

Liberty

The term 'liberty' comes from the Latin word liber meaning 'free', it has meant different thing for all thinkers in the realm of western political philosophy. The idea of liberty cannot be defined in quite precise terms.

The real problem is how to reconcile the idea of liberty with the provision of restraints i.e., if liberty is to be differentiated from license, or man's right to do what he wills, the issue of restraints is bound to figure in. At the same time what engages our attention is that if restraints can preserve liberty, these can destroy it also.

Hence, the question arises: What should be done to reconcile the two i.e. Liberty and restraints in a harmonious manner and thereby offer an acceptable definition of the term liberty'. Two important points from above discussion are:

1. The real meaning of liberty changes from age to age and.
2. Liberty lives within restraints and that a proper definition of the term should be made in way that it incorporates both views of that liberty of each individual is necessarily relative to that of others.

So with this debate, two thoughts on liberty arise to define the exact meaning of liberty:

A. Negative liberty:

Supporters: John Locke, Adam Smith, Paine, Spencer.

Characteristics of Negative Liberty:

- Supports absence of restraints on the activities of individual by the state.
- Individual centric theory.
- State should not interfere in the economy. Hence, supports laissez faire.
- Law and Liberty are conflicting principle.
- Liberty and Equality are incompatible.

B. Positive Liberty:

Supporters: John H Mills (An early negative liberal, propounded positive theory in his later years), T.H Green, Bonasquet, Laski, Barker, Rawls .

Characteristics of Positive Liberty:

- Positive liberty highlights presence of positive condition for free and full development of individual of his potential.
- Law and Liberty are complementary. .
- Liberty and Equality are compatible.
- Some restraints are acceptable or are good. They are not in conflict with liberty but helps liberty to achieve its goal.
- State is a supporter of liberty and in fact, it is promoter.
- Accepts limited interference of state for his own benefit.

So the acceptable definition would be:

Liberty means the absence of constraints and not the absence of restraints and limitations. It does accept the area of man's choice and at the same time, calls for the proper justification of the limits or restrictions on such an area.

- Constrains: compel or force towards a course of action.
- Restrain: prevent from doing something; keep within limits.

Opposite of Liberty:

The case of un-freedom (Opposite of liberty or freedom) is- a situation in which the conditions of choice have been so manipulated by external factors that the choice becomes limited solely to those to be determined by the enforcer.

So Berlin says: “Liberty is increased when sovereignty is put into right hands”(Relate Liberty and Sovereignty)

Q. What is difference between Feeling free and Being Free?

A man may feel free even when he gets himself locked up in a room as per his own choice, though he may not feel so in case he is involuntarily locked up in a room by another person. In the latter situation, the unfortunate person is certainly chained, although this is not the result of anyone's deliberate setup. What is to be seen in a situation like this is that one should feel free to use one's options without obstructions.

Therefore in context of feeling free to do something and being able i.e. being free to do something is different. For instance, a man may feel free to help the poor, but he may not be able to do so because of his financial conditions.

The society and the state are, therefore, expected to create conditions for man so that he may feel like being free to do so. Social and political advancement of community should be measured that how successful it has been in helping an individual being free. However, the condition of 'being able to be free' does not imply that a man may do something wrong so as to convert his freedom into a state of unfreedom.

Locke's view on Liberty: ([**Link Locke's view on Liberty with his Theory of Natural Rights for lucid understanding**](#)).

J. S. Mill

Mill's On Liberty is seen as an exposition of the negative concept of liberty. He was the first to recognize the difference between liberty as the freedom to act and liberty as the absence of coercion.

Liberty of action:

1) Liberty of action: Divided Human Action in Self-regarding and Other regarding actions:

A man's sphere of action can be divided as 'self-regarding' and 'other-regarding', and state interference is justified only in the other regarding sphere in case his action amounts to an intervention into the domain of the freedom of other people.

1. **Self-regarding actions** are those acts which affect the only individual who performs it, while leaving society un-harm. State should not interfere in such actions.
2. **Other regarding actions** are those acts of an individual which affects other fellow being or society. The effects of these acts are not confined to an individual. State can interfere to curb the nuisance.

Such a negative notion of liberty is well-contained in the statement of Mill when he says "**All restraint qua restraint, is any evil, leaving people to themselves is always better ceteris paribus (with other conditions remaining same) than controlling them**".

2) Liberty of Thought:

Mill presses for free speech and expression and argues that any such activity which curtails free speech or opinion is unlawful, no matter how unacceptable that individual's viewpoint may be. Mill points out that a viewpoint's popularity does not necessarily make it correct and that is why we must allow freedom of opinion. Opposition is vital because it helps to preserve truth, since truth can easily become hidden in sources of prejudice and dead dogma. Mill defines dissent as the freedom of the individual to hold and articulate unpopular views.

Mill proposes three different dimensions of thought:

1. Thought may be wholly true: If thought is true then all people have the right to know the truth. This truth will benefit the whole humanity.
2. Thought may be wholly false: if thought may be wholly false, it will eventually be discarded by the truth thereby even people subscribing to this false thought would accept the truth.
3. Thought may be partially true and partially false. Part which follows truth should be accepted while the false part should be rejected.

Justification for freedom of thought/opinion:

1. We must not silence any opinion, because such censorship is simply morally wrong;
2. All scientific innovation has been result of the freedom of thought, which are contradictory.
3. All radical thought (idea) may not change world, but one radical thought may change humanity rather than numerous simple thoughts (ideas).

For Mills liberty of thought is empty and shallow without liberty to act on it and that is the reason he propose liberty of action.

Emphasizes on Individual Freedom even at the expense of immoral actions:

At the basis of Mill's arguments for individual freedom lay a strong sense of dislike for custom, and for legal rules and norms which could not be rationally justified.

It is also sometimes argued that for Mill, no matter how unethical a free action is, it has some element of virtue in it, by the fact that it was freely performed. While Mill

considered restraint on individual's actions as evil, but he did not consider restraints to be entirely unjustifiable. He felt, however, that within the society there was always a presumption in favour of liberty. Any constraints on liberty, therefore, had to be justified by those who applied them.

Encourages Individuality:

For Mill, the purpose of liberty was to encourage the attainment of 'individuality' (Individuality refers to the distinctive and unique character of each human individual) and freedom means the realization of this individuality, i.e., personal growth or self-determination.

Element of Rationality (Reason):

It was the property of individuality in human beings that made them active rather than passive, and critical of existing modes of social behavior, enabling them to refuse to accept conventions unless they were found reasonable.

What is meaning of freedom for Mills?

1. Positive action as well as absence of restraints.
2. Notion of Choice.

Why Mills is seen as a disguised positive liberal?

Freedom in Mill's framework appears not simply as the absence of resurants but the deliberate cultivation of certain desirable attitudes i.e. a positive action. It is because of this that Mill is often seen as inclining towards a positive conception of liberty;

Mill's conception of freedom is also rooted in the notion of choice. This is evident from his belief that a person who lets others 'choose his plan of life for him' does not display the faculty of 'individuality' or self-determination. The only faculty he or she seemed to possess was the 'apelike' faculty of 'imitation'. On the other hand, a person 'who chooses to plan for himself, employs all his faculties.

In order to realise one's individuality, and attain thereby the condition of freedom, it was essential that individuals resist forces or norms and customs which hindered self-determination.

Is Mills theory an elitist?

Mill was also of the view that very few individuals possessed the capacity to resist and make free choices. The rest were content to submit to 'apelike imitation', existing thereby in a state of unfreedom. Mill's conception f liberty can be seen for this reason

as elitist, since individuality could be enjoyed only by a minority and not the masses at large.

There can be no interference in the liberty of one man unless he becomes a nuisance to the liberty of another.

Criticism:

1. **Prophet of Empty Liberty and abstract Individual:** In not much time, Mill's theory of liberty, along with the theory of individualism that was based upon it, became a discredited affair as the trend of English liberalism irresistibly moved towards socialism. It was found that he was the prophet of an empty liberty and an abstract individual.
2. **Has no Clear Philosophy of Rights:** He had no clear philosophy of rights, through which alone the conception of liberty attains a concrete meaning; he had no clear idea of that social whole in whose realization the false anti-thesis of state and 'individual' disappears.
3. **Ignores the social aspect of Man:** It was realized that the idea of liberty should not ignore the social aspect of man's life. Thus, liberalism took a new turn in the direction of realising man's organic relationship with society.
4. **There can be no watertight compartment of actions:** Argument of the segregation of man's action into two watertight compartments was thoroughly invalid as there is no side of a man's life which is unimportant to society for whatever he is, does, or thinks may affect his own well-being, which is and ought to be a matter of common concern, and may also directly or indirectly affect the thought, action and character of those with whom he comes into contact.
5. This view sees society merely as a collection of atomistic individuals, each one capable of living in substantial independence of the others.

Thus, liberalism took a new turn in the direction of realising man's organic relationship with society and a conscientious student of this philosophy in the early phase of the present century could confidently assert that

HAYEK

Freedom means availability of meaningful and effective choices

Recent exponents of the case of 'negative liberty', we may refer to F.A. Hayek. To him the positive idea of liberty which is supposed to be more easily linked with equality is not really a concept of liberty at all, but something else disguised as liberty.

The individual has some assured private sphere, that there is some set of circumstances in his environment with which others cannot interfere. The element of 'choice' is decisive. The range of physical possibilities from which a person can choose -at a given moment has no direct relevance to freedom. The rock climber on a difficult pitch who sees only one way to save his life is ' unquestionably free, though we could say that he has hardly any choice.

A man is free when he is not subjected to coercion by the arbitrary will of another person. Coercion occurs when an agent's actions are made to serve the will of another, not for his own but for other's purposes.

It follows that, according to Hayek, freedom implies the availability and capacity to exercise meaningful and effective choices. Mere economic factor should not be taken into account. Political and institutional power, economic wealth and the growth of understanding through education and experience are positive sources of freedom and that the absence of these is as much an impediment to freedom as is direct coercion.

Views of Friedman.

Milton Friedman, in his Capitalism and Freedom (1962), sought to identify capitalism or a competitive market society as a necessary condition of freedom, which implies repudiation of equality for the sake of maintaining freedom.

He defines freedom as 'the absence of coercion of a man by his fellow men', and argues that freedom of the individual or perhaps of the family is the liberal's ultimate goal in judging social arrangements. He suggests that 'a free private enterprise exchange economy 'or' competitive capitalism is both a direct component of freedom, and a necessary though not a sufficient condition of political freedom. Friedman's contempt for equality is inherent in his very concept of freedom.

Limitations on Government : He argues that in order to maximize this freedom, governments should be allowed to handle only those matters which cannot be handled through the market at all, or can be handled only at so great a cost that the use of political channels may be preferable (minimum interference of the government).

Accordingly, government is required only to sustain and supplement the market society and nothing beyond that. As Macpherson has elucidated: "**This would mean government moving out of almost all its welfare and regulatory functions.**

Controls on, or support of, any prices, wages, interest rates, rents, exports, imports, and amounts produced, would all have to go; so would present social security programmes, housing subsidy programmes, and the like.”

Macpherson has rightly pointed out that Friedman's view of the capitalist market economy—that it can co-ordinate economic activities without coercion—rests on an elementary conceptual error. Friedman fails to distinguish between simple exchange economy and capitalist economy—the latter being characterized by the separation of labour and capital.

Criticism

1. In a capitalist economy, labour force exists without its own sufficient capital; hence it has no choice in the market. Man needs creative freedom to put his labour into creative channels; he cannot remain idle like an animal or a machine.
2. Capitalism obstructs his attempt to employ his labour creatively with a free choice as he is coerced by the market forces beyond his control. The only possibility of mitigation of this coercion lies in a regulatory welfare state which is opposed by Friedman. Hence, Friedman's concept of freedom is ill-conceived and partial.

BERLIN

Isaiah Berlin, in his two concepts of Liberty (1958), sought to give a new turn to the distinction between negative liberty and positive liberty.

According to Berlin, negative liberty of individual consists in not being prevented from attaining his goal by other human beings. Political liberty belongs only to the sphere of negative liberty. In other words, the state can only secure negative liberty to the individual by ensuring that he is not prevented from choosing his course of action.

On the other hand, positive liberty treats individual as his own master. In both cases liberty implies an absence of restraint. On the other hand, positive liberty belongs to individual's own will and capacity which is beyond the scope of the state. If one cannot fly like an eagle or swim like a whale, one is by no means deprived of political liberty on this count.

Similarly, if a man is too poor to afford something on which there is no legal ban—a loaf of bread, a journey round the world, recourse to law courts—he cannot complain that he has been deprived of political liberty. The capacity or incapacity to fulfill one's desires belongs to man himself; the state is not concerned with this sphere.

Berlin has thus taken the position that the availability or non-availability of means is entirely an individual's own concern and that the state has no responsibility of making the required means available to him. Accordingly, the existing social inequalities cannot be questioned from the point of view of liberty. Berlin's position on this point is itself questionable.

On deeper analysis, it becomes clear that Berlin has confused the two spheres of positive liberty, namely, the moral sphere and the material sphere. In the moral sphere, Berlin's conception of positive liberty is very illuminating. This theory is a special theory of the self--the personality is divided into a higher and a lower self and a person is free to the extent that his higher self, the source of his genuinely rational and long-term ends, is in command of his lower self, wherein lie his ephemeral and irrational desires. Thus, a person might be free in the sense of not being restrained by external forces but remain a slave to irrational appetites; as a drug-addict, an alcoholic or a compulsive gambler might be said to be unfree. It is obvious that in the moral sphere, a man may be deprived of his freedom due to lack of self-control and not due to coercion by other men. The state can do little to restore freedom to the individual in this sphere.

However, when we turn to the material sphere, enjoyment of positive freedom is hampered by different reasons. Here again Berlin has confused the two types of 'disabilities' (Natural and Man Made). Just recall his illustrations: "If one cannot fly like an eagle or swim like a whale this disability is fundamentally different from the second one, that is, "if a man is too poor to afford...a loaf of bread, and ...recourse to law courts." In the first case, Berlin is pointing to natural limitations, something that is unalterable. Hence any complaint in this behalf would be untenable. In actual life, such disabilities are never sought to be overcome by political action. But in the second case, Berlin is referring to such disabilities as are the product of social arrangement that is alterable by political action. An urge for the removal of such disabilities has led to several social and political movements, even revolutions, the world over. Lots of people are poor, backward and ignorant not because of their own failure, inability or negligence, but because of social injustice. The source of their plight may be traced to what may aptly be termed 'coercion' by other individuals where state intervention would be justified by Berlin's own standards.

Criticism

B.C. Parekh It is not clear what Berlin would say if an individual thought that his lack of means was the result of social arrangements, and therefore, amounted to interference by other men.

C.B. Macpherson criticizes the division Berlin makes between negative and positive liberty will not bear the weight he puts on it, ultimately because each of the two concepts is defined in a way which neglects or understates the role of those

impediments...namely, lack of access to the means of life and the means of labour...his negative liberty is, for that reason, too narrowly conceived, and...it is at bottom a mechanical, inertial concept of freedom which is fully appropriate only to a complete market society."

Positives:

In asserting positive liberty as the desire of the individual to be his own master, to be self-directed, to be moved by his own conscious purpose, Berlin saves the individual from the authoritarian claims of the idealist theory, and thus, makes further contribution to the liberal-individualist theory. In any case, Berlin's concept of positive liberty does not correspond to positive liberalism's concept of positive liberty (Access to opportunity).

Some examples of implications of Positive and negative liberty on the life of citizens:

If education is expensive and the parents are poor, it makes a mockery of freedom to say that one is free to educate one's children merely because there is no law or custom against it (Negative liberty- Absence of restraints). Choice may be formally unlimited; there can be no freedom unless it is also effectively unlimited. To remove any hindrance to people doing what they want to do thus counts as an extension of freedom!

Any state regulation which seeks to reconcile the claims of liberty with opportunity, in fact, signifies the transition from negative liberty to positive liberty

To provide a cripple with an artificial leg, an ignorant man with education, an unemployed man with a job, all count as positive extensions of freedom. Legal compulsions are then a small price to pay for positive freedoms of this sort; for we yield a little only to receive back more. And the absolute goodness of freedom remains intact. (ibid).

It is significant that positive freedom in the present sense deals with the social dimension of freedom. In other words, negative liberty denotes an absence of restraint so that the state shall abstain from imposing 'unreasonable' restraints on the individual; positive liberty signifies the removal of constraints which are the product of the social set-up and which are capable of being removed by making necessary changes in the social set-up.

Natural Disability versus Socio-economic Disability

If a man is faced with the lack of capacity in the fulfillment of his desire; he will not make it a political issue until he is convinced that his incapacity emanates from the socio-economic conditions, and that it can be removed by making necessary changes in those conditions. If one cannot fly like an eagle or swim like a whale, one does not make it a political issue because one's incapacity in this matter is not a product of socioeconomic conditions, nor can it be removed by alerting the socio-economic conditions.

But if one does not get a job, or adequate wages, or quality goods at a reasonable price, or essential 'supplies and services, or the opportunity for education, etc. one is convinced that these conditions are alterable by changes in social policy, and therefore, proceeds to demand a political solution of these problems.

To take another instance, some men are born white, some are born black. This is the outcome of some sort of natural order, not of socioeconomic conditions. Men do not complain of it at the political level, nor do they demand that the black races should be converted into white, because they know that this condition is not alterable. But when society discriminates between white and black races, and denies the black certain privileges extended to the white men, the resentment by the black races is justified because this is seen as social injustice which can be set right by making necessary changes in social policy.

In short, positive liberty implies the removal of only such constraints and provision of only such opportunities which can be accomplished through the alteration of socio-economic conditions.

As. D.D. Raphael, in his Problems of Political Philosophy (1976), has elucidated:

A man who is locked up in prison is not at liberty, because he is restrained by the action of other persons. And we may speak of freedom from want, or of freeing mankind from the scourge of cancer, when we mean that the impediments to which we refer, although not imposed by human action, are capable (we hope) of being removed by human action. But we should not say that a man is unfree because he is restrained by a natural impediment which cannot be removed by human-action.

In Two Concepts of Liberty Berlin sought to explain the difference between two conceptions of liberty negative and positive.

While he defined negative liberty fairly clearly and simply, he gave positive liberty two different basic definitions, from which still more distinct conceptions would branch out.

Berlin initially defined Negative liberty as freedom from, that is, the absence of constraints on the agent imposed by other people. Positive liberty he defined both as

freedom to, that is, the ability (not just the opportunity) to pursue and achieve willed goals; and also as autonomy or self-rule, as opposed to dependence on others.

Marcuse's concept of one dimensional man

Herbert Marcuse, claimed to be a Marxist, gave a brilliant analysis of the problem of freedom in contemporary Western society. Orthodox Marxists as well as anti-Marxists have been insisting on a scientific and economic interpretation of Marxism. In contrast, Marcuse underlined the subjective, critical and humanist dimension of Marxism. He rejected Soviet Marxism as a distorted version of Marxism and sought to revive the original, humanist interpretation of Marxism as a tool of analysis as well as an instrument of social change.

What is Marcuse's one dimensional Man?

He argues that "advanced industrial society" created false needs, which integrated individuals into the existing system of production and consumption via mass media, advertising, industrial management, and contemporary modes of thought.

This results in a "one-dimensional" universe of thought and behaviour, in which aptitude and ability for critical thought and oppositional behaviour wither away and thus he is alienated.

Consumerism, Capitalism, Alienation and,Freedom: Characteristics of Marcuse concept of One Dimensional Man:

Marcuse dwelled on the theme of alienation in contemporary western society.

1. He gave a penetrating critique of capitalism as regards its impact on human freedom. According to him capitalism exercises monopolistic control not only on production and distribution, it also creates the desire and demand for commodities through a clever manipulation of the mass media. The result is the widespread craze for consumer goods which develop into a distorted second nature of man i.e. Alienation. . ,
2. Consumer capitalism renders the oppressed sections insensitive to their original discontent, by stimulating their trivial, material desires which can be easily satisfied. Under the spell of gratification of these trivial desires, the genuine urge for freedom disappears. Against this background, the alienated human beings become unaware of their alienation. Under the circumstances, they should first be awakened to realize their condition of alienation in order to arouse their urge for freedom.

Marcuse has given a blueprint of society where alienation will be removed and freedom will be restored. It will be a democratic community where work will become play, and necessary labour will be organized in harmony with liberated, and authentic, individual needs. Discontinuance of repressive performance will eliminate surplus repression, thus freeing the person from alienated labour. Marcuse concludes with an optimistic note that the Western society has already evolved a technology which is geared to meet most of the human needs. It is sufficient to enable men to live in freedom and dignity.

Once they understand the necessary conditions of freedom, they can transcend the era of violence and anarchy and build a new society where freedom will reign supreme.

Criticism of Marcuse's view on:

1. Concerning the possibility of happiness: Some critics believe that human needs are endless; gap between aspiration and achievement will never allow human beings to attain happiness.
2. Who would bring about revolution? Marcuse has no faith in the revolutionary potential of the proletariat. He pins his hopes on the marginal elite of the un brainwashed students and radically dispossessed members of the poorest classes.

Does Marcuse loses his claim as a Marxist? Some critics argue that after denying the revolutionary potential of the proletariat Marcuse loses his claim to be called a Marxist

Macpherson's Concept of creative freedom

One of the acute critics of capitalism, Macpherson argues that Western democratic theory is characterized by two basic principles: (a) maximization of utilities; and (b) maximization of powers. Under the first principle, man is recognized as a consumer of utilities, that is, essentially as a bundle of appetites demanding satisfaction from society.

The second principle: It is an ethical principle which treats man as a doer or creator, demanding development and application of his uniquely human capacities. Essence of freedom lies in fully realizing his creative faculties. Real freedom can be exercised through developmental power, as distinguished from extractive power. Developmental power requires proper development of one's human potentialities and their application to one's self-appointed goals, while extractive power involves making use of others potentialities for serving one's own ends. In modern political theory, power was always defined so as to convey

the idea of extractive power, because it gave of actual description of the power relations of the capitalist market society.

Macpherson argued that in the capitalist market society developmental power of the poor sections is negligible; their extractive power is nil. On the contrary, the owners of land and capital wield immense power to exploit the manual and intellectual power of the non-owners. In other words, the poor who are constrained to sell their capabilities according to needs of the market 'have little opportunity for maximization of their developmental power. Their developmental power—which is the key to one's creative freedom—is continuously eroded in such a society. Macpherson concludes: "It is in the welfare-state variety of capitalism....that there is a certain amount of checking of economic power by the political power.

T.H.Green: Positive Libertarians

The meaning of liberty finds its positive affirmation in the thought of T.H. Green T.H Green who describes liberty as power to do or enjoy something that is worth doing or enjoying in common with others idealist Green insists that the one thing the state must do is to liberate its energies by removing the obstacles to their action. "Liberty can only be liberty 'for this goodwill' it can only be liberty for the pursuit of objects which such a will presents to itself. It is therefore no negative absence of restraints any more than beauty is the absence of ugliness. Inhering as it does in the good will and in that will only; it is not a power of pursuing any and every object, but a power of pursuing those objects which the good will presents to itself. In a word, it has two qualities. It is positive — a freedom to do something, not a freedom from having something done to one. It is determinate—a freedom to do something of a definite character, something which possesses the quality of being worth doing, and not any and everything."

As a result of this, the meaning of liberty has come to involve within itself both the individual and social sides of man's existence. Moreover, as the social life requires a network of regulations, the idea of liberty has also been bound up with the necessity of due restraints. Liberty has, therefore, come to have a derivative value arising ultimately from the supreme value of the moral personality acting and developing its capacities as such. If so, the liberty which state upholds, and makes a principle of its action, must be a liberty relative to, and therefore regulated by, the nature of such a personality. It is not "the indefinite liberty of an undefined 'individual' it is the definite liberty of a defined personality, seeking to realize specific capacities".

Focus on the personality of individual to achieve the holistic-ness of liberty:

The real meaning of liberty is, integrally bound up with the availability of opportunities whereby an individual can seek the best possible development of his personality. The minds of citizens must be active minds. They must be given the habit of thought. They must be given the avenues through which thought can act. They must be accustomed to the exercise of will and conscience, if they are to be alert the duties implied in their function as citizens. Liberty consists in nothing so much as the encouragement of the will based on the instructed conscience of humble men. Freedoms are therefore-opportunities which history has shown to be essential to the development of personality (Link Theory of personality rights). And freedoms are inseparable from rights because, otherwise, their realization is circumvented about with an uncertainty which destroys their quality.

LASKI

Laski set forth the conditions required for the sustenance of liberty and they are:

1. Absence of special privileges:

Unless one enjoys the same access to power as others, he lives in an atmosphere of conditional obstruction. It does not matter that he shall probably not desire to take full advantage of that access. Its denial will mean that he accepts an allotted station as a permanent condition of his life; and that, in its turn, is fatal to the naturalness that is the essence'-of freedoms.

2. Common rule for All:

There can be no liberty when the rights of some depend upon the pleasures of others. The common rules must bind those who exercise power as well as those who are the subject of power. No groups of men must be in a position to encroach upon one's enjoyment of the rights which attach to him as a citizen.

3. State action should be unbiased:

Though in any society the varied personalities of which it is composed, the weight of the different interests involved, the degrees of efforts men will make, the amount of knowledge they will possess, are certain to bend its authority in-the support of some special interest. The most we can do for the maintenance of freedom is to seek the system which will minimize the bias involved.

Negative and Positive Concepts:

The negative dimension of liberty is contained in the declaration of the ‘absence of constraints’. In purely idealistic terms, **it means to hinder the hindrances to good life / to clear away any obstruction to good life**. Liberty is an essential condition of life whereby man can seek the best possible development of his ‘self’.

View of Bonsanquet on Freedom

When is a man free?

In order to answer this question, Bonsanquet distinguishes between one’s ‘actual self and the ‘higher self’ that guides and directs a rational purpose. “If so, in moral terms, it is not doing what we please that constitutes our freedom, but doing as we ought. We are free in so far as we are self- determined only as we are determined by this law of a larger and rational purpose.

Thus liberty is a state of mind in which the impulse towards self- satisfaction sets itself upon an object which represents the nature of self as a whole, as free from contradictions of partial self—the tendency to narrower tracks of indulgence when entangled in which it feels itself oppressed and constrained by foreign influence, but when the mind wills the whole, it feels free. Such a philosophical interpretation of freedom has a strictly negative character, no matter that Bosanquet takes it as ‘a condition of mind’ instead of an ‘absence of physical restraint’.

As a matter of fact, the real meaning of liberty involves its negative as well as positive sides. As such, we may neither thoroughly reject the individualistic interpretation of Mill who desires no state intervention in the ‘self-regarding’ sphere of man’s conduct and modifies his view subsequently when he desires more and more state regulation of public economy including nationalization of very important industries, in the social interest, nor can we unreservedly appreciate the idealistic version of government.

In other words, neither a mere emphasis on the absence of restraints’ nor a powerful defence of the ‘imposition of constraints by the state’ is required. What is really desired is happy synthesis of both dimensions so that the liberty of the individual and the authority of the state witness a harmonious reconciliation.

In this way, an important task of political philosophy is, in fact, “to decide between the claims of liberty and authority, and to fix their proper frontiers”. What should be borne in mind is that the genuine freedom with which we should be concerned “is not a dream or abstraction but something concrete which is embodied in the laws and customs and enjoyed in actual way of living; and inquiry about it is not merely the definition of a Word but the detection of the secret of this enjoyment, also the recognition of what is inimical to it.

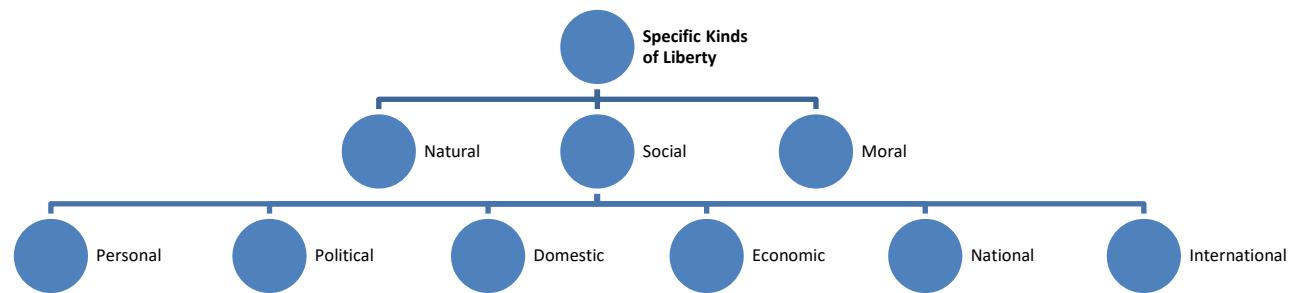
Laski's definition of Liberty

Liberty may be defined as the affirmation by an individual or group of his or its importance. Affirmation require the presence of three factors-

- 1.** A certain harmonious balance of personality;
- 2.** On the negative side it requires the absence of restraint upon the exercise of that affirmation.
- 3.** And it demands on the positive the organization of opportunities for the exercise of continuous initiative.

The problem of liberty has always been the prevention of those restraints, on the one hand that men at any given period are not prepared to tolerate and, on the other, the organization of those opportunities _the denial of which results in the sense of frustration which, when widely felt, 'ends to imminent or actual disorder.

Specific Kinds of Liberty



Simply stated, liberty implies "a state of freedom especially opposed to political subjection, imprisonment or slavery". However, in a wider sense; it is a multiple concept that may be understood if we look at its specific varieties. These are:

1. **Natural Liberty**

It implies complete freedom for a man to do what he wills.

