

Section I : Political Concepts

Introduction



We talk of our family, society, region, country etc. All of these are institutions, some are social institutions others are political institutions. Political science deals mainly with political institutions. The political institutions are associated with the government. They would include the Parliament, the Ministry, Judiciary, etc. As a citizen of a country we have certain rights and duties towards the country. These are specified by the constitutions and the various laws that are made by the government. We are expected to follow these rules. Even foreigners have to follow rules of the country in which they live.

Some questions like: 'Why should I obey the state?', or, 'What should be the limits of individual liberty?', or, 'where can I seek justice?', are questions that we face as citizens of any country. Various thinkers have tried to answer these and other questions. They have tried to understand the role of the individual and the State (government). These political thinkers have come out with various ideas that have helped us to understand the role of the individual in the society and the State better. For example, when we study

Indian political thinkers, we study the views of Kautilya on State, Mahatma Gandhi's idea of Swaraj or Dr. Babasaheb Ambedkar's views on Social Justice. We can also study the western thinkers to understand the views of Aristotle on Citizenship, or Locke's theories on Rights, Mill on Liberty, Marx's views about Communism, or John Rawls contribution to the theory of Justice. It is on the basis of the writings of such thinkers and others who have made significant

contribution that we can understand such concepts like liberty, equality, justice, democracy, etc. Political concepts involves analytical study of ideas that have been central to political thought.

In this section, we plan to study some important political concepts. These are concepts of liberty, rights, equality and justice. There are also other concepts like nation, nationalism, etc.

The three chapters of this section are as follows:

Chapter I : The State: This chapter discusses the concepts of nation, nationalism, state and government. It tries to understand the linkages between them.

Chapter II : Liberty and Rights: This chapter looks at the two concepts of Liberty and Rights. These deal with the status of the individual in the society.

Chapter III : Equality and Justice: This chapter focuses on Equality and Justice. These concepts are concerned with the social order.

All of these concepts are also discussed in the context of India.



1. The State

You have studied Civics and Political Science in School. The focus of Civics was on the citizen. The focus of Political Science was on the State, the Government, the Administration etc. In this chapter, we will introduce you to some of the basic concepts of Political Science: Nation, Nationalism, State and Government.

Read the statements given below:

(i) One of my friend is a Punjabi and the other a Manipuri.

(ii) Two of my classmates are Iranians.

(iii) We sing India's National Anthem every day. I am proud of our National Anthem.

(iv) I have to collect my Birth Certificate from the Government Office today.

Each of this sentence deals with something. The first sentence tells about the identity of the person. The identity can be a Punjabi, Tamil, Maharashtrian, Telegu, etc. This is a regional identity. The second sentence talks about the country that you belong to. You can be an Iranian, Sri Lankan, American, etc. This is the 'nationality' that you have. The sentence about the national anthem relates to the concept of the State. When we say I am proud of our National Anthem it is a feeling of 'Nationalism'. Finally, the Birth Certificate deals with the role of the 'Government'. All these are concepts that we will study in this chapter.



Do you know ?

We use the term 'country' to describe states like India, Pakistan, China, etc. Sometimes we use the term 'nation' or 'state' to describe these countries. While all the terms appear to convey the same meaning, technically there is a difference in each of these terms. The term 'nation' has a sense of oneness that is psychological and born out of commonness of culture, ethnicity, race, religion, language, history, etc. A 'nation' becomes a 'state' when it has the following characteristics: sovereignty; independent government, specific territory and population. But in routine discussions we usually use the term 'nation' instead of the term State to describe an independent country with a sovereign government. However, in Political Science we use the term 'State' to describe an independent sovereign country.

Nation

What is a nation? A nation is a people who identify socially, culturally, politically and want to establish a separate identity for themselves. There is a sense of oneness that is psychological and born out of commonness of culture, ethnicity, religion, language, history, etc. They may or may not be located in a specific geographic territory.





Do you know ?

The word 'Nation' originates from the Latin word *Nasci*, meaning 'to be born'. Therefore, it is believed that the people belonging to a nation have ethnic and cultural linkages.

Ernest Barker defines a nation as

'A nation is a body of men, inhabiting a definite territory, who normally are drawn from different races, but possess common stock of thoughts and feelings acquired and transmitted during the course of common history...a common religious belief... use a common language....'

What are the features of a nation?

- (i) **Population:** A Nation must have a population. The population has some similarities. These similarities may be language, race and religion or there may be common cultural or historical experiences. There is a sense of ethnic, historical and cultural oneness that goes in the perception of identifying oneself as a nation.
- (ii) **Feeling of community:** The similarities of demography and culture must translate into a psychological feeling of a community. This is the emotional dimension. This is a matter of perception held by the people of that community.
- (iii) **Desire to be politically separate:** People living in a particular geographic area having common socio-cultural, religious or linguistic commonality can lead to a feeling of being a nation. Such a feeling is a product of the urge for self-determination. This can lead to a demand for self-governance at a

political level.

Nationalism

India wanted to be independent from the British colonial rule. It was a fight for the right of self-determination. India's fight for its independence was an expression of India's nationalism.

Nationalism is a sense of political identity. It is a love for one's nation. The people become sentimentally attached to the homeland. They gain a sense of identity and self-esteem by this identification and are motivated to help their homeland. The expression of such sentiments can be seen at different times: Cheering for a national cricket team, standing up during the National Anthem or support to the armed forces during a war. Nationalism is force which holds the people to a sense of political loyalty to the country.



Nationalism

There are some features of Nationalism:

- (i) Nationalism has been a force that has been both, a builder and a destroyer. It has been described as progressive and aggressive nationalism. Progressive nationalism can help a society to come together and promote development. Aggressive nationalism can create differences amongst people.

- (ii) Nationalism discourages imperialism or colonialism. The resistance to any form of occupation is one of the features of nationalism. National liberation struggles or freedom struggles across the world are a product of nationalism. It thus encourages self-determination.
- (iii) Nationalism can promote diversity. You see a large amount of diversity in India based on religion, ethnicity, language, regions, etc. But we still talk of Indian nationalism. The idea of 'unity in diversity' is the core of Indian nationalism.

Discuss in the Classroom

Read the sections titled: 'Bharat Mata' and 'The Variety and Unity of India', in Jawaharlal Nehru, *'The Discovery of India'*.

Discuss the concept of Indian nationalism on the basis of Nehru's writings on India in these two sections.

When we look at nationalism from a political perspective, we can see different forms of nationalism:

(i) **Liberal nationalism:** The origins of liberal nationalism are in the French Revolution. It is also seen in President Woodrow Wilson's 'Fourteen Points'. It links the idea of a nation to sovereignty. It accepts that every nation has the right to freedom and self-determination.

Do you know?

The Fourteen Points speech of President Woodrow Wilson was an outline of his vision for a stable, long-lasting peace in Europe, the Americas and the rest of the world following the First World War.

(ii) **Conservative nationalism:** This form of nationalism is inward looking. It looks at the nation as a closely linked society. It gives a lot of importance to patriotism.

(iii) **Expansionist nationalism:** This is an aggressive form of nationalism. In this form, countries start to become aggressive and create empires for 'national glory'. Colonialism is a product of this aggressive nationalism.

(iv) **Anticolonial nationalism:** This refers to national liberation struggles or freedom struggles. Countries like India experienced this form of nationalism during the days of the freedom struggle.

State

The Preamble of the Indian Constitution uses the words, 'Sovereign Democratic Republic'. Here the word sovereignty means the independent authority of the country. It signifies that the country is not dependent on any other country for taking decisions. It is independent to take its own decisions, formulate laws and govern. When people of a nation want to become a sovereign country, it means they are demanding the right to self-determination. Freedom struggle is an expression of the right to self-determination.

It is this urge for political self-determination that leads a nation in the direction of statehood. When does a nation become a nation-state? A State must have the following characteristics to qualify for statehood: sovereignty; independent government, territory and population.

A State is a political community. Its presence is felt in almost all human activity. Activities like education, social

Some definitions of the State

Aristotle: The state is a union of families and villages and having for its ends a perfect and self-sufficing life by which we mean a happy and honourable life.

Jean Bodin: A state is an association of families and their possession governed by supreme power and by reason.

Woodrow Wilson: State is a people organised for law within a definite territory.

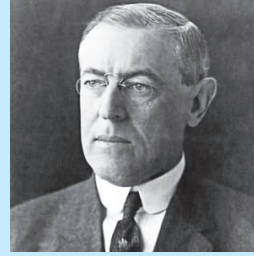
Harold Laski: A territorial society divided into government and subjects claiming within its allotted physical area, a supremacy over all other institutions.



Aristotle
(384 BCE-322 BCE)
An ancient Greek
Philosopher



Jean Bodin
(1530-1596)
A French Jurist and
Philosopher



Woodrow Wilson
(1856-1924)
An American statesman and
academic who served
as the 28th American President.



Harold Laski
(1893-1950)
a British political
theorist

welfare, defence, law and order, all are done by the State. Even personal matters like registration of birth, getting a PAN card or an Aadhaar card, registration of marriage, etc. the State has a role to play. The State grants rights, provides justice, ensures equality and guarantees liberty.

The State has the following elements:

- (i) **Sovereignty:** Sometimes this term is used interchangeably with the term independence. But sovereignty is a legal term while independence is a political term. It means that the country is legally sovereign with its own independent constitution. For example, India became politically independent in 1947 but it became a sovereign State in 1950 after the constitution came into effect.
- (ii) **Government:** Every sovereign nation state must have a government. The government must be sovereign and

independent. For example, when India was a British colony, there was a Government of India. But it was not a sovereign independent government. Therefore prior to independence India was not a State.

Institutions of the State are 'Public' institutions. These Public institutions include various organs of the government like the Executive, Legislature, Judiciary, Bureaucracy, etc. Public institutions are responsible for making policies, laws, taking decisions and implementing them. We have to make a distinction between these Public institutions and Private institutions. Private institutions belong to the civil society. These include private businesses, clubs, etc. It is the public institutions that have legitimacy to act on behalf of the State.



Do you know ?

All citizens are members of the State. The decisions are taken in public interest by the government of the State. This authority to take decisions is called legitimacy. The State has the legitimacy to take decisions in the interest of the people.

- (iii) **Territory:** It refers to the geographic boundaries of a state. A state must have a specific territory. The areas of the State within which the State has the authority to govern is called jurisdiction. Jurisdiction is the legal power that the State has to take decisions.

What is meant by 'territory'? Territory has three aspects

(i) The actual land within the national boundaries. (ii) The territorial waters along the coastline. This is 12 nautical miles (22.2 km or 13.8 miles) along the coast line. (iii) The air space above its territory (there is no international law on the height of this air space.)

- (iv) **Population:** A State cannot exist without people. This population can have any amount of diversity in terms of language, religion, culture, ethnicity, etc. Thus, a 'State' can comprise of many 'nations'. For example, the Soviet Union had people of many nationalities like Russians, Lithuanians, Latvians, Estonians, Ukrainians, etc. Similarly, the United Kingdom consists of England, Scotland, Wales and Northern Ireland.



Do you know ?

Case of Palestine: The Palestine Liberation Organisation (PLO) has been granted recognition as the legitimate representative of the Palestinian people. The PLO has also identified Gaza and West Bank as the territory of the State of Palestine. However, Palestine does not have a sovereign government. Its territory is under the jurisdiction of the Israelis. This is why Palestine is a nation and not a state. However, Palestine has been a 'Non-member Observer' State of the UN since 2012 and more than a 100 members of the UN have given recognition to Palestine as a State.

Do this : Prepare a comparative chart showing the similarities and differences in the features of a Nation and a State.

State and Government

We normally use the terms State and Government without understanding the difference between them. They are different concepts. State as we have seen above, is a political organisation created for the satisfaction of the common needs of the people. A government is an agent of the State through which the will of the State is formulated, expressed and realised.

Government is the main wing of state. Its main nature is administrative. Law and order, welfare, etc. are some of the main functions of the State. These functions are performed through the government. A government has three parts: The Executive, Legislature and Judiciary. You will learn about the concept of Government in Section II of this book.

Some differences between State and Government

State	Government
State is an abstract concept.	Government is a concrete reality.
State is more extensive than a government. It includes all public institutions and all members of the society as citizens.	Government is a part of the State
A State is permanent in nature.	A Government exists for a specific time period. Systems of government can be changed. Governments come and go.
The State is an impersonal authority. It is politically neutral.	The government has an ideological agenda. It wants to implement policies to achieve that agenda.
The State is a sovereign entity.	The source of the authority of the Government is the State. Government is the means through which the authority of the State is exercised.

We studied the concepts of nation, nationalism, state and government in this chapter. In the next two chapters we will study some other concepts like Liberty,

Rights, Equality and Justice. These are concepts that deal directly with the role of the State.

