

Paper code: B.A. LL.B – 110

Subject: Political Science – I

Objective: This paper focuses on understanding the basic concepts, theories and functioning of State. The course prepares the student to receive instruction in Constitutional Law and Administrative Law in the context of political forces operative in society. It examines political organization, its principles (State, Law and Sovereignty) and constitutions.

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UNIT I: POLITICAL THEORY

a. INTRODUCTION

(i) Political Science: Definition, Aims and Scope

Political science is related with the study and analysis of politics which has been taken from the Greek word polis' which had been has been used for the city states. It is therefore the study of Political Science is concerned with the politics and governmental structures of the city state which are called as state in today's world.

Aristotle extended the scope of the study of Political Science. He called it as the Master Science. It is therefore he is called as Father of Political Science.

The meaning of Political Science and also its scope can be understood with its two approaches.

1. Traditional Approach

2. Modern Approach

Traditional Approach:- It is institutional approach and is based on the thinking that political Science is the study of only political institutions and political issues. It is not concerned with the non-political issues like social, economic and geographical issues. Main definitions of this approach are as under.

a) Garner – Political science begins and ends with the state.

b) Bluchilli – Political science deals with the elements and conditions of the development of the state.

c) Leconk – Political science is the stud of government.

d) Gilchrit – He says political science is the study of both i.e. State and Government.

Modern Approach:- It is broad approach which thinks that at the issues i.e. political and non-political must be studied by the political scientist. It is factual and scientific approach. Main thinkers of this approach defined political science as under.

a) Losswell –Political Science is the study of influence and influential.

b) David Easton- It is the study of allocation of values.

c) Robert Dahel – It is the study of analysis of authority as science and empirial study.

Scope of Political Science:- When we talk of scope of political science it means what is the subject matter of political science and what study in political science. Mainly the subject matter of political is as under:-

1. The study of state

2. The study of Government

3. The study of methods of administration

4. Political Parties

5. Political Institutions

6. Law and constitution

7. The study of man and his behavior

8. Political Process and Governance

9. Influence and influential

10. Analysis of authorities

11. Interests and Uninterest groups

12. Public opinion and world opinion

13. International Law and Institutions

14. Elite

15. Globalization

16. Power and Political System

Objective and Utility of the study of Political Science Living in groups; As he lives in groups, man is social being. It is therefore his political behavior gets expressions which leads to differences and conflicts and urge for domination, this is all politics. The subject of political science deals with this political aspect and management of human behavior. The very purpose is to get and maintain the ideal situation in social and political relations among human beings.

The study of political science aims at theorizing and conceptualizing. The ideal situations for human existence.

It theories the nature, composition and functions of the Law and Law makers, administration and administrators with the advent of modern approach to the study of political scenario, the objectives of political science has widened. It is related with the all kinds of developments, changes that are taking place in the society. It is the welfare study. Its objective is both moralizing and unifying.

A. Relationship between the Law and Political Sciences:- There is close relationship between the Law and Political Science. The study of Law is incomplete without understanding the political science.

Political science is the study of man and society with which the law deals. Political science deals with the composition and functionaries of the Institutions which make law for eg Legislature and the king or monarch. Law is the reflection of socio political scenario of the study. Law is governed and framed as per the ethics of the society and political framework. The nature of the law is determined by the nature of the political system. Ethics determine the law and ethics is essential subject of political science. It is therefore there is close relationship between law and political science.

(ii) State, government and law

A **state** is an organized political community living under a single system of government. Speakers of American English often use state and government as synonyms, with both words referring to an organized political group that exercises authority over a particular territory. States may or may not be sovereign. For instance, federated states that are members of a federal union have only partial sovereignty, but are, nonetheless, states. Some states are subject to external sovereignty or hegemony where ultimate sovereignty lies in another state. The term "state" can also refer to the secular branches of government within a state, often as a manner of contrasting them with churches and civilian institutions.

Many human societies have been governed by states for millennia, but many have been stateless societies. The first states arose about 5,500 years ago in conjunction with the rapid growth of urban centres, the invention of writing, and the codification of new forms of religion. Over time a variety of different forms developed, employing a variety of justifications for their existence (such as divine right, the theory of the social contract, etc.). In the 21st century the modern nation-state is the predominant form of state to which people are subject.

A state can be distinguished from a government. The government is the particular group of people, the administrative bureaucracy that controls the state apparatus at a given time. That is,

governments are the means through which state power is employed. States are served by a continuous succession of different governments. States are immaterial and nonphysical social objects, whereas governments are groups of people with certain coercive powers.

Each successive government is composed of a specialized and privileged body of individuals, who monopolize political decision-making, and are separated by status and organization from the population as a whole. Their function is to enforce existing laws, legislate new ones, and arbitrate conflicts. In some societies, this group is often a self-perpetuating or hereditary class. In other societies, such as democracies, the political roles remain, but there is frequent turnover of the people actually filling the positions.

