President of India an declare three different types of emergency rules under Articles 352, 356 and 360 for an act of foreign aggression or internal armed rebellion,
failure of constitutional machinery in a State and financial emergency respectively..
During the operation of an emergency, the powers of the State governments are greatly railed and the Union government acquires all the powers. If the President declares emergency for the whole or part of India under Article 352, the Parliament can make laws on subjects, which are otherwise, exclusively under the State list. The Parliament can give directions to the States on the manner in which to exercise their executive authority in matters within their charge. The financial provisions can also be suspended. Thus, in one stroke, the Indian federation acquires a unitary character. However, such a situation is not possible in other federal Constitutions.

9. Appointment of Governor

Articles 155 and 156 provide that the Governor, who is the constitutional head of a State, is to be appointed by the President and stays only until the pleasure of the President. Thus, he is not responsible to the State legislature. The Centre may take over the administration of the State on the recommendations of the Governor or otherwise, to impose the President's rule. In other words, Governor is the agent of the Centre in the States. The working of Indian federal system clearly reveals that the Governor has acted more as a Central representative than as the head of the State. This enables the Union government to exercise control over the State administration.

10. Administrative directions to the States

Under Article 256, the Centre can give administrative directions to the States, which are binding on the latter. Along with the directions, the Constitution also provides measures such as President's rule under Article 365, to be adopted by the Centre to ensure such compliance.

11. Unified Judiciary

The federal principle envisages a dual system of Courts. But, in India there is a single integrated judicial system for whole of the country. We have unified Judiciary with the Supreme Court at the apex. The High Court's work under its supervision. Similarly, the other courts in a State work under the respective State High Court.

12. Appointment on Key Positions

In addition to all this, all important appointments such as the Chief Election Commissioner, the Comptroller and Auditor General are made by the Union government, though their jurisdiction extends to both Union and the States.

13. All India Services

Under Article 312, the All India Services officials IAS, IPS and IFS (Forest) are appointed by the Centre, but are paid and controlled by the State. However, in case of any irregularities or misconduct committed by the officer, the States cannot initiate any disciplinary action except suspending him/her. Thus**,** if we see, our Constitution establishes a federal State in terms of structure of governments, but it adorns a unitary character in terms of functions. This is particularly true in times of emergencies when all the powers are concentrated in the hands of Centre, as well

as for the nature of legislative powers, administrative and financial control of Centre over the States. Thus, it is quite obvious that the Indian Constitution is more unitary than federal in nature. It is for this reason that **Dr. K. C. Wheare** said: "The Indian Constitution establishes, indeed, a system of government which is at the most quasi-federal, almost devolutionary in character; a unitary State with subsidiary federal features rather than a federal State with unitary features." Hence, it is true to say that Indian Constitution establishes a system of government which is only 'federal in form but unitary in spirit'. Here, the Centre has been made strong at the cost of the States. Having said this all, it must be noted that whatever the structure of the Constitution and resultant government is – federal, quasi-federal or unitary – its real nature depends on the spirit of functionaries occupying the government. They can run it in the spirit of 'co-operative federalism' or 'unitary centralism'. The beauty of the Indian Constitution is that it has been made relatively flexible so as to showcase its federal or unitary face in accordance with the socio-political situations in the country. Dr Ambedkar, one of the architects of the Indian Constitution, rightly remarked, "Our Constitution would be both unitary as well as federal according to the requirements of time and circumstances."

The aforementioned provisions in the Constitution are aimed at establishing a working balance between the requirements of national unity and autonomy of the States. The federal Constitutions of the USA and Australia, which are placed in a tight mould of federalism, cannot change their form. They can never be unitary as per the provisions of their constitution. But the Indian Constitution is a flexible form of federation – a federation of its own kind. It is a federation sui generis. The dominance of a single party both at the Centre and in the States till the 6th General elections had contributed further to the centralized structure of government in India. The Central government treated the State governments in those years as their subordinates. The financial strength of the Centre vis-à-vis states has kept it powerful all along. With every passing five-year term, the Planning Commission in India has also been emerging as stronger instrument for extending the sphere of influence of the Union government over the States. The situation has changed in the coalition era in the last twenty years or so and the regional parties are becoming

strong. These regional parties are bargaining hard with the Centre in order to promote their local interests. With the rise of regional parties India now seems to be moving towards 'bargaining federalism'.

SALIENT FEATURES OF UK CONSTITUTION

- **Unwritten**

  One of the most important features of the British constitution is its unwritten character. There is no such thing as a written, precise and compact document, which may be called as the British constitution. The main reason for this is that it is based on conventions and political traditions, which have not been laid down in any document, unlike a written constitution, which is usually a product of a constituent assembly.

  Indian Constitution, in comparison, is the lengthiest written constitution in the world.

- **Evolutionary**

  The British constitution is a specimen of evolutionary development. It was never framed by any constituent assembly. It has an unbroken continuity of development over a period of more than a thousand years. It is said that the British Constitution is a product of wisdom and chance. The Indian Constitution has certain similarities as well as differences on this particular aspect. It differs from the British Constitution to the extent that it is a written document and has well defined provisions. However, it too is open to evolution, given that the provision of However, it too is open to evolution, given that the provision of an amendment is kept such, so as to allow for the Constitution to evolve according to the needs and sensibilities of the time.

- **Flexibility**

  The British constitution is a classic example of a flexible constitution. It can be passed, amended and repealed by a Simple Majority (50% of the members present and voting) of the Parliament, since no distinction is made between a constitutional law and an ordinary law. Both are treated alike. The element of flexibility has provided the virtue of adaptability and adjustability to the British constitution. This quality has enabled it to grow with needs of the time. Indian Constitution, in contrast, is both flexible as well as rigid. This compliments the basic ideology of the Indian

Constitution quite well, wherein certain features like Sovereignty, Secularism, and Republic et al have been held sacrosanct, but otherwise the Constitution is amendable.

- **Unitary vs. Federal Features**

  The British constitution has a unitary character as opposed to a federal one. All powers of the government are vested in the British Parliament, which is a sovereign body. Executive organs of the state are subordinate to the Parliament, exercise delegated powers and are answerable to it. There is only one legislature. England, Scotland, Wales etc. are administrative units and not politically autonomous units. The Indian Constitution, on the other hand, is federal.

Unitary	Federal	Confederation
Units come together and form the state. Example: India Real power with the units.	All power lies with the Centre Powers for Provincial. Example: Britain Opposite to Unitary	Government comes from the Constitution. Centre delegates power to the provincial government. Example: EU, USA

- **Parliamentary Executive**

  This is one important similarity between the British and the Indian Constitution. (In addition to the Sovereignty of Parliament) Britain has a Parliamentary form of government. The King, who is sovereign, has been deprived of all his powers and authority. The real functionaries are Ministers, who belong to the majority party in the Parliament and remain in office as long as they retain its confidence. The Prime Minister and his Ministers are responsible to the legislature for their acts and policies. In this system, the executive and legislature are not separated, as in the Presidential form of government

- **Sovereignty of Parliament**

  The term Sovereignty means Supreme Power. A very important feature of the British Constitution is sovereignty of the British Parliament (a written constitution being absent). The British

Parliament is the only legislative body in the country with unfettered power of legislation. It can make, amend or repeal any law. Though in India's case, we have legislature at state level too, yet the law-making power of the Indian Parliament roughly corresponds to that of the British Parliament. The courts have no power to question the validity of the laws passed by the British Parliament. The British Parliament may amend the constitution on its own authority, like an ordinary law of the land. It can make illegal what is legal and legalize what is illegal.

Here, there is a marked difference, vis-à-vis the power of Indian Judiciary to keep a tab on the legality of the law framed. Also, the 'Basic Structure' doctrine, lends the Indian Judiciary further power to question the legality of the law, in light of the fact that the Supreme Court of India is the highest interpreter of the Constitution of India.

- **Role of Conventions**

  Conventions are known as unwritten maxims (rules) of the Constitution. They provide flexibility and avoid amendments. Most constitutions of the world have conventions. A necessary corollary to the unwritten character of the British Constitution is that conventions play a very vital role in the British political system. For example, while the Queen has the prerogative to refuse assent to a measure passed by the British Parliament, but by convention, she doesn't do so and the same has become a principle of the constitution itself. However, the legal status of conventions is subordinate to the written law.

- **Rule of Law**

  Another important feature of the British constitution is the Rule of Law. Constitutionalism or limited government is the essence of Rule of Law. This checks the arbitrary action on part of the Executive. According to Dicey, there are three principles of Rule of Law, found in Britain:

1. Protection from arbitrary arrest and the opportunity to defend oneself.
2. Equality before Law: All persons are equal before law, irrespective of their position or rank. Equality before Law is different from the concept of Administrative Law, which gives immunity of various types to public servants. In the absence of Constitution and Fundamental Rights in Britain, the judiciary protects this law. So, this system is called as the Principle of Common Laws (in USA – Principle of Natural Law; in India – Maneka Gandhi case).

3. The rights of people in Britain are guaranteed by the judiciary. The Judiciary gives recognition to the common laws. Thus, the people in Britain enjoy rights, even in the absence of a Bill of Rights or Fundamental Rights.

   However, it has been seen that Rule of Law isn't practiced in its real sense.

Several reasons are attributed for it:

1. Growth of Administrative Law
2. Growth of Delegated Legislation
3. Internal and External Emergencies

These developments have been termed as 'New Despotism'.

- **Independence of Judiciary**

  The Rule of Law in Britain is safeguarded by the provision that judges can only be removed from office for serious misbehavior and according to a procedure requiring the consent of both the Houses of Parliament. So, the judges are able to give their judgments without any fear or favor.

  The same has been adopted in India, where independence of Judiciary is hailed as an unmistakable part of the Constitution (one of the features of the 'Basic Structure' doctrine).

France

Like Britain, France is also a unitary state. All powers of administration of France have been vested in the Central Government which exercises them for all the people and over whole of the French territory. Local Governments derive their powers not from the Constitution but from the Government of France. France is a unitary republic with a bicameral legislature composed of the National Assembly and the Senate. The French constitutional system is often described as semi presidential, and is characterized by a structure of interconnecting powers between the legislative and executive branches. The checks and balances between the legislative and executive branches include the President's power to dissolve the National Assembly, and the National Assembly's power to dismiss the Prime Minister, shared authority to initiate legislation between the Parliament and the Prime Minister, and the absence of any veto power on the part of the President. The Parliament's powers are strictly enumerated by the Constitution, which lists the matters that can be the subject of legislation.

US FEDERAL SYSTEM

Introduction:

With the "Declaration of Independence", published on July 04, 1776, written by Thomas Jefferson, begins the independent history of United States of America. On July 11, 1776, a committee under John Dickenson was appointed which drafted the Articles of Confederation which were approved by Congress of states. However, interstate bickering started over a number of issues. To solve the problems and disputes, amendments in Articles of Confederation was felt and thus a convention was arranged in Philadelphia for the purpose in which delegates of 12 states participated (Rhode Island did not). After 16 weeks of discussion, the new constitution of USA was unanimously signed on 17th September 1787 by delegates of states present there. The constitution was adopted/ratified on 21st June 1788 (as nine state (New Hampshire-ninth state) convention ratified) and enforced on March 07, 1789 (Rhode Island last state to ratify it). James Madison is considered as the primary author of US Constitution. Members of the National Assembly are called deputies and are elected directly, in contrast with senators, who are chosen by indirect elections. Deputies are elected for five-year terms. Senators are elected for six-year terms, but elections are held every three years to elect an alternating half of the chamber. Both chambers are organized in a similar manner, with a chamber president, a governing bureau, commissions, and formal political groups. Bills are submitted either by the Prime Minister or by members of either chamber. Once submitted to one of the two chambers, a bill is first discussed, amended if need be, and voted on in commissions before being discussed, amended, and voted on by the chamber as a whole. The bill must then go to the other chamber, where it follows the same procedure: discussion, possible amendment, and vote in commission followed by discussion, possible amendment, and vote in the chamber's plenary session. A bill must be adopted by both chambers with identical language before it can be signed into law by the President of the Republic. If the two chambers disagree on the terms of the bill, a joint commission comprised of seven deputies and seven senators is tasked with finding a compromise draft, although that compromise draft must still be voted on by both chambers. In extreme cases of deadlock, the National Assembly may have the final say.

1. Written Constitution: American constitution is a written constitution framed in 1787 and enforced in 1789. It consists of seven articles; three of them related to structure and powers of Legislative (Article 1), Executive (Article 2) and Judiciary (Article 3) and the other four dedicated to position of states (Article 4), modes of amendments (Article 5), supremacy of national power (Article 6) and ratification (Article 7). It also holds that constitution is the supreme law of the land. Article one is the longest and cannot be amended. Like other constitutions, it also consists of preamble; a single sentence that introduces and defines purpose of the document.

2. Rigid Constitution:

It is one of the most rigid constitutions in the world which means that for amending it, a special and difficult procedure has to be followed. It consists of 2 steps;

2.1 Proposal for Amendment: Either two-third (67%) of both the houses (Senate and House of Representatives) shall propose for amendment to constitution or on the application of legislatures of two-third (67%) states shall call a convention for proposing amendment.

2.2 Ratification of Proposal: The amendment shall be ratified by the legislatures of three fourth (75 %) of all states or by the convention of three fourth of states.

It is because of this rigidity that American constitution has been amended only 27 times in over 200 years.

3. Popular Sovereignty: In U.S, the people rule i.e. they have delegated their powers to the government and the government owes its authority to the will of the people. The principle of popular sovereignty is stated in the Preamble of constitution as "we the people…do ordain and establish this constitution for United States of America."

4. Bicameral Legislature: The constitution of USA provides for bicameral legislature i.e. two houses in the centre. According to Article 1, "All legislative powers are vested in Congress." Congress consists of two houses i.e. Lower House or House of Representatives and the Upper House or Senate.

4.1 House of Representatives: The House of Representatives has 435 members who are elected by the people through adult franchise method for a period of two years on population basis i.e. state with larger population gets more seats in this house like California has 53 members.

4.2 Senate:

The members of Senate are elected by the state legislatures. Each state has two senators meaning

that each state has two votes in senate. These senators are elected for a period of six years on parity basis. The total number of senators is 100 as the total states are 50.

5. Separation of Powers:

The doctrine of separation of powers divides power between the three pillars/institutions of government to prevent interference of one institution in the affairs of another. The powers are divided among Congress, President and the Judiciary. Congress has the power to make laws which outline general policies and set certain standards. President can enforce, execute and administer law. He is assisted by his cabinet but is solely responsible for all actions of Executive branch. Judicial Powers are exercised by the Supreme Court which interprets laws and decided cases and controversies in conformity with the law and by the methods prescribed by law.

6. Checks & Balances:

The system of Checks and Balances laid down by the separation of powers prevents misuse of powers. The powers are provided in such a way that it provides a check upon other institutions.

Examples:

a) President can veto a bill passed by the Congress. The congress can pass legislation over president's veto by two third majority.

b) President has the power to appoint judges of the Supreme Court subject to approval of the Senate.

c) The constitution has vested the powers of "Judicial Review" in Supreme Court. Supreme Court can approve, reject or review any action taken by the President or laws made by the Congress as it did in Marbury vVs Madison Case.

All this creates a system which makes compromises necessary which is a sign of healthy democracy. It prevents the rise of dictators as well.

14. Federal System:

The U.S constitution provides for a federal system of government which means that powers are divided among centre/federal government and the states. According to Article 1, the federal government has jurisdiction over 18 matters and residuary powers are vested in states. States are autonomous bodies and centre cannot meddle in their affairs. In case of conflict, Supreme Court decides or settles the dispute.

8. Presidential System:

The constitution provides for a presidential form of government. Article 2 provides the powers, election and their matters related to president. President is elected for a term of 4 years and is not answerable to Congress but cannot dissolve Congress. He has a cabinet to assist him in running his executive powers.

9. Republicanism:

The constitution calls for a republican system with President as elected head of the state. The constitution derives its authority from the people and is supreme law of the land. Neither centre nor states can override it.

10. Bill of Rights:

The first ten amendments to the constitution are called "Bill of Rights". The BOR provides for the rights of a person's property, liberty, freedom of speech, press, religion and assembly.

11. Dual Citizenship:

The constitution provides for dual citizenship i.e citizen of United States and the state where one is domiciled. Britain and Pakistan provide for single citizenship.

12. System of Spoils:

When a president is elected, he does appointment of public offices. If in elections, President elected is of the opposition party, he dismisses the public office bearers and makes fresh appointments. Under this system, a civil servant appointed by one president on political consideration cannot retain his office when an opposition President secures victory in polls.

****

UNIT II

ORGANS OF GOVERNMENT

SYNOPSIS

- **Legislature - Introduction**
- **Rajyasabha**
- **Loksabha**
- **Prime Minister and Council of Ministers**
- **Executive – Introduction**
- **The President**
- **The Vice-President**

2.1 LEGISLATURE

Introduction

- The Union Legislature of India is not only the lawmaking body, but the center of all democratic political process.
- The Parliament is the central legislature and the legislature of the state is known as 'State Legislature.'

- The Parliament of India is bicameral (i.e. consists of two houses) namely Rajya Sabha (the Council of States) and Lok Sabha (the House of the People).
- Indian states also have the option to have either bicameral or unicameral; however, at present, there are seven states (shown in the map given below), which have bicameral legislature namely −
    - Jammu & Kashmir,
    - Uttar Pradesh,
    - Bihar,
    - Maharashtra,
    - Karnataka,
    - Andhra Pradesh, and
    - Telangana.
    -

Rajya Sabha

- The Rajya Sabha is an indirectly elected body and represents the States of India.
- The elected members of State Legislative Assembly elect the members of Rajya Sabha.
- In the U.S.A, every state has equal representation in the Senate irrespective of size and population of the states, but in India, it is not the same.
- In India, states with larger size of population get more representatives than states with smaller population. For example, Uttar Pradesh (the most populated state) sends 31 members to Rajya Sabha; on the other hand, Sikkim (the least populated state) sends only one member to Rajya Sabha.
- The number of members to be elected from each State has been fixed by the fourth schedule of the Constitution.
- Members of the Rajya Sabha are elected for a term of six years and then they can be re-elected.

- Members of Rajya Sabha are elected in such a manner that they do not complete their tenure altogether; rather after every two years, one-third member complete their term and elections are held for those one-third seats only.
- Likewise, the Rajya Sabha never gets fully dissolved and hence, it is known as the permanent House of the Parliament.
- Apart from the elected members, the President appoints 12 members from the fields of literature, science, art, and social service.

Lok Sabha

- The members of Lok Sabha and the State Legislative Assemblies are directly elected by the people for the period of five years.
- However, before the completion of tenure, if the Lok Sabha is dissolved (no party forms government with majority), a fresh election will be conducted again.

Functions of the Parliament

- The Parliament has legislative (law making) and financial functions (money bill and budgetary function); besides, it also controls the Executive and ensures its accountability.
- The Parliament is the highest forum of debate in the country and hence, there is no limitation on its power of discussion.
- The Parliament has the power of discussing and enacting changes to the Constitution (i.e. amendment power).
- The Parliament also performs some electoral functions, as it elects the President and the Vice President of India.
- The Parliament has also judicial functions, as it considers and decides the proposals for the removal of President, Vice-President, and Judges of the Supreme Court and High Courts.
- **Following are some distinct between Powers of Lok Sabha and Rajya Sabha −**

- Lok Sabha makes 'Laws' on matters included in Union List and Concurrent List and can introduce and enact money and non-money bills.
- Rajya Sabha considers and approves non-money bills and suggests amendments to money bills.
- Lok Sabha approves proposals for taxation, budgets, and annual financial statements.
- Rajya Sabha approves constitutional amendments.
- Lok Sabha establishes committees and commissions and considers their reports.
- Rajya Sabha can give the Union parliament power to make laws on matters included in the State list.

Special Powers of Rajya Sabha

- Rajya Sabha has some special powers. If the Union Parliament wishes to remove a matter from the State list (over which only the State Legislature can make law) to either the Union List or Concurrent List in the interest of the nation, the approval of the Rajya Sabha is essential.

Special Powers of Lok Sabha

- Regarding Money Bills, the Lok Sabha has the exclusive power and hence, the Rajya Sabha cannot initiate, reject, or amend money bills.
- Amendment/s made by the Rajya Sabha to the Money Bill may or may not be accepted by the Lok Sabha.

Bills

- A bill proposed by a minister is described as Government Bill; however, if a bill proposed by a non-minister member, it is known as private member's Bill.
- If there is disagreement between the two Houses on a proposed Bill, then it is resolved through the Joint Session of Parliament.

- Regarding the Money Bill, if the Rajya Sabha does not take any action within 14 days, the bill is deemed to have been passed.

Other Facts

- Zero Hour is a special part of Question Hour where the members are free to raise any matter that they think is important; however, the ministers are not bound to reply.
- Deliberation and discussion, Approval or Refusal of laws, financial control, No confidence motion, are different instruments of Parliamentary control.
- Standing Committees, Joint Parliamentary Committees, etc. are the important committees of the Parliament; their main functions are studying the demands for grants made by various ministries, looking into expenditure incurred by various departments, investigating cases of corruption, etc.
- An amendment to the Constitution (52nd amendment act) was made in 1985, popularly known as an anti-defection amendment.
- According to anti-defection amendment, there was an agreement among the parties that a legislator who is elected on one party's ticket must be restricted from 'defecting' to another party.
- The presiding officer of the House is the authority who can take the final decisions on all anti-defection cases.
- If a member remains absent in the House when asked by the party leadership to be present or votes against the instructions of the party or voluntarily leaves the membership of the party, it is tantamount to defection.

Prime Minister and Council of Ministers

- The Council of Ministers is one the most powerful political institutions in the country. Prime Minister is the head of the Council of Ministers (as well as the central government).
- There is no direct election to the post of the Prime Minister (PM), but the Prime Minister is chosen normally from the elected MPs.

- The Prime Minister is appointed by the President of India. The President appoints a person as Prime Minister who is the leader of the party having the majority in the Lok Sabha.
- The Prime Minister continues in power for five-year term OR so long as he commands the majority party or coalition.
- The President appoints other ministers on the advice of the Prime Minister.
- The Prime Minister is free to choose his ministers from the members of Parliament.
- A person who is not a Member of Parliament can also become a minister. But such a person has to get elected to one of the Houses of the Parliament within six months of appointment as minister.
- All the Ministers collectively in a group are officially called as Council of Ministers; however, the Ministers have different ranks and portfolio.
- The different categories of the ministers are −
    - Cabinet Ministers are the most experienced and top-level leaders of the ruling party. They usually hold the charge of the major ministries like Finance, Defense, Home, External Affairs, Food and Supply, etc. The decisions of the government are generally taken up in the meeting of the Cabinet Ministers headed by the Prime Minister. Thus, the Cabinet is the core group of ministers within the Council of Ministers.
    - Ministers of State with independent charge usually hold independent charge of smaller Ministries. They generally do not participate in the Cabinet meetings but may participate when specially invited.
    - Ministers of State are generally appointed to assist Cabinet Ministers.

2.2 EXECUTIVE

Introduction

- The organ of a government that primarily looks after the function of implementation and administration is known **the Executive**.

- The Executive is the branch of Government accountable for the implementation of laws and policies legislated by the legislature.
- In the Parliamentary form of executive, the Prime Minister is the head of the government and the head of the State may be Monarch (Constitutional Monarchy, e.g. UK) or President (Parliamentary Republic, e.g. India).
- In a Semi-Presidential System, the President is the head of the State and the Prime Minister is the head of the government, e.g. France.
- In a Presidential System, the President is the head of the State as well as the head of government, e.g. the US.

Indian System

- Article 74 (1) of the Indian Constitution states that "there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall in the exercise of his functions, act in accordance with such advice."
- The President has a wide range of power including executive, legislative, judicial, and emergency powers. However, in a parliamentary system (e.g. India), these powers are in reality used by the President only on the advice of the Council of Ministers.
- The Prime Minister and the Council of Ministers have support of the majority in the Lok Sabha and they are the real executive.
- The President is the formal head of the government.
- The Prime Minister is obliged to furnish all the information that the President may call for.
- The Council of Ministers is headed by the Prime Minister.
- In the parliamentary form of executive, it is essential that the Prime Minister has the support of the majority in the Lok Sabha. And the moment the Prime Minister loses this support of the majority; he or she loses the office.
- In case no party is in majority, a few parties can form government '**in coalition**.'

- A Prime Minister has to be a Member of Parliament (MP); however, if someone becomes the Prime Minister without being an MP; in such as case, he or she has to get elected to the Parliament within **six** months of period.
- The Council of Ministers constitutes not more than 15 percent of a total number of members of the House of the People (91st Amendment).
- Persons selected by the Union Public Service Commission for Indian Administrative Service (IAS) and Indian Police Service (IPS) constitute the backbone of the higher level bureaucracy in the States.
- Though IAS and IPS work under the state government, they are appointed by the central government; hence, only the central government can take disciplinary action against them. However, the officers appointed through the State Public Service Commission look after the state administration.

The President

- The President of India is the head of the State. He exercises only nominal powers. His functions are mainly ceremonial in nature like the Queen of Britain.
- All the political institutions in India, function in the name of the President of India and the President supervises their functions to bring harmony in their works to achieve the objectives of the State.
- In India, the President is elected, not appointed, (although not elected directly by the people). The President is elected by the Members of Parliament (MPs) and the Members of the Legislative Assemblies (MLAs) of each state.
- Participation of Members of the state's Legislative Assemblies in the election of the president of India shows that the President of India represents the entire nation. At the same time, the indirect election of the President ensures that he cannot claim popular mandate like that of the Prime Minister and thus remains only a nominal head of the State.
- All major policy decisions and orders of the government are issued in the President's name.

- The President appoints all the major heads of the institutions of the government, i.e.,
    - The appointment of the Chief Justice of India,
    - The Judges of the Supreme Court and the High Courts of the states,
    - The Governors of the states,
    - The Election Commissioners,
    - Ambassadors to other countries, etc.
- The government of India makes all international treaties and agreements in the name of the President.
- The President is the supreme commander of the defense forces of India.
- However, all these powers are exercised by the President only on the advice of the Council of Ministers headed by the Prime Minister.
- The President can ask the Council of Ministers for reconsideration on any advice (asked to him by the Council of Ministers), but if the Council of Ministers recommend the same advice again, he is bound to act according to it.
- A Bill passed by the Parliament becomes a law only after the President gives assent to it. The President can return a Bill back to the Parliament for reconsideration, but he has to sign it, if the Parliament passes the Bill again (with or without amendment).

Discretionary Power

- In three circumstances, the President can exercise his or her discretionary power −
    - The President can send back the advice given by the Council of Ministers for reconsideration.
    - The President has veto power (also known as 'pocket veto') by which he or she can withhold or refuse to give his or her assent to any Bill (other than Money Bill) passed by the Parliament. It happened once, i.e. in 1986, President Gyani Zail Singh withheld the "Indian Post Office (amendment) Bill."
    - The President appoints the Prime Minister.

Vice President

- The Vice President is elected for five years and the election method is similar to that of the President; however, the only difference is that the members of State legislatures do not participate in the Electoral process.
- The Vice President acts as the ex-officio Chairman of the Rajya Sabha.
- The Vice President takes over the office of the President when there is a vacancy by reasons of death, resignation, removal by impeachment, or otherwise.
- The Vice President may be removed from his or her office by a Resolution of the Rajya Sabha passed by a majority and agreed to by the Lok Sabha.

2.3 CIVIL SERVICE

SYNOPSIS

- **Definition and Nature**
- **Classification of Service**
- **Recruitment**
- **Training**
- **Neutrality of Bureaucracy**
- **Salient Features of Indian Civil Service System**
- **Civil Service and Communism**

CIVIL SERVICES IN INDIA: DEFINITION, NATURE AND CLASSIFICATION

Definition and Nature:

The term generally refers to administrators paid for implementing the policies of national governments. The origin of the term can be traced to the British system of administration which was divided in military and civilian. Some officials perform civil duties and some military duties.

Hence civil service is different from military service. Needless to say, that both civil and military officers are parts of the state administration. But the functions of the two groups are different and because of this a distinction has been drawn between the two categories of officers. The members of the civil service draw their salary and other financial benefits from the state fund. The members of the civil service work for state administration and for that reason they are called civil servants or government officials. These government officials constitute public administration. The origin of civil service lies in the implementation of the Northcote-Trevelyan reform of 1854. The British parliament constituted the commission and since then the term civil service has come to be an integral part of public administration. The civil servants are also called bureaucrats and in general term it is called bureaucracy.

The word bureaucracy is used in a pejorative sense. However, the German sociologist Max Weber threw light on the concept. After the Industrial Revolution that took place in the 1760s a special category of officers specially trained was needed for the management of industrialized society and, subsequently, those trained officials were collectively known as bureaucracy. Herman Finer in his The Theory and Practice of Modern Government explains the term in this way: "The functions of the civil service in the modern state is not merely the improvement of government, without it, indeed, the government itself would be impossible. The civil service is a professional body of officials, permanent, paid and skilled" I think this is the most cogent and meaningful definition of civil service.

The state in seventeenth and eighteenth centuries existed, but its existence was felt only in certain limited fields. But today's state is different from the state of earlier centuries. Though the liberals and neo-liberals are clamoring for a limited state or a state like night watchman, the existence of state is felt almost in every sphere of our life. The state of the twenty-first century is not Leviathan, but it is not an emasculated one. In every sphere of life there is state. Naturally a modern state requires a vast army of officials to fulfil the demands and cater the interests of all types and groups of people. Tracing the origin of civil service Finer says: "The civil service is as much the product of the spiritual and mechanical factors of the Western civilization as are all other political institutions. The nineteenth century turned away -from the impotent survival of unsalaried, untrained officers, who were illiterate and unwilling" The rational order of an industrial society

demands an organisation of skilled and specially trained group of officials. This is civil service an essential part of modern public administration.

CLASSIFICATION OF SERVICES:

Part XIV of Indian Constitution provides for different types or classes of services for India. The name of the chapter is Services under- Union and the States. The Constitution has not elaborated the types and categories of services. In accordance with the Constitution we divide the services into the followings categories All India Services (AIS), State Services, and Local and Municipal Services. There are four groups of central services Central Services Group A, Central Services Group B, Central Services Group C and Central Services Group D. In the AIS there are several groups and the most important groups are — Indian Administrative Service (IAS) and Indian Police Service (IPS). From the standpoint of prestige and status IAS and IPS are at the top position. These two services are also called premier services in India. In fact, the holders of these two most important posts manage and control the general and police administration. So far as the administrative system in India is concerned it is said that there is a difference. All-India Services include IAS and IPS. The Central Services are divided into four groups. But the former is more important than the latter. In Group A of central services there are 34 types. Some of them are Indian Foreign Service, Indian Audit and Accounts Service, Indian Statistical Service, Indian Economic Service, Indian Information Service, Indian Railway Service etc. In the Group B Services following categories are included—Central Secretariat Service, Geographical Survey of India, Zoological Survey of India, Central Secretariat Stenographers Service. In Group C All India Service we find the following types. Members of the Clerical Service of Central Secretariat and Telegraph Service.

The members of the Group C staff are recruited by the Staff Selection Committee through an open competitive examination. The Staff selection committee sends the list of successful candidates to the various departments of central government and they recruit from the list of successful candidates. Finally, there is the Group D service. Peons, Gardeners etc. fall in this group. Top central government officers appoint peons, sweepers and gardeners for their use. The All-India Services have a long history. The AIS system was introduced in the first decade of the 20th century. There were several types of AIS and the most important were Indian Civil Service and Imperial

Police Service. There were only few thousand ICS and IPS with whom the British government administered undivided India. These two services were the most powerful instruments of British administration in India. Of course, the public administration of British India had to maintain law and order and to collect -axes by adopting various penal measures. The independent Indian government adopted the AIS system of British Raj with a large number of changes. In British India the ICS and IPS were the most important services and the same tradition remained intact in free India. In India there is a special importance of AIS. It is because India from the standpoint of structure, is a federal state, but, in fact, it is a unitary state. This unitary feature is reflected in the administrative system. The constituent units of Indian federation will have their own administrative systems but there shall be unity in administration of whole India. Besides AIS there are two other services-the State Services and Local Services. Local services are also called municipal services. Here we find that federation has been given priority.

There are certain subjects which fall within the jurisdiction of states. Some of these are health, police, agriculture, forest etc. For the recruitment for the posts of state services there are laws enacted by the state legislature. The persons for the state services are recruited through a competitive examination and the process is very much similar to the competitive examinations conducted by the Union Public Service Commission. At present many top positions of state administration are held by IAS, IPS etc. There are large number of services that fall under the category of state services. Such as education, police, tourism, judicial service, medical service, co-operative service, irrigation, fisheries etc. In the case of central government, the general administrative and police service are very important, so also in the case of state service. All the state government give maximum importance to these two services. Local services include municipal services and panehayati raj. Today the local self-government enjoys greater importance. When Rajiv Gandhi was Prime Minister, he introduced two constitutional amendments to give greater importance to the system of local self- government. I he purposes of the amendment was to decentralize the administration and spread it to the grass root level of Indian polity. These are the broad categories of the types of services in India.

Recruitment:

The recruitment policy for the persons in AIC services has been stated in our Constitution. Art. 309 states that subjects to the provisions of this Constitution Acts of the appropriate legislature

may regulate the recruitment, and conditions of service of persons appointed to public services and posts in connection with the affairs of the union or any state (Art. 307). The recruitment to the posts for both central and state governments shall be done by constitutional bodies known as Public Service Commissions. There shall be two broad Public Service Commission's one for the AIS and the other for the state services. The former is known as UPSC (Union Public Service Commission) and the other is called State Public Service Commission. The UPSC is in the charge of recruiting four types of persons to various posts for central government services-one type of post is Civil Service. It is nontechnical. Two All-India Services fall in this category-the IAS and IPS. These two are the most important posts. Besides IAS and IPS there are also other categories of services. The UPSC has been empowered to conduct examination for the recruitment to the Engineering Services.

This is a technical service and falls in the second category. In the third category falls Combined Medical Service. The final category is Indian Forest Service. From the above analysis it is obvious that the UPSC is entrusted with the responsibility of recruiting persons to all varieties of public services. But to average Indians, only two categories of posts have importance. These are IAS and IPS. Naturally our analysis will be confined within the selection m service, training etc. of these two premier services. Let us now turn to it. The aspiring candidates are recruited through an open competitive examination conducted by the Union Public Service Commission. There are two stages of examination. The first stage is Civil Service Examination (Objective). The other stage is Civil Service Examination (Main) and it is the final stage. It has two stages first is written. The candidates who will pass in the written examination will be called for interview. The first stage of examination is called Preliminary, the second stage is more important. In the Preliminary Examination there are two papers. The first paper is General Studies of 150 marks. The second paper is called optional paper with three hundred (300) marks. There are several subjects and the candidates will have to select from the list of these subjects. Some of the optional papers are Political Science, Public Administration, Mathematics, Civil Engineering etc. There are 22 subjects. The minimum qualification to appear in the examination is graduation from any recognized university. Previously the students of general streams appeared in the examination. But subsequently engineering and medical graduates are also competing and are becoming successful. The main examination is the most important one. It is difficult and requires through knowledge in the subject the candidate selects. There are four compulsory papers in the main examination and

these papers are a paper on an Indian language. The second paper is English and third and fourth papers are General Studies. There are four optional papers. There are large number of subjects and the candidates will have to select two subjects from the list. Each subject has two papers. For example, if a candidate selects Public Administration as a subject it will have two papers one is the Administrative Theory and the other is Indian Public Administration or Indian Administration. Previously Public Administration was not an optional subject. In 1988 it was included in the long list of optional subjects. It is interesting that Public Administration has earned a wide popularity and large number of candidates select this paper. The main reason is an IAS officer is mainly an administrator and naturally he must have preliminary knowledge on its theoretical aspects.

The candidates who get qualifying marks in the written examination are called for interview. The purpose of interview is to test the personality of the candidates and that is why it is called the personality test. The UPSC decides the qualifying marks. How many candidates will be called for interview or Personality test depends upon the number of vacancies. This test is also an important stage of recruitment. The examiners test ability to be an administrator, presence of mind, the ability to run the administration, the mental strength to fall any situation. The candidate must have courage of mind. India is a multicultural state with some main languages and a large number of dialects. Above all, there are numerous religious groups. In the midst of all these the IAS officer will have to run the administration.

Training:

The candidates who pass the personality test are declared by the UPSC fit for the job and they are recruited. But the recruitment does not mean joining the services. All the successful candidates will have to take rigorous training and the training is the most crucial part of recruitment. There are three types of training. The first one is Foundational Training. The selected candidates are sent to National Academy of Administration. It is situated at Mussorie. This Academy is in the name of our former Prime Minister Lalbahadur Shastri. This foundational training is very important. The candidates come from different academic institutions, social, economic and cultural backgrounds. Naturally they require common training and certain common instructions. In order to be a good administrator a person must have a clear and deep knowledge about social, economic, cultural and

other aspects of India. He must have a preliminary idea about India's culture and civilization. The purpose of foundational training is to impart an idea on these subjects. The foundational course enables a candidate to be acquainted with important aspects of Republic of India. Various persons have given importance to this foundational training.

Another aspect or part of the foundational training is the persons are sent to various parts particularly of rural areas of India and they are asked to prepare report on their observation. This is important because the reports reflect the mental ability, observational power. The foundational training also includes physical training, games, exercise, swimming, horse riding and training of yoga. At the end of foundational training the candidates are to appear in a written examination and marks are awarded to candidates and these are added to the marks they obtained in the UPSC examination. After the completion of foundational training the candidates go to their respective training centers. That is, the candidates, selected for IPS, go to the National Police Academy, Hyderabad. Here the candidates of IPS category receive training on police service. But the trainees of IAS continue to study at National Academy of Administration.