Please see the following websites for further information:

The Discovery of India

Jawaharlal Nehru *The Discovery of India* (Delhi : Oxford University Press, 1985)

Chapter: 'Bharat Mata' Page: 59

Chapter: The Variety and Unity of India Page: 61

https://archive.org/stream/TheDiscoveryOfIndia-Eng-JawaharlalNehru/discovery-of-india_djvu.txt



Exercise

1. (A) Choose the correct alternative and complete the following statements.

1. The term Nation is derived from the Latin word
(Nasci, Natio, Natalis, Nauto)
2. The origin of Liberal Nationalism is in the Revolution.
(American, Russian, French, British)

(B) Identify the incorrect pair in every set, correct it and rewrite.

- (a) Aristotle - German Thinker
- (b) Jean Bodin - French Thinker
- (c) Woodrow Wilson - American Thinker
- (d) Harold Laski - British Thinker

(C) State the appropriate concept for the given statement.

1. Force which holds the people to a sense of political loyalty to the country -
2. The area of the State within which it has the authority to govern -

2. State whether the following statements are true or false with reasons.

1. Progressive Nationalism can create differences amongst people.
2. Sovereignty means State has the freedom to take its own decision.
3. Palestine is a State.
4. Expansionist Nationalism is a type of Aggressive Nationalism.

3. Express your opinion of the following.

India is a State.

4. Answer the following questions.

1. What are the features of Nation?
2. What is Nationalism? Explain its types.

5. Answer the following question in detail with reference to the given points.

Explain the following elements of the State.

- (a) Sovereignty
- (b) Government
- (c) Population
- (d) Territory

Activity :

Identify the States with smallest territory and largest territory on the world map.



2. Liberty and Rights

In a democracy, citizens have certain rights and duties. When those rights and duties are secured by the State then we can say the people have liberty. Right as a common privilege is given to its citizens by government. Liberty is an essential feature of democracy.

Liberty

In this chapter we will study Liberty as absence of restraints, freedom of choice, and availability of favorable conditions and attainment of happiness. We will also study the negative and positive aspects of liberty and the concept of liberty and rights as given in the Constitution of India.

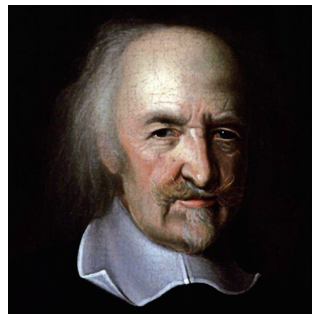
Liberty is also understood as freedom or self-rule. Liberty means freedom. Emancipation from slavery, freedom from autocratic rule, and freedom from foreign rule is liberty. Liberty deals with personal, social and national freedom. Social, economic and political rights which an individual needs for all-round development is also called liberty.



Do you know ?

Freedom from foreign rule is national liberty. Freedom given to an individual for development of one's personality is personal liberty. This is the difference between national and personal liberty.

Nature of Liberty : To understand the nature of Liberty we will have to study the views of the following thinkers.



Thomas Hobbes
(1588-1679)
an English philosopher

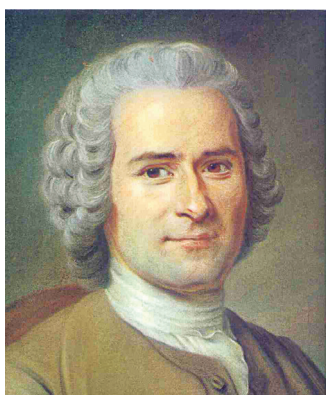
Hobbes considers liberty as a natural right of an individual. According to Hobbes, liberty is freedom that an individual has to act without restraint. Fear and necessity inspires an individual to achieve liberty. Therefore, according to him absence of restraint is liberty.

John Locke : Locke considers liberty as natural right of an individual. He has explained the concept of liberty within the context of morality. It is morally wrong to hurt the right of life and liberty of any individual. One should enjoy liberty without affecting the principle of equality. Liberty is an integral part of an individual. He has given great importance to liberty. He maintains that all human beings are rational; therefore liberty should be enjoyed rationally. He does not advocate unrestrained freedom. In short, Locke's concept of liberty focuses on absence of restraint and freedom of choice.



John Locke (1632- 1704)
an English philosopher

Jean Jacques Rousseau : Rousseau looked at liberty from a collective



Jean-Jacques Rousseau
(1712-1778)
a Genevan philosopher

perspective. According to him an individual should keep personal interests aside for social interests. His concept of liberty frees the individual from a class based system and inequality. According to him inequality is an obstacle in the attainment of liberty. He maintains that liberty frees an individual from the hurdles created by the rise of civil and political society. He describes two hurdles on liberty: (i) One which prohibits an individual to think about public interest. (ii) One which are created due to inequality in society.

Rousseau

‘Man is born free but everywhere in chains.’ Rousseau was born in Geneva. He was considered the father of the French Revolution.

Rousseau did not consider liberty as a natural right as advocated by Hobbes and Locke. He believed that the society comes together to protect the life and interest of the individual. Therefore he gave more importance to emancipation from social inequality. He also stressed the freedom of choice and availability of favorable conditions in the concept of liberty.



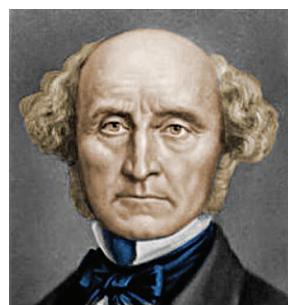
Jeremy Bentham (1748 -1832)
an English philosopher

Jeremy Bentham : Bentham looked at liberty from the

perspective of attainment of happiness. He considered liberty and happiness as interconnected concepts. To achieve liberty one must gain happiness and eliminate sorrow.

Jeremy Bentham's principle of liberty : ‘The greatest happiness of greatest numbers’. This is called negative liberty.

John Stuart Mill : Mill has supported individual liberty and opposed unrestrained



John Stuart Mill
(1806-1873)
a British philosopher

controls by the State. His ideas are based on the concept, that ‘man has full control over his body and mind’. These ideas of Mill are relevant even today. His ideas regarding liberty are found in his work ‘On Liberty’.

Two Concepts of Liberty

In his famous essay, ‘Two

Concepts of

Liberty’, first

published in

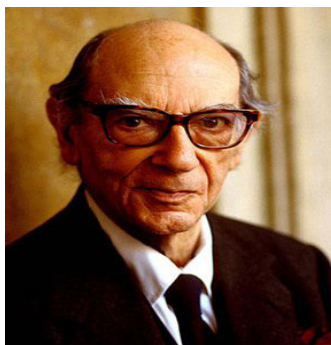
1958, Isaiah

Berlin has

discussed about

Negative and

Positive liberty. Positive liberty emerged from



Isaiah Berlin (1909- 1997)
Russian-British, philosopher
and historian of ideas.

modern liberalism, whereas, negative liberty emerged from classical and neoclassical liberalism. Isaiah Berlin believed that liberty is unrestrained.



Do you know ?

Explanation of some terms:

- Liberalism is a political ideology. Its central theme is based on individualism. The core values of liberalism are individualism, rationalism, freedom, justice and toleration.
- Classical liberalism is based on a belief of 'minimum government'. In such a system, the role of the state is limited to the maintenance of law and order along with personal security.
- Modern liberalism propounds the importance of the state. State intervention through welfare policies can therefore enlarge liberty by safeguarding individuals from the social evils.
- Neoliberalism has a strong belief in free market economies and individualism. Key neoliberal policies include privatisation, spending cuts in welfare schemes, tax cuts for corporate among others.

Negative Liberty : Negative liberty emerged from classical and neoclassical liberalism. Thoughts of J.S. Mill, Isaiah Berlin, Fredrick Hayek and Robert Nozick have explained negative liberty. Negative liberty opposes all restraints on liberty. It believes that the State should not interfere in the life of an individual. Non interference of the State in the social and economic life of an individual is a characteristic of negative liberty. Any restriction on the freedom of an individual endangers liberty. Therefore, Negative liberty opposes force, terror, coercion and the interference of the State.

Freedom of thought is the base of negative liberty. Jeremy Bentham strongly advocated negative liberty. He argued that an individual knows how to protect his own interest; therefore the State should not bring any obstructions. In his book '*Manual of Political Economy*', he advocated free economy. Similarly, J.S. Mill also spoke of negative liberty in his book '*On Liberty*'. He supported non-interference of socio-political system for the protection of liberty. Mill also pointed out the correlation between the freedom of thought and the freedom of action. He promoted freedom of thought for the development of an individual as negative liberty. But he also calculated the impact of any action on society. He argued that if any action can qualitatively impact on the society rather than an individual; then in such a situation Mill rejects the idea of negative liberty. Therefore Mill's concept of negative liberty is different from Isaiah Berlin.

According to Isaiah Berlin, freedom of action is negative liberty. As per this principle, opportunity to act is important while the action itself is secondary. According to him, the impact of action is not considered important and hence it is not measured. Therefore, this principle does not give importance to quality. For example, this concept does not make a qualitative difference between choosing one's education, profession, or suffer deprivation. He would rather give importance to give opportunity to do these actions than the outcome of the action itself.

Isaiah Berlin has mentioned the following features of negative liberty.

- (i) Individual should have complete freedom of choice. He should not

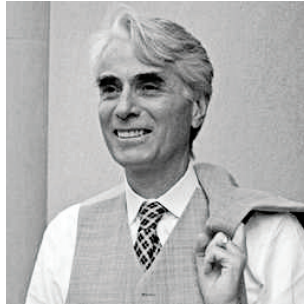
have restraints on choice of alternatives. Opposition to such restraints is a feature of negative liberty.

(ii) Negative Liberty is based on Neo-liberalism

Fredrick Hayek and Robert Nozick have also explained the concept of Negative Liberty. Fredrick Hayek was a neo-liberal thinker and an individualist. He described liberty as a hurdle-less situation. He opposed state interference in an individual's life. He advocated economic freedom. According to him economic freedom is true liberty. There should not be any control or restriction on true liberty.



Friedrich Hayek
(1889-1992)
an Anglo-Austrian
philosopher



Robert Nozick
(1938- 2002)
an American
philosopher.

Robert Nozick is also a neo-liberal thinker. He believed that whenever any restriction is put on an individual without his consent, his liberty is at risk. He advised that liberty should be protected from such restrictions. Hence, he suggested that individual should be free from social, economic and State restrictions.

Isaiah Berlin's statement on Negative liberty : 'I am slave to no man'.

Isaiah Berlin's statement on Positive liberty : 'I am my own master'.

Positive Liberty : Positive liberty is advocated by Rousseau and Herbert Marcuse. The concept of positive liberty has emerged from modern liberalism. The concept of negative liberty cannot appropriately explain the idea of liberty. Modern liberals have advocated that there is a correlation between liberty, equality, justice, fraternity and collective interest. They also state that liberty affects equality and justice.

Positive liberty believes that law guides an individual. It helps an individual to enrich his personality. Rousseau has put forth the concept of Positive liberty because he believed that the obedience to moral laws will enhance liberty. He accepted rational collective interest of the society. State is a sovereign power which represents the 'General Will' hence he supports the idea of state control over individual.

Herbert Marcuse was a neo-Marxist thinker. He advocated positive liberty. According to him workers are unaware of their objectives and needs, hence for achieving liberty they need guidance from senior revolutionaries.

Marcuse has explained his thoughts about positive liberty in his books, 'One



Herbert Marcuse
(1898-1979) a German-
American philosopher.

Dimensional Man and 'Eros and Civilisation'. He said, "Scientific and technological development, has increased standard of living but has not reduced inequality in society". This has obstructed cultural development of the society.

According to him, American society has lost individual liberty and self-esteem. He argues about positive liberty that an individual is like a bird in a golden cage; who has lost the ability to fly high in the sky. He does not even think of rebelling as he has not experienced the joy of freedom. He advocates collective control as essential in community life, as a principle of positive liberty and hence supports State interference. For example, in order to maintain a pollution free environment, collective action for community good is required. Use of force is justified for community well-being.

Indian Concept of Liberty

In India Liberty is understood as emancipation. Traditionally, this is a spiritual idea, salvation or emancipation from the cycle of birth and rebirth is considered as liberty. However, in modern times, liberty is understood as liberation from social constraints.

During British India, the concept of liberty was accepted in three ways,

- (i) The British made some laws for protection of individual's rights and liberties. For example, law of abolition of Sati system. The British propagated and promoted western education which introduced western idea of liberty in India. This influenced the social reformation and Indian freedom struggle in India.
- (ii) Mahatma Phule and Dr. Babasaheb Ambedkar spelt out various dimensions of liberty in India in the context of Indian society. Firstly, liberty means freedom from caste inequality. Secondly, freedom from social constraints was also an important dimension of liberty. Similarly, some

individuals faced a sense of subordination in social life. An end to this subordination is another dimension of liberty. For example, ending of humiliation and insult, gender inequality, superiority-inferiority complex. They also suggested liberation of lower castes from the domination of the upper castes as an essence of liberty.