Also known by the name of licence. It existed in the State of nature as suggested by Hobbes i.e. during nomadic stage of human life. Naturally, it was terminated when civil society came into existence. It may be easily understood that this kind of liberty is no liberty at all inasmuch as it is a synonym for the freedom of the forest. It is not applicable to the life of man as a social being.

Thus, Rousseau who started with the assumption that man is born free,_ he is everywhere in chains came to stress the point that what man loses by the social contract is his natural liberty and an unlimited right to everything he tries to get and succeeds in getting ;

2. Social Liberty:

Social Liberty relates to man's freedom in his life as a member of the social organization. In other words, civil or social liberty consists in the rights and privileges that the society recognizes and the state protects in the spheres of private and public life of an individual. Thus, social liberty liberates a man from the fear of arbitrary aggression or coercion. Social liberty has the following sub-categories:

- (a) **Personal Liberty:**
Personal liberty is an important variety of social liberty. It refers to the opportunity to exercise freedom of choice in those areas of a man's life where the results of his efforts mainly affect him in that isolation ' by which, at least, he is always surrounded.
- (b) **Political Liberty:**
It refers to the power of the people to be active in the affairs of the state. Thus, it is integrally connected with the life of man as a citizen. "It means that I can let my mind play freely about the substance of public business. I must be able without hindrance to add my special experience to the general sum of experience. I must find no barriers that are not general barriers in the way of access to positions of authority. I must be able to announce my opinions and to concert with others in the announcement of opinion." It requires two things—political education and a free supply of news. Simply stated, political liberty consists in provisions for universal adult franchise, free and fair elections, and freedom for the avenues that make a healthy public opinion.
- (c) **Economic Liberty:**
It belongs to the individual in the capacity of a producer or a worker, whether manual or mental, engaged in some gainful occupation or service. It means "security and the opportunity to find reasonable significance in the earning of one's daily bread". The individual should be free from the constant fear of unemployment and insufficiency which, perhaps more than any other inadequacies, sap the whole strength of personality.

- (d) **Domestic Liberty:**
It is by and large a sociological concept that takes the ' discussion of liberty to the spheres of man's family life. It implies that of all associations within the state, the miniature community of the family is the most universal and of the strongest independent vitality.
There was a time - when the authoritarian state was reflected in the authoritarian family. Thus, with the advent of democracy, liberty pervaded the sphere of family life as well. Here it consists in
- (I) rendering the wife a fully responsible individual capable of holding property, suing and being sued, conducting business on her own account, and enjoying full personal protection against her husband,
 - (II) in establishing marriage as far as the law is concerned on a purely contractual basis, and leaving the sacramental aspect of marriage to the ordinances of the religion professed by the parties, and
 - (III) in securing physical, mental and moral care of the children, partly by imposing definite responsibilities, on the parents and punishing them for neglect, partly by elaborating a public system of education and hygiene
- (e) **National Liberty:**
It is synonymous with national independence. As such, it implies that no nation should be under the subjection of another. For instance, the Americans gained national liberty in 1776 and the Indians in 1947. Thus, national movements or wars of independence can be identified as struggles for the attainment of national liberty. For this reason, love for national liberty is identified with patriotism. Historical evidence shows that love for one's country is deep-seated in human heart as a result of which millions of people lay down their lives for the sake of the honour and security of their motherland.
- (f) **International Liberty:**
The ideal of liberty covets the world as a whole. Thus, in the international sphere, it implies renunciation of war, limitation on the production of armaments, abandonment of the use of force, and pacific settlement of disputes. It also desires adequate curbs on the strength of military force so that it may not crush the liberties of the local people (as happens in a Country under a military dictatorship)

or of the people of a different country as German troops did in Austria, the Russian troops did the same in Hungary and Czechoslovakia and the American forces did in Vietnam. The ideal of international liberty is based on this pious conviction that “in proportion as the world becomes free, the use of force becomes meaningless land that there is no purpose in aggression if it is not to issue in one form at another of national subjection”

3. **Moral Liberty:**

This type of freedom is contained in the idealistic interpretations of thinkers from Plato and Aristotle in ancient to Rousseau, Kant, Hegel, Green and Bosanquet in modern times. In this context, it is suggested that though person may have all the kinds of freedom, as given above, he lacks the essential quality of a human being in case he does not have moral freedom. This type of freedom lies in man's capacity to act as per his rational self. Every individual has a personality of his own and, unless he seeks the best possible development of his personality and, at the same time, he desires the same thing for other and more than this he pays sincere respect for the real worth and dignity of his fellow-beings, he is morally not free. Kant calls it ‘the fulfillment of the will to ‘categorical self-imposed imperative of duty’ and ‘the autonomy of the rational will’; To Hegel, such freedom has its objective realisation in the state. Thus, the idea of moral freedom implies that the individual should, what Bradley says, recognise and, fulfill the obligations of his station and its duties. Moral liberty is, thus, necessarily contracted with man's self that “has a meaning only in the context of the common good, and the latter, in turn, is founded on human personality, and, as such, includes the good of each member and postulates free scope for the development of his personality.

Marxist Interpretation Libertarians interpretation

Marxist and Liberal	Interpretation of Liberty
Real freedom can be attained only by the abolition of Capitalist system and establishment of Socialist system. The bourgeois order with its system of private property and wage slavery unleashes the whole era of unfreedom. It throws men at the mercy of the blind forces of the market-producers at all levels in society. Thus, liberty is crucified upon a cross of gold.	Competitive capitalism, which is negated by socialism, is a necessary (although not a sufficient) condition of political freedom.
Marx not merely takes liberty as synonymous with the end of exploitation of man, he also	Socialist society is so constructed that it cannot guarantee political

integrates it with the glorious human values possible only in the stateless era of social development. In this direction, Marx reaches very close to Rousseau's concept of moral freedom.	freedom. Market removes the organisation of economic activity from the control 'of political authority. It thus reduces the concentration of power which enables economic strength to be a check to political power rather than a re-enforcement.
For Marx, the abolition of capitalism or the establishment of socialism does not by itself usher in the 'truly human society', it only makes it possible "What is more, material fulfillment is for him only the condition, the necessary basis, and not the sum, of man's spiritual, that is, truly human development".	Deepest concern is with 'socialism' which is quite inconsistent with 'political freedom' in two respects.

Critical Analysis of Marxist and Liberalist interpretation of liberty

In spite of the fact that liberal and Marxist interpretations on the real meaning and nature of liberty differ in kind, it cannot be lost sight of that both strongly advocate the idea of liberty .The difference between the two schools is due to the extension of the meaning of liberty with development of social process that has had its impact not merely on the areas of 'action other than political or economic but also to agents other than the individuals. Essentially speaking, there is truth in both the interpretations inasmuch as both adhere to the values of an 'inward mind'. The point of dispute is the obtaining economic system that has made the enjoyment of liberty possible to some and impossible, or less possible, to many.

How should this be corrected? It constitutes the basis of the divergence of views. However, it cannot be denied that liberty "has grown from its original root to a great and branching tree, and some of its branches chafe and jar against others.

Essential Safeguards Against the Abuse of Power

If liberty implies the assurance that every man shall be protected in doing, what he believes, his duty against the influence of authority' and majority custom and opinion, it is necessary to look into the special safeguards whereby the abuse of power may be effectively restricted.

We may mention same of the very important freedoms in this section in the following order:

1. **Freedom of Mind:** freedom of mind is based on the assumption that the men "who cease to think, cease also to be in any genuine sense citizens, freedom of speech, in fact, is at once the catharsis, discontent and the condition of necessary reform

2. **Freedom of Assembly and Association:** This type of freedom is necessary if criticism is to be heard and results produced. The people should be free to assemble and express their pent up feelings. They should also have the freedom to make associations to fight for the protection and promotion of their specific interests.
3. **Freedom of the Press:** In a democratic system the instruction of public opinion by a free and full supply of news is an urgent necessity. The people who are expected to judge every issue on its merit are unfree if they have to judge not between rival theories of what an agreed set of facts means by competing distortion but of what is at the outset an unedifying and invented mythology.
4. **Freedom to Work and Get Adequate Payments:** Economic freedom precedes its political counterpart in the degree of importance. As everyone is involved in solving the problem of bread and butter, he needs work. Not only that, work must be of such a type that brings him adequate return in the form of remunerations. However, this freedom should not be made use of at the cost of public convenience.
5. **Freedom to Choose and Control Governors:** Above all, the people should have freedom to choose and control their rulers. For this it is required that free and fair elections are held periodically on the basis of universal adult suffrage. Political education should also be imparted so that average voters may understand the general problems of politics and their proper role in consonance with the norms of their instructed judgments.

Liberty and Authority: Problem of Proper Reconciliation

Two contradictory Opinions on Liberty and Authority have emerged.

While the schools of classical individualism and anarchism have treated the two as opposed to each other, the liberal and socialist views are different that regard the laissez faire or non—rule approach as thoroughly mistaken.

The former view is based on two assumptions (i) liberty and authorities do not go together, and if they go together, it is not applicable to every individual at all places and under all circumstances; (ii) liberty implies the absence of restraint and, as such, every restraint qua restraint is an evil.

Aristotle was guided by the first assumption when he said that liberty could be enjoyed only by the free people who had leisure time to take part in the deliberative and judicial affairs of the state.

The second assumption can be traced in the explanations of the individualists and anarchists, even Marxists, who dub liberty of the individual and authority of the state as antithetical terms .The reason for taking authority of the state as contrary to the liberty of the individual lies in treating the state as evil, or an instrument of exploitation and oppression by one class over another. Thus, the individualists, mainly of the nineteenth century like John Stuart Mill and Herbert Spencer made an indictment of the state as a necessary evil and desired minimum possible state activity so as to ensure maximum possible individual liberty.

Even in the present century, the defenders of the bourgeois political order regard with grave distaste any restraint imposed by the state in the name of public welfare. Restraints imposed by the 'state' undermine the scope of individual liberty that issues forth in the form of enterprise and co-operation.

The anarchists go ahead in the direction of political extremism. They advocate the idea of a stateless society in which there is all liberty and no authority. To them, even a state with limited interference into the liberty of the individual is an anathema. Real liberty is possible when the state goes. Thus, anarchism offers an absolute cult of the free individual. The peculiar thing about the philosophy of anarchism as developed by Proudhon, Bakunin and Kropotkin is that it wants no form of authority at all—whether political, economic or religious—and thus desires to save man from the yokes of the state, capitalist and God in his capacities respectively as a citizen, a producer, and a man. In this way, anarchism desires to confer all forms of emancipation (liberty) of the individual by saving him from the subjection to all kinds of authority.

If the anarchists, like the individualists, regard political authority as antithetical to individual liberty in the name of the state being an evil, they also denigrate the state, like the Marxists, as being an instrument of exploitation and oppression by one class over the other. According to them, the state deprives the class of the have - not to enjoy Liberty in the midst of numerous restraints imposed by it to protect and promote the interests of the class of the 'haves'. This point is shared by the Marxists who, in the same vein denounce the state and desire its abolition after the transitional stage is over when there will be neither any class nor any authority and that will mean the inauguration of the era of real freedom. In this way, liberty and authority are not complementary to one another as the former has to be enjoyed by all in the real sense of the term after the withering away of the state when men have grown accustomed to observing the elementary conditions of social existence without force and without subjection.

On the other side is the view that liberty and authority are complementary to each other. Experience clearly shows that there can be no liberty in the absence of authority. Liberty lies within restraints and restraints can be imposed only by some authority. The only liberty possible for a civilized man is a defined and a limited affair; to leave each man to do what he pleases means anarchy and return to the 'state of nature' as described by Hobbes in his Leviathan. It is a different thing that people

struggle against and defy some form of authority in order to save their liberty, but they re-establish it as they can't do without it.

Thus, we find that far from being opposed to each other, liberty and authority complement each other.

Hobbes differentiated between liberty and licence on the ground that while the former was possible under the authority of a sovereign, the latter existed in an era of non-rule.

Locke discovered that where there was no authority (law) there was no liberty.

Hocking goes so far as to say that the greater the liberty a person desires the greater is the authority to which he should submit himself. For this, he has coined the argument of specialization. Specialization means authority that keeps a man of inferior mind under the subjection of a superior mind. In other words, the man who is a specialist in his field is our authority. In this way, freedom lies in one's concentration on the things that he can do best. "One has to buy one's freedom at a price and that price is submission to authority in those spheres in which one does not aspire to become a specialist". Specialization, therefore, calls for the delegation of freedom.

It, however, does not mean that the existence and enjoyment of liberty can be reconciled with any amount of authority. In other words, if liberty has its own limitations on account of not being an absolute phenomenon, authority must also be limited. That is, only limited liberty and limited authority can go together. There is no liberty in an era of statelessness (called state of nature by Hobbes) as there is no restraint on the arbitrary actions of the individual; likewise, there is extinction of liberty under a totalitarian system where an individual finds himself enmeshed at every inch of his life. Laski could well understand this fact and while he identified liberty with the possession and enjoyment of rights, he also suggested that only provisions of rights can ensure adequate restrictions on the powers of the state. _

In fact liberty by its very nature involves restraints, because the freedom of one does not mean the right to destroy the freedom of others. In other words, since the freedom of one always involves the like freedom of others, rules and regulations are necessary to ensure the conditions of minimum freedom common to all.

Two points should, therefore, be borne in mind in this connection.

1. First, there can be no liberty in the absence of authority. That is, state intervention is necessary in the sphere of individual liberty in order to keep it within reasonable limits and, as such, there can be no area totally free from the control of authority what Mill termed as 'self-regarding'.
2. Second, the authority of the state should not be absolute so as to menace, even destroy, every iota of liberty as happens under a Fascist or a Communist

system. The restraints imposed by the authority must be adequate, reasonable and legitimate.

Critical Appreciation

Liberty is the most used as well as abused term. Philosophers have explained its-meaning in so many ways that it becomes difficult, even impossible, to offer a standard definition of such a momentous subject of political theory.

It is owing to this that what Rousseau means by his affirmation ‘man is born free’ is different from what Mill says that ‘over himself, his own body and mind, the individual is sovereign’. Besides, if liberty, for the sake of ‘convenience’, be taken as the ‘absence of restraint’, the trouble with this interpretation of the term as a politicized idea is that it “excludes nothing”. Any condition can be described as the absence of its opposite. If health is ‘freedom from disease’, and education ‘freedom from ignorance’, there is no conceivable object of -social organisation and action that cannot be called ‘freedom’.

Not merely in the world of theory the determination of the real meaning of liberty is a complex problem, it has its formidable dimensions in the world of practice as well. The state of confusion continues to persist despite the fact that some workable definitions of the term have been coined (as we have already seen) keeping in view its negative and positive aspects as done by Mill and Green or its extractive and developmental dimensions as traceable in the explanation of Isaiah Berlin. The problem still remains and a contemporary student of political philosophy is bound to feel amply.

A proper discussion of liberty should not be treated like an isolated phenomenon. It is integrally connected with the study of other related themes like those of equality and justice. Proper understanding of a term like liberty with regard to its real meaning along ‘with its varying manifestations is therefore, possible only when it is studied in relation to other sister themes.

Equality

Like liberty, equality is an equally important theme of standardly derived (normative) political theory. Moreover, like liberty, it is also a subject that cannot be studied in isolation to other related theories.

Equality as a multi-dimensional concept:

So close is the concept of equality with the themes of rights, liberty, fraternity, property and justice that it has become a ‘multiple dimensional concept so much so that of all the basic concepts of social, moral and political philosophy, none is more intriguing and none is more baffling than it. Thus, Laski has observed that no idea is more difficult to be defined than the concept of equality.

Sir Ernest Barker who, while realising the same difficulty, states: “Equality is a protean(changeable) notion: it changes its shape and assumes new forms with a ready facility. It is, therefore, said that the term ‘equality’ possesses more than one meaning, and that the controversies surrounding it arise partly, at least, because the same term is employed with different meanings.

Different meanings of equality:

It has been defined in the light of equal conditions guaranteed to each for making the best of one’s personality. Accordingly, it “means that whatever conditions are guaranteed to me, in the form of rights, shall also, and in the same measure, be guaranteed to others, and that whatever rights are given to others shall also be given to me”

It is generally defined in the sense of ‘equality of opportunity’ which simply is not a matter of legal equality; Its existence depends not merely on the absence of disabilities, but on the presence of abilities. It obtains in so far as, and only in so far as each member of a community whatever his birth or occupation, or social position possesses in fact and not merely in form equal chances of using to the full his natural endowments of physique, of character, and of intelligence.

In a strict sense, equality does not mean identical treatment inasmuch as there can be no similarity of treatment so long as men are different in want, capacity and need. For Similarly, equality does not mean an identity of reward, as Laski says, for efforts so long as the difference in reward does not enable a man, by its magnitude, to invade the rights of others. .

It implies that even if my voice be weighed as less weighty than that of another, it - must yet receive consideration in the decisions that are made. The meaning, ultimately, of equality surely lies in the fact that the very differences, in the nature of

men require mechanism for the expression of their wills that give to each its due hearing.

Viewed thus, the idea of equality has two sides—positive and negative—that may be discussed as under:

Positive idea/notion of equality:

1. In a positive sense, equality means the provision of adequate opportunities for all. However, the term ‘adequate opportunities’ is not a synonym of the term ‘equal opportunities’. Since men differ in their needs and capacities and also in their efforts, they need different opportunities for their individual self-development.
2. Nature does not endow everyone equally. Children who are brought up in an atmosphere where things of mind are accounted highly are bound to start the race of life with advantages no legislation can secure. It is also needed that such forces, if any, should be settled so that success or failure must be made to depend on the capacity and character of the persons concerned, not on the accidents of birth or wealth.
3. Thus, equality of opportunity is achieved only when there “is an appropriate opportunity for each; what is to be equalized is not the opportunity to enter professions or to be successful in business but the opportunity to lead a good life, or to fulfil one’s personality”.

Negative idea/notion of equality:

In a negative sense, equality means the absence of undue privileges. That is, there should be no artificial grounds of discrimination like those of religion, caste, color, wealth, sex, etc., so that no talent should suffer from frustration for want of encouragement.

It means that one can move forward to any public office by his ability which he is prepared to choose. There should be no arrangement whereby the authority of few is qualitatively more than that of the many. So also, no office that carries with it power can ever be rightly regarded as an incorporeal hereditament, for that is to associate important functions with qualities other than fitness for their performance.

Exceptions to the above idea of equality and equality in consonance with efficiency and public benefit:

It, however, does not mean that there should be no discrimination on any material ground whatsoever. For instance, discrimination on the ground of sex can, and most be made in recruitment to police and military posts. Thus, a provision regarding eligibility of women for such posts, or special preference for the men of chivalrous

races in such selections should not be construed as a violation of the principle of equality. What is required is that the principle of equality should be linked with the principle of efficiency and public benefit.

The concept of the equality of opportunity should, however, be understood in a particular sense. We treat people equally in the way that we would not (normally) treat men and dogs equally. Yet, at the same time, we do not treat them as equals which clearly they are not.

When we speak of equal opportunities for all, what we really have is appropriate opportunity for all. The really important demand of the champions of equality of opportunity is that certain extraneous factors like wealth or birth or class should not determine or limit one's opportunities.

As an operative principle, it means that each man should have equal rights and opportunities to develop his own talents, or to lead a good life and develop his personality.

The concept of reverse discrimination or compensatory justice in favour of some oppressed communities in the name of undoing centuries—old injustice done to them or, in positive terms, to raise them to the level of others.

The idea of equality implies that all human beings should be treated equally in respect of certain fundamental traits common to all like human nature, human worth' and dignity, human personality and the like. In this direction, we may appreciate the maxim of Immanuel Kant, the Father of Modern Idealism, who said: "Treat humanity, whether in your own or in that of any other, in every case as an end, never solely as a means." Thus, the principle of equality comes to stand on the rational principle of the equality of consideration. 'What we really demand, when we say that all men are equal, is that none shall be held to have a claim to better treatment than another, in advance of good grounds being produced.'

Egalitarianism: Justification of Equality amidst Inequality

According to Egalitarianism, equality is no substitute for uniformity. After all, equality is a matter of derivative value; it is derived from the supreme value of the development of personality—in each alike and equally but in each along its own different line and of its own separate notion. That is, the principle of equality needs to be adjusted to the values of man's functional capacity;

In other words, the idea of equality is more of a prescriptive than of a descriptive nature. Hence, the simple dictum that 'all men are equal' simply means that they should be treated alike in respect of certain fundamental traits common to all like

their dignity and worth as human beings and not that they all possess attributes or capacities in an equal measure.

For example, in the world of medical sciences all patients cannot be treated with the same medicine: likewise, in the world of jurisprudence, theft and murder cannot be treated as identical crimes deserving equal punishment. Therefore, it is hardly desirable that all men should be treated equally in all respects.

Thus understood, the principle of equality "does not prescribe positively that all human beings be treated alike, it is a presumption against treating them differently, in any respect, until grounds for distinction have been shown.

To think as an egalitarian is to consider the degree and range of all inequalities among men and to explore ways to remove or at least diminish them." Thus equality is an empty idea if it is studied in a purely abstract or isolated sense. It has content when it is particularized. That is, it should be studied in the context of actual things. In this sense, it implies that equals should be treated equally, and unequals unequally, and the respect in which they are considered unequal must be relevant to the differences in treatment that are under specific consideration. If there is a norm that equal pay should be given for equal work, it is also needed that work done should be equally well.

Specific Kinds of Equality

When we join queue and wait for our turn, we are governed by same rule: First come, first served. In this respect we are treated equally. It is manifestation of formal equality. "Those joining queue or waiting are not discriminated on any other ground like their social or economic status, race or religion, etc.

But when ladies, senior citizen or handicapped person are allowed to form separate queue to help them to get quicker service, the general rule is relaxed in favor of needy, weaker or vulnerable sections. This step marks transition from the sphere of formal to substantive equality.

Formal Equality: Formal equality implies absence of discrimination in making sought after things available to all citizens whereas substantive equality tends to help weaker and deprived sections to have those things with lesser effort or at lesser cost. '

Formal equality came to imply that by virtue of their common humanity, all individuals" should be treated equally. The most important expression of this idea is the principle of legal equality or equality before the law.

All individuals should be treated equally by the law irrespective of their caste, race, color, gender, religion, social background and so on. While this was a welcome step in the fight against special privileges based on race, gender, social background and other similar criterion, it remained a very limited notion on its own.

Drawbacks:

1. This principle ignores the fact that handicaps imposed by caste, gender or social background could be so overwhelming that individuals would not be able to benefit from the formal equality that the law bestows upon all individuals.
2. Marx contended that formal equality while being a significant step forward could not bring about human emancipation. While the market did free people from the barriers imposed by social rank and other similar categories, it did nevertheless create differences based on class that were upheld by the existence of private property. This implied that individuals had starkly different market values and hence, Marxists describe formal equality in this context as market equality, which is little more than a cover-up to disguise the deeply unequal nature of society.
3. Today, egalitarians have moved away from the notion that all human beings are created equally and hence, must have equal rights; this is so because of the fact that-in most of the important aspects, human beings are not equal. Therefore, today, the word equality is used more in a prescriptive rather than a descriptive sense; those policies would be backed that promote the ideal of equality without having to depend upon some descriptive properties of human beings.

Substantive equality:

Social and economic equality are intended to meet the norms of substantive equality. **Substantive equality** tends to help weaker and deprived sections to have those things with lesser effort or at lesser cost.

1. **Natural or Moral Equality:** It implies that nature has made all men equal. It may, however, be added that the concept of natural or moral equality is just like an ideal to say that all earth is surface.
2. **Social Equality:** While natural or moral equality is just an idea, civil or social equality is an actuality what we really mean by the term equality is its existence in the sphere of man's social existence. Here equality implies that the rights of all should be equal; that all should be treated ~ equally in the» eyes of the law. In_ other words, the respect shown to one man should be determined by his qualities and not by the grace of some traditional or ancestral privileges. There should be no discrimination on some artificial ground.
3. **Political Equality:** It means access of everyone to the avenues of power. All citizens irrespective of their artificial differences should have an equal voice in the management of public affairs or in the holding of public offices. Thus, every adult

citizen should have the right to vote, to be elected, to hold a public office, to appreciate or criticize some act of commission or omission of his government and the like. Everything in the way of increased participation, which recalls political equality, will be constrained by the well-functioning of the political order.

4. **Economic Equality:** The case of political equality is integrally bound up with the case of economic equality. It simply implies equality in the realm of economic power. There should be no concentration of economic power in the hands of a few people. Distribution of national wealth should be such that no section of the people becomes over-affluent so as to misuse its economic power, or any section starves on account of not reaching even up to the margin of sufficiency.

Thus, we enter into the realm of ‘equality of proportions’. The principle of equality requires that there should be a specific civic minimum in the realm of economic benefits accruing to all, otherwise a “State divided into a small number of rich and a large number of poor will always develop a government manipulated by the rich to protect the amenities represented by their property. It, therefore, follows that inequalities of any social system are justified only as it can be demonstrated that the level of service they procure are obviously higher because of their existence. The differences in the social or economic position of men can only be admitted after a minimum basis of civilization is attained by the community as a whole. That minimum basis must admit of my realising the implications of personality. Above that level, the advantages of the situation I occupy must be advantages necessary to the performance of a social function.

5. **Legal Equality:** Here equality means that all people are alike in the eye of the law and that they are entitled for its equal protection. It is in the spirit of modern law to hold certain fundamentals of rights and duties equally applicable to all human beings. In a strictly technical sense, the principle of equality before law is integrally bound up with the maxim of equal protection of law to all denying discrimination on any artificial ground whatsoever.

Besides, the factor of equal protection under equal circumstances is also bound up with the same. In simple terms, it means that the sanctions of the monarch cannot be made equal to the privileges of a parliamentarian, or that the rights of a manager serving some public undertaking cannot be made equal to those of a judge. Viewed in a wider perspective, it also means justice at a low cost at the earliest practicable time so that everyone irrespective of his social or economic status may get it according to the established procedure of the land. In fine, legal equality stands on the maxim: “Equals in law should be treated equally by the law. Thus every official from the Prime Minister to a constable or a collector of taxes is under the same responsibility for every act done without legal justification as any other citizen.”

4. International Equality:

It means the extension of the principle of equality to the international sphere. All nations of the world should be treated equally irrespective of their demographic, geographical, economic or military compositions.

That is, the principle of internationalism requires that all nations of the world should be treated on identical terms whether they are big or small in terms of their size, location, natural resources, wealth, military potential and the like. However, viewed in a wider perspective, it also implies that international disputes should be settled through conciliatory means in which every nation has a right to discuss matters in a free and frank manner and that the use of force, or a threat of this type, is ruled out from consideration. It further implies refusal of war. In ethical terms, it implies that a power-drunk nation going to war in order to settle its terms with a relatively weaker state without first exhausting the avenues of peaceful settlement deserves condemnation at the bar of human conscience. In economic terms, its demands that the benefits of scientific and technological achievements should be shared by all. In terms of humanism, it implies that traditional evils like those of slavery, forced labour, primitive backwardness and the like should be eradicated.

Liberal View of Equality

According to liberals: "Equals should be treated equally, unequals unequally and the respect in which they are considered unequal must be relevant to the differences in treatment that we propose".

Each person is to have an equal right to the extensive basic liberty compatible with similar liberty for others.

Social and economic inequalities are to be arranged so that they are

- (a) reasonably expected to be to everyone's advantage, and
- (b) Attached to position and offices equally open to all.

Strictly, liberal doctrine of equality stands on the premise of the 'equality of adequate opportunities' available to everyman. That is, let all people have liberty to compete with each other in the midst of equal opportunities with the result that those who can make best use of their chances may go ahead of others. Inequality in the midst of equal opportunities is thus a valid affair.

The doctrine of equality of opportunity is the product of a competitive and fragmented society, a society in which individualism is the reigning ethical principle. It is a precise 'symbolic expression of the liberal-bourgeois model society, for it extends the market

place mentality to all the spheres of life. It views the whole of human relations as a contest in which each man competes with his fellows for scarce goods.

Marxist notion equality

According To has only two aspects—economic in the socialist and humanistic in the communist phases of social development. That is, what we call equality has mainly an economic aspect so long as we live in a class-based society; it shall have a humanistic form when the era of final stage of socialism (called communism) ushers in with the withering away of the state. There can be no equality so long as there are class contradictions.

Unless capitalism has thoroughly quitted in the period of transition by the dictatorship of the proletariat, there can be nothing like real equality. The existence of equality is naturally bound up with the true application of the rule: He who 'shall work, shall eat.'

It shows that Marx's sovereign concept, as we all know was of economic equality, it is economic injustice and economic exploitation that have characterized the whole course of human history.

Since economics plays a decisive part in the determination of the relations of production, naturally it is the propertied class that possesses and controls the levers of power. All benefits of liberty and equality are shared by the class of the 'haves', while the class of the 'have—not' suffers from the pangs of slavery or bondage. How can a poor worker make use of equal opportunities in competition with the 'sons of the rich'? How can a worker successfully compete when his rival is a member of the capitalist class? The provision of equal opportunity is thus a hoax whatever rational justification may be behind it.

Equality thus comes to prevail when classless society is established after the successful results of the revolution. All kinds of equality—social economic, legal and political—merge so as to prove that what we know by the name of equality is possible only after the dissolution of class antagonisms (Hateds). The organic unification in one classless collective of all workers means an end to dividing society will be a society of peaceful creative labour, equality and the happiness of all people. This will be a society where, for the first time in history the personality of each worker will attain a full, general and perfect development.

The Marxist notion of equality assumes a humanistic form in the final stage of social development. That is, the existence of equality will merge with the prevalence of 'glorious human values' when the state withers away and people come to lead a life of perfect co-operation, it is in such an ideal state that Rousseau's concept of moral equality shall prevail.