Law is a system of rules that are enforced through social institutions to govern behaviour. Laws can be made by a collective legislature or by a single legislator, resulting in statutes, by the executive through decrees and regulations, or by judges through binding precedent, normally in common law jurisdictions. Private individuals can create legally binding contracts, including arbitration agreements that may elect to accept alternative arbitration to the normal court process. The formation of laws themselves may be influenced by a constitution, written or tacit, and the rights encoded therein. The law shapes politics, economics, history and society in various ways and serves as a mediator of relations between people.

A general distinction can be made between (a) civil law jurisdictions (including Catholic canon law and socialist law), in which the legislature or other central body codifies and consolidates their laws, and (b) common law systems, where judge-made precedent is accepted as binding law. Historically, religious laws played a significant role even in settling of secular matters, which is still the case in some religious communities, particularly Jewish, and some countries, particularly Islamic. Islamic Sharia law is the world's most widely used religious law.

The adjudication of the law is generally divided into two main areas referred to as (i) Criminal law and (ii) Civil law. Criminal law deals with conduct that is considered harmful to social order and in which the guilty party may be imprisoned or fined. Civil law (not to be confused with civil law jurisdictions above) deals with the resolution of lawsuits (disputes) between individuals or organizations. These resolutions seek to provide a legal remedy (often monetary damages) to the winning litigant. Under civil law, the following specialties, among others, exist: Contract law regulates everything from buying a bus ticket to trading on derivatives markets. Property law regulates the transfer and title of personal property and property. Trust applies to assets held for investment and financial security. Tort law allows claims for compensation if a person's property is harmed. Constitutional law provides a framework for the creation of law, the protection of human rights and the election of political representatives. Administrative law governs what executive branch agencies may and may not do, procedures that they must follow to do it, and judicial review when a member of the public is harmed by an agency action. International law governs affairs between sovereign states in activities ranging from trade to military action. To implement and enforce the law and provide services to the public by public servants, a government's bureaucracy, military, and police are vital. While all these organs of the state are creatures created and bound by law, an independent legal profession and a vibrant civil society inform and support their progress.

(b). Theories of State: - State is very important institutions which is the main subject matter of the study of political science. It is the most powerful institution in which man leads his life. It is a sovereign institution. There is very important question about the nature, origin functions and jurisdiction of the state. Various theories have been given in this regard. Some of the theories are as under.

1. Divine and Force Theory – This theory says that state is a divine institution; god is behind the origin of the state. The force theory says that force is the basis of the origin and development of the state, only a powerful person can be ruler of the state. It is said that the first ruler of the state is the most powerful person.

2. Organic Theory: This theory believes that state is evolutionary institutions and is the result of long evolutionary process in which number of factors took place. Man is important part of the state. State is in fact the group of man who live together in organic unity to make state.

3. Idealistic Theory:- This supporters of this theory like Plato says that state is a moral institution and the purpose of the state is the moral development of the man. The best ruler of the state has most effective moral impact on his people. They regard state as ultimate authority.

Individualistic Theory:- Those who supports this theory argue that man is prior to state. State is for man and man is not for state. They believe in capabilities, capacities and rights and dignities of the man. They believe the state should promoter and develop man's capabilities and capacities.

4. Social Contract Theory:- This is the most popular, scientific and acceptable theory about the origin of the state. Although this theory had its roots in ancient political thinking but it was developed in 15th and 16th century by three main political thinkers i.e. Hobbes, Locke and Rousseau. Hobbes and Locke were British Political thinkers while Rousseau was French Political thinker. Social contract theorist argues that state is the result of a contract among the people. It is neither a divine institutions nor it is evolved. They say before the state there was a natural state which had certain problems and there was no central authority to overcome those problems. There was no authority to make rules and implement and adjudicate rules. Hobbes, Locks and Rousseau explained this theory on following states. All these three thinkers agreed that state is the result of contract but they differed in nature of natural state (Prenatural State), nature of agreement, nature of man and nature of Government.

Hobbes Locke Rousseau

1. Natural State Disturbed, Peaceful In the beginning it was Violent, Progressive peaceful but later on it Uncertain was disturbed

2. Nature of Man Selfish Bread, Co-operative In the beginning man Fearful, wicked, Non Violent was good but later on Non Co-operative he become bad, wicked

3. Nature of Agreement Among people, ruler was party in it was bound by general One sided, breakable agreement will

ruler was not bound

4. Nature of Authority Dictatorial Popular, limited and Dictatorship

i.e Government responsive government Representative Gov.

Indian Context

a. Santiparva and Kautilya's Saptang theory

b. Concept of Hindu State

c. Concept of Muslim State

(5.)Kautilya's Saptang Theory:- Kautilya refers to the seven elements of the state which are known as saptang theory. These seven elements of the state are as under.