Now we shall discuss professional training. Talking' about professional training S. R. Maheshwari writes: "Professional training is a sandwich programming two phases. The first phase, its duration being three months, mostly covers topics of concern to the IAS like law and orders land revenue etc. The training methodology includes lecture, discussions, syndicate work, debates and discussions etc. At the end of the first phase of training there is a written examination the marks of which are taken into account while determining the final ranking in the service. Then begins the district training under the supervision of a carefully selected district collector in the state to which an officer is allotted. This is on-the-job training, the trainee getting a feel of administration and obtaining an experience of various field level positions in die district." It is believed that this is a very crucial stage of professional training and even an important stage of training. During the period of professional training a trainee is sent to the district to gather practical experience. Today throughout India panchayati raj system has come into effect and panchayat is participating m all types of state administration. Particularly the panchayati raj is a part of all developmental works. For this reason, district level training is very important.

Importance of Training:

Many believe that (and it is true) the success (even it may be brilliant) in the written examination cannot make a man a good administrator. He must go through a number of serious and rigorous training. Without it a person can never be a good administrator. In every country enough emphasis is given to the proper training. A candidate can be successful in the written examination. But a good scholar cannot always be a good administrator. Administration means governance and, for good governance, a person must be given proper training. Again, training is a continuous process. New situation arises, problems crop up, and the administrator must be prepared to meet the situation and solve the problem. Because of the immense importance of training both IAS and IPS the trainees are sent to districts and in remote areas. The simple purpose is the candidates must be prepared with the realities. This practical experience will help them to be a good administrator.

From practical experience we come to know that the importance of IAS and IPS officers is increasing specifically in parliamentary form of government. In this type of government both legislature and executive change after certain period of time. Naturally the entire burden of state administration falls upon the bureaucrats or civil servants. This indirectly means that the civil servants, in parliamentary system, are the key figures of state administration. So, the situation that comes out of the above discussion is that the bureaucrats must be good administrators and that largely depends what type of training they have proper received. Every bureaucrat must have proper training and experience about various aspects of society. So only training makes a man good administrator.

Training is an important part of civil service and necessary emphasis is paid to it. For proper training the Government of India has set up two premier institutions —one for IAS officers and the other for IPS officers and huge amount of money is spent for training and maintenance of these institutes. But many people have raised their eyebrows about the efficacy of the long and costly process and programmes of training. **S. R. Maheshwari** observes: many people take "an optimistic view of training. They hold that it invariably adds to the functional efficiency of personnel, broadens their mental horizon and endows them with perspective. The other end of the spectrum views training as a paid holiday, enabling the bureaucrats to have a pleasant time at the taxpayers' expense". Both these views are partially correct. All the trainees are never serious. Many of them

take the training period as paid holiday particularly when they are sent to districts or rural areas some take it as a form of outing and enjoy it.

But there are good number of trainees who take the training period very seriously. To them "training is a stimulant". They try to utilize the period of training by doing the work they have been asked to do. They gather practical experience and in their service life they utilize it. It has been maintained that training stimulates them in various ways such as to do something for the people, to gather experience, and they apply the experience when they staff to work as administrator. When several trainees meet together, they exchange views among them. In this age of globalization and liberalization there is an immense importance of bureaucracy and the training it has received. It is generally observed that the world today (in the age of liberalization) has become a big village or a single unit. The states, big or small, are influenced by each other and this influence falls upon the public administration. If the public administration is not well equipped, it is not properly trained, it will not be able to adjust itself with the changes that are taking place. Particularly the public administration of a developing nation like India must be capable of adjusting itself with the changes that are regularly taking place everywhere. Because of this expert are talking about proper training for civil servants.

The idea of good governance also appears. A critic says, "Good governance leads to sound economic, human and institutional development". The term good governance is a questionable matter. Does it mean that a democratic government assures good governance? This is not. Because the East Asian states are not democratic. But they have achieved miraculous success in the sphere of development. Though Amartya Sen emphasizes that development and democracy are closely linked the East Asian states have falsified it. Now many people say that whether the state is democratic or unitary or dictatorial, that matters little. Its administrative system must be well equipped and properly trained. An efficient and able public administration is capable of meeting any situation and can assure good governance. In an age of globalization, a well-equipped and well-trained public administration can meet any situation and can help the speed of development to the vital key to progress lies in both selection of public servants and their proper training. Today's states are not simply political states —they are also welfare states where the bureaucracy has a vital role to play. It should act like a good Samaritan. The civil servants must collect taxes

and maintain law and order. Simultaneously they will extend their helping hands to the people in great distress or in the great natural calamities. The purpose of training must be this.

A large section of India's peoples is in the grip of poverty, misery, diseases, illiteracy etc. The Government of India makes continuous efforts to lift the people from this stage. But this is not enough. The bureaucracy must be prepared to make government's effort a great success. The in-service training tries to inculcate this. In India a party comes to power for a fixed period of time. Naturally there is a gap between the coming and going of party or parties. During the period the civil servants run the administration. They decide policies and implement them. Here the basic point is that the civil servants must not forget that they are not the real rulers. They should not do anything that will violate the principles and purposes of India's Constitution, particularly the principles laid down in the Preamble and also the Fundamental Rights. S.R. Maheswari correctly says, "A training programme ought to deal with the live problems and issues currently faced by the administrators attending it, with a sustained focus on devising strategies and styles to solve them".

Code of Conduct:

In every service there are certain rules of conduct which must be strictly followed by every member of the service. Failure to follow the code of conduct or rule will create an atmosphere or chaos in the organisation. In the vast field of Indian civil service there is code of conduct. It is obligatory for everyone to follow the conduct. These rules or codes are to be found in the All India Service (Conduct) Rules 1958. One such rule is Every member of the service shall maintain integrity and devotion to duty. The two words integrity and devotion are significant. A public servant must take his job seriously are do the allotted duty with all seriousness. There is another code which is stated in Rule 4: It is, employment of near relatives in firms enjoying government patronage is forbidden. In other words, the son, daughter, wife or any other near relative of a government officer will not accept any offer of employment in a firm which is getting patronage of the government. The government officers are prevented from accepting any gifts or subscriptions from any firm or organisation or person. Even the family members of the officer cannot accept gifts. The government officers are not allowed to be involved either directly or indirectly in any business or trade or they are not allowed to get any job in private firms. If they desire to have a job in any other

organisation, they will have to seek permission from the highest authority. There are also numerous other rules which the government officers must follow. There is also a provision or rule that every member of the service must submit a list of his movable and immovable property and the same of the other members of his family.

Neutrality of Bureaucracy:

Max Weber, almost a century ago, recommended that the first and most important quality of bureaucracy would be neutrality, and since then, the top theoreticians of public administration have been arguing that the bureaucrats should be neutral. Particularly, in a party government, the neutrality is considered as essential. It is because in parliamentary system one party goes and another party comes to power and in such a situation the bureaucrats are required to change their loyalty. The public administrations are of the view that in such a situation the best possible way for bureaucrats is they must maintain neutrality. Whatever may be the color and ideology of the party government the bureaucracy will always remain neutral. It will serve its present master in the same way as it served the past master. Here master implies political executive or head. It is the central idea of the term neutrality.

Neutrality of bureaucrats has also been explained to mean the following:

(a) No member of the civil service can be associated with any political party or to be its member.

(b) A bureaucrat has no scope to subscribe to any party fund or to contribute to election. He cannot campaign for any party and openly support the party. He, of course, has the right to vote.

(c) A member of civil service cannot attend party meeting or can openly express his views in support of a party.

(d) A bureaucrat cannot use the print or electronic media for the ventilation of his views regarding the functioning or behavior of any political party.

(e) After general election a new party comes to power. The bureaucrat will receive his new head as he did earlier. The change of persons will make no difference the bureaucrat. It has been said by many that in India the neutrality of civil service is quite prominent than many other countries. These are the various aspects of political neutrality of bureaucrats. But some people have questioned the concept of neutrality. To be frank, can an educated and reasonable man be neutral in absolute sense? Apparently, he may be neutral but in clandestine way be may support and give

financial help and, in that case, nobody can prevent him. Once a great politician of erstwhile Soviet Union said an educated and reasonable man can never be neutral in the strict sense of the term. We hold the same view. Hence the idea of neutrality is a misleading concept. In India we are facing a peculiar situation so far as neutrality is concerned. Many top civil servants, after retirement, join political parties and contest elections. This obviously indicates that the person, while in service, had clandestine support or sympathy for that party. There is no guarantee that he did not show any favour to the party while he was in service or in power.

In some countries the idea of neutrality has been viewed from different perspective. For example, in all socialist countries it is openly said that the bureaucrats must show undiluted support to the Marxist-Leninist philosophy and they must discharge their duties to spread this ideology and strengthen its foundation. Not only this, they should disdain all other political ideology opposing to Marxism-Leninist. In all socialist states the neutrality of the civil servants is never accepted as a principle. A former Russian (when Russia was a socialist plate) politician and communist party's leader said the idea of neutrality has no place in socialism. Rather everyone must show his support to socialism and work for it. In mature capitalist state, e.g., USA, there is hardly any controversy between neutrality and non-neutrality. All top bureaucrats and public administrations are supporters of capitalism and all of them are dedicated souls for the propagation of capitalism and strengthening its foundation.

Let us take the case of India. In the 1960s the idea of neutrality was faced with criticism from the All India Congress Party. Indira Gandhi and several other top leaders of the party directly questioned the neutrality of the bureaucrats because it was thought that the bureaucracy modeled in British style was the stumbling block on the implementation of progressive measures. Many Congress leaders (including Indira Gandhi and her close aids) thought that most of the bureaucrats showed their utmost apathy to most of the progressive measures. Indira Gandhi once raised the question." Who would think and see that certain things which are necessary for our progress are implemented property"? This is a pertinent question raised by Smt. Gandhi. It is the function of political leaders to make proposals for development and the duty of the civil servants implement them. But if the civil service in the name of neutrality or any other issue stalls the implementation

of the proposals raised by the political executive, then the progress of the country will be seriously affected. In this background many persons question the time- old issue of neutrality.

So far as the issues of neutrality and progress are concerned who will decide the final issue? In the name of neutrality progress-cannot be scarified. It means that the so-called neutrality of civil service, if it stands on the way of national progress, cannot be given priority at all. The All India Congress Committee held in Delhi on December 1, 1969 made the following complaint: "The present bureaucracy under the orthodox and conservative leadership of the Indian Civil Service with its upper-class prejudices can hardly be expected to meet the requirement of social and economic change along socialist lines. The creation of an administrative cadre committed to national objectives and responsive to our social needs is an urgent necessity". The implication is as clear as broad daylight. Indira Gandhi and her party wanted a committed bureaucracy which means the neutrality of bureaucracy is to be sacrificed.

From the standpoints of Indira Gandhi and her party the idea of committed bureaucracy is perfectly right. But we are to view from a broader perspective. A committed bureaucracy may be salubrious in a particular situation but from the general standpoint it is not an acceptable solution. The leaders of a party decided everything from the background of their party but that may not be good for the whole nation. To view everything, neutrally is essential. Progress is, to some extent, a political issue, but it is not political from top to bottom. The concept of progress and other related matters are required to be viewed impartially Particularly, in a party government, progress is colored by the party ideology. When a new party comes to power the concept of progress, the previous party government held, is bound to change. Naturally we are of opinion that though everyone needs change, it to essential that it is essential to be considered neutrally and only the bureaucrats can do the job.

What is the solution? As far as possible the bureaucracy must be neutral and this neutrality must always relate to the national progress, security and welfare of the people. That is, if any progress appears to challenge that the bureaucracy must raise its voice. But when the policy and programmes of a party in power are about to hinder the national progress and security of the nation the bureaucracy must bring it to, the notice of the general public. It is true that many top bureaucrats

come from the affluent section of the society and because of their background they support a class to which they belong. But a recent study reveals that many civil servants belong to middle class and this class background has cast an impact upon their behaviour and administrative functions. A bureaucrat must be well-acquainted with the social, economic, political conditions of India and needs of the people. In this general background a civil servant must try to run the administration. He must have his own view, but to him the needs of the nation are more important. To the greater interests of the nation the civil servants will sacrifice his own view and ideology. This is, a new-interpretation of political neutrality. India is a multiparty state and each party has its own programme and ideology. But still there are certain fields on which almost all the major parties agree. A bureaucrat ought to be well-acquainted with it and whenever a policy is going to be made, he must see that the policy must be supported by the national consensus. When a particular policy is going to contradict the national interest or national consensus the bureaucracy must point it out. The concept of political neutrality should be interpreted in this way.

The policy of the government must be stated in unambiguous terms and it must be circulated among the civil servants. If necessary, their considered opinion must be sought. After a thorough discussion attempts shall be made to "reach a general consensus. After this the policy should be ready for implementation. If this democratic process is adopted the management of public admin-istration should be smooth and the question of political neutrality of bureaucracy will not make any complicated issue. The issue of neutrality is required to be viewed still from another angle. If the question of neutrality is challenged and if it is said that the civil servants must two the line of political executives and they will have no freedom to express their views, then they will be denied their right to express opinion. This is a clear abnegation of right and no sensible authority can do this. A civil servant is, after all, an educated person and he has overcome a number of hurdles to reach the stage of an administrator. It is a gross injustice to deprive a man of expressing his considered opinion. A clear line of difference must be drawn between the expression of opinion and to criticize and challenge the policy of the political executive. Our point is that the bureaucrat will have freedom to express his opinion but once the policy has been taken or adopted at the highest level, he must accept it and must do everything to make it a grand success. The civil servants must be well-acquainted with the vexed issue of neutrality. What is exactly meant by neutrality? How far can a civil servant be neutral? Should he be allowed to express his opinion on

each and every issue? There are also many other questions. Two things are to be noted here. One is an intelligent bureaucrat should and must know how far to go.

That is, to what extent he should oppose the view of his political master. The other is, he must accept that his political master is the final authority. It may be that his political master is wrong and he is right. But, in democracy, political master's is the final voice. Finally, I say that the bureaucracy should be trained in this way.

Control over Bureaucracy:

Bureaucracy is an indispensable part of modern administrative system and in this sense, we cannot think of public administration without bureaucracy. Thinking in this line Ball and Peters have aptly remarked: "The need for controlling bureaucratic discretion and power is apparent in every political system" This observation of Ball and Peters also holds good for India. It is because India is a liberal democratic country and multiparty state. After general election a new government is formed and though political executives change, the civil servants remain almost same. This continuity in service and indispensability in administration create opportunities for civil servants to indulge in high-handedness and other anti-people activities. For this reason, the control of bureaucracy or to keep a vigil on bureaucrats has arisen. In other words, it is said that the civil servants will be allowed to perform their duties but they shall not be allowed to cross the Lakshman Rekha which is generally interpreted as control of bureaucracy or to make it accountable to the public.

There are several processes of control of bureaucracy and we shall discuss them:

(1) A very important agency of controlling bureaucracy is control by legislature or legislative control. In parliamentary form of government, the legislature enjoys enormous powers. The council of ministers is responsible to the legislature and because of this the members can ask questions to ministers regarding the functions of bureaucracy or the lapses of any particular department or the wrongdoing of any bureaucrat. Again, the legislatures can raise motions, can pass resolutions about the functions of civil servants. The legislature may adopt resolution about bureaucracy, can initiate discussion and start debate. In these ways the legislature can control the

bureaucracy. The members of the legislature can criticize a minister for the failure of his ministry to fulfill the basic necessities of people. But since a minister is not directly responsible for the non-implementation of any policy, he has power to call for explanation from his department.

The bureaucracy in India is again controlled by the legislature in another way. It is a general practice that, in every financial year, a budget is placed by the finance minister to the legislature and the civil servants are to act in accordance with the budgetary provisions. The bureaucracy has no power to violate the rules or go beyond the budgetary provisions.

(2) There is another type of control and it is the control of the executive. The ministers are the heads of various administrative departments and they are generally the chief policy-makers. It is true that the ministers take decisions in consultation with the departmental heads or top civil servants. But it is the responsibility of the minister to decide the matter. It is within the jurisdiction of a minister to accept or reject the suggestion or advice of the bureaucrat.

In a system of party government, the ministers are accountable to the electorate and, for that reason, the opinion of the minister is supposed to get priority. The minister has full freedom to organize - or reorganize the department according to his own principle or policy of the party. An efficient minister keeps the entire department under his full control. If he rejects the opinion of his departmental head the latter will have no reason to grumble. The ministers have also power to transfer departmental officers or adopt any other matter if they are not satisfied with their services or behaviour. This is an important weapon to control the bureaucrats. In every administration a department is divided into several sections and the exact type of relation shall be decided by the minister. In the public administration a department cannot take an important decision without the consent of the minister. Both the ministers and civil servants combinedly constitute the executive. But-there is always a priority of the ministers. If any objection against a bureaucrat is raised it is the duty of the minister to investigate the charge in order to find out the truth. In conclusion, among all sorts of control over the bureaucracy, the executive control or the control of the departmental ministers is for the most important and effective.

(3) Judicial department also controls the bureaucracy in India and it is called judicial control. The most important control of judiciary over civil service is the rule of law. It is the British system. There are two aspects of this concept. One is equality before law, and the other is equal protection

of law. These two have been guaranteed by our Constitution. If the bureaucracy violates these two principles of rule of law the judiciary has full power to take necessary action against the errant officer or department. In our country the Constitution is the supreme authority and if any of its provision is violated the judiciary has power to stall any executive action. Moreover, people have the right to move the court against any executive action that violates people's rights. Moreover, if any executive procedure goes against public interest, the court is empowered to take appropriate measure. In this connection we can mention the public interest litigation. This is an effective way controlling bureaucracy. A citizen can file a complaint against the government or civil servants in case of violation of rights and he can take appropriate steps.

In both Supreme Court and High Courts, the PIL (Public Interest Litigation) can be filed and in recent years the number of PILs is gradually increasing. The judiciary is also showing interest in the PIL. This tendency of the judiciary in matters of PIL has been criticized by many as over-activism of judiciary. But we think that the judiciary is taking right steps and the approach of judiciary should be encouraged. In India there are Human Rights Commissions for both Centre and the states. The commissions will see whether the human rights are violated. If any citizen complains that his fundamental rights guaranteed by the Constitution are violated by the executive, or human rights are breached, the Human Rights Commission can take action against erring person or authority. There are also departmental control and self-control. Every department of public administration has certain departmental rules which are to be followed strictly. Any violation is to be followed by disciplinary action. This rule is an effective check upon the activities of the bureaucrats. For example, there are principles of secrecy, discipline, departmental autonomy etc.

These are to be observed strictly while running administration. The rules are not all. The bureaucrats are educated and a large section comes from higher strata of society. It is assumed that they will follow certain norms, discipline and moral and ethical values. It is supposed that they will not indulge in such practices that are not supported by moral and ethical standards. This is an important method of control. The Government of India has a separate department of personnel. It frames rules for discipline which the civil servants must follow. It also decides the policy and principles of recruitment and promotion. This is an important way of controlling bureaucracy. If a civil servant does not behave properly or fails to show efficiency or other qualities his promotion

may be stopped or any disciplinary action may be taken. The personnel department also decides other matters in respect of service and the civil servants know that when these are followed or adopted that will lead to penalization such as demotion, stopping of increment, transfer etc. The personnel department also frames some service rules for the bureaucrats which must be followed. The public vigilance is also a way that controls the bureaucracy. In all democracies the bureaucracy is accountable or is supposed to be accountable. Any negligence of duty or violation of rules and regulation is strongly opposed by the vigilant public. There is an old and common saying eternal vigilance is the price of liberty. An educated, politically conscious and vigilant public is perhaps the most effective and powerful control over civil servants. Of course, for an effective public control over bureaucracy a large-scale political socialization is essential. People must be well-acquainted with the political culture, administration, purposes and principles of state administration. This acquaintance helps the general public to keep an eagle's eye over the administration. This also requires that the foundation of democracy must be strong and widespread.

SALIENT FEATURES OF INDIAN CIVIL SERVICE SYSTEM

Public administration of a country has to be manned by public services which can be called civil services also if they constitute a professional body of officials – permanent, paid and skilled. This great body of men and women that the government has for its daily contacts with the rank and file in the country performs varied functions. It is a civil army of functionaries necessary for the realization of the purposes for which government exists. Public service denotes a wider canvas and can encompass employees of public corporation and local bodies, while civil service in British sense is quite restrictive and excludes judges. All civil servants are public servants but the opposite is not necessarily acceptable to all students of personnel administration. Starting from man management to personnel administration, the studies in this area have come to human resource development (HRD). The narrow objectives of Weberian bureaucracy are being replaced by democratic participatory models of public service, wherein efficiency has given way to effectiveness or long-term result orientation for good governance.

The ancient Indian or medieval Mughal models of civil service were out rightly rejected by the British who initiated a new model of merit bureaucracy for their senior civil services in the colony. But this Weberian model has to be combined with a guardian and patronage bureaucracy which at

lower levels was bound to degenerate into a cast bureaucracy of M. Marx's classification. The English rulers for sure knew the limitations of their model, but this was the 'least bad' for a colony which was too vast and had diverse groups without any national system of education. So, the Indian Civil Service was gradually evolved from 1858 to 1947 on the base which the East India Company rulers built on the Mughal structure to extract colonial revenue along with some civilizational characters of liberalism. Started as covenanted and un-covenanted services of the company, the public services in later era became imperial/central provincial and subordinate services. The idea of 1935 Federation concretized the concept of all India services which happens to be unique characteristics of Indian civil service system.

The 1909 and 1919 Constitutional Reforms articulated several innovations in the structure and working of civil services in India and the secretary of state for India continued to be a guardian of civil servants till the end of the British Raj.

The salient features of Indian civil service system during these 90 years of Crown's rule can be identified as under:

(1) A three-tier service system, namely,

(a) All India Services

(b) Functional Central Services, and

(c) Provincial Services.

(2) Generalist services to function as a support structure for the nascent parliamentary institutions of self-government.

(3) Elitist public services to ensure merit, efficiency and above all loyalty of the senior civil servants to the Raj.

(4) Political neutrality of meritorious civil servants, working anonymously and independently for the colonial power in the midst of a nationalist freedom struggle.

(5) Unaccountability to the people of India, who were not their sovereign masters. Public welfare was a secondary function, development works were conspicuous by their absence and the professed objective was association of Indians rather than serving the teeming minions. Independence has radically and totally revised the philosophy, structure and objectives of civil service in India. It is a common sense clichés that civil services cannot rule free India. Today they will have to work with people's representatives. Their role in development and planned economy

has to be varied and critical and they will have to be representative, accountable and professional. Their size has expanded and learning from British and American experiences they seem like an apology of the past. The political system has democratized itself but the administrative response to this change is still slow and halting. On the other hand, the pressure of work and the revolution of rising expectations have pushed the civil services into defensive. They accept their new tasks and roles but find themselves structurally and behaviorally handicapped to move faster.

Civil service: The body of government officials who are employed in civil occupations that are neither political nor judicial. In most countries the term refers to employees selected and promoted on the basis of a merit and seniority system, which may include examinations.

Appointment: In earlier times, when civil servants were part of the king's household, they were literally the monarch's personal servants. As the powers of monarchs and princes declined and as, in some countries, their sovereignty was denied them, appointment became a matter of personal choice by ministers and heads of departments. The influence senior civil servants may wield over policy and the need for them to work in close harmony with ministers induce all governments to insist on complete freedom of choice in appointments, even when, as in Great Britain, the freedom is rarely invoked. In some countries, notably the United States, senior advisers usually are replaced whenever a new administration takes office. In Europe in the 19th century, appointment and promotion frequently depended on personal or political favour, but tenure was common in the lower and middle ranks once an appointment had been made. Dependency on a superior's favour led civil servants to ally themselves with liberal public opinion, which was critical of the waste and corruption involved in political patronage. Pressure for reform led to official formulations of basic qualifications for different posts; appointments and promotions boards were established within each department to prevent or obstruct overt political favoritism and nepotism; and salary scales were introduced for different grades to provide a civil servant with increments for good service while still holding the same post. In many countries civil service commissions were set up to ensure impartiality in selection procedures and to lay down broad principles for personnel management in the civil service. Recruitment in many European countries corresponded to the national educational systems: the highest class of civil servants entered service after graduation from a university, the executive class after full completion of secondary school, the clerical class

after the intermediate school examination. The manual workers in the service were mainly recruited from persons of mature age who had left school after primary education or, in such countries as France and Germany, from military veterans.

As public administration became more complex in the 20th century, specialized categories of civil servants were created to bring into the service doctors, scientists, architects, naval constructors, statisticians, lawyers, and so on. In several countries the establishment of these special classes caused some difficulties because their salary scales had to be linked with those of competing professional groups outside the service. The distinction between foreign service and home service personnel has sometimes caused difficulty because of inadequate liaison between overseas representatives and the makers of foreign policy at home. In the United States, the Rogers Act of 1924 unified the overseas service itself, but the civil servants of the State. Department in Washington, D.C., continued to be regarded as part of the federal civil service.

The posts that fall under the rules of the U.S. merit system are not grouped into a small number of general classes but have individual job specifications and entry qualifications. Although designed to select entrants with special knowledge or skills for individual posts, this system has been criticized for failing to make the best use of the talent available to the government. In 1978 the Senior Executive Service was created to achieve more effective promotion and deployment. All countries base appointments on some kind of competition. In some countries great emphasis is placed on formal written examinations supplemented by interviews. Such is the situation in France. The Civil Service Commission relies more on informal tests and a series of interviews and observations and tends to measure the candidate's intellectual competence by the quality of his university degree. The conventional written examination is dispensed with also in such European countries as Finland, Switzerland, the Netherlands, and Portugal, as well as the German Länder, or states. In the Länder the qualifications and references of all candidates are compared, whereupon the most eligible are interviewed by a departmental board. Candidates are expected to have completed a lengthy program of academic work for professional qualification and a period of subsequent training in a variety of public institutions under official supervision. If successful in

their interviews, candidates are recommended to the minister, who makes appointments to higher grade posts, or to the heads of department, who handle the middle and lower categories.

On the face of it, this method offers fewer guarantees of impartiality than does the formal written examination, but a civil service career is less attractive now than formerly and the civil service has to compete, usually at lower salaries, with business and the professions for the best available talent. In Sweden a constitutional provision requires that nearly all public documents (including the proceedings of authorities that make appointments) be open for public inspection, thus providing a check upon corruption or favoritisms. Most federal and culturally diverse countries try to ensure an equitable distribution of posts among their constituent elements. In Switzerland the federal authorities try to maintain a balance of posts not only between the cantons but also between the political parties, religions, and languages. The federal civil service in Germany draws on the public service officers in the Länder, and some degree of proportional representation is attempted. There was considerable pressure in Canada in the 1970s to ensure a more equitable distribution of federal civil service posts between the English- and French-speaking populations. It is also clear that many African states are compelled to recognize regional and tribal origins in their appointments to the civil service.

Conditions of Service

The forerunners of civil servants, being members of the royal household, had duties but no rights. The first attempts to formalize methods of appointment and conditions of service were among the administrative innovations introduced in Prussia in the 18th century. Elsewhere attempts were frustrated by political and public objections. Increased formal regulation of conditions of service came about when civil servants organized themselves into professional groups, sometimes barely distinguishable from trade unions. The fact that civil servants are agents of the public power, providing services on which law, order, and public health depend, has raised the question whether they should be permitted to strike; if they cannot lawfully strike, they are deprived of the main weapon in pressing for improvements in their conditions of service. Thus, there have developed special arrangements for reviewing conditions of service periodically and for settling contentious issues. In particular, it has been necessary to have a properly recognized system for regulating conduct and discipline. In the United Kingdom, traditional standards are

supplemented or revised to accord with recommendations from periodic commissions of enquiry, which pay special attention to official conduct in relation to political activities and business dealings. In France and Germany these codes of conduct have been based mainly upon the rules of administrative law and the jurisprudence of administrative courts, although certain civil service rights and duties are specified in constitutional law. In other countries, particularly in the United States and India, conduct and discipline are regulated by administrative rules and codes promulgated by executive order after discussion and enquiry. The standards placed upon a civil servant's conduct are partly those to be expected of any loyal, competent, and obedient employee and partly those enjoined upon a public employee. Ideally, the civil servant should be above any suspicion of partiality and should not let personal sympathies, loyalties, or interests affect the performance of duties; for example, a civil servant is obliged to be circumspect in private financial dealings. As a general rule, a civil servant is not allowed to engage directly or indirectly in any trade or business and may engage in social or charitable organizations only if these have no connection with official duties. There are always strict limits on a civil servant's right to lend or borrow money, and they are prohibited from accepting gifts.

Civil servants and politics

There are different attitudes about the extent to which civil servants may engage in political activities. One view is that a civil servant has the same constitutional rights as other citizens and that it is therefore unconstitutional to attempt to limit those rights other than by the common law. The opposing view is that, since civil servants are engaged in the unique function of national government, their integrity and loyalty to their political masters might be affected by active participation in political affairs, and public confidence in their impartiality could be shaken. Broadly speaking, those countries that traditionally expect civil servants to behave with complete impartiality and to conform to ministerial policy with energy and good will, whether they agree with the policy or not, expect all civil servants to behave with circumspection in political affairs. The United Kingdom has a total ban on its senior civil servants' engaging in any form of political activity. The prohibition becomes progressively less strict, however, for the medium and lower grades of the service.

Another group of countries, including France and Germany, have deemed policy and administration to be so intimately connected that all top posts are filled at the discretion of the government of the day; thus, civil servants are allowed greater scope in political activities. They are nevertheless expected to act with greater discretion and public decorum than private citizens, and an excess of power or an abuse of office for political purposes renders a civil servant instantly liable both to statutory regulations and to severe internal disciplinary proceedings.

Civil servants and unions

Traditionally, governments have been hostile toward civil service unions, and in the past repressive laws made strike action unlawful. Strikes nevertheless occurred, and governments eventually adopted an attitude of open encouragement toward trade unionism. Most governments accept, in theory at least, that the state should be a model employer. It follows that, if the state genuinely pursues a policy of discussion and negotiation with civil servants and attempts properly to fulfill agreements with them, it should in return be freed from the threat of strike action. Mindful that the withdrawal of civil servants from some public services would lead to chaos, many governments have found it prudent to establish permanent channels for negotiating such matters as salaries and discipline. Organizations representing the staff and a management side of senior officials representing the state mirror the employer-employee relationship of private industry, although a higher percentage of public- than private-sector employees are members of unions. The United Kingdom was the first country to establish negotiating machinery for civil servants. Following a report in 1917, organizations known as Whitley Councils were set up, consisting of equal numbers of medium and lower staffs on the one hand and directing and supervisory staffs on the other. These councils operate within the ministries, and a National Whitley Council performs central advisory functions for the government. They have no powers of decision, however, only of recommendation, because governments are never prepared to surrender their ultimate responsibility for determining the public interest. The councils have done a good deal to provide a sense of common purpose and joint responsibility within the civil service as a whole, although pay restraints from the early 1970s generated great friction between civil service unions and government.

In France each department has a comparable consultative body, but its work is broader in scope in that it can scrutinize recruitment, personnel records, promotions, and disciplinary procedures. There is also a national council, presided over by the prime minister or a specially nominated minister for civil service affairs, which is concerned with general personnel policy, conditions of service, and coordination of departmental committees. Until after World War II, the commonly accepted view in the United States was that expressed by Pres. Calvin Coolidge: “There is no right to strike against the public safety by anybody, anywhere, at any time.” Although federal employees are still forbidden to strike, a rule illustrated by the dismissal of striking air traffic controllers in 1981, consultation has increased, and in many federal departments appeals committees comprising departmental heads and one or more members of the Merit Systems Protection Board may now hear appeals from civil servants against decisions adversely affecting their careers. These committees are also consulted on general matters of departmental interest, such as job classifications, pension schemes, promotion policies, and office procedures.

Patterns of Control

The expansion of public services, as well as the development of permanent civil service career structures, raised fears that civil services were becoming autonomous powers in their own right, no longer subject to the traditional forms of control. This view is associated with the sociologists Max Weber, who criticized the bureaucracy of imperial Germany, and Robert Michels, who formulated the “iron law of oligarchy.” Michels’s law suggested that every organization with a permanent staff produces an oligarchy running the organization according to the interests and values of the bureaucratic group. In addition, the growing complexity of modern government has greatly augmented the informal power of senior civil servants who act as advisers to ministers. This is particularly the case in countries (usually the more democratic ones) where ministries frequently change hands.

In the 19th century civil services were normally restricted to maintaining law and order and minor economic regulations such as those concerning weights and measures and factory laws. The subordination of civil servants to their political masters and their political masters’ responsibility to the courts and legislatures seemed to provide an adequate safeguard against arbitrary administrative actions. But in some countries, notably Germany, France, and Austria, civil services

became endowed with much greater authority, operating as part of the police power. This caused concern because civil servants were exempt from normal legal processes when performing their official functions. In response, special administrative courts were set up to which private citizens or corporations could appeal against administrative acts. Jurisdiction was limited, however, and redress was frequently slow. The courts themselves remained specialized institutions of the executive rather than normal parts of the judiciary.

Sweden provided a marked contrast. Before the constitution of 1809 the executive power had been absolute. Afterward, not only did it become subject to control by the legislature, but this control also was reinforced by the creation of a special post of ombudsman. World War I brought increased governmental activity almost everywhere. The area in which administrative discretion could be exercised grew; civil servants became as much adjudicators as administrators, and their influence upon economic life increased. By World War II the state had become, even in many conservative countries, an economic regulator, an industrial producer of overwhelming importance, and a conciliator between competing interests. In all of these matters civil servants were the effective agents of the state.

Responses to civil service power

In the United States, Congress created an institution to counter the threatened increase in civil service power. As far back as the late 19th century Congress, when legislating for new areas of government, assigned powers to agencies or commissions, specifying their powers, competence, and composition and freeing them from direct presidential control. In this way large areas of government escaped the control of the executive branch of government, including the federal civil service. These independent regulatory agencies have covered major economic fields and have included the Interstate Commerce Commission, the Federal Communications Commission, the Tennessee Valley Authority, and the Nuclear Regulatory Commission. This policy has laid Congress open to the charge that it has created a headless fourth branch of government, but it has successfully prevented the emergence of a monolithic federal civil service.

To counter charges that the U.S. civil service was encroaching on the powers of the judiciary, the Administrative Procedure Act of 1946 laid down detailed provisions to safeguard citizens'

rights where the administration had powers of adjudication. These rights included the right to ample previous notice of proceedings, the right to submit evidence, the right to have independent hearing officers (to the exclusion of investigating or prosecuting officers), and the right to a decision based solely on testimony and papers actually entered in the proceedings.

Other democratic countries have been concerned about the growing powers of the civil service and about whether traditional forms of judicial and ministerial control are adequate. Many European countries have modeled their instruments of administrative jurisdiction and jurisprudence on the French Conseil . In the United Kingdom the creation of a special administrative jurisdiction of this kind has been opposed by both parliamentary and judicial opinion, but it was because of mounting criticism of civil service immunity from detailed control that Parliament created the special office of parliamentary commissioner, or ombudsman. Public access to the office is by way of a member of Parliament, and the commissioner is excluded from inquiring into matters of policy, local government authorities, or lower judicial bodies.

Civil servants and communism

Special problems of control arose in communist countries, where the main preoccupation of the regime, which was under the direct control of the Communist Party, had been to ensure the civil service's continual loyalty. Impartiality and objectivity in the administrative machine's dealings with the public were not of such high priority as in pluralist societies. A body of administrative procedure was built up, but this was always subordinated to the directives of the party leadership. Communist countries also had to establish new ways of judging performance, since the state monopoly of political power and means of production ensured that traditional incentives and yardsticks could not be applied. Yet in their own way, communist countries had elaborate controls. In the Soviet Union all ministries had a special section staffed by, and responsible to, operatives from the Ministry of Internal Affairs. This section provided security control over the ordinary civil servants, and its personnel were not part of that ministry's official structure. The Communist Party maintained further control through the party apparatus, and it closely supervised senior appointments. Communist planning, financial, and personnel controls of a technical kind resembled those in democratic countries, but in the Soviet Union there were two additional special supervisory agencies. The Commission of State Control was responsible for vigilance over state property and administration. Its departments paralleled the different branches of state

administration and maintained audits of their work. Its officers had the right of access to all administrative records and could issue directives to other institutions. They had powers to prosecute civil servants for criminal offenses, and they could apply a formidable range of disciplinary measures to civil servants, either by direct action or through the responsible minister.

The second agency of control arose because of the difficulty of reconciling disputes between production units and their controlling ministries in an economy that lacked the traditional forms of market discipline and could not rely upon an enforceable law of contract. A special system of compulsory arbitration operated through the State Arbitration Tribunal under the Council of Ministers and through arbitration tribunals responsible to the councils of ministers in each of the republics. It settled all disputes concerning contracts, quality of goods, and other property disputes between various state enterprises. The system was staffed by civil servants charged with enforcing "contractual and plan discipline," but it was supported by technical experts qualified in economic and industrial matters.

International Civil Service

The elements of an international civil service first appeared in the Universal Postal Union (established 1874–75). Some four and a half decades later the League of Nations and the International Labour Organization (ILO) were founded. They required a staff of almost 600 experts and subordinate personnel, which took the form of a true international civil service. It drew mainly on British, French, and Swiss personnel, but more than 40 states contributed members in order to spread recruitment as widely as possible. There were no formal methods of selection for the higher personnel; the secretary-general of the League used personal contacts. The staff fell into three divisions: administrative, supervisory and clerical, and custodial. The history of the League shows that, at any rate as far as a secretariat was concerned, a broad measure of international loyalty could be achieved. The staff of the ILO was maintained after the League's disbandment in 1946.