Though a critic of Rousseau's abstract man, Marx appreciates the doctrine of moral equality in that ideal stage of human existence when the notion of abstract man entitled for moral equality will have a concrete form. As he says: "Human emancipation will only be complete when the real, individual man has absorbed into himself the abstract citizen.

Definition of Equality changes with space and Time:

On the whole, it implies that equality is the existence of identical conditions and opportunities for the free development of the individual and the fulfillment of the requirements of all members of society, the equal position of people in society being understood differently in different historical epochs.

The meaning of equality varies from one social epoch to another. At the time when feudalism was being replaced by capitalism, equality as understood by the then revolutionary bourgeois class meant the abolition of the privileges of the nobility and the equality of all citizens before law, the concept of legal equality, progressive in its time, conceals the existence "of a growing economic and social inequality. So Lenin says that "under the guise of equality of the individuals in general, bourgeois democracy proclaims the formal or legal equality of the property-owner and the proletarian, the exploiter and the exploited, thereby grossly deceiving the oppressed classes.

In this way, legal equality cannot be fully exercised unless it is based on the actual social equality of the people. Socio-political, racial and national discrimination, inequality between men and women etc. all show that capitalism has failed to provide even formal and legal equality. It is typical of modern bourgeois sociology and policy to present social inequality as a permanent category and to reject the possibility of building a society on the basis of social equality.

Scientific communism calls for a concrete historical, not abstract, approach to this problem, for equality has never existed in general outside a given socio-economic and political structure of society. Since the social status of the individual in the class society is determined by his affiliation to a certain class, according to the Marxist-Leninist view, equality does not simply mean the liquidation of certain legal privileges of particular classes, but also the abolition of those classes, the complete elimination of all social and class distinctions, the creation of a classless, socially homogeneous, communist society. **As Lenin says: "Equality is an empilphrase if it does not imply the abolition of classes. We want to abolish classes and in this sense we are for equality. But the claim that we want all men to be alike is just nonsense,**

Views of Modern Liberals: Change in the approach

A definite change took place in the nature of liberal political philosophy in this regard in the present century. Thus, a great liberal like L.T. Hobhouse said that liberty without equality is ‘a high sounding phrase with squalid results.

Likewise, R.H. Tawney strongly observed that ‘a large measure of equality, so far from being inimical to liberty, is essential to it. M Pollard opined that there was only one solution to the problem of liberty: it lay in equality. In other words, it means that if liberty is to realize its end, it is necessary that it must be accompanied by equality: liberty without equality degenerates into license. Thus “It remains to add that equality is not an isolated principle. It stands by the principle of liberty and fraternity; It has to be reconciled with both the, in particular, with the principle of liberty”.

The problem of bringing: about a proper reconciliation between the ideals -of-liberty and equality assumes a serious form when it is examined in the sphere of economics. Here the subject of equality happens to entangle itself with the subject of property in view of the fact that the Marxist and the liberal-socialist thinkers alike desire equitable distribution of property in order to ensure real equality that may not disable a man from making use of equal opportunities granted to him. Political equality, therefore, is never real unless it is accompanied by virtual economic equality. By virtual equality in economic-power means more than approximate equality of wealth. It means that the authority which exerts that power must be subject to the rules of democratic government. It means the abrogation of unfettered and irresponsible will in the industrial world. It involves building decisions on principles which can be explained, and the relation of those principles to the service any given industry is seeking to render.”

Why doctrine of equality is unacceptable to liberals?

The implementation of the principle of equality thus requires an end of the laissez faire system based on the economics of free competition. It demands active interference of the state in the realm of economics. Unless there is redistribution of national wealth, there can be no political equality in the real sense of the term, for it is the possession of property along with rights to its use and enjoyment by the people that brings about a state of inequality and thereby enables only the wealthy and privileged class to make use of liberty.

How such a reconciliation of liberty and equality can be acceptable to the men of the privileged class constitutes the main crux of the problem. It is owing to this that the doctrine of liberty is said to work disastrously when applied to the field of economics.

We thus arrive at this conclusion that if the aim of normative political theory is to seek and analyse the avenues relating to the development of human personality, it is required that the ideals of equality and liberty should have a simultaneous flow

despite the fact that in terms of historical evolution the latter is older than, and no matter now surpassed by, the former.

Both are necessarily connected with the supreme worth and dignity of human personality and the spontaneous development of its capacities. As a matter of fact, the traditional lovers of the doctrine of freedom without equality have made the ideal of liberty weaker by, obdurately trying to swim across the current.

The modern age is not prepared to tolerate that the boons of liberty, and with it of equality remain confined to the world of the 'peers'; rather it wants to emphasize: "There must, indeed, be equality of opportunity before all capacity can be free to develop; but the major and ultimate aim is the liberation of capacity".

Equality implies equal opportunities for all without artificial or unwarranted discrimination. Second, if there are certain lines of distinction, they should be legitimate. Third, equality has both normative and empirical dimensions. Though mainly a normative concept, it can be measured in empirical terms in certain respects. Fourth, the ideal of equality is not antithetical but complementary to the ideal of liberty. Above all there can be no liberty in the absence of economic equality;

SOME BASIC PRINCIPLES OF EQUALITY

Egalitarians do not believe that everybody is same or should be the same.

1. They believe in idea that every individual has a right to the satisfaction of his or her basic needs and a society characterized by wide disparities in the standard of living is not acceptable to them. They are committed to a society where living conditions are not just bearable, but are capable of providing a satisfying and fulfilling life to all.
2. Other is that of equal respect, which implies opposition to any form of degrading treatment or circumstances; ideally, a society based on fellow feeling.
3. They oppose Economic Inequality. They oppose huge differences in income and wealth not only between individuals, "but even between nations. It would also involve democratic control of the economy and the workplace, apart from the possibility of dignified? Interesting and safe work for everyone.
4. **Political equality** is not just the right to vote or to stand for any public office, but a wide network of civil rights and a democratic participation in all aspects of life so that individuals are enabled to control and shape their lives in a more significant way.

Sexual, racial, ethnic and religious equality are some of the other components of the complex idea of equality. Needless to add that one cannot aim at a totally exhaustive list of equalities, and in that lies the reforming potential of the concept of equality.

Equality of Outcomes

Yet another articulation of the idea of equality would be in terms of the equality of outcomes, moving away from the starting point in life to look at the outcome. Marx, for instance, was of the opinion that any right to equality circumscribed by a bourgeois economy can only be partial. He, thus, argued for absolute social equality, possible only if private property was abolished.

Defenders of equality of outcome believe that the guarantee of all other equalities would be inadequate so long as equality of outcome is not ensured.

Criticism of equality of outcome

1. They point out that such a pursuit would only lead to stagnation, injustice and worse of all tyranny.
2. Hayek, for instance, has argued people being very different have different aspirations and goals and any system that treats them equally actually results in inequality. The drive for equality, it is argued, is at the cost of individual liberty. The imposition of socialist egalitarian measures, it is argued, undermine the dignity and self-respect of the individual and the inherent paternalism accompanying such measures denies the ability of the individual to be a rational chooser.

SOME ARGUMENTS AGAINST EQUALITY

Equality is untenable in reality because society and social processes are likened' to a competition in which not everyone can end up being a winner. What one could say in response is that this objection emerges out of a specific construction of the nature of society and the individual.

In recent times, the names of Hayek, Friedman and Nozick are associated with the position that holds egalitarianism as a threat to freedom. Nozick is particularly critical of liberals like John Rawls and Dworkin for their commitment to welfare provisions in order to enlarge equality of opportunity. In response to those who say that inequality in society undermines self-respect, libertarians like Nozick argue that on the contrary, it is egalitarianism that robs people of their self-respect.

Nozick claims that, egalitarian societies show more respect for individuals by acknowledging the distinctiveness of each individual and the difference between individuals. Since an egalitarian society would be bereft of any differences based on

power, rank, income or social status, there would be no basis for self-esteem, because self-esteem is based on criteria that differentiate people.

A very strong objection comes from those who believe that any attempt to establish equality results in the strengthening of the state and thereby, weakens individual freedom.

Justice principle requires that social and economic inequalities should be so arranged that they are both a) to the "greatest benefit of the least advantaged and b) attached to offices and positions open to all under conditions of fair equality of opportunity. This, thus, unlike the traditional liberal rights is a much wider understanding of equality.

Unequal rewards are justified not on the basis of differing abilities, but as incentives so that they benefit the least advantaged. Dworkin also expresses displeasure with the traditional liberal ideas on equality and accepts the need for some redistribution and welfare policies.

Macpherson has criticized Rawlsian equality on the grounds that it assumes the inevitability of institutionalized inequalities between classes. In doing this, Rawls ignores the fact that class based inequalities create unequal power relationships among individuals of different classes and would thus, impinge on other aspects of equality.

Relation between Liberty and Equality

1. Liberty and Equality are compatible
2. Liberty and Equality are incompatible

Liberty and Equality are compatible:

1. R.H.Tawney, Harold J .Laski and C.B. Macpherson, Hume, Rousseau, Barker regards liberty and equality as complementary principles.
2. The principle of liberty stipulates equal'-liberty or freedom for everyone. If freedom of one becomes unfreedom of another, it would be against the spirit of freedom itself. So, both liberty and equality are interdependent.
3. Both have the same purpose of the promotion of individual personality and to create better social order.
4. Egalitarians argue that human beings do not become free simply by being left alone. Power, wealth and education are the basic sources of liberty and a society that cannot ensure equality in these aspects cannot be a free society.

Thus, we see that liberty and equality far from being anti-thetical are actually not just compatible, but dependent on one other.

5. Political arrangement in Democracy such as “one person one vote” promotes equality while democracy also protects & promotes liberty. So democracy is the best system

Liberty and Equality are incompatible

De Tocqueville, Friedman, Nozick and Hayek see equality as posing a likely danger to liberty.

Proponents of this thought put forwards 2 concepts to justify the same:

1. Tocqueville postulates “Tyranny of Majority” concept, whereby to satisfy the voice of majority, voice of minority is stifled.
2. Equality leads to loss of liberty: Thought is that equality immediately imply coercion and loss of liberty.

They imply that since individuals are different in terms of their skills and abilities, differences in their lives are bound to exist, and thus there is bound to be a natural tendency towards inequality. They accept inequality as natural. Any attempt to correct this will have to be accompanied by authoritarian suppression and hence, loss of liberty.

They believe that Capitalism and liberty goes naturally while state which when tries to bring equality uses authority which in turns hampers liberty. Capitalism also checks on the authority of state. They put forward ‘negative conception’ of liberty. The negative picture of liberty sees liberty as the absence of deliberate interference in an individual’s life or minimal state. On the contrary, they see liberty as the availability and the ability to make choices that are meaningful and effective.

Liberty needs sustenance of capitalism while equality and capitalism cannot go simultaneously.

EQUALITY AND FEMINISM

Feminists try to look at the issue of equality through lens. They argue that present legislation on equal opportunities or redistributive justice through the extension of equality principles to different areas, in essence, cannot create equality as these rules and principles operate in an environment which is already contaminated by the inequality between the sexes: an inequality brought about by social practices.

Many of these practices are not directly discriminatory toward women, but their overall effect is to reinforce inequality and give it a veneer of legitimacy. Thus, although the law may not formally differentiate between the sexes, it is the case that women tend to get segregated into particular occupations and married women who have careers, are especially disadvantaged in a gender-biased society.

Feminists point out that the position of women's substantive inequality — their weak voice in familial decision making, their duty of child rearing and the subsequent withdrawal from the labor market — has nothing to do with natural and spontaneous operation of choices, but because roles are socially constructed.

However, at the same time, it would perhaps be resented even by the feminists, if the state is involved, especially in family life, for eradicating gender differentiation. It is, perhaps, easier, to be aware of gender inequality and to locate into the social practices and the socially structured roles, but it is difficult to go for a remedial measure. Unless the women themselves become aware of their inequality, of their subordinate role in family, and come forward to re-orient the social constructions, nothing concrete with respect to gender equality can be achieved.

EQUALITY AND JUSTICE

Libertarians stand on Equality and Justice:

Libertarians like Hayek finds Justice for promoting equality contrary to Liberty, which leads to widespread tension and dispute on the question of unjust distribution of life's goods. Pursuit of justice is matter of procedure; its objective is to promote freedom. It should provide maximum opportunity to each individual to serve his self-interest.

They defend liberty and argues that rich should not be taxed to provide welfare for poor. It interprets equality as equal subjugation of all members of society to common rules' and regulation .Function of state is confined to ensuring that nobody harms others interest by force or fraud..i.e. limited state.

Egalitarians view on Equality and Justice:

On the contrary Egalitarians holds that equality is always just and only inequality needs justification. Rawls treated liberty and equality as basic principles of justice and sought to explore conditions under which inequalities can be treated as just. In contrast to libertarianism, egalitarianism upholds that system where poor can also finds opportunities of their advancement, along with rich and strong.

They uphold Substantive justice which insists on ensuring positive improvement in condition of poor and weaker. It demands removal of unreasonable inequalities in socio-economic as well as legal and political spheres.

Libertarians wish to maintain status-quo while egalitarians demands radical change in the prevailing allocation of benefits and burdens in order to ameliorate the lot of oppressed. Nobody dares to disregard justice; 'everybody tries to prove that his own stand conforms to principle of justice. But equality is not acceptable to everyone. _

In words of L.T. Hobhouse on Justice: "Justice is a name which every knee will bow. Equality is a word which made many fear and detest."

Conclusion - Liberty and Equality constitutes the foundation of just social order. Conflict between the two arises only from their biased interpretations.

In economic sphere, if equality is interpreted as 'identity of treatment' or equal shares of all disregarding merit and need, it not only destroys liberty but makes a mockery of equality.

In legal-political sphere reconciliation of Liberty and equality is not an issue but their relation in socio-economic sphere creates conflict and which may render legal and political inequality ineffective.

Inequality means rule of limited numbers because it secures freedom only to those whose will is secure of respect. They will dominate the state and use its powers for their own purposes. The demand for liberty implies abolition of special privileges of certain groups, hence equality of all citizens in legal as well as political sphere

But coming to socio-economic sphere, some champions of liberty will contest the idea of equality. They argue that liberty enable man to acquire unlimited wealth, prestige, power while equality seeks to limit such opportunity

Differential treatment and rewards to different persons according to value of the service rendered by them to society, do not impinge upon the principle of equality. nor of liberty. But if argument is stretched too far, it would become untenable. Those who argue that state has nothing to do with the prevailing socio-economic inequalities are stretch the principle of liberty too far. They lead to drastic and disastrous conclusions for humanity.

We are still in search of finding a proper and universally acceptable version of the real meaning of equality and its proper reconciliation with liberty. What we have with us is just a workable arrangement more or less of a normative character.

Differences in the social, political and economic philosophies of the people shall continue so long as there is liberty of thought and expression and with it differences in the real meaning of equality shall continue so as to defy the problem of any standard solution to the problem of giving a rigid or precise connotation to this great value of human life.

Justice

Justice is one of the important aims of the state. One of the earliest treatises on politics, Plato's 'Republic' was an attempt to construct a just state. Justice was its central concept. Therefore, a correct understanding of this concept will help in evaluating different political systems, their policies and the ideologies on which they are based. Thus, justice is the reconciler and synthesizer of political values and as said by Aristotle it is 'what answers to the whole of goodness'. The element of justice connects ideals like rights, liberty and equality.

Meaning of Justice

Any discussion of the concept of justice has to take into account its multi-dimensional character. The answer to 'what is justice' can only be given by indicating guidelines (values) along which men have thought of justice and will continue to do so. It changes with the passage of time i.e., Justice is a protean notion.

What are different views on Justice?

Thus, what was justice in the past, may be injustice in the present and vice-versa. Thus, there have been the 'egalitarian' perception of justice where the highest place is accorded to the value of equality; the 'libertarian' perception in which liberty is the ultimate value; the Divine view in which justice is the execution of God's will, the 'hedonist' makes 'the greatest good of the greatest number' the criterion of justice; to the 'harmonizer' justice is the harmonizing of different elements and values to produce a satisfactory balance.

Some identify justice with 'duty' or with maintenance of peace and order; others view it as an elitist function.

Thus, justice concerns the right of the individual as well as the social ordering of society. It is legal and moral at the same time. In short, it is an ethical concept.

To define justice one has to refer to the root idea of the word 'just' meaning joining or fitting or to synthesis. Therefore, as a political ideal justice synthesizes other social political ideals. In this way its synthesizes,

1. Individual and State.
2. Individual and Society.
3. Cementing and joining up human beings together.

Justice and Law

The Roman lawyers integrated the ideas of 'natural justice' with the positive law of the state. As such, the civil law and the law of nations are in conformity with the law of

nature. This, however, is an abstract phase of jurisprudence. Infact, justice lies in the enforcement of the positive law.

The symbol of justice is often portrayed as blindfolded because it is supposed to be impartial. That there should be no discrimination between the two extremes -rich or poor, high or low.

Justice and Discrimination

Plato and Aristotle argued for a different interpretation of justice, “Proportionate equality with the idea of “righteousness”. The philosophical interpretation of justice takes an empirical direction at the hands of Aristotle who says: “Injustices arises when equals are treated unequally”.

This means that if in a democracy there is discrimination on the basis of sex, it would mean treating the equals, unequally. Also, it would be unfair to pit a heavy-weight wrestler against a lightweight one. Thus Justice requires discrimination on the basis of differences, which is relevant to the functions performed.

Plato’s theory of justice too implied that the life of people should conform to the rule of functional specialization. Here, justice becomes another name for the principal of ‘proper stations’ i.e a man should practice one thing only to which his nature best adopted. This has both individual and social aspects. The highest good of both the individual and the society is conserved, if we take it for granted that there is nothing better for a man than to do a work than he is best fitted to do; there is equally nothing better for the society than to see that each should be filling the station to which he is best entitled by virtue of the special element of his personality. For this the three elements of reason, spirit and appetite have been highlighted for the individual and the state, to keep their proper bounds.

Plato's THEORY OF JUSTICE		
Social class	Dominant Trait	Benefiting Virtue
• Philosophers	• Knowledge	• Wisdom
• Soldiers	• Emotions	• Courage
• Traders	• Appetite	• Temperance

Aristotle's Theory of Justice

While Plato's theory of justice represents the radical view in that it sought to change the existing social order of his times, Aristotle's theory of justice embodies the conservative view as he was in favour of maintaining the existing order.

Aristotle's view: Justice was concerned with the regulation of human relations. He held that the identical notion of justice in the minds of people was the reason behind the existence of the state.

Aristotle identified three types of justice: (a) Distributive Justice; (b) Retributive (also called Corrective, Rectificatory or Remedial) Justice; and (c) Commutative Justice. The legislator should be concerned with distributive justice whereas the judge should be concerned with retributive and commutative justice.

Distributive justice deals with the allocation of honors and wealth. Its basic principle is ‘treating equals equally and unequals unequally’. Aristotle preferred to rely on the prevailing custom and customary law for deciding as to who were equals or unequals.

Retributive justice deals with imposition of punishment and payment of damages. It requires full restoration of any loss involuntarily sustained in the course of transactions between individual members of the community. Finally, commutative justice seeks to determine the amount of one sort of goods or services to be rendered in return for another sort in voluntary transaction of buying and selling, or letting and hiring. Its guiding principle should be full equivalence.

Also, normally the law does not interfere in instances of discriminatory treatment in private life. But if it causes social harm, the state would be justified in interfering in it, like in instances of un-touch-ability, where some groups are denied _human rights. Therefore, a law against it would be just. Also, the separate facilities accorded cannot be truly equal. It is because of this that Dr. Ambedkar demanded the right of entry to temples for Scheduled Castes and opposed separate temples, schools or hostels for them.

DISTRIBUTIVE JUSTICE

The essential implication of Aristotle’s explanation is that justice is either ‘distributive’ or ‘corrective’ the former requires equal distribution among the equals and the latter applying wherein remedy for a wrong is provided.

The idea of Aristotle came to lay down the foundation of what is called the doctrine of distributive justice. The idea of distributive justice is reflected in the work of some recent political economists. In this context, reference to the work of J.W. Chapman deserves merit, who seeks to integrate the idea of justice with his principles of ‘economic rationality of man’ and ‘consumer’s sovereignty’ coupled with the individual claim of ‘moral freedom’. To him, the first principle of justice appears to be the distribution of benefits, which maximize benefits in accordance with the principle of consumer’s sovereignty. The second principle is that a system is unjust, if the material well-being of a few is purchased at the expense of many. It implies that justice requires that no one shall gain at the expense of another.

Distributive Justice and Economic Justice

Distributive justice is subject to the condition of general welfare. In this way, the idea of economic justice comes to imply a socialistic pattern of society. The first task of

economic justice is to provide employment, food, shelter and clothing to every able-bodied citizen.

However, the Marxist view of justice has its origins in the area of economics. According to Marx, the positive law of the state is imposed on its members by the authority of the class, which controls the means of production. Law is determined by the economic interest of the ruling class. When private property is abolished and the working class controls the means of production, then the laws are bound to reflect the interest of the working class. Therefore, the content of justice depends upon the class controlling the means of production. When" the state withers away, as contemplated by the communists, there will be justice without an economic origin.

These writers advocate "redistributive justice" with its implication of state intervention in the economy in the interest of justice and freedom for all.

SOCIAL JUSTICE

Social justice relates to the balance between an individual's rights and social control ensuring the fulfillment of the legitimate expectations of the individual under the existing laws and to ensure him benefits and protection against any encroachment on his rights. Let us examine the term, 'social justice' in terms of the following aspects of justice, viz. one, the notion of the predominance of the interest of the community and two, the notion of 'reform', or social change.

Predominance of the Interest of the Community

With the decline of the laissez-faire doctrine, a new awareness has developed that the rights of an individual should be reasonably restricted in the interests of the community because the ends of social justice require the reconciliation of individual rights with that of community interest.

It also presumes that in the event of a conflict between the two, the community interest must prevail over individual concerns. Social justice is, thus, closely linked with the idea of what constitutes public good or community interest.

As such, in the backward countries of the world, the idea of social justice enjoins upon the state to make concerted efforts for the improvement of the downtrodden and weaker sections of the community.

Reforms or Social Change have a more equitable society. It seeks a revision of social order so as to

A hundred years ago, justice did not require governments to take care of the unemployed. Charity was supposed to do that.

Reforms or Social Change –

Social justice is used to denote organization of society on the basis of ideas of fairness and equality current at the time.

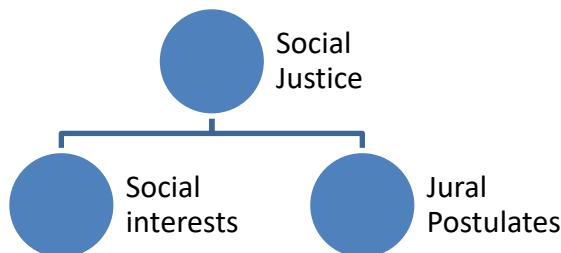
Men through the ages, have sought changes in social order, just as much as they have also sought to preserve a given social order. Social justice stands for reformative justice, for revision of the social order and a redistribution of rights to suit current ideas of fairness. When Aristotle spoke of ‘distributive justice’ he had reformative or what Raphael calls “prosthetic” justice in mind, because its aims was to modify the status quo.

Due to the operations of notions of “reformative” or “prosthetic” justice, today, it is considered the state’s duty to take care of the unemployed and provide them employment.

Pound’s Illustration of Social Justice

The affirmation of the idea of social justice is very well contained in the interpretation of Dean Roscoe. Pond who presents a six fold illustration of social interest and lays down eight jural postulates to ensure social justice.

Thus, the idea of social justice envisages to promote the welfare of the people by securing a just social order



Social interest

- 1) In general security, e.g., peace, public health, security of acquisitions, etc.
- 2) In security and social institutions, e.g., marriage, religious institutions, etc.;
- 3) In general morals, e.g., gambling, drinking, immoral traffic, etc.;
- 4) In conservation of social resources, e.g., food minerals, etc.;
- 5) In general progress, e.g., freedom of trade, encouragement of research, etc.;
- 6) In individual rights, e.g., wages conditions of work, etc. '

Jural postulates

- 1) That no wanton aggression is made by others;
- 2) That parties with whom transactions are entered into will act in good faith;

- 3) That there will be no hindrance in the enjoyment of one's acquisitions and creations; .
- 4) That the person will not be exposed to undue risks and that others will act with due care and caution;
- 5) That dangerous things kept by others shall be cautiously and carefully kept within its bounds;
- 6) That an employee has a right to employment;
- 7) That society will share the misfortunes which befall on the individual; and
- 8) That proper compensation will be paid to workers for necessary human wear and tear in an industrial society.

Criticism of Social Justice

Theories of social justice are criticized on three grounds.

- a. Demands for social justice, by implication, enlarge the activities of the state. The state, then, will have to decide, "Who gets, what, when and how." Where the officers of the state develop vested interests, such subjective determination is not likely to serve the ends of social justice.
- b. Policies of social justice and other implementation require curtailment of liberty. How much of liberty should be sacrificed for how great/small social justice becomes a problem difficult to solve.
- c. It is difficult to assess which are the basic needs that have to be satisfied to fulfill the criteria of social justice and which justify departure from equality.

However, when the Indian Constitution announces reservation of seats in legislature, educational institutions and public employment, it entails departure from equality. Various justifications are offered for these policies in terms of justice. Firstly, that such treatment compensates for the hundred years of deprivations. Secondly, that these measures are necessary for realising ultimate equality to bring them on an equal footing with society and thirdly, that justice can be done only if the state comes forward with preferential policies to help them gain social respect, economic viability and political status.

PROCEDURAL JUSTICE -

A more narrow view of justice is what is known as procedural justice. In this sense, the term is used not so much to prescribe redistribution of wealth or values as to the rules and procedures applied to individual actions. Essentially, it seems to eliminate arbitrariness in human actions and supports the rule of law. This conception deals with individuals and collectivities. In this view, not sticking to rules and procedures,

jumping the queue or giving unfair advantage to some in competition would be unjust. The procedural theorists (for example Hayek) believe that imposing criteria for redistribution of wealth would lead to totalitarianism and an unjustified sacrifice of liberty. It involves constant intervention by the state to maintain the pattern required by equality. They feel that even if the state follows a policy of welfare, this has little to do with justice.

Critics of procedural theory of justice argue that mere following of rules does not ensure a just result. The rules framed in asocial context are weighed in favour of some groups. Therefore, a free competition may not always be a fair competition.

Secondly, a free market relationship can be equally coercive for individuals who lack economic power, for them the liberty of a free market would be meaningless.

JOHN RAWLS'S THEORY OF JUSTICE:

Different political theories offer different pictures of what would be a really just social order. Two of these theories are, the utilitarian theory, and John Rawls's theory of justice as fairness. Utilitarian theory asserts that the social order in which the largest number of people can have the highest satisfaction of their utility is just. But from its very early days, critics have found great difficulties with utilitarianism. In this backdrop, Rawls's theory has offered, an alternative to utilitarianism. Rawls's book, Theory of Justice gives a final interpretation of the concept.

To discuss Rawls's theory of justice, his method of approaching moral problems must be mentioned first, which is in the contractarian tradition of social philosophy. But at the same time, Rawls's method entails that the conclusions of moral reasoning be always checked and readjusted against intuitive moral notions and this contrasts with others in the contractarian tradition, who maintain that the rules of justice are those that would be agreed to in a hypothetical setting.

Rawls places men behind the 'veil of ignorance' in a hypothetical original position where individuals are deprived of the basic knowledge of their wants, interests, skills, abilities and of the things that generate conflicts in actual societies. But they will have what Rawls calls 'a sense of justice'.

Under these circumstances, Rawls argue, people will agree to accept two principles of justice in the lexical order. First, is the equality principle where each person is to have an equal right to the most extensive liberty compatible with a similar liberty to others. Here, equal liberties can be concretised as the familiar rights of liberal democratic regimes. They include the equal right to political participation, freedom of expression, religious liberty, equality before the law and so on. The second principle is called the difference principle where Rawls argues that inequalities can only be justified, if it benefits the least advantaged.

Justice:

John Rawls's concept of justice has two aspects to it. Firstly, it postulates a "Constitutional democracy", that is, government of laws and one, which is restrained, responsible and accountable. Secondly, it believes in the regulation of the free economy "in a certain way". "If law and government", writes Rawls's, "act effectively to keep market competitive, resources fully employed, property and wealth widely distributed over time, and to maintain the appropriate social minimum, then if there is equality of opportunity underwritten by education for all, the resulting distribution will be just".

The "redistributionists" have their critics too. Thus, Mare F. Plattner makes two arguments against the view of justice. Firstly, he believes that although equality is a cherished value, it may not be possible to have it at the expense of efficiency. According to Plattner, this problem of equality versus increased wealth lands Rawls into an inconsistency. Thus, on the one hand, Rawls "absolutely refuses to allow that those who make a greater economic contribution deserve greater economic rewards".

Yet his "difference principle" (which specifies that "social and economic inequalities are to be arranged so that they are to the greatest benefit of the least advantaged") nonetheless affirms that it is just to grant them greater economic rewards insofar as these serve as incentives to increase their contribution in ways that ultimately benefit the disadvantaged. The second argument Plattner makes is that the redistributionist wants to refuse to the individual the reward of his "honest industry" and instead, considers all produce as the "common asset" of society as a whole. And this Plattner wants us to believe, undermines the "moral foundations of private property and therewith of liberal society".