Mahatma Jyotirao Phule
(1827-1890)
an Indian social activist
and a thinker



Dr. Babasaheb Ambedkar
(1891-1956)
an Indian jurist, economist
and social reformer

- (iii) Mahatma Gandhi accepted the concept of Swaraj as liberty. He spelt this out in his work, '*Hind Swaraj*'. The term Swaraj implies a combination of two ideas: Self (Swa) and Rule (Raj). Swaraj means Self-Rule. His concept of Swaraj was comprehensive. Mahatma Gandhi did not accept Swaraj



Mahatma Gandhi
(1869-1948)
Leader of the Indian
Independence movement

only as freedom from British rule but also as freedom from western cultural domination. Swaraj would mean a freedom from the trampling of humanitarian values. This concept gives more importance to self-governance, self-discipline and human values.

Rights

In order to live, a person must have some rights. Similarly, in order to develop his personality to the best possible extent, he must have some particular rights. Harold Laski defines rights as ‘those conditions of social life without which no man can seek, in general, to be himself at his best’.

Rights can be classified as follows:

- (i) **Natural rights:** Natural rights are parts of human nature and reason. These are universal in character. The right to life and liberty are some examples of natural rights.
- (ii) **Moral rights:** These rights are based on the conscience of the individual and the community. For example, respect for a teacher or an elderly person is a moral right of that person.
- (iii) **Legal rights:** These are granted by the State to the people. They are usually enumerated or codified in law. These rights are not universal, different countries with different governments would specify what rights the people of that country have been granted. Legal rights are enforced by law.

Legal rights are of two types:

- (a) **Civil Rights:** These rights relate to the person and property of the individuals. Right to life, liberty, equality and property are civil rights. Civil rights are protected by the state.
- (b) **Political Rights:** These allow people to take an active part in the political process. These rights include right to vote, right to contest elections, right

to hold public office and right to criticise and oppose the government. Political rights are normally available to citizens in a democratic state.

Preamble to the American Declaration of Independence

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

Human Rights

Every human being by virtue of being a human being enjoys certain fundamental rights. These are called Human Rights. We are born with these rights, no one can take away these rights from us. These rights are not conferred by a ruler or by the society, these rights are inalienable. Human rights are natural rights. They are related to the concept of Justice. These rights are universal in nature and are given to all humans without any social discrimination. Human beings need these rights for development of their abilities, intellect and skills. Similarly, these rights are necessary to uphold human dignity and values.

Human rights include right to life, right to livelihood and freedom of expression along with the right to establish an organisation. These rights are dynamic, they develop with changing times, hence today we not only speak about civil and political rights but also discuss about right to information and right to pollution free environment.

United Nations created the Universal

Declaration of Human Rights (UDHR) on 10th December 1948. This declaration tries to combine natural and civil rights and also includes the principles which are essential for mankind like, liberty, equality, justice and fraternity.

Do this!

Make a list of the human rights enumerated in the Universal Declaration of Human Rights.

The implementation of human rights requires favourable social, political and economic conditions. Since it is difficult to implement these rights, we find that human rights are violated in the world. African Americans are struggling to get an equal social status in the United States. India continues to experience caste-based discrimination. Women and children are in a vulnerable condition and they appear to be deprived of the rights granted in the Universal Declaration of Human Rights.

Activity : Discuss and make a note of examples of human rights violations.

Concept of Liberty and Rights in the Constitution of India

Part III of the Indian Constitution spells out the Fundamental Rights of Indian citizens. The constitution guarantees the following fundamental rights:

- Right to Equality
- Right to Freedom
- Right Against Exploitation
- Right to Freedom of Religion
- Cultural and Educational Rights
- Right to Constitutional Remedies



Do you know ?

Right to Education was introduced as a Fundamental Right by the Constitution (Eighty-sixth Amendment) Act, 2002. This was implemented from 2010.



Do you know ?

The Right to Property was a Fundamental Right in the Indian Constitution. The Constitution (Forty-fourth Amendment) Act, 1978 removed this right as a Fundamental Right and introduced the Right to Property as a Statutory Right in Article 300A.

The Constitution of India combines both, the concept of Positive and Negative Liberty. Article 19 of the constitution of India deals with different types of liberty while Article 21 spells out the limitations on liberty. According to Article 21, no person shall be deprived of his life or personal liberty except according to a procedure established by law. This article does not make any exception or pre-condition for attainment of liberty and thus gives individual freedom the status of human rights. Consequently, both Indian citizens and foreigners enjoy the Right to Life.

Indian judiciary has interpreted the meaning of rights and liberty in its various judgements. These interpretations become important in the actual implementation in the concept of liberty. For example:

- In the 1963 'Kharak Singh vs The

State of Uttar Pradesh’ case, the Supreme Court upheld the Right to Movement throughout the territory of India.

- In the 1981 ‘Francis Coralie Mullin vs Union Territory of Delhi’ case, the Supreme Court spelt out a more comprehensive meaning of liberty. It interpreted the Right to Life as the Right to live with dignity. This included nutritious food, clothing, and shelter, freedom of expression and freedom of movement as fundamental rights.
- In the 1984 ‘Bandhua Mukti Morcha vs Union of India’ case, the Supreme Court interpreted Article 21 in the context of Directive Principles of State Policy. The Court included health care for workers, protection to children from physical abuse, opportunity and facilities for development, good education facility, maternal care and healthy working conditions as dimensions of the concept of liberty.
- In the 1989 ‘Ramsharan vs Union of India’ case, the Supreme Court again interpreted article 21 in a wider context. The court included the protection of tradition, culture and legacy which give meaning to life as concepts of liberty.
- In the 2017 ‘K. S. Puttaswamy vs. Union of India’ case the Supreme Court has declared that the right to privacy is a fundamental right under the Constitution of India.
- Recently, the Supreme Court has included clean and pollution free water and air as aspects of liberty.

Discuss

When we discuss human rights in the Indian context what is more important?

Political and civil rights OR right to food, shelter, clothing, health and education?

Discuss

Read the following.

- I clean my house daily and throw the garbage on the road.
- I take photographs of foreign tourists without asking their permission.
- Some patrons smoke in the cinema theater.

Discuss each of these statements in the context of the Right to Liberty in the classroom.

Do this : Find out various Supreme Court cases that have focused on the rights and liberty of Indian citizens. Discuss them in the classroom.

In this chapter we have seen the meanings of Liberty and Rights and also tried to understand them in the context of India. In the next chapter we would be looking at two other concepts, Equality and Justice.

Exercise

1. (A) Choose the correct alternative and complete the following statements.

- The book, 'On Liberty' was written by
(Robert Nozick, Thomas Hobbes, J.S.Mill, Isiah Berlin)
- The concept of Swaraj was spelt out by
(Mahatma Gandhi, Mahatma Phule, Dr.Ambedkar, Dr.Rajendra Prasad)

(B) Complete the following sentence by using appropriate reason.

According to Jeremy Bentham, the State should not bring any obstructions in liberty because -

- State does not give liberty.
- individual knows how to protect his own interests.
- liberty is a hurdle-less situation.

(C) State the appropriate concept for the given statement.

- Fundamental right introduced in Constitution of India by 86th Amendment -
- Rights based on the conscience of the individual and the community -

3. State whether the following statements are true or false with reasons.

Legal rights are not universal.

4. Explain co-relation between the following.

- Positive liberty and Negative liberty
- Natural rights and Legal rights

5. Answer the following.

- Explain Mahatma Gandhi's idea of liberty.
- Discuss the concept of Human Rights.
- Explain Isiah Berlin's concept of Liberty.

6. Answer the following in detail with reference to the given points.

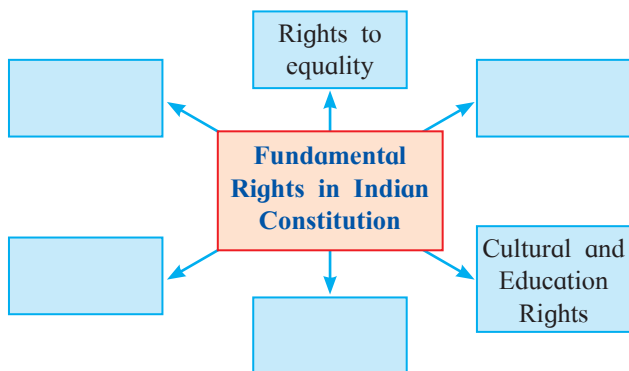
Elaborate the concept of Rights -

- Meaning and classification of rights
- Legal rights
- Human Rights

Activity :

Make a list of Civil Rights in India.

2. Complete the concept map.





3. Equality and Justice

In this chapter, we will study the concepts of Equality and Justice. We will study the meaning of equality in the context of equality before law, political equality and principle of equality of opportunity. We will also study the types of equality. Similarly, we will try to understand concepts of legal justice, natural justice and social justice.

Equality

Equality is an important value in human society. Equality does not mean uniformity. When we say all are equal what we mean, is that all have to be treated equally. Aristotle's approach to equality, had a narrow scope. In modern times, the meaning of equality has broadened. Empathy, tolerance, self-respect are aspects that are included in the understanding of equality. Hence, equality has a moral and collective dimension. In addition, today, equality is also looked at as a political goal.

There are various types of inequalities in the world. There exist natural and manmade inequalities. Natural inequalities include differences in colour, height, talent, physical strength, genetics, etc. Manmade inequalities are created on the basis of caste, money, religion, etc. It is accepted that individuals have different abilities, capabilities and attitudes. However, individuals should be given equal opportunities to develop their skills and talents. There should be equality in social, political and economic system of the society. The concepts of Liberty and Justice are judged on the basis of Equality.

Therefore, equality is a rational concept.

History of Equality : In political philosophy, the idea of equality has been studied since Greek times. The idea of equality developed in the context of the struggle against torture, absolute monarchy, and unequal social conditions. Aristotle, Hobbes, Rousseau, Karl Marx and Tocqueville have contributed to the development of the idea of equality.

Aristotle had propounded the idea of equality in the ancient Greek city state system. His idea of equality was confined to the citizens of the city state. His idea of equality developed with reference to the ruler and the ruled. He considered them naturally unequal on the basis of their inequalities in intellectual and administrative abilities. In Athens, the term citizens excluded foreigners, slaves and women. Aristotle tried to reduce inequality through the idea of a constitution. He sought to remove the concept of special status and advocated equality before law. In his book '*The Politics*' he explained the co-relation between equality and justice.

Thomas Hobbes propounded the idea of natural equality in his book '*Leviathan*'. Hobbes argued that despite having physical and intellectual inequality, all individuals must be treated as equals. It is important that every individual has certain rights as a human being. The government cannot take away these rights. This was his idea of natural equality.

Rousseau has analysed natural and manmade inequalities. The idea of

fulfilment of basic needs of the society.

(ii) Human dignity is not possible when a society has social and material inequality. Hence, equality is necessary to uphold the dignity of the individual.

(iii) Equality is necessary for mutual respect amongst members of a society. The equal opportunity for development of individuals is possible only, when there is respect for each other.

(iv) Social equality brings in fraternity. Liberty and equality are possible only when there is fraternity.

(i) **Equality before law and equal protection of law:** Law treats all citizens equally and it is equally applicable to everyone. Rich and poor, strong and weak may not necessarily have the ability to implement this principle. In the courts, rich and poor should be judged on an equal criterion. Judiciary should not discriminate between black and white or rich and poor. Therefore, it is necessary to accept the principle of equality before law and equal protection of law.

(i) Equality is necessary to create just conditions. The acceptance of the principle of equal distribution of resources is necessary for the



Do you know ?

The concept of equality is a central idea of political philosophy. There are three indicators of this concept-

- Welfare equality: Fulfilment of needs of an individual is more important than what is readily available for him
- Equality of resources: It means equitable distribution of resources
- Equality of capabilities: The usage of resources by people is more important than the availability of those resources.

Do this.

Read and discuss about Amartya Sen's Capabilities Approach to Equality.

Types of Equality : There are five types of Equality.

- (i) **Natural Equality:** Natural equality considers all human beings equal. Natural equality does not mean nature has created all men equal in their abilities and qualities. But, it means that, individual should not be discriminated on the basis of their natural abilities and each one should get an opportunity for development of their individual personality.

Plato and Aristotle did not believe in natural equality. However, Western Christian thinkers believed that all human beings are children of the same God. In modern times, Hobbes, Locke and Rousseau talked about natural equality in the State of Nature.