Until World War II the League of Nations was the only major international organization of its kind. Since then, international organizations have multiplied, and compared with most of them the League had a small staff. The postwar organizations include the United Nations, the Organization of American States, the European Community (EC; ultimately succeeded by the European

Union [EU]), and the Organisation for Economic Co-operation and Development. By the mid-1980s there were nearly 20,000 smaller bodies, ranging from the Nordic Council to small research institutes.

International organizations have evolved into two general types. In the first an example of which is the EU a genuinely supranational civil service exists; its members have a career structure within the organization and can identify with it. In the second (the UN, for instance), officials undertake a particular job for a limited period and seldom develop a career within the organization. In the EU the civil service is divided into several grades, recruitment to the service generally being through competitive examination. After recruitment a period of training follows. Each agency within the UN operates its own recruitment system. By far the majority of senior appointees assigned to the UN at any one time have served there for less than 15 years. In both types of international organization, there is a danger that officials will promote the interests of their own country to the detriment of internationalism. In the UN a quota system operates by which each country is allocated a number of appointments in proportion to its UN budget contribution. As a result, some national governments are in a strong position to influence recruitment. In contrast, the statutes governing the EU's civil service forbid quotas, but an unofficial system has developed whereby a relatively high proportion of senior officials are from the more populous states. Such practices risk sacrificing meritocracy to nationalism. Some countries do expect their nationals working at the UN to promote national interests. But the quota system and this is one of the arguments for it leads to administrators from at least the more prosperous countries competing with fellow nationals rather than with colleagues from other countries. Moreover, it is unlikely that decisions, whether biased or not, will be made in the bureaucracy alone. And since officials' national origins are no secret, partiality is fairly difficult to conceal.

2.4 JUDICIARY

SYNOPSIS

- Introduction
- Structure of Judiciary
- Supreme Court
- High Court
- Judicial Activism
- Judiciary and Rights
- Judiciary and Parliament
- Conclusion

Introduction

Many times, courts are seen only as arbitrators in disputes between individuals or private parties. But judiciary performs some political functions also. Judiciary is an important organ of the government. The Supreme Court of India is in fact, one of the very powerful courts in the world. Right from 1950 the judiciary has played an important role in interpreting and in protecting the Constitution. In this chapter you will study the role and importance of the judiciary. In the chapter on fundamental rights you have already read that the judiciary is very important for protecting our rights. After studying this chapter, you would be able to understand the meaning of independence of judiciary; the role of Indian Judiciary in protecting our rights; the role of the Judiciary in interpreting the Constitution; and the relationship between the Judiciary and the Parliament of India.

WHY DO WE NEED AN INDEPENDENT JUDICIARY?

In any society, disputes are bound to arise between individuals, between groups and between individuals or groups and government. All such disputes must be settled by an independent body in accordance with the principle of rule of law. This idea of rule of law implies that all individuals rich and poor, men or women, forward or backward castes are subjected to the same law.

The principal role of the judiciary is to protect rule of law and ensure supremacy of law. It safeguards rights of the individual, settles disputes in accordance with the law and ensures that democracy does not give way to individual or group dictatorship. In order to be able to do all this, it is necessary that the judiciary is independent of any political pressures. What is meant by an independent judiciary? How is this independence ensured? Independence of Judiciary Simply stated independence of judiciary means that the other organs of the government like the executive and legislature must not restrain the functioning of the judiciary in such a way that it is unable to do justice. the other organs of the government should not interfere with the decision of the judiciary. judges must be able to perform their functions without fear or favour.

Independence of the judiciary does not imply arbitrariness or absence of accountability. Judiciary is a part of the democratic political structure of the country. It is therefore accountable to the Constitution, to the democratic traditions and to the people of the country. How can the independence of judiciary be provided and protected? The Indian Constitution has ensured the independence of the judiciary through a number of measures. The legislature is not involved in the process of appointment of judges. Thus, it was believed that party politics would not play a role in the process of appointments. In order to be appointed as a judge, a person must have experience as a lawyer and/or must be well versed in law. Political opinions of the person or his/ her political loyalty should not be the criteria for appointments to judiciary. The judges have a fixed tenure. They hold office till reaching the age of retirement. Only in exceptional cases, judges may be removed. But otherwise, they have security of tenure. Security of tenure ensures that judges could function without fear or favour. The Constitution prescribes a very difficult procedure for removal of judges. The Constitution makers believed that a difficult procedure of removal would provide security of office to the members of judiciary. The judiciary is not financially dependent on either the executive or legislature. The Constitution provides that the salaries and allowances of the judges are not subjected to the approval of the legislature. The actions and decisions of the judges are immune from personal criticisms. The judiciary has the power to penalize those who are found

guilty of contempt of court. This authority of the court is seen as an effective protection to the judges from unfair criticism. Parliament cannot discuss the conduct of the judges except when the proceeding to remove a judge is being carried out. This gives the judiciary independence to adjudicate without fear of being criticized.

Appointment of Judges The appointment of judges has never been free from political controversy. It is part of the political process. It makes a difference who serves in the Supreme Court and High Court a difference in how the Constitution is interpreted. The political philosophy of the judges, their views about active and assertive judiciary or controlled and committed judiciary have an impact on the fate of the legislations enacted. Council of Ministers, Governors and Chief Ministers and Chief Justice of India all influence the process of judicial appointment. As far as the appointment of the Chief Justice of India (CJI) is concerned, over the years, a convention had developed whereby the senior-most judge of the Supreme Court was appointed as the Chief Justice of India. This convention was however broken twice. In 1973 A. N. Ray was appointed as CJI superseding three senior Judges. Again, Justice M.H. Beg was appointed superseding Justice H.R. Khanna (1975).

The other Judges of the Supreme Court and the High Court are appointed by the President after 'consulting' the CJI. This, in effect, meant that the final decisions in matters of appointment rested with the Council of Ministers. What then, was the status of the consultation with the Chief Justice? This matter came up before the Supreme Court again and again between 1982 and 1998. Initially, the court felt that role of the Chief Justice was purely consultative. Then it took the view that the opinion of the Chief Justice must be followed by the President. Finally, the Supreme Court has come up with a novel procedure: it has suggested that the Chief Justice should recommend names of persons to be appointed in consultation with four senior-most judges of the Court. Thus, the Supreme Court has established the principle of collegiality in making recommendations for appointments. At the moment therefore, in matters of appointment the decision of the group of senior judges of the Supreme Court carries greater weight. Thus, in matters of appointment to the judiciary, the Supreme Court and the Council of Ministers play an important role. Removal of Judges The removal of judges of the Supreme Court and the High Courts is also extremely difficult. A judge of the Supreme Court or High Court can be removed only on the ground of proven misbehavior or incapacity. A motion containing the charges against the judge must be approved

by special majority in both Houses of the Parliament. Do you remember what special majority means? We have studied this in the chapter on Elections. It is clear from this procedure that removal of a judge is a very difficult procedure and unless there is a general consensus among Members of the Parliament, a judge cannot be removed.

It should also be noted that while in making appointments, the executive plays a crucial role; the legislature has the powers of removal. This has ensured both balance of power and independence of the judiciary. So far, only one case of removal of a judge of the Supreme Court came up for consideration before the Parliament. In that case, though the motion got two-thirds majority, it did not have the support of the majority of the total strength of the House and therefore, the judge was not removed.

STRUCTURE OF THE JUDICIARY

The Constitution of India provides for a single integrated judicial system. This means that unlike some other federal countries of the world, India does not have separate State courts. The structure of the judiciary in India is pyramidal with the Supreme Court at the top, High Courts below them and district and subordinate courts at the lowest level (see the diagram below). The lower courts function under the direct superintendence of the higher courts.

Supreme Court of India

Its decisions are binding on all courts. Can transfer Judges of High Courts. Can move cases from any court to itself. Can transfer cases from one High Court to another.

High Court

Can hear appeals from lower courts. Can issue writs for restoring Fundamental Rights. Can deal with cases within the jurisdiction of the State. Exercises superintendence and control over courts below it.

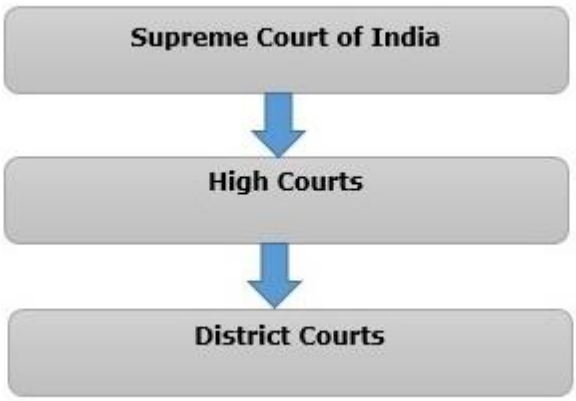
District Court

Deals with cases arising in the District. Considers appeals on decisions given by lower courts. Decides cases involving serious criminal offences.

Subordinate Courts

Consider cases of civil and criminal nature

- Judiciary is an independent body that protects and ensures the 'rule of law.'
- Any other organs of the government including the executive and legislature must not restrain the functioning of the judiciary.
- The judicial system in India is in the form of an integrated judiciary, which consists of a Supreme Court for the whole nation, High Courts in each state, and District Courts and the courts at the local level (as shown in the diagram given below).



- The Supreme Court controls the judicial administration and the judgments of the Supreme Court are binding on all other courts of the country.

Judges of Supreme Court

- The Judges of the Supreme Court (and the High Courts) are appointed by the President (of India) after 'consulting' the Chief Justice of India (CJI).
- Normally, the senior-most judge of the Supreme Court of India is appointed as the Chief Justice of India (CJI); however, this convention was broken two times
    - In 1973, **A. N. Ray** was appointed as CJI superseding three senior Judges and
    - In 1975, **Justice M.H. Beg** was appointed superseding Justice H.R. Khanna.
- A judge of the Supreme Court (or High Courts) can be removed only on the ground of proven misbehavior or incapacity.

- A motion containing the charges against the judge must be approved by special majority in both the Houses of Parliament; only then a judge can be removed.

Jurisdictions of Supreme Court

The Supreme Court of India is one of the very powerful courts anywhere in the world. However, it functions within the limitations imposed by the Constitution. The functions and responsibilities of the Supreme Court are defined by the Constitution. The Supreme Court has specific jurisdiction or scope of powers.

- The Supreme Court of India acts as the highest court of appeal in civil and criminal cases. It hears appeals against the decisions of the High Courts. However, the Supreme Court hears any case if it pleases to do so.
- The Supreme Court has got jurisdiction to take up any dispute such as −
    - Between citizens of the country;
    - Between citizens and government;
    - Between two or more state governments; and
    - Between governments at the union and state level.
- The Supreme Court and the High Courts are the custodian of our constitution. They have the power to interpret the Constitution of the country.
- The Supreme Court can declare any law of the legislature or the actions of the executive unconstitutional if such a law or action is against the provisions of the Constitution.
- The Supreme Court has '**Original Jurisdiction**'. It means – some cases can be directly considered by the Supreme Court without going to the lower courts.

  Original jurisdiction means cases that can be directly considered by the Supreme Court without going to the lower courts before that. Form the diagram above, you will notice that cases involving federal relations go directly to the Supreme Court. The Original Jurisdiction of the Supreme Court establishes it as an umpire in all disputes regarding federal matters. In any federal country, legal disputes are bound to arise between the Union and the States; and among the States themselves. The power to resolve such cases is entrusted to the Supreme Court of India. It is called original jurisdiction because the Supreme Court alone has the power to deal with such cases. Neither the High Courts nor the lower courts can deal with such cases. In this capacity, the Supreme Court not just

settles disputes but also interprets the powers of Union and State government as laid down in the Constitution.

- The Supreme Court has '**Writ Jurisdiction**'. It means - any individual, whose fundamental right has been violated, can directly go to the Supreme Court for appropriate remedy.

  As you have already studied in the chapter on fundamental rights, any individual, whose fundamental right has been violated, can directly move the Supreme Court for remedy. The Supreme Court can give special orders in the form of writs. The High Courts can also issue writs, but the persons whose rights are violated have the choice of either approaching the High Court or approaching the Supreme Court directly. Through such writs, the Court can give orders to the executive to act or not to act in a particular way.

- The Supreme Court is the highest court of appeal (**Appellate Jurisdiction**). It means - a person can appeal to the Supreme Court against the decisions of the High Court.

  The Supreme Court is the highest court of appeal. A person can appeal to the Supreme Court against the decisions of the High Court. However, High Court must certify that the case is fit for appeal, that is to say that it involves a serious matter of interpretation of law or Constitution. In addition, in criminal cases, if the lower court has sentenced a person to death then an appeal can be made to the High Court or Supreme Court. Of course, the Supreme Court holds the powers to decide whether to admit appeals even when appeal is not allowed by the High Court. Appellate jurisdiction means that the Supreme Court will reconsider the case and the legal issues involved in it. If the Court thinks that the law or the Constitution has a different meaning from what the lower courts understood, then the Supreme Court will change the ruling and along with that also give new interpretation of the provision involved. The High Courts too, have appellate jurisdiction over the decisions given by courts below them.

- The Supreme Court has '**Advisory Jurisdiction**'. It means - the President of India can refer any matter that is of public importance or involves interpretation of Constitution to Supreme Court for advice.

  In addition to original and appellate jurisdiction, the Supreme Court of India possesses advisory jurisdiction also. This means that the President of India can refer any matter that is of public importance or that which involves interpretation of Constitution to Supreme

Court for advice. However, the Supreme Court is not bound to give advice on such matters and the President is not bound to accept such an advice. What then is the utility of the advisory powers of the Supreme Court? The utility is two-fold. In the first place, it allows the government to seek legal opinion on a matter of importance before taking action on it. This may prevent unnecessary litigations later. Secondly, in the light of the advice of the Supreme Court, the government can make suitable changes in its action or legislations.

- Article of 137 of the Constitution states that the Supreme Court shall have the power to review any judgment pronounced or order made by it.
- Article 144 of the Constitution states that all authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.
- The chief instrument through which judicial activism has come into existence in India is **Public Interest Litigation** (PIL) or Social Action Litigation (SAL).
- When a case is filed not by aggrieved people, but rather on their behalf, someone else, as it involves a consideration of an issue of public interest, hence, it is known as Public Interest Litigation (PIL) or Social Action Litigation (SAL).

Rights of the Supreme Court

- The two most important rights of Judiciary are
    - It can restore fundamental rights by issuing writs of Habeas Corpus; mandamus etc. under Article 32 of the Constitution and the same action can be taken by the High Courts as well under the Article 226 of Constitution.
    - Under Article 13 of the Constitution - the Supreme Court can declare the concerned law as unconstitutional and therefore non-operational.
- The Judicial Review (JR) is one of the most important powers of the Supreme Court.
- Judicial Review means the power of the Supreme Court to examine the constitutionality of any law; so, if the Court arrives at the conclusion that the aforesaid law is inconsistent with the provisions of the Constitution, such a law is declared as unconstitutional and inapplicable.
- The Supreme Court (and the High Courts) has the power to check the Constitutional validity of any legislation or action of the executive, when it is challenged before them. This power is called judicial review.

- The Supreme Court of India also guards the Constitution against any change in its basic principles by the Parliament.
- The independence and powers exercised by the Indian judiciary in India make the Supreme Court to act as the guardian of the Fundamental Rights.
- The Indian Constitution is based on a subtle principle of limited separation of powers and checks and balances, which means - each organ of the government has a clear area of functioning. For example,
    - The Parliament is supreme in making laws and amending the Constitution;
    - The Executive is supreme in implementing the laws; and
    - The judiciary is supreme in settling disputes and deciding whether the laws that have been made are in accordance with the provisions of the Constitution.
- In a landmark judgment of Kesavananda Bharati case (1973), the Supreme Court ruled that there is a '**Basic Structure**' of the Constitution and nobody — not even the Parliament (through amendment)— can violate the basic structure.
- In Kesavananda Bharati case, the Supreme Court did two things −
    - It said that right to property was not part of the basic structure and therefore could be suitably amended.
    - The Court reserved to itself the right to decide whether various matters are part of the basic structure of the Constitution.

JUDICIAL ACTIVISM

Have you heard of the term judicial activism? Or, Public Interest Litigation? Both these terms are often used in the discussions about judiciary in recent times. Many people think that these two things have revolutionized the functioning of judiciary and made it more people-friendly. The chief instrument through which judicial activism has flourished in India is Public Interest Litigation (PIL) or Social Action Litigation (SAL). What is PIL or SAL? How and when did it emerge? In normal course of law, an individual can approach the courts only if he/she has been personally aggrieved. That is to say, a person whose rights have been violated, or who is involved in a dispute, could move the court of law. This concept underwent a change around 1979. In 1979, the Court set the trend when it decided to hear a case where the case was filed not by the aggrieved persons but by others on their behalf. As this case involved a consideration of an issue of public interest, it

and such other cases came to be known as public interest litigations. Around the same time, the Supreme Court also took up the case about rights of prisoners. This opened the gates for large number of cases where public spirited citizens and voluntary organisations sought judicial intervention for protection of existing rights, betterment of life conditions of the poor protection of the environment, and many other issues in the interest of the public. PIL has become the most important vehicle of judicial activism. Judiciary, which is an institution that traditionally confined to responding to cases brought before it, began considering many cases merely on the basis of newspaper reports and postal complaints received by the court. Therefore, the term judicial activism became the more popular description of the role of the judiciary.

Through the PIL, the court has expanded the idea of rights. Clean air, unpolluted water, decent living etc. are rights for the entire society. Therefore, it was felt by the courts that individuals as parts of the society must have the right to seek justice wherever such rights were violated. Secondly, through PIL and judicial activism of the post-1980 period, the judiciary has also shown readiness to take into consideration rights of those sections who cannot easily approach the courts. For this purpose, the judiciary allowed public spirited citizens, social organisations and lawyers to file petitions on behalf of the needy and the deprived. Judicial activism has had manifold impact on the political system. It has democratized the judicial system by giving not just to individuals but also groups access to the courts. It has forced executive accountability. It has also made an attempt to make the electoral system much freer and fairer. The court asked candidates contesting elections to file affidavits indicating their assets and income along with educational qualifications so that the people could elect their representatives based on accurate knowledge. There is however a negative side to the large number of PILs and the idea of a pro-active judiciary. In the first place it has overburdened the courts. Secondly, judicial activism has blurred the line of distinction between the executive and legislature on the one hand and the judiciary on the other.

The court has been involved in resolving questions which belong to the executive. Thus, for instance, reducing air or sound pollution or investigating cases of corruption or bringing about electoral reform is not exactly the duty of the Judiciary. These are matters to be handled by the administration under the supervision of the legislatures. Therefore, some people feel that judicial activism has made the balance among the three organs of government very delicate. Democratic

government is based on each organ of government respecting the powers and jurisdiction of the others. Judicial activism may be creating strains on this democratic principle.

JUDICIARY AND RIGHTS

We have already seen that the judiciary is entrusted with the task of protecting rights of individuals. The Constitution provides two ways in which the Supreme Court can remedy the violation of rights. First it can restore fundamental rights by issuing writs of Habeas Corpus; mandamus etc. (article 32). The High Courts also have the power to issue such writs (article 226). Secondly, the Supreme Court can declare the concerned law as unconstitutional and therefore non-operational (article 13). Together these two provisions of the Constitution establish the Supreme Court as the protector of fundamental rights of the citizen on the one hand and interpreter of Constitution on the other. The second of the two ways mentioned above involves judicial review. Perhaps the most important power of the Supreme Court is the power of judicial review. Judicial Review means the power of the Supreme Court (or High Courts) to examine the constitutionality of any law if the Court arrives at the conclusion that the law is inconsistent with the provisions of the Constitution, such a law is declared as unconstitutional and inapplicable. The term judicial review is nowhere mentioned in the Constitution. However, the fact that India has a written constitution and the Supreme Court can strike down a law that goes against fundamental rights, implicitly gives the Supreme Court the power of judicial review.

Besides, as we saw in the section on jurisdiction of the Supreme Court, in the case of federal relations too, the Supreme Court can use the review powers if a law is inconsistent with the distribution of powers laid down by the Constitution. Suppose, the central government makes a law, which according to some States, concerns a subject from the State list. Then the States can go to the Supreme Court and if the court agrees with them, it would declare that the law is unconstitutional. In this sense, the review power of the Supreme Court includes power to review legislations on the ground that they violate fundamental rights or on the ground that they violate the federal distribution of powers. The review power extends to the laws passed by State legislatures also. Together, the writ powers and the review power of the Court make judiciary very powerful. In particular, the review power means that the judiciary can interpret the Constitution and the laws passed by the legislature.

Many people think that this feature enables the judiciary to protect the Constitution effectively and also to protect the rights of citizens. The practice of entertaining PILs has further added to the powers of the judiciary in protecting rights of citizens. Do you remember that in the chapter on rights we mentioned the right against exploitation? This right prohibits forced labour, trade in human flesh and prohibits employment of children in hazardous jobs. But the question is: how could those, whose rights were violated, approach the court? PIL and judicial activism made it possible for courts to consider these violations. Thus, the court considered a whole set of cases: the blinding of the jail inmates by the police, inhuman working conditions in stone quarries, sexual exploitation of children, and so on. This trend has made rights really meaningful for the poor and disadvantaged sections.

JUDICIARY AND PARLIAMENT

Apart from taking a very active stand on the matter of rights, the court has been active in seeking to prevent subversion of the Constitution through political practice. Thus, areas that were considered beyond the scope of judicial review such as powers of the President and Governor were brought under the purview of the courts. There are many other instances in which the Supreme Court actively involved itself in the administration of justice by giving directions to executive agencies. Thus, it gave directions to CBI to initiate investigations against politicians and bureaucrats in the hawala case, the Narasimha Rao case, illegal allotment of petrol pumps case etc. You may have heard about some of these cases. Many of these instances are the products of judicial activism. The Indian Constitution is based on a delicate principle of limited separation of powers and checks and balances. This means that each organ of the government has a clear area of functioning. Thus, the Parliament is supreme in making laws and amending the Constitution, the executive is supreme in implementing them while the judiciary is supreme in settling disputes and deciding whether the laws that have been made are in accordance with the provisions of the Constitution. Despite such clear-cut division of power, the conflict between the Parliament and judiciary, and executive and the judiciary has remained a recurrent theme in Indian politics. We have already mentioned the differences that emerged between the Parliament and the judiciary over right to property and the Parliament's power to amend the Constitution. Let us recapitulate that briefly: Immediately after the implementation of the Constitution began, a controversy arose

over the Parliament's power to restrict right to property. The Parliament wanted to put some restrictions on the right to hold property so that land reforms could be implemented. The Court held that the Parliament cannot thus restrict fundamental rights. The Parliament then tried to amend the Constitution. But the Court said that even through an amendment, a fundamental right cannot be abridged. The following issues were at the centre of the controversy between the Parliament and the judiciary.

- What is the scope of right to private property?
- What is the scope of the Parliament's power to curtail, abridge or abrogate fundamental rights?
- What is the scope of the Parliament's power to amend the constitution?
- Can the Parliament make laws that abridge fundamental rights while enforcing directive principles?

During the period 1967 and 1973, this controversy became very serious. Apart from land reform laws, laws enforcing preventive detention, laws governing reservations in jobs, regulations acquiring private property for public purposes, and laws deciding the compensation for such acquisition of private property were some instances of the conflict between the legislature and the judiciary. In 1973, the Supreme Court gave a decision that has become very important in regulating the relations between the Parliament and the Judiciary since then. This case is famous as the Kesavananda Bharati case. In this case, the Court ruled that there is a basic structure of the Constitution and nobody—not even the Parliament (through amendment)—can violate the basic structure. The Court did two more things. First, it said that right to property (the disputed issue) was not part of basic structure and therefore could be suitably abridged. Secondly, the Court reserved to itself the right to decide whether various matters are part of the basic structure of the Constitution. This case is perhaps the best example of how judiciary uses its power to interpret the Constitution. This ruling has changed the nature of conflicts between the legislature and the judiciary.

As we studied earlier, the right to property was taken away from the list of fundamental rights in 1979 and this also helped in changing the nature of the relationship between these two organs of

government. Some issues still remain a bone of contention between the two can the judiciary intervene in and regulate the functioning of the legislatures? In the parliamentary system, the legislature has the power to govern itself and regulate the behaviour of its members. Thus, the legislature can punish a person who the legislature holds guilty of breaching privileges of the legislature. Can a person who is held guilty for breach of parliamentary privileges seek protection of the courts? Can a member of the legislature against whom the legislature has taken disciplinary action get protection from the court? These issues are unresolved and are matters of potential conflict between the two. Similarly, the Constitution provides that the conduct of judges cannot be discussed in the Parliament. There have been several instances where the Parliament and State legislatures have cast aspersions on the functioning of the judiciary. Similarly, the judiciary too has criticised the legislatures and issued instructions to the legislatures about the conduct of legislative business. The legislatures see this as violating the principle of parliamentary sovereignty. These issues indicate how delicate the balance between any two organs of the government is and how important it is for each organ of the government in a democracy to respect the authority of others.

Conclusion

In this chapter, we have studied the role of the judiciary in our democratic structure. In spite of the tensions that arose from time to time between the judiciary and the executive and the legislature, the prestige of the judiciary has increased considerably. At the same time, there are many more expectations from the judiciary. Ordinary citizens also wonder how it is possible for many people to get easy acquittals and how witnesses change their testimonies to suit the wealthy and the mighty. These are some issues about which our judiciary is concerned too. You have seen in this chapter that judiciary in India is a very powerful institution. This power has generated much awe and many hopes from it. Judiciary in India is also known for its independence. Through various decisions, the judiciary has given new interpretations to the Constitution and protected the rights of citizens. As we saw in this chapter, democracy hinges on the delicate balance of power between the judiciary and the Parliament and both institutions have to function within the limitations set by the Constitution.

2. 5. MONTESQUIEVS THEORY OF SEPARATION OF POWERS

“Power corrupts and absolute Power tends to corrupt absolutely” (said Lord Acton). For any democratic government to remain stable and function efficiently as well as effectively, the holders of power need to be put on a check against each other. This was the underlying principle behind what was propounded by Baron de Montesquieu in his book Esperit de Lois 1748. The Doctrine of Separation of Powers deals directly with the three organs of the government - the legislature, the judiciary and the executive - and tries to instill exclusivity in their operation. The fact of the matter remains that the Doctrine of Separation of Powers, as put forth and envisioned by Montesquieu has not been implemented in its strict sense in India because it describes an idealistic situation. In the Indian context, the three organs of government cannot be separated into water-tight compartments and an adaptive and flexible principle of separation of powers is followed instead.

The Theory of Separation of Powers has a few key elements to it as Montesquieu envisioned; (a) The same person should not form a part of more than one of the three organs of the government. (b) One organ of the government should not interfere with any other organ of the government. (c) One organ of the government should not exercise the functions assigned to any other organ. From a prima facie inspection in regards to these principles, it is clear that in India, there is a functional overlapping in the three organs which deviates from Montesquieu’s third principle. The Doctrine of Judicial review allows the courts to invalidate certain laws passed by the legislature if they are unconstitutional while the executive can also be said to have certain impact on the structure of the judiciary as it reserves the power to make appointments to the offices of the chief justice and other judges. “Even in the United States of America where the Doctrine of Separation of powers finds itself most vigorously canvassed, it has not found favour in absolute undiluted form” (Bakshi 1956,). The intermingling of certain functions thus becomes inevitable. Durga Das Basu is of the view that “in modern practice, the theory of separation of powers means an organic separation and the distinction must be drawn between 'essential' and 'incidental' powers and that one organ of

government cannot usurp or encroach upon the essential functions belonging to another organ, but may exercise some incidental function thereof" (Basu 2003).

This view can be read in light of the second principle that was put forward in Montesquieu's theory and it goes further to prove that the interpretation of his theory has not been followed to the letter and its actual implementation diverges from the initial principle. This points towards the inference that a strait jacket division of powers in the strict sense of the Doctrine of Separation of Powers is undesirable in a democracy. The water-tight separation of the functions of the three organs of the government is not only unfeasible but also impractical as the inherent nature of their functions requires a certain degree of interdependency. A situation where there is an absolute division between their powers or functions would lead to less effective governance. Taking example of the judiciary, its legislative functions include inter alia, making rules for its own practice and procedure and filling gaps in law where the law remains silent on an issue which the courts are faced with. The executive powers of the judiciary include the power to appoint officers and servants of the high court. Although there are some intended overlaps between the functions or powers between the organs, there still remains an essential and organic division between their powers as is clear from Bankey Singh v Jhingan Singh, A.I.R [1952] Patna 166, where the court held that ""The State Legislature is not competent to reverse the decisions and orders of the court because the power to nullify the decrees and orders of the court is purely a judicial power and the Constitution does not appear to have given jurisdiction to the legislature either expressly or by necessary intendment to arrogate to itself the power to adjudicate a power which is exclusively within the jurisdiction of the court." The court in this case, took it upon itself to outline that the state legislature overreached and encroached upon the powers of the judiciary in accordance with Montesquieu's second principle and this reaffirms that there exists a division of power between the organs although it may not be water-tight.

The Doctrine of Separation of Powers, insofar as its implementation in India is concerned, has neither been given official status in the constitution nor in any statute but has been recognised and been given effect through decisions of the courts in specific regard to the Basic Structure Doctrine. It can be argued that the Doctrine of Separation of Powers has been used as a "guiding philosophy" (Garg 1964, 331-338) in governance in India. The Indian democratic system lays out a framework

which presupposes separation of powers, gives it effect and re-interprets it acc requirements of effective governance. A complete and water-tight separation, not only being an impossibility but of detrimental impact to the organs, cannot be adopted in any democratic state as has been realized in India. If there is one thing that remains constant throughout the independent interpretations of the Doctrine of Separation of Powers in the democracies throughout the world, it is that the independence of judiciary is of paramount importance to maintain balance among the three organs of the government. It can therefore be supported that "there can be no liberty if the judicial powers be not separated from the legislative and the executive" (Garg 1964, 331-338). There would be an end of everything if the same body was entrusted with the powers of the three separate organs and the life and liberty of the people would become subject to arbitrary control, and the vitality of the Doctrine of Separation of powers can be understood through the realization of the consequences of it not being there in the first place. Although, in theory a plain division of powers between the three organs of the government as Baron de Montesquieu envisaged seems viable, In India and throughout the democratic sphere, the doctrine cannot be implemented in its strict sense.

******

UNIT III

3.1 CITIZENSHIP

SYNOPSIS

- **Introduction**
- **National Register of Citizens**
- **Acquisition and Determination of Indian Citizenship**
- **Conclusion**

INTRODUCTION

Articles 5 to 11 under **Part II** of the Constitution describe the citizenship.

- Article 5 states that at the commencement of this Constitution, every person who has his domicile in the territory of India and −
  - who was born in the territory of India; or
  - either of whose parents was born in the territory of India; or
  - who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement, shall be a citizen of India?
- Article 6 states that notwithstanding anything in Article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution.
- Article 7 states that notwithstanding anything in Articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India.
- Article 8 states that notwithstanding anything in Article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935, and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a

citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

- Article 9 states that no person shall be a citizen of India by virtue of Article 5, or be deemed to be a citizen of India by virtue of Article 6 or Article 8, if he has voluntarily acquired the citizenship of any foreign State.
- Article 10 states that every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by the Parliament, continue to be such citizen.
- Article 11 states that nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

Citizenship, relationship between an individual and a state to which the individual owes allegiance and in turn is entitled to its protection. Citizenship implies the status of freedom with accompanying responsibilities. Citizens have certain rights, duties, and responsibilities that are denied or only partially extended to aliens and other noncitizens residing in a country. In general, full political rights, including the right to vote and to hold public office, are predicated upon citizenship. The usual responsibilities of citizenship are allegiance, taxation, and military service. Citizenship is the most privileged form of nationality. This broader term denotes various relations between an individual and a state that do not necessarily confer political rights but do imply other privileges, particularly protection abroad. It is the term used in international law to denote all persons whom a state is entitled to protect. Nationality also serves to denote the relationship to a state of entities other than individuals; corporations, ships, and aircraft, for example, possess a nationality.

The concept of citizenship first arose in towns and city-states of ancient Greece, where it generally applied to property owners but not to women, slaves, or the poorer members of the community. A citizen in a Greek city-state was entitled to vote and was liable to taxation and military service. The Romans first used citizenship as a device to distinguish the residents of the city of Rome from

those peoples whose territories Rome had conquered and incorporated. As their empire continued to grow, the Romans granted citizenship to their allies throughout Italy proper and then to peoples in other Roman provinces, until in 212 CE citizenship was extended to all free inhabitants of the empire. Roman citizenship conferred important legal privileges within the empire. The concept of national citizenship virtually disappeared in Europe during the Middle Ages, replaced as it was by a system of feudal rights and obligations. In the late Middle Ages and the Renaissance, the holding of citizenship in various cities and towns of Italy and Germany became a guarantee of immunity for merchants and other privileged persons from the claims and prerogatives of feudal overlords. Modern concepts of citizenship crystallized in the 18th century during the American and French Revolutions, when the term citizen came to suggest the possession of certain liberties in the face of the coercive powers of absolutist monarchs.

In England the term citizen originally referred to membership of a borough or local municipal corporation, while the word subject was used to emphasize the individual's subordinate position relative to the monarch or state. The word subject is still used in preference to citizen in British common-law usage and nationality legislation, but the two terms are virtually equivalent, since the British constitutional monarchy is now a ceremonial one that has lost its former political powers over its subjects. The principal grounds for acquiring citizenship (apart from international transactions such as transfer of territory or option) are birth within a certain territory, descent from a citizen parent, marriage to a citizen, and naturalization. There are two main systems used to determine citizenship as of the time of birth: jus soli, whereby citizenship is acquired by birth within the territory of the state, regardless of parental citizenship; and jus sanguinis, whereby a person, wherever born, is a citizen of the state if, at the time of his or her birth, his or her parent is one.

The United States and the countries of the British Commonwealth adopt the jus soli as their basic principle; they also recognize acquisition of nationality by descent but subject it to strict limitations. Other countries generally adopt the jus sanguinis as their basic principle, supplementing it by provisions for acquisition of citizenship in case of combination of birth and domicile within the country, birth within the country of parents born there, and so on. The provisions of nationality laws that overlap often result in dual nationality; a person may be a citizen of two countries. Alternatively, the lack of uniform rules on citizenship acquisition and loss have sometimes produced lack of citizenship (statelessness). The acquisition of citizenship by

a woman through marriage to a citizen was the prevailing principle in modern times until after World War I.

Under this system, the wife and children shared the nationality status of the husband and father as head of the family. From the 1920s, under the impact of women's suffrage and ideas about the equality of men and women, a new system developed in which a woman's nationality was not affected by marriage. The resulting mixed-nationality marriages sometimes create complications, particularly in regard to the nationality status of the children, and accordingly various mixed systems have been devised, all stressing the woman's and child's freedom of choice. In the run-up to the publication of the final National Register of Citizens (NRC) in Assam, the Supreme Court, in August, 2019 rejected a plea to include those born in India between after March 24, 1971 and before July 1, 1987 in NRC unless they had ancestral links to India.

- In any other Indian state, they would have been citizens by birth, but the law is different for Assam.
- In this context, citizenship has become the most talked about topic in the country.

National Register of Citizens (NRC)

- The National Register of Citizens, 1951 is a register prepared after the conduct of the Census of 1951 in respect of each village, showing the houses or holdings in a serial order and indicating against each house or holding the number and names of persons staying therein.
- The NRC was published only once in 1951.
- The NRC of 1951 and the Electoral Roll of 1971 (up to midnight of 24 March 1971) are together called Legacy Data.
- Persons and their descendants whose names appeared in these documents are certified as Indian citizens.

How is Citizenship Defined?

- Citizenship signifies the relationship between individual and state.
- Like any other modern state, India has two kinds of people—citizens and aliens. Citizens are full members of the Indian State and owe allegiance to it. They enjoy all civil and political rights.
- Citizenship is an idea of exclusion as it excludes non-citizens.
- There are two well-known principles for the grant of citizenship:

- While 'jus soli' confers citizenship on the basis of place of birth, 'jus sanguinis' gives recognition to blood ties.
- From the time of the Motilal Nehru Committee (1928), the Indian leadership was in favour of the enlightened concept of jus soli.
- The racial idea of jus sanguinis was also rejected by the Constituent Assembly as it was against the Indian ethos.

Constitutional Provisions

- Citizenship is listed in the Union List under the Constitution and thus is under the exclusive jurisdiction of Parliament.
- The Constitution does not define the term 'citizen' but details of various categories of persons who are entitled to citizenship are given in Part 2 (Articles 5 to 11).
- Unlike other provisions of the Constitution, which came into being on January 26, 1950, these articles were enforced on November 26, 1949 itself, when the Constitution was adopted.
- Article 5: It provided for citizenship on commencement of the Constitution.
  - All those domiciled and born in India were given citizenship.
  - Even those who were domiciled but not born in India, but either of whose parents was born in India, were considered citizens.
  - Anyone who had been an ordinary resident for more than five years, too, was entitled to apply for citizenship.
- Article 6: It provided rights of citizenship of certain persons who have migrated to India from Pakistan.
  - Since Independence was preceded by Partition and migration, Article 6 laid down that anyone who migrated to India before July 19, 1949, would automatically become an Indian citizen if either of his parents or grandparents was born in India.
  - But those who entered India after this date needed to register themselves.
- Article 7: Provided Rights of citizenship of certain migrants to Pakistan.
  - Those who had migrated to Pakistan after March 1, 1947 but subsequently returned on resettlement permits were included within the citizenship net.

- The law was more sympathetic to those who migrated from Pakistan and called them refugees than to those who, in a state of confusion, were stranded in Pakistan or went there but decided to return soon.