Amartya Sen: The Idea of Justice

- Nobel Prize-winning economist and philosopher Amartya Sen presents his distinctive approach to justice, which might be termed a 'social choice theory of justice.'
- This approach challenges the very way political philosophy tends to be done. Justice, for Sen, is about comparative assessment rather than construction of ideally just pipe-dreams; "the question 'what is a just society?' is not a good starting-point for a useful theory of justice" .
- The stated focus of Sen's theory is remedying real injustice rather than constructing a theory of what justice demands.
- Sen contrasts two ways of thinking about justice:

1. **Transcendental institutionalism/justice'** which encompasses the bulk of contemporary political philosophy. It is adopted by classical writers like Hobbes and Rousseau and developed by contemporary thinkers like Rawls, Nozick and Dworkin ;

It focuses on distinguishing between the just and the unjust and creating institutions that would ensure a just society.

2. Realization-focused comparison', which characterizes his own approach. The second approach, which he characterized as a comparative approach to justice, espoused by thinkers as diverse as Adam Smith, Jeremy Bentham, Condorcet, Mary Wollstonecraft and Karl Marx focuses on the actual realization of justice in society by evaluating social injustices in a comparative setting.

The primary concern of the "transcendentalists" is the creation of institutions that would ensure a perfectly just society, whereas that of the "comparativists" is to ensure improvements in society by removing specific in-justices. For the comparativists, the idea of justice is not about achieving a perfectly just society, but to produce as just a society as is possible given the circumstances. Noting that there exists a strong bias in contemporary political philosophy towards "transcendental justice," Sen attempts to develop the idea of comparative justice.

Borrowing from an ancient Sanskrit text, Sen explained the contrast between the two approaches to justice as the difference between "niti" and "nyaya." '

"Niti," translated as "organizational propriety and correctness," refers to the institutions that should be created in order to have a just society. "Nyaya" on the other hand, translated as "a comprehensive idea of realized justice," is inescapably linked to the world and the lives of the people. Sen stated that the idea of justice in Holy Roman Emperor Ferdinand I's claim that justice ought to be done even though the world may perish, is that of "niti." However, justice done at the expense of a catastrophe in which the world may perish does not result in "nyaya."

Sen stressed that his idea of justice is not merely consequentialist. In fact, his idea of justice encompasses a comprehensive way of looking at both processes and outcomes.

Shifting focus to theories of global justice, Sen argued that when people across the world agitate for global justice, they are neither clamoring for

minimal humanitarianism nor for a perfectly just society. They are seeking the removal of some outrageously unjust facts or rules in the national or global society. For instance, those seeking reform of patent laws to make drugs easily available to the poor and the needy are targeting the injustice of people dying for want of necessary medications while drug companies make huge profits. Their action is calibrated to achieve a narrow goal. It is not anticipated that the removal of this injustice will result in the creation of a perfectly just society.

The realisation of justice in the real world is even more important than the existence of institutions and rules meant to ensure justice.

In examining the demands of social justice in India, it is important to distinguish between an arrangement-focused view of justice (Transcendental justice), on the one hand, and a realisation-focused (Sen's approach : Nyaya) understanding of justice. on the other. Sometimes justice is conceptualized in terms of certain organizational arrangements ~ some institutions, some regulations, some behavioral rules — the active presence of which indicates that justice is being done. The question to ask here is whether the demands of justice must be only about getting the institutions and rules right.

Proceeding beyond them, should we not also have. to examine what does emerge in the society, including the kind of lives that people can actually lead, given the institutions and rules and -also other influences? The basic argument for a realisation-focused understanding is that justice cannot be divorced from the actual world that emerges. Of course, institutions and rules are very important influencing what happens, and also they are part and parcel of the actual world as well, but the realized actuality goes well beyond the organizational picture.

'A realisation-focused perspective makes it easy to see the importance of the prevention of manifest injustice in the world, rather than focusing on the search for perfection. As the example of matsyanyaya makes clear, the subject of justice is not merely about trying to achieve — or dreaming about achieving - some perfectly just society or social arrangements, but about preventing manifestly severe injustice (like avoiding the dreadful state of matsyanyaya).

For example, when people agitated for the abolition of slavery in the eighteenth and nineteenth centuries, they were not laboring under the illusion that the abolition of slavery would make the world perfectly just. It was their claim, rather, that a society with slavery was totally unjust. That

much, they argued, was absolutely clear, even if it might be very hard to identify (not to mention, achieve) 21 perfectly just society.

Abolition of slavery was a matter of prevention of severe injustice and a significant advancement of justice; it was not meant to be an answer to the transcendental question of identifying a perfectly just society, or ideal social institutions.

It was on that basis that the anti-slavery agitation, with its diagnosis of intolerable injustice, saw the pursuit of that cause to be an overwhelming priority.

That historical case can also serve as something of an analogy that is very relevant to us today in India. There are similarly momentous manifestations of severe injustice in our own world today in India, such as appalling levels of continued child under nourishment (almost unparalleled in the rest of the world), continuing lack of entitlement to basic medical attention of the poorer members of society, and the comprehensive absence of opportunities for basic schooling for a significant proportion of the population.

Whatever else nyaya must demand (and we can have all sorts of different views of what a perfectly just India would look like), the reasoned humanity of the justice of nyaya can hardly fail to demand the urgent removal of these terrible deprivations in the world in which we actually live.

This is not only a matter for political philosophy, but also a central issue in political practice.

It is easy enough to agitate about new problems that arise and generate immediate discontent, whether it is raising petrol prices or the fear of losing national sovereignty in signing a deal with another country. These too are, of course, issues of importance, but what is amazing is the quiet acceptance, 'with relatively little political murmur, of the continuation of the astounding misery of the least advantaged people of our country.

JUSTICE: TERM OF SYNTHESIS

Perhaps, the best approach to justice is to view it as a term of synthesis. The problem of justice is one of conciliation; The function of justice is the conciliation of different liberties (political, social and economic) with each other as well as the task of conciliating liberty in general, in all its forms, with equality in general, in all its forms. In brief Justice means the synthesis of conflicting values and holding these together in same state of equilibrium.

Many eminent writers have chosen to take sides in the liberty versus equality tussle. Lord Action had, many years ago, made the memorable pronouncement that "the passion for equality made vain the hope of freedom" (he was speaking in the context of the French revolution). The champions of "liberty alone" like W. E. Lecky in his book DEMOCRACY AND LIBERTY claim that; "Equality is only attained by a stringent repression of natural development".

Actually, liberty and equality both matter; as Carritt puts it, they involve one another. Freedom has a better content if there is equality. And, at the same time it is freedom that enables men to demand equality. Give men liberty and they are sooner, rather than later, going to ask for equality. The interlinking between liberty and equality "can be brought out in many ways. Take the case of freedom of speech and vote, both of which can be vitiated by a grossly uneven distribution of wealth. The wealthy are in a better position not only to contest but also to propagate. The wealthy have easier access to the propaganda apparatus. Harold Laski's words still ring true: "Every attempt of an individual to assert his liberty in a society of unequal will be challenged by the powerful". In short, we find that political liberty and economic democracy have to go hand in hand. And if we examine several political values, we find though apparently they may appear mutually contradictory, on closer examination, they will be found to be complementary and interlinked.

In any case, it is the function of justice to synthesize or reconcile the various and often conflicting values. Justice is the final principle, which controls the distribution of various rights, political, social and economic in the interests of liberty as well as equality. Such a concept of justice grows historically as a process of development of social thought. In this sense, it is a growing concept reflecting social reality and aspiration.

LET US SUM UP:

What we have seen so far leaves an impression that justice is essentially a nonnative concept having its place in various spheres like religion, ethics and law though its ramifications cover social, political and economic spheres.

Impartiality is a necessary condition of justice. Impartiality does not mean treating everyone equally without discrimination. One interpretation is to treat equals equally and unequal unequally. But chiefly discrimination has to be on relevant criteria.

Justice requires discrimination of values on a just basis. Different theories support or the order of these. Social justice emphasizes the needs of the people. It also calls for preferential policies in the Indian social context. As against this, procedural justice requires the rule of law and elimination of arbitrariness.

In Rawls's theory of justice, individuals have to make a choice of social order. They would naturally prefer an egalitarian society. His theory grants equal basic liberties for all. Inequalities should be attached to offices open to all. They should benefit the disadvantaged section the most.

In the end, however, instead of delving deep into the debate over the perplexing connotations of justice, it shall be worthwhile to say that it is the connecting bond of all-important political values. For instance, there can be no liberty if the norm of equality is violated and there can be no equality if there is no justice. Obviously, once again, the idea of justice is essentially bound up with the concepts of rights and law. The most important point to be taken note of at this stage is that not only the idea of justice is integrally connected with the norms of law, liberty, equality and rights, but that it constitutes the essential link. Justice in this sense is the reconciler and synthesizer of political values. Daniel Webster was perfectly right when he said that justice "is the Chiefest interest of man".

Sovereignty

Sovereignty is an essential and exclusive attribute of a state. If a territory is not sovereign, it cannot be called a state. Thus, only the state is sovereign. Sovereignty is the supreme power. In a political society free from all internal and external controls, it means the complete freedom to make any law, adopt any political or economic system, pursue any policy and establish or break off relation with any other state.

Thus, a state is entitled to be a republic or a monarchy, have a democratic or, despotic form of government, establish a socialist or capitalist economy, adopt an isolationist or an interventionist foreign policy, conclude or repudiate treaties, join or quit an international organization and declare war and peace. In short, sovereignty means a state is completely free to conduct its internal or external affairs and no state can interfere with that right.

The term sovereignty is derived from Latin word “superanus” which means supreme or paramount. In every full-fledged or independent state, there is an ultimate authority, an authority from which there is no appeal. The exercise of this supreme power by the state is called sovereignty. And the state is therefore described as sovereign. The idea of sovereignty dates back to ancient times, though, it was called by another name. For example, Aristotle has spoken of ‘supreme power’ in the state and the Roman lawyers and medieval thinkers speak of the “fullness of power”. However, the word sovereignty was used by the French thinker Jean Bodin (16th century AD).

The concept of sovereignty occupies _a central position in the theory of politics. It is the cardinal feature of a modern state. In fact there can be no state in the absence of sovereignty. Sovereignty is the life-blood of a state. It is through the possession of sovereignty that a state is distinguished from- all other associations. . .

There are two aspects of sovereignty - internal and external. Internal sovereignty means final legal power of the state to command and enforce obedience to its authority. It is the absolute power of the state over all individuals and associations within it.

By external sovereignty, it is meant that state is subjected to no other authority and hence, is-independent of any compulsion or interference on the part of other states. The sovereign status of the state is not destroyed by the conclusion of any treaty with other states or by the international law.

Characteristics of sovereignty

1. **Absoluteness.** It implies absence of any restraint on its authority either from within or outside. Whatever limitations there may be are self-imposed.

2. **Permanence.** Sovereignty is the permanent feature of the state. It continues uninterrupted as long as the state exists. The two are inseparable. The government may be formed or dissolved, but the continuity of the state is not affected by any such changes.
3. **Exclusiveness.** No individual or association within and outside the state territory can compete with it. There is only one sovereign power in a state.
4. **All-comprehensiveness.** Sovereignty is universal in character. It is all pervasive in that it extends to all individuals, groups and associations within the state; the only exception to it is extra-territorial jurisdiction allowed to embassies.
5. **Inalienability.** It means that sovereignty of any state cannot be alienated. Further, sovereign powers of a state cannot be lost with the lapse of time by the non-exercise of such power.
6. **Indivisibility:** It means sovereignty cannot be divided. Division means destruction of sovereignty. The notion of a divided, fragmented, diminished, limited and related sovereignty is the negation of sovereignty. The pluralist thinkers who believe in the duality of sovereignty want to concede sovereignty to all associations and groups. If it is put into practice, it would paralyze the system. The net result would conflict and disintegration of the state. Therefore, it may be safely concluded that sovereignty is a quality of state and the notion of its division is wrong and erroneous. Thus, a divided sovereignty is contradiction in terms.

Bodin (1530 -1596)

Jean Bodin, a French thinker, was the first to propound the modern concept of sovereignty. His statement of the principle of sovereignty is “generally agreed to be the most important part of his political philosophy”. The presence of sovereign power is taken by him to be the mark which ‘distinguishes the State from all other groupings into which families fall.

Characteristics of Bodin's theory of Sovereignty:

1. Supreme power over citizens and subjects, unrestrained by law.
2. This supreme power is perpetual. It is undelegated, or delegated without limit or condition.
3. It is inalienable and not subject to prescription.
4. It is unrestrained by law because the sovereign is the source of law.
5. Sovereign is not legally accountable to his subjects, though sovereign was answerable to God and subject to natural law.

'The primary attribute of sovereignty is the power to give laws to citizens collectively or severally, without the consent of a superior, an equal, or an inferior. The sovereign is the legal head of the State.

Bodin's Limitations/Checks on Sovereignty

1. **Divine Law:** The obedience to Divine Law is a matter of the conscience of the sovereign.
2. **Natural Law:** The laws of nature are above human law: they set up certain immutable standard of conduct. However, the obligation of the sovereign to respect natural law is a moral duty. It is not strictly legal obligation.
3. Private Property being granted by the law of nature, was inviolable; therefore sovereign could not tax his subjects without his consent.
4. Further, a sovereign is also bound to observe the promises made to the people; he must respect the law of succession and the property rights of the individual; he must observe the principles of international law.

So to Bodin, sovereignty meant an unconditional right to make, interpret and execute laws in sovereign is vested the power to declare war and enter into treaties for peace, to commission magistrates, to act as a court of last resort, to grant dispensations, to coin money, and to tax.

The law of the land is simply the sovereign's command and accordingly any limitation on the power to command could be extra-legal alone. This extra-legal limitation on the sovereign's power, Bodin styled as 'law of God and of nature'.

Thus, Bodin's theory of sovereignty, on the one hand, makes the sovereign power absolute and unlimited; on the other hand, he places certain limitations on the sovereign power. This has led to Paradox in Bodin's theory of sovereignty.

Austin (1790-1859)

The most fundamental and precise definition of legal sovereignty was given by John Austin, an English jurist and also a disciple of Bentham. He brought together the ideas of Bentham on sovereignty that were scattered through Bentham's voluminous works and expounded them lucidly. Bentham's concept of sovereignty was clothed in the principle of utility.

The contribution of Austin is to be found in his well-known lectures on 'The Province of Jurisprudence Defined'. In these lectures he seeks to mark out with precision the respective domains of law and ethics, and gives a secondary treatment to the conceptions that belongs properly to politics. The method that he adopts is based on

definition and deduction. Austin says that jurisprudence as a science must be limited to the field of what he calls ‘positive law’ (man-made law). His definition of law is more or less the same as given by Bentham. He says that law is “an expression of will by a determinate being that a certain course of conduct comes to pass, failing which, an evil will come upon one who deviates from that course”.

He, thus, conceives of only two kinds of law, namely, divine and human. Natural Law, for him is an ambiguous and misleading term. Human law, he says falls into two classes.

First, rules that are imposed by political superiors in independent societies, which means, the rules that are laid down by the sovereign in a state. This is designated by Austin as ‘positive’ law’. This alone is die subject matter of the science of jurisprudence, which Austin propounds with force and cogency.'

Second, rules set by men who are not political superiors, such as the laws of fashion, the laws of honor, mass of customs, understandings and conventions. This category is styled by Austin as ‘positive morality’.

For Austin, ‘positive law’ alone is the subject - matter of jurisprudence. What then is the source of this law? This brought him to his doctrine of sovereignty, which is “the most influential contribution to political theory proper”. Austin defines sovereign and state (or, as he calls it, ‘independent political society”) in a single most powerful sentence. His definition of sovereignty is this :

“If a determinate human superior, not in a habit of obedience to a like superior, receives habitual obedience from the bulk of a given society, that determinate superior is sovereign in that society, and the society (including the superior) is a society political and independent”.

This is Austin’s legal theory of sovereignty. It carries with it “a certain scientific precision and finality which is highly impressive”. Its peculiar features can be summed up as follows:

- (i) In every State (or ‘society political and independent’ as Austin calls it) there is a determinate human superior’ who receives ‘habitual obedience’ from the bulk’ of its citizens.
- (ii) Whatever this superior commands is law, and without him there can be no law.
- (iii) The power of this superior, which is known as sovereignty, is indivisible.
- (iv) This sovereign power is absolute and incapable of limitation.

- Accordingly, it means that a State is a community in which such obedience is given and received. The fact of rule and obedience is the test of the existence of a State. A law is a command calling for such obedience. The conception of a legal right follows from these premises.
- It means that any privilege or immunity enjoyed by a citizen as against any of his fellow-citizens, is granted by the sovereign power of the State and upheld by that power. It means that in the organization of the State the individual can have 'no rights against the State itself'.
- It is the State alone, which creates a legal right. The sovereign is the source of all the legal rules to which obedience is habitually given.
- So far as these rules are in the form of statutes, they are obviously the expression of the sovereign will. So far as they are contained in the judgments of the courts, they must be regarded as emanating from the sovereign through his judicial agent. So far as they are mere custom, they are willed by the sovereign in that he permits them to prevail, "because what he permits 'he commands, and they are ipso facto superseded the instant the sovereign will to that effect—that is, a positive law—is promulgated".
- Austin's sovereign is, thus, absolute. He is above every restriction by law, divorced from morality and ethics.

One significant point about Austin's legal theory of sovereignty must be noted. As W.A Dunning says : "in reality Austin's sovereign, by the terms of the definition, was supreme only in respect of positive law". Austin was aware of the forces of 'positive morality' that operated in social life. He was aware of the influence of custom, of habit, of international law, but he never categorised them as law in the proper sense of the term. This point is significant, because Austin's whole theory of legal sovereignty revolves around the concept of 'positive law', and not that of 'positive morality'. Only as a maker of positive law, Austin's sovereign is supreme, irresistible, absolute and uncontrolled. This is Austin's conception of sovereignty and law which is particularly associated with the modern English school of jurists, the analytical school, as it is often called. It may be considered on the whole "the most satisfactory basis for an analysis of the political state".

Criticism of Austin's theory of Sovereignty

Austin's theory of sovereignty has, however met with severe and searching criticism. It has by no means received a universal acceptance. The chief objections raised against it are "directed to show that it is only of a formal and abstract nature, that it is inadequate in that it does not really indicate the ultimate source of political authority, and that it presents an erroneous conception of the nature of law".

There are several angles from which Austin's theory of sovereignty has been criticised. The main arguments of attack are given below:-

- (i) The first severe attack on Austin's theory of sovereignty is made by Sir Henry Maine, in his Oxford lectures on the Early History of Institutions. From his seven years' experience in India as a legal member of the Council, Sir Henry Maine was well acquainted with the environment of oriental civilization. He, therefore, says that in many of the Empires of the East there is nothing to correspond with 'the determinate superior' of Austin. In Eastern countries, he pleads, immemorial custom reigns supreme. The idea of deliberate statutory enactment is alien to the Oriental mind, and the most ruthless of Eastern despots finds his power controlled by the barriers of ancient usage and religious awe.

Not only in the Oriental society, but Maine finds, even in the world of Western civilization, Austin's analysis seems inadequate.
- (ii) The second drawback in Austin's theory of sovereignty is that it regards all laws as merely 'commands' and over-emphasizes the single element of force. This can at best be applied in the legal sense only, and not from the moral angle. Further, as Duguit says that it is not the State which creates laws, but it is laws, which create the State. "Laws are merely the expression of social necessity".
- (iii) Thirdly, Austin's assertion that sovereignty is indivisible is an untenable proposition. In every political society there is a division of functions though not of will, and without such division no government can be conducted effectively. This can be illustrated even from the British Constitution, where there is not only a legislative sovereign, but also an executive and a judicial sovereign. From this it can be inferred that sovereignty is divisible.

Further, in modern times a distinction is made between legal and political sovereignty. This distinction strengthens our belief that sovereignty is divisible, which is contrary to Austin's thinking.
- (iv) The fourth drawback in Austin's theory of sovereignty is to locate, 'the determinate human superior'. It may be easy to locate 'the determinate human superior' in a unitary state (e.g. the United Kingdom), but it is very difficult to locate it in a federal state like the U.S.A. In the U.S.A. the President receives habitual obedience, but he is subject to the control of Congress. Further, Congress must act in accordance with the letter and spirit of the Constitution. The Constitution cannot be styled as 'the determinate human superior' in the Austinian sense.

- (v) The fifth criticism is about the absoluteness of the sovereign authority. This proposition of Austin has been vehemently attacked by pluralist thinkers. The pluralists think that: the State should not monopolise power in society but should share it equitably other groups and association. The State should respect their reasonable autonomy and regard social diversity as the conclusive proof of a really healthy community.

The pluralists like Laski, Lindsay, Barker, Krabbe, etc. have criticized Austin's concept of the absoluteness of sovereignty. Laski's theory of the pluralistic state is essentially based on a federal conception of political authority. The Austinian theory of sovereignty, says Laski, should therefore be reexamined from three different aspects. First aspect is historical. The sovereign state is essentially a product of certain historical circumstances in a definite epoch. The history behind the sovereign state should be carefully scrutinized and the various factors that gave rise to it should be scientifically analysed; Second, it should be carefully examined how far the juristic postulates of Austin are valid for political philosophy. And lastly, Austin's theory of sovereignty insists upon a centralized administrative structure in industry and in government with little scope for group autonomy and individual initiative.

Laski examines Austin's theory from all these angles and arrives at the conclusion that it (Austin theory) is completely valueless for modern political theory. The similar conclusions have been drawn by other pluralist thinkers, such as, Lindsay, Barker and Krabbe. Lindsay says: "If we look at the fact, it is clear enough that the theory of sovereign state (as propounded by Austin) has broken down". Barker argues that "no political common place has become more arid and unfruitful than the doctrine of sovereign state". Krabbe pleads that "the notion of sovereignty must be expunged from political theory". All these statements by the pluralist thinkers prove that the sovereign power is not absolute and unlimited, as Austin thought.

Even non-pluralists recognize that though the sovereign may be legally unlimited, there are political and historical limits on every side. They consider the unlimited authority and infinite right of the sovereign power as mere abstractions of jurisprudence.

- (vi) Sixthly, Laski is of the opinion that Austin's theory of sovereignty does not offer a true explanation of the legal order of those political societies for which it has largely been conceived. Laski writes: "Political philosophy, must, doubtless, consider law as an important factor in the life of the State. Law, for the student of politics, is built upon the general social environment It expresses what are held to be the necessary social relations of a State at

some given period. The organ by which it is declared to be law is, for politics, incomparably less important than the forces which made that organ act in the particular way". The forces and the social environment that influence the organ of law-making is sadly neglected in Austin's theory and, as such, Laski regards Austin's conception of legal order as inadequate. Laski considers that one cannot accept law, which is an important factor in the life of the State, from the purely legal point of view. Law ought to be built upon general social environments, which Laski says, Austin failed to take note of.

- (vii) Seventhly, Austin's legal theory is contrary to the positivistic or historical conception of jurisprudence, which regards law as the embodiment of custom and moral outlook of a given society. In other words, law is an expression of social relations of a given period. Such influences and factors have been neglected in Austin's theory of legal sovereignty.
- (viii) Eighthly, even if we put Austin's theory on pragmatic test, we can say that the will of the sovereign is never absolute because it is in a continuous process of modification due to the resistance put up by the corporate wills within the State. A realistic conception of law cannot fail to ignore the influence of the corporate wills of trade unions that play an effective role in the actual formulation of labour legislation. As such, the formulation of present - day legislation cannot be properly understood if we adhere to Austinian concept of absoluteness. Austin's concept of absoluteness is hardly valid for political philosophy as it ignores the vital facts of existence.
- (ix) Ninth. And lastly, Austin's theory of legal sovereignty is inadequate from the sociological' conception of law. The sociological conception of law points out that law-making is too complex a process and it cannot be adequately explained by the simple Austinian hypothesis. It is, therefore, not possible to accept Austin's legal theory of sovereignty as a whole truth.

Though Austin's theory of sovereignty has been severely criticized, its one dominant merit should not be ignored. As Austin says, "the theory was not meant to deal with all aspects of organized humanity, but only with one". Its significance lies in the fact that it did actually separate out one thread (political society) from the skein and follow it to its end. Its very abstraction is its strength. It affords a clear view of the nature of existing legal rights, without professing to have anything to say about historic origins and development, or the relation of legal rights to public opinion and general morality. It should, however, be admitted that as an analysis of the legal nature of sovereignty, Austin's theory, at least has been precise and logical.

Laski

He was an ardent exponent of pluralism; He vehemently criticized the monistic view of the theory of the state sovereignty as given by Bodin and Austin. At one time, he said that theory of state sovereignty will vanish like the divine theory of kingship. But, after the development of 1930s, he became to realize the weakness of pluralism, and was forced to admit that if a state was to fulfill its functions, it must be regarded as sovereign. So, according to him, sovereignty is a necessary attribute of a state.

According to Laski, there are three implications of Austin's theory of state sovereignty. These are:

1. In a legal state, there is a determinate authority acting as the ultimate source of power.
2. Its authority is unlimited.
3. Its command is the essence of law.

But, Laski criticized this. There is nothing in the relation between modern state and citizens that can substantiate Austin's theory. No state can be said to exercise absolute and unlimited power over its citizens. There are number of instances where state failed to enforce its directions in the face of determined resistance by the groups within the nation. Further, law as the command of the sovereignty has no place in modern state. Rather, source of law is found in social forces. In the present context, democratic government has to submit before the force of public opinion.

According to Laski, state sovereignty theory is not justified ethically. It is morally wrong to demand unquestioned obedience without giving individual rights to judge for himself. It stunts the growth of his moral personality. Laski says that state has no right to allegiance of individuals except so far as his conscience permits. So, loyalty should not be towards the state as an institution, but to the purpose for which it exists or it seeks to promote.

Thus, only state to which Laski owed allegiance is the state in which one discovers his moral adequacy. In this sense, loyalty could be switched over to the other organizations if state's activities go against the moral adequacy. Thus, he refused the claim of monist that state has an a-priori ($2 + 2 = 4$ — a-priori — not based on experience. All crows are black — a-posteriori - based on experience; need evidence) claim to the undivided allegiance of the individual. He further says that individual allegiance can never be single. It is always plural. Each one of the association of which he becomes a member is entitled to his loyalty.

According to Laski, monistic state in which power is concentrated at one centre is administratively inefficient and incomplete in such a state, man tends to become merely a subject of the administration. No attempt is made to secure the participation of people. Hence, the only way to make state administratively complete and efficient is to decentralize authority. Through this, he wanted to ascertain that civil, economic

and social rights of individual are secured against the encroachment of those who exercise their power.

Even Lord Acton, believed that power corrupts and absolute power corrupts absolutely and highly centralized modern state is the greatest obstacle to human liberty. He therefore advocated economic and political decentralization.

However, on the other hand, Laski recommends only political decentralization. Laski says that even externally concept of state sovereignty is incompatible with the interests of human society. The rise of absolute sovereignty has been responsible for large-scale wars and conflicts.

In contemporary times, Austin's theory does not hold true because in almost whole world, democracies have come up and powers have been distributed and decentralized. Austin did not accept political sovereignty or the powers of the voters which is superior in democracy. According to Laski, political sovereignty is higher than legal sovereignty because parliament or sovereign cannot make law not liked by the people.

Laski was a great democrat and his ardent desire was to see that before the state makes any decision, it should take steps to consult citizens. The only way to achieve this is to create several centers of authority laying conferring powers to them and bringing voluntary associations into close and direct touch with the state. The greatest defect of the monistic state was that it ignored the existence of other associations which are as natural as the state.

Thus, according to Laski, state would be distributive and not a collective state. Laski calls a collective state that which includes everything and dominates everything within it. It is like the Absolute idea of Hegel and Brahman of Vedanta. On the other hand, a distributive state is that which consists of parts which are as real as the state itself. .

It means that state is only one of many forms of human associations. There is no fundamental difference between them. Being same a state cannot claim pre-eminence among them. The only difference between them is that groups are voluntary bodies and do not have any coercive power. These associations should be given a larger measure of autonomy. Laski's view implies that nature of community is pluralistic and federal. So, it must be reflected in the state.

Criticism

1. When interest group become the center of individual loyalty, so much so that some groups attract deeper loyalty than the state itself, there is danger that some groups might become unduly powerful; they may dictate unjust terms on society because of this power.

2. It may lead to pre-eminence of dominant groups (eg. Corporation, Businessmen and traders) over those of the vulnerable section of society(sweepers, mechanics, clerks..etc)

Significance

1. Laski revealed the real threat from Absolute Sovereignty.
2. Laski provided more dimensions to sovereignty other than Legal one's.
3. Proposed an alternative approach to study sovereignty.
4. Signified the importance of groups and their importance in our life.

Hobbes, Locke and Rousseau

Hobbes and Locke in the 17th century and Rousseau in the 18th century contributed remarkably to the idea of sovereignty.

Although similar, what differentiates Hobbes from Bodin?

In Hobbes, the idea of the sovereign power of the King reached its perfection and zenith. Prior to Hobbes, Bodin had already propounded the concept of the absolute power of the King. But Bodin imposed several restrictions on the sovereign power. He argued that the king did not possess super mundane sovereignty, God is above him. The King's supreme power is subordinated to the law of God and nature'. The King cannot modify the law of succession, and he cannot touch private property. These are the restrictions on the sovereign power, imposed by Bodin.

But it goes to the credit of Hobbes that he relieved sovereignty from all such restrictions imposed by Bodin. Hobbes provides the glimpse of the life of man in the state of nature as 'solitary, poor, nasty, brutish and short. The natural man possessed natural rights, the most significant of which was the right of self-preservation. Ultimately, reason and fear of death compelled the natural man to enter into an agreement (contract) and institute a civil society (government). While entering into a contract, the natural man surrendered all his natural rights to the new sovereign. This sovereign though he derived his authority from the people, is under no obligation to them. The sovereign's will is 'law. His subjects have a right to do only those things not prohibited by him. There is no limit to his powers. No conditions, explicit or implicit, are imposed on the sovereign. The sovereign has unlimited powers, neither constitution nor any fundamental law can bind his hands. The sovereign is the source of all legislative, executive and judicial authority. The sovereign is absolute, supreme in everything, able to change all laws.