- (ii) **Civil Equality:** Civil Rights are equally available to all people. There will be equality before law. People will not be discriminated on the basis of race, colour, caste, religion, gender, etc. It also means equal punishment for the same crime and equal protection of law. Law should not give privileges to any specific section of society. Special laws made for the protection of the weaker sections of the society like women, children, physically challenged, backward classes, etc. do not violate the concept of civil equality.

- (iii) **Political Equality:** Every citizen has an equal right to participate in the affairs of the State. This type of equality is possible only in a democracy. However, it is necessary to make deliberate efforts to inculcate this concept in the society. Political inequality may lead to unrest in society. Political equality is based on Laws of Representation and Universal Adult Franchise.

- (iv) **Economic Equality:** Economic equality is the foundation of political equality. Economic inequality results into division of society. Economic equality means providing equal opportunity to all for one's development; absence of economic exploitation; prevention of concentration of wealth and availability of essential goods and services to everyone. According to Harold Laski, equality should be at least regarding essential commodities of life. Ernest Barker believes that the State should give equal right of property to all; but this does not mean that wealth should be distributed

equally. He maintains, that everyone has a right to accumulate property according to their ability.

Discuss

Search for the provisions of The Bonded Labour System (Abolition) Act, 1976 and organise a debate in the class.

- (v) **Social Equality:** Social equality means there would be no distinction between people on the basis on caste, religion, race, occupation, gender, etc. It is expected that every section of the society contributes to the wellbeing of the society. We have to accept the dignity of labour in society. However, we still find discrimination on the basis of caste, religion, race, gender, etc. in India. Similarly, we find racial discrimination in South Africa and United States.

Mahatma Phule and Dr. Babasaheb Ambedkar stressed on the concept of social equality in India. They tried to awaken their sense of identity and worked for the upliftment of backward and weaker sections of the society so as to give them a life of dignity.

It is the responsibility of the State to ensure equal social status and equal rights to all. This is ensured by the State through legislation. For example, in India, laws were made regarding abolition of untouchability.

Equality in the context of India

In a diverse society like India, it is necessary to make efforts to achieve social equality. The caste system is a

major obstacle to social equality. There is a need to make a simultaneous effort to achieve social and economic equality. Similarly, equality is necessary to achieve individual liberty.

In Indian society, there is a hierarchy of castes. Similarly, there also exists gender inequality in India. The patriarchal system in India creates social, economic, political inequality amongst males and females. Along with this there is also an unequal distribution of resources amongst the genders. Therefore, Mahatma Phule, Tarabai Shinde, Justice Ranade and Dr. Babasaheb Ambedkar argued in favour of just and equitable distribution of resources.

Some aspects of equality on which Indian thinkers focused-



Mahatma Jyotirao Phule

(1827-1890)

an Indian social activist and a thinker.

Focused on elimination of gender and caste discrimination.



Justice Mahadev Govind Ranade

(1842-1901)

Scholar and Social Reformer. Founding

member of the Indian National Congress and a social reformer. Worked in the area of child marriage, widow remarriage and women's rights.

Tarabai Shinde

(1850-1910)

a feminist activist.
Focused on
emancipation from
rigid caste system.



Mahatma Gandhi

(1869-1948)

leader of the Indian
independence movement.
Focused on social,
economic and political

dimensions and stressed on gender
equality



Dr. Babasaheb Ambedkar

(1891-1956)

an Indian jurist,
economist and social
reformer. Focused on

social, economic, political and cultural
discrimination and elimination of caste
system.

Dr. Ram Manohar Lohia

(1910-1967)

a socialist political
leader. Focused on
elimination of
dominance of English
language, caste and men.



Dr. Amartya Sen

(1933 - -)

an economist and
philosopher.
Focused on
development of
capabilities of
individuals.

Discuss

What will you do to help children
from economically backward families
for their education?

Justice

Justice is an important concept in the
social and political life of a human being.
Justice is an ancient concept. Socrates
considered justice as a political virtue.
For him, a good society is a just society.
Plato has put forward the concept of
Justice in his work '*The Republic*'. He
considered Justice as one of the
characteristics of a human being. Aristotle
argued that a society can achieve justice
if it is able to create equality, balance
and proportion in a society. These
definitions of Justice are of the Greek era.
In modern times, the concept of Justice
has emerged in different ways. They
include natural justice, legal justice, social
justice and gender justice.

According to John Rawls, 'Justice'
should be the first feature of any social
institution. The concept of justice emerges
from the actions and the needs of human
beings because there is a limitation of
available resources. The distribution of
resources, in terms of who gets what and
when, is a key aspect of justice.

Types of Justice :

- (i) **Natural Justice:** The concept of
natural justice is linked to the very
existence of a human being. A human
being is part of nature therefore he
can intrinsically understand concept
of right and wrong, justice and
injustice. Justice based on the concept
of natural justice is universally
accepted by all. Ancient Greek and
Roman philosophers advocated the

concept of natural justice. Since man naturally understands what is right and what is wrong, there is no need to create manmade laws. This is the meaning of natural justice.

- (ii) **Legal Justice:** Legal Justice is the application of the abstract concept of justice through the implementation of law. John Austin considered law as a means to establish justice as well as a means to suppress injustice. Justice is a precondition to law as without it, law will only be a means to suppress people.



Do you know ?

Legal Justice includes the following:

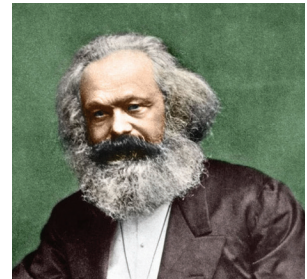
- (i) Judiciary should be independent and impartial.
- (ii) The judicial proceedings should be conducted in a tension free atmosphere.
- (iii) There should be specific rules for judicial proceedings.
- (iv) The accused should be informed about the charges against him.
- (v) The accused should have the freedom to plead his case.

- (iii) **Social Justice:** Social Justice means the equitable distribution of goods and services on the principle of equality. It is necessary to ensure that the weaker sections get adequate share in this distribution. Hence, social justice is also known as distributive justice.

Procedural Justice and Social Justice are two approaches to Social Justice. Procedural Justice involves legal

procedures. It means that cases should follow proper legal procedure, correctly interpret the law and treat everyone as equal before law. Justice is related not just to an individual but to the society. Robert Nozick advocated the concept of Procedural Justice while Karl Marx, Dr. Babasaheb Ambedkar and John Rawls argued in favour of Social Justice.

Karl Marx considers the State as an instrument of exploitation of workers. This



Karl Marx (1818-1883)
A German Philosopher

instrument is in the hands of the capitalist class. Since the laws are made by the State, it is natural that they protect the interest of the capitalists. Marx maintained that the transformation of the capitalist system into a socialist system will ensure an equitable distribution of resources. The socialist system gives a priority to the right of equality of the 'have-nots' rather than the right of property of the 'haves'. Thus, according to Marx, implementing socialist agenda is considered to be justice and that the Judiciary should be committed to socialism.

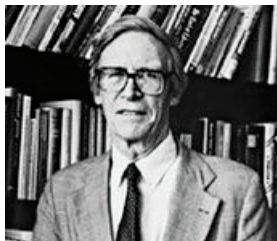


Do you know ?

Haves: Refers to that section of the population who own the means of production.

Have nots: Refers to that section of population who are predominantly the labour.

John Rawls was an advocate of Social Justice, who advocated the concept



John Rawls (1921-2002)
An American Philosopher

of Distributive Justice. Rawls theory of social justice focuses on the just desires of individuals in society. In his book, *A Theory of Justice*, Rawls argues that the concepts of freedom and equality are not mutually exclusive. He concludes that for justice to be truly just, everyone must be accorded with the same rights under the law.

Rawls has put forth two principles of social justice: a) Fundamental rights and duties must be uniformly applicable. A system can be just only when, those at the bottom of the system are able to benefit from it. b) There must be equality of opportunity for all the public offices that are available. This is Rawls concept of fairness.

Indian concept of Justice

There exist different kinds of inequalities in India, such as those created through the caste system, patriarchal system, etc. Dr. Babasaheb Ambedkar argued that justice would be achieved when the structure and values associated with these systems will change. Similarly, he related the concept of justice to the concept of distribution of resources. The Constitution of India ensures justice through both, procedural justice and social justice. This is achieved through educational and economic development of economically backward classes. This is implemented through the following policies:

- (a) Policy of reservation.
- (b) Granting of scholarships, grants,

loans, health services, etc. for weaker sections of the society.

(c) Eradication of unjust social and economic practices which exploit backward classes.

It would be worthwhile to note what Dr. Babasaheb Ambedkar said in his reply to the debate on the adoption of the Indian Constitution. He said: *'If we wish to maintain democracy not merely in form, but also in fact, what must we do? The first thing in my judgement we must do is to hold fast to constitutional methods of achieving our social and economic objectives'*. He further said: *'We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it, social democracy. What does social democracy mean? It means a way of life which recognises liberty, equality and fraternity as principles of life'*.

In short, Justice and Equality are the basic values of the State.

Discuss

Explain which of the following incidents violate the principle of equality and justice?

- (i) Reserved seats for women in Buses and Trains.
- (ii) Reserved seats for physically challenged persons in Buses and Trains.
- (iii) Payment of Income Tax.
- (iv) Concessions in Fair Price Shops.

Discuss

Discuss the problems of children who have run away from their homes.

Do this.

Visit the website of the Ministry of Social Justice and Empowerment and study the various policies for the weaker sections of the society.



Exercise

1. (A) Choose the correct alternative and complete the following statements.

1. The base of political equality is
(democracy, dictatorship, military rule, monarchy)
2. John Rawls was an advocate of justice.
(distributive, political, economic, gender based)

(B) State the appropriate concept for the given statement.

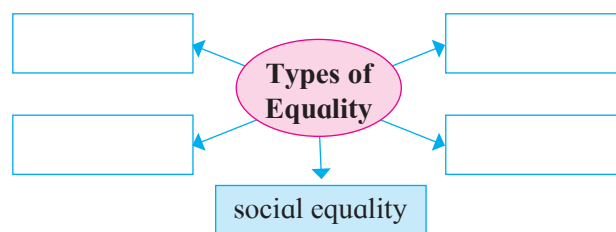
1. Principle of equality which states that each one should get an opportunity for development of their individual personality –
2. Type of equality which says that every citizen has an equal right to participate in affairs of the State –
3. Absence of economic exploitation –

(C) Complete the following sentence using appropriate reason.

In India, laws were made regarding abolition of untouchability. Because

- (a) untouchability is a political concept
- (b) untouchability is legal concept
- (c) social inequality is controlled by State legislation

2. Complete the concept map/maps.



3. State whether the following statements are true or false with reasons.

1. Democracy denies equality.
2. Equality is a political goal.
3. Social democracy is a foundation of political democracy.

4. Explain co-relation between the following.

1. Equality and Justice
2. Legal Justice and Social Justice

5. Express your opinion of the following.

Casteism is a barrier to social equality.

6. Answer the following.

Explain Indian concept of justice.

Activity :

Suggest ways by which women can travel safely to work.

Section II : Comparative Government and Politics

Introduction

Three Branches of Government

COUNTRY	 LEGISLATURE Makes Laws	 EXECUTIVE Administers Laws (Political Executive and Bureaucracy)	 JUDICIARY Interprets Laws and provides justice
INDIA 	Parliament Lok Sabha Rajya Sabha	Political Executive President (Head of State) Prime Minister (Head of Government) and Council of Ministers Bureaucracy The Administration Machinery	Supreme Court High Court District and other courts
UNITED KINGDOM 	Parliament House of Commons House of Lords	Political Executive Monarch (Head of State) Prime Minister (Head of Government) and the Cabinet Bureaucracy The Administration machinery	Supreme Court and other courts
UNITED STATES OF AMERICA 	Congress House of Representatives Senate	Political Executive President (Head of State and Government) and Secretaries Bureaucracy The Administration Machinery	Supreme Court State Supreme Courts Other Courts

Comparative government is concerned with the study of formal political institutions like legislature, executive, judiciary and bureaucracy. It is mainly a study of these political institutions. Comparative politics looks at some other factors that influence

the working of the political institutions. It seeks to analyse how these and other institutions work.

Thus the comparative study of politics and government examines political institutions –like Constitution, Executive,

Legislature and Judiciary, the system of representation, political parties and pressure groups. This section will help the students to do the following:

(i) Identify the important governmental institutions and understand their structure and functions. They can also understand how these institutions were created. They would also be introduced to different political systems in the world. For example the governmental system of India is different from that of the United States or United Kingdom. What would be the similarities or differences between them?

(ii) They can understand how a government is created, how leaders are either elected or selected. What role do the political parties and pressure and interest groups play in the formation of governments?