- Article 8: Provided Rights of citizenship of certain persons of Indian origin residing outside India.
    - Any Person of Indian Origin residing outside India who, or either of whose parents or grandparents, was born in India could register himself or herself as an Indian citizen with Indian Diplomatic Mission.
- Article 9: Provided that if any person voluntarily acquired the citizenship of a foreign State will no longer be a citizen of India.
- Article10: It says that every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.
- Article 11: It empowers Parliament to make any provision with respect to the acquisition and termination of citizenship and all matters relating to it.

Acts and Amendments

- The Citizenship Act, 1955 provides for the acquisition and determination of Indian citizenship.
- The act has been amended totally Nine times in In.1957.1960.1985.1986.1992.2003.2005 2015.2019.
- Through these amendments Parliament has narrowed down the wider and universal principles of citizenship based on the fact of birth.
- Moreover, the Foreigners Act places a heavy burden on the individual to prove that he/she is not a foreigner.
- 1986 amendment: Unlike the constitutional provision and the original Citizenship Act that gave citizenship on the principle of jus soli to everyone born in India, the 1986 amendment to Section 3 was less inclusive.
- The amendment has added the condition that those who were born in India on or after January 26, 1950 but before July 1, 1987, shall be Indian citizen.

- Those born after July 1, 1987 and before December 4, 2003, in addition to one's own birth in India, can get citizenship only if either of his parents was an Indian citizen at the time of birth.
- 2003 amendment: The amendment made the above condition more stringent, keeping in view infiltration from Bangladesh.
- Now the law requires that for those born on or after December 4, 2004, in addition to the fact of their own birth, both parents should be Indian citizens or one parent must be Indian citizen and other should not be an illegal migrant.
- With these restrictive amendments, India has almost moved towards the narrow principle of jus sanguinis or blood relationship.
- This lays down that an illegal migrant cannot claim citizenship by naturalization or registration even if he has been a resident of India for seven years.
    - Citizenship (Amendment) Bill 2019: The amendment proposes to permit members of six communities Hindus, Sikhs, Buddhists, Jains, Paresis and Christians from Pakistan, Bangladesh and Afghanistan to continue to live in India if they entered India before December 14, 2014.
    - It also reduces the requirement for citizenship from 11 years to just 6 years.
    - Two notifications also exempted these migrants from the Passport Act and Foreigners Act.
    - A large number of organisations in Assam protested against this Bill as it may grant citizenship to Bangladeshi Hindu illegal migrants.
    - The justification given for the bill is that Hindus and Buddhists are minorities in Bangladesh, and fled to India to avoid religious persecution, but Muslims are a majority in Bangladesh and so the same cannot be said about them.

Different Scenario in Assam

- Assam witnessed large-scale illegal migration from erstwhile East Pakistan and, after 1971, from present-day Bangladesh.
- This led to the six-year-long Assam movement from 1979 to 1985, for deporting illegal migrants.

- The All Assam Students' Union (AASU) led the movement that demanded the updating of the NRC and the deportation of all illegal migrants who had entered Assam after 1951.
- The Assam Movement against illegal immigration eventually led to the historic Assam Accord of 1985, signed by the Movement leaders and the Rajiv Gandhi government.
- It set March 25, 1971, as the cut-off date for the deportation of illegal migrants.
- Since the cut-off date prescribed under articles 5 and 6 of the Constitution was July 19, 1949 - to give force to the new date, an amendment was made to the Citizenship Act, 1955, and a new section (6A) was introduced.

dentification of foreigners as needed by Section 6A was to be done under the Illegal Migrants (Determination by Tribunal) Act, (IMDT Act), 1983, which was applicable only in Assam while the Foreigners Act, 1946 was applicable in the rest of the country.

- The provisions of the IMDT Act made it difficult to deport illegal immigrants.
- On the petition of Sarbananda Sonowal (now the Chief Minister of Assam), the Act was held unconstitutional and struck down by the Supreme Court in 2005.
- This was eventually replaced with the Foreigners (Tribunals for Assam) Order, 2006, which again was struck down in 2007.
- In the IMDT case, the court considered classification based on geographical considerations to be a violation of the right to equality under Article 14.

Section 6A

- The section was made applicable only to Assam.
- It laid down that all persons of Indian origin who entered Assam before January 1, 1966 and have been ordinary residents will be deemed Indian citizens.
- Those who came after 1 January, 1966 but before March 25, 1971, and have been ordinary residents, will get citizenship at the expiry of 10 years from their detection as a foreigner.
- During this interim period, they will not have the right to vote but can get an Indian passport.
- In Assam Sanmilita Mahasangha (2014) where the constitutionality of the 1986 amendment was challenged (the Mahasangha argues that the cutoff year for Assam should be 1951 instead of 1971), the court referred the matter to the Constitution Bench.

- To examine whether Section 6A is constitutional and valid though it prescribes a different cutoff date for Assam (1971) from the one prescribed in the Constitution for the rest of the country (1949).
- A five-judge Bench of the Supreme Court is yet to examine the constitutionality of Section 6A under which the current NRC has been prepared.

Acquisition and Determination of Indian Citizenship

- There are four ways in which Indian citizenship can be acquired: birth, descent, registration and naturalization. The provisions are listed under the Citizenship Act, 1955.
- **By Birth:**
  - Every person born in India on or after 26.01.1950 but before 01.07.1987 is an Indian citizen irrespective of the nationality of his/her parents.
  - Every person born in India between 01.07.1987 and 02.12.2004 is a citizen of India given either of his/her parents is a citizen of the country at the time of his/her birth.
  - Every person born in India on or after 3.12.2004 is a citizen of the country given both his/her parents are Indians or at least one parent is a citizen and the other is not an illegal migrant at the time of birth.
- **By Registration**: Citizenship can also be acquired by registration. Some of the mandatory rules are:
  - A person of Indian origin who has been a resident of India for 7 years before applying for registration.
  - A person of Indian origin who is a resident of any country outside undivided India.
  - A person who is married to an Indian citizen and is ordinarily resident for 7 years before applying for registration.
  - Minor children of persons who are citizens of India.
- **By Descent:**
  - A person born outside India on or after January 26, 1950 is a citizen of India by descent if his/her father was a citizen of India by birth.
  - A person born outside India on or after December 10, 1992, but before December 3, 2004 if either of his/her parent was a citizen of India by birth.

- If a person born outside India or after December 3, 2004 has to acquire citizenship, his/her parents have to declare that the minor does not hold a passport of another country and his/her birth is registered at an Indian consulate within one year of birth.

- **By Naturalization:**
  - A person can acquire citizenship by naturalization if he/she is ordinarily resident of India for 12 years (throughout 12 months preceding the date of application and 11 years in the aggregate) and fulfils all qualifications in the third schedule of the Citizenship Act.
  - The Act does not provide for dual citizenship or dual nationality. It only allows citizenship for a person listed under the provisions above i.e.: by birth, descent, registration or naturalization.

Conclusion

- Giving concession of six years for residence based only on religion is against the tenets of secularism. This should be dropped to stand the test of 'basic structure doctrine'.
- India, as a country which follows the ideology of 'Vasudhaiva Kutumbakam', should not be hasty in taking decisions that can disenfranchise her citizens – contradicting its centuries-followed values.
- The need of the hour is that the Union Government should clearly chart out the course of action regarding the fate of excluded people from final NRC of Assam and political parties should refrain from colouring the entire NRC process through electoral prospects that may snowball into communal violence.
- An overly legal approach will only produce more tension, insecurity and anxiety.

3.2 POLITICAL PARTIES

Synopsis

- **Introduction**
- **Eligibility of National Party**
- **Eligibility of State Party**
- **Types of Political Party**
- **Party System in US, Britain**
- **Conclusion**

Introduction

Indian governance system has multi-party system and the political parties are categorized as −

1. National Political Party;
2. State or Regional (level) Political Party.

The recognition and status of political parties are reviewed and authorized by the Election Commission of India.

Eligibility of National Political Party

However, to be eligible for a '**National Political Party of India**,' the Election Commission has set the following criteria −

1. It secures at least six percent of the valid votes polled in any **four** or more states, at a general election to the House of the People or, to the State Legislative Assembly; and
2. In addition, it wins at least four seats in the House of the People from any State or States.

   OR
3. It wins at least two percent seats in the House of the People (i.e., 11 seats in the existing House having 543 members), and these members are elected from at least three different States.

Eligibility of State Political Party

1. To be eligible for a 'State Political Party,' the Election Commission has set the following criteria.
2. It secures at least six percent of the valid votes polled in the State at a general election, either to the House of the People or to the Legislative Assembly of the State concerned; and
3. In addition, it wins at least two seats in the Legislative Assembly of the State concerned.

   OR
4. It wins at least three percent (3%) of the total number of seats in the Legislative Assembly of the State, or at least three seats in the Assembly, whichever is more.

Political party, a group of persons organized to acquire and exercise political power. Political parties originated in their modern form in Europe and the United States in the 19th century, along with the electoral and parliamentary systems, whose development reflects the evolution of parties. The term party has since come to be applied to all organized groups seeking political power, whether by democratic elections or by revolution.

In earlier, prerevolutionary, aristocratic and monarchical regimes, the political process unfolded within restricted circles in which cliques and factions, grouped around particular noblemen or influential personalities, were opposed to one another. The establishment of parliamentary regimes and the appearance of parties at first scarcely changed this situation. To cliques formed around princes, dukes, counts, or marquesses there were added cliques formed around bankers, merchants, industrialists, and businessmen. Regimes supported by nobles were succeeded by regimes supported by other elites. These narrowly based parties were later transformed to a greater or lesser extent, for in the 19th century in Europe and America their emerged parties depending on mass support.

The 20th century saw the spread of political parties throughout the entire world. In developing countries, large modern political parties have sometimes been based on traditional relationships, such as ethnic, tribal, or religious affiliations. Moreover, many political parties in developing countries are partly political, partly military. Certain socialist and communist parties in Europe

earlier experienced the same tendencies. These last-mentioned European parties demonstrated an equal aptitude for functioning within multiparty democracies and as the sole political party in a dictatorship. Developing originally within the framework of liberal democracy in the 19th century, political parties have been used since the 20th century by dictatorships for entirely undemocratic purposes.

Types of Political Party

A fundamental distinction can be made between cadre parties and mass-based parties. The two forms coexist in many countries, particularly in western Europe, where communist and socialist parties have emerged alongside the older conservative and liberal parties. Many parties do not fall exactly into either category but combine some characteristics of both.

Cadre parties

Cadre parties i.e., parties dominated by politically elite groups of activists developed in Europe and America during the 19th century. Except in some of the states of the United States, France from 1848, and the German Empire from 1871, the suffrage was largely restricted to taxpayers and property owners, and, even when the right to vote was given to larger numbers of people, political influence was essentially limited to a very small segment of the population. The mass of people was limited to the role of spectators rather than that of active participants. The cadre parties of the 19th century reflected a fundamental conflict between two classes: the aristocracy on the one hand and the bourgeoisie on the other. The former, composed of landowners, depended upon rural estates on which a generally unlettered peasantry was held back by a traditionalist clergy. The bourgeoisie, made up of industrialists, merchants, tradesmen, bankers, financiers, and professional people, depended upon the lower classes of clerks and industrial workers in the cities. Both aristocracy and bourgeoisie evolved its own ideology. Bourgeois liberal ideology developed first, originating at the time of the English revolution of the 17th century in the writings of John Locke, an English philosopher. It was then developed by French philosophers of the 18th century. In its clamoring for formal legal equality and acceptance of the inequities of circumstance, liberal ideology reflected the interests of the bourgeoisie, who wished to destroy the privileges of the aristocracy and eliminate the lingering economic restraints of feudalism and mercantilism.

But, insofar as it set forth an egalitarian ideal and a demand for liberty, bourgeois classical liberalism expressed aspirations common to all people. Conservative ideology, on the other hand, never succeeded in defining themes that would prove as attractive, for it appeared to be more closely allied to the interests of the aristocracy. For a considerable period, however, conservative sentiment did maintain a considerable impact among the people, since it was presented as the expression of the will of God. In Roman Catholic countries, in which religion was based upon a hierarchically structured and authoritarian clergy, the conservative parties were often the clerical parties, as in France, Italy, and Belgium. Conservative and liberal cadre parties dominated European politics in the 19th century. Developing during a period of great social and economic upheaval, they exercised power largely through electoral and parliamentary activity. Once in power, their leaders used the power of the army or of the police; the party itself was not generally organized for violent activity. Its local units were charged with assuring moral and financial backing to candidates at election time, as well as with maintaining continual contact between elected officials and the electorate. The national organization endeavored to unify the party members who had been elected to the assemblies. In general, the local committees maintained a basic autonomy and each legislator a large measure of independence. The party discipline in voting established by the British parties which were older because of the fact that the British Parliament was long established was imitated on the Continent hardly at all.

The first U.S. political parties of the 19th century were not particularly different from European cadre parties, except that their confrontations were less violent and based less on ideology. The first U.S. form of the struggle between the aristocracy and the bourgeoisie, between conservative and liberal, was carried out in the form of the Revolutionary War, in which Great Britain embodied the power of the king and the nobility, the insurgents that of the bourgeoisie and liberalism. Such an interpretation is, of course, simplified. There were some aristocrats in the South and, in particular, an aristocratic spirit based on the institutions of slaveholding and paternalistic ownership of land. In this sense, the Civil War (1861–65) could be considered as a second phase of violent conflict between the conservatives and the liberals. Nevertheless, the United States was from the beginning an essentially bourgeois civilization, based on a deep sense of equality and of individual freedom.

Federalists and Anti-Federalists, Republicans all belonged to the liberal family since all shared the same basic ideology and the same system of fundamental values and differed only in the means by which they would realize their beliefs. In terms of party structure, U.S. parties in the beginning differed little from their European counterparts. Like them, the U.S. parties were composed of local notables. The ties of a local committee to a national organization were even weaker than in Europe. At the state level there was some effective coordination of local party organizations, but at the national level such coordination did not exist. A more original structure was developed after the Civil War in the South to exploit the votes of African Americans and along the East Coast to control the votes of immigrants. The extreme decentralization in the United States enabled a party to establish a local quasi-dictatorship in a city or county by capturing all of the key posts in an election. Not only the position of mayor but also the police, finances, and the courts came under the control of the party machine, and the machine was thus a development of the original cadre parties.

The local party committee came typically to be composed of adventurers or gangsters who wanted to control the distribution of wealth and to ensure the continuation of their control. These men were themselves controlled by the power of the boss, the political leader who controlled the machine at the city, county, or state levels. At the direction of the committee, each constituency was carefully divided, and every precinct was watched closely by an agent of the party, the captain, who was responsible for securing votes for the party. Various rewards were offered to voters in return for the promise of their votes. The machine could offer such inducements as union jobs, trader's licenses, immunity from the police, and the like. Operating in this manner, a party could frequently guarantee a majority in an election to the candidates of its choosing, and, once it was in control of local government, of the police, the courts, and public finances, etc., the machine and its clients were assured of impunity in illicit activities such as prostitution and gambling rings and of the granting of public contracts to favored businessmen. The degeneration of the party mechanism was not without benefits. The European immigrant who arrived in the United States lost and isolated in a huge and different world might find work and lodging in return for his commitment to the party. In a system of almost pure capitalism and at a time when social services were practically nonexistent, machines and bosses took upon themselves responsibilities that were indispensable to community life.

But the moral and material cost of such a system was very high, and the machine was often purely exploitative, performing no services to the community. By the end of the 19th century the excesses of the machines and the bosses and the closed character of the parties led to the development of primary elections, in which party nominees for office were selected. The primary movement deprived party leaders of the right to dictate candidates for election. A majority of the states adopted the primary system in one form or another between 1900 and 1920. The aim of the system was to make the parties more democratic by opening them up to the general public in the hope of counterbalancing the influence of the party committees. In practice, the aim was not realized, for the committees retained the upper hand in the selection of candidates for the primaries. In its original form the British Labour Party constituted a new type of cadre party, forming an intermediate link with the mass-based parties. It was formed with the support of trade unions and left-wing intellectuals. At the base, each local organization sent representatives to a district labour committee, which was in turn represented at the national congress.

The early (pre-1918) Labour Party was thus structured of many local and regional organizations. It was not possible to join the party directly; membership came only through an affiliated body, such as a trade union. It thus represented a new type of party, depending not upon highly political individuals brought together as a result of their desire to acquire and wield power but upon the organized representatives of a broader interest the working class. Certain Christian Democratic parties the Belgian Social Christian Party between the two World Wars and the Austrian Popular Party, for example had an analogous structure: a federation of unions, agricultural organizations, middle-class movements, employers' associations, and so on. After 1918 the Labour Party developed a policy of direct membership on the model of the Continental socialist parties, individual members being permitted to join local constituency branches. The majority of its membership, however, continued to be affiliated rather than direct for most of the 20th century. At the 1987 annual conference, a cap on the proportion of union delegates was set at 50 percent.

Mass-based parties

Cadre parties normally organize a relatively small number of party adherents. Mass-based parties, on the other hand, unite hundreds of thousands of followers, sometimes millions. But the number of members is not the only criterion of a mass-based party. The essential factor is that such a party attempts to base itself on an appeal to the masses. It attempts to organize not only those who are influential or well known or those who represent special interest groups but rather any citizen who is willing to join the party. If such a party succeeds in gathering only a few adherents, then it is mass based only in potential. It remains, nevertheless, different from the cadre-type parties. At the end of the 19th century the socialist parties of continental Europe organized themselves on a mass basis in order to educate and organize the growing population of laborer's and wage earners who were becoming more important politically because of extensions of the suffrage and to gather the money necessary for propaganda by mobilizing in a regular fashion the resources of those who, although poor, were numerous. Membership campaigns were conducted, and each member paid party dues. If its members became sufficiently numerous, the party emerged as a powerful organization, managing large funds and diffusing its ideas among an important segment of the population. Such was the case with the German Social Democratic Party, which by 1913 had more than one million members.

Such organizations were necessarily rigidly structured. The party required an exact registration of membership, treasurers to collect dues, secretaries to call and lead local meetings, and a hierarchical framework for the coordination of the thousands of local sections. A tradition of collective action and group discipline, more developed among workers as a result of their participation in strikes and other union activity, favored the development and centralization of party organization. A complex party organization tends to give a great deal of influence to those who have responsibility at various levels in the hierarchy, resulting in certain oligarchical tendencies. The socialist parties made an effort to control this tendency by developing democratic procedures in the choice of leaders. At every level those in responsible positions were elected by members of the party. Every local party group would elect delegates to regional and national congresses, at which party candidates and party leaders would be chosen and party policy decided. The type of mass-based party described above was imitated by many nonsocialist parties.

Some cadre-type parties in Europe, both conservative and liberal, attempted to transform themselves along similar lines. The Christian Democratic parties often developed organizations copied even more directly from the mass-based model. But nonsocialist parties were generally less successful in establishing rigid and disciplined organizations. The first communist parties were splinter groups of existing socialist parties and at first adopted the organization of these parties. After 1924, as a result of a decision of the Comin tern (the Third International, or federation of working-class parties), all communist parties were transformed along the lines of the Soviet model, becoming mass parties based on the membership of the largest possible number of citizens, although membership was limited to those who embraced and espoused the ideology of Marxism-Leninism.

The communist parties developed a new structural organization: whereas the local committees of cadre and socialist parties focused their organizing efforts and drew their support from a particular geographical area, communist groups formed their cells in the places of work. The workplace cell was the first original element in communist party organization. It grouped together all party members who depended upon the same firm, workshop, or store or the same professional institution (school or university, for example). Party members thus tended to be tightly organized, their solidarity, resulting from a common occupation, being stronger than that based upon residence. The workplace cell system proved to be effective, and other parties tried to imitate it, generally without success. Such an organization led each cell to concern itself with problems of a corporate and professional nature rather than with those of a more political nature. These basic groups, however smaller and, therefore, more numerous than the socialist sections tended to go their separate way. It was necessary to have a very strong party structure and for party leaders to have extensive authority if the groups were to resist such centrifugal pressure.

This resulted in a second distinctive characteristic of the communist parties: a high degree of centralization. Although all mass-based parties tend to be centralized, communist parties were more so than others. There was, in principle, free discussion, which was supposedly developed at every level before a decision was made, but afterward all had to adhere to the decision that had been made by the central body (see democratic centralism). The splintering that has from time to time divided or paralyzed the socialist parties was forbidden in communist parties, which generally

succeeded in maintaining their unity. A further distinctive characteristic of communist parties was the importance given to ideology. All parties had a doctrine or at least a platform. The European socialist parties, which were doctrinaire before 1914 and between the two World Wars, later became more pragmatic, not to say opportunistic. But in communist parties, ideology occupied a much more fundamental place, a primary concern of the party being to indoctrinate its members with Marxism.

The 1920s and ’30s saw the emergence of fascist parties that attempted, as did the communist and socialist parties, to organize the maximum number of members but that did not claim to represent the great masses of people. Their teaching was authoritarian and elitist. They thought that societies should be directed by the most talented and capable people by an elite. The party leadership, grouped under the absolute authority of a supreme head, constituted such an elite. Party structure had as its goal the assurance of the obedience of the elite. This structure resembled that of armies, which are also organized in such a way as to ensure, by means of rigorous discipline, the obedience of a large number of individuals to an elite leadership. The party structure, therefore, made use of a military-type organization, consisting of a pyramid made up of units that at the base were very tiny but that, when joined with other units, formed groups that got larger and larger. Uniforms, ranks, orders, salutes, marches, and unquestioning obedience were all aspects of fascist parties. This similarity rests upon another factor namely, that fascist doctrine taught that power must be seized by organized minorities making use of force. The party thus made use of a militia intended to assure victory in the struggle for control over the unorganized masses.

Large parties built upon the fascist model developed between the two wars in Italy and Germany, where they actually came to power. Fascist parties also appeared in most other countries of western Europe during this period but were unable to achieve power. The less-developed countries of eastern Europe and Latin America were equally infected by the movement. The victory of the Allies in 1945, as well as the revelation of the horrors of Nazism, temporarily stopped the growth of the fascists and provoked their decline. In the decades after the war, however, neofascist political parties and movements, which had much in common with their fascist forebears, arose in several European countries, though by the early 21st century none had come to power.

Parties and Political Power

Whether they are conservative or revolutionary, whether they are a union of notables or an organization of the masses, whether they function in a pluralistic democracy or in a monolithic dictatorship, parties have one function in common: they all participate to some extent in the exercise of political power, whether by forming a government or by exercising the function of opposition, a function that is often of crucial importance in the determination of national policy.

The struggle for power

It is possible in theory to distinguish revolutionary parties, which attempt to gain power by violence (conspiracies, guerrilla warfare, etc.), from those parties working within the legal framework of elections. But the distinction is not always easy to make, because the same parties may sometimes make use of both procedures, either simultaneously or successively, depending upon the circumstances. In the 1920s, for example, communist parties sought power through elections at the same time that they were developing an underground activity of a revolutionary nature. In the 19th century, liberal parties were in the same situation, sometimes employing the techniques of conspiracy, as in Italy, Austria, Germany, Poland, and Russia, and sometimes confining their struggles to the ballot box, as in Great Britain and France.

Revolutionary methods vary greatly. Clandestine plots by which minority groups seize the centres of power presuppose monarchies or dictatorships in which the masses of people have little say in government. But terrorist and disruptive activity can serve to mobilize citizens and to demonstrate the powerlessness of any government. At the beginning of the 20th century, leftist trade unionists extolled the revolutionary general strike, a total stoppage of all economic activity that would paralyze society completely and put the government at the revolutionaries' mercy. Rural guerrilla activity has often been used in countries with a predominantly agrarian society; urban guerrilla warfare was effective in the European revolutions of the 19th century, but the development of techniques of police and military control has made such activity more difficult.

Revolutionary parties are less numerous than parties that work within the law: the contest at election time is the means normally used in the struggle for power. Such activity corresponds, morever, to the original nature of political parties and involves three factors: the organization

of propaganda, the selection of candidates, and the financing of campaigns. The first function is the most visible. The party first of all gives the candidate a label that serves to introduce him to the voters and to identify his position. Because of this party label the voters are better able to distinguish the candidates. The promises and declarations of individuals are seldom taken with too much seriousness, and it means more to indicate that one candidate is a communist, another a socialist, a third a fascist, and a fourth a liberal. Finally, the party also furnishes the candidate with workers to raise funds, put up his posters, distribute his literature, organize his meetings, and canvass from door to door.

The function of selecting candidates is exercised in three ways. In cadre parties, candidates are selected by committees of the party activists who make up the party—the caucus system, as it is known in the United States. In general, local committees play essential roles in this regard. In some countries, however, the selection is centralized by a national caucus, as, for example, by the Conservative Party in Britain and the Christian Democratic Appeal (CDA) party in the Netherlands. In mass-based parties, selection is made by members of the regional and national congresses according to apparently democratic procedures; in actual practice, the governing committees play an essential role, the local constituency members generally ratifying their choice. Thirdly, in the United States the mechanism of primary elections has established a system for selecting candidates by means of the votes of all party members or all voters within a particular electoral district.

The various processes of selecting candidates do not, however, differ significantly in their results, for it is almost always the party leaders who play the essential role. This introduces an oligarchical tendency into party politics, a tendency that has not been overcome by the congresses of the mass-based parties or the U.S. primaries, which provide only a partial limitation on the power of the governing committees. An important aspect of the struggle for power between political parties is the financing of campaigns. Cadre parties always have in their committees some key figure who is responsible for collecting gifts from corporations and wealthy individuals. In mass-based parties, rather than looking for large sums of money from a few people, leaders gather smaller sums from a large number of people who usually give on a monthly or annual basis. This method has been viewed as one of the distinguishing characteristics of mass-based parties.

Sometimes the law intervenes in the financing of elections and of parties. Laws often limit campaign expenses and attempt to restrict the resources of the parties, but they are generally inoperative because it is quite easy to circumvent them. In some countries the state contributes public funds to the parties. At first, such financial participation was limited to expenses for campaigns and was based on the uniform treatment of candidates (as in France), but in Sweden and Finland the state contributes to the general finances of parties.

Participation in power

Only the functions of parties in democratic regimes will be considered in this section. The role of the single party in a dictatorship will be analyzed separately (see below Single-party systems). Once a political party has achieved electoral victory, the question arises of how much influence the party is to have on the government. The influence of the party on members in elective office is frequently quite weak. It defines the general lines of their activity, but these lines can be quite hazy, and few decisions are taken in the periodic meetings between officeholders and their party. Each member of the legislature retains personal freedom of action in his participation in debates, in his participation in government, and, especially, in his voting. The party may, of course, attempt to enforce the party line, but parliamentary or congressional members cannot be compelled to vote the way the party wants them to. Such is the situation in the United States, within most of the liberal and conservative European parties, and within cadre parties in general.

The question of how disciplined a party is, of the extent to which it will always present a united front, enables a distinction to be made between what may be termed rigid and flexible parties that is, between those that attempt always to be united and disciplined, following what is most often an ideologically based party line, and those that, representing a broader range of interests and points of view, form legislatures that are assemblies of individuals rather than of parties. Whether the parties operating within a particular system will be rigid or flexible depends largely on the constitutional provisions that determine the circumstances in which a government may continue in office. This is clearly illustrated by comparing the situation in the United States with that in Great Britain. In the United States the president and his government continue in office for the constitutionally defined period of four years, regardless of whether a majority in the legislature supports him or not.

Since a united party is thus not crucial to the immediate survival of the government, both major parties are able to contain broad coalitions of interests, and votes on issues of major importance frequently split each party. In the United Kingdom the situation is quite different. There government can continue in office only so long as it commands a majority in the legislature. A single adverse vote can result in the dissolution of Parliament and a general election. Party discipline and unity are thus of crucial importance, and this fact has far-reaching consequences for the composition, organization, and policies of each party. The consequences of party disunity within such a constitutional framework are well illustrated by the weakness and instability of the governments of the Third and Fourth French republics.

The distinction between flexible and rigid parties applies equally to parties in power and to those forming the opposition. Votes of censure or of lack of confidence, votes on proposed legislation or on the budget, questions put to ministers or challenges made to them in short, all the functions of an opposition party are worked out differently in flexible and rigid party systems. In flexible party systems the absence of strong discipline is often of great consequence to the opposition party because only rigid parties can constitute an opposition force sufficiently strong to counterbalance the strength of the party in power. At the same time, party discipline permits the opposition to present the public with an alternative to the majority party; the logical consequence of such a situation is Britain's "shadow cabinet," which accustoms the electorate to the idea that a new group is ready to take over the reins of government. Parties provide, moreover, a channel of communication between opposition legislators and the public. The governing party performs a similar service for the government, although it is less necessary, since the government has at its disposal numerous means of communicating with the public. Opposition parties thus provide a means of expressing negative reaction to decisions of government and proposing alternatives. This role justifies the official recognition given to opposition parties, as is the case in Great Britain and Scandinavia.

Power and representation

It is difficult to envisage how representative democracy could function in a large industrialized society without political parties. In order for citizens to be able to make an intelligent choice of representative or president, it is necessary for them to know the real political orientation of each

candidate. Party membership provides the clearest indication of this. The programs and promises of each individual candidate are not too significant or informative, because most candidates, in their attempt to gain the most votes, try to avoid difficult subjects; they all tend to speak the same language that is, to camouflage their real opinions. The fact that one is a socialist, another a conservative, a third a liberal, and a fourth a communist provides a far better clue as to how the candidate will perform when in office. In the legislature the discipline of the party limits the possibility that elected representatives will change their minds and their politics, and thus the party label acts as a sort of guarantee that there will be at least some correspondence between promise and performance. Parties make possible the representation of varying shades of opinion by synthesizing different positions into a stance that each representative adopts to a greater or lesser extent.

But parties, like all organizations, tend to manipulate their members, to bring them under the control of an inner circle of leaders that often perpetuates itself by cooptation. In cadre parties, members are manipulated by powerful committees containing cliques of influential party leaders. In mass-based parties, leaders are chosen by the members, but incumbents are very often reelected because they control the party apparatus, using it to ensure their continuation in power. Democratic political systems, while performing the function of representation, thus rest more or less on the competition of rival oligarchies. But these oligarchies consist of political elites that are open to all with political ambition. No modern democracy could function without parties, the oligarchical tendencies of which are best regarded as a necessary evil.

Party Systems

Party systems may be broken down into three broad categories: two-party, multiparty, and single-party. Such a classification is based not merely on the number of parties operating within a particular country but on a variety of distinctive features that the three systems exhibits. Two-party and multiparty systems represent means of organizing political conflict within pluralistic societies and are thus part of the apparatus of democracy. Single parties usually operate in situations in which genuine political conflict is not tolerated. This broad statement is, however, subject to qualification, for, although single parties do not usually permit the expression of points of view that are fundamentally opposed to the party line or ideology.

There may well be intense conflict within these limits over policy within the party itself. And even within a two-party or a multiparty system, debate may become so stymied and a particular coalition of interests so entrenched that the democratic process is seriously compromised. The distinction between two-party and multiparty systems is not as easily made as it might appear. In any two-party system there are invariably small parties in addition to the two major parties, and there is always the possibility that a third, small party prevents one of the two main parties from gaining a majority of seats in the legislature. This is the case with regard to the Liberal Party in Great Britain, for example. Other countries do not fall clearly into either category; thus, Austria and Germany only approximate the two-party system. It is not simply a question of the number of parties that determines the nature of the two-party system; many other elements are of importance, the extent of party discipline in particular.

Multiparty systems

In Anglo-Saxon countries there is a tendency to consider the two-party system as normal and the multiparty system as the exceptional case. But, in fact, the two-party system that operates in Great Britain, the United States, and New Zealand is much rarer than the multiparty system, which is found in almost all of western Europe. In western Europe, three major categories of parties have developed since the beginning of the 19th century: conservative, liberal, and socialist. Each reflects the interests of a particular social class and expounds a particular political ideology. After World War I other categories of parties developed that were partly the result of divisions or transformations of older parties. Communist parties began as splinter groups of socialist parties, and Christian Democratic parties attempted to weld together moderate socialists and conservatives and some liberals. Other distinctive types of parties emerged in some countries. In Scandinavia, liberal rural parties developed in the 19th century, reflecting a long tradition of separate representation of the rural population. In many countries ethnic minorities formed the basis of nationalist parties, which then either joined existing parties or divided them.

The appearance of socialism in the 19th century upset the earlier lines of battle between conservatives and liberals and tended to throw the latter two groups into a common defense of capitalism. Logically, this situation should have led to the fusion of conservatives and liberals into one bourgeois party that would have presented a united stand against socialism. This is, in fact,

what happened in Great Britain after World War I. One of the most important factors determining the number of parties operating within a particular country is the electoral system. Proportional representation tends to favour the development of multiparty systems because it ensures representation in the legislature for even small parties. The majority, single-ballot system (also known as “first past the post” or “winner take all”) tends to produce a two-party system, because it excludes parties that may gain substantial numbers of votes but not the majority of votes necessary to elect a representative within a constituency. The majority system with a second ballot (also known as the two-round system) favours a multiparty system tempered by alliances between parties. The German Empire (1871–1914) and the French Third (1870–1940) and Fifth (since 1958) republics adopted this system for legislative elections. France also uses the two-round system to select its head of state, as do Austria and Portugal. In the developing world, the two-round system is most often found in former French colonies such as Vietnam, Togo, and the Democratic Republic of the Congo. Voters choose between the parties that did best in a first ballot. This leaves small parties at a disadvantage but, nevertheless, gives them opportunity to strengthen their role during the second balloting as long as they are willing to enter into alliances with the leading parties.

Another factor producing multiparty systems is the intensity of political conflicts. If, within a given political movement, extremists are numerous, then it is difficult for the moderates in that party to join with them in a united front. Two rival parties are likely to be formed. Thus, the power of the Jacobins among 19th-century French liberals contributed to the inability of the moderates to form one great liberal party, as was successfully achieved in Great Britain. Likewise, the power of the extremists among the conservatives was an obstacle to the development of a strong conservative party. The distinction between the multiparty system and the two-party system corresponds largely to a distinction between two types of Western political regime. In a two-party situation the administration has, in effect, an assurance of a majority in the legislature, deriving from the predominance of one party; it has, therefore, a guarantee of continuance and effectiveness. Such a system is often referred to as majority parliamentarianism.

In a multiparty situation, on the other hand, it is quite rare for one party to have a majority in the legislature; governments must, therefore, be founded on coalitions, which are always more heterogeneous and more fragile than a single party. The result is less stability and less political power. Such systems may be referred to as nonminority parliamentarianism. In practice, majority and nonminority parliamentary systems do not coincide exactly with two-party systems and multiparty systems. For, if each of the two parties is flexible and does not control the voting patterns of its members (as is the case in the United States), the numerical majority of one of the parties matters little. It can happen, moreover, that one party in a multiparty system will hold an absolute majority of seats in the legislature so that no coalition is required. Such a situation is unusual but did occur in West Germany (1949–90), Italy, and Belgium at various times after 1945. Ordinarily, however, a coalition will be the only means of attaining a parliamentary majority within the framework of the multiparty system. Coalitions are by nature more heterogeneous and more unstable than a grouping made up of one party, but their effectiveness varies greatly according to the discipline and organization of the parties involved. In the case of flexible parties that are undisciplined and that allow each legislator to vote on his own, the coalition will be weak and probably short-lived. The instability and weakness of governments is at its maximum in such situations, of which the Third French Republic provides a good example.

If, on the other hand, the parties involved in a coalition are rigid and disciplined, it is possible for a system quite similar to the two-party system to develop. This is often the case when two opposing alliances are formed, one on the left and one on the right, and when both are strong enough to endure through the legislative session. This type of coalition, referred to as bipolarized, introduces elements of the two-party system into a multiparty framework. A situation of this type developed in the mid-20th century in Sweden, where conservative, liberal, and agrarian parties aligned against the Swedish Social Democratic Party, which allied itself with the Communist Party (now the Left Party). The system of bipolar alliances may be contrasted with the system of a centrist alliance. Rather than the parties on the right forming a centre-right coalition to oppose a centre-left coalition, there is the possibility that the Centre-left and the centre-right will join forces and reject the extremes at both ends of the political spectrum. Such a situation occurred in Germany during the Weimar Republic, when the government rested on a majority formed of a coalition of Catholic centrists and social democrats, with opposition coming from the communists and the

nationalists on the extreme left and right. Centrist coalitions all tend to give the average citizen a sense of political alienation. In rejecting both extremes, coalitions may well be isolating the radical, unstable elements, but the governing coalition may tend to be unresponsive to new ideas, uninspiringly pragmatic, and too ready to compromise. This situation gives rise to a more or less permanent breach between practical politics and political ideals. An advantage of bipolarization or of the two-party system is that the moderates of both sides must collaborate with those who are more extreme in their views, and the extremists must be willing to work with those who are more moderate; the pressure from the extremists prevents the moderates from getting bogged down, while collaboration with the moderates lends a touch of realism to the policies of the extremists.

Two-party systems

A fundamental distinction must be made between the two-party system as it is found in the United States and as it is found in Great Britain. Although two major parties dominate political life in the two countries, the system operates in quite different ways.

The American two-party system

The United States has always had a two-party system, first in the opposition between the Federalists and the Anti-Federalists and then in the competition between the Republicans and the Democrats. There have been frequent third-party movements in the history of the country, but they have always failed. Presidential elections seem to have played an important role in the formation of this type of two-party system. The mechanism of a national election in so large a country has necessitated very large political organizations and, at the same time, relatively simplified choices for the voter. American parties are different from their counterparts in other Western countries. They are not tied in the same way to the great social and ideological movements that have so influenced the development of political life in Europe during the last two centuries. There have been socialist parties at various times in the history of the United States, but they have never challenged the dominance of the two major parties. It can be argued that the main reason for the failure of socialist parties in America has been the high degree of upward mobility permitted by a rich and continually expanding economy.