Thus, Hobbes goes a step further than Bodin, and constructs his theory of absolute (legal) sovereignty. Hobbes' sovereign is one man or one assembly of men possessing legally unlimited power of making laws which no other authority in the realm can challenge or set aside. His sovereign is endowed with absolute, inalienable and indivisible power.

Locke's Theory of Sovereignty: John Locke gave a theory of sovereignty based on the social contract. But he avoids the term 'sovereignty'. In its place, he uses the phrase 'supreme power'.

Characteristics:

1. There are two 'supreme powers' in the State - one is the legislative and the other is the community. But this supreme power of the community "is always the higher". It is held in temporary suspension and is exercised only when the government is dissolved and a new government has to be created; but so long as the government exists, the legislative wields the supreme power'.
2. Though supreme, the legislative power is not absolute. It does not possess arbitrary powers. It is limited by fundamental law and the law of nature(similar to Bodin's view).
3. It has no absolute power over the lives and fortunes of the people. It is bound to administer justice and to determine the rights of the people according to promulgated laws and authorized judges. These laws are to be equal for all classes and promote the good of the people.
4. It cannot take away from any man, any part of his property without his consent.
5. It cannot transfer its power to make laws for anybody. It has power to make laws but not to create law makers. It has only fiduciary power to act for certain ends, namely, the promotion of public good in accordance with fundamental laws of nature, which enjoins the preservation of mankind. For this reason there remains still in the people the power to remove or alter the legislature when they find it acting contrary to the trust reposed in it.

Thus, Locke refused to allow any body, whether legislative or executive exercise unlimited power in the Hobbesian sense.

Another important social contractualist was J .J. Rousseau. Rousseau's concept of sovereignty differs from that of Hobbes and Locke. He rejects the concept of absolute sovereignty as propounded by Hobbes; and disapproves of Locke's notion

KAUTILYA'S theory of Sovereignty

Arthashastra which is a compendium of several Arthashastras , Sovereignty is vested in the Swami(ruler) which is the most important component of Saptanga State.

Kautilya described state as a Body having 7 organs. The seven organs of the state are:

1. Swami- Ruler
2. Amatya - Bureaucracy
3. Janapada- Population + Territory
4. Durga- Capital City with Fort.
5. Kosa- Treasury
6. Danda- Army
7. Mitra- Friend

The sole leader of the entire territory or the kingdom was the monarch or the sovereign who has an absolute control over the entire state. Kautilya favored hereditary monarchy as it ensured continuity. Kautilya's concern for preserving sovereignty led to extensive theory which included Political, Economic, Social dimensions. His Sovereign concept does not only prescribe authority but even threats and maintenance of Sovereignty.

Kautilya also explained the plausible dangers that a king can encounter with reference to his sovereign power. Kautilya made it very clear that dangers to the sovereignty come from three quarters, viz., from the enemy, within the territory and sometimes the wrong policy of the king himself.

In some cases, even the ministers might be apart of the trouble when they feel neglected. It is for this reason that the king must always respect the ministers all the time. Further, weak fortification of the territory can be a serious threat to the sovereignty of the king.

Similarly, lack of enough funds can also be a danger and efforts have to be made for the constant flow of funds to the treasury. It is also stated that a well equipped and prepared army would ward off any dangers to the sovereign power of the king. Finally, if the king lacks enough number of allies' or friends, then again his power would be in danger.

As regards the internal troubles, these are considered much more dangerous than the external troubles. In order to make sure that there is less likelihood of trouble within the kingdom, a king must be able to control the army as well the finances of the kingdom. It is for his own good that he must follow the policy of divide and rule.

It is also important for the king to strictly audit the national income and sources of expenditure. Kautilya suggested that the construction of more forts on the borders and friendlier relations with the neighbors saves the sovereign power of the king or the monarch.

Rights, Duties & Accountabilities

"Without rights there cannot be Liberty and that every State is known by the rights it maintains"-Harold J. Laski.

A Right is a claim of an individual recognized by the society and the state. It is a condition or Opportunity necessary for the development of his holistic personality.

For a Right to be recognized, it should satisfy 3 conditions:

1. Common interest.

First, Right is a claim of the individual. However, not every claim can become a right. It is required that the claim should be like a disinterested desire, or something which is capable of universal application. The guiding factor is that what an individual will (desire) should be of common interest.

2. Social Recognition.

Claim of the individual should receive recognition by the community. Since individual's claim is backed by a disinterested desire, it involves the good of all and, as such, it receives social recognition.

3. Political Recognition.

Rights are just like moral declarations unless they are protected by the state. Individuals are guided by their real wills when they think in terms of patterning their conduct according to the rules of 'common behavior'. However, in actual practice, they are motivated, in most of the cases, by their selfish will.

The result is the violation of the system of rights. Naturally there must be some coercive force to ensure the exercise of these rights. The state translates the socially recognized claims or moral rights into terms of law and thereby accords them legal recognition. The state, therefore, acts like a coercive agency to prevent the operation of these selfish wills of the individuals.

The most important factor is the fact of political recognition that connects the element of disinterested claims of the individuals with the sovereign authority of the state.

Rights, therefore, have a three-fold character. They are ethical when we deal with claims of the individual based on their real wills and therefore recognized by the community and they are legal when translated into law by state.

However, in recent times it is the 'claim aspect' has overshadowed the 'duty aspect' of this important term. Now the rights are not merely asserted defensively against state action, they are rather interpreted as legitimate claims on government to satisfy human needs. Thus, the distinction between rights as 'liberties' and rights as 'claims'

has become a matter of its own importance. Such an assertion has put a premium on the ideal relationship between rights and duties in view of the fact that 'claim rights' entitle their holder to limit the liberty of another person.

Characteristics of Rights

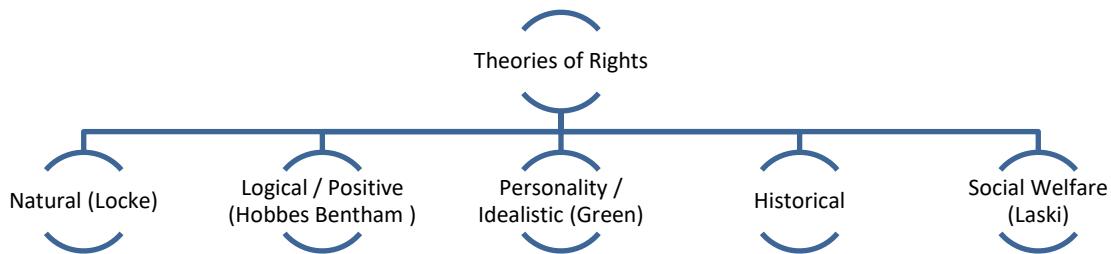
1. Rights are implicit in the conscience of man and the community ceaselessly presses for their legal recognition so that the morally recognized claims of the individuals have their proper protection.
2. Rights are organically bound up with duties. As a matter of fact, they are like a coin having right on the one side and duties on the other. Since rights prescribe the rules of behaviour, in doing so they are said to impose duties or obligations.
3. Rights have a pre-political character. They may be independent of state but not of society. Social recognition comes first. If studied in historical terms, we may say that selfless claims of the individuals became well-established usages and customs —which were translated, by the state in terms of law in due course. Thus, rights have a pre-political character.
4. Rights have a natural and social-utilitarian character. They are natural not in the sense of prevailing in the state of nature (refer Locke's Theory of Natural Rights) as in view of the character of a civilization, the facts of social existence demand their recognition.
5. Rights are not mere abstract entities. They need their exercise. Thus, the issue of rights and duties figures in. A man is expected to exercise his right in a way that he does not harm the right of another.
6. Rights are also connected with the functions of the state. In theory, rights of the individuals and functions of the state may be separate; in practice, they are not. The two are so closely related that they can be regarded as indistinguishable' like the obverse and reverse sides of a coin. On the one hand, the functions of government are a condition of the rights of persons because they are necessary to the enjoyment of those rights and because they exist in order to secure them. On the other hand, the rights of persons are a condition of the function of government, because they are the source and cause of the existence and action of government. We may accordingly say that government is service on behalf of rights, and nota power outside their range.
7. The subject or rights is necessarily related with other important themes like Liberty, Law, Justice and Sovereignty. Liberties of the individuals are like an extension of their rights in the sphere of their social existence. Rights and laws

become like a closely related phenomenon in the sense that while the former (Liberty) is subjective; the latter is objective side of the same thing.

What law does is the translation of a right in specific terms as sanctioned by the sovereign authority. Likewise, rights and justice becomes one and the same thing if viewed in a particular sense. To declare and enforce law is the same thing as to recognize rights and guarantee them in a proper manner that brings about the situation of justice. The state is expected to translate rights into legal terms and then ensure their due protection so that justice prevails. In this way, “all authority; and all the functions of government, including the functions of immediate sovereignty, are services owed to rights of those rights and because they exist in order to secure them.

On the other hand, the rights of persons are a condition of the function of government, because they are the source and cause of the existence and action of government .We may say that government is service on behalf of rights, and not a Dower outside their range.

Different theories of Rights



Natural Theory of Rights

Proponents: Locke

- The most earliest explanation in this regard is known by the name of the natural theory of rights.
- It holds that rights being rationally derived from man's nature have their universal 'application irrespective of the difference of place, time and environment. The nature is the creator of certain rights that have a universal, rational, eternal and immutable character.
- Going back to the days of ancient Greeks, it holds that rights belong to man by nature. They inherent in him. They are as much a part of the man's nature as, say, the colour of his skin. They do not require any elaborate explanation of justification. They are self-evident truth.

- Three rights (relating to life, liberty, and property) are included in his theory of natural rights. To him, the main function of the state is to protect these natural right of the individual in as much as the need for entering in to a social compact is motivated by a due protection of the rights authorized by nature. The individuals have every right to resist, even overthrow the government in case the rulers violate the sanctity of the natural rights. These rights cannot be surrendered to any alien authority (even to state or government) and if ever an agreement to this effect is made under duress or through some miscalculation, the very agreement becomes void. In this way, the rights are an integral part of human personality and if the government ever seeks to encroach upon them, it will entitle ‘the people to rise in revolt for the sake of preserving their natural rights.
 - Example: The American Declaration of Independence of 1776 reiterated that ‘all men are endowed by their Creator with certain unalienable rights.’ The French Declaration of the Rights of Man and Citizen of 1791 took itself evident truth that ‘men are born free and live free and equal in their rights’.
 - To refer to the latest instance, the Universal Declaration of Human Rights which says: “All human beings are born free and equal in dignity and rights.
 - Whole idea of natural rights is based on the assumption that irrespective of his merit as an individual in his personal or moral capacity, man is at least equal to all others in human worth. Even convicted criminals, who have violated the rights of others and therefore do not score highly in moral grading, still have the right not to be treated in cruel or inhuman ways by the jail staff. The point that in saying that certain natural rights are inalienable is that if a person voluntarily gives them up, he in a sense, resigns from the moral community and puts the determination of his future into the hands of somebody else.
 - Natural rights are inalienable means that certain contracts (as a contract between a master and a slave) do not take away the right of. A person who may, for various reasons, wish to abandon his control over his own future, but this does not mean that he has been deprived of a right.

Significance:

1. Primitive theory to formulate Right.
2. Modern Human Rights are the manifestation of Natural Rights.
3. Protects an individual from the tyranny of Dictatorship by emphasizing the importance of individual (individual centric theory).
4. Great revolutions such as French, American are the result of Natural Rights.(Please read above theory)

Shortcomings:

1. Introduces Supernatural creator which is unacceptable in modern times
2. Being an Individual, it underrates Welfare state which creates favorable condition for the growth of an Individual.
3. Theory reflects extreme Individualism, eventually outcome is Anarchism.
4. It does not consider Political and Social recognition without which Right is a mere word.

Legal/Positive Theory of Rights

Proponent: Jeremy Bentham, Austin, Hobbes

- Rights are neither absolute nor ordained by nature or by the Creator; they are the creations of the law of the state.
- State is the only source of rights. It provides the machinery to guarantee the enjoyment of rights, and that rights are dynamic in as much as they change with the law of the land. Obviously, such an affirmation regards rights as the creation of the political community.
- It may be traced in the view of Hobbes who equates rights with powers. Though the individuals have right to life in the ‘state of nature’, they enter into the social contract with this conviction that the state would ensure their better protection. Thus, whatever the sovereign accords to the subject constitutes their rights.
- Jeremy Bentham who decries natural rights as ‘rhetorical nonsense’ and insists that rights are the creature of law and of organized society; at the same time, they(rights) arise out of and correspond to a principle of utility(Link between Rights and Utilitarianism).
- Account of rights in terms of the power of the state witnesses its best representation in the writings of Austin who says that every right, whether divine, legal, or moral “rests on a relative duty; that is to say; a duty lying on a party or parties other than the party or parties in whom the right resides. And, manifestly, that relative duty would not be a duty substantially, if the law which affects to impose it were not sustained by might”.
- The legal theory of rights implies that ‘there is no right where there is no power to secure the object of right’

Shortcomings:

1. It is- wrong to believe that law can make everything right, Prof. Hocking, for this reason, asks whether a law of the state can make corruption aright. Also, social recognition is as much necessary as the legal recognition of the state.

2. To say that the state is the sole creator of rights is to make it absolute and powerful and thereby deprive the people of the power of resistance.
3. Theory discards ethical consideration in entirety. It does not enable us to decide whether rights that are recognized are the rights that are really needed to be recognised.
4. It does not help us to ascertain the role of State. Therefore, it seems clear that we need an external standard for judging the State, and that standard is supplied by the law of personality.

Significance:

1. Theory is -partly correct in asserting that rights are no rights until they are secured by the state. Mere social recognition is not enough Thus, even an idealist like Green realised that 'rights demand the State'. Thus, there is every possibility that man would act according to his selfish will and thereby harm the moral rights of the people. As such, there should be a coercive authority to 'give protection to the moral rights. Law, therefore, serves the desired purpose.
2. Widely accepted theory in Modern world and is applied in most civilized nations.
3. Importance to Legal Aspect of Right.

Personality/Idealist Theory of Rights

A Right is that 'which is really necessary to the maintenance of material conditions essential to the existence and perfection of human personality. Rights constitute the organic whole of the outward conditions necessary to the rational life.

As Krausse says that without rights no man can become the best self that is capable of becoming. The supreme right of every man is the right of personality every human being freely to develop his potentiality. Every other right is derived from this one fundamental right. Even such important rights as the right to life, the right to liberty, the right to property etc., are not absolute rights. They are conditional or presumptive. They are relative to the right of personality.

Rights which exist in the social consciousness but not manifested in the law of the community and so struggling for legal expression may be regarded as ideal or moral rights.

They are rights which the individual deems significant; they are essential to self-realization and society accords its tacit approval to them. They are rights which a society, properly organised on the basis of goodwill, should recognise, if it seeks to be true to its own basic principle. An ideal society, in this sense, may be described as one whose legal system and morality are in the closest possible harmony.

A right is a claim based on the rational will of man and, for this reason, first recognized by the society and then translated into law by the state. Green who begins with this assumption that human consciousness thinks of the goodness of the 'self' as well as of other human beings and thus the recognition of a claim as conducive to the common interest brings about a system of rights. Human consciousness postulates liberty: liberty involves rights: rights demand the State.

Thus, this theory looks at rights from a highly moral point of view. Rights are rooted in the mind of man; they are powers granted to him by the community in order that he with others may realize a common good of which his good is an intrinsic part. A right must establish two things—the individual claiming it must be able to convince society that in doing so he is not interfering with the like claims of his fellow beings, and that he must be able to convince society that his claim is absolutely necessary for his development. Thus a right "is a freedom of action possessed by a man by virtue of his occupying a certain place and fulfilling a certain function in a social order".

Weaknesses

- ⊕ Idealistic interpretation is too abstract to be easily understood by an average man and, moreover, difficulty may arise when we begin to reduce the conception of moral recognition into practical terms. It may be asked that the idea of moral development being too abstract, how the state can judge conditions conducive to the best possible development of the personality of its subjects.
- ⊕ Since the very idea of personality is a subjective affair, no generally acceptable list of rights can be drawn on the basis of this theory.
- ⊕ Sacrifices societal good for the sake of individual good i.e. Individual centric Theory.
- ⊕ It is based on the assumption of ideal state that means a state where everything is just as per law, in practical terms, means justification of totalitarianism.

Strength:

- ⊕ Theoretical aspect of 'theory' is where we find that it provides a safe test to rights which can be applied at all times and herein it is superior to the legal, historical and social welfare theories.
- ⊕ One absolute right of human beings is the right of personality which this theory emphasize.

Historical Theory

- Historical Theory of Rights emphasizes that rights are the product of history. They have their origin in customs which once possessed practical social acceptance and passed on from one generation to another, ultimately having been recognized as inherent claims or rights.
- This theory assumes that rights are the creation of time i.e. they are based on long established traditions and customs. The essential sanction behind a right is, for this reason, a tradition or custom ripened on account of its long observance.
- For Sociologists like MacIver , law of today is nothing but the crystallization of age old customs into the form of legal sanctions that the state enforces with coercive power at its command. . Thus, we find that the rights which people 'think they ought to have are just those rights which they have been accustomed to have, or which they have a tradition of once having possessed. Custom is primitive law.

Shortcomings

When rights are rigidly tied to customs alone, we altogether ignore the dynamic nature of society and the changing contents of rights. Rights change with the facts of time and place.

Strength

- Passage of time does result in the creation of right. A practice once started becomes a usage if it is repeated without any break, it hardens into a custom over along period of time and then people begin to take it as a matter of right.
- This theory is partly correct and partly incorrect. It cannot be accepted that all rights are a result of ' the well-established customs. Had this been so, till today slavery would have been in existence as a matter of right by virtue of being based on a long established tradition

Social Welfare Theory

Proponents: Jeremy Bentham, Harold J. Laski

- Rights are the creation of society inasmuch as they are based on the consideration of common welfare.
- Rights make what is conducive to the greatest good of the greatest number (Utilitarianism Principle).
- They are the conditions of social good. Thus, claims not in conformity with the general welfare would not be recognized by the society and thus fail from being rights.

Shortcomings:

1. It emphasizes on social welfare - a term that may hardly be put to precise definition. It is highly ambiguous, or, if put into practice, it may mean different things to different persons. One may say that the yardstick of 'greatest good of the greatest number' may mean something to the liberals, something else to the socialists, and something fundamentally different from both to the communists. Then, if carried to extreme, the point of individual welfare may be lost, as it seeks to sacrifice individual good at the altar of social welfare.
2. Thus, if rights are created by the consideration of society, individual is without an appeal and helplessly dependent upon its arbitrary will.

Significant:

Theory links the idealistic version of rights with its utilitarian counterpart. As such, rights are not only related to the essential consideration of social welfare, they are also given a dynamic character.

SPECIFIC KINDS OF RIGHTS

1. Moral Rights:

- a. These are the 'claims recognized by the morality of the community. For instance, a teacher has a moral right to be respected by his students.
- b. There is no coercive power to enforce them. Thus, we cannot move the courts for seeking an enforcement of our moral rights.
- c. The moral rights are like religious precepts whose enforcement depends upon the good sense of the community.
- d. When moral rights are translated into legal terms, they become legal rights, since coercive power of the state remains at their back. Violation of law is visited with punishment.

2. Civil (Civilised society) Rights:

These rights relate to the person and property of the individuals. They are called 'civil' (or social) rights as they relate to the essential conditions of a civilized life. This broad category includes a number of rights like those relating to life, personal liberty, thought and expression, property, religion and the like.

Of all the civil rights, right to life is most important, since enjoyment of all other rights depends upon it. It implies that no person can take the life of another. Not only this, a person has the right to save his life even by killing another in

case his opponent has the intention to kill him. It is called right to 'self-defence'. So significant is right to life that suicide is a crime and a person trying to commit it is held liable for punishment.

This right, however, is not absolute and the state may restrict it during the times of crisis by ordering conscriptions in the name of 'national interest'.

Allied to this is the right to personal liberty inasmuch as mere life without right to exercise one's senses and to determine the general condition so life would be value less. This right includes abolition of slavery, free movement and freedom from arbitrary arrest and detention. Then, comes right to think and express.

An individual should have freedom to think and express his ideas. Naturally, this right includes freedom of publications, broad casting and telecasting. Right to property also falls with in this category. It means right to hold, transfer or dispose off: property by a person.

In the sphere of law and justice, it includes quality before law and its equal protection. Finally, it covers religious freedom. A person should have right to profess and practice any religion as per his conscience.

3. Political Rights:

These rights relate to a man's participation on in the affairs of the state. As such, this 'category includes the most important right to vote. It includes right to contest elections, right to hold public offices, the right to address individually or collectively petitions to the government embodying the irgrievances, right to appreciate or denounce the actions of their government.

4. Economic Rights: These rights relate to man's location, his engagement in again full employment so as to solve the problem of food, clothing and shelter. Every person should have the to work so that he may earn his livelihood. Apart from this, he should have the right to rest and leisure. It also includes the right to form trade unions so as to protect and promote their specific interest.

Why Economic Rights are matter of Contention in Socio—Political Philosophy?

Various schools of thoughts interpret Economic rights as per their thoughts leading to controversy. Liberal school regard it as man's right to own and manage the means of production, distribution and exchange with certain restrictions so as to sub serve the social good.

Socialists lays tress on the over-riding interests of the society and, for that reason, advocate more and more stringent restrictions on the ownership and control of the

means of production, distribution and exchange so that private property is not allowed to have the character of an agency of exploitation and oppression.

Communists: Their ambitions to economic rights includes rights relating to work, rest and leisure, social security in the even to physical disablement and the like. As a socialist, Laski includes within it workers' right to control industry.

DUTIES

Duty (Obliged) as defined in Oxford dictionary- a moral or legal obligation. Here duty has a moral as well as legal character. Moral obligation is those which an individual's conscience deems to be right and is bounded by it to perform certain task or action.

Legal duty is widely accepted in the field of Jurisprudence and above definition confirms the same.

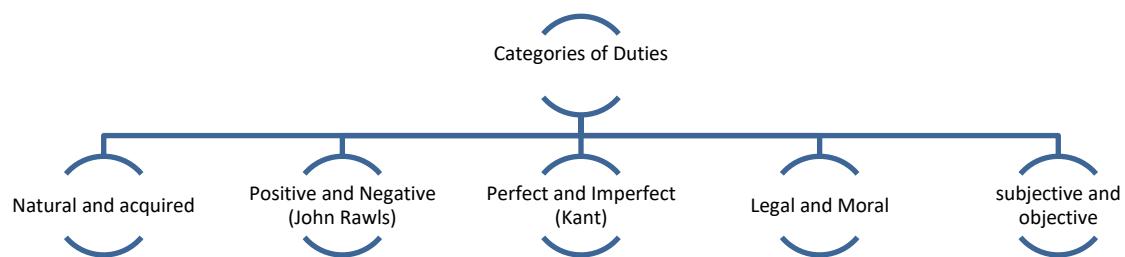
If a person fails to abide by his legal duty he may be punished as per the legal provision.

Concept of Duty:

The concept of duty arises from fulfillment of a requirement. Duties arise in several ways and means, such as moral duties, legal duties, parental duties, societal duties, and civil duties etc. However, from the point of view of law, duties arise from legal norms or requirements. They have to be discharged, the way it was prescribed.

Accordingly, the actions constitute as right or wrong basing on the discharge of duty. If one acts contrary to a duty, it constitutes a wrong. (For example, a legal norm tells us not to speak ill of others which will affect their decency, if speaks ill of others, it constitutes as wrong.)

There are various types of Duties as given below.



- **Natural and Acquired:** Natural duties bind all of us without any specification by any institution or body. Each one of us discharges these duties voluntarily. For example: not to harm others, not to tell lies, not to misuse the freedoms,

duty to respect others, not to injure the innocent, not to beat children, to uphold truth and justice, etc.

- **Acquired duties are** duties undertaken by individuals by virtue of something they have done, or as a particular relationship, which they might have with others. This means certain duties are legal, and need to perform the acquired obligations basing on one's willingness. If refused to perform after consented to discharge, it attracts legal consequences.
- Another type of acquired duties results from special relationship that individuals undertake as groups, often referred to responsibilities. For example, parents discharging their duties towards their children, doctors to patients, and lawyers to their clients. These duties assumed by individuals to exercise automatically by accepting to act in a specific role.

According to legal jurist John Rawls:

Positive duties require us to do good i.e they have an affirmation tone;

Negative duties impose restrictions on doing bad or refraining from acting. Helping the poor may be a positive duty, which may not have any obligation. However, not to tell lies or not to harm others is a negative duty, which imposes an obligation.

According to Immanuel Kant,

I. **Perfect duties:**

These duties expect individuals to discharge the incurred obligations as per the goal that is set at all times without any deviation.

II. **Imperfect duties:** Imperfect duties are duties that are never completed in its true spirit. The performance of these duties depends on circumstances. They have no rigidity. According to Kant, it is difficult to cultivate one's own talent is an example for imperfect duty.

Legal duty is a duty to be performed by individual irrespective of his will and which is justified by law of the land. Legal duty is widely accepted in the field of Jurisprudence. If a person fails to abide by his legal duty he may be punished as per the legal provision.

Subjective duty: That form of duty which individual honestly undertake as his duty.
Objective duty: That form of duty which requires an individual to perform duty by as it is demanded either he wills or not.

What is the difference between Duties and Obligation? Does obligation corresponds to duty?

The word obligation commonly refers to as a synonym of duty or vice-versa. However, strictly speaking there exists a difference between the two.

According to H.L.A. Hart, duty and obligation are distinct to each other. A right exists without any correspondence to an obligation incurred or created, at times. Where as duty arises from position, status, role.

This means every time a duty has a connection with the position of person', which is linked with right. Hence, an obligation may not correspond to a duty at all times. It is only usage or practice of referring to right as a substitute of duty. In the eyes of law they are different, and especially in the area of rights.

INTER RELATIONSHIP BETWEEN RIGHTS AND DUTIES

The two phrases 'rights' and 'duties' co—exist with each other. In other words, the rights and duties are two sides of the same coin, to regulate the values and behavioral patterns of an individual.

On one side, rights are important in developing the human personality and behavior. The duties on the other hand, direct the individuals importance of their contribution for the promotion of social good. In a way, duty targets at the realization of rights guaranteed by various laws and regulations both nationally and internationally.

The same philosophy applies to states also to discharge their duties towards their citizens.

The increasing number of violations by states in protecting the rights of the individuals across the world has led the United Nations and other organs of the world community including the civil societies to focus more on the duties than on the rights in the contemporary era.

According to Prof. Laski there is a four-fold connection between rights and duties:

1. **My Right implies Your Duty:** Every right of an individual involves a corresponding duty of others. For example, my right to life implies that others should give protection and security to my life. My right to move about freely implies a corresponding duty resting on others that they should not interfere with my free movement.
2. **My Rights imply My Duty to admit a similar Right of others:** -The conditions of life which I need for myself are also needed by others. This indicates that every right is a duty in itself. If an individual exercises a right, he must bear in mind that the same right belongs to others as well. If I have the

right to freedom of speech, it is my duty to see that I may not be a hindrance in the free exercise of this right by others.

3. **I should exercise My Right to promote Social Good:** A person He guarantees the rights to the majority in the society to remove the should not abuse the right given to him by the State. For example, if he uses the right to freedom of speech for spreading communal bitterness or society cannot deprive man of these rights; these are inherent and to preach violence and anarchy, it becomes an act counter to the social alienable rights, good. The state will then be justified in depriving the person of his right if he has abused it.
4. **Since the State guarantees and maintains My Rights. I have the Duty to support the State:** The state is the agency for social good and it is the duty of an individual to perform ones duties honestly.

The above-mentioned relations between rights and duties, there for clearly prove that rights and duties go hand in hand. A healthy civic life is impossible without the coexistence of rights and duties. Rights without duties have no meaning and duties without rights have no sense.

Gandhiji's View on Rights and Duties:

Gandhi firmly believed that Rights and duties were dependent on each other. No one could have an absolute right as no one could be bound by an absolute duty. There is no such thing as the divine right of Kings to rule and the humble duty of ryot to pay respectful obedience to their masters.

Gandhiji States: "A duty well performed creates a corresponding right "

He illustrated complementary between Rights and Duties"

- Rights that do not flow directly from duty well performed are not worth having. They will be illegal, sooner discarded better.
- He proceeds to apply this principle of Mutual obligation and reciprocal rights to the relations between employers and labourers, landlords and tenants, the princes and their subjects as well as between the Hindus and the Muslims living in India. If people could be made to understand this principle and follow it in their behavior, the happiest relations would be established in all walks of life without disturbing life and business in India as well as other parts of the world.

Nehru's View:

In 1948, Nehru pointed: There has been far too much emphasis on rights and far too little or no obligations; if obligations were undertaken, rights would naturally flow from them.

Position of Duties in Constitution of India:

The growing realization of the importance of duties led to the introduction of Fundamental Duties (Article 51A) in the Constitution of India by 42nd Amendment (1976). This was supplemented by 86th Amendment of Constitution (2002). Accordingly, it shall be the duty of every citizen of India:

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.
- (k) who is a parent or guardian to provide opportunities for education to his child or ward, as the case may be, between the age of six and fourteen.