The three chapters of this section are as follows:

Chapter IV: Constitutional Government: What is a constitution? The Constitution is a set of political principles, according to which a country is governed. It will give the rights and duties of the people and the government. It sets out the structure of the state, the major state institutions, and the principles governing their relations with each other and with the state's citizens. It will also talk about the division of power between the centre and the states (Federalism).

Chapter V: The Concept of Representation: You have seen how the people in India elect members of the Parliament or the State Assembly or the Municipal Councillors in the cities or Panchayat Members in rural area. We call them our representatives. We give them the authority to speak on our behalf in the Assembly or the Parliament. It is expected that they protect our interests. They may be part of the ruling party or the opposition,

they are still expected to protect and promote our interests. Since the government is formed by political parties, it is the parties that become important in channeling the representation. Sometimes, it is necessary to bring to the attention of the government, problems faced by some specific groups. Such groups may form pressure groups or interest groups to articulate their problems and then put pressure on the government. All these are means of representation that we would study in this chapter.

Chapter VI: Role of the Judiciary:

Judiciary is the branch of the government that has the power to interpret the constitution. It has the power to decide legal disputes. One of the important characteristics of the Judiciary in democratic societies is that it is an independent and non-political organ of the state. One of the important powers of the Judiciary is that of judicial review. Judicial review is the power that the Supreme Court has to examine the actions of the legislature, executive and the administrative arms of the government to ensure that they do not violate the constitution. You would study this role of the Judiciary in the chapter along with the concept of Judicial Review.



Do you know ?

The United Kingdom comprises four geographic parts - England, Scotland, Wales and Northern Ireland. Geographically, England, Scotland, Wales are parts of the island of Great Britain. Northern Ireland and the Republic of Ireland are part of a separate island. While Northern Ireland is part of United Kingdom, the Republic of Ireland is a separate country.

The name Britain or England is sometimes used to refer to the United Kingdom as a whole.



4. Constitutional Government

In the first section on Political Concepts you studied the concept of the nation and state. You also studied the concepts of rights, liberty, justice, etc. These are rights that all citizens of a country get. Who provides these rights? It is the constitution of that country that gives them the rights and protects the rights of the citizens.

What is a Constitution?

A Constitution is a living document. It is a document that indicates the way in which a country is governed. A Constitution has three distinct but inter-related components to it.

- (i) **Set of Rules:** It is a set of rules that sets out the structure, functions, powers, rights and duties of the three branches of the Government—the Legislature, the Executive and the Judiciary. It tries to ensure that each branch acts within the jurisdiction laid down for it by the Constitution. This is done by providing the other two branches adequate powers to check the third branch if it exceeds its jurisdiction. For instance, the American Constitution provides for the impeachment of the President and other high officials of the country's government for exceeding the authority of their offices. At the same time, this component also lays down the limitations on what the Government can do and cannot do.
- (ii) **Set of Rights:** It lists the rights of the citizens, the means for the

protection of these rights, and the duties of the citizens. It ensures that all individuals and groups are given certain rights which will enable them to live freely and with dignity and self-respect. These rights are not unlimited. They are subject to certain limitations. For instance, the Constitution of India guarantees certain Fundamental Rights to the citizens of India, but also sets out the limitations on them. Furthermore, mere possession of such rights is not enough. There should also be some means of protecting them.

The Constitution of India also provides ways by which individuals and groups can protect their rights. Generally, the responsibility of protecting the rights of groups and individuals is entrusted to the Judiciary. Thus, these two components form the framework which governs the mutual relationship between the Government, the Society and the Individual.

- (iii) **Set of Objectives and Values:** The Constitution states the objectives and values that a given Constitution seeks to follow and fulfil. The third component tells us why a given Constitution has come into existence in the first place. For instance the Constitution of the United States of America, the



oldest existing one in the world, proclaims that it has been brought into existence to “establish Justice, insure domestic tranquillity, provide for the common defence, promote the general welfare and secure the Blessings of Liberty to ourselves and our Posterity”. A similar set of objectives constitute the foundations of the Indian Constitution.

Most Constitutions in the world are written. This means that there is a single written document which contains all the three components listed above. Such Constitutions have generally come into existence after long and detailed debates, and have been prepared by specially convened gatherings. For instance the American Constitution was made by the Constitutional Convention, while the Indian Constitution was framed by the Constituent Assembly.

Some countries have Constitutions which are unwritten, the best example being the United Kingdom. This does not mean that nothing is laid down in writing. It means firstly, some aspects are written while others are governed by constitutional precedents or conventions. Further, the written component does not exist as a single document. For example, look at the power of the Monarch of the United Kingdom to appoint the country’s Prime Minister. There are no written rules governing this, but it is assumed that the person, who commands a majority in the House of Commons, will be appointed.

Constitutionalism

Constitutionalism is the idea that there should be limitations on the powers of the Government. Such limitations might be laid down in the Constitution, or might

have come about due to certain historical developments. The origins of Constitutionalism can be traced back to Social Contract Theory formulated by the 17th century British thinker, John Locke. He argued that the Government could not do certain wrong things and if it did, then the people had the right to change it.

However, there had been many attempts even before Locke to ensure that there were restrictions on the powers of the rulers. They include the Magna Charta in 1215 in England and the Bill of Rights passed by the Parliament in England in 1689. These attempts were primarily the efforts to restrict the powers of the Monarchs, and not the Government as such. This was because during those times, power was largely concentrated in the hands of the Monarchs. It was only when the three branches of Government, mentioned above, emerged as distinct entities that the idea of restricting the powers of the Government as a whole emerged. This can be described as the modern version of Constitutionalism.

Modern Constitutionalism found its concrete expression for the first time in the American Constitution. The first ten amendments to the American Constitution are collectively referred to as the Bill of Rights. These explicitly imposed restrictions on the Government as a whole. For instance, the First Amendment prohibits the making of any law which restricts freedom of speech or of the press. Similarly, the Indian Constitution also prohibits the Government from doing anything that violates the Fundamental Rights of the individuals. These are instances of explicit restrictions on the powers of the Government.

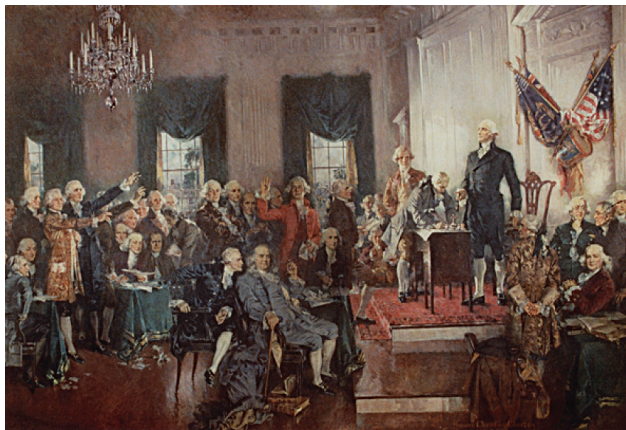
What happens in the case of countries

Find out!

What are the different Fundamental Rights guaranteed by the Indian Constitution?



Constituent Assembly of India.



Signing of the United States Constitution

with unwritten Constitutions? Till recently, the doctrine of Parliamentary Sovereignty prevailed in the United Kingdom. This meant that the United Kingdom's Parliament had the power to make any law of any kind. It meant that there were no restrictions on the powers of the Government. However, the scenario where the Parliament made unjust or arbitrary law was avoided by a vigilant public opinion. Today the doctrine of Parliamentary Sovereignty no longer exists in its absolute form. This is because the United Kingdom is now a member of various international organisations and a signatory to numerous international

agreements which guarantee rights to individuals. The existence of these rights ensures that there are restrictions on the powers of the Government.

A Constitution which restricts the powers of the Government also can be amended thus opening up the possibility of the removal of these restrictions. Most Constitutions do provide for making changes to themselves. What is the guarantee that a Government will not use powers to amend a Constitution so as to remove all restrictions on its actions? Such a situation did arise in India in the 1970s. Then, the Government believed that the restrictions on its powers imposed by the Constitution were blocking the way to the balanced development of the country. Hence, it sought to amend the Constitution.

However, the Supreme Court of India in the celebrated *Keshavananda Bharati* case (1973) laid down the restrictions on the power of the Government to amend the Constitution. It ruled that the Constitution of India possessed a basic structure which could not be altered in any manner, and that other than this there were no restrictions on amending the Constitution. This is known as the Basic Structure Doctrine.

But, in a democracy, Constitutionalism

Find out!

How many times has the Indian Constitution been amended? What was the latest amendment?

means something more than mere restrictions on the power of the Government. It also means adherence to the spirit of the Constitution. It refers to the values which form its foundations and the manner in which those who hold

power are expected to behave. This can also be described by the term 'Constitutional Morality'.

Major Types of Democratic

Dr. Babasaheb Ambedkar's speech in the Constituent Assembly

Constitutional morality is not a natural sentiment. It has to be cultivated. We must realise that our people have yet to learn it.

Governments

Democracy is a system of government wherein the people elect their rulers. But there is no single type of a democratic system of government. The two major types are Parliamentary and Presidential. India and the United Kingdom follow the Parliamentary system, while the United States of America follows a Presidential system. The nature of the relationship between the Executive and the Legislature is the principal distinguishing feature between the two.

Parliamentary Systems

The Parliamentary system makes a distinction between the Head of the State and the Head of the Government. The Head of the State is the President or in the case of the United Kingdom, the Monarch. The Head of the Government is the Prime Minister. The President or the Monarch, the Prime Minister and the Council of Ministers are the Executive. But the real executive power is vested in the Prime Minister and the Council of Ministers. The President or the Monarch is a nominal executive head.

Thus, in Parliamentary systems, the Executive consist of two components, the nominal and the actual or the real.

Though the administration of a given country is conducted in the name and by the orders of the nominal Executive, it is the real Executive who takes the actual decisions. The powers of the nominal Executive as the term suggests are nominal. All Parliamentary systems are classified into either Constitutional Monarchies or Republics depending upon the nature of the nominal Executive. Systems where the office of the nominal Executive is filled on the basis of heredity are Constitutional Monarchies and the office holder is known as the Monarch. Republics are those where the nominal Executive is elected and the office holder is termed as the President. The nominal Executive is also termed as the Head of State that is the head of the country's political system.

The real Executive comprises of the Council of Ministers whose head is known as the Prime Minister. It is the President or the Monarch who appoints the Prime Minister. The ministers are also appointed by the President or the Monarch, but as per the Prime Minister's wishes. Whosoever commands a majority in the Legislature is appointed by the President or the Monarch as the Prime Minister. It is the Prime Minister who actually runs the Government with the assistance of the ministers, and hence is known as the Head of Government. In Presidential systems, the President actually runs the Government and hence, is both the Head of State and the Head of Government.

In a Parliamentary System the Prime Minister and Council of Ministers stay in power so long as they have a majority in the Parliament. In most Parliamentary Systems there are two houses of Parliament. For example in the United Kingdom the

The Indian System of Government (Parliamentary System)

President (Head of the State)



Executive
(South Block)



Prime Minister
(Head of the Government)
And Council of Ministers

Legislature
(Parliament Building)



Parliament
Lok Sabha and
Rajya Sabha

Judiciary
(Supreme Court)



Supreme Court

System of Government: United Kingdom (Parliamentary System)

Monarch (Head of the State)



Executive



Prime Minister
(Head of the Government)
and Council of Ministers

Legislature
(Parliament Building)



Parliament
House of Commons and
House of Lords

Judiciary



Supreme Court

Parliament consists of the House of Lords and House of Commons. In India, there is the Lok Sabha and Rajya Sabha. The members of House of Commons and Lok Sabha are directly elected by the people. Therefore the Executive can stay in power only if they have a majority in their

houses.

Presidential system

Find out!

Make a list of all the Prime Ministers of India since independence with their tenure.

The American System of Government (Presidential System)



(The three Branches of Government under Separation of Powers)

Legislature



Congress

House of Representatives
Senate

Executive



President

Vice President
Secretaries

Judiciary



Supreme Court

Other Federal
Courts

In a Presidential system, the head of Executive branch is directly elected by the people for a fixed period. This head of the Executive branch in most such systems is termed as the 'President' and hence the term 'Presidential system'. The President is both, the Head of the State and the Head of the Government. The President enjoys powers granted to his office by the Constitution. The most significant of these powers is that of conducting the administration of the country in accordance with the law passed by the Legislature. The President also can appoint his subordinate officials like ministers and ambassadors. Generally, in such systems, members of the executive are prohibited from being members of the Legislature. For example, the Ministers (called Secretaries in the United States) are not members of the Congress.

The Legislature, in the Presidential systems, is also elected by the people. The Constitution entrusts it with the power

of making laws. However, this power is not absolute since the laws come into effect only when the President approves them. The President has the right to reject a law passed by the Legislature. This is known as the 'Veto Power'. The President can also request the Legislature to pass laws proposed by the Executive which are deemed necessary to solve the problems of the day. The Legislature can also impeach or remove from office the President if it is proved that the Constitution has been violated. However, this is a rare occurrence in established democratic systems.