The consequence of this mobility has been that class consciousness has never developed in the United States in a manner that would encourage the formation of large socialist or communist parties. In comparison with European political movements, therefore, American parties have appeared as two varieties of one liberal party, and within each party can be found a wide range of opinion, going from the right to the left. The American parties have a flexible and decentralized structure, marked by the absence of discipline and rigid hierarchy. This was the structure of most of the cadre-type parties of the 19th century, a structure that most liberal parties have retained. Federalism and a concern for local autonomy accentuate the lack of rigid structure and the weakness of lines of authority in the parties. Organization may be relatively strong and homogeneous at the local level, but such control is much weaker on the state level and practically nonexistent on the national level. There is some truth to the observation that the United States has not two parties but 100—that is, two in each state. But it is also true that each party develops a certain degree of national unity for the presidential election and that the leadership of the president within his party gives the victorious party some cohesion.

The lack of rigid party structure has historically encouraged bipartisanship between Republican and Democratic members of Congress. Through the 20th century, liberal Republicans and Democrats tended to ally against conservative Republicans and Democrats. Yet neither bloc was stable, and the alignment varied from one vote to another. As a consequence, despite the existence of a two-party system, no stable legislative majority was possible. In order to have his budget adopted and his legislation passed, the president of the United States was forced to carefully gather the necessary votes on every question, bearing the wearisome task of constantly forming alliances. The American two-party system was thus a pseudo-two-party system, because each party provided only a loose framework within which shifting coalitions were formed. Against this general tendency, however, voting has become increasingly partisan since about the first decade of the 21st century.

The British two-party system

Another form of the two-party system is operative in Great Britain and in New Zealand. The situation in Australia is affected somewhat by the presence of a third party, the Nationals (formerly the Australian Country Party). A tight alliance between the Nationals and the National Party of

Australia introduces, however, a rather rigid bipolarization with the Labour Party. The system thus tends to operate on a two-party basis. Canada also possesses what is essentially a two-party system: Liberals or Conservatives have usually been able to form a working majority without the help of small, regionally based parties. The country has, however, deviated from this pattern since the 1990s, with the election of the Bloc Québécois (1993) and the New Democratic Party (2011) as the country's official opposition.

Great Britain has had two successive two-party alignments: Conservative and Liberal prior to 1914 and Conservative and Labour since 1935. The period from 1920 to 1935 constituted an intermediate phase between the two. Britain's Conservative Party is actually a Conservative-Liberal Party, resulting from a fusion of the essential elements of the two great 19th-century parties. Despite the name Conservative, its ideology corresponds to political and economic liberalism. A similar observation could be made about the other major European conservative parties, such as the German Christian Democratic Party. The British two-party system depends on the existence of rigid parties; that is, parties in which there is effective discipline regarding parliamentary voting patterns. In every important vote, all party members are required to vote as a bloc and to follow to the letter the directives that they agreed upon collectively or that were decided for them by the party leaders.

A relative flexibility may at times be tolerated, but only to the extent that such a policy does not compromise the action of the government. It may be admissible for some party members to abstain from voting if their abstention does not alter the results of the vote. Thus, the leader of the majority party (who is at the same time the prime minister) is likely to remain in power throughout the session of Parliament, and the legislation he or she proposes will likely be adopted. There is no longer any real separation of power between the executive and legislative branches, for the government and its parliamentary majority form a homogeneous and solid bloc before which the opposition has no power other than to make its criticisms known.

During the four or five years for which a Parliament meets, the majority in power is completely in control, and only internal difficulties within the majority party can limit its power. Since each party is made up of a disciplined group with a recognized leader who becomes prime minister if his or

her party wins the legislative elections, these elections perform the function of selecting both the legislature and the government. In voting to make one of the party leaders the head of the government, the British assure the leader of a disciplined parliamentary majority. The result is a political system that is at once stable, democratic, and strong; and many would argue that it is more stable, more democratic, and stronger than systems anywhere else. This situation presupposes that both parties are in agreement with regard to the fundamental rules of a democracy. If a fascist party and a communist party were opposed to one another in Great Britain, the two-party system would not last very long. The winner would zealously suppress the opponent and rule alone.

The system, of course, does have its weak points, especially insofar as it tends to frustrate the innovative elements within both parties. But it is possible that this situation is preferable to what would happen if the more extreme elements within the parties were permitted to engage in unrealistic policies. The risk of immobility is in fact a problem for any party in a modern industrial society, and not just for those in a two-party situation. The problem is related to the difficulties involved in creating new organizations capable of being taken seriously by an important segment of the population and in revitalizing long-standing organizations encumbered by established practices and entrenched interests.

Single-party systems

There have been three historical forms of the single-party system: communist, fascist, and that found in the developing countries.

The communist model

In communist countries of the 20th century, the party was considered to be the spearhead of the urban working class and of other workers united with it (peasants, intellectuals, etc.). Its role was to aid in the building of a socialist regime during the transitory phase between capitalism and pure socialism, called the dictatorship of the proletariat.

An understanding of the exact role of the party requires an appreciation of the Marxist conception of the evolution of the state. In countries based on private ownership of the means of production, the power of the state, according to the Marxist point of view, is used to further the interests of the controlling capitalists. In the first stage of revolution the power of the

state is broken. Power, however, still has to be wielded to prevent counterrevolution and to facilitate the transition to communism, at which stage coercion will no longer be necessary. Thus, the party, in effect, assumes the coercive functions of the state during the dictatorship of the proletariat or, to be more accurate, during the dictatorship of the party in the name of the proletariat. In all communist countries, the structure of the party was determined largely by the need for it to govern firmly while at the same time maintaining its contact with the masses of the people. Party members were a part of the general public, of which they were the most active and most politically conscious members. They remained in contact with the masses by means of an omnipresent network of party cells. Party leaders were thus always "listening in on the masses," and the masses were always informed of decisions of party leaders, as long as the communication network was working in both directions.

The party was not only a permanent means of contact between the people and party leaders but also a propaganda instrument. Political indoctrination was essential to the survival of communist parties, and many resources were devoted to it. Indoctrination was accomplished in training schools, by means of "education" campaigns, by censorship, and through the untiring efforts of militants, who played a role similar to that of the clergy in organized religion. The party was thus the guardian of orthodoxy and had the power to condemn and to excommunicate. In the traditional communist model, the party hierarchy, then, and not the official state hierarchy, has the real power. The first secretary of the party is the most important figure of the regime, and, whether the party leadership is in the hands of one individual or several, the party remains the centre of political power. Near the end of the 20th century, however, the communist model began to change as the centre of power began shifting toward a popularly elected state hierarchy. A younger generation of communist leaders, openly critical of the party's inefficient, unresponsive, and domineering management of the government particularly the economy sought a return to Lenin's original concepts of democratic centralism and socialism. In some countries, democratic concepts were emphasized, and constitutional amendments eliminated the party's official control, clearing the way for a multiparty system. Despite political reforms like glasnost, however, truly competitive parties did not emerge until after the fall of communism in the former Soviet Union and in eastern Europe.

The fascist model

Fascist parties in a single-party state have never played as important a role as communist parties in an analogous situation. In Italy, the Fascist Party was never the single most important element in the regime, and its influence was often secondary. In Spain the Falange never played a crucial role, and in Portugal the National Union was a very weak organization even at the height of dictator António Salazar's strength. Only in Germany did the National Socialist Party have a great influence on the state. But, in the end, Adolf Hitler's dictatorship was dependent on his private army, the SS (Schutzstaffel), which formed a separate element within the party and which was closed to outside influences, and on the Gestapo, which was a state organization and not an organization of the party. The fascist party in the single-party state has a policing or military function rather than an ideological one.

After their rise to power, the fascist parties in both Germany and Italy gradually ceased to perform the function of maintaining contact between the people and the government, a function that is usually performed by the party in a single-party situation. It was possible to observe a tendency for the party to close in upon itself while suppressing its deviant members. The renewal of the party was then assured through recruitment from youth organizations, from which the most fanatical elements, the products of a gradual selection process starting at a very early age, entered the party. The party tended, therefore, to constitute a closed order.

The single party in the developing countries

Some of the communist parties in power in developing countries did not differ significantly from their counterparts in industrialized countries. This is certainly true of the Vietnamese Communist Party and the Workers' Party of North Korea. There have always been, however, countries in which the single party in power could not be characterized in terms of a traditional European counterpart. This observation applied to, for example, the former Arab Socialist Union in Egypt and the Democratic Constitutional Rally (formerly the Neo-Destour Party) during its period of dominance of Tunisian politics (1956–2011). 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. Pres. Gamal Abdel Nasser attempted to establish a moderate and nationalistic socialism in Egypt. In Tunisia the Democratic Constitutional Rally was more

republican than socialist and was inspired more by the example of the reforms in Turkey under Kemal Atatürk than by Nasserism. In sub-Saharan 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 organized as communist parties. In Turkey the Republican People's Party was more a cadre party than a mass-based party. In Egypt it was necessary to organize a core of professional politicians within the framework of a pseudo party of the masses. In sub-Saharan Africa the parties were most often genuinely mass-based, but the membership appears to be motivated primarily by personal attachment to the leader or by tribal loyalties, and organization is not usually very strong. It is this weakness in organization that explained the secondary role played by such parties in government. Some regimes, however, have endeavored to develop the role of the party to the fullest extent possible. The politics of Atatürk 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 represented an attempt to move away from the traditional dictatorship, supported by the army or based on tribal traditions or on charismatic leadership, toward a modern dictatorship, supported by one political party. Single-party systems can institutionalize dictatorships by making them survive the life of one dominant figure.

Future of Political Parties

It has often been said in the West that political parties are in a state of decline. Actually, this has been a long-standing opinion in certain conservative circles, arising largely out of a latent hostility to parties, which are viewed as a divisive force among citizens, a threat to national unity, and an enticement to corruption and demagoguery. In certain European countries France, for example right-wing political organizations have even refused to call themselves parties, using instead such terms as movement, union, federation, and centre. And it cannot be denied that to some extent the major contemporary European and American parties do appear old and rigid in comparison with their condition at the turn of the century or immediately following World War I. Even relatively new parties, such as the Christian Democratic Union of Germany (founded in 1945), seem somewhat lifeless. In terms of size and number, however, political parties are not declining but growing. At the turn of the 20th century they were confined mainly to Europe and North America;

elsewhere they were quite weak or nonexistent. In the early 21st century, parties found practically everywhere in the world. And in Europe and North America there were generally far more people holding membership in parties than prior to 1914. Parties of the early 21st century were larger, stronger, and better-organized than those of the late 19th century. In the industrialized countries, especially in western Europe, parties have become less revolutionary and innovative, and this factor may explain the rigid and worn-out image that they sometimes present. But even this phenomenon is found only in a limited area and may, perhaps, pass.

The growth of parties into very large organizations may be responsible for the feelings of powerlessness on the part of many individuals who are involved in them. This is a problem experienced by people who find themselves part of any large organization, whether it be a political party, business enterprise, corporation, or union. The difficulties involved in reforming or changing political parties that have become large and institutionalized, coupled with the next-to-impossible task of creating new parties likely to reach sufficient strength to be taken seriously by the electorate, have resulted in much frustration and impatience with the party system. But it is difficult to imagine how democracy could function in a large industrialized country without political parties. In the modern world, democracy and political parties are two facets of the same reality, the inside and outside of the same fabric.

****

3.3 PUBLIC OPINION

SYNOPSIS

- *Introduction*
- *Definitions of Public Opinion*
- *Nature of Public Opinion*
- *Significance of Public Opinion*
- *Characteristics of Public Opinion*
- *Agencies of Public Opinion*
- *Public Opinion and Public Policy*
- *Concluding Remarks*

PUBLIC OPINION

INTRODUCTION:

Public opinion is the measure of what the public thinks about a particular issue, party, or individual political figure. Historically, it's been pretty difficult to accurately measure what the public thinks about a particular issue. However, most forms of democracy are based on the understanding that the government will function with the interests of their people in mind. We can find an acknowledgment of the people's role in many historical documents, including the Constitution of the United States, which begins with the phrase 'We, the People. The concept of public opinion came to limelight in the wake of democracy. The governmental policies gradually became the function of opinion rather than of force, and the means for the expressions of opinion like constitutionally guaranteed liberties, elections, political parties etc., were at hand, the role of public opinion in the government came to be generally recognized. The theory of public opinion is thus a derivative from democracy as a form of government.

DEFINITIONS

- **A. L. Lowell -** "Public opinion is the opinion held by the majority and passively acquiesced in by the minority."
- **MacIver -** "This incessant activity of popular opinion is the dynamic of democracy."
- **Lord Brice-** "It is commonly used to denote the aggregate of the view's men hold regarding matters that effect of interests the community".
- **Morris Gins burg-** "Public opinion is a social product due to the interaction of many minds".
- **L.W. Dooby**: "Public Opinion refers to people's attitude on an issue when they are members of the same social group".

The origin of term 'public opinion' is shrouded in obscurity. The Greeks and the Romans used parallel expressions. In the *Discourses* Machiavelli, too, compared the *voice of the people to the voice of God*. Thus, public opinion is the measure of what the public thinks about a particular issue, party, or individual political figure. Minority groups must have the right to urge their views by peaceable means. Sound opinions can be formed only if all points of view can be freely expressed and allowed to compile for supremacy. Finally, the will of the majority, when clearly and fairly expressed, must be accepted by the minority until such time as its opinions prevail. Popular government has failed in some countries because of the unwillingness of minorities to acquiesce in majority rule. With the growing complexity of modern life and with the expanding powers oi government, the amount of information needed and of effort required to create intelligent public opinion is constantly increasing. The success of democratic government depends upon the degree to which public opinion is sound, well doves loped and effective in controlling the actions and policies of government. The alternative is some form of dictatorship. which may be efficient, but which is dangerous because it destroys freedom and self-government.

NATURE OF PUBLIC OPINION

Nature of Public Opinion. During the greater part or human history government was viewed as something exalted and mysterious, beyond the comprehension of the masses. The authority of rulers was believed to be of divine origin, and the people were expected to give reverence and obedience, not to question or criticize the acts of those in authority. With the spread of democracy, government came to be viewed as a means by which the best interests of the people could be served, and the officials of government as public servants selected to express and carry out the popular will.

Public opinion is usually a more or less confused mass of public opinions. Much of what is called public opinion is not really opinion. An opinion presupposes extensive and accurate knowledge on the question under consideration and a reasoned judgment or conclusion reached by deliberate thought. Many so-called opinions are rather prejudicing or beliefs or hasty conclusions or traditional dogmas. Few persons have the knowledge or the willingness to do the difficult thinking necessary to form opinions. Most persons accept ideas created by Others and believe them to be their own. Public Opinion is usually formed by a small group of leaders, and individuals accept their arguments or suggestions, as they have neither the knowledge nor the time nor the interest to enable them to form opinions of their own. The soundness of public opinion depends to a large extent upon the wisdom and unselfishness of political leaders. Effective public opinion for the purpose of government is almost always opinion which is organized and which represents special knowledge concerning the question at issue. Besides, the intensity of an Opinion is often of more importance than the number of persons who accept it. An organized and vociferous minority often gives the impression that its opinions are the Opinions of the majority.

SIGNIFICANCE OF PUBLIC OPINION

The role of public opinion in a democracy is of particular significance on two grounds -

1. When free play of opinion is assured, the whole process acts as a check on the overgrowth of power. A government, whatever be its structure, is, after all, an organization of power. Democracy is distinguished from other forms of government by the fact that it is built on

the assumption of diffusion of power rather than its concentration in one centre. It functions best when, as Mannheim expresses, a balance in the structure of the community is secured, by allowing opinions to complete peacefully and freely, a democratic structure strives, as it were, to set a thief to catch a thief. It ensures an interlocking system in which no power group can seize an opportunity to outbid others and exert undue pressure on the government. Where through coercion or callousness, opinion becomes paralyzed, the condition spells a danger for democracy.

2. When law becomes a reflection of public opinion, it offers an easy solution to the problem of political obligation. The citizens obey the law, as it rests on their will to obey. The whole process of law-making serves to obliterate the distinction between the law-giver and the law- receiver. To quote MacIver, "when opinion is free to determine government, policy is not of the acquiescence that submits to force, but of active consent. The level of strength is thereby raised and other goals than those that depend on force are given a higher valuation. To make opinion the basis of government is to appeal to reason- whether you win or lose. It is to assume a common good - whether or not your conception of it prevails."

CHARACTERISTICS OF PUBLIC OPINION:

On the basis of the definitions the following characteristics of public opinion may be deduced:

(i) Public opinion is concerned with a matter of public importance. It is not concerned with the interests of a particular group of people.

(ii) Public opinion is for social welfare. The welfare of society is an essential characteristic of public opinion.

(iii) Public opinion is arrived at after careful thought. It is the tentative deliberative adjustment of public to a situation. It is a logical view of things. While Laswell holds that all opinions involve a choice between different views which may be rationally held, Kimball Young, on the other hand, is of the view that an opinion may be rational, or based upon some conviction, or it may proceed from feeling and emotion.

(iv) It is cooperative product. It is the product of interaction of human minds.

(v) Public opinion is related to a particular age or times. It is to be evaluated in the context of a particular situation.

(vi) Public opinion has a cultural base. The culture of a society influences public opinion.

(vii) Lastly, numbers are not necessary to constitute public opinion. The opinion of even a single person may be called public opinion though not held by the majority. The opinion of Mahatma Gandhi, though held by him alone, could be rightly called public opinion. However, the opinion held by a minority must be shared by the majority not by force but by conviction

AGENCIES OF PUBLIC OPINION

According to **Bryce**, three types of people contribute significantly to the formulation, expression and promotion of public opinion.

1. The people who build public opinion. This category includes the legislators and journalists who by their views and use of mass media act as agencies of Public Opinion.
2. The people who are active actors is social and political life. These are well informed and active people who direct public opinion to a particular direction.
3. The third category includes the people who arouse public opinion. These are the people who take part in public meetings, agitations, movements and demonstrations.

Among these three categories the people belonging to the second category, believes Bryce, play a relatively more important role as an agency of public opinion.

The following are the major agencies of Public Opinion:

1. PRESS:

Newspapers, periodicals, magazines in-fact the Press i.e. the print media as a whole act as an important major agency of public opinion. The press discusses and analyses every important issue of public concern and the editorials, write-ups and news-analysis always play a big role in the formulation and expression of public opinion.

2. LEGISLATURE:

Legislature is formed by the elected representatives of the people. It is an assembly of political leaders. It acts both as a mirror of public opinion as well as the agency for the formulation and expression of public opinion. Legislative debates, publication of records of the debates of the legislature, and the views expressed by the legislators both inside and out-side the legislature, play an important role in the making and mirroring of public opinion.

3. PUBLIC MEETINGS AND REBATES:

In every democratic state people have the right and freedom on to form associations, to hold meetings, processions and demonstrations and to discuss all issues of public importance and concern. Public meetings as such are agencies for the formulation of Public Opinion.

4. POLITICAL PARTIES:

Political parties are the agents of political education. These provide all information to the people regarding the activities, successes, failures, omissions and errors of the government. Each political party tries to create a public opinion in its favour. It organises meetings, agitations, demonstrations, processions and movements for highlighting the issues of public importance. All these activities play a role in the formulation of public opinion. Political Parties act as important, useful and active agencies for interest articulation interest aggregation and political communication. These play a major role in the formulation of public opinion.

5. RADIO, T.V. AND INTERNET:

In this age of information revolution Radio, T.V. and Internet contribute significantly to the formulation of public opinion. Radio and T.V. talks and debates act as motivating factors for the formulation of public opinion. These act as agencies of political education. Use of these during elections acts a means for making and changing public opinion.

6. CINEMA:

Cinema is also a powerful agency which plays a role in the formulation of public opinion. At the time of screening of films in cinema halls, news reels covering the news of the different parts of the world are also shown. It affects public opinion beside; some films are prepared keeping in view some main objectives, which have their impact on the people. As a result of it all, cinema helps in the formulation and expression of public opinion.

7. EDUCATIONAL INSTITUTIONS:

In the educational institution's classroom- lectures, speeches, meetings and seminars of different kinds are arranged. The eminent leaders, scholars, and writers participate in these meetings and assemblies and through the mutual exchange of views influence the views of the students and teachers. Also, the views expressed by the teachers in their classes influence the students. At times the views thus expressed become the part and parcel of the thinking of the students. Also, the syllabi meant for teaching in the educational institutions are prepared with some specific objectives. All this helps in the formulation of public opinion.

8. RELIGIOUS INSTITUTIONS:

Man's political views are also influenced by his religious views. In India, especially many political parties are based on religion. Religious congregations in India always have a political face. Under the cloak of religion, political views are expressed and spread. The people 'faithfully' follow these views and in this way public opinion gets formulated.

9. ELECTIONS:

In democracy elections are regularly held. These are means of political education. The political parties prepare their election manifestoes. Through public meetings, gatherings and processions, pamphlets, advertisements dramas and plays. Political Parties spread and propagate their programmes among the people. During an election, the political parties do an intensive campaign, and even the most neutral person in politics does not remain unaffected or uninfluenced.

10. SOCIAL INSTITUTIONS/ORGANISATIONS:

In every society there are several institutions which though of non-political nature, contribute significantly towards the expression and formulation of public opinion. For example, All India Women Conference, Associations of Intellectuals, Farmers Associations, Social Welfare Associations and other such organisations bring to the attention of the government and society the different issues and demands and help in the formulation of public opinion. All these agencies play a leading part in the formulation and mirroring of Public Opinion.

PUBLIC OPINION AND PUBLIC POLICY

The most pervasive issue dividing theories of the opinion-policy relation bears a striking resemblance to the problem of monism-pluralism in the history of philosophy. The controversy deals with the question of whether the structure of socio-political action should be viewed as a more or less centralized process of acts and decisions by a class of key leaders, representing integrated hierarchies of influence in society or whether it is more accurately envisaged as several sets of relatively autonomous opinion and influence groups, interacting with representative decision makers in an official structure of differentiated governmental authority. The former assumption interprets individual, group and official action as part of a single system and reduces politics and governmental policies to a derivative of three basic analytical terms: society culture and personality.

Despite philosophical arguments regarding public opinion, social scientists (those in sociology, political science, economics and social psychology) present compelling theories to describe how public opinion shapes public policy and find myriad effects of opinion on policy using various empirical research methods. Moreover, researchers find that causal relationships likely run in both directions from opinion to policy and from policy to opinion. On the one hand, public opinion signals public preferences and potential voting behaviours to policymakers. This impact should be greater under more stable democratic institutions. It should be greatest in the realm of social policy because the public are highly motivated by potential goods and services they get from the state. On the other hand, social policy impacts public opinion. The goods and services the public gets via social policy builds normative expectations that shape public opinion. Furthermore, social

policy constitutes the largest share of state spending budgets, making it an active and contentious political area. Together these theories suggest that causal effects are part of a feedback loop between opinion and policy. Using increasingly sophisticated methods, scholars are beginning to grasp and identify the feedback of opinion and policy and use this phenomenon to explain the path dependency of institutions.

CONCLUDING REMARKS

The governmental policies gradually became the function of opinion rather than of force, and the means for the expressions of opinion like constitutionally guaranteed liberties, elections, political parties etc., were at hand, the role of public opinion in the government came to be generally recognized. The theory of public opinion is thus a derivative from democracy as a form of government. It the field of political dynamics, the significance of public opinion lies in its ability to influence government. The role of public opinion in a democracy is ultimately decided by the result of the struggle between belief and fact. Owing to subtle manipulation of the opinion-forming processes by interested groups, a fundamental distinction has taken place in recent times between what is and what people believe to be. Facts are misrepresented without scruple, and appeals are made frequently to the blind emotions and prejudices of the people. The process of corruption of facts becomes complete when exclusively a powerful group or a capitalist controls the major opinion-forming agencies like newspaper and radio. Thus, public opinion helps to make the democracy and government to, for and by the people. In conclusion, social movements can influence public opinion in many different ways. They can make the public aware of the issue that others suffer from. It is important that the public learns about social movements because it shows how the struggles of your ancestors have led to our democracy we have today.

****

3.4 PRESSURE GROUPS

SYNOPSIS

- *Introduction*
- *Characteristics of Pressure Groups*
- *Types of Pressure Groups*
- *Functions, Role & Importance of Pressure Groups*
- *Pressure Group in India*
- *Role of Pressure Groups in India*
- *Types of Pressure Groups in India*
- *Major Pressure Groups in India*
- *Techniques Used by Pressure Groups*
- *Difference Between Political Party & Pressure Group*
- *How Do Pressure Groups Enhance the Political System?*
- *How Do Pressure Groups Distort the Political System?*
- *How Do Pressure Groups Exert Their Influence?*
- *Shortcomings of Pressure Groups*
- *Concluding Remarks*

PRESSURE GROUPS

INTRODUCTION:

A pressure group is a group of people who are organized actively for promoting and defending their common interest. It is called so, as it attempts to bring a change in public policy by exerting pressure on the government. It acts as a liaison between the government and its members. The pressure groups are also called interest groups or vested groups. They are different from the political parties, as they neither contest elections nor try to capture political power. They are concerned with specific programmes and issues and their activities are confined to the protection and promotion of the interests of their members by influencing the government. The pressure groups influence the policy-making and policy implementation in the government through legal and legitimate methods like lobbying, correspondence, publicity, propagandizing, petitioning, public debating, maintaining contacts with their legislators and so forth. The term 'pressure group' originated from the USA. A pressure group is a group of people who are organized for actively promoting and defending their common interests. A pressure group is common interest group that tries to secure their interests by influencing the formulation and administration of public policy. They are referred to as Civil Society Organizations (CSOs). The Pressure Groups can also describe as '*Organized Groups', 'Interest Groups', 'Lobby Groups' or Protest Groups.* The role of pressure group is indirect, ordinarily invisible and intermittent, yet, a very important part of the administrative system. They are a vital link between the government and the governed and they keep governments more responsive to the wishes of the community.

CHARACTERISTICS OF PRESSURE GROUPS

1. **Level of Operation:**
2. **Objective:**
3. **Type of Organization:**
4. **Common Grounds:**

5. **Method of Working:**
6. **Common Dissatisfaction:**
7. **Formation:**
8. **Role in Democracy:**
9. **Focus:**

- **LEVEL OF OPERATION**:
- **OBJECTIVE:** All interest groups share a desire to affect government policy to benefit themselves or their causes.
- **TYPE OF ORGANIZATION**: They are usually non-profit and volunteer organization
- **METHOD OF WORKING**: They seek to influence political or corporate decision makers to achieve a declared objective.
- **COMMON GROUNDS**: Pressure groups are collections of individuals who hold a similar set of values and beliefs on the basis of ethnicity, religion, political philosophy, or a common goal.
- **COMMON DISSATISFACTION**: Pressure groups often represent viewpoints of people who are dissatisfied with the current conditions in society.
- **FORMATION:** These are a natural outgrowth of the communities of interest that exist in all societies.
- **FOCUS**: Pressure groups may be better able to focus on specialized issues, whereas political parties tend to address a wide range of issues.
- **ROLE IN DEMOCRACY**: Pressure groups are widely recognized as an important part of the democratic process.

TYPES OF PRESSURE GROUPS

ALMOND'S ANALYSIS OF PRESSURE GROUPS

1. **Institutional Interest Group**
2. **Associational Interest Groups**
3. **Anomic Interest Groups**
4. **Non- Associational Interest Groups**

- **Institutional Interest Groups:** These groups are formally organised which consist of professionally employed persons. They are a part of government machinery and try to exert their influence. These groups include political parties, legislatures, armies, bureaucracies, etc. Whenever such an association raises protest it does so by constitutional means and in accordance with the rules and regulations.
  - **Example:** IAS Association, IPS Association, State civil services association, etc.
- **Associational Interest Groups:** These are organised specialised groups formed for interest articulation, but to pursue limited goals. These include trade unions, organisations of businessmen and industrialists and civic groups.
  - **Some examples** of Associational Interest Groups in India are Bengal Chamber of Commerce and Industry, Indian Chamber of Commerce, Trade Unions such as AITUC (All India Trade Union Congress), Teachers Associations, Students Associations such as National Students Union of India (NSUI) etc.
- **Anomic Interest Groups:** By anomic pressure groups we mean more or less a spontaneous breakthrough into the political system from the society such as riots, demonstrations, assassinations and the like.
- **Non-Associational Interest Groups:** These are the kinship and lineage groups and ethnic, regional, status and class groups that articulate interests on the basis of individuals, family and religious heads. These groups have informal structure. These include caste groups, language groups, etc.

FUNCTIONS, ROLE & IMPORTANCE OF PRESSURE GROUPS

- **Interest Articulation:** Pressure Groups bring the demands and needs of the people to the notice of the decision-makers. The process by which the claims of the people get crystallized and articulated is called interest articulation.
- **Agents of Political Socialization:** Pressure groups are agents of political socialisation in so far as they influence the orientations of the people towards the political process. These groups play a vital role as two-way communication links between the people and the government.
- Pressure groups play a **vital role in the legislative process,** not only as important structures of interest articulation, but also as active agencies engaged in lobbying with the legislators for securing desired laws or amendments in laws and policies of the government.
    - Right from the time of preparation of election manifestos of various political parties to the passing of laws by the legislators, the pressure groups remain associated with the process of rule-making.
- **Pressure Groups and Administration:** Pressure Groups are actively involved with the process of administration. Through lobbying with the bureaucracy, the pressure groups are usually in a position to influence the process of policy implementation.
- **Role in Judicial Administration:** Pressure Groups try to use the judicial system for securing and safeguarding their interests. Interest groups often seek access to the court for redressal of their grievances against the government as well as for getting declared a particular decision or policy as unconstitutional.
- Pressure groups play a leading role in the **formulation of public opinion.** Each pressure group is continuously engaged in evaluating all such laws, rules, decisions and policies which have a direct or indirect bearing on the interests it represents. It always places the pros and cons not only before its members but also before the general public for eliciting popular support as well as for catching the attention of the government.

- They try to gain public support and sympathy for their goals and their activity by carrying out information campaigns, organising meetings, file petitions, etc. Most of these groups try to influence the media into giving attention to these issues.

- Pressure groups help in **improving the quality of government.** Consultation with affected groups is the rational way to make decisions in a free society. It makes government more efficient by enhancing the quality of the decision-making process – the information and advice provided by these groups helps to improve the quality of government policy and legislation.
- Freely operating pressure groups are essential to the effective functioning of liberal democracy.
  - They serve as a vital intermediary institution between government and society;
  - They assist in the dispersal of political power;
  - They provide important counterweights to balance the concentration of power.
- Pressure groups enable new concerns and issues to reach the political agenda, thereby **facilitating social progress and preventing social stagnation.** For example, the women's and environmentalist movements.
- Pressure groups **increase social cohesion and political stability** by providing a 'safety-valve' outlet for individual and collective grievances and demands.
- Pressure groups complement the work of opposition political parties by exposing the bad policies and wrongdoings of the government. Pressure groups thereby **improve the accountability of decision makers** to electorates.
- Pressure groups help to educate people, compile data and provide specific information to policy makers; thus, they work as an informal source of information. Active constructive participation of numerous groups in polity helps to reconcile general interest with individual group interests.

PRESSURE GROUP IN INDIA

In India Political parties and pressure groups together play a big role in the struggle of power. In India, the pressure group arose even during the colonial period. All India trade union congress was the first countrywide pressure group of the working class. India was a developing country having a scarcity of resources and acute poverty, resulting in the significant role of the pressure group. The aim of this pressure group was to secure economic and political concessions for themselves. Providing crucial component of the structural equilibrium i.e. maintenance function.

ROLE OF PRESSURE GROUPS IN INDIA

The capacity of pressure groups is determined by leadership, organizational abilities, mass media, economic power base, and mobilization techniques. Beside this, they use lobbying method, strike, bandh, demonstration, funding political parties, party platform, etc. Even though the role of pressure group is indirect, it facilitates many vital activities in administration.

TYPES OF PRESSURE GROUPS IN INDIA

1. **BUSINESS GROUPS**

   The Business group is one of the most important, influential and organised pressure groups in India. Examples of business groups- Confederation of Indian Industry (CII), Federation of Indian Chambers of Commerce and industry (FICCI), Associated Chamber of Commerce (ASSOCHAM) – major constituents are the Bengal Chamber of Commerce Calcutta and Central commercial organisation of Delhi.

2. **TRADE UNIONS**

   Trade unions cater to the demand of workers and labours of the industries. Alternatively, they are also known as labour groups. In India, different trade unions represent different political parties. Examples- The All India Trade Union Congress (AITUC), All India Trade Union Congress (Communist Party of India)

3. AGRARIAN GROUPS

These groups represent the farmer community of India and works for their well-being. Example- Bhartiya Kisan Sangh, Hind Kisan Panchayat (control of socialist).

4. PROFESSIONAL ASSOCIATION

Such association, raise the concern of working professional in India ranging from lawyers and doctors, journalists and teachers. Examples include Association of Engineers, Bar Council of India (BCI), and Dental Council of India.

5. STUDENT ORGANISATIONS

There are various organisations present to represent the causes and grievances of students in India. Examples are National Students Union of India (Congress), All Assam Students Union (Asom Gan Parishad), ChhatraYuva Sangharsh Samiti (Aam Admi Party).

6. RELIGIOUS ORGANISATIONS

The organisations based on religion have come to play an important role in Indian Politics. They represent the narrow perspective and are often termed as anti-secular. Examples of these organisations are RashtriyaSwyam Sevak Sangh, Vishwa Hindu Parishad, Brahmo Samaj.

7. CASTE GROUPS

Caste has been one of the salient features of Indian Society. However, it has always been one of the ideologies discouraging the aspiration of people and constitution of India. The caste factor is always prevalent in elections of India. Examples of caste groups are Marwari Association, Harijan Sewak Sangh.

8. IDEOLOGY BASED GROUP

Ideology based groups have been recently formed. Some examples of these groups include Environment Protection Groups like Narmada Bachao Andolan and Chipko movement, Democratic rights organisation, Gandhi Peace Foundation, Woman rights organisation, Civil liberties associations.

9. TRIBAL ORGANISATION

Tribal in India are prominent in Central India and North East India, and are also active in Central Indian Tribal belt and in north east India. These organisations include National Socialist Council of Nagaland, All-India Jharkhand, and Tribal Sangh of Assam.

10. LINGUISTIC GROUPS

There are 22 scheduled languages in India. However, there have been many groups and movements working for the welfare of languages in India. For example- Hindi Sahitya Sammelan and Tamil Sangh etc.

11. ANOMIC GROUPS

Anomic pressure groups refer to those spontaneous groups which are formed with a collective response through riots, demonstrations, assassinations, etc. The Indian government and bureaucratic elite overwhelmed by the problem of economic development and scarcity of resources available to them, inevitably acquires a technocratic and anti-political frame of mind, particularistic demands of whatever kinds are denied legitimacy. As a consequence, pressure groups are alienated from the political system. Some of the anomic pressure groups are- Naxalite groups, United Liberation Front of Assam, All Assam Student's Union, Jammu and Kashmir Liberation Front.

MAJOR PRESSURE GROUPS IN INDIA

- Business Groups – FICCI, CII, ASSOCHAM, AIMO, FAIFDA etc. (institutional groups).
- Trade Unions – AITUC, INTUC, HMS, CITU, BMS etc.
- Agrarian Groups- All India Kisan Sabha, BharatiyaKisan Union etc.
- Student's Organisations- ABVP, AISF, NSUI etc
- Religious Organisations-VHP, Bajrang D al, Jamaat-e-Islamic etc.
- Caste Groups – Harijan Sevak Sangh, Nadar Caste Association etc
- Linguistic Groups – Tamil Sangh, Andhra Maha Sabha etc

- Tribal Groups – NSCN, TNU, United Mizo federal org, Tribal League of Assam etc.
- Professional Groups – IMA, BCI, IFWJ, AIFUCT etc
- Ideology based Groups – Narmada Bachao Andolan, Chipko Movement, Women Rights Organisation, India Against Corruption etc.
- Anomic Groups – ULFA, Maoists, JKLF, All-India Sikh Student's Federation etc.

TECHNIQUES USED BY PRESSURE GROUPS

- **Electioneering:** Placing in public office persons who favour their interests.
- **Lobbying:** Persuading public officers to adopt and enforce policies of their interest.
- **Propagandizing:** Influencing the public opinion.
- **Media as pressure group**-Mass media plays a vital role in revealing the various happening of politics and life of common people all around. In countries such as India the mass media –the radio, TV, the cinema and the press are very powerful means of social change and act as a pressure group for the interest of common people and reveals all deeds of the government.

DIFFERENCE BETWEEN POLITICAL PARTY & PRESSURE GROUP

- Pressure group is the public body acting behind the political party (outside political party) whereas political parties constitute government
- Pressure group act is indirect as well as intermittent. They try to influence and pressurize the government to get their demand fulfilled. They do not intervene directly whereas Political parties act directly, they are legally entitled to frame policies and take decision concerning the country.
- Pressure groups pressurize executive and legislature to achieve its aim whereas Political parties bring co-ordination in the working of executive and legislature.
- Pressure group uses both conventional and non-conventional means to demonstrate their demands whereas Political parties use only constitutional means to execute its duties and functions

- Pressure group works for self-interest, they emerge and dissolve as per the need of certain groups whereas Political party works for national interests and not merely for any certain group or objective.
- Pressure group emerges and dissolves whereas political parties are recognized by election commission.
- Pressure groups They never form government or contest election but influence the decision of Government or public policy, unlike political parties. They attempt to influence political parties whereas political parties seek to create change by being elected to public office.

HOW DO PRESSURE GROUPS ENHANCE THE POLITICAL SYSTEM?