Difference between Fundamental Rights & Fundamental Duties

FUNDAMENTAL RIGHTS		FUNDAMENTAL DUTIES
1	They are rights and freedoms guaranteed by constitutions of some countries of the world to their citizens. These rights have a legal sanction and are enforceable in a court of law.	They are the basic duty or responsibility bestowed on you as a citizen of the country.
2	A fundamental right exists by virtue of the fact that you are a human being whereas a. Hence the primary difference between fundamental right and fundamental duty is that fundamental right is based on privilege granted to you.	Fundamental duty too exists as a responsibility on you as a human being. Fundamental duty is based on accountability.
3	Any citizen for that matter can make full use of his fundamental rights pertaining to right to life, freedom of speech and writing, etc. Freedom of speech is a fundamental right granted to a citizen by some of the democratic countries across the globe. Hence it is up to the individual to make use of the fundamental right granted to him.	Any citizen for that matter is expected to carry out fundamental duties fully well so that the society as a whole will be benefited. Fundamental duties of every citizen include basic education, nurturing of children, social responsibility, official responsibility, and payment of taxes, adherence to traffic rules and regulations and the like.
4	Abuse of fundamental right also leads a citizen to unwanted problems. These are the differences between fundamental right and fundamental duty.	Evasion of fundamental duties leads a citizen to problems.

Duties & Responsibility

Duties and Responsibilities are two words that are often considered alike when it comes to their meaning and connotations. They show some differences between them when it comes to their usage and meaning.

Duties are the actions that have to be completed by someone in the stipulated period of time. On the other hand responsibilities are the burdens that are shouldered by someone. This is the main difference between duties and responsibilities.

There can be no burden in the case of the performance of duties whereas responsibilities are everything about burden. The duty of a father towards a son or a daughter is not due to burden.

It is discharged with affection and love as part of an action that has to be completed in the stipulated period of time. For example the duty of a father towards a son is that he

should educate the son in a stipulated period of time. It is discharged by the father with great care and affection.

On the other hand the responsibilities of an officer in a financial institution like a commercial bank are a kind of burden. He shoulders the official responsibilities and considers them a burden. There is no element of love and affection in a responsibility. On the other hand there is an element of love and affection in a duty.

Duty in a job is discharged with a sense of love towards the job. A teacher for example discharges the job of teaching simply because of his love for teaching. There is a sense of affection in the performance of his duty. On the other hand he does not consider the job of teaching as a burden.

The same teacher considers that the act of educating the students as his responsibility. He considers the act of educating the students as a burden placed on his shoulders. He shoulders the responsibility of educating his students. In short it is to be understood that a burden should also be dealt with care and precision.

Rights & Duties in Ethical Terms

1. Ethics determines the difference between right and wrong. Laws are rules that must be obeyed, both voluntarily and involuntarily, whereas ethics are voluntary. Behaving ethically is more than obeying the law — it is expecting your rights to be upheld and upholding the rights of others through ethical duties.
2. Right is an expectation about something you deserve or a way to act that is justified through a legal or moral foundation. Humans have all types of rights, including legal, moral, spiritual, natural and fundamental rights. Examples of rights include the right to education provided by society or the right to bear arms. Ethical behavior must recognize and respect a series of rights that belong to each person, animal or society.
3. Duties are a direct result of the acceptance of rights. Each person has a duty to uphold or respect another person's rights, just as he has the duty to uphold your rights, once a person accepts a right, or is told as in legal rights, he must uphold that right for himself and others. For instance, you have the right to free speech, but so does everyone around you. Even if someone is saying something you do not agree with, you have a duty to respect his right to say it. You have a duty to respect, and sometimes defend, the rights of others.
4. Sometimes there are unintended consequences when a duty to uphold someone else's rights conflicts with your own rights. Ethical conflicts must be viewed by

looking at the end results of any action and how they affect the freedom or rights of others. One instance of conflicting rights is the admission into private clubs. Although we have the freedom of association, our laws prevent discrimination. Either the club's rights are violated or individual rights are violated by not being allowed to join. Social or personal costs must be identified and weighed; rights cannot be the only consideration when making ethical choices.

5. Corporate responsibility

Corporations have the right to seek a profit. It is the duty of the employees to do whatever they were hired to do to promote profitability. The corporation cannot violate the rights of its employees or society just to seek a profit. For instance, the company cannot pay employees less than minimum wage or make them work dangerous hours to increase profits. Companies cannot resort to immoral behaviors such as bribery, substandard quality or false advertising, which may violate the rights of other companies, company stakeholders, individuals or society.

HUMAN RIGHTS

What are human

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. "We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law , general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

Universal and inalienable

Principle of universality of human rights is the cornerstone of international human rights law. This principle, as first emphasized in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems. Some fundamental human rights norms enjoy universal protection by customary international law across all boundaries and civilizations.

Human rights are inalienable. They should not be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law.

Interdependent and indivisible

All human rights are indivisible, whether they are civil and political rights, such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights, such as the rights to work, social security and education, or collective rights, such as the rights to development and self-determination, are indivisible, interrelated and interdependent. The improvement of one right facilitates advancement of the others. Likewise, the deprivation of one right adversely affects the others.

Equal and non-discriminatory: The principle is present in all the major human rights treaties and provides the central theme of some of international human rights conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.

The principle applies to everyone in relation to all human rights and freedoms and it prohibits discrimination on the basis of a list of non-exhaustive categories such as sex, race, color and so on. The principle of non-discrimination is complemented by the principle of equality, as stated in Article 1 of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights."

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires.

States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others.

First generation rights (civil and political rights):

Began to emerge as a theory during the seventeenth and eighteenth centuries and were based mostly on political concerns.

The two central ideas were those of personal liberty, and of protecting the individual against violations by the state. Civil rights provide minimal guarantees of physical and moral integrity and allow individuals their own sphere of conscience and belief: for example, the rights to equality and liberty, freedom to practice religion or to express one's opinion, and the rights not to be tortured or killed.

§ **Legal rights is also categorized under Civil Rights.** They provide procedural protection for people in dealing with the legal and political system: for example protection against arbitrary arrest and detention, the right to be presumed innocent until found guilty in a court of law and the right to appeal.

\$ Political rights are necessary in order to participate in the life of the community and society: for example, the right to vote, to join political parties, to assemble freely and attend meetings, to express one's opinion and to have access to information.

Second Generation Rights: (social, economic and cultural rights)

These rights concern how people live and work together and the basic necessities of life based on the ideas of equality and guaranteed access to essential social and economic goods, services, and opportunities. They became increasingly a subject of international recognition with the effects of early industrialization and the rise of a working class. These led to new demands and new ideas about the meaning of a life of dignity. People realized that human dignity required more than the minimal lack of interference proposed by the civil and political rights.

- ❖ Social rights are those that are necessary for full participation in the life of society. They include, at least, the right to education and the right to found and maintain a family but also many of the rights often regarded as 'civil' rights: for example, the rights to recreation, healthcare and privacy and freedom from discrimination.
- ❖ Economic rights are normally thought to include the right to work, to an adequate standard of living, to housing and the right to a pension if you are old or disabled. The economic right reflect the fact that a certain minimal level of material security is necessary for human dignity, and also the fact that, for example, a lack of meaningful employment or housing can be psychologically demeaning.
- ❖ Cultural Rights refer to a community cultural "way of life " and are often given less attention than many of the other types of rights. They include the right freely to participate in the cultural life of the community and, possibly, also the right to education. However, many other rights, not officially classed as 'cultural' will be essential for minority communities within a society to preserve their distinctive culture: for example, the right to non-discrimination and equal protection of the laws.

Third generation rights (collective rights):

In Short:

First Generation (Civil and Political Rights): Date back to 18th Century Designed to protect the individual against state interference

- (a) Right to vote
- (b) Right to assemble
- (c) Right to free speech
- (d) Right to a fair trial

- (e) Right to freedom from torture, abuse
- (f) Right to protection of the law

Second Generation (Economic, Social and Cultural Rights): 19th Century response to widespread poverty in wake of industrial revolution Prohibit government from denying access, entitle individuals to get protection from state if third parties interfere with rights, oblige states to take measures to improve overall social situation

- ❖ Right to education
- ❖ Right to housing
- ❖ Right to health
- ❖ Right to employment
- ❖ Right to an adequate income
- ❖ Right to social security

-Third Generation (Collective Rights): First articulated in second half of the 20th Century. With exception of African Charter on Human and People's rights, have not been incorporated into human rights treaties yet

- ✚ Right to economic development
- ✚ Right to prosperity
- ✚ Right to benefit from economic growth
- ✚ Right to social harmony
- ✚ Right to a healthy environment, clean air and water, etc.

Forms of Government: Monarchy; Theocracy and Democracy

Democracy

Democracy is a theory of society, and not a theory of government. A democratic government is a produce of democratic society, and not vice versa. We may, therefore, define Democracy as the organization of society for Liberty and equality through the spirit of Fellowship or Fraternity. Where people do not want liberty or equality and do not believe in human brotherhood, there can be no democracy. If somehow a democratic government comes to be established among such a people, it would be a sham and not the genuine stuff.

A further observation may be made. As a form of society Democracy describes as ideal; it does not denote or stand for any existing society. Like the ideal state of Plato ruled by the philosopher-kings its model is built in the heavens. This should cause no surprise. Democracy cannot but be an ideal, because the values it seeks to realize—Liberty, Equality and Brotherhood or Fellowship—are themselves ideal in nature. But though an ideal—we may say, an ever growing idea —Democracy is being constantly approximated.

It was realized to some extent in ancient Athens and medieval Florence; at the present time it has been given effect to partially in England, the United States, Switzerland, and a few other countries. Being an ideal it is not static in nature, but is a constantly moving dynamic force which impels us towards a social organization in which every individual member, man as well as woman, shall have equal opportunity to develop what is finest in him or her through fellowship and cooperation with" others in the promotion of a common life. In it every member would look upon every other member, irrespective of his or her colour, creed and race, and also irrespective of his or her birth, social status and wealth, as a partner in a joint and cooperative effort towards promoting a good in which the good of all is included.

It was said above that the social and political organizations of England, the United States, and a few other countries can be properly regarded as approximating to the democratic ideal. It would help us to understand the nature of democracy better if we could know the reasons why they are so regarded. One of them is the presence of opportunities afforded to every citizen of being active in public affairs. This does not mean that every citizen of these states is actually taking a continuous and active interest in them; this does not happen anywhere.

What democracy demand is that every-one ought to be given an opportunity for this type; and that a goodly number of persons would be actively interested in" matters which concern all, and contribute to the common life. The contribution of all cannot be equal; individuals differ greatly in their mental, moral and physical qualities. The fact the each one contributes something towards it makes all of them equal as sources of the common life.

The second thing which makes them democratic is the presence of freedom of speech, freedom of organization, freedom of press, freedom of criticizing the government, etc. It means people should get these and other freedoms which contribute towards the development of the personality of an individual. It is true that these freedoms are not absolute; they are subject to certain limitations. But the limits are very wide, as wide as conditions permit. Democracy cannot exist and flourish where life is regimented and the mind is indoctrinated.

Finally, we "may refer to another common feature these countries exhibit which constitutes a vital element of the democratic way of life and of a democratic society. This is the toleration of differences and criticism. One may say that democracy not only tolerates but implies and demands difference and criticism. It implies difference in so far as it leaves each individual free to live his own life. The equality it postulates is not equality of sameness but of difference. It demands criticism in so far as it is through it that the one-sidedness of particular views is eliminated and the principles of common action discovered. It is not an accident that the existence of an organized opposition in parliament is considered to be essential for the parliamentary system of government. Where no opposition is allowed to exist and function, as happens under the one-party system, democracy cannot exist.

The uniqueness of democracy lies in the way in which it deals with differences and criticisms which are bound to exist in every society. It seeks to resolve them through the give and take of free discussion instead of smothering them by steam-roller methods. It demands that individual views shall submit themselves to the criticism of open discussion where their narrowness and one-sidedness may be eliminated. The consequence of the process of criticism and amendment to which the particular wills of individual are subjected in discussion is the emergence of a point of view which does justice to what is vital in them and which each individual recognizes as embodying the truth of what he stood for. This is, of course, an ideal never completely realized.

It is, however, always realized to some extent where there is frank and full discussion. Its best illustration is found in the way in which cabinets or executive councils carry on their work. By laying their heads together in the common debate they arrive at the largest measure of common agreement. The decision arrived at is binding upon all in as much as it may be said to represent the general will of the group. This shows that free discussion is more fundamental to democracy than consent which a dictator can very easily "obtain these days. Ernest Barker describes democracy as the way of free debate and discussion among individuals.

The method of free discussion and persuasion assumes the existence of finer elements in human nature; e.g., rational and critical faculty, honesty, regard for public good, goodwill and tolerance. The opposite of this method is the use of force which involves an appeal to the baser elements in man. It, therefore, has a highly beneficial effect on the character of citizens in a democracy.

The value of free discussion in democracy is well brought out in the following extract from the Inaugural Address of Pandit Govind Ballabh Pant:

'Since democracy proceeds by free discussion and debate, the laws framed by the elected representatives of the people carry a moral sanction. Democracy cannot function unless those who have framed the law, as those who may differ, are willing to submit to the supremacy of the law. Law in democracy does not derive its sanction from the force which the State has at its command, but from the moral obligation on all those who may differ to abide by the decision which has been arrived at by free discussion.'

Requisites of Democracy

The degree to which a community is able to develop an organisation adequate to the realization of the democratic values depends upon the extent to which it is able to satisfy a number of requirements.

They have been differently stated by different writers; some laying stress on the mental and moral qualities of the citizens and others on the importance of a suitable socio-economic environment. Socialists deriving their inspiration from Karl Marx attach the greatest importance to the latter; they hold that capitalism must go if the democratic way of life with its emphasis on liberty, equality and fraternity or fellowship is to become a reality among a people. Others, like Gandhiji, maintain that true swaraj comes from within; they are led to emphasize the importance of the mental and moral qualities of the citizens.

While in no way underestimating the importance of the socio-economic environment, we consider the intellectual and moral qualities of the citizens to be of far greater value. We would describe the requisites of democracy under these two heads, and deal with the latter first.

The qualities of head and heart which democracy postulates for its realization are numerous; there is no agreed list of them, and no agreed order in which they are stated. We shall make our own list and state them in the order that appeals as most sensible to us.

Intellectual & Moral Qualities—

1. At the top we would place the ardent desire of the people for Liberty and Equality. Democracy is not meant for people who are more for the comforts and pleasures of life than for freedom and equality.' It is interesting to observe that democracy tumbled down as a form of government and was replaced by totalitarian rule in those countries where there was no long tradition of local self-government. The people had no deep attachment for freedom and, therefore, readily acquiesced in the rule of the dictators. Democracy survived the severe strain put upon it in Britain and the United States because the

peoples there knew the meaning of liberty and equality and considered no sacrifice too great to preserve them.

2. The next place we would assign to public-spiritedness Democracy demands that individuals should have a keen sense of "public responsibility and be ever ready to subordinate their personal and sectional interests to common interests; they should learn to live not primarily for themselves but for the common good which includes their own.

This obviously depends upon the extent to which the community has developed a common life and its members possess the sense of unity or solidarity. A society torn by religious and class differences cannot possess that degree of like-mindedness, harmony and unity which can induce its members to prefer common to sectional interest. Without this sense of unity the minority would not 'willingly submit to the decisions of the majority and the laws would not have any moral sanction behind them.'

3. The citizens must have a high standard of honesty and honour. The roots of democracy lie in the fundamental honesty of 'the people and their love of justice. Where the people do not show a high degree of moral rectitude, democracy becomes corrupt, and a corrupt democracy is the worst of all forms of government with Lord Bryce we maintain that democracy flourishes or declines with the moral and intellectual progress or regress of a people. By intellectual progress we mean, not mere book learning or greater capacity for fine arguments, but the development of an intelligence 'elevated by honour, purified by sympathy, and stimulated by a sense of duty to the community.'
4. In the other place, in addition to the moral qualities, the citizens must also possess a high level of political intelligence. The community as a whole should possess a general common sense, or political maturity or shrewdness as we may call it, to enable the citizens to choose their representatives and leaders wisely (without being fooled by demagogues or vote catching slogans), to understand the broad issues that come up before them, and to discuss them intelligently.

Until a community has a fair degree of political wisdom, it would be incapable of running democratic institutions. A political democracy cannot rise above the level warranted by the general intelligence and education of its voters. One can say that one of the most vital requisites of democracy is that it should make the people intelligent. As pointed out above, intelligence should be purified by sympathy and stimulated by a sense of duty to the community. In its absence democracy would degenerate into the sort of mob-rule depicted by Plato in his Republic which is the worst of all governments.

5. The people should be ready to settle differences by the give and take of free discussion and to seek their ends through negotiation and persuasion. The tendency to resort to direct action in the form of strike, fasting, etc., as short cuts to success is opposed to the spirit of democracy. The spirit of violence is inconsistent with the democratic temper and frame of mind.
6. In the last place, we may say that the spirit of solidarity or the consciousness of community is most essential for democracy. It would be difficult for an individual to give the first place to the thought of common good and subordinate to it considerations of personal benefit, unless the consciousness of community is strongly developed in him. It would be difficult for him to cooperate with his fellow-citizens unless he feels united with them as a member of a community, sharing in a common life and aiming at a common good. Unfortunately, it is not very strongly developed anywhere; the existence of different groups and classes in society pursuing different and sometimes conflicting interests in the chief obstacle in its way.

Socio-economic Conditions

1. Coming to the socio-economic conditions we may say that extremes of wealth and poverty militate against the successful working of democracy. There is a great substance of truth in the assertion that there can be no political equality in the absence of 'economic equality'. A more equitable distribution of national wealth would prevent the rich from lording it over the poor and making the latter an instrument for their gratification. Furthermore, the division of a community into two classes of the very rich and the very poor destroys the sense of unity and harmony which, we have seen, is one of the requisites of democracy.
2. Enlarging this idea, it may be premised that some degree of homogeneity of the population is necessary for democracy. Community of language, of religion, and of race are great helps in developing it, but cannot be regarded as indispensable. Switzerland and the United States of America have been able to develop a high sense of national unity and a great degree of homogeneity without community of language, race and religion. Its chief instrument in the U.S.A. has been education of the people in what has been called the American way of life. A national system of education which would propagate the sense of social righteousness and of social unity is thus a desideratum of democracy. It must not be taken to imply the indoctrination of the people from the cradle. What is meant is the instruction of the nation in the national culture and in the supreme values of life—truth, beauty and goodness. The supremacy of moral laws in the universe should be emphasised.

3. There should be no distinction on caste basis. The sort of caste hierarchy which prevails in India and according to which the castes at the top enjoy privileges denied to those at the bottom is incompatible with the democratic principle of equality. The distinctions of superior and inferior, and high and low, together with the spirit of inequality they generate must disappear.
4. We saw above that the equality which democracy postulates is the equality of difference and not that of sameness. Adequate opportunities should be provided to each citizen to enable him to live his own life and to make his peculiar contribution to the common life. This presupposes a free press. By a free press we mean that national and provincial newspapers should not be controlled either by the government or by vested interests, but should be independent in expressing their views. All types of opinion should find expression there, no opinion, however critical of the existing social order and political authority, should be suppressed or excluded. The British press is said to be free in this sense, even though it is owned by millionaires. We may say the same thing about the press in our own country. No restrictions are imposed upon the publication of views in them; and no criticism is harmed merely because it is hostile to the powers that be.

Besides providing a medium for the expression of different sections of opinion, the press performs another important service. It publishes news and reports on current events on the basis of which the citizens can form their own views about important matters. It should be fair in the publication of news; it should not dish them up or distort them to suit some particular interests. Instead of being an indispensable instrument of democracy, the press would become a great menace to it, if it were to suppress or pervert truth and poison the very source of information. If free press has rendered invaluable services in making democracy possible in the modern states, it can also do incalculable harm through its manipulation and suppression of news; it can be highly dangerous in the sphere of a foreign policy.

5. A In the foregoing discussion we have made no explicit mention of the institutions of popular government like universal franchise, representative legislatures, periodic elections, secret ballot, responsibility of the executive to the people or to their elected representatives in the legislature as the requisites of democracy. The reason is that we have been using the term democracy in a wider significance.

As have been indicated more than once in the preceding pages, we mean by it a form of social organization in which everyone has a chance to develop the finest that is in him, and knows that he has it. Such a society stands sharply contrasted with a fascist or a communist society. The contrast between the two

is the contrast between 'free process of discussion and the dictated uniformity of the single party state', as Ernest Barker so happily puts it.

In other words, we may say that what is fundamental to democracy is free and frank discussion rather than consent. The purpose of discussion is to "achieve a real unity of purpose out of differences. This in turn implies that democracy does not suppress differences but recognizes them and provides facilities for their expression. An official opposition is universally regarded as an indispensable element in the parliamentary system of government.

We may add that the features pointed out above are found to exist as much in a political democracy as in the democracy of a non-political association like a trade union or a village panchayat. They are best illustrated in small societies. The attempt to apply the method of free discussion to the affairs of a large state is attended with some difficulties into which we need not go here.

We now proceed to state the reasons why the democratic form of government is regarded as by far the best of all forms, and examine some of the objections which have been urged against it by its critics from Plato downwards.

The Case for Democracy

That Democracy is a highly desirable form of social organization does not stand in need of any proof. If anyone thinks that liberty and equality are not the ideals worth pursuing, or that they are not what the average man needs. it is useless to argue with him; questions of ultimate values are not susceptible of proof like geometrical propositions. What needs proof and what political philosophers have tried to prove in all climes and ages is the superiority of democracy as a form of government to monarchy, aristocracy and dictatorship, or any other form of government. This is what we propose to do in the following paragraphs.

- The central thesis of democracy (indirect) as a form of government is that every adult citizen who is not disqualified by crime, insolvency, insanity, etc., should have some voice in the choice of those who are to make laws by which he is governed, and that his voice should be equal in weight to that of every other citizen. This thesis is not so plausible as the monarchic thesis that the man of pre-eminent virtue should rule, or the principle of aristocracy that political power should be vested in those who are best fitted for its exercise by special knowledge and experience.

Consent of the People and Theory of Natural Rights

Different arguments have been set forth at different times in support of this principle. Seventeenth century writers argued that man has a natural right to participate in the business of government; they believed in the principle that governments derive their just powers from the consent of the governed and that the purpose of government is to protect the natural rights of the subjects; e.g., the rights to liberty, equality, and pursuit of happiness. This argument was advanced by Colonel Rainboro in 1647. His words may be repeated again. He said: 'Everyman that is to live-under a government ought first by his own consent to put himself under the government. . .The poorest man in England is not at all bound in a strict sense to that government that he hath not had a voice to put himself under.

This type of argument is not in vogue now. Who do not believe in the seventeenth century version of the doctrine of Natural Rights. We also realize the difficulties inherent in the theory of consent better than the Levellers did. It is impossible to secure the consent of each and every person to every law to make it the condition precedent to his obedience is to open the door to anarchy. It is also impossible that every legislator should have the support of every voter in the constituency.

The doctrine of consent reduces us to the absurd proposition that a person has chosen his legislator because he voted against him. This doctrine would deny the right of the government over anyone who dissented from the basic principles of the constitution. For example, it would invalidate the authority of the Government of the Fourth or the Fifth French Republic over the millions of Frenchmen who voted against either constitution. It can be used by the Indian communists and the R.S.S. who do not accept and acknowledge some of the basic principles of our constitution. It can also be pressed into a defense of the dictatorial regimes of Mussolini, Hitler, and Stalin. As we have tried to show in a preceding section, free discussion rather than consent of the governed is fundamental to democracy.

It may be noted that though no one-to-day believes in the doctrine of Natural Rights in the form advanced by the seventeenth century thinkers like Locke, yet it is not altogether valueless. It implies a principle of great significance for democracy. It demands that

- Every person must be respected as a source of claims, and must not be treated as a mere means or instrument to the happiness of others. It also implies that all interests must be weighed impartially. This moral principle is given concrete shape in the "democratic formula" that every one is to count for one and no one for more than one.

Utilitarians Defence of Democracy –

- Utilitarians defended democracy on the ground of the beneficent results which follow from peoples' participation in the work of government.
- They held that democracy is more efficient than either monarchy or aristocracy, because it has no other end than the wellbeing of _the very individuals who constitute society, and also because the wellbeing of every individual, however low placed, counts for as much as that of any other individual however high placed he may.
- It is expected to be more efficient for another reason also in it those who govern are subject to the control of those in whose interests they are chosen to govern, and cannot therefore, afford to neglect their welfare.
- In the words of Garner 'popular-election, popular control, and popular responsibility are more likely to ensure a greater degree of efficiency than any other system of government.' The natural self-interest of the people is the best security oppressive and unjust governmental action.
- According to Mill the superiority of democracy over other forms of government is due two principles of general application to human affairs;
 - i. that the rights and interests of an individual are best protected when he is himself able to stand up for them.
 - ii. that general prosperity will reach a higher level when the energies and interests of all the people are stimulated and enlisted in its support.
 - iii. Wilde puts the same idea in the following words: 'Make men their own masters and they will attend to their political business better than any privileged class of rulers has been able to do it for them.' This is why democracy is much more sensitive to the sufferings of the citizens than any other form of government.

The utilitarian defence does not appear to be very sound for two reasons. It is alleged that in actual practice democracy has not turned out to be so efficient and beneficial as the above mentioned argument makes it out to be; its critics condemn it as the cult of incompetence. We shall examine this issue in our next section. In the second place, if efficiency alone were the test of the goodness of a government, a benevolent despotism like that of Asoka or Akbar, and an oligarchy of the wise and the good such as Rome had in her early days, and even a dictatorship like that of Mussolini or Hitler, might turn out to be superior to democracy.

- But efficiency is not the only or the best test of government. The goodness of a government is not to be measured merely by the extent to which it is able to maintain order, promote economic prosperity, or even to dispense justice; it is rather to be judged by the type or character it tends to build up in the people. As Lowell says that best government is that which in the long run ‘nurtures a people strong in moral fibre, in integrity, industry, self-reliance, and courage.’ The superior merit of democracy lies in the fact that it tends to elevate the character of the people and develop their faculties, and calls into activity their intellectual capacities.
- As Mill points out, ‘it promotes a better and higher form of national character than any other form of political whatever’.
- Similarly, Lord Bryce also maintains that political enfranchisement raises a man’s dignity, and by generating in him sense of responsibility lifts him to a higher level.
- Nothing stirs an individual so much as the consciousness that his voice can be heard at the seat of authority. We can easily appreciate the value of democracy in inspiring the individual with a sense of self-respect and personal significance. It invests him with a new dignity in his own eyes. Participation in public affairs to howsoever small an extent, and a share in the exercise of popular sovereignty however minute, tend to develop qualities of mind and heart infinitely valuable to the individual as well as to the community.
- If it is the aim of social organization to enable the citizens to attain fullness of life, democracy must be pronounced to be the ideally best polity because in no other form can man develop his intellectual and spiritual qualities so fully and reach the highest stage of self-realization. This is why it has been said that good government is no substitute for self-government. In the words of Mill ‘nothing less can be ultimately desirable than the admission of all to a share in the sovereign power of the state.’
- It promotes patriotism and. It by making the citizens feel that they are a part and parcel of the government that its welfare is their welfare and its misfortunes are their misfortunes. This merit of democracy is beautifully brought out in the observation of Level eye that the French people began to love France only after the French Revolution when they got a share in the government of the country. So long as they were excluded from a share in power, they remained indifferent to its affairs, if not positively malcontent.

- It reduces to a minimum the dangers of violent revolutions There are several ways in which democracy reduces the dangers of revolutionary disturbances to the minimum (it cannot eradicate them completely). It places in the hands of the people ample opportunities of getting their grievances redressed. If a government does not listen to them and the grievances of the people continue, they can refuse to renew their confidence in it at the time of the general election and vote into power another set of people who promise to be more responsive to their needs.
- In the second place, it reduces to the minimum the evils arising out of the presence of inequality and privilege in society. If the people are able to satisfy the conditions of the successful working of democracy to some extent merit cannot remain unrecognized and unrewarded for long. In this way, by removing the causes of revolution—inequality, presence of privilege, unrecognized merit—democracy stands less exposed to the risks of violent overthrow than monarchy, aristocracy, etc.
- Another great merit of democracy lies in its ability to reconcile the authority of the State with the liberty of the individual. In a monarchy and in an aristocracy the laws represent the will of the ruling authority and can be arbitrary, tyrannical and oppressive, enforced obedience to them is apt to be regarded as destructive of individual liberty.

In democracy, however, laws are made by the chosen representatives of the people; their aim is to preserve and enlarge the freedoms of the individual by protecting him from the arbitrary constraints of others. Even the government cannot deprive an individual of the freedoms granted to him by the law. By associating the people with the process of law-making in one form or another and making the government sensitive to the wishes of the people democracy is able to reconcile the authority of the state and liberty of the individual. There is no doubt that the citizens feel free and enjoy greater chances of planning their lives as they think best in a democracy than under any other system of government.

- Mention may also be made of the fact that, while in a monarchy, aristocracy, dictatorship, etc., there is no remedy against the abuse of political power by those who wielded it to serve their own selfish and narrow interests, democracy possesses a valuable instrument which keeps the government on the proper path and reduces the chances of authority being perverted to wrong ends. This is the power of public opinion. When a government begins to pursue a wrong policy, public opinion asserts itself and compels it to abandon it or to modify it along lines acceptable to the people. If it does not listen to it and does not correct itself, it runs the great risk of being replaced by another government.

Though impalpable, public opinion is a power which ministers and legislators are obliged to take account of; they have to shape their acts in accordance with it. It is not necessary to cite examples where the pressure of public opinion compelled governments to renounce or to change their policies and programmers. They are a matter of common knowledge. It may also be added by the way that susceptibility to public opinion makes it relatively immune from revolutions.