1. Swamy i.e. Ruler or the king

2. Amathya – Minister

3. Janapada – Territory

4. Durga – Fort

5. Kose – The treasurer

6. Danda – Punishment (Police and Army)

7. Mitra – The Ally

These seven elements had organic unity of the state. The ruler was most important part of the state and had control over other elements of the state.

Concept of Hindu State:- Following are the main features of Hindu state which were based on ancient Indian philosophy about social and political order.

1. State is divine institution i.e. theocratic state. The king was considered as the agent of the god.

2. Monarchy was popular in ancient India. It was not to be despotic but benevolent.

3. State was the product of organic unity of seven elements of state as given by Manu and Kautilya in the saptang theory of state.

4. The state protected Dharma, Artha and Moksha.

5. State was a welfare Institution for the well being of the people.

6. The state was custodian of the state and Government.

7. There was close relation between society and Government.

8. Government and state were considered synonymous.

9. King was honorable trustee of Hindu State.

10. The kingship was ultimate authority and not the king.

11. The society was based on Varnasharam.

(6.)Concept of Muslim State:- (Islamic concept of state)

The Islamic State is based on the unity of God. It is based on teachings of Prophet Mohammad and tenants of shariat Law given in Quran. In Muslim state Khalifa holds the top position as ruler who is the representative of God. The early Islamic state was based on the idea of unity of God, equality of all and freedom of individuals. The Islamic State of Madina was democratic in character which was later on replaced by hereditary monarchy with divine lights of the King. In 999-1030 AP Sultan Mohammed of Ghazine was an absolute autocrat. It was declared that the Islamic State is a Government of the Muslims by the Muslims and for the Muslims. It is based on one holy Quran, one sovereign Iman and one nation Muslim brotherhood.

The Sultanate of Delhi was declared as Islamic State which undergone changes in different periods like Mughal Period and the post Mughal Periods. The main features of a Muslim state remained.

1. Teachings of Mohammad
2. Quran
3. Sharia Law
4. Divine basis of the State
5. Muslim Brotherhood
6. Despotism Rulers
7. Muslim state had also different elements like Fort, Treasurer, Army, Advisors as ministers, foreign affairs and Ulama (Interpreted Quran)
8. There is no place for Secularism

State is highly organized and disciplined organization in which men leads life. Man is social animal.

Therefore he leads life in number of organizations like family, society, associations and such other organizations. State is the highest and latest organization.

State has been viewed and explained differently by different political thinkers of different point of time.

Aristotle called state as natural Institution and called it as group of people and villages and families living together.

Machiavelli added definite territory as essential element of the state.

Austin, Hobbes and Rousseau added sovereignty as the most essential element of the state.

Some definitions of state are given here:-

1. Bluntschli called state as group of people living together with sovereign Government.
2. Wilson called state as group of people living together and are organized on the basis of Law.
3. Laski called state is a group of people living together on a definite territory divided between ruler and ruled.

Elements of the State:- Although Aristotle did not differentiate the state being the elements but today state is said to be constituted by four elements.

1. Definite Territory – There should be a definite boundary which can be called as the state. It may be small or it may be big. It should be a territory where life is possible.
2. Population:- No state can be conceived without the population.
3. Government. There should be a Government to execute the will of the state. It may be of any form.
4. Sovereignty – Sovereignty is the important element of the state. No other state is this kind of sovereignty. It means total external and internal control of the state is over its people and territory.

Government and its relation with the state – Government is essential and integrated element of the state. Following are the relations between state and Government.

1. State has Government as its essential element of its four elements.
2. The size of the Government is small and state is big in size.
3. The Government is servant but state is master.
4. The Government expresses the will of the state and has to act as per the nature of the state.
5. The membership of the state is essential but the membership of the Government is not essential.

6. The Government is visible but the state is invisible.
7. We oppose and support the Government and not the State.

UNIT II : POLITICAL IDEOLOGIES

a. Liberalism: Concept, elements and criticism, types: Classical and Modern

Liberalism can be understood as freedom for the individual for his personality development.

Liberalism stands for absence of despotic authority and building an environment in which a man can express himself without any hindrance.

H.J. Loski says liberalism is the expression. It implies a passion for liberty. It demands an environment built on humanism and scientifism.

According to Sartori, Liberalism is the theory and practice of individual liberty, rule of law and constitutional Government. It has social, economic and political aspect.

Main Features of Liberalism

1. Civil Liberty
2. Economic Liberty
3. Democratic System of Governance
4. Humanism
5. Scientifism
6. Secularism
7. Division of Powers
8. Rationalism
9. Decisions by Discussions and Debate
10. Limited Role for State
11. Welfarism
12. It is based on openness

Criticism

1. It is conservative philosophy
2. It leads to capitalism
3. It may lead to anarchy
4. It is based on individualism which is not justified
5. It limits the role of state
6. It demand unjustified liberty
7. It failed to bring perfect equality

Evaluation:- The meaning of Liberalism has been under change from time to time. It has been very useful philosophy in promoting the individual liberty and checking the arbitrariness of the state. It has infused sense of scientifism and human values. It supports all-round development of the man, at the same time this cannot be called as relevant for all the time and situation. After industrial revolution and welfare philosophy liberalism has assumed new meaning which is called as Neo-Liberalisms.

b. Totalitarianism: Concept, elements and criticism, types: Fascism and Nazism

The Totalitarian concept implies an unlimited State which covers the whole life of the individual. Hegal is considered as the father of Totalitarianism. He said state is much of God on earth.