- Pressure groups are a vital link between the government and the governed. They keep governments more responsive to the wishes of the community, especially in between elections.
- Pressure groups are able to express the views of minority groups in the community who might not otherwise receive a hearing.
- Pressure groups are able to use their expertise to provide the government with important information. This has often been the argument in relation to motoring organisations such as the RACQ. It is also applicable to issues such as Indigenous reconciliation.
- Pressure groups offer an alternative source of advice to the government, separate from that coming from the Public Service.
- Pressure groups generally promote opportunities for political participation for citizens, without the need to join a political party. Moreover, they allow for the democratic rights of freedom of speech, assembly and association to be upheld.

HOW DO PRESSURE GROUPS DISTORT THE POLITICAL SYSTEM?

- Pressure groups may represent a powerful minority force in society and exert political influence to the detriment of the majority of society. This is an argument often leveled at trade unions and business groups.
- Some pressure groups exert influence because of their financial position, membership or organisation. This influence may be out of proportion to their position in society.

- The use of direct action by pressure groups (e.g. strikes by unions, demonstrations, blockades, pickets) can cause hardship to the community in general.
- Some pressure groups are not democratic in themselves. Some have powerful, but unrepresentative leaders who may not be representative of anyone but themselves. Some leaders do not reflect the opinions of their organization's members.

HOW DO PRESSURE GROUPS EXERT THEIR INFLUENCE?

- Pressure groups may use a variety of methods to pursue their requirements. These include
- lobbying state members and the Parliament via petitions, letters and deputations;
- consulting with ministers or senior public servants;
- hiring professional lobbyists;
- taking legal action through injunctions or appeals to higher courts;
- campaigning for, or opposing, certain candidates at elections;
- (demonstrating outside Parliament and government offices or marching in the streets;
- using the industrial muscle of strikes for political purposes.

Because of the complexities of modern government, and the pluralistic nature of Australian society, pressure groups provide a means by which ordinary citizens can participate in the decision-making process, as well as maintaining a check on government activity. Similarly, governments can be better informed of the electorate's sensitivities to policies, because of the pressures articulated by these groups.

SHORTCOMINGS OF PRESSURE GROUPS

- **Narrow selfish interests:** Unlike the pressure groups in the developed countries of the West, where these are invariably organised to safeguard economic, social, cultural interests, etc. in India these groups are organised around religious, regional and ethnic issues. Many a time factors of caste and religion eclipse the socioeconomic interests. The result is that instead of serving a useful purpose in the political administrative process, they are reduced to work for narrow selfish interests.
- **Misuse of power:** Instead of the pressure groups exerting influence on political process, they become tools and implements to sub serve political interests.

- **Instability:** Most pressure groups do not have autonomous existence; they are unstable and lack commitment, their loyalties shift with political situations which threatens general welfare. They many a times resort to unconstitutional means like violence. Naxalite movement started in 1967 in West Bengal is one such example.
- **Propagating extremism:** Pressure groups can allow too much influence over the government from unelected extremist minority groups, which in turn could lead to unpopular consequences.

CONCLUDING REMARKS

Pressure groups are now considered as an indispensable and helpful element of the democratic process. The society has become highly complex and individuals cannot pursue their interests on their own. They need the support of other fellow beings in order to gain greater bargaining power; this gives rise to pressure groups based on common interests. Despite major criticism, the existence of a pressure group is now an indispensable and helpful element of a democratic setup. Pressure group promotes national and particular interests, constitute a link of communication between citizen and the government. They provide the necessary information and keep the nation politically alive. Today democratic politics has to be politics through consultation, negotiation and some amount of bargaining. These cannot happen without pressure group. The society has become highly complex and an individual cannot pursue their interest in their own, they need pressure group for this. Pressure groups are so vital that they are not confined to need of developed or developing nation or any form of government.

****

REFERENCES

1. Bakshi, P. M. 1956 "Comparative Law: Separation of Powers in India." American Bar Association Journal 42, no. 6: 553-95. http:// www.jstor.org/stable/25719656
2. Bakshi, P. M.1956 "Comparative Law: Separation of Powers in India." American Bar Association Journal 42, no. 6 : 553-95. http:// www.jstor.org/stable/25719656
3. Basu, DD 1986 Administrative Law Kamal Law House, Kolkata.
4. Daniel L. Smail, Thelma Fernster, Fama. The Politics of Talk and Reputation, Ithaca, Cornell University Press, 2003.
5. Edward L. Bernays, Crystallizing Public Opinion, 1923.
6. Garg, B. L.1964 "Problem of the Separation of Judiciary in India." The Indian Journal of Political Science 25, no. 3/4: 331-38. http:// www.jstor.org/stable/41854047.
7. Jacob Shamir/Michal Shamir, The Anatomy of Public Opinion, Ann Arbor: University of Michigan Press, 2000.
8. Jürgen Habermas, The Structural Transformation of the Public Sphere, 1989 (Strukturwandel der Öffentlichkeit, Neuwied 1962).
9. Marsh, Norman S. 1959 “Report of the committee on the Judiciary and the Legal Profession under the Rule of Law” The Rule of Law in a Free Society. https://www.icj.org/wp-content/uploads/1959/01/Rule-of-law-in-a- free-society-conference-report-1959-eng.pdf
10. Norman John Powell, Anatomy of Public Opinion, New York, Prentice-Hall, 1951.
11. Walter Lippmann, Public Opinion, 1922.

UNIT-IV

SYSTEM OF ELECTORATE

SYNOPSIS

- *Introduction*
- *What Electoral Systems Are?*
- *Importance of Electoral Systems*
- *Types of Electoral Systems*
    - *Plurality/Majority Systems*
    - *Proportional Representation Systems*
    - *Mixed Systems*
    - *Other Systems*
- *Theories of The Nature of The Suffrage:*
- *Extent of The Electorate.*
- *Qualifications and Disqualifications from Electric Examples from Countries*
- *J.S Mill's Views*
    - *J.S Mill's Views on Qualifications and Disqualifications*
- *Concluding Remarks*

4.1 THE ELECTORATE

INTRODUCTION

Electoral systems are today viewed as one of the most influential of all political institutions, and of crucial importance to broader issues of governance and the wider political system. For example, it is increasingly being recognized that an electoral system can be designed both to provide local geographic representation and to promote proportionality; can promote the development of strong and viable national political parties, and ensure the representation of women and regional minorities; and can help to 'engineer' cooperation and accommodation in a divided society by the creative use of particular incentives and constraints.

Requisites of Democracy for the electorate. The strength and stability of modern states are usually attributed to the fact that they are democratic. It is argued that if the people make the laws that they obey, and select the persons to administer such laws, there is the largest likelihood that general welfare will be secured and the least danger of dissatisfaction and revolution. A more careful analysis of the term "Democracy" and of the methods by Which a democratic government is organized in desirable.

WHAT ELECTORAL SYSTEMS ARE?

At the most basic level, electoral systems translate the votes cast in a general election into seat won by parties and candidates. The key variables are the electoral formula used (i.e. whether a plurality/majority, proportional, mixed or other system is used, and what mathematical formula is used to calculate the seat allocation), the ballot structure(i.e. whether the voter votes for a candidate or a party and whether the voter makes a single choice or expresses a series of preferences) and the district magnitude. It must also be stressed that, although this Handbook does not focus on the administrative aspects of elections (such as the distribution of polling places, the nomination of candidates, the registration of voters, who runs the elections and so on),these issues are of critical importance, and the possible advantages of any given electoral system choice will be undermined unless due attention is paid to them.

Electoral system design also affects other areas of electoral laws: the choice of electoral system has an influence on the way in which district boundaries are drawn, how voters are registered, the design of ballot papers, how votes are counted, and numerous other aspects of the electoral process. democracy is based upon the theory of equality and, from the political point of view, includes these two concepts:

1. **Civil liberty,** or the right of each person to equal freedom, within a certain sphere, from interference on the part of other persons or of the government.

2. **Political liberty,** or the right to share in exercising the authority of the state.

Accordingly, a state is democratic when, from the standpoint of the former, all its citizens are guaranteed an equal amount of civil liberty, or, as usually stated, are equal before the law and, from the standpoint of the latter, when a large proportion of its citizens take some part in the sovereign power of legally expressing the state's will. A state in which all are equally exempt from interference and all share equally in exercising such authority as exists would be a perfect democracy, such a condition is in practice, impossible.

IMPORTANCE OF ELECTORAL SYSTEMS

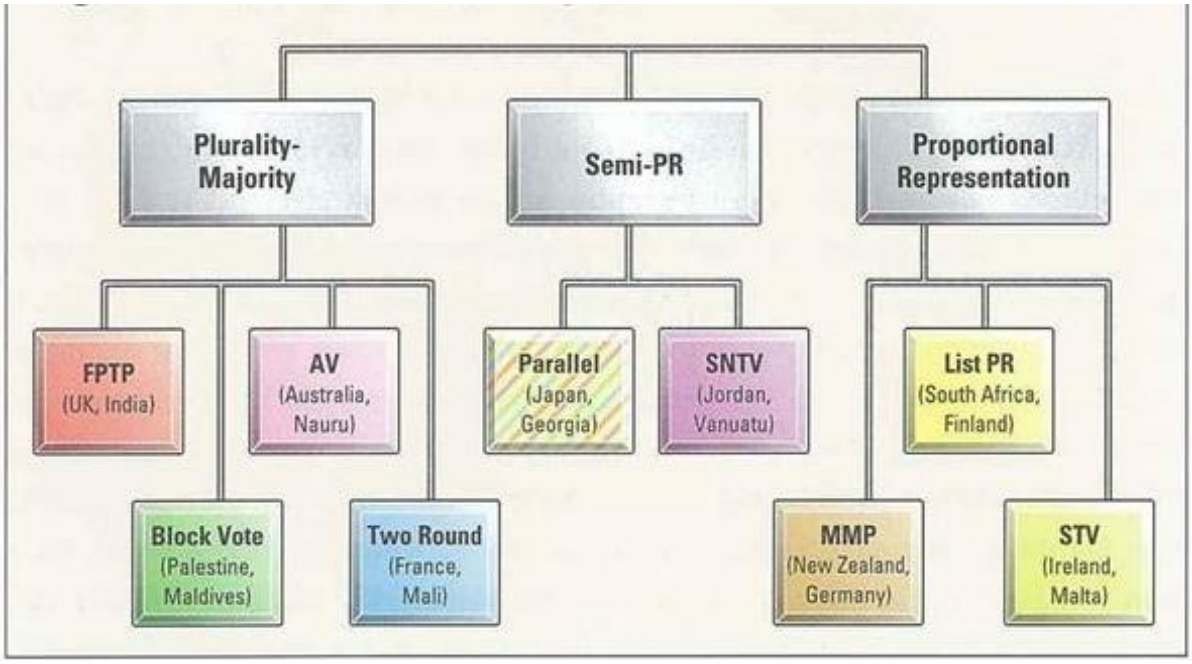
Political institutions shape the rules of the game under which democracy is practiced, and it is often argued that the easiest political institution to manipulate, for good or for bad, is the electoral system. In translating the votes cast in a general election into seats in the legislature, the choice of electoral system can effectively determine who is elected and which party gains power. While many aspects of a country's political framework are often specified in the constitution and can thus be difficult to amend, electoral system change often only involves new legislation. Even with each voter casting the same vote and with the same number of votes for each party, one electoral system may lead to a coalition government or a minority government while another may allow a single party to assume majority control.

TYPES OF ELECTORAL SYSTEMS

There are many different electoral systems currently in use and many more permutations on each form (Reynolds et al. 2005). For the sake of simplicity, they can be categorized into **three broad families**:

1. Plurality/majority systems,
2. Proportional representation systems, and
3. Mixed systems.

Within these, there are nine 'sub-families': First Past The Post (FPTP), Block Vote (BV), Party Block 4 Vote (PBV), Alternative Vote (AV), and the Two-Round System (TRS) are all plurality/majority systems; List Proportional Representation (List PR) and the Single Transferable Vote (STV) are both proportional systems; and Mixed Member Proportional (MMP) and Parallel systems are both examples of the mixed model. In addition, there are other systems such as the Single Non- Transferable Vote (SNTV), the Limited Vote (LV), and the Board Count (BC).



PLURALITY/MAJORITY SYSTEMS

The distinguishing feature of plurality/majority systems is that they usually use single-member districts. In an FPTP system (sometimes known as a plurality single-member district system) the winner is the candidate with the most votes but not necessarily an absolute majority of the votes When this system is used in multi-member districts it becomes the Block Vote. Voters have as many votes as there are seats to be filled, and the highest-polling candidates fill the positions regardless of the percentage of the vote they achieve. This system with the change that voters vote for party lists instead of individual candidates-becomes the Party Block. Majoritarian systems, such as the Alternative Vote and the Two-Round System, try to ensure that the winning candidate receives an absolute majority (i.e. over 50 per cent). Each system makes use of voters' second preferences to produce a winner with an absolute majority if one does not emerge from the first round of voting.

PROPORTIONAL REPRESENTATION SYSTEMS

The rationale underpinning all PR systems is to consciously reduce the disparity between a party's share of the national vote and its share of the parliamentary seats; if a major party wins 40 per cent of the votes, it should win approximately 40 per cent of the seats, and a minor party with 10 per cent of the votes should also gain 10 per cent of the legislative seats. Proportionality is often seen as being best achieved by the use of party lists, where political parties present lists of candidates to the voters on a national or regional basis but preferential voting can work equally well: the Single Transferable Vote, where voters rank-order candidates in multi-member districts, is another well-established proportional system.

MIXED SYSTEMS

Parallel systems use both a PR element and a plurality/majority (or other) element running independently of each other. Mixed Member Proportional (MMP) systems also use two elements (one of which is a PR system), with the difference that the PR element compensates for any disproportionality arising under the plurality/majority or other system, normally leading to a much

more proportional outcome than a Parallel system. Parallel and MMP systems have been widely adopted by new democracies in Africa and the former Soviet Union.

OTHER SYSTEMS

Three systems do not fit neatly under any one of the above-mentioned categories. The Single Non-Transferable Vote is a multi-member-district, candidate-cantered system in which voters have one vote. Limited Vote is very much like SNTV but gives voters more than one vote (however, unlike Block Vote, not as many as there are seats to be filled). Board Count is a preferential system in single- or multi-member. just under half (91, or 46 per cent of the total) of the 199 countries and territories of the world which have direct elections to the legislature use plurality/majority systems; another 72 (36 per cent) use PR-type systems; 30 (15 per cent) use mixed systems; and only six (3 per cent) use one of the other systems. When the different systems are classified by population size, the dominance of plurality/majority systems becomes even more pronounced, with legislatures elected by FPTP, Block Vote, PBV, AV or TRS methods representing collectively 2.65 billion people (54 per cent of the total population of these 199 countries). PR electoral systems are used in countries totaling 1.19 billion inhabitants, mixed systems are used to represent 1.07 billion people, and the population in countries using other systems is only 34 million.

THEORIES OF THE NATURE OF THE SUFFRAGE:

The functions of the electorate are exercised by the process of voting. Concerning this political right various theories have been held.

1. The tribal theory:

This theory appeared in the early tribal organization of the Greek, Roman, and Germanic peoples and reached its highest development in the Greek city state. It regarded suffrage as a necessary attribute of membership in the state. State and individual were identified. Neither had any interests that conflicted with the other and voting on questions of public policy was a part of the life of the community in which every citizen shared.

Citizenship might be narrow and exclusive, but within the citizen class each person was expected to share in the work of government. The suffrage was not viewed as a right or a privilege, but as a necessary and natural part of the life of every citizen. Membership in the state carried with it the obligation to take active part in its life. The modern practice of requiring citizenship as a qualification for voting represents a survival of this theory.

2. The feudal theory:

In the latter part of the Middle Ages, when the system of representation was being developed, the right to vote was considered as a vested privilege, attached to those occupying a particular status in society, and usually associated with the ownership of land. Modern property qualifications for voting are a survival of this theory, as are the systems of plural voting, such as that which existed until recently in Great Britain, where persons who owned estates in various parts of the country had the right to vote in each of these places.

3. The natural rights theory:

The theory of an original state of nature, in which all men were free and equal and possessed natural rights, and of the establishment of the state and of government by a voluntary contact to the doctrine of popular sovereignty. All political power came from the people. They alone could create law and the government was their agent, receiving its delegated powers from the people who created it. In accordance with these principles the right to take part in government was a natural right, by means of which the general will of the people could be discovered and the government kept responsible to the consent of the governed. According to this theory, which reached its highest development in connection with the revolutions in England in the seventeenth century and the American and French revolutions in the eighteenth century, the right to vote was viewed as an abstract right which people possessed under the law of nature.

4. The legal theory:

According to the legal theory, which is held by most political scientists, the electorate is viewed as one of the organs of government, whose composition and powers are determined by the laws of the state. Voting thereby becomes a function of government, the exercise of a public trust. The question of who may vote and of what the voters may do is decided by each state from the point

of view of political efficiency. Suffrage, therefore, is not a natural right, but a political right, conferred by law. This theory serves as the justification for various reform movements, such as proportional representation, the short ballot, corrupt practices acts, and educational qualifications for voting, the purpose of which is to secure a competent and effective electorate as a part of the governmental organization.

5. The ethical theory:

The exponents of the ethical theory argue the desirability of the right to vote, not as a natural right but as a means for the most complete development of human personality and worth. By taking active part in government the citizen becomes more interested in public questions and more intelligent concerning public policy than he otherwise would be. His capacity for self-government is thereby increased, and his dignity and self-respect are enhanced by the opportunity for self-expression in political affairs. This theory has been used to justify the extension of the suffrage, as a means of political education, to classes not fully competent to exercise it wisely. The granting of suffrage to former slaves at the close of the American Civil War, and the recent establishment of wide Dowers of self-government in the Philippine Islands and in India, are examples of this policy.

EXTENT OF THE ELECTORATE.

The doctrines of natural rights, equality of men, and popular sovereignty, which were prevalent in the philosophic theories of the eighteenth century, manifested themselves in a demand for universal manhood suffrage and in the French Revolution these doctrines were put into practice. In the United States, where English political methods had been established without the background of feudal institutions, a comparatively extensive suffrage was further widened, as a result of these theories, by abolishing religious and property qualifications.

1. Age:

All states agree that a certain maturity is a requisite to the political intelligence and judgment needed in voting Hence an Even in England the injustice resulting from the restricted and unevenly distributed franchise led to the Reform Acts of the nineteenth century, by which the suffrage was extended to the farm laborers and the city workers. minimum age limit to the exercise of the

suffrage is universal the usual requirement being twenty to twenty-five years of age. This qualification alone removes from the electorate almost half the entire population.

2. Sex:

Political authority in its origin was closely connected with military power, and in many early political societies the freemen in arms formed the electorate. This association of political power with military service excluded women from active Participation. When modem states arose, women were legally and economically dependent and while in some states, through descent, women might occupy the throne, the idea that women as a class should share with men in government did not exist.

In fact, except for the philosophical theory of "universal suffrage." held by a small minority of extreme radicals at the time of the French Revolution, it was not until the latter half of the nineteenth century that woman's suffrage was seriously urged. Even today, in many countries it has made little progress.

3. Citizenship:

At the present time, when movement of population from one country to another is common, citizenship becomes an important and complicated problem. Most states require either original or naturalized citizenship as a qualification for suffrage. Citizenship at birth is decided by one of two principles or by a combination of both. In accordance with the principle of *jus sanguinis,* the nationality of a child follows that of his parents or one of them, regardless of the place of birth. In accordance with principle of *jus soli,* nationality is determined by the place of birth, regardless of the citizenship of the parents. Citizenship and suffrage are by no means coextensive. Many citizens are excluded from the suffrage in all states and states may, if they choose, confer the right to vote upon resident aliens.

4. Residence:

Closely connected with citizenship is the requirement that in order to vote a person must establish a legal residence in a place for a certain period of time. In the United States, where population is especially mobile, 3 period of residence ranging from thirty days in some election districts to two

years in some commonwealths is demanded and a person may vote only in the district containing his residence. In Great Britain a person possessing certain property qualifications may vote in one district in addition to that which he resides. Some form of registration to prevent fraud in voting is in practice in all states.

5. Property:

Since modern suffrage originated during the feudal period, its exercise was for a long time limited to property, holders. An early English statute required a freehold worth forty shillings a year as a requisite for voting, and for centuries the possession of real estate or the payment of taxes was necessary. According to the current theory, voting was the accompanying right of property, not of citizenship, since property owners alone had a permanent share and interest in the community.

6. Mental and moral qualifications:

Religious qualifications for voting have practically disappeared, although the constitutions of several commonwealths in the United States provide that no person shall vote who does not believe in a God. Criminals in confinement and idiots and lunatics are usually excluded and sometimes those who have been convicted of certain crimes, such as bribery in elections, are temporarily or permanently disqualified. Recently educational tests, involving ability to read and write, have been adopted in a few states. This requisite is based on the sound principle of political expediency that voting should be intelligent. In addition, there are exceptional qualifications in certain states. The residents of the District of Columbia are entirely disfranchised. In Russia those who employ others for the sake of profit or who live on income not derived from their own labour, monks and priests of all religious denominations, and members of the former ruling dynasty and of the former secret police were excluded from voting. Soldiers and sailors on actual military duty are disfranchised in some states.

QUALIFICATIONS AND DISQUALIFICATIONS FROM ELECTRIC EXAMPLES FROM COUNTRIES

All the states exclude minors, aliens, and lunatics from the right to vote and adult by suffrage are meant every citizen, male and female, who is not a lunatic or criminal. France has fixed the adult

age at 21 years. Britain, the United States, India and Russia consider 18 years sufficient. in some cases, the limit is as high as 25.

❖ **Philippines:** The answer to this could be found in the constitution, particularly section.1 of article 5. The qualification for a voter is:

1.Citizen of Philippines.
2. Not disqualified by law
3.At least 18 years old
4.Resident of the Philippines for at least one year immediately before the elections.
5. Resident of the place where they propose to vote at least six months immediately before the election.

who are disqualified to vote?

1. any person sanctioned by final judgement to suffer imprisonment for one year or more
2. any person convicted of having committed any crime involving disloyalty to the government or any crime against national security.

❖ **India:** The Representation of the People Act, 1956 Section 16 speaks as follows:
disqualifications for registration in an electoral roll.

1. a person shall be disqualified for registration in an electoral roll if he or if she: -
   - is not a citizen of India
   - is of unsound mind and stands to declared by a competent court, or
   - is for time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with election
2. The name of any person who becomes so disqualified after registration shell forth with be struck off electoral roll in which it is included.
   provided that the name of any person stuck off the electoral roll of a constituency by reason of disqualification under clause(c) of sub section
   a) Shall forthwith be re-instated in that roll if such disqualifications are, during the period of such roll is in force, removed under any law authorizing such removal.

The Representation of People Act, 1951 section 19 speaks as follows: every person who-

a) is not less than 18 years of age on the qualifying date and
b) is ordinary resident in a constituency shall be entitled to be registered in the electoral roll for that constituency.

❖ **United States of America**: Article 7 section 2 A, B and C about disqualification. Section.2

A. No person shall be entitled to vote at any general election, or for any office that now is, or hereafter may be, elective by the people, or upon any questions which may be submitted to a vote of the people, unless such person be a citizen of the United States of the age of 18 years or over, and shall have resided in the state for the period of time preceding such election as prescribed by law, provided that qualifications for voter at a general election for the purpose of electing presidential electors shall be prescribed by law. The word "citizen" shall include persons of the male and female sex.
B. The rights of the citizens of United States to vote and hold office shall not be denied or abridged by the state, or any political division or municipality thereof, and account of sex, and right to register, to vote and to hold office under any law now in effect, or which my hereafter be enacted, is hereby extended to, and conferred upon males and females alike.
C. No person who is adjudicated a care incapacitated person shall be qualified to vote at any election, nor shall any person convicted of treason or felony, be qualified to vote at any election unless restored to Civil rights.

❖ **United Kingdom:**

Qualifications:

- Must be 18 years of age.
- Must be qualifying Commonwealth (including British) citizen or a Republic of Ireland citizen.

Disqualifications:

- Those listed in the house of commons (disqualification) act, 1975 (including civil servants, members of the regular armed force, judges, police and AROs)
- Bankrupts (under section 426A and 427 of the insolvency Act, 1986)
- Being convicted or found personally guilty by an election court of a corrupt or illegal practice.
- Peers of Parliament (including Scottish peers and peeress in her own right)
- Being a person convicted of offences and in receipt of a sentence of imprisonment exceeding 1 year whilst detained or whilst unlawfully at large.
- Conviction and detention for treason.
- Mental disability
- A sitting the member

J.S MILL'S VIEWS

J.S Mill's plural voting proposal in Considerations on Representative Government presents political theorists with a puzzle: the elitist proposal that some individuals deserve a greater voice than others seems at odds with Mill's repeated arguments for the value of full participation in government. This essay looks at Mill's arguments for plural voting, arguing that, far from being motivated solely by elitism, Mill's account is driven by a commitment to both competence and participation. It goes on to argue that, for Mill, much of the value of political participation lies in its unique ability to educate the participants. That ability to educate is not, however, a product of participation alone; rather, for Mill, the true educative benefits of participation obtain only when competence and participation work together in the political sphere. Plural voting, then, is a mechanism for allowing Mill to take advantage of the educative benefits that arise from the intersection of competence and participation.

J.S MILL'S VIEWS ON QUALIFICATIONS AND DISQUALIFICATIONS

J S Mill's views on qualifications and disqualifications of electorate. John Stuart mill was an early and strong advocate of Universal Suffrage at a time when it was taken for granted that women, for example, did not vote. In considerations on Representative Government, published in 1861, when the modern suffrage movement was just getting started, he wrote… it is a personal injustice to withhold from anyone, unless for the prevention of greater evil, the ordinary privilege of having his voice reckoned in the disposal of affairs in which he has the same interest as the other people. If he is compelled to pay, if he may be compelled to fight, if he is required implicitly to obey, he should be legally entitled to be told what for; to have his consent asked, and his opinion counted at it's worth, do not at more than it's worth. There ought to be no pariahs in a full-grown and civilized nation; no persons disqualified, except through their own difficult. Everyone is degraded, whether aware of it or not, when other people, without consulting him, take up on themselves unlimited power to regulate his destiny. And even in a much more improved state than the human mind has ever yet reached. it is not in nature that they who are thus disposed of should meet with as fair play as those who have a voice.

Ruler and ruling classes are under a necessity of considering the interests and wishes of those who have the suffrage; but of those who are excluded, it is in their option whether they will do so or not, and, however honestly they are in general too fully occupied with things which they must attend to, to have much room in their thoughts for anything which they can impunity disregard. No arrangement of suffrage, therefore, can be permanently satisfactory in which any person or class is peremptorily excluded, in which the electron privilege is not open to all persons of full age who decide to obtain it. He explains that how is vision of Universal suffrage differs from our default idea of automatic Universal suffrage; "There are, however certain inclusions, required by positive reasons, which do not conflict with this principle, and which, though an evil in themselves, are only to be got rid of by the cessation of the state of things which requires them. I regard it as wholly inadmissible that that any person should participate in suffrage without being able to read, write, and I will add, perform the common operation of arithmetic. justice demands, even when the suffrage does not depend on it.

Mill was not of the Pernicious use of literacy tests and poll taxes to prevent whole classes and races from voting, even after legal suffrage was granted. To the extent that we try to address Mills concerns these days, it's through voter education, media reporting, candidate debates and the like. The underlying idea is that a certain maturity is essential for the proper exercise of judgement in electing representatives. criminals in confinement, idiots and lunatics are invariably excluded, because they do not possess the requisite mental and moral qualifications deemed necessary fora voter.

John Stuart mill said, 'I regard it was wholly inadmissible that any person should participate in the suffrage without being able to read and write and perform the common operations of arithmetic's. He emphasized that Universal teaching must precede Universal enfranchisement. With the spread of Universal desire for compulsory education majority of the advanced states now do not insist on this qualification to be prescribed in their electron laws. He also mentioned "it is important that the assembly which votes the taxes, either general or local, should be elected exclusively by those who pay something towards the taxes imposed. Those who pay no taxes, disposing by their votes of other people's money, have every motive to be lavish and none to economise as per as money matters are concerned, and any power voting processed by them is a violation of the fundamental principles, severance of the power of control from the interest in its beneficial exercise'.

Ownership of property has been a very common qualification for the exercise of suffrage in every modern state, except Russia. But the hold theory does not hold true any longer. Possession of property may be one of the necessary qualifications for the exercise of suffrage, but it cannot be regarded as the only essential qualification. Political right, if hedged by property qualification, is no right at all. Taxation and representation go together, and it is much valued democratic argument of the theory of representation. Taxes are paid, directly or indirectly, by all the citizens of the state and not only by the propertied class. Those who foot the bill of government must have the means to see how many is being spent, no matter whether they possess property or not.

CONCLUDING REMARKS

The electoral systems influenced a new push for electoral reform beginning around the 1990s, when proposals were made to replace plurality voting in governmental elections with other methods. New Zealand adopted mixed-member proportional representation for the 1993 general elections and STV for some local elections in 2004. After plurality voting was a key factor in the contested results of the 2000 presidential elections in the United States, various municipalities in the United States began to adopt Instant-runoff voting, although some of them subsequently returned to their prior method. However, attempts at introducing more proportional systems were not always successful; in Canada there were two referendums in British Columbia in 2005 and 2009 on adopting an STV method, both of which failed. In the United Kingdom, a 2011 referendum on adopting IRV saw the proposal rejected.

****

4.2 CONSTITUENCIES

SYNOPSIS

- *Introduction*
- *Kinds of Constituencies*
- *Territorial Constituencies*
- *Multi-Member Electoral Constituencies*
- *Single-Member Electoral Constituencies*
- *Single Member District Plurality:*
- *Concluding Remarks*

CONSTITUENCIES

INTRODUCTION:

A constituency is all the constituents of a representative. Constituents also have the power to remove their representative from the position to which they have appointed him or her. All the constituents who are registered to vote are called the electorate. The electoral constituency is the quintessential institution of official exclusion, for it defines how it is the excluded get reconstituted for their only formal roles as members of a modern democracy. Among these familiar institutions of democracy stands the electoral constituency, the group in which a citizen's vote is counted toward the election of a political representative. In most contemporary democracies, where you live defines your electoral constituency. Constituency is a basic electoral unit into which eligible electors are organized to elect representatives to a legislative or other public body. The registration of electors is also usually undertaken within the bounds of the constituency.

An electoral district (also known as a constituency, riding, ward, division, electoral area or electorate) is a distinct territorial subdivision for holding a separate election for one or more seats in a legislative body. Generally, only voters who reside within the geographical bounds of an electoral distinct (constituents) are permitted to vote in an election held there.

KINDS OF CONSTITUENCIES

Constituencies are most often formed on a geographical basis, but the basis could also be occupational (for example, the university constituencies that once existed in the United Kingdom), and territorial constituency in the United States and describe how its justifications changed at the very start of the republic.

- **Territorial Constituencies**

This is the most popular Kind of Constituency in most of the democratic countries. In this system all eligible voters living in a specified area vote to elect their representative. The total electorate of the country, irrespective of their profession or group is divided into territorial constituencies, which elect one or more representatives. The entire population is divided into constituencies with equal number of voters.

Territorial constituencies for national representation have always spanned multiple communities of interest. Large territorial constituencies open the possibility of increasing the amount of diversity within an electoral constituency. This has multiple benefits, the first among them being the deliberative benefits that come from forcing representatives to justify themselves before a heterogeneous population. The virtue of heterogeneous electoral constituencies emerges from a set of uncontroversial principles of democratic legitimacy.

- **Multi-Member Electoral Constituencies**

A multi-member electoral district (MMD) or Constituency is an electoral district electing more than one representative to office. All proportional representation systems use MMD's simply because it is impossible to distribute anything proportionally if there is only one seat. In

proportions systems, the simple rule is that the larger the district size the more proportional the system. Other systems using MMD's are Block Vote, Party Block Vote, Mixed Member Proportional systems and Parallel systems. Multi-member districts (MMD's) are electoral districts that send two or more members to a legislative chamber. Ten U.S states have at least one legislative chamber with MMD's. There are two other electoral systems employed in the United States, single-member and at-large. At-large districts are only used currently for the U.S House of Representatives in states that are only allotted one representative. The vast majority use single-member districts at both the federal and state levels. The advantages are given below:

- can more easily reflect administrative divisions or communities of interest within the country because there is flexibility about the numbers of representatives per district and, therefore, the size and geographic composition of the district and
- need not change boundaries, even if the population of a district increases or decreases, because the number of representatives elected from the district can be altered.

❖ **Single-Member Electoral Constituencies**

A single member electoral district (SMD) is an electoral district electing only one representative to office. The most common electoral system using SMD's is by far the First Past the Post (FPTP) system, under which the one candidate obtaining the most votes in one district is elected, even if he or she has not obtained an absolute majority of the votes. Other electoral systems which most often operate under SMD's are the Alternative Vote (AV) and Two-Round Systems (TRS). Almost all-American elections are held in Single Member districts where only one candidate is elected to each office on the ballot.

▪ **Single Member District Plurality:**

An electoral system in which candidates run for a single seat from specific geographic districts. An electoral system in which voters chose an individual running for office in single legislative district (also called "first past the post"). Example UK & United State. The winner is the person who receives the most, whether that is a majority. Increase the likelihood of two-party state.

Common in United States, rarely used in continental Europe or in Latin America. A variation of this is the majority runoff system (or double ballot). In Single-Member District elections, the candidate who receives the most votes is the winner. It is most important to note the difference between plurality and majority.

In Plurality election, the winning candidate is the person who receives the most votes. In majority election, the winning candidate is the person who receive more than half of all votes cast. The single member plurality voting system (SMP) is the most used voting system in the United States. SMP works with single member districts, meaning geographically defined districts that send one representative to a legislature. Voters in each district cast one vote for their favorite candidate and the candidate receiving the most votes is elected. This system commonly works in a series of two elections, in which primaries are held to determine a nominee from each major party, followed by a general election that pits the primary winners against one another.

Of the 211 democratic nations of the world, 68 – including the United States and most other former British countries – use SMP as their principal electoral system". Of major, full-fledged democracies, however, very few use SMP. Canada and the United States are the only nations regularly appearing on the list of democracies with at least two million countries and a high human rights rating from the organization Freedom House that do not use a form of proportional representation for one of their national elections. For the purpose of boundary delimitation, single-member districts ensure geographic representation. However, single-member districts must be redrawn on a regular basis to maintain populations of relatively equal size; are usually artificial geographic entities whose boundaries do not delineate clearly identifiable communities, and as a consequence, the entities nave no particular relevance to citizens;

Advantages of Single-Member Constituency

Supporters cite several advantages, namely that single member districts.

- provide voters with strong constituency representation because each voter has a single, easily identifiable, district representative.
- encourage constituency service by providing voters with an easily identifiable "ombudsman".

- maximize accountability because a single representative can be held responsible and can be re-elected or defeated in the next election.
- ensure geographic representation.

Disadvantages of Single-Member Districts

In citing disadvantages, critics point out that single-member districts:

- must be redrawn on a regular basis to maintain populations of relatively equal size.
- are usually artificial geographic entities whose boundaries do not delineate clearly identifiable communities, and therefore, the entities have no relevance to citizens.
- because of their tendency to over-represent the majority party and under-represent other parties, cannot produce proportional representation for political parties.

CONCLUDING REMARKS

The choice of electoral systems has a significant effect on who is elected, and a great many areas are affected beyond these direct votes to seats relationship. A few of the most prominent ones are:

- Governance
- Representation
- Party formation

As a general rule plurality/majority system using SMD's do well when it comes to creating strong majority governments and faithful geographic representation, while proportional representation systems with large MMD's do better when it comes to creating inclusive legislatures and representation of minorities and women. The strengths of single-member districts rest in the close ties between representatives and constituents, the accountability of representatives to the voters, and constituency service. Because single-member districts are used in conjunction with plurality or majority voting rules, they are also said to foster strong and stable government.

****

4.3 METHODS OF ELECTION AND BALLOTING

SYNOPSIS

- *Introduction*
- *Direct Election*
- *Indirect Election*
- *Open Ballot System*
- *Secret Ballot*
- *Plural Voting*
- *Multiple Voting*
- *Single Voting*
- *Different Kinds of Vote*
- *John Stuart Mill's View on Plural Voting*
- *Colluding Remarks*

METHODS OF ELECTION

INTRODUCTION

In a democratic country, election is a tool for citizens to have their voices count. The method through which the people choose their representative is known as election. An election is a formal decision-making process by which a population chooses an individual to hold public office. Two types of Election Direct and Indirect. (a) In the direct type of elections, all the voters participate in

the elections of their representatives. (b) In the case of indirect elections, in which voters in an election do not choose between candidates for an office, but rather elect persons who will then make the choice.

DIRECT ELECTION

Direct election is a system of choosing political office holders in which the voters directly cast ballots for the persons, or political party that they desire to see elected. The method by which the winner or winners of a direct election are chosen depends upon the electoral system used. The most used systems are the plurality system and the two-round system for single-winner elections, such as a presidential election and party-list proportional representation for the election of a legislature. Examples of directly elected bodies are the European Parliament (since 1979) and the United States House of Representatives. The MP's (member of parliament), MLA's (members of legislature) and members of the local bodies are elected by direct election.

The following are examples of direct elections in which people over the age of 18 years participate by casting their voters:

a. Lok Sabha elections, in which the Members of Parliament (MP) are elected.
b. Elections to the state Legislative Assembly, in which the Members of Legislative Assemblies (MLA's) are elected.
c. Elections to the local governing bodies, in which members of the local governing bodies like the municipal corporation or the panchayat is elected.