The President continues in office irrespective of the fact whether he or she enjoys the support of the majority of the members of the Legislature. The loss of the support of a majority does not automatically mean the resignation of the President. However, the lack of support might lead to a breakdown in the functioning of the Government since such a scenario might lead to a situation where

the Executive and the Legislature might constantly prevent each other from doing anything.

Federalism

Find out!

Name any four American Presidents who belonged to the Republican party and four who belonged to the Democratic party.



Do you know?

Countries with Presidential systems- the United States of America, Mexico, Brazil, Argentina, South Africa etc.

Countries with Parliamentary systems- India, the United Kingdom, Germany, Italy, Japan, Canada, Australia etc..

Some countries are large in size and have several regions. In such a case it is difficult to have only one government that can take care of the entire country. In such cases countries have two levels of government- the first one being the national or the country-wide government, the second working at the regional level. These regional units are referred to as 'states' or 'provinces'. Political power is also divided between the two governments. In such cases, the central government is called National Government, Central Government, Union Government or Federal Government while the regional governments are called State Governments. Countries where such an arrangement exists are known as Federal systems or Federations.

Some countries that are geographically

small in size usually have a single government at the centre. Such systems of government are called Unitary Systems.

This distribution of power amongst the central (national) government and the state governments in a Federation is a formal arrangement. It is explicitly referred to in the Constitution of that country. For instance, the American Constitution explicitly states the powers possessed by the Federal Government. Similarly, the Constitution of India, in its Seventh Schedule, lists the powers of the Central or Union Government as well as that of the State Governments. In most Federations, changes to these constitutional provisions require the approval of both the national and the state governments.

The history of Federations can be traced back to the medieval period in Europe where political units came together in order to face powerful common enemies or to solve common problems. A few of these arrangements evolved over a few centuries to form a single political unit. The best instance of this process is Switzerland. In some cases, the transition to a full-fledged Federal system occurred in a relatively shorter period of time. The best instance of this is the United States of America. Thirteen British colonies, all separate political units, rebelled against the authority of the United Kingdom and won their independence in the 18th century. When they realised that they needed to establish a single political unit in order to safeguard their independence, they came together and established the country which we today know as the United States of America. Such Federal systems are known as 'Coming Together' Federations. Canada and Australia are

other instances where previously separate political units came together to form a single political system.

In case of India, at the time of independence, there were Princely States and areas under British administration. The states that we see today were created after independence on the basis of language. Thus, in case of the United States of America, the States came together to create the United States of America; while in case of India, the Union Government created the States.

In contrast, there are also countries where hitherto Unitary systems change to Federal one through the establishment of 'states' and 'provinces'. These are known as 'Holding Together' Federations. This is so because political power is distributed away from the national government in order to keep the country united. The United Kingdom has a unitary system of government. Today its regions, Scotland, Wales and Northern Ireland have been given some degree of autonomy. These regions now have their own assemblies.

In India, the division of powers favours the national government. Hence, India is described as a 'quasi-federation' or as a federation with a unitary bias. The journey of Indian federalism has been mixed. After independence, the states have been granted additional powers, however, later economic and technological changes have led to the enhancement of the powers of the Central government.

In this chapter, we have studied the



Do you know?

The Seventh Schedule of the Constitution of India

The Seventh Schedule consists of three lists, the Union List, the State List and the Concurrent List. Each contains subjects over which the Central Government, the State Governments as far as their respective States are concerned, and both the Governments respectively can take decisions and make laws respectively. In cases where both the Central and the State governments have made laws about subjects falling in the Concurrent List, then the former prevails. Furthermore, the State Governments can also ask the Central Government to make laws on subjects included in the State List, if such a need arises.

Do this.

Look at the following subjects (Seventh Schedule of the Indian Constitution) : (i) Law and Order, (ii) Atomic Energy, (iii) Banking, (iv) Agriculture, (v) Police, (vi) Electricity, (vii) Education.

Find out which of these subjects is in the Union, State or Concurrent list.

basic aspects of government. We have seen the importance of the constitution and how the government works within the framework of the constitution. We have also seen various forms and types of government. Now in the next chapter we shall focus on how governments are formed in democratic systems.

Please see the following websites for further information:

(1) Constituent Assembly of India Debates (Proceedings) - Volume XI, 25th Nov. 1949

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair. Reply to the Debate: Dr. B.R. Ambedkar

http://cadindia.clpr.org.in/constitution_assembly_debates/volume/11/1949-11-25

(2) Former Presidents of India

<https://presidentofindia.nic.in/former-presidents.htm>



Exercise

1. (A) Choose the correct alternative and complete the following statements.

- Unwritten Constitution exist in
(United Kingdom, India, South Africa, United States)
- In a parliamentary system there is a of legislative and executive powers.
(separation, coordination, merger, centralisation)
- The first ten amendments to the American Constitution are collectively referred to as
(Bill of Rights, Magna Carta, Basic Structure Doctrine, Fundamental Rights)

(B) Identify the incorrect pair in every set, correct it and rewrite.

- Magna Carta - England
- Veto - United Kingdom
- Keshvanand Bharati Case - Basic structure doctrine

(C) Find the odd word in the given set.

- England, Scotland, Wales, Republic of Ireland
- India, Australia, Canada, Argentina

2. State whether the following statements are true or false with reasons.

- Indian Federation can be described as a 'quasi-federation'.
- Parliamentary system exists in the

United States.

3. Explain co-relation between the following.

- Legislature and Executive in parliamentary system.
- President and Legislature in presidential system.

4. Answer the following.

- Explain Constitutionalism and constitutional morality.
- Explain the nature of Indian Federation.

5. Answer the following in detail with reference to the given points.

Explain Constitution and its three distinct inter related components.

- what is a Constitution?
- set of rules
- set of rights
- set of objectives and values

Activity:

What are the rights mentioned in the Bill of Rights of the American Constitution.





5. Concept of Representation

We use the term ‘representatives’ to describe our Members of Parliament or the Members of the State Assembly. We also use the term to describe our Municipal Corporators or Panchayat Members. The concept of representation is important in a democracy. What do we mean by ‘representatives’? Who are they? How do they become representatives? In this chapter, we will study the concept of representation in democratic countries.

What is Representation?

Today in democracies, people elect individuals from amongst themselves to govern themselves. They are called representatives. Political systems where this happens are known by the term ‘indirect democracies’. This is so because people do not conduct their own affairs but rather entrust this task to some others who are known as ‘representatives’. But there was a time when people governed themselves. Political systems where such an arrangement prevailed are described today as ‘direct democracies’. City states in ancient Greece, Athens, for instance, were direct democracies. There is evidence of similar arrangements prevailing in ancient India, but not many details are available as yet. It must be noted that such systems did not give the right to govern to all individuals. Women and the poor were generally excluded.

Direct democracy prevailed in political units which had a limited geographical area and a small population. This made it feasible for all those individuals who had the right to conduct the affairs of such units to do so. But in modern times, the area and the population of political

units has increased. It is not possible for the people to govern themselves. This led to the birth of ‘indirect democracies’. They are also known as ‘representative democracies’ because people govern themselves through their representatives. Their form of government is referred to as ‘Responsible Government’ since the representatives are ultimately responsible and accountable to the people.

Divine Right of Kings

Representative democracies have their origins in medieval Europe. Scholars have noted that similar systems did exist in ancient India. Till the medieval period, Monarchies existed almost everywhere in the world. Monarchs had absolute power over whom they ruled. In some cases, they were regarded as representatives of God on the Earth. These Monarchs claimed they or their ancestors had been given the right to rule by God, a doctrine known as the Divine Right of Kings.

However, as time went by, these Monarchs realised that ruling their respective countries was becoming more expensive, and hence desired to raise more money from their subjects in the form of taxes. The payment of taxes would have become easier if the people agreed to do so. It was of course, not possible to gather all the people together to seek their approval as well as the holding of separate meetings in different parts of the country. Hence, many monarchs decided to convene meetings or gatherings at their capital cities of individuals who were to be separately elected by the people from various parts of their respective countries. The proposals



for taxation were to be approved in such meetings. Such gatherings came to be known as 'Representative Assemblies'. One of the oldest such representative assembly is the House of Commons of the United Kingdom.

Representative Assemblies

Soon these representative assemblies started asking for a share in the decision making process. This was opposed by the Monarchs. This struggle between the two in many cases, led to internal conflicts. The best instances of such a conflict are the English Civil War of the 1640s, and the French Revolution of 1789. The first marks the journey of the United Kingdom towards becoming a Constitutional Monarchy, while the second led to France finally becoming a Republic in the 19th century. Most such conflicts ended with the defeat of the monarchies. The representative assemblies soon entirely took over the affairs of the country. The members of such assemblies came to be described as 'Political Representatives' since they collectively dealt with the activities of the government and what they did came to be referred to as 'Political Representation'.

But what exactly is meant by political representation? It means that those who have been elected, the 'representatives', should articulate and advocate the demands and concerns of and safeguard the interests of those who have elected them, the 'represented'. The task of political representation is performed in the elected 'Representative Assemblies' mentioned above.

In modern times, the idea of 'Political Representation' started to spread from Europe to other parts of the world from

the 19th century onwards. Many European countries had by then established colonies in Asia and Africa. This was also the period when many European countries also started becoming democratic. These developments influenced the people of Asia and Africa who now started demanding a greater share in the decision making process of their respective countries. India was one of the first countries where such demands were made.

India

In the background of the events of 1857, the British decided that Indians should be associated with the decision making process in India. Hence, in 1861, a few Indians were appointed to both the legislative councils at the all-India level and at the provincial level. These Indians were not elected but nominated. They were selected by the British and the people of the country had no choice in this matter. But yet they were regarded as 'Representatives'. Soon demands were made that the people of India should have a say in those who were to represent them.

These demands were slowly but surely fulfilled. An important stage in this process was the Government of India Act, 1935. According to the Act, representative assemblies, predominantly consisting of elected members, were established at the provincial level. A Parliamentary form of government was also established in the provinces. The process in a sense came to an end in the period between 1950 and 1952. In 1950, India became a democratic republic with a parliamentary system, and in 1951- 1952, the first general elections were held throughout the country to the Indian Parliament and the state legislatures.

Major Acts pertaining to representative assemblies in India

1861: Indian Councils Act, 1861: Establishment of legislatures in India and the appointment of Indian members to them.

1892: Indian Councils Act, 1892: Expansion of and introduction of the elected members in these legislatures

1908-09: Morley-Minto reforms and the Indian Councils Act, 1909: Further expansion of these legislatures and an increase in the proportion of elected members.

1918-1919: Montague-Chelmsford reforms and the Government of India Act, 1919: Further expansion of these legislatures with the elected members constituting a majority in them.

1935: Government of India Act, 1935: Provincial legislatures become predominantly elected.

Methods of Representation

In every democratic country, some method is required by which individuals shall govern the people of that country. These methods are known as the 'methods of representation'. These methods are as follows :

(i) **Electoral:** The people have the right to decide who shall govern them. This method primarily is used to decide who shall become the representatives or the members of the representative assemblies. This is so because these assemblies are where the ultimate decision making powers are located. But there is no single electoral method, and indeed there is a variety of them.

(ii) **Non-electoral:** The individuals occupy

various positions through appointment or selection. This second method is used in deciding which individuals shall be appointed as government officials or as members of other government bodies.

(iii) **Non-Official:** This refers to the role that the civil society plays in trying to represent the people. This is done through interest and pressure groups.

In most countries, elections to the representative assemblies take place on a geographical basis, that is to say, the country is divided into distinct areas or constituencies. The people living in these constituencies have the right to elect individuals from their respective constituencies to be their representatives. They, thus, have the right to vote or possess the franchise. Those individuals contesting the elections are known as candidates. The number of individuals to be elected from each constituency varies from country to country.

Electoral systems are classified in two ways:

- (i) Number of members that are elected from one constituency: In this system there are two types of election methods: (a) Single-Member: Only one member is elected from one constituency. (b) Multi-Member: Several members can be elected from one constituency.
- (ii) How many votes are required to get elected from any one constituency: In this system there are three types of election methods: (a) Plurality, (b) Majority and (c) Proportional.

Generally, the Plural and Majority methods are used for Single-Member constituencies.

In the Plurality system, the candidate who receives the maximum number of votes is elected. In this system, it is not necessary for a candidate to secure a majority of the votes to be elected. This system can be compared to a running race. The runner who reaches the finish line first is the winner. How much time the winner takes to reach the finish line is irrelevant. This is why this system is also known as the First Past the Post (FPTP) system. This system is used for elections to the Lok Sabha and the State Legislative Assemblies in India.