Mussolini said that nothing is against state and nothing is out the state. It take total control on man and his activities. Totalitarian puts man as zero in comparison to state. They support absolutism of state.

Main features of Totalitarian State are as under:-

1. It is dictatorial in character
2. It does not believe in individual liberty and capacity.
3. It is based on passion and emotions and not on reasons.
4. It is based on chaunism i.e. over nationalism
5. It glorifies race and the nation.
6. It does not believe in liberalism, democracy and humanism.
7. It is based on violence and high discipline.
8. It is against communitarism and internationalism.

Its merits are as under

1. It builds national unity.
2. It is based on discipline
3. It is progressive
4. It is loss expense
5. Quick decision are taken
6. It generalize patriotism
7. It gives best administration

Demerits

1. It is based on dictatorship
2. It has no concern for human dignity and liberty
3. It is irrational
4. It support voilance and force
5. It consider state as ultimate dealing
6. It has no respect and consideration for public opinion.

Fascism in Italy:- On the totalitarian philosophy two very important and philosophy and ideology came into existence, one in Italy with the name of Fascism and another in the name of Nazism in Germany. These two ideologies were the result of humiliation, insult and loss by Italy and Germany in treaty of Verselles after the end of First World War.

In Italy dictatorship emerged in the name of Fascism under the leadership of Mussolini.

Fascism is developed from Latin word Fascis which means a bundle of rods which indicate unity.

Mussolini formed the National Fascism Party in 1939 to arrange the defeat the humiliation in the 1st World War.

Main Principles of Fascism are as under :-

1. It has no Political Principles.
2. It is based on Practical and Utilitarian Principles.
3. It glorifies nationalism and racialism.
4. It does not believe in democracy and human liberty
5. It is based on passions and emotion
6. It has psychological basis

7. It glorifies war and opportunism
8. It believe in dictatorship of single leader and single party
9. It does not believe in Socialism and welfarism
10. It is against internationalism

Demerits:-

1. It is opposed to Progressive and democratic ideas.
2. It is worst form of dictatorship.
3. It is based as Force & Violence.
4. It believed in Hero Warship
5. It is based on total control over the people.

Merits:-

1. It generated discipline
2. It generated patriotism
3. It promoted nation unity
4. It was based on administrative efficiency
5. Quick Decisions are taken

Nazism:- Nazism is also a totalitarian philosophy emerged in Germany after their insult, humiliation and loss in First World War because Italy and Germany were declared responsible for the World War – I. Hitler in German decided to avenge this humiliation for which he assumed total power and declared himself as dictator. He formed a Nazi Party. He wrote a book 'Mein Kampf'.

The Main Features of Nazism

1. It is based on the Principle of one nation, one people and one leader.
2. Nazism was opposed to Democracy.
3. State is regarded as an end in itself.
4. It is against individual liberty.
5. Hitler glorified war.
6. It favours one party dictatorship.
7. It believed in social superiority of Germany.
8. It was opposed to capitalism and socialism.
9. It believed in armed strength.

Merits

1. It promotes national unity.
2. It is based on discipline.
3. It believed in extension of state.
4. It is progressive
5. It promotes efficiency and quick decision
6. It promotes national character

Demerits

1. It has no respect for human values and liberty.
2. It supports war.
3. It is based on totalitarian nature of state.
4. It is against social justice.
5. It is against internationalism.

6. It is based on psychological embroil over the people.

c. Socialism:- Concept, elements and criticism, school of socialism: Fabianism, Syndicalism and Guild Socialism

Meaning of Socialism:- Socialism is a system of socio-economic relations in which means of production and distribution are put in collective ownership of the society and not only in few hands as is found in capitalism. The main principle of socialism is from each according to his ability and to each according to his needs. Socialism is opposed to capitalism. It became very much popular not only in Asian and African developing country but in European countries also. Jod said that socialism is a hat which is deshaped due to excessive use.

According to G.D.H. Cole:- Socialism means common ownership and use of land and capital by society.

Russell:- Socialism is the advocacy of common ownership on property.

Main Features of Socialism:-

1. Collective ownership of means of production and distribution.
2. Opportunities of capitalism.
3. It is based on service and not profit.
4. It is based on equality and justice.
5. It is based on democracy
6. Utility of the resources for all.
7. Communitarianism
8. Planned Economic Development
9. Increasing role for state.
10. Utilization of the capabilities and capacities of the people.