The Attack on Democracy

A Like everything else in the world, democracy also has its strong as well as weak points. A number of thinkers repudiate the basic principle of democracy, namely the equality of man, and consider it ethically unjustifiable. Another group considers it to be practically inefficient; some of them go to the extreme and condemn it as the cult of incompetence. They are others who pronounce it impossible.

During recent times a new line of indictment has developed; democracy is said to be unscientific in as much as it is not consistent with the truths discovered by psychology and biology. The faults found in its actual working by Lord Bryce may be placed in a separate group by themselves.

1. Repudiation of the Doctrine of Human Equality

We saw in the course of our discussion of the doctrine of Equality of Men that there are thinkers who reject it as 'fiction', as an 'indefensible proposition'. They say that if we abstract from human nature all the particular qualities and talents physical, intellectual, and moral-which vary from individual to individual, nothing is left except an undifferentiated ' potentiality. A man's personality consists of his dispositions, character, intelligence, etc.; if we leave them out of account, nothing remains which can be said to possess dignity and moral worth.

- This lands us into one of the most difficult of philosophical problems-the problem of the nature of human self or ego. Without entering into the intricacies of the subject we may dogmatically state our position. We hold that just as what we call a mango is not a mere combination of certain qualities of taste, colour, small, juiciness, etc., but is some undefinable substance which possesses those qualities; similarly a man is not a mere bundle of states of consciousness-desires, "impulses, tendencies to action, ideas, ideals, etc., - but a spiritual principle which is the bearer or subject of those states. It is in virtue of this spiritual principle that every man possesses a unique dignity and moral worth.

- This analysis of human self is not likely to be acceptable to the opponents of the principle of human equality who maintain that there is absolutely no justification for treating all men as equals for political purposes.
- They say that it is as absurd to hold, that everyone should have equal power-in politics as to maintain that everyone should have equal capacity in law or medicine.
- The anti-democrat holds that political power should be allotted on the basis of social status, success in profession, intellectual attainments, etc., which are reliable indications of differences in political intelligence. The German philosopher, Friedrich Nietzsche, was one of the vehement critics of the doctrine of equality of man; he preached the theory of rule by the Superman.
- The Fascists have been the most vehement critics of the doctrine in recent times. Mussolini condemns the concept of equality as 'enfeebling'. And-applauds the idea of inequality as 'fruitful and beneficent'. He says that the mass of men always remain subject to domination by a few individuals, and experience a profound need to prostrate themselves before the few great men who incorporate in themselves the idea and ideals they cherish. In place of equality they substitute the idea of hierarchy.

We concede that the doctrine of human, equality is incapable of scientific proof. It is essentially spiritual in character; it cannot be proved as we prove a physical or a biological law. Lindsay calls it an 'utterance of religion.' Those who view all men as children of God, as sparks of the Divine Fire, as sharers in Universal Reason, as constituting a brotherhood, a Kingdom of Ends, cannot but regard them as worthy of equal consideration so far as opportunities of self-development are concerned. From this point of view every individual should be truanted as an end in himself and never as a means: the life of the 'poorest he' is as valuable as the life of the 'richest he'. We subscribe to the view that all men are equal as men, and should have equal opportunities of participating in and contributing to public affairs.

- The anti-democrat holds that the application of the principle of human equality in political life leads to practices which cannot ethically justified. It issues in the formula; one man, one vote'. This is to put the wise man and the fool the thrifty and the spend thrift, and the rich and the poor on the same footing on the election day.
- No more weight is attached to the vote of a Gandhi or a Jawahar Lal than to that of an illiterate pauper. This is most unfair. The anti-democrat contends that it is no use merely counting votes; we should Weigh them; we should attach greater value to the vote of the wise and the learned than to that of the illiterate and the pauper.

- The principle of throwing the legislature open to practically every voter is indefensible. The work of legislation is not easy; in the present complex social conditions it has grown difficult and calls for much specialized knowledge and experience.

It seems strange, indeed, that while before entrusting ourselves to the care of a medical practitioner we assure ourselves that he has received proper training in the art of healing, and - before engaging ad man to drive our car we demand that he should produce a certificate of efficiency, in choosing our legislators and administrators we do nothing of the kind and consider every man fit enough for the job.

In short, the democratic principle of allowing every adult citizen a share in the exercise of sovereign power deviates from the very sound principle of instruments to those who can use them', and is, therefore, contrary to the demands of justice and fair play. Adherence to the doctrine of equality leads the democrat to ignore quality and take into consideration mere numbers.

However , it can be argued that democracy is based on hypothesis that all men are equal in order to find out who are the best and entrust power to them, the above mentioned charge would be found unsubstantial. Democracy, while it counts everyone for one and no one for more than one, never countenances the proposition, that the illiterate poor should have the same degree of influence on state affairs as the wise, intelligent and experienced leaders. Democracy is not debarred from recognizing the role of leadership in human life. It wants the leader lead, to use his position and authority as the leader to secure the support of those who have confidence in him for his policies and views and see them through. If he does not lead, but follows opinion and prefers to play for easy popularity, democracy degenerates into mob-rule.

It may also be pointed out that so far no method has been devised to weigh votes; the system of weighing votes, if introduced, would enormously exaggerate any relevant differences that might exist between voters and place great arbitrary power in the hands of those entrusted with the task.

2. Democracy as the Cult of Incompetence

- The anti-democrats contend that democracy, from its very nature, is unable to provide an ' administration at once strong, efficient and stable.
- Their contention is that, being rule by the average man who is generally unintelligent and more controlled in his opinions and conduct by

emotion than by reason, democracy must inevitably be incompetent and inefficient.

- Maine characterized democracy as government by the ignorant and the unintelligent, and, therefore, unfavorable to intellectual progress and advancement of scientific truth.
- In ancient times Plato considered it to be the worst form of government; and even Aristotle treated it as a perverted or diseased form of polity.
- Even supporters of democracy like Professor Barker and Professor Giddings detect in it some tendencies towards incompetence. According to the former it tends to degenerate into the rule of a few manipulators who can collect votes in their favour with the "greatest ease. Giddings sees in it the rule of 'unbridled emotionalism' and the 'absolutism of the multitude'. Weyl, an American writer, describes it as corrupt plutocracy. It is unnecessary to quote more views. It would be more instructive to know the factors which tend to reduce democracy into rule by the ignorant and incompetent men, and lend support to the indictment that it is the cult of incompetence.
- One of the factors which tends to make democracy a cult of incompetence is the fact that the average man in whose hands it places final power has limited knowledge and is ordinarily indifferent to what does not immediately affect his interests.
- The view of Lecky that it is government by ignorant and incapable persons is thus not wholly wrong. It cannot be denied that the great mass of citizens are not sufficiently intelligent and sufficiently interested in public affairs to contribute to the formation of enlightened public opinion in regard to social, and political matters which are becoming increasingly more difficult and intricate. What is worse, the source of their information regarding public events and problems is rather tainted. It is almost impossible for the press to be absolutely impartial and honest in presenting news and reporting about events; it is led to suppress the truth and suggest the falsehood with a view to the promotion of interests dear to those who own and control it.
- The second factor which makes democracy a cult of incompetence is the fact that in the formation of his opinions the average man is influenced more by emotion and passion than by reason. He is liable to be carried off his feet by orations, by sensational headlines in the papers, and by vote-catching slogans. Cheap journalism has greatly intensified the evil

at the present time. The way in which appeals to religious sentiments swayed public opinion in our country and led to communal riots and ultimately to its partition illustrates this great weakness of the Average man.

- The opponent of democracy argues that by restricting the choice of persons who are to be included in the ministry to the majority party, the system deprives the nation of the services of able and competent men who may be found in the opposition groups. It is wrong to offer the post of foreign minister to a less competent man merely on the ground that he belongs to the majority party, and thereby exclude the person who may possess a fuller knowledge of foreign affairs simply because he belongs to the minority group.
- The system makes parliament a battlefield and its deliberation a perpetual struggle between the In's and the Outs in which the interests of the people are forgotten. It is further alleged that party system encourages hollowness and insincerity, demoralizes politic and makes them sordid, crushes the individuality of the members and reduces them to the position of camp followers.
- The way in which elections are fought and won lends support to the first part of the charge. In order to win over votes all sorts of tactic are employed, some of them having a dubious moral value.

That the allegations of the anti-democrats outlined above have an element of truth cannot be denied. It is difficult to prove that the masses of men possess the high degree of intellectual and moral vigour which democracy postulates; they are sometimes unable to distinguish between true leaders and the demagogues, and fall easy victims to the tricks and deceptions employed by the latter.

We may, however, point out that the actual position is not so 'bad as the opponents of democracy depict; they seem to be guilty of a good deal of exaggeration. Had democracy been the cult of incompetence its critics allege it to be, it would not have spread over almost the whole of the globe. There is hardly any civilized 'state which has not adopted a more or less democratic constitution.

We, in our own country, are witnessing serious evils like corruption, nepotism, bribery, undue interference of the people and their elected representative' in the technical details of government, a good deal of trafficking between the voters, the legislators and the ministers, and also a good deal of casteism and communalism. But this need not dishearten us; defects like these are accidental to the period of transition or youth of democracy, and would be overcome in course of time.

3. The Impossibility of Democracy

- We now come to the charge that democracy is impossible, that it is nowhere actually in operation. It asserts that what we call democracy is not democracy at all, if the term is understood to mean government in which the people rule; it is really an oligarchy. Pareto, the Italian philosopher, maintained that in almost every government the controlling and guiding power falls into the hands of a small governing class 'which keeps itself in power partly by force and partly by consent of the much more numerous class of the governed.'
- What happens in the so called democracies is that the people are befooled. They are made to believe that the government is controlled by their will the; whereas the truth is that behind the facade there always stands group of persons who play the decisive role in arriving at decisions.
- The authority of the people is nominal in a democracy; real power is wielded by a microscopic minority.

The truth of the law of the 'historic necessity of oligarchy' in the sense that everywhere power falls into the hands of a very small number of men may be granted. But it is not clear how it makes democracy unreal and impossible. Representative democracy does not require that the people should themselves arrive at decisions on all matters of public concern; it does not even imply that all decisions should have the approval and consent of the people. It is enough that those who actually govern should realise that they owe their position of authority and power to the trust and confidence reposed in them by the people and that they are accountable to them.

Far from rejecting the concept of rule by the best, democracy insists upon the necessity of wise leadership. We have already referred to the observation of Professor Ritche that democracy proceeds upon the assumption that all men are equal in order to discover the best and entrust power to them. In this connection we may repeat Mazzini's description of democracy as 'the progress of all, through all, under the leadership of the best and wisest.' We may say that it is one of the great merits of democracy that it combines the principle of popular sovereignty with the rule of the best. It confers sovereignty upon the people but entrusts its exercise to a select minority whom the people trust.

In the second place, democracy has been declared impossible because it demands qualities of heart and mind on the part of the ordinary men and women which, it is alleged, they do not and cannot be excepted to possess. To say nothing of the specialized knowledge and skill which the highly technical character of modern government requires, the average elector is not sufficiently informed on matters of public concern and is indifferent to them. He is tradition loving and custom-

respecting, and is intolerant of difference and ‘criticism’. So the anti-democrat argues. Furthermore, it is held in certain quarters that people in general do not want either liberty or equality, and have no sentiment of fellowship and are not so honest and public spirited as the democrat assumes. They want to shirk the responsibility that democracy puts on them. The majority of Italians and Germans wanted security in the twenties, and not freedom; they welcomed the rule of the dictators. The same may be said of the people of Pakistan, of Egypt and of Indonesia who supported the establishment of more or less veiled dictatorship in their midst.

If this allegation were true, there would remain nothing for the democrat to establish and defend. But fortunately modern democracy does not demand an expert and specialized knowledge on the part of the electors; nowhere are they expected or required to express opinions on technical matters or highly complex issues. What is required of them is that they would choose their leaders wisely and respect their authority whenever the latter are asked to undertake responsibility for running the government.

Experience in England, Switzerland, the United States, Canada, Australia, India, and in the Scandinavian countries has demonstrated that the people do possess, the required capacity. If the people were not inspired by the desire for liberty and equality, there could have been no movements against despotic and tyrannical rule, no revolutions like those in the U.S.A., France and Russia.

We may safely assume that the urge for freedom is deep-seated in human natures, and that men prefer to have equality among themselves. Of course, the desire for liberty and equality is not equally strong everywhere and among all men and women. This is why democracy cannot be equally successful under all circumstances and among all types of communities. It would prosper only under favourable conditions and even then within limits.

There is another fact which greatly weakens the force of the allegation that the masses do not possess the qualities of head and heart which democracy postulates for its success. It is that democracy itself tends to foster some of these qualities. It is the best training school in good citizenship. Of course, before democratic institutions are introduced at the national level, the people must first be given training in it at the village and city level. It is in the management of local affairs that a person most easily learns the art of cooperation with others in the pursuit of the common good and the lesson of subordinating his private interests to the good of the community. Neither monarchy nor oligarchy possesses this great merit.

- Marxists or communists hold that democracy is impossible in a capitalist society with its distinction of classes and wide disparities in the distribution of national wealth. Democracy is impossible without equality, and equality cannot exist in a capitalist society. According to the communist, what capitalist

democracy can give us is merely the external forms of democracy but not its essence or real spirit.

While admitting that the presence of one class of very rich persons and of another class of very poor persons in a society is inimical to the progress of democracy and that a more equitable distribution of national wealth would be very helpful to it, we do not believe" that democracy cannot exist in a capitalist society . The successful working of democracy in England, the United States, Canada, Australia, etc., proves the untenable character of the communists' thesis. The anticomunists, on the other hand; maintain that there is no democracy in Soviet Russia, Red China and other countries where the Soviet system prevails.

The difficulty arises because the term democracy is used in different senses by the western liberals and by the communists. It is also due to the peculiar conception of the State which the communists have. If the State is nothing but the instrument by which the dominant economic group exploits weaker one, it necessarily follows that it can never be democratic so long as capitalism lasts. We have elsewhere examined and rejected this conception. Moreover, it may be mentioned that at the present time private capitalism has been brought under the control of the State to such an extent that it cannot thwart the progress of the workers towards greater equality and a greater share in the exercise of popular sovereignty.

4. Critics allege that democracy is unfavourable for the growth of culture; that literature, art and science do not flourish under it. The reason they advance is that it allows the ignorant and unprogressive elements in society control over public affairs. Maine held that all progress in industry, science and education comes from the upper classes and not from the poor. In a democracy public opinion is likely to be unappreciative of steps towards better civilization and higher culture. It is also argued that equality on which democracy lays great stress tends to depress individuality and is inimical to genius. According to Lecky there is no connection between democracy and liberty; where ignorance rules liberty is curtailed.

This is an a priori' argument; it is a statement of the conclusions which are apt to follow from democracy according to the point of view of the critic, and not an induction from experience. History shows that art; literature and science have flourished under all kinds of governments. Among the ancient Greeks great philosophers and lyric poets flourished in oligarchic as well as democratic cities. If many illustrious Roman writers prospered under the rule of Ceasar Augustus when republican institutions were disappearing, democratic England and United States can boast of having produced many eminent men in the field of science and literature.

The truth is that the conditions under which genius best ripens and bears fruit are not much affected by forms of government; the causes which raise the spirit of man

and make it flower lie much deeper. It is an exceedingly difficult matter to analyse and discover them.

5. Democracy is frequently criticized for being wasteful and extravagant; its governmental machinery is slow-moving and involves much waste of time and money. What can be easily done under personal government sometimes takes months and years when sought to be accomplished through the democratic method of committees and conferences. The cost of contesting elections is very high, and the successful candidates oftentimes seek to recoup by unfair means what they spend. Lord Bryce has laid stress on the wasteful and extravagant character of democracy.

Bryce on Democracy

We would conclude our review of the merits and demerits of democracy as a form of government with a brief reference to the views of Lord James Bryce who stands as one of its greatest champions and sympathetic critics. After surveying the working of democracy in six leading countries, namely, France, Switzerland, Canada, United States, Australia and New Zealand, he came to the conclusion that nowhere did justice or order or the efficiency of civil administration suffer in the process of democratization, and in most of them the ends for which governments are established had been satisfactorily realized. He also held that his conclusion was substantially true of European democracies in general. He further says that individual liberty has a better chance in democracy than in oligarchy, and the sense of civil duty and human sympathy is more likely to flourish under it than under any other form of government.

Bryce also compared the merits and demerits of monarchy and aristocracy with those of democracy, and concluded that, on the whole, democracy was superior to the other two. The merits claimed for monarchy can be realized only in rare cases when a ruler with the gifts and outlook of a Yudhishtira, an Ashoka, an Akbar, an Augustus or a Marcus Aurelius is on the throne. But history tells us that the number of kings who honestly worked for the good of their subjects has been exceedingly small; most of them have been weak, heedless and dissolute.

Aristocracy or oligarchy has certain undeniable merits as compared to democracy; it can give a stable government, maintain a consistent foreign policy (though with little regard to moral principles), and provide efficient administration. It realizes better the importance of skill in administration and economy in finance. Inspite of these merits of aristocracy or oligarchy Bryce opines that few who have lived under a democracy would care to exchange its rule for that of the former. Few students of history honour the Roman senators or Bismark or Napoleon as they honour men like Washington, Lincoln, Cavour, and Cobden. Democracy is superior to oligarchy because there is

less insolence of power in it and individual liberty has a better chance; the sense of human sympathy is more likely to flourish in it.

Bryce was not blind to the faults of democracy; he was very active in pointing them out. He enumerates six outstanding evils from which modern democracies suffer. They are:

- 1) The influence of money in perverting legislation and politics;
- 2) the tendency to make politics into a profession;
- 3) extravagance in administration;
- 4) the abuse of the doctrine of equality and failure to appreciate the value of administrative skill
- 5) the undue power of party organizations
- 6) The tendency of legislators and political officials to play for votes in the passing of laws and in tolerating breaches of order.

The first three are not peculiar to democracy; they are found in all forms of government and should not, therefore, be ascribed to the nature of democracy. The other three are not inseparable from democracy, and can be overcome.

Bryce sees two great dangers in democracy. One of them is the self-interest of those who get control over government and abuse it to advance their selfish ends. The other is the irresponsible power wielded by those who supply the people with the materials they need for judging men and measures. As we have already seen, the press is in a position to disseminate half-truths and even untruths and distort-facts. These evils are so obvious that it is hardly necessary to cite examples.

Bryce draws attention to another important fact; namely, the failure of democracy to attain the things which were and are expected from it. It has failed to promote the sense of brotherhood among the people of the world. The spirit of nationalism with which it has been allied has been a great obstacle in the development of friendly feelings between the different nations. It has not been able to foster the 'spirit of fellowship or community even within the states. Liberty and equality have not been followed by fraternity. It has also failed to purify politics or escape the pernicious influence which money can exert upon legislators and officials.

An Estimate of Democracy

It will not be too much to say that democracy has not been able to give that much of satisfaction and contentment to the people who can be reasonably expected from the best form of government; it has not elevated the character of the people and nurtured among them a strong moral fiber. To this extent it may be said to have failed. It must, however, be stressed by what it has been able to achieve in other directions. As Bryce says:

If we look back from the world of to-day to the world of the sixteenth century, comfort can be found in seeing how many sources of misery have been reduced under the rule of the people and the recognition of the equal rights of all. If it has not brought all the blessings that were expected, it has in some countries destroyed, in others materially diminished, many of the cruelties and errors, injustices and oppressions that had darkened the souls of men for many generations.'

Summary

The main points we have sought to bring out may be summed up as follows:

- (i) Democracy is inadequately conceived as a mere form of government; fundamentally and essentially it is a way of life, and an organization of society with a view to the realization of that way of life. As a way of life it is an ideal, incapable of realization. But always being more or less closely approximated. It is essentially a spiritual principle: it lays emphasis on the inestimable spiritual dignity and moral worth of each member of the human species.
- (ii) Freedom of discussion is essential to the democratic way of life; its aim is to achieve a real unity of purpose out of differences. One of the conditions necessary for its proper functioning is respect for persons as sources of arguments; in the absence of this condition freedom of discussion is likely to be abused. It also presupposes a consensus or agreement on fundamentals; where this agreement does not exist, democracy becomes difficult.
- (iii) As a form of social organization democracy aims at providing the greatest amount of liberty and equality to every member of the community. The political institution through which this end is sought to be realized are universal suffrage, periodic elections, responsibility of the executive to the people, directly or indirectly, liberty of the press, and liberty of association. They are intimately connected with 'the principles of impartiality and respect for persons as sources of claims and arguments.'
- (iv) The principle of universal or adult suffrage is meant to give practical recognition to the moral value of every citizen as having certain rights; it is also a means of compelling the authorities to attend to those rights. It may be added that liberty and equality can be realized only through the principle of fellowship. Societies in which this sentiment is feebly developed cannot be regarded as ripe for democracy.
- (iv) All communities are not equally fit for democracy. It would not succeed in a society whose members are not homogenous, and are incapable of mutual adjustment. Democracy succeeds best in a society having a common life and

possessing a tradition of toleration. Societies which are not ready for it must move towards it piecemeal ' slowly. Many of the evils from which republican India suffers at present may be traced to the haste with which adult franchise was introduced in the country.

- (v) Finally, we may say that a civilization which is based upon the recognition of man as a spiritual being provides a more favourable soil for it than one which lays stress on the material values of life.

Democracy faces a crisis today because the present civilization based upon large scale industry leads to a highly centralized society in which the individual is well-high lost. The mad race for wealth and power and the spirit of virulent competition which are the - dominant features of our present social life are wholly incompatible with the temper 'and spirit of democracy; they have resulted in wide disparities of wealth which are seriously resented. The latter, in turn, have led to deeply felt protests against the present social order. The temper of mind thus produced is incompatible with faith in the method of free and frank discussion; it generates the tendency to resort to force for the redress of grievances. This is the grain of truth contained in the communists' charge that democracy is impossible in a capitalist society.

Concluding Observations

There is no doubt that democracy is passing through a crisis to-day. Different views are held about its nature. The communists, for example, hold that its working is primarily conditioned by the economic environment; that it is the socio-economic conditions produced by a decaying capitalism which render democracy difficult, if not impossible. Therefore, they suggest that the only way to make democracy successful is to abolish capitalism and usher in an era of socialism.

But if we probe a bit deeper, we shall find that it is not merely the presence of extremes of wealth and poverty that have created the crisis; the crisis is rather due to the loosening of faith in religion and principles of morality. We do not have the same regard for truth and fair play which our ancestors in the nineteenth century had; we do not possess the same degree of fellow-feeling and sympathy for the poor; we do not have the same respect for human personality as before, and we have grown more self-seeking.

The secularism of the present age bids us to view man not as a spiritual entity having an element of divinity in him, but as either an economic being controlled by the laws of supply and demand and class conflict, or a political animal bent upon the pursuit of power and authority. This secularism is the greatest enemy of the spiritual view of man and of the universe of which he is a part.

No phrase is more in the mouths of our young men and women today than the unintelligent assertion that religion is the opium by which the cunning priest dulls into insensitivity the mind and will of the individual. If man were merely body and mind, 'good food, soft cushions and fine garments would have satisfied them. But deep down within him there is the spirit or higher consciousness which yearns for something deeper and nobler, something far different from what satisfies the lower animals. This something deeper is the desire for communion with God. It is communion with God which enables an individual to see that he is a member of an order of reality far higher than and superior to the order of brute nature.

The term God should not be interpreted in any deistic or theistic sense as is usually done; it simply means that there is a supreme Power which sustains and pervades the whole universe. This Power is indefinable and mysterious and cannot be known through reason. One can feel its presence, if one is able to develop the higher and deeper consciousness. Through meditation and devotional practices. The pure at heart that have been able to shed off their egoism can perceive God and hold communion with Him.

For such persons the distinction of mine and them disappears; they love the entire sentient creation and feel their unity with it. It is living faith in God understood in this sense that provides the most solid foundation for the spirit of fellowship and altruism which alone enable individuals to love their neighbours and work for the good of the community.

Most unfortunately, the present industrial civilization with its emphasis on secularism and atheism has destroyed the old values of life based on belief in the existence of God. This is the main reason for the failure of democracy to develop the sense of unity and fellow-feeling among the members of the different nation-states internally, and also among the various peoples of the world at the international plane. There is little of social harmony in society and also little of mutual good will; selfishness, and not altruism, has become the law of our lives these days.

Our contention is that if we want to replace social disharmony by harmony, egoism by altruism, social dissensions by the spirit of unity, we must rehabilitate the older moral values of life which are at a serious discount today. This requires the revival of the truly religious spirit. To be successful democracy must have a spiritual basis. This was the plea of Gandhiji; he held that politics bereft of religion are a snare that kills the soul. The salvation of humanity lies in basing our socio-economic life on 'religion as Gandhiji understood them.

It would not be irrelevant to draw the attention of the reader to Gandhiji's views on democracy at this stage. According to him true democracy cannot be imposed from above; it has to grow from within. Democracy means self-government or swaraj. A community attains swaraj on the national scale to the extent to which its members are

able to realize inner swaraj or freedom which springs from self-control and self-purification. Self—discipline and purity of heart result from a truly religious life.

In other words, true democracy can be achieved most easily and best in a society pervaded by the true religious spirit which recognizes and lays stress on our obligations rather than on our rights. This should cause no surprise; we have already seen that the principle of democracy is in essence a spiritual principle. In other words, we can say that a true democracy is a spiritual democracy. In order to realize true freedom and true equality we require something more than political or economic democracy; we need the recognition of the moral worth of man and the existence of the spirit of brotherhood. This may be called spiritual democracy. By a spiritual democracy we mean a society organized on the conception of the spiritual nature of man and the universe. As spiritual beings we are all children of God. As children of God, sharing in His Nature, we are bound to one another by ties of love and compassion; we should see in each other not rivals to be feared and overcome in the keen struggle for existence but our alter egos.

In a spiritual democracy each person will realize his true self by contributing to the good of the community as a whole; self-realization becomes the process of developing one's faculties through promoting a good in which all men must share. He would be more conscious of his duties or obligations to society than of his rights. It was such a society which Gandhiji dreamt of establishing through the practice of Love and Non-violence. It is such a society which Vinobaji is seeking to establish through his gramdan movement.

Monarchy

Political system based upon the undivided sovereignty or rule of a single person. The term applies to states in which supreme authority is vested in the monarch, an individual ruler who functions as the head of state and who achieves his position through heredity. Succession usually passes from father to son or follows other arrangements within the family or the monarchical dynasty.

A monarchy is a form of government in which all political power is absolutely or nominally lodged with an individual. As a political entity, the monarch is the head of state, generally until their death or abdication, and "is wholly set apart from all other members of the state. The person who heads a monarchy is called a monarch. It was a common form of government in the world during ancient and medieval times.

There is no clear definition of monarchy. Holding unlimited political power in the state is not the defining characteristic, as many constitutional monarchies such as the United Kingdom and Thailand are considered monarchies.

Hereditary rule is often a common characteristic, but elective monarchies are also considered monarchies (the pope, sovereign of the Vatican City State, is elected by the College of Cardinals) and some states have hereditary rulers, but are considered republics (such as the stadholder of the Dutch Republic, or the Great Council of Chiefs in Fiji).

The word monarch referred to a single, at least nominally absolute ruler. With time, the word has been succeeded in this meaning by others, such as autocrat or dictator. In modern use the word monarch generally is used when referring to a traditional system of hereditary rule, with elective monarchies often considered as exceptions.

Today, the extent of a monarch's powers varies:

In an absolute monarchy, the monarch rules as an autocrat, with absolute power over the state and government—for example, the right to rule by decree, promulgate laws, and impose punishments. Absolute monarchies are not necessarily authoritarian; the enlightened absolutists of the Age of Enlightenment were monarchs who allowed various freedoms.

In a limited monarchy, it is another form of monarchy in the early stage of constitutional monarchy when the constitution not yet formulated. The monarch has limited political power under a rule of law.

In a constitutional monarchy, the monarch is largely a ceremonial figurehead subject to a constitution. Sovereignty rests formally with and is carried out in name of The Crown, but politically rests with the people (electorate); as represented by the parliament or other legislature. Constitutional monarchs have limited political power, and are constituted by tradition and precedent, popular opinion, or by legal codes or statutes. They serve as symbols of continuity and the state and carry out largely ceremonial functions. Still, many constitutional monarchs retain certain privileges

(inviolability, u I sovereign immunity, an official residence) and powers (to grant pardons, to appoint titles of nobility). Additionally, some monarchs retain reserve powers, such as to dismiss a prime minister, refuse to dissolve parliament, or withhold Royal Assent to legislation, effectively vetoing it.

Natures

- ⊕ Most states only have a single monarch at any given time, although two monarchs have ruled simultaneously in some countries (diarchy), as in the ancient Greek city-state of Sparta, and there are examples of joint sovereignty of spouses or relatives (such as William and Mary the Kingdoms of England and Scotland).
- ⊕ A regent may rule when they monarch is a minor, absent, or debilitated.
- ⊕ Monarchy, especially ‘absolute monarchy’, sometimes is linked to religious aspects; many monarchs once claimed the right to rule by the will of a deity (Divine Right of Kings, Mandate of Heaven), a special connection to a deity (sacred king) or even purported to be divine kings, or incarnations of deities themselves (imperial cult).
- ⊕ In Islam, a caliph is a head of state who is both a temporal leader (of the caliphate, Islamic state) and a religious one (leader of the Ummah, community of believers). Monarchs have various titles, including king or queen, prince or princess (Sovereign Prince of Monaco), emperor or empress (Emperor of Japan, Emperor of India), or even duke or grand duke (Grand Duke of Luxembourg) or duchess. Many monarchs also are distinguished by styles, such as “Majesty”, “Royal Highness” or “By the Grace of God.”
- ⊕ Monarchs often take part in certain ceremonies, such as a coronation. Monarchies are associated with political or sociocultural hereditary rule.
- ⊕ Different systems of succession have been used, such as proximity of blood, primogeniture, and agnatic seniority.
- ⊕ While traditionally most modern monarchs have been male, many female monarchs also have ruled in history.
- ⊕ Some monarchies are non-hereditary. In an elective monarchy, the monarch is elected, but otherwise serves as any other monarch. Historical examples of elective monarchy include the Holy Roman Emperors (chosen by prince electors, but often coming from the same dynasty), and the free election of kings of the Polish—Lithuanian Commonwealth. Modern examples include the pope of the Roman Catholic Church (who rules as Sovereign of the Vatican City State and is elected to a life term by the College of Cardinals) and the Yang di-Pertuan Agong of Malaysia.
- ⊕ Monarchies have existed throughout the world, although in recent centuries many states have abolished the monarchy and become republics.