In the Majority system, it is necessary to secure a majority of the votes, i.e. more than 50%, to get elected. This system is used for the election of the President of India as well as the Vice-President of India.

Proportional systems are generally used in Multi-Member constituencies. In this system, the number of candidates of a given political party to be elected depends upon the proportion of votes that it receives. For instance, if a political party receives 40 % of the votes in a five member constituency, then two of its candidates will be elected from that constituency. This system is not used in India. There is a sub-type of the Proportional system which is known as the Single-Transferable Vote (STV) system. Here the voters have to rank the candidates in the order of preference. This system is used in the elections to the Rajya Sabha and to the State Legislative Councils in India.

Right to vote

A mention has been made of the right to vote. Today, adult franchise exists in all democracies. This means that all adult citizens of the country, irrespective of

gender, race, economic and social status, have the right to vote in elections and thus have a say in deciding in who their representatives would be. However, the age at which an individual becomes entitled to vote varies from country to country. In India, a citizen can become a voter on becoming 18 years of age.

As mentioned in the previous chapter, initially the women and the poor did not have the right to vote. But with the spread of the idea of democracy, it became difficult to justify the exclusion of a majority of the population from the right to vote. Soon all men received the right to vote. However, the struggle to secure the right to vote to women was even more difficult. By the mid-20th century, most democratic countries granted women the right to vote. It must be noted that India granted all its adult citizens, both male and female, the right to vote in 1950 itself when the Constitution was adopted.



Postage Stamp of the Election Commission of India



Do you know ?

When did women get the right to vote?

Chronology of women's right to vote

United States	: 1920
United Kingdom	: 1928
France	: 1945
Japan	: 1945
Israel	: 1948
India	: 1950
Switzerland	: 1971

Find out!

Names of Member of Parliament and Member of Legislative Assembly from your constituency. Which political party do they belong to?

Channels and Levels of Representation

Political parties are the most important channels for political representation. They serve as the primary channels of political representation. But what are political parties? They can be defined as organised groups formed by individuals holding similar views on a wide variety of issues. They seek to obtain political power in order to implement policies based on these views.

In democracies, parties seek to obtain power through elections. Individuals who are members of various parties contest elections as candidates of their respective parties. Moreover, the views of a party taken together are described as that party's ideology. During elections, the parties present before the voters a programme based on their ideology and promise them that this programme would be implemented if elected to power. The voters who approve of a given party's programme

because they feel that it will benefit them vote for that party's candidates. Thus, the aspirations and wishes of the voters are represented in the decision-making process through the channel or the medium of a given political party.

However, it must be noted that decision-making occurs at different levels. In a federal system like India, it occurs at both the national as well as at the state level. India also has granted constitutional status to the local self-government institutions like the Gram Panchayats and the Municipal Councils and Corporations. They have been entrusted with certain powers and responsibilities which have been enumerated in the Constitution of India. This means that decision-making also takes place at the local level. Elections are held for representative assemblies at all these three levels, and political parties contest them. Thus, parties serve as channels of representation at all these three levels.

Classification of Political Parties

In India, political parties are classified as 'National' or 'State' parties. The Election Commission of India has certain criterion to classify a party as 'National' or 'State'.

The Election Commission has decided that a political party shall be eligible to be recognised as a **National** party if :-

(i) it secures at least **six percent** (6%) 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

(ii) in addition, it wins at least four seats in the House of the People from any State or States.

OR

it wins at least two percent (2%) 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.

List of National Parties in India

- Indian National Congress
- Communist Party of India
- Bharatiya Janata Party
- Communist Party of India (Marxist)
- Bahujan Samaj Party
- Nationalist Congress Party
- All India Trinamool Congress

(Election Commission Of India,
No.56/2018/PPS-III Dated : 13th April,
2018)



Find out!

Give names of four State parties from Maharashtra and six from other States.

Origin of Political Parties

It would be interesting to find out the process by which parties came into existence. They emerged a little later than the representative assemblies mentioned in the earlier sections. As these assemblies came to have more of a say in a country's decision-making process, members of these assemblies who held similar views began gathering together to influence the policies of the government in a direction that they desired. Such groups soon came to be described as political parties.

Once power passed into the hands of

these assemblies and it became established that whosoever commanded a majority in these assemblies would head the Executive. The need for organised groups became increasingly felt since such groups would ensure that the majority would last for a reasonable amount of time and thus ensure political stability. This process can be seen in the 18th century in the United Kingdom. A similar process occurred in many other countries as well. As more and more people secured the right to vote, these parties expanded their membership among the voters and became well-knit organisations.

In India, political parties arose as a result of the fight against British rule. The Indian National Congress was the first organisation to be formed in India which can be described as a political party. This happened in 1885. As the freedom movement picked pace, various other parties like the Muslim League, the Hindu Mahasabha, Unionist Party, the Communist Party of India, the Independent Labour Party, among others were formed. After independence, many more parties like the Peasants and Workers Party, Dravida Munnetra Kazhagam, Jana Sangh, Socialist Party, Republican Party of India, Shiv Sena, among others were established. Generally speaking, newer parties are formed when some sections of society believe that the existing political parties are not or cannot fulfil their aspirations. This has happened all over the world and this has also been a major reason for the formation of new parties in India.

Interest and Pressure Groups

Interest and Pressure groups are informal channels that seek to represent the people. A Pressure Group is an interest group that is organised to influence public and especially government policy. This

group does not participate in elections to become a part of government or the opposition. It seeks to influence policy from outside by putting pressure on the government. Sometimes the word ‘Lobby groups’ is used to describe these interest groups. Trade Unions, Agricultural interest groups, student organisations are some examples of pressure groups.

Pressure groups are different from political parties.

- (i) The political parties are part of the governmental system. They seek to

In India we can identify some interest/pressure groups like:

- (i) In the area of business: Federation of Indian Chambers of Commerce and Industry (FICCI), Confederation of Indian Industry (CII), etc.
- (ii) Trade Unions: The Indian National Trade Union Congress (INTUC), The All India Trade Union Congress (AITUC), The Bharatiya Mazdoor Sangh (BMS), The Hind Mazdoor Sangh (HMS), etc.
- (iii) Agricultural Unions: All India Kisan Sabha, Bharatiya Kisan Union, Shetkari Sanghatana, etc.
- (iv) Student Unions: National Students Union of India (NSUI), Akhil Bharatiya Vidyarthi Parishad (ABVP), All India Students Federation (AISF), Student Federation of India (SFI), etc..

Some Pressure Groups in United States

- U.S. Chamber of Commerce
- American Civil Liberties Union
- The National Organisation for Women
- American Medical Association
- American Federation of Labour and Congress of International Organisations AFL-CIO
- National Association for the Advancement of Colored People

influence government policy from the inside. A pressure group tries to influence the government from the outside. They do not stand for elections and become members of the legislature.

- (ii) Political parties have a broad agenda. They seek to represent the people for political, social, economic, cultural, and other concerns. Pressure groups usually have a narrow focus. They focus on specific issues or fight for a specific cause.

Pressure groups are also different from social movements. The pressure groups usually have a more formalised structure. Social movements usually do not have a formal structure or organisation. They take up a cause and pursue it. (Example: Chipko Movement) This is why sometimes interest groups are described as representing ‘organised interests’.

Non governmental Organisations

Non governmental Organisations (NGOs) are another mechanism for representation. This is usually a private, non-commercial group that wants to achieve its aims through a nonviolent struggle. They usually promote or defend a cause. They have people with specialised knowledge associated with it.

All of the above are channels of representation. They seek to represent the people’s aspirations and concerns.

In this chapter, we have seen how people seek to represent themselves through various channels. Representative government is an important aspect of a successful democracy. Let us now turn to another aspect of government that is equally important. We will see the role of the Judiciary in the next chapter.

Find out!

Identify some NGOs working in your area for child development, environmental issues, area for community development, women etc. and find out about their work.

Please see the following website for further information:

Representation

Edmund Burke, Speech to the Electors of Bristol

Representation Vol. 1, Page 391, 3 Nov. 1774 *Works 1:446--48*

http://press-pubs.uchicago.edu/founders/print_documents/v1ch13s7.html



Exercise

1. (A) Choose the correct alternative and complete the following statements.

1. Ancient Greece had
(dictatorship, direct democracy, indirect democracy, monarchy)
2. The oldest representative assembly in the world is
(House of Commons, House of Lords, Senate, House of Representatives)

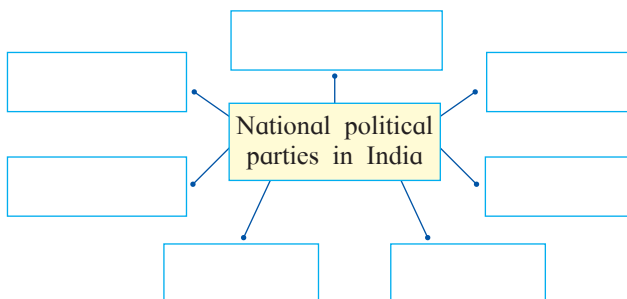
(B) State the appropriate concept for the given statement.

The political system where people elect representatives to govern themselves.

(C) Find the odd word in the given set.

The Indian National Trade Union Congress, All India Kisan Sabha, National Students Union of India, Indian National Congress

2. Complete the concept map/maps.



3. Explain the co-relation between the following.

Governmental and Non-Governmental Organisations.

4. Express your opinion of the following.

Pressure groups are different from political parties.

5. Answer the following in detail with reference to the given points.

What is meant by representation? Explain the various methods of the representation?

- (a) meaning
- (b) electoral
- (c) non-electoral
- (d) non-official

6. Suggest ways by which you can encourage people to vote in election.

7. Observe the given image and write in brief about it.



Activity :

Write the history of any one national political party in India.



6. Role of the Judiciary

In this chapter, we will discuss the structure and function of the Judiciary. In almost all democracies today, whether Parliamentary or Presidential, whether Republic or Constitutional Monarchies, the Judiciary is independent of the other two branches of government. There are constitutional and legal provisions to ensure that it stays independent. The members of the Judiciary, known as judges, are also very vigilant about maintaining independence of the judiciary. This of course does not mean that the Judiciary functions in an unchecked manner. Constitutional and legal provisions do exist to restrain it if it exceeds the powers granted to it.

Judicial Independence

What are the powers granted to the Judiciary? Why is judicial independence so important? The primary function of the Judiciary is that of adjudication. This means that the judiciary takes decisions about disputes or cases according to the law, and then issues orders to ensure that these decisions are carried out. There are many instances where the Executive is a party to the dispute either as the plaintiff or as the defendant. Given the power of the Government, any legal dispute between it and one or more citizens is usually unequal. There is a possibility that the Government would use its powers to secure a favourable decision. This is where the independence of the Judiciary becomes important. An independent judiciary would ensure that all those who appear before it are treated on an equal plane, and thus make sure that decisions are in accordance with the law.

It must be noted that the concept of judicial independence or an independent Judiciary is a modern one. Monarchies desired a Judiciary which did as it was ordered. As countries became more and more democratic, the idea that the Judiciary should be independent of both the Executive and the Legislature emerged.

The first country to explicitly make provisions in its Constitution for an independent Judiciary was the United States of America. The Judges of the Supreme Court of America and the courts subordinate to it were to be appointed by the President of the United States of America. The appointments were confirmed only after the Senate gave its approval. Judges served for life, but could retire if they so wished. Judges could be removed from office for violating the Constitution or exceeding the powers allotted to the judiciary. This process was known as 'Impeachment'. Any proposal for removing a judge would be implemented only after it had been approved by the Congress.

The Constitution of India also provides for judicial independence. Judges cannot be removed from office unless any violations of law have been enquired into and proved. Any proposal for such a removal from office has to be approved by the Parliament before it can be implemented.



Judicial System in India

The structure of the judicial system is also broadly laid down by the Constitution. The Supreme Court of India headed by the Chief Justice of India is the highest court of the land. The next level consists of the High Courts, whose head is also known as the Chief Justice. Generally, there is one High Court for each State, but in exceptional circumstances, one or more States may have single High Court to them. These courts and their judges enjoy constitutional protection. Below the High Courts are the District Courts for each district. At the lowest level are courts which deal with petty offences. Those who are not satisfied with the decisions of a court can appeal to a higher court to ask for a reconsideration of the decision. The High Court controls and supervises the functioning of the District Courts and the other courts. In larger cities, there are Family Courts which deal with family matters.