INDIRECT ELECTION

Indirect elections, people directly vote for the candidates and elect their representatives. An indirect election is a process in which voters in an election do not choose between candidates for an office, but rather elect persons who will then make the choice. It is one of the oldest forms of elections and is still used today for many upper houses and presidents. Some examples of indirectly elected bodies and individuals include:

- The election of the United States President and the Vice President is indirect election. Voters elect the Electoral College, which then elects the President. The Electoral College is a controversial issue in American politics, as the Electoral College vote may not agree with the popular vote.
- The President of Germany is similarly elected by a Federal Convention convened for that purpose.

In **Indirect elections,** voters elect their representatives who in turn elect their representatives to the formal offices like the President's office. Simply put, public do not cast their votes directly. Instead, they put the responsibility on the hands of their representatives, whom they elected through direct elections. In India, election to elect members of both the Rajya Sabha and the state legislative councils and the elections to the offices of President and Vice President are held through indirect elections.

OPEN BALLOT SYSTEM

The term "open ballot system" is used to describe votes in which participant's choices are not confidential. It is the opposite of a secret ballot. In most legislatures around the world, elected representatives vote on proposed legislation using an open ballot system, which is often done by members of parliament simply assembling on opposing sides of the chamber. One side represents the "no" vote and the other "yes" vote. This system is widespread in politics as it enables voters to hold their representatives to account on what they voted for and against.

Open Ballot System means that the political parties, which field their candidates for the elections, can nominate one election agent each to check the ballot of their party MLA's who comprised electoral college for the Rajya Sabha elections. The **Purpose of open ballot system** is to end the chances of cross-voting, to wipe out corruption and also to maintain the integrity of the democratic set-up, it could also be justified by the State as a reasonable restriction under Article 19(2) of the Constitution of India, on the assumption that voting in such an election amounted to freedom of expression under Article 19(1) (a). Open Ballot System had earlier been used in the Legislative Council elections.

SECRET BALLOT

The **secret ballot** is a voting method in which a voter's choices in an election or a referendum is anonymous, forestalling attempts to influence the voter by intimidation, blackmailing and potential vote buying. The system is one means of achieving the goal of political privacy. Secret ballots are used in conjunction with various voting systems. The most basic form of secret ballot utilizes blank pieces of paper, upon which each voter writes his or her choice. Without revealing the votes to anyone, the voter would fold the ballot paper and place it in a sealed box, which is emptied later for counting. An aspect of secret voting is the provision of a voting booth to enable the voter to write on the ballot paper without others being able to see what is being written. Today, printed ballot papers are usually provided, with the names of the candidates or questions and respective check boxes. Provisions are made at the polling place for the voters to record their preferences in secret, and the ballots are designed to eliminate bias and to prevent anyone from linking voter to ballot. A problem of privacy arises with moves to improve efficiency of voting by the introduction of postal voting and electronic voting. Some countries permit proxy voting, which some argue is inconsistent with voting privacy.

PLURAL VOTING

Plural voting is the practice whereby one person might be able to vote multiple times in an election. It is not to be confused with a plurality voting system which does not necessarily involve plural voting. Weighted voting is a generalization of plural voting. Plural voting refers to ability of some voters to vote in more than one electoral district at an election. One Man, `One Vote system is in vogue today, which means each person should have the right to one vote. However, in the nineteenth century John Stuart Mill criticized this system. Sedgwick also supported Mill's viewpoint. They are of the view that the people, who are more educated, pay more taxes and are advanced in age, should be given more votes than those who are younger in age, who are illiterate and who do not pay any tax. Taine also said that, "Votes should not be counted, they should be weighted." These thinkers consider education, property and age as basis for the grant of more votes.

MULTIPLE VOTING

Plural voting should be distinguished from multiple voting; multiple voting refers to electoral systems which permit (or require) a voter to cast more than one vote on a ballot paper to elect members from a multi-member electoral district using first past the post (plurality) voting. Plural voting can also refer to other electoral systems which permit a voter to cast more than one ballot to elect more than one member from an electoral district.

According to this view two systems are used:

(1) Plural Voting:

According to this system the same person is given right of separate voting for paying taxes at one place, for having property at another place and for being educated at the third place.

(2) Weighted Voting:

According to this system more educated, more taxpayers and elderly people are continuously given the right to plural voting against this who are poor and younger. According to the amended Constitution, this system was introduced in Belgium in 1833. But after the First World War (1914-18) the Communist Party staged a big demonstration against it. Consequently, in 1921 when the Constitution was again amended, the Weighted Voting system was completely abolished.

Merits of this System:

In this system the merits of Universal Adult Suffrage have been included, but its drawbacks have been removed. It means that in this system everybody has been given one vote. Besides the provision for giving more votes to the learned, the aged and the property-owners, against the illiterate, the young and the non-tax paying peoples, has been made, so that the government is not run only by incapable and uneducated persons.

Demerits of this system:

(1) This system is against democracy and the rich people have more influence in it.

(2) It is difficult to fix the standard for granting the plural voting right.

(3) It is not desirable to discriminate based on property.

SINGLE VOTING

The **single transferable vote (STV)** is a voting system designed to achieve proportional representation through ranked voting in multi-seat organizations or constituencies (voting districts). Under STV, an elector (voter) has a single vote that is initially allocated to their most preferred candidate and as the count proceeds and candidates are either elected or eliminated is transferred to other candidates according to the voter's stated preferences, in proportion to any surplus or discarded votes. The exact method of reapportioning votes can vary.

When STV is used for single-winner elections, it is equivalent to the instant-runoff voting (alternative vote) method. STV used for multi-winner elections is sometimes called "proportional representation through the single transferable vote", or PR-STV. "STV" usually refers to the multi-winner version. In the United States, it is sometimes called choice voting, preferential voting or preference voting. Hare-Clark is the name given to PR-STV elections in Tasmania and the Australian Capital Territory. In STV, each voter ranks the list of candidates in order of preference. In the most common ballot design, they place a '1' beside their most preferred candidate, a '2' beside their second most preferred, and so on. The completed ballot paper therefore contains an ordinal list of candidates. In the ballot paper in this image, the preferences of the voter are as follows:

1. John Citizen
2. Mary Hill
3. Jane Doe

Simplest Method: Elimination Transfers Only: The most straight forward way to count a ranked ballot vote is simply to sequentially identify the candidate with the least support, eliminate that candidate and transfer those ballots to the next-named candidate on each ballot. This process is repeated until there are only as many candidates left as seats available.

This method was used for a period in several local elections in South Australia. In effect, it is identical to instant-runoff voting, which is commonly used in leadership contests, expect that the transfer process is terminated when there are still several candidates remaining.

Finding the winners: An STV election starts with every voter's first choice, according to the following steps:

1. A candidate who has reached or exceeded the quota is declared elected.
2. If any such elected candidate has more votes than the quota, the excess votes are transferred to other candidates. Votes that would have gone to the winner go to the next preference. This can be done in several ways.
3. If no-one new meets the quota, the candidate with the fewest votes is eliminated and those votes are transferred to each voter's next preferred candidate.
4. This process repeats until either a winner is found for every seat or there are as many seats as remaining candidates.

There are variations, such as how to transfer surplus votes from winning candidates and whether to transfer votes to already-elected candidates. When the number of votes transferred from the losing candidate with the fewest votes is too small to change the ordering of remaining candidates, more than one candidate can be eliminated simultaneously. If a candidate is eliminated and their votes are transferred to already victorious candidates, then the new excess votes for the victorious candidate (transferred from the eliminated candidate) will be transferred to the next preference of the victorious candidate, as happened with their initial excess. However, any votes which would transfer from the victorious candidate to one who was already eliminated must be reallocated.

- **Merits of Single Voting**

a. Because votes cast for losing candidates and excess votes cast for winning candidates are transferred to voters next choice candidates, STV is said to minimize wasted votes.

b. The Single Transferable Vote is an electoral system that puts the power in the hands of the public. Evidence from Scotland and Ireland suggests voters use it in quite sophisticated ways.

c. Voters can also choose between candidates from the same party or different parties. This means voters can elect all MP's based on their individual abilities.

d. Voters can also vote for independent candidates without worrying about wasting their vote. Ireland has many independent MP's as do some Scottish councils.

e. Constituencies are more natural, covering a whole town or a country. This creates a recognizable local link and gives voters a choice of representatives to talk to.

f. The system provides approximately proportional representation, enables votes to be cast for individual candidates rather than for parties and compared to first-past-the-past voting – reduces 'wasted' votes (votes on sure losers or sure winners) by transferring them to other candidates.

- **Demerits of Single Voting**

Its critics contend that some voters find the mechanisms behind STV difficult to understand, but this does not make it more difficult for voters to "rank the list of candidates in order of preference" on an STV ballot paper.

DIFFERENT KINDS OF VOTE

- **Voice Vote**

Robert's Rules of Order Newly Revised (RONR) states that a voice vote (viva voice) is the usual method of voting on any motion that does not require more than a majority vote for its adoption. It is considered the simplest and quickest of voting methods used by deliberative assemblies. The presiding officer or chair of the assembly will put the question to the assembly, asking first for those in favor of the motion to indicate so verbally ("yes"), and then ask those opposed to the motion to indicate so verbally ("no"). The chair will then estimate which side had more members.

- **Rising Vote**

A simple rising vote (in which the number of members voting on each side stand or "rise") is used principally in cases in which the chair believes a voice vote has been taken with an inconclusive

result, or upon a motion to divide the assembly. A rising vote is also the normal method of voting on motions requiring a two-thirds vote for adoption. It can also be used as the first method of voting when only a majority vote is required if the chair believes in advance that a voice vote will be inconclusive. The chair can also order the rising vote to be counted.

- **Show of Hands**

A show of hands is an alternate to voice voting and can be used as the basic voting method in small boards or committees and it is so used in other informal or small gatherings for voting. It is more precise than a voice vote but does not require members to leave their seats. However, it does not count as a division of the assembly and is not always as effective as a rising vote in causing a maximum number of members to vote who have not done so.

- **Recorded Vote**

A **recorded vote** is a vote in which the votes (for or against) of each member of the assembly are recorded (and often later published). RONR explains: "Taking a vote by **roll call** (or by **yes and no,** as it is also called) has the effect of placing on the record how each member, or sometimes each delegation votes; therefore, it has exactly the opposite effect of a ballot vote. It is usually confined to representative bodies, where the proceeds are published, since it enables constituents to know how their representatives voted on certain measures. It should not be used in a mass meeting or in any assembly whose members are not responsible to a constituency."

Recorded votes may either be taken by calling the roll (a task typically ordered by the chair and performed by the secretary) or, in some assemblies by electronic device.

- **Signed Ballot**

A signed ballot is sometimes used as a substitute for a roll call vote. It allows the members votes can be recorded in the minutes without the chair having to call the names of each member individually. A motion to use a signed ballot is one of the motions relating to methods of voting and the polls.

- **Balloting**

Balloting is a form of voting in which the secrecy of the member's choices is desired. Members mark their choices on pieces of paper (or electronic devices tailored for such a purpose) and deposit the paper into a ballot box. This procedure is typically the usual method in elections. Robert's Rules of Order states that if a candidate does not receive a majority vote, the balloting is repeated

until a candidate obtains a majority vote. Exceptions to this rule must be stated in the organization's rules. Such exceptions may include preferential voting, cumulative voting and runoffs.

- **Repeated balloting**

Repeated balloting is done when no candidate achieves a majority vote. In this case, no candidate is involuntarily eliminated. Mason's Manual states, "In the absence of special rule, a majority vote is necessary to elect officers and a plurality is not sufficient. A vote for the election of officers, when no candidate receives a majority vote, is of no effect and the situation remains exactly as though no vote had been taken. "Demeter's Manual states, "The fact that a majority (or a plurality) of the votes are cast for an ineligible candidate does not entitle the candidate receiving the next highest number of votes to be declared elected. In such a case, the voters have failed to make a choice, and they proceed to vote again."

- **Preferential Voting**

Preferential voting allows members to rank their choices instead of choosing candidates. Robert's Rules of Order states that preferential voting "affords less freedom of choice than repeated balloting, because it denies voters the opportunity of basing their second or lesser choices on the results of earlier ballots and because the candidate or proposition in last place is automatically eliminated and may thus be prevented from becoming a compromise choice." In any case, preferential voting can be used only if the bylaws specifically authorize it.

- **Cumulative Voting**

Cumulative Voting allows members to cast more than one vote for a candidate. Regarding this method of voting, RONR states, "A minority group, by coordinating its effort in voting for only one candidate who is a member of the group, may be able to secure the election of that candidate as a minority member of the board. However, this method of voting, which permits a member to cast multiple votes for a single candidate, must be viewed with reservation since it violates the fundamental principle of parliamentary law that each member is entitled to one and only one vote on a question."

- **Runoffs**

A runoff is when a second round of voting is held where the lowest vote receiving candidates or all, but two candidates are eliminated after the first round. RONR states, "The nominee receiving the lowest number of votes is never removed from the ballot unless the bylaws so require, or unless

he withdraws – which in the absence of such a bylaw, he is not obligated to do. The nominee in lowest place may turn out to be a 'dark horse' on whom all factions may prefer to agree."

JOHN STUART MILL'S VIEW ON PLURAL VOTING

Mill's Idea of Plural Voting: Mill believed that participation in the electoral process was important to train the popular mind both intellectually and morally. Therefore, he claimed that 'all governments must be regarded as extremely imperfect, until everyone who is required to obey the laws, has a voice, or the prospect of a voice, in their enactment and administration'. For Mill, citizens were entitled to choose those who were responsible for the political decisions that affected society and to have a voice in matters of administration. Nevertheless, he did not accept that everyone ought to have an equal voice in such matters. Mill agreed with the view that everyone 'has an equal claim to control over his own government'. But he saw the power that the suffrage gave as a power over others, and in this case 'the claims of different people to such power differs as much, as their qualifications for exercising it beneficially'. Mill rejected the view that everyone was entitled to an equal claim to power over others, and accepted the view that the educated few should exert more power over others because they possessed more knowledge applicable to the affairs of the community.

Based on this presumed superiority of knowledge, Mill advocated granting a greater weight to the suffrage of better-educated voters. In "Thoughts on Parliamentary Reform", he defended the notion that the value of the vote of every person should be proportionate to their level of education : "If every ordinary unskilled laborer had one vote, a skilled laborer, whose occupation requires an exercised mind and knowledge of some of the laws of external nature, ought to have two. A foreman or superintendent of labor, whose occupation requires something more of general culture and some moral as well as intellectual qualities, should perhaps have three. A farmer manufacturer, or trader, who requires a still larger range of ideas and knowledge, and the power of guiding and attending to a great number of various operations at once, should have three or four. A member of any profession requiring a long, accurate and systematic mental cultivation a lawyer, a physician or surgeon, a clergyman of any denomination, a literary man, an artist, a public functionary (or, at

all events, a member of every intellectual profession at the threshold of which there is a satisfactory examination test) ought to have six.

A graduate of any university or a person freely elected a member of any learned society, is entitled to at least as many". Mill's conviction that educated voters should be allowed more influence in the choice of their representatives was mainly grounded on the belief that such persons had more knowledge applicable to the affairs of the community, but also grounded to some extent on a very low estimation of the capacity of the uneducated man. He referred to the uneducated as 'superstitiously attached to the stupidest and worst of old forms and usages', as 'eager to clutch at whatever they have not and others have', and as 'incapable of clearly conceiving the rights of others. Mill believed that deference to the intellectual excellence of the educated few was necessary in order to provide a balance between numbers and education, and thereby promote the well-being of society. Otherwise, the lowest on the educational scale would outvote the educated and virtually exclude them from parliament.

He proposed that adults, who had passed a test to assess their capacity in reading, writing and performing basic arithmetic operations, should be enfranchised. In his view demanding a very small amount of educational attainment as a condition of suffrage could prevent political disasters. For Mill, if a system of equality were introduced, for example, 'under universal suffrage, the class of mere manual laborers would everywhere form a large majority in any electoral district grounded solely on a local division of the country.' A political system framed in this way disenfranchised the other members of society and did not replicate properly the opinion prevailing in society. Mill thought that the plural voting system that he proposed was democratic because, on the one hand, it did not permit the majority to be outweighed by the minority; and on the other hand, it allowed the minority to be represented in parliament. He feared the exclusion of representatives of the educated few from parliament and argued that the educated few were not likely to control society, since their lack of identification with the values prevailing amongst the majority of its members would hinder them from accumulating the power that would enable them to control people in general.

CONCLUDING REMARKS

Motions relating to methods of voting and the polls are incidental motions used to obtain a vote on a question is some form other than by voice or by division of the assembly; or to close or reopen the polls. For instance, a motion can be made to vote by ballot. These motions generally cannot be used to specify alternative forms of voting such as cumulative voting or preferential voting. Those methods can only be done through a provision in the bylaws. Likewise, proxy voting is generally prohibited, except in situations in which membership is transferable, as in stock corporations and even then, only by authorization in the bylaws. Many legislative bodies use electronic voting systems for recorded votes. John Stuart Mill's defense of plural voting is at odds with the general lines of Mill's democratic ideals. He failed to perceive that his proposal of valuing the votes of citizens according to their standards of education was not appropriate to stimulate the participation of most of the electorate was not public life and tended to incorrectly equates political knowledge to expertise in governmental issues. The plural voting system proposed by Mill and points out the fact that it is deeply associated with his general concern with accountability. The system presented with Mill's understanding of the importance of participation and intellectual excellence to public life.

****

4.4 UNIVERSAL ADULT FRANCHISE

SYNOPSIS

- *Introduction*
- *Meaning of Adult Franchise*
- *Significance of Adult Franchise*
- *Universal Adult Franchise: Its Evolution*
    - *World Context*
    - *Indian Context*
- *Age of Voting Across the World*
- *Qualifications Prescribed for a Voter in India*
- *Merits and Demerits of Universal Adult Suffrage*
- *Concluding Remarks*

UNIVERSAL ADULT FRANCHISE

INTRODUCTION:

Universal suffrage gives the right to vote to all adult citizens, regardless of wealth, income, gender, social status, race, ethnicity, or any other restriction, subject only to relatively minor exceptions. In its original 19th-century usage by reformers in Britain, universal suffrage was understood to mean only universal manhood suffrage; the vote was extended to women later, during the women's suffrage movement. There are variations among countries in terms of specifics of the right to vote; the minimum age is usually between 18 and 25 years (see age of majority) and "the insane, certain classes of convicted criminals, and those punished for certain electoral offenses" sometimes lack

the right to vote. In the first modern democracies, governments restricted the vote to those with property and wealth, which almost always meant a minority of the male population.

In some jurisdictions, other restrictions existed, such as requiring voters to practice a given religion. In all modern democracies, the number of people who could vote has increased progressively with time. The 19th century saw many movements advocating "universal [male] suffrage", most notably in Europe, Great Britain and North America.

In the United States, after the principle of "one man, one vote" was established in the early 1960s by U.S. Supreme Court under Earl Warren,[11][12] the U.S. Congress together with the Warren Court continued to protect and expand the voting rights of all Americans, especially African Americans, through Civil Rights Act of 1964, Voting Rights Act of 1965 and several Supreme Court rulings.[13][14] In addition, the term "suffrage" is also associated specifically with women's suffrage; a movement to extend the franchise to women began in the mid-nineteenth century and culminated in 1920, when the United States ratified the Nineteenth Amendment to the United States Constitution, guaranteeing the right of women to vote.

MEANING OF ADULT FRANCHISE

The right of the people to vote and elect their representatives is called franchise. The word franchise is derived from the French word *'franc'* which means '*free'*.

It means free exercise of the right to choose one's representatives. Adult franchise means that the right to vote should be given to all adult citizens without the discrimination of caste, class, colour, religion or sex.

SIGNIFICANCE OF ADULT FRANCHISE

- It is based on equality which is a basic principle of democracy.
- It demands that the right to vote should be equally available among all.
- To deny any class of persons from exercising this right is to violate their right to equality.

- The spirit of democracy can be maintained only if the people are given the right to vote without any discriminations.
- The exercise of rightto vote adds to the individual' self-respect, dignity, sense of responsibility, and political and civic education.
- The system of adult franchise is the bedrock of a democratic system.
- People are called political sovereign because they possess the right to vote a government into power, or to vote a government out of power.

UNIVERSAL ADULT FRANCHISE: ITS EVOLUTION

WORLDCONTEXT

- The western countries, which are known for their long experience of some sort of representative system of governance, introduced adult franchise only in the wake of the First World War (1914 – 18), a war which was proclaimed to be fought by the Allied Powers (Great Britain, France and United States and the allies) to make the 'world safe for democracy'.
- The 'defeated' Germany incorporated the principle of universal adult franchise in 1919, it took nine more years for Great Britain to Democracy at Work extend franchise to women in 1928.
- In 1918, Britain had granted franchise to limited number of women. It was decided that while all adult men, 21 years of age and above would have the right to vote, women only above the age of 30 years could possess the right to vote. This discrimination was removed o only in 1928.
- France, the land that gave the popular slogans of Liberty, Equality and Fraternity, could introduce the right of universal adult franchise to its people only after the end of the Second World War i.e. 1945.
- Switzerland, the home of direct democracy denied the right to vote to women till 1973.

- India adopted the principle of universal adult franchise when the present Constitution was enacted in 1949 which as you know was implemented on January 26, 1950.

INDIAN CONTEXT

- Historically, adult franchise has been slow in making itself a universal law. In fact, one of the major demands in the long-drawn struggle for democracy in the world has been the acceptance of the principle of universal adult franchise, as the basis of ascertaining the wishes of people. Till the second decade of the twentieth century, not all the countries were practicing universal adult franchise. Many democratic systems had restricted to male franchise only, based on property, education and other qualifications.

- The **Article 326 of the Indian Constitution** grants universal adult suffrage, according to which, every adult citizen is entitled to cast his/her vote in all state elections unless that citizen is "convicted of certain criminal offences" or "deemed unsound of mind." As per this concept, the right to vote is not restricted by caste, race, sex, religion or financial status.

- Paradoxically, our Constitution which provides for Universal adult suffrage was drafted by a Constituent Assembly that was composed of members elected by restricted franchise.

- The Motilal Nehru report of 1928 advocated unlimited adult franchise and equal rights for women.

- The resolution of the 1931 Karachi session of the Indian National Congress adopted a resolution on Fundamental Rights and Economic Policy which encapsulated the notion of universal adult franchise.

- India adopted the principle of universal adult franchise when the present Constitution was enacted in 1949 which as you know was implemented on January 26, 1950.

AGE OF VOTING ACROSS THE WORLD

- The voting age varies from country to country.

- In Denmark and Japan, a person, man or woman, is entitled to vote after attaining the age of 25 years.
- In Norway, the age limit is 23,
- in Great Britain, the United States, Russia and Turkey it is 18.
- In Switzerland, it is 20 years.
- In our country, now the minimum age for exercising franchise is 18 years. The 61st Amendment Act of 1989 lowered the voting age from 21 to 18 years.

QUALIFICATIONS PRESCRIBED FOR A VOTER IN INDIA

There are certain qualifications prescribed for a voter in India.

a voter:

- ❖ Must be a citizen of India,
- ❖ Must have attained 18 years of age,
- ❖ Must not be of unsound mind,
- ❖ Must not have been declared bankrupt by a competent court.

MERITS AND DEMERITS OF UNIVERSAL ADULT SUFFRAGE

Suffrage (franchise, right to vote, voting rights), in representative government, is the right to vote in electing public officials and adopting or rejecting proposed legislation. Universal suffrage refers to the rights of all qualified adults to vote and be voted for. There are some arguments for and against universal adult franchise:

MERITS OF UNIVERSAL ADULT SUFFRAGE

The following are the arguments in support of universal adult suffrage:

- One of the merits of universal adult suffrage is the fact that it is based on political equality. The system is truly democratic as it gives political equality to all the citizens irrespective of their caste, creed, sex, religion or property.
- Adult franchise spreads the message that all the citizens are equal, and no one is privileged. This promotes national unity.
- Universal adult suffrage also protects the interest of the minority groups in a country since it allows even the ordinary person in the streets to participate in the electoral process of their country.
- The system rouses political awakening among all the citizens. They can safeguard their rights and freedoms. This develops a sense of responsibility among them.

DEMERITS OF UNIVERSAL ADULT SUFFRAGE

The following are the arguments that are against universal adult suffrage:

- One of the illiterate persons might not be able to exercise their right to vote properly. There are complex issues at stake during elections that must be properly explained to the electorates. It is argued that the illiterate members of the society may not be able to understand the complex national issues that are being peddled by the political parties.
- Another argument against universal adult suffrage is that it is too expensive. Elections in themselves are expensive to conduct. Now where universal adult suffrage is adopted, then every eligible voter is expected to vote. Large-scale arrangements must be made for elections.
- Poorer people are liable to sell their votes. In the poorer parts of the world where democracy seems to be operating, it is easy for politicians and their agents to convince the poor of the society to sell their votes.
- In some countries, people vote not because they understand any of the national issues but because of the dominance of a party in the constituency. This could lead to electing incompetent people into power.

CONCLUDING REMARKS

universal adult franchise is the foundation of a representative democracy. It means that each man or woman after attaining a prescribed age (such as 18 years in India) is entitled to vote in the elections without any discrimination on grounds of caste, creed, religion, language or sex. The citizens exercise their right to vote in order to choose their representatives in elections. Elections are, in fact, the bedrock of democracy and express the sovereign will of the people through the exercise of their free and equal vote.

****

4.5 FRANCHISE FOR WOMEN

SYNOPSIS

- ***Women Suffrage Movement's***
- ***Arguments Against the Political Enfranchisement of Women Suffrage***
- ***Defense of Women Suffrage:***
- ***Early Extensions of The Suffrage to Women:***
- ***Countries in Which Women Are Unenfranchised:***
- ***Women's Suffrage in India***
- ***Concluding Remarks***

INTRODUCTIONS

Women's suffrage is the right of women to vote in elections. Beginning in the mid-19th century, aside from the work being done by women for broad-based economic and political equality and for social reforms, women sought to change voting laws to allow them to vote. National and international organizations formed to coordinate efforts towards that objective, especially the International Woman Suffrage Alliance (founded in 1904 in Berlin, Germany), as well as for equal civil rights for women. Women who owned property gained the right to vote in the Isle of Man in 1881, and in 1893, women in the then British colony of New Zealand were granted the right to vote. In Australia, women progressively gained the right to vote between 1894 and 1911 (federally in 1902). Most major Western powers extended voting rights to women in the interwar period, including Canada (1917), Britain and Germany (1918), Austria and the Netherlands (1919) and the United States (1920). Notable exceptions in Europe were France, where women could not vote until 1944, Greece (1952), and Switzerland (1971).

WOMEN SUFFRAGE MOVEMENT's

The suffrage movement was a broad one, encompassing women and men with a wide range of views. In terms of diversity, the greatest achievement of the twentieth-century woman suffrage movement was its extremely broad class base. One major division, especially in Britain, was between suffragists, who sought to create change constitutionally, and suffragettes, led by English political activist Emmeline Pankhurst, who in 1903 formed the more militant Women's Social and Political Union. Pankhurst would not be satisfied with anything but action on the question of women's enfranchisement, with "deeds, not words" the organization's motto. Throughout the world, the Women's Christian Temperance Union (WCTU), which was established in the United States in 1873, campaigned for women's suffrage, in addition to ameliorating the condition of prostitutes. Under the leadership of Frances Willard, *"the WCTU became the largest women's organization of its day and is now the oldest continuing women's organization in the United States."*

There was also a diversity of views on a "woman's place". Suffragist themes often included the notions that women were naturally kinder and more concerned about children and the elderly. As **Creditor** shows, it was often assumed that women voters would have a civilizing effect on politics, opposing domestic violence, liquor, and emphasizing cleanliness and community. An opposing theme, **Creditor** argues, held that women had the same moral standards. They should be equal in every way and that there was no such thing as a woman's "natural role". For black women, achieving suffrage was a way to counter the disfranchisement of the men of their race. Despite this discouragement, black suffragists continued to insist on their equal political rights. Starting in the 1890s, African American women began to assert their political rights aggressively from within their own clubs and suffrage societies. *"If white American women, with all their natural and acquired advantages, need the ballot,"* argued Adella Hunt Logan of Tuskegee, Alabama, "how much more do black Americans, male and female, need the strong defense of a vote to help secure their right to life, liberty and the pursuit of happiness?"

ARGUMENTS AGAINST THE POLITICAL ENFRANCHISEMENT OF WOMEN SUFFRAGE

Hand in hand with the spread of democracy and the extension of the Suffrage to the masses of the male population has gone the movement for the political enfranchisement of women.

At the time of the French Revolution when the dogma of universal suffrage was at its height of popularity, a petition was presented to the National Assembly asking for an extension of the right of voting to women, and it received the support of men like Condorcet and others. It was said that if voting was a natural right of the citizen, it ought not to be denied to women. For a long time, however, after the democratic movement had resulted in the political enfranchisement of the masses of the male population, women were wholly excluded from the suffrage in all countries, even the most democratic. Restriction of the right to vote exclusively to males was not regarded as at all inconsistent with the principle of democratic government, or with the doctrine of the consent of the governed.

The arguments against the political emancipation of women are no doubt familiar to the readers of this book and do not therefore need to be reviewed in detail. Briefly stated, one of the main reasons advanced against it was the allegation that the active participation of women in political life would tend to unsex them and destroy the qualities which distinguish them from men. Those who held this view maintained that the function of maternity is woman's peculiar mission, and that the home rather than the political arena is her natural sphere. Her nature unfits her for engaging in political affairs, if she allows herself to be drawn away from the home by the distractions of the political campaign, the household of which she is the guardian, and the young which it is her high mission to bear and rear, will be neglected.

In short, the exactions of political life are inconsistent with the duties of childbearing and the rearing of families. Woman suffrage strikes at the integrity of the home and leads to the lowering of family life, said **Bluntschli,** for upon the wife more than upon the husband depends the welfare of the family. It is impossible, he said, for man to revere and honor a "political woman." Only man, he quoted Aristotle as saying, was intended for political life. Moreover, since the family cannot be, expected always to vote as a unit, female suffrage would tend to introduce discord and

dissension in the home by setting each member against the other. On the other hand, if the wife voted according to the advice or dictation of the husband, her vote would be merely a duplication of his, and nothing would be gained by giving her the ballot. In this case, said **Bluntschli**, it would be wiser to give the husband two votes, leaving to the wife the rich of exerting her powerful influence but without the duty and responsibility of participating in the election herself. Both **Bluntschli** and **Laveleye** maintained that the enfranchisement of women in Catholic lands would open the way to the rule of the Jesuit class, since their votes would be effectually controlled by the priests of the Catholic church.

The **Kulturkampf** struggle between state and church in Germany, Bluntschli declared, abundantly showed that the opinions of women were easily controlled by Catholic priests and that had they possessed the suffrage equally with men the struggle would have terminated in favour of the church. This fear is one of the reasons why women are still unenfranchised in France and Italy. It is said by some opponents of woman suffrage that since women are physically incapable of discharging all the duties and obligations of citizenship which devolve upon males, they have no right to demand the privileges. They cannot serve in the army or the militia or the posse comitatus, or serve the state in many other capacities without violating the properties and safe guards of female virtue. Nevertheless, as Sidgwick aptly re« marked, the military argument has no force in states where military service is mainly voluntary and where men who are not, trained soldiers are rarely called into the service.

DEFENSE OF WOMEN SUFFRAGE:

In answer to these and other arguments it was replied that differences of sex do not constitute a logical or rational ground for granting or withholding the suffrage to a citizen who is otherwise qualified in short, the criterion for determining the right to vote is not physical, but moral and intellectual. *"I see no adequate reason*," said **Sidgwick,** "for refusing the franchise to any self-supporting adult, otherwise eligible, on the score of sex alone, and there is a danger of material injustice resulting from such refusal so long as the state leaves unmarried women and widows to struggle for a .livelihood in the general industrial competition without any Special privileges or protection." In short, one capable citizen is as much entitled to participate in the choosing of those who govern as another, and sex should have nothing to do in determining the right**. John Stuart**

Mill, one of the first and most powerful advocates of woman suffrage, said: *"I consider it entirely irrelevant to political rights, as difference in the color of the hair. If there be any difference, women require it more than men, since, being physically weaker, they are more dependent on law and society for protection."*

- **The Argument of Self-Protection:**

In the second place, it was urged that women should be given the franchise as a means of self-protection not necessarily that they may govern, but that they may defend themselves against the unjust class legislation to Which it is alleged they are frequently subjected. Laws concerning the rights of women, remarked **Laveleye,** ought not to be made by men alone. In short, considerations of justice require that government of both men and women should not be government by men alone. The force of this argument possesses added weight on account of the character of modern industrial and social conditions under which women live. They are today competing with men side by side in nearly every trade and occupation and in many of the learned professions. Therefore, the plea that the wage-earner Should be given the ballot as a defence against his employer applies with equal, if not stronger, force to the argument for woman suffrage.

- **Argument Based on Logic:**

In the third place, it was urged that the political enfranchisement of women ought to follow naturally and logically their civil enfranchisement. Nearly everywhere the old civil and legal disabilities of women have disappeared, they are now capable of owning property, entering into contracts, and engaging in all gainful occupations equally with men. The arguments upon which they were formerly denied equal civil rights with men are largely the same as those which were recently relied upon to justify the denial to them of political rights and privileges. If women are capable of managing their own business affairs, of entering into contractual relations, of competing with men in the professions and occupations, of teaching them in the schools and colleges, they are capable of sharing with men the exercise of political privileges and rights. It is difficult indeed to defend a theory which permits the shiftless, improvident, and non-taxpaying male to have a voice in legislation, particularly when its effect is to impose burdens upon the taxpayers, but denies a voice to the self-supporting unmarried woman who owns property and contributes to the financial support of the state.

❖ **The Purification Argument:**

In the fourth place, it was argued that the admission of women to a share in the management of political affairs would inure to the common good by introducing into political life a purifying, ennobling, and refining influence that not only would tend to elevate the tone of public life and bring about more wholesome political conditions in society, but also would insure better government. In other words, society would gain by the change. Many instances were cited by the advocates of suffrage for women to show that in countries where they had been given the franchise they had wielded a decisive influence in securing the enactment of advanced social legislation, particularly as regards such matters as child labour, the employment of women in factories, the public health, tenement-houses, the sale of liquor, public libraries, better educational facilities, pure food legislation, and similar matters.

Nobody, said Mill, pretends to think that women would make a bad use of the suffrage. "The worst that can be said," he continued, is that they would-vote as mere dependents at the bidding of their male relations. If it be so, let it be. If they think for themselves, great good will be done, and if they do not, no harm. It is a benefit to human beings to take off their fetters even if they do not desire to walk. It would already be a great Improvement in the moral position of women to be no longer declared by law incapable of an opinion, and not entitled to a preference, respecting the most important Concerns of humanity There would be some benefit to them individually in having something to bestow Which their male relatives cannot exact,a11d are yet desirous to have It would also be no small thing that the husband would necessarily discuss the matter With his wife, and that the vote would not be his exclusive affair, but a joint concern.

Esmein's argument that the exclusion Of women from voting had its foundation in the natural law Of the division of labour between the two sexes, Professor **Duguit** pointed out that the law invoked merely ,leads to this, that upon neither men nor women may be confided functions which their sexual nature prevents them from performing. It would be necessary to prove therefore, that the physical and intellectual constitution of women rendered them incapable of exercising political functions a proof which no one had produced.

EARLY EXTENSIONS OF THE SUFFRAGE TO WOMEN:

Mill in 1861 prophesied that before the lapse of another generation the accident of sex, no more than the accident of skin, will be deemed a sufficient justification for depriving its possessor of the equal protection and just privileges of a citizen he prophecy proved true in part, and before his own generation had passed, experiments with woman suffrage on a limited scale were already being made in the United States. Once introduced, it spread rapidly, organized movements for the political enfranchisement of women, some of which were international in scope, were formed in America and Europe and before the outbreak of the World War the movement had achieved notable successes in many countries. In the United States women, had acquired an equal right to vote with men in a number of western states and in others, the right to vote in school elections municipal elections, or in the case of taxpayers, on proposed bond issues. In Great Britain, they enjoyed the franchise equally with men in all except parliamentary elections and were eligible to most local offices Both the Conservative and Liberal parties at different times proclaimed themselves to be in favour of extending the privilege to parliamentary elections, and the rising Labour party made the enfranchisement of women a leading feature of its program.

In Australia women were given the full right of voting equally with men in the Commonwealth elections and were made eligible to seats in parliament. In most of the Australian states, including Tasmania, and in New Zealand, there were put on a footing of equality with men in respect to voting in state elections. In all the Canadian provinces widows and spinsters acquired the franchise either in school or municipal elections or both, and in some of the northwest provinces no distinction was made between married and unmarried women. In Finland in 1907, all women 25 years of age who paid a small tax were given, the right to vote, the effect of which was to enfranchise almost 300, 000 women. In 1908 the women of Denmark were given the right to vote in municipal elections and in 1915 the right was extended to all elections.

COUNTRIES IN WHICH WOMEN ARE UNENFRANCHISED:

There still remain a few countries in Europe in which women have not yet acquired the suffrage at least not equal suffrage with men. They are the Netherlands, Bulgaria, Yugoslavia, Portugal, Italy,55 and France. In none of the countries of Latin America and Asia has woman suffrage been introduced, even in limited form, although a strong plea was made in the Japanese parliament in

1925 in favour of the enfranchisement of women who were heads of families. In France women who are employers may vote for the election of members of the councils of *prud hommes,* and those who are engaged in business are entitled to vote for the election of judges of the commercial courts. By recent legislation they have been made eligible to practice law, to serve on the consultative 'labour councils, and to participate in the election of members of the cantonal and departmental councils for technical instruction.