Merits:

1. It is based in human values
2. It seeks to remove exploitation and injustice and inequality.
3. It is based on justice and democracy.
4. It removes selfishness and mad competition
5. Increasing responsibility of the state.
6. Opportunities for all on equal basis.

Demerits

1. It increases the role of state.
2. It promotes bureaucratization
3. It promotes inefficiency
4. It generates corruption
5. It norms the individual entrepreneurship
6. It arrests development and growth.

Schools of Socialism:- Since socialism became very popular system of socio-economic relations in different parts of the world and at different point of time in post industrial revolution period, it has been branded differently as per features of the different system. Main brands are as under:-

1. Fabianism
2. Syndicalism
3. Guild Socialism

Fabianism:- Its main supporters are Pt. Jawahar lal Nehru and G.D.H. Cole. Its main features are:-

1. Gradual changes and transition from capitalism to socialism.
2. It rejects the surplus theory and class war theory of Marx.
3. They advocate the implementation of socialistic principles by rational discussion and debate by the intellectual class.
4. They support democratic state with parliamentary system.
5. They support universal education for liberations of working class.

Syndicalism:- Syndicalism is derived from the French word 'Syndicate' which means labour union. The

main supporters are Fmile, Edonard Beetn and Pelot. Syndicalsim argue that Labour Union should form

the authority of the state to implement the socialism. Its main features are as under.

1. It seeks producer's control over industry.
2. The interest of the Labour class should be protected.
3. Strike is the most important method of direct action.
4. It opposes the politicisation of workers

Guild Socialism:- Guild socialism suggests that the authority which is to implement the socialistic principles should be formed by the representation of different sections of the society. It should not belong to one class only.

1. It is more representative system of authority.
2. There is against monopoly of one class only.
3. It is more democratic.
4. It serves the interests of all sections of the society.
5. It can adopt parliamentary methods.

d. Marxism and concept of state

Marxism is a philosophy and legacy of Marx who was a German Philosopher. In his famous book

Das Capital, he explained and diagnosed the exploitation of workers under the system of capitalism. He also suggested the solution also. Main features of Marxism are as under.

1. Theory of class war
2. Dialectic Materialism
3. Theory of Surplus Value
4. Establishment of communalism by the dictatorship of working class.

1. Theory of Class war. He says there are only two classes, one is exploitative class and another is exploited class and there is constant struggle between these two classes. He looks at the society from economic angle only. He also says that History is not the record of war between the kings but it is the record of conflict between the exploitative class and exploited class.

2. Dialectic Materialism. He says that Economic conditions determine all other conditions of life. The process of development and evolution through thesis, antithesis and antithesis is also conditioned by economic conditions.

3. Theory of Surplus Value. Marx quantifies the value which creates differences and gaps between exploitative class and exploited class. He calls it a surplus. It is the amount which is the share of working class and is being cornered by the capitalist class.

4. Establishment of Communism by the dictatorship of working class. The ultimate aim of the Marx was to remove the capitalist class and his agent state through violent revolution.

Therefore he suggests that authority must belong to the working class and these should be communism i.e. casteless society, classless society and stateless society.

Merits of Marxism.

1. It is scientific philosophy
2. It seeks to remove injustice and exploitation
3. It explained the causes of exploitation.
4. He suggest classless society i.e. communism
5. He seeks removal of capitalism

Demerits:-

1. It is hypothetical philosophy.
2. He looked the society from economic angle.
3. His sense of history is wrong.
4. He supports dictatorship of one which is in itself exploitative.
5. His prophecy of end of state proved wrong.
6. The establishment of communism failed.

e. Feminism: Political dimensions

It is an approach, attitude and concern for the women development, women welfare and women empowerment. It is a kind of International movement to get rid of women exploitation and discrimination in various areas of life. It seeks to make women realize her capabilities, capacities and potentialities and utilize it in her development and societal development.

UNIT III: MACHINERY OF GOVERNMENT

a. Constitution: Purpose, Features and classification

Constitution:- Constitution is fundamental Law of the land on the basis of which socioeconomic, political and administrative system of a country runs.

It can also be explained as body of rule, regulations, norms, ethos and traditions which explains the relationship between organs of the Government and between the people of state.

Constitutionalism:- It stands for the check on arbitrariness of the ruler.

Classification of the Constitution

Written - If it is written by a body, specially constituted for this purpose and it is written document it is called as the written constitution.

Unwritten – It is not a document and works on the basis of common basis, traditions and understandings.

Flexible – If it can be amended by simple and easy method.

Rigid – If it requires long and difficult process for its amendment, it is called as rigid. Indian constitution and American Constitutions are rigid constitutions.

Organs of the Government 1. Legislature 2. Executives 3. Judiciary

b. Legislature:- It may be unicameral means having one house and it can also be bicameral which

means having two houses. It is important house which is constituted by the representative of the people. Following are the main functions of the Legislature.