Supreme Court
(One for all)



High Court
(One for every State)



District Court
(One for every District)

The Constitution lays down the procedure for the appointment of the judges of the Supreme Court and the High Courts. They are formally appointed by the President in consultation with the

Chief Justice of India, and in the case of High Court judges also with the Governor of the concerned State. Till the 1990s, the President appointed the judges on the recommendation of the Government of the day, after having consulted the Chief Justice of India. However, in the 1990s, the Supreme Court of India interpreted the relevant Constitutional provisions and ruled that the Judiciary must have the leading role in the appointment process. The Supreme Court set up a Collegium consisting of the Chief Justice of India and the four most senior judges of the court which would recommend names to the President for appointment to the Supreme Court and the High Courts. The Government role in this process has now been minimised.

In addition to the courts mentioned above, there are tribunals established by both the Central Government as well as the State Governments to deal with disputes of a specialised nature. The examples of the first type are the Armed Forces Tribunal, the Income Tax Appellate Tribunal, and the National Green Tribunal. The examples of the tribunals established by the state Government in Maharashtra are the Maharashtra Administrative Tribunal and the Maharashtra Revenue Tribunal. These bodies are known as quasi-judicial bodies, and their functioning is governed by separate laws. They consist of retired judges, as well as individuals who are experts in the fields which fall within the jurisdiction of the relevant tribunal. For instance, the Armed Forces Tribunal also has retired officers from the armed forces as the expert members. All the tribunals in India, like all the courts, are ultimately subordinate to the Supreme Court of India.

The Judiciary and its functions

As mentioned in the previous section, the primary duty of the Judiciary is the adjudication of the cases. But can the courts hear any kind of cases? What do the courts do? What are their functions?

(i) Each court can adjudicate or hear cases pertaining only to a specified range of areas. This range is known as the jurisdiction of that court. Jurisdiction is of two types:

(a) *Original Jurisdiction* : Cases regarding certain matters can be heard for the first time only in certain courts. These matters constitute the Original Jurisdiction of that court. For instance, the Supreme Court of India has Original Jurisdiction in any case between two State Governments, and between the Government of India and any State Government, as well as any disputes about the election of the President and the Vice-President of India. Only the Supreme Court of India in the country can hear the above mentioned cases. Thus, here its Original Jurisdiction of the Supreme Court is also its Exclusive Jurisdiction.

(b) *Appellate Jurisdiction* : Appeals against the decisions regarding certain cases can be heard in a certain court. These matters constitute the Appellate Jurisdiction of that court. The Supreme Court also hears appeals regarding decisions of the High Courts over a wide range of issues. The High Courts in turn hear appeals regarding decisions of the District Courts.

(ii) The Supreme Court also has an Advisory Jurisdiction. This includes only those matters which have been specifically referred to it by the President for advice.

(iii) The Supreme Court of India and the High Courts also perform other functions. One of them is the interpretation of the Constitution and the laws made under it. In all cases, the question that the courts have to decide is whether a certain action is in accordance with either the Constitution or any given law. In doing so the Courts have to interpret the constitution and the laws. For instance, the Supreme Court has ruled that the 'Right to Life' guaranteed by the Constitution does not merely mean the right to exist but also the right to live in a pollution-free environment.

(iv) The Supreme Court and the High Courts also perform another important function that is the protection of the Fundamental Rights, guaranteed by the Constitution. These rights are regarded as being essential for any individual to lead a dignified life and hence are described as being 'Fundamental'. The people of India also possess another set of rights known as legal rights, which are specified in the laws passed by the legislature.

The Constitution empowers the Supreme Court and the High Courts to issue writs or a special kind of orders for the protection of the Fundamental as well as the legal rights of individuals, if someone complains that they have been violated. There are five types of Writs specified in the Constitution of India: habeas corpus, mandamus, prohibition, quo warranto and certiorari.

Writs under the Constitution of India (Art. 32 (2))

1. Habeas Corpus- A court can order any officer of the Government or any private person to produce before itself any individual or individuals to examine whether they have been legally detained or not.

2. Mandamus- A court can order any officer or any department of the Government to perform its duties.

3. Prohibition- A court can order a court lower than itself in the judicial structure not to hear a particular case on the grounds that the case does not fall within the jurisdiction of the latter.

4. Quo Warranto- The court can ask whether the holder of any public office or post is holding it in accordance with the law or not.

5. Certiorari- A higher court can order a court lower than itself in the judicial structure to send all the relevant documents pertaining to a case to itself.

Judicial Activism

Generally speaking, a matter goes to the court on the basis of a formal complaint, or a petition filed before the court by an individual who is directly connected with it. However, this situation has changed in the recent decades because the Judiciary in India has started taking a wider view of its functions. For instance, the courts have allowed individuals to file petitions on matters of important public concern. The individual may or may not be directly connected with the matter.

Such cases are known as Public Interest Litigation (PILs). There have been instances where the courts of their own accord, without anyone complaining or filing a petition, have taken note of matters of public concern.

Find out!

Can you find out some important cases under Public Interest Litigation in India? Discuss any one in the classroom.

This wider view taken by the Judiciary of its function has been termed as 'Judicial Activism'. Earlier, the Judiciary generally did not look, beyond a certain point, into how the Executive exercised its authority. For instance, into matters like the imposition of President's Rule in the states or a Governor's decision to appoint a certain individual as the Chief Minister were matters that the Judiciary did not interfere. But in recent years, Judicial Activism has led to the courts examining the legality of the decision of the Executive over a wide variety of issues including the ones referred to above. Moreover, in many instances, they have also either issued orders on what should be done over many issues or have directed the Executive to take action about the same in a specified time period.

There has been much debate over Judicial Activism. Some feel that the Judiciary was compelled to intervene because the Executive was not discharging its functions properly, while others believe that the courts are overstepping their mark and are exceeding their powers by looking into matters which fall within the jurisdiction of the Executive.

Discuss these cases. Are they cases of Judicial Activism? :

Case 1 : Reforming Board for the Control of Cricket in India (BCCI): The Lodha Panel was set up by the Supreme Court, following the allegations of corruption, match-fixing and betting scandals in Indian cricket. The committee was set up in an attempt to bring back law and order into the BCCI and the game of cricket.

Case 2 : National Anthem in Cinema Halls: In 2016, the Supreme Court passed a judgement that stated: (i) All the cinema halls in India shall play the National Anthem before the feature film starts. (ii) All present in the hall must stand up to show respect to the National Anthem.

Judicial Review

A written Constitution in any democratic country is the highest law of the land. The laws made by the Legislature have a status lower than that of the Constitution. Moreover, these laws are expected to be consistent with the Constitution. But what would happen if they are not? The Constitution would say one thing, while the laws would say something else. The provisions and the values of the Constitution, that is to say the Constitution itself would be rendered meaningless. Hence it becomes necessary to have an institution which would examine whether the laws are consistent with the Constitution or not. But this is not enough. That institution should also have the power to declare any law found inconsistent with the Constitution to be invalid and therefore not to be

implemented. This would prevent the Legislature from making laws which violate the Constitution. In democracies with written Constitutions, this power is vested in the Judiciary. Thus, Judicial Review means the power of the Judiciary to examine if any law approved by the Legislature is consistent with the Constitution or not, and if it is not then to declare it unconstitutional.

But why does the Judiciary have this power? Both the Executive and the Legislature are involved in the process of law-making. It would be highly inappropriate to give them the power to examine whether the laws that they have made are consistent with the Constitution or not. It is likely that they would be biased while doing so. The Judiciary is not involved in any way in the law-making process. It is an independent body. Hence it has been assigned this power.



Supreme Court of the United States of America

The origins of the power of Judicial Review can be traced to a decision of the Supreme Court of the United States of America given in 1803 in a case known as *Marbury vs Madison*. This was for the first time that the American Supreme Court declared a law passed by the United States Congress to be invalid on the grounds that it was inconsistent with the Constitution of the United States. However, it must be noted that the

American Constitution does not have any explicit provision that gives the Judiciary the power of Judicial Review. It is an implied power. Till date, the American Supreme Court's power of Judicial Review has been unchallenged. This is so because it is accepted that such a power is necessary to retain the supremacy of the Constitution.

Marbury vs. Madison

William Marbury, an American businessman, was appointed to a position in the judicial system by President John Adams of the United State. However, Adams lost the election immediately afterwards, and the new President, Thomas Jefferson, instructed James Madison, who was the new Secretary of State or the minister in charge of issuing the appointment orders, not to do so in the case of Marbury. At this, Marbury filed a petition against Madison in the Supreme Court. This is how the case came to be known as Marbury vs Madison.

Marbury asked the Court to issue a writ of mandamus so as to force the new government to give him the appointment order. In its judgment, the Court led by the then Chief Justice, John Marshall, upheld Marbury's claim that he was legally appointed and therefore must receive the order. At the same time it declared the relevant law which allowed Marbury to directly approach the Supreme Court instead of approaching a lower court first to be invalid on the grounds that it was inconsistent with the Constitution and therefore unconstitutional.

However, the power of Judicial Review does not exist in countries which have unwritten Constitutions (for instance in the United Kingdom). This is so because there is no specific highest law of the land and thus the laws passed by the Legislature cannot be examined with reference to anything.

The Constitution of India also does not explicitly provide the Judiciary with the power of Judicial Review. However, like in the United States, these powers are implied. The Supreme Court of India has on many occasions declared laws passed by the Legislature as being inconsistent with the Constitution and therefore unconstitutional.

But in the Indian context the real issue has been whether the amendments to the Constitution can be held unconstitutional. The issue was settled by the Supreme Court in the Kesavananda Bharati case. In its judgment, the Court stated that the Constitution of India had a 'Basic Structure'. The Constitutional Amendments passed by the Parliament have to be consistent with this 'Basic Structure', and if they are found to be not, then the Supreme Court would declare them unconstitutional. It is widely agreed that that the power to declare Constitutional Amendments unconstitutional rests only with the Supreme Court.

Kesavananda Bharati Case (1973)

The validity of the Constitution (24th Amendment) Act 1971 was challenged in the case of Kesavananda Bharati vs. State of Kerala (also known as the Fundamental Rights Case). This Amendment gave the power to the

Parliament to amend Fundamental Rights of the Constitution. The Supreme Court had to decide whether Parliament had power to abrogate the basic elements and fundamental provisions of the Constitution of India. The Supreme Court held that the Constitution (24th Amendment) Act 1971 is valid and that Parliament has power to amend all the provisions of the Constitution, including fundamental rights, but could not amend the basic structure of the Constitution.

From the citizen's point of view, Judiciary is the most important organ of the government. It is the guardian-protector of the constitution and the fundamental rights of the people. The common man depends upon judiciary for getting justice. The feeling in an average citizen that he can rely on the certain and prompt administration of justice makes him feel secure. The welfare of citizens greatly depends upon speedy and impartial justice.

Please see the following websites for further information:

(1) Parliament and the Judiciary

Parliament and the Judiciary (PRS Legislative Research Institute for Policy Research Studies, New Delhi) November 29, 2016

https://www.prsindia.org/sites/default/files/parliament_or_policy_pdfs/Parliament%20and%20Judiciary.pdf

(2) Public Interest Litigation

Supreme Court of India

Compilation of Guidelines To Be Followed For Entertaining Letters/Petitions Received In This Court As Public Interest Litigation.

<https://www.sci.gov.in/pdf/Guidelines/pilguidelines.pdf>



Exercise

1. (A) Choose the correct alternative and complete the following statements.

1. _____ is the first country to create Independent Judiciary.
(India, United States, United Kingdom, Soviet Union)
2. The primary function of the judiciary is _____.
(making laws, executing laws, adjudication, make appointments)

(B) Identify the incorrect pair in every set, correct it and rewrite.

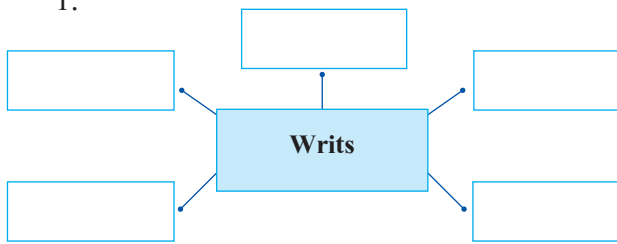
- (a) Written Constitution - India
- (b) Judicial Review - United Kingdom
- (c) Independent Judiciary - United States

(C) State the appropriate concept for the given statement.

1. Petition regarding important public concern -
2. The process of removal of judges -
3. Cases can be heard for the first time only in certain courts -

2. Complete the concept map.

1.



3. State whether the following statements are true or false with reasons.

1. There is no need to approve appointment of judges by the Senate in the United States.
2. In India judiciary is independent.

4. Explain the co-relation between the following.

1. Judiciary and Executive
2. Supreme Court and High Court

5. Express your opinion of the following.

1. Judiciary must have a leading role in the appointment of judges.
2. Judicial activism is significant today.

6. Answer the following in detail with reference to the given points.

Explain the process of judicial review?

(a) meaning (b) need (c) when and where it started (d) Indian context

Activity :

Make a list of examples of Judicial Activism in India.