Recently the feminist movement in France has grown in influence and numbers and the demand for full parliamentary and local suffrage has become widespread. On May 20, 1919, the Chamber of Deputies voted by a large majority a resolution proclaiming the electoral equality of all French citizens without distinction of sex and again in 1932 it voted to extend the suffrage to women but each time the proposal was repealed by the Senate. Professor **Duguit**, a staunch advocate of woman suffrage commenting on the great role played by the French women in the economic and public life of France during the World War, has lately expressed the opinion that the present exclusion of women from the suffrage is only temporary and contingent, and that the evolution of modern society everywhere toward the political enfranchisement of women is profound and irresistible. There is at the present time a strong organized movement in France for the enfranchisement of women.

WOMEN'S SUFFRAGE IN INDIA

Women in India were allowed to vote right from the first general elections after the independence of India in 1947 unlike during the British rule who resisted allowing women to vote. The Women's Indian Association (WIA) was founded in 1917. It sought votes for women and the right to hold legislative office on the same basis as men. These positions were endorsed by the main political groupings, the Indian National Congress. British and Indian feminists combined in 1918 to publish a magazine *Stri Dharma* that featured international news from a feminist perspective. In 1919 in the Montagu–Chelmsford Reforms, the British set up provincial legislatures which had the power to grant women's suffrage. Madras in 1921 granted votes to wealthy and educated women, under the same terms that applied to men. The other provinces followed, but not the princely states (which did not have votes for men either, being monarchies). In Bengal province, the provincial assembly rejected it in 1921 but Southard shows an intense campaign produced victory in 1921.

Success in Bengal depended on middle class Indian women, who emerged from a fast-growing urban elite. The women leaders in Bengal linked their crusade to a moderate nationalist agenda, by showing how they could participate more fully in nation-building by having voting power. They carefully avoided attacking traditional gender roles by arguing that traditions could coexist with political modernization. Whereas wealthy and educated women in Madras were granted voting right in 1921, in Punjab the Sikhs granted women equal voting rights in 1925 irrespective of their educational qualifications or being wealthy or poor. This happened when the Gurdwara Act of 1925 was approved. The original draft of the Gurdwara Act sent by the British to the Sharomani Gurdwara Prabhandak Committee (SGPC) did not include Sikh women, but the Sikhs inserted the clause without the women having to ask for it. Equality of women with men is enshrined in the Guru Granth Sahib, the sacred scripture of the Sikh faith. In the Government of India Act 1935 the British Raj set up a system of separate electorates and separate seats for women. Most women's leaders opposed segregated electorates and demanded adult franchise. In 1931 the Congress promised universal adult franchise when it came to power. It enacted equal voting rights for both men and women in 1947.

CONCLUDING REMARKS

Women's suffrage was a long and very difficult battle for women. There were several challenging factors for women and society as a whole. When their rights were finally given, many more opportunities opened and changed. With gaining different perspectives from participating in your individual roles, I hope you can understand the importance of women's rights not only for women, but for everybody.

****

REFERENCE'S

- Bush, Julia. Women against the vote: female anti-suffragism in Britain (Oxford UP, 2007).
- Carles Boix (1999) "Setting the Rules of the Game: The Choice of Electoral Systems in Advanced Democracies", American Political Science Review Vol. 93 (3), pp609–24
- Crawford, Elizabeth. The Women's Suffrage Movement: A Reference Guide, 1866–1928 (1999), worldwide coverage; 800pp; online
- Fletcher, Ian Christopher, Laura E. Nym Mayhall, and Philippa Levine, eds. Women's Suffrage in the British Empire: Citizenship, Nation, and Race. Oxon: Routledge, 2000.
- Forbes, Geraldine Hancock (2004). Women in Modern India. The New Cambridge History of India. 4 (Reprint ed.). New York, New York: Cambridge University Press.
- Lloyd, Trevor, Suffragettes International: The Worldwide Campaign for Women's Rights (New York: American Heritage Press, 1971).
- Rein Taagapera & Matthew S. Shugart (1989) Seats and Votes: The Effects and Determinants of Electoral Systems, Yale University Press
- Ronald Rogowski (1987) "Trade and the Variety of Democratic Institutions", International Organization Vol. 41, pp203–24
- Stein Rokkan (1970) Citizens, Elections, Parties: Approaches to the Comparative Study of the Process of Development, Universitetsforlaget
- Tony Anderson Solgård & Paul Landskroener (2002) "Municipal Voting System Reform: Overcoming the Legal Obstacles", Bench & Bar of Minnesota, Vol. 59, no. 9

UNIT-V

5.1 REPRESENTATION

SYNOPSIS

- ***Introduction***
- ***Definitions***
- ***Key Components of Political Representation***
- ***Different Methods of Representation***
    - ***Representation by Population***
    - ***Representation by Area***
    - ***Substantive Representation***
    - ***Descriptive Representation***
    - ***Dyadic Representation***
    - ***Collective Representation***
- ***Pitkin's Four Views of Representation***
    - ***Formalistic Representation***
    - ***Descriptive and Symbolic Representation:***
    - ***Substantive Representation:***
- ***Four Views of Democratic Political Representation***
- ***Forms of Representation***
    - ***Limited Votes Plan Representation***
    - ***Territorial Representation***
    - ***Functional Representation***
    - ***Propositional Representation***
- ***Some Theories of Presentation***

5.1 POLITICAL REPRESENTATION

INTRODUCTION

Representation is a central feature of modern democracies. Direct democracy, a classical vision is not feasible for practical and philosophical reasons. However, there are many conceptions of representative government descriptive, symbolic, consent, non-functional – none of which adequately captures the essential characteristics of the process. Political representation is the activity of making citizens "present" in public policy making processes when political actors act in the best interest of citizens. Representing may imply acting on the expressed wishes of citizens, but it may alternatively imply acting according to what the representatives themselves judge is in the best interests of citizens.

Political representation can happen along different units such as social groups and area. In the common view, political representation is assumed to refer only to the political activities undertaken, in representative democracies, by citizens elected to political office on behalf of their fellow citizens who do not hold political office. The term political participation refers to those voluntary activities by which members of a society share in the selection of their rulers and, directly or indirectly in the formation of public policy. The term political participation refers to those voluntary activities by which members of a society share in the selection of their rulers and, directly or indirectly in the formation of public policy.

DEFINITIONS

- ***Schwartz, and Hanna Pitkin 1967*;** Represent is simply to "make present again." On this definition, Political representation is the activity of making citizens' voices, opinions, and perspectives "present" in public policy making processes.
- ***Pennock and Chapman 1968;*** Political Representation occurs when political actors speak, advocate, symbolize, and act on the behalf of others in the political arena. In short, Political representation is a kind of Political assistance.

KEY COMPONENTS OF POLITICAL REPRESENTATION

Political Representation, on almost any account, will exhibit the following five components:

1. **some party that is representing** (the representative, an organization, movement, state agency, etc.)
2. **some party that is being represented** (the constituents, the clients, etc.)
3. **something that is being represented** (opinions, perspectives, interests, discourses, etc.)
4. **a setting within which the activity of representation is taking place** (the political context).
5. **something that is being left out** (the opinions, interests, and perspectives not voiced).

DIFFERENT METHODS OF REPRESENTATION

1. REPRESENTATION BY POPULATION

In this method, elected representatives will be chosen by more or less numerically equivalent blocks of voters. This is not always practical for historical and current political reasons and sometimes is impractical purely on the basis of logistics, as in regions where travel is difficult and distances are long. The shortened term "rep-by-pop" is used in Britain but is relatively uncommon in U.S. Historically rep-by-pop is the alternative to rep-by-area. However, in the colonial countries, the geographic realities made a necessity of low-population electoral districts in order to give meaningful representation to remote communities and only in urban and suburban areas has there been any success with applying rep-by-pop more or less evenly.

2. REPRESENTATION BY AREA

The population imbalance between largely rural areas and overwhelmingly urban areas is one reason why the realities of representation by area still have sway against the ideal of representation by population. Making the riding larger would be difficult for the elected member, as well as for

campaigning and also unfair to remotely rural constituents, whose concerns are radically different from those of the medium sized towns that typically dominate the electorate in such ridings. The American Constitution has built into it a series of compromises between rep-by-pop and rep-by-area: two Senators per state, at least one Representative per state and representation in the electoral college.

3. SUBSTANTIVE REPRESENTATION

Under representative democracy, substantive representation is the tendency of elected legislators to advocate on behalf of certain groups. Conflicting theories and beliefs exist regarding why constituents vote for representatives. "Rather than choosing candidates on the basis of an informed view of the incumbents' voting records, voters, it is argued, rely primarily on the policy-free 'symbols' of party identification." Politicians, it would seem, have little to fear from a public that knows little about what laws their representatives support or oppose in the legislature.

4. DESCRIPTIVE REPRESENTATION

It is the idea that elected representatives in democracies should represent not only the expressed preferences of their constituencies (or the nation as a whole) but also those of their descriptive characteristics that are politically relevant, such as geographical area of birth, occupation, ethnicity or gender. Sometimes voting systems that obtain proportional representation may achieve descriptive representation as well. However, this can be guaranteed only to the extent that voting patterns reflect descriptive characteristics of the voters. If a particular trait is not a concern for voters or prospective candidates, then, if the system does not introduce other biases, an elected body will resemble a random sampling of the voters instead. Supporters of this argument point out that as descriptive representation increases, distrust decreases. This can be the basis of laws imposing that half the candidates on a given list are women (for example in France since 2001) or of voluntary measures (Spain's current government has eight women and eight men). Opponents of such logic argue that political interests as already addressed by the political system may play a larger role.

5. DYADIC REPRESENTATION

Dyadic representation or interests of the specific geographic constituencies from which they are elected. Candidates who run for legislative office in an individual constituency or as a member of

a list of party candidates are especially motivated to provide dyadic representation. As Carey and Shugart observe, they have "incentives to cultivate a personal vote" beyond whatever support their party label with produce. Personal vote seeking might arise from representing the public policy interests of the constituency (by way of either the delegate, responsible party or trustee models), providing it "pork barrel" goods, offering service to individual constituents as by helping them acquire government services and symbolic actions.

6. COLLECTIVE REPRESENTATION

In most Parliamentary political systems with strong (or ideologically unified) political parties and where the election system is dominated by parties instead of individual candidates, the primary basis for representation is also a collective, party based one.

PITKIN'S FOUR VIEWS OF REPRESENTATION

In the Concept of Re presentation, ***Pitkin*** identifies four distinct views of political representation that emerge in the political literature on the subject:

1. **Formalistic Representation, including:**
   i. Authorization
   ii. Accountability
2. **Symbolic Representation**
3. **Descriptive Representation**
4. **Substantive Representation**

❖ FORMALISTIC REPRESENTATION

Formalistic views of representation identify political representation with the formal procedures (e.g. elections) used in the selection of representatives. Pitkin distinguishes two formalistic views on political representation – the authorization and accountability views. Under the authorization view, a representative is an individual who has been authorized to act on the behalf of another or a group of others. Theorists who take the accountability view argue that a representative is an individual who will be held to account. Generally, the authorization and accountability views of political representation are discussed, separately or in combination, in the context of representative government.

❖ DESCRIPTIVE AND SYMBOLIC REPRESENTATION:

The descriptive and symbolic views of political representation according to Pitkin describe the ways in which political representatives "stand for" the people they represent. Descriptive representatives "stand for" to the extent that they resemble, in their descriptive characteristics (e.g. race, gender, class etc.), the people they represent. On the other hand, Symbolic representatives "stand for" the people they represent as long as those people believe in or accept them as their representative.

❖ SUBSTANTIVE REPRESENTATION:

Pitkin argues that these views of political representation give an inadequate account of political representation because they lack an account both of how representatives "act for" the represented and the normative criteria for judging representatives' actions. Hence Pitkin proposes a substantive view of representation. In this view of political representation, representation is defined as substantive "acting for", by representatives, the interests of the people they represent.

FOUR VIEWS OF DEMOCRATIC POLITICAL REPRESENTATION

Jane Mans Bridge has identified four views of democratic political representation: promissory, anticipatory, surrogate and gyroscopic. Man's Bridge argues that each of these views provides an account of both how democratic political representatives "act for" the people they represent and the normative criteria for assessing the actions of representatives.

- **Promissory representation is** a form of representation in which representatives are chosen and assessed based on the promises they make to the people they represent during election campaigns. For Mans bridge, promissory representation, preoccupied with how representatives are chosen (authorized) and held to account through elections, is the traditional view of democratic political representation. Anticipatory, surrogate and gyroscopic representation, on the other hand, are more modern views that have emerged from the work of empirical political scientists.
- **Anticipatory representatives** take actions that they believe voters (the represented) will reward in the next election.

- **Surrogate representation** occurs when representatives "act for" the interest of people outside their constituencies. Finally, in
- **Gyroscopic representation,** representatives use their own judgements to determine how and for what they should act for on behalf of the people they represent.

Under **Redfield's general theory of representation**, a person is considered a representative as long as the particular group she represents judges her as such. Rehfeld argues that his general theory of representation only seeks to describe what political representatives are, not what they should be or do. Hence under Rehfeld's theory, it does not matter to the status of representatives whether or not they are democratically elected or substantively "act for" the interests of the represented. Rehfeld argues that democratic political representatives can be representatives without being elected or be said to represent the represented without substantively acting for their interests, they do. Rehfeld only seeks to point out that political representation is not limited to the democratic case.

Rehfeld's theory is as follows: in any case of political representation, there are representatives (formally a set), the represented, a selection agent, a relevant audience and rules by which the relevant judge whether or not a person is a representative. Formally, representatives are a set who are selected by a selection agent from a larger set of qualified individuals who are then judges to representatives by a relevant audience using particular rules of judgement. The rules by which a relevant audience judges whether or not a person is a representative can be either democratic or non-democratic. In a case where the selection agent, relevant audience and the represented are the same and the rules of judgement are democratic (e.g. elections), the familiar democratic case of political representation arises and where they are not, undemocratic cases arise.

FORMS OF REPRESENTATION

1. LIMITED VOTES PLAN REPRESENTATION

voting system in which electors have fewer votes than there are positions available. The positions are awarded to the candidates who receive the most votes absolutely. **For instance,** if there are 5

candidates in the filed for 3 seats, then a voter can only 2 votes in favour of 2 candidates. This method was used in **Japan** and **Italy** for Election to the **Lower Houses**.

2. TERRITORIAL REPRESENTATION

Territorial representation/**Geographical representation refers** to the system wherein one representative is elected from an area defined by territorial limits. In our country we follow an area-based system of representation. The Whole country is divided into Geographical areas or Constituencies and votes usually elect one representative for every constituencies irrespective of their status.

3. FUNCTIONAL REPRESENTATION

The Functional representation means that the seats for each profession should be fixed in the legislatures. The voters from each profession should elect their representatives separately to the legislatures. **Prof. Duiguit**is of the opinion that industry, trade and commerce, science, literature, art, etc. should be given their representation in the legislatures. The Famous exponent of functional representation is **G.D.H Cole, it** is also known as **Occupational** or **Vocational** Representation. The **Functional representation** means that the seats for each profession should be fixed in the legislatures. The voters from each profession should elect their representatives separately to the legislatures. Functional representation is where there is representation in a legislative or political body based on the economic and social groups in a community.

4. PROPOSITIONAL REPRESENTATION – MMP (Multi Members Party Representation

Proportional representation characterizes electoral systems in which divisions in an electorate are reflected proportionately in the elected body. If n% of the electorate support a particular political party as their favourite, then roughly n% of seats will be won by that party. This evolved out of the **"First-Past-the-Post system"** prevailing in U.K and U.S.A during 19th Century. It was **Thomas Hare** who popularized the system through his famous Book **"The Machinery of Representation"** (1857). Proportional representation characterizes electoral systems in which divisions in an electorate are reflected proportionately in the elected body. If n% of the electorate

support a particular political party as their favourite, then roughly n% of seats will be won by that party.

There are 2 Methods in Propositional Representation

- **STV –Single Transferable Vote System**
- **List System**

❖ **STV –Single Transferable Vote System**

Under STV, each elector (voter) gets a single vote in an election electing multiple winners. Each elector marks their ballot for the most preferred candidate and also marks back-up preferences. The vote goes to the voter's first preference if possible, but if their first preference is eliminated, instead of being thrown away, the vote is transferred to a back-up preference, with the vote being assigned to the voter's second, third, or lower choice or being apportioned fractionally to different candidates. The counting process works thus: votes are totalled, and a quota (the minimum number of votes required to win a seat) is derived. If the elector's first-ranked candidate achieves the quota, the candidate is declared elected.

❖ **List System**

In these systems, parties make lists of candidates to be elected, and seats are distributed to each party in proportion to the number of votes the party receives. Voters may vote directly for the party. The List system is employed in voting for **National elections** in **Germany**, the **Italian Chamber of Deputies**, the **Knesset of Israel**, the **Swiss National Council** and the **Legislature of Finland**.

SOME THEORIES OF PRESENTATION

Reactionary Theory – Thomas Hobbes and Alexander Hamilton.

Conservative theory- Edmund Burk and James Madison.

Liberal Theory- Johan Locke and Thomas Jefferson.

Radical Theory- J.J Rousseau and New Left.

Four Views theory- Hanna Pitkin.

CONCLUDING REMARKS

Political representation is a complex relational concept. Representation at its broadest is systematic, in the sense of involving many different parts interacting with one another in interesting and complex ways. The role conceptual analysis plays in understanding these complexities. The new contexts in which political representation is being employed provide an additional impetus to favour sparer, more precise concepts that isolate features of the social and political world we wish to investigate. Within conceptual rethinking, terrific insights that, when isolated, can provide more complete understandings of how representation operates, and ought to operate, in our social and political world.

****

5.2 MINORITY REPRESENTATION

SYNOPSIS

- ***Introduction***
- ***Important Methods of Minority Representation Democracy***
  - ***Proportional Representation***
  - ***Cumulative Vote System***
  - ***Limited Vote System***
  - ***Communal Representation***
  - ***Instructed Representation***
  - ***Concurrent Majority***
  - ***Coalitional Democracy***
- ***Arguments for Minority Representation***
- ***Arguments Against Minority Representation***
- ***Single Member Constituency***
- ***The Second Ballot System***
- ***Multi-Member Constituency***
- ***Concluding Remarks***

MINORITY REPRESENTATION

INTRODUCTION

MINORITY: a non-dominant group of individuals who share certain national, ethnic, religious or linguistic characteristics which are different from those of the majority population.

Law defines a '**minority**' as "***A group numerically inferior to the rest of the population in a non-dominant position.***"

This is the issue of giving representation to minorities because of their religion language culture is a sensitive affair majority rule should not mean separation of minorities there are some devices to ensure minority representation in order to make political institutions truly representatives. Democracy, which implies the existence of common will suffer most under a system of minority representation. Minority representation does not provide the answer to the basic problem of democracy. It is true, in a democracy, wider participation should be allowed. No section of the society should go without representation.

The word minority is used in more than one sense. In the legislature, the majority becomes the ruling party and the minority party becomes opposition. Apart from this political minority, there are several other minorities like, linguistic, racial and communal. Thus, in India, Hindus are in majority and Christians, Anglo - Indians and Muslims are in minority. This is religious or communal minority. In Tamilnadu, Tamils are in majority and Telugu people are in minority. This is linguistic minority. The political minority should be represented in the national legislature. They along with the majority should participate in the law-making process.

IMPORTANT METHODS OF MINORITY REPRESENTATION DEMOCRACY

Methods of Minority representation are:

- **PROPORTIONAL REPRESENTATION**

Proportional representation (PR) characterizes electoral system by which divisions in an electorate the reflected proportionately in the elected body. If certain percentage of the electorate support a

particular political party, then roughly percentage of seats will be won by that party. The essence of such systems is that all votes contribute to the result: not just a plurality, or a bare majority, of them. The most prevalent forms of proportional representation all require the use of multiple-member voting districts (also called super-districts), as it is not possible to fill a single seat in a proportional manner. In fact, the implementation of PR that achieve the highest levels of proportionality tend to include districts with large numbers of seats.

- **CUMULATIVE VOTE SYSTEM:**

Involves with member constituencies. A voter has as many votes as the number of seats. A voter has the right to the option of either giving his votes to all, to a few or even to concentrate all his votes just for one candidate. A well-organized minority has an opportunity to get at least one of its representatives elected by cumulating all its votes in favour of its own candidate. It used in educational institutions and for local bodies in Great Britain and U.S.A.

- **LIMITED VOTE SYSTEM:**

Involves multi member constituencies. Voter has certain number of votes which is less than the number of seats to be filled. This system acts as a check on the monopolization of representation in a constituency by a single political body and helps minority to get at least one seat.

- **COMMUNAL REPRESENTATION:**

Separate electorate foe separate communities. A second method is reservation of seats in joint electorate: the voter may cast votes for the candidates of communities other than their own. But in deciding the result, a member of community who gets the highest number of votes among candidates of that community will be elected.

- **INSTRUCTED REPRESENTATION:**

Advocated by Bentham & James Mill, to them unless the legislators elected by the poorer classes are bound to their wishes by a pledge, the interests and demands of the poorer classes will never be fairly represented. J.S.Mill however completely discarded the idea.

- **CONCURRENT MAJORITY**

  Advocated by John, C. Colhon. It means that any decision should be treated as valid only when due concurrence of all the important sectional interests affected by it has been obtained. Its implications are veto power in UN and EEC.

- **COALITIONAL DEMOCRACY:**

It is regarded particularly suitable for the governance of the societies which are deeply divided by religious, ideological, linguistic, regional etc., differences. It involves four basic principles, which are of primary importance.

- Executive power sharing: means grand coalition of the representatives of all significant segments.
- Greater autonomy to different segments: federalism.
- Proportionality: allocation of political offices, administrative appointments and public funds on the basis of population of each segment.
- Exercise of veto by minority.

ARGUMENTS FOR MINORITY REPRESENTATION

Minority representation systems would give minority parties and independent candidates a better chance of getting into parliament, proponents and introduce different voices to our national political life.

- People would not be “wasting” their vote. This would mean that the minority parties would have to appeal to their core supporters, so swing voters in marginal seats.
- There could be higher turnout at the polls under this system.
- Some form of minority representation systems is used by the majority of the world’s leading democracies. Only a few countries, including the UK, USA, India, Canada and France, still have elections that are decided by plurality voting systems.
- As minority representation system seldom results in one party holding an absolute majority, it requires governments to compromise and build consensus, meaning that in theory, at least stable, centrist policies will carry the day.

ARGUMENTS AGAINST MINORITY REPRESENTATION

- Minority representation system allows extremist parties to gain a foothold in national life.
- Under Minority representation system, electoral constituencies would have to be much bigger, possibly leading to local issues being lost in the crowd.
- Compromise always is not ideal in democracy.
- The coalition governments that minority representation system tends to produce are often weak and indecisive, say its detractors. proportional representation all require the use of multiple-member voting districts (also called super-districts), as it is not possible to fill a single seat in a proportional manner. In fact, the implementation of PR that achieve the highest levels of proportionality tend to include districts with large numbers of seats.

SINGLE MEMBER CONSTITUENCY

When only one member is elected from a constituency, it is known as single member constituency. For Lok Sabha elections the whole of India is divided into 543 single member constituencies. Out of these 543 constituencies, eve Single Member Constituency When only one member is elected from a constituency, it is known as single member constituency. For Lok Sabha elections the whole of India is divided into 543 single member constituencies. Out of these 543 constituencies, every state and Union Territory has a share of certain number of constituencies. The system of state and Union Territory has a share of certain number of constituencies. The system of single member constituency is adopted in India, Britain, US, Canada, Russia, Australia, Nepal and Pakistan.

THE SECOND BALLOT SYSTEM

In election, if there are only two candidates contesting election for a single seat, the one who secures a clear majority (at least 50 percent + 1) is declared elected. But when there are more than two candidates, it may be the case that none of the candidates secures an absolute majority. In this case, second ballot is held, which means votes are again cast after a few days. In this second ballot only two candidates, who had secured maximum number of votes in the first poll remain in the field. After voting, one who secures more than 50 percent of votes is declared elected.

For example, in a constituency, three candidates are contesting election. The total number of votes polled are 12,000. Candidate A secures 5000 votes, candidate B secures 4000 votes, and candidate C secures 3000 votes. In such a situation no candidate gets absolute majority, that is 6001 votes. This necessitates holding of a second ballot. The candidate (in this case, candidate C) who has secured least number of votes is dropped. As such, the contest now remains between A and B. If B secures majority at the second poll then B and not A will be declared successful. This system is practiced in France for the election of President and the National Assembly.

MULTI-MEMBER CONSTITUENCY

This system is also known as the 'General Ticket System'. When more than one candidate is elected from a constituency, it is called a multi-member constituency. Such constituencies exist in Switzerland, Denmark, Sweden and Italy. According to this system, the whole country is divided into large constituencies and from each constituency many representatives are elected. The political parties get the seats in proportion to the votes they secure in concerned constituencies.

In a multi-member constituency, usually the method of proportional representation is adopted. For being elected, a candidate has to achieve a fixed quota of votes. The voters have to vote for as many representatives as are to be elected from their respective constituencies. They indicate their order of preferences against the names of candidates. We will discuss the details of their method when we study proportional representation.

People, therefore, exercise their right to vote according to electoral system adopted in their respective countries. we shall discuss below the most important systems.

CONCLUDING REMARKS

In sum all type of types of legal responses to the challenge of minority representation in the executive structures show some deficits. Those of the first generation based on district numerical correspondence between the share of national minority population and their reflection in the Civil Service prove too rigid and they lack a vision of what comes next. this is mostly due to the fact that the regulations have been adopted as a measure for conflict resolution within the framework

of a power sharing system that has been designed to stop or to prevent a conflict. effective participation has to find its way throughout guaranteed participation in the Civil Service and generally through the branches of Government and then the Legislature in a consistent way. there is still much work to do to identify the most effective instruments for achieving this perhaps it will take a third generation of rules an enhanced representation to successfully address this extremely Complex but unavoidable issues.

****

5.3 PROPORTIONAL REPRESENTATION

SYNOPSIS

- ***Introduction***
- ***Definition***
- ***Meaning***
- ***The Mechanics of The Hare System***
    - ***Nominations***
    - ***Ballot and Directions to Voters in The Ballot***
        - ***The Counting of The Ballots: The Quota.***
        - ***The Counting of The Ballots: The Transfer of Votes.***
- ***Advantages of Proportional Representation Systems***
- ***Disadvantages of Proportional Representation***
- ***Concluding Remarks***

PROPORTIONAL REPRESENTATION: HARE SYSTEM

INTRODUCTION

The scheme most commonly connected with proportional representation is called the Hare system and it is associated with the name of Thomas Hare, who formulated it in 1857 and then elaborated it in his book, "the Machinery of Representation". But Thomas Hare's scheme cannot claim to be the first exposition of the idea of proportional representation. The idea appeared in the French National Convection in 1793, "without leading to action". It was further elaborated by the mathematician Gergonne in 1820 and developed independently by Thomas Wright Hill in Britain. Hill's son took it to Australia in 1839. In 1842, the idea gained popularity in Switzerland and Victor Consider ant proposed a proportional representation system to the Council of Geneva. Two years later Thomas Gilpin brought out another plan of proportional representation. Finally, twelve years later a Danish Minister of Finance, Carl Andrae, worked out a system resembling the Australian plan and the years following it came Thomas Hare's publication, "The Machinery of Representation." The name is derived from English barrister, Thomas Hare and the Tasmanian Attorney General, Andrew Inglis Clark, who first introduced the modified counting system to Tasmania in 1896.

DEFINITION

It is a system of proportional representation that aims to achieve party representation in the closest proportion to actual voting strength by transferring votes beyond those needed to elect a candidate from that candidate to the next indicated choice. The Hare System is intended to secure the representation of every shade of the electorate's opinion in direct proportion to its numerical strength.

MEANING

The Hare system is sometimes termed Single Transferable Vote System as the surplus of votes of the candidates who are declared elected are transferred to other candidates whom it can help. Others call it Preferential System, because of the preferences which a voter is required to give to

different candidates on the list. With whatever name it may be called, this system of representation provides for the election of representatives by general ticket. The constituencies are multi-member with at least three seats. No maximum is considered necessary, although Lord Courtney suggested a fifteen-member constituency as a reasonable limit. Whatever be the number of the representatives to be returned from a constituency, each voter has only one effective vote. Every voter is, however, asked to indicate on the ballot paper his first preference or choice, second preference, third preference, against the names of the candidates. He can vote for as many candidates, by denoting his preference as there are seats to be filled from that constituency.

The candidate in order to be elected requires a certain quota of votes. Different methods are followed to determine the quota. The simplest is to divide the number of votes cast by the number of seats to be filled from the constituency, and the quotient is taken as the quota or the number of votes necessary to elect a candidate. For example, if the total votes cast are 8,000 and there are 8 members to be elected from that constituency, the quota necessary for election will be 1,000. In counting the votes, only the first preference or choices are counted first and a candidate securing the required quota is declared elected. His surplus votes, if any, are passed on to candidates not yet elected, in the order expressed in the preferences. The process of transferring surplus votes to the next preferences continues down the list until the necessary number of representatives has been elected.

Not only surplus votes of successful candidates are transferred to later choices, but if need be, of those candidates as well who have secured so few votes that they have no chance of being elected at all. The idea is that no vote is to be lost. The voter is, thus, assured that if the candidate of his first choice does not require his vote his second or other choices will gain by it. The method of proportional representation prevailed in Great Britain in the election of the members of the four University constituencies to the House of Common. In South Africa, it is used for Senatorial elections and in certain municipalities. In India, it has not been much in vogue. Members of the Council of States (Rajya Sabha) are elected by the members of the State Legislative Assemblies in accordance with the system of proportional representation by means of a single transferable vote. The same system is used for the Presidential election.

THE MECHANICS OF THE HARE SYSTEM

❖ NOMINATIONS

Nominations are made by a petition signed by a stated number of voters. Candidates for the Council of the University Senate are placed in nomination by three or more members of the Senate. Any number of nominations may be made regardless of the number to be elected.

❖ BALLOT AND DIRECTIONS TO VOTERS IN THE BALLOT

Put the figure 1 in front of the name of your first choice. If you want to express additional choices, do so by putting the figure 2 in front of the name of your second choice, the figure 3 in front of the name of your third choice, and so on. You may express as many choices as you please, without regard to the number to be elected. Your ballot will be counted for your first choice if it can help him or her. If it cannot help your first choice, it will be transferred to the first of your remaining choices whom it can help. You cannot hurt any of your favorites by marking lower choices for others. The more choices you express, the surely you are to have your ballot count for one of them. But do not feel +obliged to express choices that you do not really have. A ballot is spoiled if the figure 1 is put opposite more than one name or if checks are used instead of numbers to indicate choices. See the following example:

2 Smpritha

1 Shrihari

5 Shashank Shekar

3 Toyang

4 Shylendra Etc.

The voter in the above case has voted for five candidates in the order of his or her preference. The voter has said, in effect, “Shrihari is my first choice, but if her is not chosen, or if he already has enough votes to elect, I desire that you count my second choice, Smpritha and so on down the list.”

- **The Counting of the Ballots: The Quota.**

The first step in counting the ballots is to ascertain the number of first choices necessary to elect a candidate. This is obtained by the following formula:

The numbers of votes cast divided by (the number to be elected + 1) +1 = quota

For example, in an election in which there were 425 votes cast in balloting to elect 17 members on one ballot, the quota would be: 425 / (17+1) +1=27

Remaining fractions are always discarded. The quota of 27 represents the least number of first choices a candidate may receive and still be declared elected. The extra "1" is added (after the division) because, without it, the quota would be 26, making it possible for 18 candidates each to receive 23 votes, when only 17 are to be elected.

- **The Counting of the Ballots: The Transfer of Votes.**

The ballots are divided into piles according to the first choices indicated. It will then be found, we may suppose, that 27 have marked Smpritha as the first choice, that 25 have marked Shrihari as first choice, etc. In tabular fashion, the results might be as follows, according to the first choices marked:

27 Smpritha

27 Shrihari

14 Shashank Shekar

23 Toyang

16 Shylendra

Smpritha and Shrihari, having secured the quota of 27, are declared elected. Smpritha has 3 more votes than needed foe election. As these three ballots can no longer help Smpritha to be elected, they are transferred to help elect other candidates. Thus, the three ballots are transferred to the second choices indicated on each. If any of these second choices are for Shrihari, who also has already been elected, the third choice is given the ballot instead. Shrihari's extra votes (i.e., those in excess of 27), are then distributed according to second choice, etc. If there are vacancies and if there are no surpluses, all the votes of the candidates securing the lowest numbers are taken from

them, there being little chance of their election, and they are distributed according to their second or third or fourth choices and so on.

ADVANTAGES OF PROPORTIONAL REPRESENTATION SYSTEMS

Use of proportional representation systems is widespread throughout Western Europe where the political landscape is typified by a large number of political parties. The principle advantage of Proportional Representation is to provide representation to those parties in proportion to their electoral support. Proportional Representation systems thus overcome the main criticism of plurality and majoritarian systems.

DISADVANTAGES OF PROPORTIONAL REPRESENTATION

The arguments against Proportional Representation are based on the consequences of the system in providing representation to similar parties.

- First, the proliferation of minor parties in legislatures as a result of proportional representation can result in unstable government and in minor parties being in a balance of power situation.
- Second, the election of a number of parties with no one party having a majority in the legislature may result in unstable government and uncertainty as parties trade with each other to form coalitions and alliances.
- Third, the behind-the-scenes maneuvering and bargaining can lead to situations where the resultant government follows policies that beat only a slight resemblance to the policies placed before the electorate by the parties concerned.
- Fourth, by its very nature it involves large multi-member electorates thus breaching the direct relationship between an electorate and its representative in the legislature.
- Fifth, the important electorate – based work undertaken by local representatives may be undermined by the lack of identification by a representative with a defined area.
- Sixth, representatives may appear remote from the local constituency and owe their allegiance more to the central party authority than to the local electorate.

CONCLUDING REMARKS

The Hare system is mathematically the most efficient, and politically the fairest method of election. It has been subjected to considerable criticism in recent years because it apparently threatened to put the Assembly in perpetual deadlock, with 15 members on each side. But the system itself was never at fault; the method of using it was wrong. It is most gratifying that the committee, after careful comparisons with other electoral methods, has thoroughly vindicated the Hare system. In its view it is the best method of parliamentary election in the world and this is no exaggeration.

****

REFERENCE'S

- Bianco, William T., and David T. Canon. "Public Opinion." In American Politics Today. 3rd ed. New York: W.W. Norton, 2013
- Daniel L. Smail, Thelma Fernster, Fama. The Politics of Talk and Reputation, Ithaca, Cornell University Press, 2003.
- Edward L. Bernays, Crystallizing Public Opinion, 1923.
- Ferdinand Tönnies, On Public Opinion, 1970, New York: Walter de Gruyter 2003.
- Jacob Shamir, Michal Shamir, The Anatomy of Public Opinion, Ann Arbor: University of Michigan Press, 2000.
- Jürgen Habermas, The Structural Transformation of the Public Sphere, Öffentlichkeit, Neuwied 1989.
- Norman John Powell, Anatomy of Public Opinion, New York, Rennes, Presses, Prentice-Hall, 1951.
- Walter Lippmann, Public Opinion, 1922.
- Salisbury, Robert H. (). "An Exchange Theory of Interest Groups" (PDF). Midwest Journal of Political Science. 1969.
- "Lobbying Versus Advocacy: Legal Definitions". NP Action. Archived from the original on 2 April 2010.
- Disch, Lisa. "Toward a Mobilization Conception of Democratic Representation" American Political Science Review, vol. 105(1):2011.
- Hill, Kim Quaile, Soren Jordan, and Patricia A. Hurley Representation in Congress: A Unified Theory. Cambridge University Press.2015.

- Hurley, Patricia A. "Collective Representation Reappraised" Legislative Studies Quarterly vol. VII(February):1982.
- Hurley, Patricia A. and Kim Quaile Hill. "Beyond the Demand-Input Model: A Theory of Representational Linkages." Journal of Politics vol.65(May): 304–326.2003.
- Mansbridge, Jane, "Should Blacks Represent Blacks and Women Represent Women? A Contingent `Yes'" Journal of Politics, vol. 61(3): 627–657.1999.
- Miller, Warren E. and Donald E. Stokes. "Constituency Influence in Congress." American Political Science Review vol. 57(March): 45–56.,1963.
- Phillips, Anne The Politics of Presence. Oxford: Oxford University Press.1995.
- Pitkin, Hanna The Concept of Representation. University of California Press.1967.
- Plotke, David. "Representation is Democracy." Constellations 4 (1): 19–34.1997.
- Powell, G. Bingham, Jr. (2000) Elections as Instruments of Democracy New Haven, CT: Yale University Press.
- F.D. Parsons, Thomas Hare and Political Representation in Victorian Britain (Palgrave Macmillan, 2009)
- Pound stone, William Gaming the Vote: Why Elections Aren't Fair (and What We Can Do About It), Hill and Young, p198,2008
- Duverger, Maurice Political Parties, Wiley ,1954.
- Douglas W. Rae The Political Consequences of Electoral Laws, Yale University Press,1971.
- Rein Taagapera & Matthew S. Shugart Seats and Votes: The Effects and Determinants of Electoral Systems, Yale University Press,1989.
- Ferdinand A. Hermens Democracy or Anarchy? A Study of Proportional Representation, University of Notre Dame.1941
- Arend Lijphart Electoral Systems and Party Systems: A Study of Twenty-Seven Democracies, 1945–1990 Oxford University Press ,1994.
- Arend Lijphart "The Field of Electoral Systems Research: A Critical Survey" Electoral Studies, Vol.4,1985.

****