1. Discussion and Debate
2. Legislative functions mean making laws.
3. Financial functions which means passing and implementing the budget.
4. Executive functions which means controlling the executives.
5. Electoral Functions – To take part in the elections of some dignitaries.
6. Constitutional amendment functions means making necessary changes in the constitution.
7. Budgetary Functions – means approving and controlling the budget.

c. Executives:- Executive is most important organs of the Government who executes the laws and policies of the Government. It is of several types like 1. Singular – where there is one person 2. Plural means more than one 3. Hereditary 4. Elected 5. Parliamentary 6. Presidential 7. Defecto 8. Dejure

Functions of the Executives:-

1. To implement the Laws, policies and Programmes
2. To make policies
3. Making important appointments
4. Legislative Functions
5. Budgetary Functions
6. Developmental Functions
7. Welfare functions
8. Judicial Functions
9. Security Functions
10. Maintaining law and order

d. Judiciary:- It is third organ of the government. Its main function is interpretations of Law and the dispensation of justice. Judiciary is generally constituted by judges appointed by executive
Main Functions of Judiciary

1. Interpretation of Law
2. Dispensation of Justice and giving decisions
3. Settlement of the disputes
4. As guardian of the constitution
5. Protecting of Fundamental Rights of the people.
6. Checking the executive and Legislatures.
7. Controlling the bureaucracy
8. Helping In the development of constitutions.
9. Helping in Law making process.
10. Making democracy successful.

Judiciary Review:- It is the power of judiciary to check the constitutional validity of the Laws enacted by the legislations and orders passed by the executives and if they are not found in conformity of the provisions of the constitution, it can declare them as unconstitutional. The American Supreme Court is most powerful Judiciary in the world on the basis of power of

judicial activism. In India also we have taken the power of judicial review from USA. The American Judiciary exercises this power on the basis of process of Law while Indian Judiciary works on the basis of Procedures established by Law.

With the power of Judicial review the judiciary is playing very important role in protecting the rights of the people by checking the arbitrariness of the Government organs and its agencies.

Independence of Judiciary – It means that the Judiciary must be allowed to work in free and fair environment without any kind of interference in the day to day working of the Judiciary. For this some essentials are:-

1. Judges should have requisite qualifications.
2. They should be appointed in fair manner.
3. They should have good working conditions and higher salary.
4. They should enjoy long tenure and they should be removed only by definite procedure established by Law and not arbitrarily.
5. No judge should be allowed private practice after retirement.
6. The decisions of the judiciary should be accepted by all.

e. Theory of Separation of Powers:- The world has ever been ruled by the kings, queens and dictators till the reformation and renaissance and development of democracies. There has been concentration of powers in one or few hands due to which the liberties of the people have been in danger and in curtailment.

Montesque, a French Philosopher travelled several countries of Europe and found the reasons of exploitation of the people. He found that it is due to the fact that all the powers of the Government's different organs are centered in one or few hands which lead to dictatorial tendencies. Therefore he gave very famous theory which is called the theory of separations of power. According to this theory the Legislative executive and judicial powers of the government should not be put in one hand but in three different organs of the Government. 1. Legislative 2. Judiciary 3. Executive and there should be complete separation and non interference. This theory first of all implemented in USA in 1789 with the system of check and balance.

f. Political Process: Political process co-operates in open and democratic societies where the representatives of the people are elected on party basis or may be on party basis. Adult citizens take part in the process by exercising their right to vote. In political process free and frank discussion and debate take place to make the people healthy public opinion on the basis of which they exercise their vote. It is a well controlled process by the Election Commission.

Candidates and political party are allowed to canvass to make people understand their programmes and manifestos on the basis of which they seek vote of the people.

UNIT IV: SOVEREIGNTY AND CITIZENSHIP

a. Sovereignty: Definition and Types (Political, Popular and Legal)

Meaning of Sovereignty:- Sovereignty is very important element of the state which differentiate it from other institutions.

The word Sovereignty is derived from the Latin word supranus which means supreme power. It has two aspects 1. Internal 2. External

Grotius defines sovereignty as the supreme power over the citizens and subjects.

Main elements of the sovereignty

1. Absoluteness 2. Exclusiveness 3. Universality 4. Permanence 5. Indivisibility 6. Inalienability
Followings are kinds of Sovereignty

1. Legal Sovereignty
2. Political Sovereignty
3. Dejure Sovereignty
4. Defecto Sovereignty
5. Titulor Sovereignty
6. Real Sovereignty
7. National Sovereignty
8. Popular Sovereignty

There is very important issue about the Sovereignty that where it resides in the state there are two very popular theories:-

1. Austin's Monoistic Theory
2. Plurolistic Theory

Austin's Monoistic Theory: Monoistic theory of Sovereignty is given by Austin in his famous book 'Lectures on Jurisprudence'

Main characteristics of Austin's theory are as under.

1. Sovereignty is essential for state
2. It is supreme power.
3. It is indivisible.
4. It is unlimited
5. It rests in single determinate person.
6. Law is the command of this sovereign.
7. There is no other such powerful person or authority.
8. He is the source of Law.

Criticism

1. It ignores the realistic aspect of the state.
2. It is hypothetical
3. This theory does not specify the sovereign authority.
4. Law cannot be the command of such authority.
5. It cannot be unlimited, absolute and indivisible in today's world.
6. It ignores the political and popular Sovereignty.
7. Habitual obedience is nor regular.
8. It is historically wrong.

Importance: - In spite of its weakness and unrealistic aspect, it became very popular and accepted theory regarding the Sovereignty of the state. It explained the unity and importance of state as the basis

of theory. Kingship, Monarchies and various dictatorial systems became the basis of theory.

Pluralistic Theory: Pluralistic theory of Sovereignty came as a reaction against monoistic theory of Sovereignty. Laski was the ardent supporter of this theory. He said if the society is federal than authority should also be federal.

Pluralistic Theory became popular in view of increasingly federal nature of society.

Social, cultural, geographical institutions were also became important for the people besides the state development of individualism and democratic culture also made this theory popular.

Main Features of Pluralistic theory are as under

1. Sovereignty does not rest only in any single person or authority.
2. It cannot be absolute.
3. It is divisible
4. Its command is not Law. Law has many sources.
5. State is important institution but not the absolute institution.
6. It says that all the institutions have their own Sovereignty.
7. It supports limited and divided Sovereignty.
8. It stands for decentralization of authority.
9. It maintains the importance of the state.
10. State Sovereignty has legal aspect.

Merits

1. It justifies decentralization and democracy.
2. It gives the real meaning of law.
3. It stands for the federalism.
4. It promotes the development of local areas
5. It opposes the autocracy.
6. It is in consonance with the composition of the society.

Demerits of Pluralistic Theory

1. It may lead to indiscipline.
2. It may lead to disintegration.
3. It may lead to confrontation among various institutions.
4. It is harmful for national unity.
5. It lacks clarity.
6. State cannot be possible without sovereignty.
7. It is based on wrong assumptions.
8. It will lead to non-compliance of Law.

b. Rights - Concepts and types

Meaning of rights: Rights are those essential conditions which are required for all-round development of the people.

Laski: Laski says that Rights are those conditions without which no man can attain his best.

Basenquet:- Right is a claim recognized by society and enforced by the state.

Thesing:- Rights are "Legally protected Interests".

In single language those are essential living socio-economic conditions of life.

Characteristics of Rights

1. These are living conditions.
2. These are necessary for human development.
3. These are possible only in society.
4. These are changeable from time to time and place. So they are not absolute.
5. They depend on consent and capacities of giver.
6. Rights are linked with duties.
7. These must be recognized by the state.
8. These are universal
9. Utility is the basis of Rights.

Classification of Rights:

1. Moral Rights
2. Legal Rights
 - a) Social Rights, b) Political rights, c) Economic Rights, d) Cultural Rights, e) Religious Rights
3. Fundamental Rights as given in Indian Constitution
 - a) Right to equality, b) Right to liberty, c) Right against Exploitation, d) Right of religious liberty,
 - e) Right of Education and Culture, f) Right to Constitutional remedies.
4. Human Rights

c. Duties – concept and types

A duty is defined as that some person has to do something or not to do something in favour of another person.

Salmond Says “A duty is an act which one ought to do, an act the opposite of which would be wrong”.

Rights and duties are inseparable. It is said that both are two sides of the same coin.

Following are some important duties of citizens.

1. Duty to pay tax.
2. Duty to obey Laws
3. Duty to allegiance
4. To protect public property
5. Duty to vote
6. Duty to resist

Indian constitution has provided then fundamental duties in Art 51A of the constitution along with six fundamental Rights. Those 10 duties were added by 42nd amendment in 1976. These are as under:-

1. Abide by the constitution and respect its ideals and institutions.
2. To cherish and follow the noble ideals which inspired our national struggle.
3. To protect the sovereignty, unity and integrity of nation.
4. To render national service when called to do.
5. To promote harmony and common brotherhood among the people.
6. To value and preserve the rich culture and heritage of our society.
7. To protect and improve natural environment.
8. To develop scientific temper and humanism and the spirit of inquiry.
9. To safeguard the Public Property and adjure violence.
10. To strive towards excellence in all spheres of individual and collective activity.

d. Political Thinkers:

Plato – Plato was a great political thinker who expressed his dissatisfaction over number of administrative economic, social and educational conditions of his time. He was particularly dissatisfied with the ignorant and illiterate ruling class. Therefore he wrote his famous book ‘Repubbe’ in which he explained features of the ideal state with details of nature of political system, economic system, justice and education. He suggested the rule of Philosopher King.

Main features of the Ideal State as under:-

1. Philosopher King – He suggested that the ruler should be highly qualified, trained and experienced who should be selected by the state controlled education system. He should be above from the responsibility of property and family.
2. State as individual writlarge His state is manifestation of three elements of man 1. Reason 2. Soul 3. Appetite
3. His concept of Education. Pluto gave the top most priority to education. He advocated educational system controlled by the state and through the educational system he classifies the society in ruling, military and productive class. He does not make education compulsory for all except the ruling class.
4. His state is an moral institution. His state is moral institution whose function is moral development of man.
5. His concept of Juctice. He has two aspect of his justice 1. Every class perfect itself in its area of work 2. No. class should interfere in other matters.
6. Communism of wives and property. To keep the ruling class from the family responsibility he suggested communism of wives and property.
7. He regarded state as supreme institution:- For him state is important in comparison to the individual.

Aristotle: - Aristotle was most faithful disciple of Pluto who very respectfully made many changes in the philosophy and roles about state and issues. He was first scientific philosopher of Political Sciences. He is called as the father of Political Science because he enlarged the scope of political science by including non political issues in the study of Political Science. He used inductive method in the study of Political Science. He was realist and scientist and made the state as a natural institution.

Main Features of Ideal State of Aristotle are as under:-

1. State is a natural institution. He regarded state as a group of people living together.
2. State is supreme institution. Man's fullest development is possible only in the state.
3. State is an organic Institution.
4. He did not advocate communism of woman and property.
5. He used scientific inductive method.
6. He favored mixed constitution.
7. He classified governments on number of people and their objective.
8. Plural nature of the state.
9. Universal and compulsory education.
10. Rule of Law in place of rule of philosopher king.
11. Aristotle was realist.
12. Justification of Slavery on expediency.
13. Limited Citizenship.

John Rawls: On distributing justice. John Rawl is a modern political thinker. We get a combination of liberal and Marxist theories. Justice is the area on which he worked hard. He defined justice with the title of distributive justice. In fact the main profounder of the idea of distributive justice was Aristotle from whom Rawl took this idea. According to the idea of distributive justice, Rawl says that there must be distribution of resources and opportunities on the basis of the capabilities and capacities of the people which means people must be placed in

societal ladder on the basis of their capabilities and capacities. And accordingly they must be awarded and rewarded.

Jai Prakash Narain:- Jai Prakash Narain is popularly known JP was a great leader of National movement. He was great supporter of Gandhi Ji and his ideas and methods. In the beginning he was fascinated with Marxism but later he became the socialist under Ram Manohar Lohiya. He made socialism very popular in India with his famous book 'Why Socialism'. Soon he was disgusted with Party Politics and particularly with the functioning of Congress Party and joined Saryodaya movement of Vinoba Bhawe. He criticized the autocratic functioning of Mrs. Indira Gandhi. He started student's movement in Gujrat and Bihar. He was put behind the bars during emergency in 1975.

In jail itself he blessed the formation of Janta Party in 1977 which came into power. He became mentor of Janta party but soon he was disappointed with internal bickering of Janta Party. He died as disgusted and disappointed man.

His main Contribution as Political activist and Political Thinker are as under.

1. A nationalist and his contribution in National Movement.
2. His contribution in socialist movement in India.
3. Supporter of Partyless Democracy.
4. Supporter of Panchayat Raj, decentralization and rural development.
5. His contribution in Saryadaya Movement.
6. He supported Bhoodan Movement.
7. He gave the concept of Total Revolution.
8. He gave the concept of State less Society.
9. Non-Violence
10. Moral value based politics .

Pt. Jawahar Lal Nehru:- Following are main social and political ideas and contribution of Nehru Ji:-

1. As a nationalist and his contribution in National Movement.
2. As a social and political thinker his ideas of Socialism, democracy.
3. His contribution as scientific socialism.
4. His contribution in National building as first Prime Minister of India
5. His contribution in Planned Economic Development of India.
6. His contribution in Industrial Development of India.
7. His image as Internationalist.
8. His contribution as architect of India Foreign Policy.
9. His contribution in Panchsheel
10. His contribution in Non-alignment and world peace.

Mahatma Gandhi:- Mahatma Gandhi was a social reformer and political thinker. He was nationalist, internationalist, idealist and realist as well. He was individualist and also he is called as anarchist. He contributed a lot in national independence. The period from 1920 to 1949 is known Gandhinian era in the history of national independence.

His main social, political ideas and contribution can be summarized as:-

1. His contribution in National Movement.

2. His concept of Swaraj, Non-Violence and Satya Grah.
3. He was supporter of decentralization, Gram Panchayat System and rural based economic development.
4. He was against Parliamentary democracy and industrialization.
5. He believed in simple life and limited wants.
6. His concept of Ram Raj is based on self discipline, self control and self rule.
7. He was supporter of Swaraj and Individual freedom
8. He opposed untouchability, use of liquor.
9. He fought against socialism in South Africa
10. He stood for international brotherhood.
11. He was supporter of moral based politics. For him politics without moral values is sin.
12. He supported Marxism with some reforms.

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