- ⊕ In some cases monarchs are dependent on other powers (see vassals, suzerainty, puppet state, hegemony). In the British colonial era indirect rule under a paramount power existed, such as princely state under the British Raj.
- ⊕ Appointment by the current monarch is another system, used in Jordan. In this system, the monarch chooses the successor, who may or may not be a relative.

Advantages

1. **Leadership Stability.** Monarchs have life tenure and are not subject to national elections, unlike other leaders under different types of governments.
2. **Leadership Suitability:** The people who are in line for the throne are taught how to run and lead a country from a very young age.
3. **Leadership Focus:** Since monarchs are not worried or bothered by losing elections, they tend to be more focused on running their country and concentrating on its overall development. They think about long term goals rather than short term or temporary ones.
4. **Non-partisan Leadership -** Monarchs are born to rule and they are not answerable to anyone, Politicians need to win the election and have to reach out to the crowd to get their votes; a thing that monarchs do not really experience
5. **Blames are Not Shared:** Monarchs cannot share blame or pass it on to others when they make bad decisions. This is completely different as compared to politicians who try to point fingers and let other people shoulder the mistakes they have actually committed.
6. **Limited Badness to Deal With:** When a country is lead by an irresponsible and incompetent monarch, individuals have to deal with the badness of a single person unlike in other government system that citizens have to deal and suffer with the badness of all elected leaders whom they thought would represent them.

Disadvantages

- **Absence of Democratic Legitimacy:** Monarchs are not chosen and elected by people unlike politicians who are voted and selected by People.
- **Lack of Democratic Liability and Accountability:** If monarchs became inefficient and bad leaders, they cannot be held liable by the people.
- **Much Power and Fame is Invested to Single Person:** Monarchs are recognized as supreme legislator, executor and judicator and although they are assisted with their personal advisors, it is still them who have the final say and no one is allowed to break this.

- **Monarchy is Difficult to Change Internally:** In case a monarch becomes ineffective and irresponsible leader, it is quite hard for people around to force this leader out or replace him with more effective leader.

Theocracy

Theocracy is a form of government in which a god or deity is recognized as the state's supreme civil ruler, or in a higher sense, a form of government in which a state is governed by immediate divine guidance or by officials who are regarded as divinely guided. In Common Greek, "theocracy" means a rule by God. For believers, theocracy is a form of government in which divine power governs an earthly human state, either in a personal incarnation or, more often, via religious institutional representatives (i.e., a church), replacing or dominating civil government. Theocratic governments enact theonomic laws.

- ⊕ Theocracy should be distinguished from other secular forms of government that have a state religion, or are merely influenced by theological or moral concepts, and monarchies held "By the Grace of God"
- ⊕ A theocracy may be monist in form, where the administrative hierarchy of the government is identical with the administrative hierarchy of the religion, or it may have two 'arms,' but with the state administrative hierarchy subordinate to the religious hierarchy.
- ⊕ In the most common usage of the term theocracy, some civil rulers are leaders of the dominant religion (e.g., the Byzantine emperor as patron of the head of the official Church); the government claims to rule on behalf of God or a higher power, as specified by the local religion, and divine approval of government institutions and laws. The common, generic use of the term, as defined above in terms of rule by a church or analogous religious leadership, would be more accurately described as an ecclesiocracy.
- ⊕ In a pure theocracy, the civil leader is believed to have a direct personal connection with God. For example, a prophet like Moses led the Israelites, and the prophet Muhammad ruled the early Muslims. Law proclaimed by the ruler is also considered a divine revelation, and hence the law of God.

An Ecclesiocracy, on the other hand, is a situation where the religious leaders assume a leading role in the state, but do not claim that they are instruments of divine revelation. For example, the prince-bishops of the European Middle Ages, where the bishop was also the temporal ruler. The papacy in the Papal States occupied a middle ground between theocracy and ecclesiocracy, since the pope did not claim he is a prophet who receives revelation from God, but merely the (in rare cases infallible) interpreter of already-received revelation. Religiously endorsed monarchies fall between these two poles, according to the relative Strengths of the religious and political organs.

- ⊕ Secular governments can also coexist with a state religion or delegate some aspects of civil law to religious communities. For example, in Israel civil marriage is governed by Jewish religious institutions for Jews, by Muslim religious institutions for Muslims, and by Christian religious institutions for Christians. India similarly delegates control of marriage and some other civil

matters to the religious communities, in large part as a way of accommodating its Muslim minority. Egypt was run in both monarchic and theocracy in which the pharaoh was the head priest.

Advantages

- 1) **It makes it easier to create social reforms** - ' People who are united under one government and one church will be able to work together without gridlock to create social reforms that are desired. The leaders of the early Mormon Church in the United States are a classic example of this. They moved out West to support their specific ideals and the religious leaders doubled as government leaders until their population officially joined the United States.
- 2) **It becomes easier to find compromises within the majority.** Theocracy will bring a majority of the people together in some form of harmony over the issues that face their nation. This is because they are all basing the foundations of their opinions and actions on a specific holy book that is dictating those responses. This means more action and less debate can take place. .
- 3) **It may create more unity from a global perspective:** As fast as communication happens today, it is important to look at more than just local, regional, and national issues today. There must also be a global consideration when theocratic governments are in place, then they have natural allies with each other if they are all following the same holy book.
- 4) **Directives mu be implemented much more quickly.** A theocratic government is usually an authoritarian government. This- means one decree from a top leader can be filtered down to the rest of the population and become law much more quickly than the democratic process of representation. Debate is discouraged in this environment, but the result is faster movement on potentially problematic issues.
- 5) **There is less red tape:** In a theocracy, everything revolves around the combination of church and state. This means there is less overall red tape that stands in the way of spending money on needed things. In theory, this could help alleviate poverty, hunger, and other low income issues because the dictation from the holy books would be in place to "help the least of these" as a mandate of governing.
- 6) **Control is easier to obtain:** Society becomes compliance through fear, but it is still compliance nonetheless. The higher levels of control can lead to higher levels of productivity.

Disadvantages

- **Intolerance is common:** When theocracy is present, so is intolerance. This is because the government and church are seen as one identity. If someone in a theocratic state were to question their leadership, it would often be viewed as questioning the supernatural entity that is the focus of the ruling party as well.
- **Minorities may have no legal recognition:** If a person does not conform to the religious beliefs of the majority in a theocracy, then they run the risk of not having a legal status within that country e.g in Iran, the Baha'i faith followers do not have any recognition whatsoever. Even different denominations or practices within a faith may ban someone from holding a certain status.
- **Imitation is preferred over innovation:** A theocracy ultimately holds a society back from a development standpoint because anything that may run contrary to the dogma and theology of the religion is considered to be outside of what God has “approved.” The predominant government during the Dark Ages was theocratic Christian and the work of science was dramatically reduced for centuries because of it.
- **It may be viewed as hypocritical:** Many religions today speak of loving their neighbors as themselves. This would make it difficult to go to war with other nations from a theological standpoint because war, by its very nature, is violent and without love. This may cause others around the world to see the government as hypocritical. Because the government is specifically associated with a religion, then the general population may be opposed to anything that the religion teaches, even if the holy books predominantly teach peace.
- **People are fallible beings:** Even if humans believe in a perfect, unfailing God, it isn't God that is actually ruling over the citizens of a nation. It is the imperfect humans who are prone to mistakes, bouts of anger, and greed. When someone is given the keys to a kingdom that is filled with great wealth, even the most devout and holy in a society will fall to the temptations of serving personal needs above the needs of others. The instant that happens is the instant that theocracy fails to be an effective form of governing.
- **It ultimately boils down to a “follow or die” attitude:** If someone wants to be somebody in a theocratic government, then they must convert. If they don't convert, then a threat of death is not uncommon. This causes people to go into hiding, be persecuted in the workplace, and not have access to everything that a society has to offer. It also inspires people in the majority to bully and persecute the minority populations just because they are “different.”

Political Ideologies: Anarchism; Marxism and Socialism

Socialism

The term socialism is derived from Latin word “socious” which means ‘an ally, associate or companion’. Modern socialism originated from an 18th-century intellectual and working class political movement that criticised the effects of industrialization and private property on society. By early 1830s, the followers of Robert Owen in the UK and Saint Simon in France had started to refer to their followers as socialists. And by 1840s, the term was famous in industrial country.

Socialism as an ideology has been traditionally defined by its opposition to capitalism and the attempt to -provide a more humane and socially worthwhile alternative. At the core of socialism is a vision of human beings as social creatures united by their common humanity.

The central and defining value of socialism is equality, especially social equality. They believe that social equality is the essential guarantee of social stability and cohesion and it promotes freedom in the sense that it satisfies material needs and provides the basis for personal development. They prefer cooperation to competition.

However, socialism contains a great variety of divisions and rival traditions. These traditions are based on both means that is how socialism is to be achieved and ends that is the nature of the future socialist societies.

Core themes of socialism

The term socialism has been understood in at least three distinctive ways.

1. First, as an economic mode], it is usually connected to collectivisation and planning. In this sense, socialism stands as an alternative to capitalism.
2. Second, as an instrument to labour movement, it represents the interests of the working class and offers a program through which workers can acquire political or economic powers.
3. Third, as a political philosophy. In this sense, it is considered as an ideology characterized by a cluster of ideas, values and theories. The major features of socialism as a philosophical system are as follows:
 - a. **Community:** It offers fire vision of human beings as social creatures capable of overcoming social and economic problems relying on the power of community rather than on individual efforts. This is collectivist vision because it stresses the capacity of human beings for collective action, their willingness and ability to pursue goals by working together.

Socialist believes that individual is inseparable from society as English poet John Donne had said, “No man is an island entire of itself every man

is a piece of the continent . . . any man's death diminishes me because I am involved in mankind.

Human beings are neither self-sufficient nor self-content. To think of them as separate or atomised individuals is absurd. Human beings are therefore comrades, brothers and sisters tied together by the bond of common humanity. This is expressed in the principle of fraternity.

- b. **Cooperation** . If human beings are social animals, then natural relation amongst them is one of cooperation rather than competition. Competition could put one individual against another. It promotes selfishness, greed and aggression. On the other hand, cooperation develops bonds of sympathetic care, affection and social solidarity.

Energies of the community rather than those of individuals can be harnessed. It is because of cooperation only that human species has survived and prospered as Russian anarchist Peter Kropotkin had said.

Further, socialist believes that humans can be motivated by moral incentives and not by material incentives. There is a desire to contribute to the common good which develops out of sympathy or sense of responsibility for fellow beings. The socialist commitment to cooperation has stimulated the growth of cooperatives.

- c. **Equality:** A commitment to equality, especially social equality, is a defining feature of socialist ideology. They advance certain arguments in favour of it such as

1. **Social equality ensures justice or fairness.** They believe that capitalism has fostered competitive and selfish behaviour. Thus, human inequality reflects the unequal structure of the society. Further, according to them, most significant forms of human inequality are as a result of unequal treatment by society rather than unequal endowment by nature.
2. **Social equality emphasizes community and cooperation.** If people live in equal social circumstances, they will be more likely to be identified with one another which, in turn, will stress social solidarity. Socialists severely criticize "equality of opportunity" for breeding the survival of the fittest mentality. They dismiss it as a tadpole philosophy.
3. **Socialists support social equality because according to them. Need satisfaction is the basis for human fulfillment and self-realization.** They demand satisfaction of basic needs such as food, water, shelter, etc. which are fundamental to the human condition. Their satisfaction is the very essence of freedom. Karl Marx has expressed this in his communist theory of distribution that is "from each according to his ability to each according to his need".

d. Class politics: Socialist class interests have been expressed in two ways.

- a. First, social classes rather than individuals are the principle actors in history and therefore, provide the key to understand the socio-political change. This is demonstrated in the Marxist belief that "historical change is due to class- conflict."
- b. Second, it focuses specifically on the working class and is concerned with political struggle and emancipation. Working class has been considered as a vehicle through which socialism is to be achieved.
- e. **Common ownership:** The socialists trace the origin of competition and inequality to the institution of private property. According to them, private property is unjust, that is, wealth is produced by the collective efforts and therefore should be owned by community and not by private individuals.

Further, private property breeds tendency of acquiring more and more which is morally, corrupting. Private property encourages people to be materialistic. Those who own private property wish to accumulate more while those who have little or no wealth intend to acquire it. Hence, private property is divisive and leads to conflict in the society.'

Socialism in 21st century

According to some thinkers, discussion of socialism in 21st century is pointless because for them it is dead. The Eastern European revolution of 1989-91 had removed the last signs of actually existing socialism and where nominally socialist regimes survived as in China and Cuba, it is only because of willingness of communist parties to introduce market reforms. Elsewhere parliamentary socialist parties have been in flight from traditional principles attempting to maintain electoral credibility by demonstrating growing sympathies for market-oriented economics. So, the only serious debate today has been about the causes of socialism's death.

Theorists such as Francis Fukuyama ("The end of history") have put it down to the inherent flaws in all socialist models and superiority of capitalism. Others have highlighted the tendency of a globalized economy which inevitably draws all nations into a global capitalist system. Still, others have emphasized the shrinkage of socialist political base from the masses of working class to the isolated and depoliticized underclass.

However, socialism with a longer sense of history is unlikely to succumb to such arguments. Just as the prediction at the beginning of the 20th century about the inevitable death of capitalism proved to be flawed, in the same way, the proclamation about the death of socialism made at the beginning of 21st century is likely to be unreliable.

Hopes for the survival of the socialism largely rest on the intrinsic imperfection of capitalist system. Moreover, globalization may bring for socialism opportunities as well as challenges. Just as capitalism is being transformed, same way socialism may be in the process of being transformed into critique of global exploitation and inequality. In other words, socialism in 21st century may be reborn as global anti-capitalism.

Marxism

There are at least three forms of Marxism:

1. Classical
2. Orthodox
3. Modern or neo

Classical Marxism

Classical Marxism can be studied in three aspects: philosophy, economics and politics.

Philosophy

The core of classical Marxism is a philosophy of history that outlines why capitalism is doomed and - why socialism is destined to replace it, based on scientific analysis. Karl Marx criticizes earlier socialist thinkers as utopians because their socialism was grounded in a desire for total social transformation which was unconnected with the necessity of class struggle and revolution. On the contrary, Karl Marx undertook a laborious and empirical analysis of history and society, thereby hoping to gain insight into the nature of "future development".

Marx's approach was different from the earlier socialist thinkers because he subscribed to the materialistic conception of history or historical materialism. Rejecting the idealism of German philosopher Hegel, who believed that history is due to the unfolding of so-called world spirit, that is, absolute idea, Karl Marx held material circumstances to be fundamental to all forms of social and historical development.

It means that production of the means of subsistence is the most crucial of all human activities. Since, humans cannot survive without food, water, shelter etc., the way in which these are produced conditions all other aspects of life. That is, social being determines consciousness. The legal and political superstructure arises from the economic base, the real foundation of the society.

The base consists of modes of production or economic system, that is, feudalism, capitalism, socialism, etc. This led Marx to conclude that political, legal, cultural, religious, and artistic and other aspects of "life could primarily be explained by reference to the economic factors.

Although Karl Marx was a critic of Hegel, he embraced his belief that driving force of historical change was dialectic. In effect, progress is the consequence of the internal 'conflicts. Hegel explained the movement of the World Spirit, that is, absolute idea towards self-realization through conflicts between thesis and its opposing force anti-thesis producing a higher level of synthesis which in turn constitutes a new thesis. That is, he explained through triad — thesis, anti-thesis and synthesis.

However, Karl Marx, as Engel had said, made Hegel to walk on foot rather than head by investing Hegelian dialectic with materialistic interpretation. Thus, Marx explains historical change by reference to internal contradiction within each mode of production arising from the existence of private property. Thus, capitalism is doomed because it has its own anti thesis, that is, proletariats. Conflict between capitalism and proletariat will therefore lead to a higher stage of development in the establishment of a socialist and eventually a communist society.

Therefore, Marx's theory of history is teleological in the sense that history has a meaning or a purpose reflected in its goal which is classless, stateless communism. This goal could only be achieved once history has developed through a series of stages, each characterized by its own economic structure and class system. He identified four such stages which are as follows:

1. Primitive communism or tribal society. In such a society, material scarcity provided the principal source of conflict.
2. Slavery. It is characterized by the conflict between master and slave.
3. Feudalism. It is characterized by the conflict between landowners and serfs.
4. Capitalism. Dominated by the struggle between the bourgeois and proletariat.

Therefore, human society has been a long struggle between the oppressed and the oppressor, the exploited and the exploiter. However, Karl Marx envisaged an end of history which would occur when society have no internal contradiction. According to Marx, this meant communism, that is, a classless society based on the common ownership of productive wealth.

Economics

Karl Marx's much of the criticism rest on the notion of alienation.

- Since capitalism is a system of production for exchange, it alienates humans from the product of their labor. That is, they work to produce not what they need or what is useful, but commodities to be sold for profit.
- Secondly, they are alienated from the process of the labour because most are forced to work under the supervision of managers or foreman.
- Further, work is not social. They are alienated from fellow human beings. They are reduced to mere commodities and their work becomes the depersonalized activity instead of creativity and fulfillment.

In his later Work, Marx analysed capitalism more in terms of class conflict and exploitation. He believed that capitalist society is being divided into two great classes facing one another, that is, bourgeois and proletariat. Thus, according to him, analysis of the class system provides key to historical understanding. He says that history of all

existing societies is the history of class struggle. Classes rather than individuals are the chief agents of historical change.

He believed that relationship between classes is one of antagonism and can never be reconciled, the subordinate being necessarily and systematically exploited by the ruling class. He explained this by the reference to the idea of surplus value. Capitalist quest for profit can only be satisfied through the extraction of surplus value from its workers by paying them less than the value their labour generates. Therefore, economic exploitation is an essential feature of the capitalist mode of production and it operates regardless of the meanness or generosity of particular employers.

Politics

Karl Marx's most important prediction was that capitalism was destined to be overthrown by a proletariat revolution. This would merely be not a political revolution that would remove the governing elite, but a social revolution that would establish a new mode of production and culminate in the achievement of full communism. He anticipated that such revolution would occur in the most mature capitalist countries. Nevertheless, revolution would not simply be determined by objective conditions alone — the subjective elements would be supplied by a class-conscious proletariat. It implies that revolution would occur when both objective and subjective conditions will ripe.

Revolution will be a spontaneous act carried out by the proletariat that would lead or guide itself. The initial target of this revolution was to be the bourgeois state. However, he recognized that there would -be no immediate transition from capitalism to communism.

A transitional phase would be there characterized by the dictatorship of the proletariat. The purpose of this proletariat state was to safeguard the gains of revolution by preventing the counter-revolution carried out by the dispossessed bourgeois. However, as class antagonism will begin to fade with the emergence of full communism, the state would wither away. That is, once the class system has been abolished, the state would lose its reason for existence.

The resulting communist society would therefore be stateless as well as classless and would allow a system for the satisfaction of human needs. Thus, Marx said the free development of each is the pre- condition for the free condition of all. It is in this society, Marxist ideal, that is, 'from each according to his ability to each according to his need' would be realized.

Orthodox Marxism

The Russian revolution and its consequences dominated the image of communism in 20th century. Soviet communism became the dominant model of communist rule and the ideas of Marxism- Leninism became the ruling ideology of the communist world. However, twentieth century communism differed significantly from the ideas and expectations of Karl Marx and Engels because

- ✚ Communist parties of the 20th century were forced to adapt to the task of winning and retaining political power. They had to give greater attention to the issue such as leadership, political organization and economic management than Marx has done.
- ✚ Secondly, the communist regime was shaped by historical circumstances in which they had developed. Communist parties did not achieve power in the developed capitalist states of Western Europe as Marx had anticipated, but in the backward and rural countries as Russia and China. As a result, urban proletariats were invariably small and unsophisticated, quite incapable of carrying a genuine class revolution. Thus, communist rule became the rule of communist elite and of communist leaders.
- ✚ Further, Soviet Communism was influenced by the decisive personal contribution of first two Bolshevik leaders - Lenin and Stalin.

Neo or Modern Marxism

While Marxism or more usually Marxism-Leninism was turned into a secular religion by orthodox communist regime, a more complex form of Marxism developed in Western Europe. It is referred as Modern Marxism, Neo Marxism or Western Marxism.

It was an attempt to revise or recast the classical ideas of Karl Marx while remaining faithful to certain Marxist principles. Thus, class struggle was no longer treated as the beginning and the end of social analysis. Moreover, modern Marxists were usually repelled by the Bolshevik model of orthodox Communism.

Anarchism

The word anarchism is a Greek word which literally means “without rule”. However, anarchism as a Philosophical system is defined by central belief that political authorities in all its forms and especially in the form of state is both evil and unnecessary. That is, anarchism stands for a stateless society. They consider it an offence against the principles of freedom and equality. State is evil because it is repository of sovereign, compulsory, and coercive authority.

The core value of anarchism is thus unrestricted personal autonomy. They believe that state is unnecessary because order and social harmony can arise naturally and spontaneously and do not have to be imposed from above through government. Such philosophy reflects utopian character reflected in highly optimistic assumption about human nature.

Anarchism can be traced back to the ancient times. However, during 19th century, it became a significant component of a growing social movement. Anarchism is unusual amongst political ideologies in that it has never succeeded in winning power. Other ideologies such as liberalism, socialism, fascism, etc. — each of them has proved capable of achieving power.

Anarchist appeal as a political movement has been restricted by both its ends and its means. The goal of anarchism, that is, the overthrow of the state and dismantling all forms of political authorities is widely considered as unrealistic. In terms of means, they reject such as forming political panics, contesting elections, seeking public offices, etc. because according to them, these are corrupt and corrupting. As a result, they have deprived themselves all the advantages of political organization and strategic planning.

Nevertheless, anarchism refuses to die precisely because of its uncompromising attitude to authority. It has an enduring and often moral appeal, particularly to the youths. This can be seen in the prominence of anarchist ideals and slogans within the anti-capitalist or anti-globalization movement.

Core themes of anarchism.

1. Anti-statism
2. Natural order
3. Anti-clericalism
4. Economic freedom

Anti-statism

The defining feature of anarchism is the opposition to the state. They have a preference for a stateless society in which free individuals manage their affairs by voluntary agreements without compulsion or coercion. Anarchism can be defined as negation of authority because authority is an offence against the principle of freedom and equality. They are against authority because it influences the behavior of others

and enslaves, oppresses and limits human life. It damages and corrupts both those who are subject to authority and those who are in authority.

Authorities give rise to the psychology of power based on the philosophy of dominance and submission. Government is considered to be a symbol of gun, handcuff and prison. The state can deprive individuals of their property, liberty and ultimately through capital punishment their life. Further, state is destructive - “war is the health of the state”.'

Natural order

Human beings are essentially rational creatures inclined by education and enlightened judgment to live in accordance with truth and universal moral laws. According to them, it is the corrupting influence of the government rather than any original sin in human beings that creates injustice, greed and aggression.

In other words, government is not the solution of the problems, but the cause of problems. Anarchists have often sympathized with the famous words of Rousseau, “Man was born free, yet everywhere he is in chains.”

At the heart of anarchism lies the utopian belief in the natural goodness or at least the potential goodness of humankind.

Anti-clericalism

Anarchists have sometimes expressed as much bitterness towards the church as they have towards the state. Religions often have been treated as the source of authority. The idea of God represents the notion of super-being who commands ultimate and unquestionable authority. Anarchist thinker Bakunin proclaimed that abolition of the church and the state must be the first and indispensable condition for the true liberation of society.

Religion seeks to impose a set of moral principles on individuals and- to establish a code of acceptable behavior. Thus, individual is robbed of moral autonomy and the capacity to make ethical judgments. However, anarchists do not reject the religious impulse. Early anarchists were sometimes influenced by millenarism or more specifically political millenarism. (millenarism — it is a belief of thousand years period of divine rule and political millenarism offers the prospect of a sudden and complete emancipation from misery and oppression).

Economic freedom

Many anarchists acknowledge a kinship with socialism based on the common distaste for private property and inequality while others have defined property rights and even competitive capitalism. This highlights the distinction between two major traditions: collectivist and individualist.

Collectivist anarchism

The philosophical roots of collectivist anarchism lie in socialism. Collectivists are also sometimes called social anarchists. They stress the human capacity for social solidarity and mutual aid. According to them, human beings are sociable, gregarious and cooperative creatures. The natural and proper relation between and amongst people is one of sympathetic affection and happiness.

There is a philosophical and ideological overlap between anarchism and socialism, particularly Marxist socialism. There are certain similarities between them such as

1. Both fundamentally reject capitalism.
2. Both have endorsed revolution as a means of bringing political change.
3. Both exhibit a preference for collective ownership.
4. Both believe a fully communist society would be anarchic, expressed by Karl Marx in the theory of withering away of the state.

Nevertheless, anarchism and socialism had diverged at a number of points, particularly in relation to parliamentary socialism;

1. Anarchism dismissed it as a contradiction on its terms because it is impossible to reform or humanize capitalism through the corrupt and corrupting mechanism of the government.
2. Secondly, they reject the transitional state of proletariat dictatorship from capitalism to communism

Anarcho-Communism

- A variety of collectivist anarchism

It is rooted in highly optimistic belief about human capacity for cooperation expressed by Peter Kropotkin's theory of mutual aid. He re-examined and criticized Darwin's theory of evolution. He argued that species are successful precisely because they manage to harness collective energies through cooperation.

Anarcho-communists admire small self-managing communities such as communes which has a number of advantages such as they are based on the principle of sharing which strengthens the bonds of compassion and solidarity. Within communes, decisions are made through the process of participatory or direct democracy which guarantees a high level of popular participation and political equality. Small, popular self-government is the only form of government that could be acceptable to anarchist.

Individualist anarchist

The philosophical roots of it lie in the liberal idea of the sovereign individual. Where individualism is taken to its extreme, it implies individual sovereignty, that is, the idea that absolute and unlimited authority resides within each human being.

There are some significant differences between liberalism and individualist anarchists

1. Liberals argue that a minimal state or a night-watchman state is necessary which exists to freedom rather than constrain it. However, anarchist rejects such conception. They y and prosperously believe that individuals can conduct themselves peacefully, harmoniously without the need for government to police society.
2. Liberals believe that government power can be tamed and controlled by the development of constitutional and representative institutions. However, anarchists dismiss the idea of limited constitutional or representative government. According to them, all states are offense against individual liberty,

Libertarianism

The individualist argument was fully developed by thinkers such as Henry David Thoreau. In his famous political work Civil Disobedience", Thoreau approved Jefferson's liberal statement – "that government is-best which governs least" — however, he adopted it to confirm with his own anarchist sentiments and said, "That government is best which governs not at all." For Thoreau, individualism leads in the direction of civil disobedience, that is individual has to be faithful to his or her conscience and do only what each believes to be right regardless of the demand of the society or the laws made by the government.

Anarcho-capitalism- Influenced by anarchist

According to it, government can be, abolished and be replaced by unregulated market competition. They believe that market can satisfy all human bonds. Protection can be delivered competitively by privately owned protection-association without the need for a police force or state code system. According to them, profit-making agencies could offer better services because competition will provide consumers with a choice forcing agencies to be cheap, efficient and responsible to the consumer needs.

Anarchism in 21st century

It will be easier to dismiss the whole idea of anarchism in the 21st century as pointless as it has failed to provide the basis for political reconstruction in any major society. However, the enduring significance of anarchism is perhaps less in that it has provided an ideological basis for acquiring and retaining political power. Its significance is more in the fact that it has challenged and thereby led to the growth of other political ideologies. Anarchists have highlighted the coercive, destructive and exploitative nature of political power.

According to some thinkers, anarchism is nothing more than a pool of ideas and has only some philosophical importance. However, a more optimistic picture can be seen in the fields such as pollution and environmental destruction, urban development, gender issues, global inequalities, etc. Many of these concerns are expressed by modern social movements such as anti-capitalist or anti- globalization movement which has marked anarchist features. For example, Noam Chomsky, the most

important theoretical influence on the anti-globalization movement, developed his ideas on the basis of anarchist assumptions.

To argue that anarchism is irrelevant because it has long since ceased to be mass movement is perhaps to miss the important point. As the world become increasingly complex and fragmented, it might be that it is mass politics itself that is dead. From this perspective, anarchism by virtue of association with values such as individualism, participation, decentralization and equality may be better equipped than many other political ideologies to respond to the present challenges.

Humanism

It is a way of life centered on human concerns and values that assert the dignity and moral worth of humans and their capacities for self-actualization through the use of reason and scientific enquiry.

Humanism is broad category of ethical, metaphysical, epistemological and political philosophies in which human interests, values and dignity predominate. It has an ultimate faith in humankind, believes that human beings possess the power or potentiality of solving their own problems, through reliance primarily upon reason and scientific method applied with courage and vision.

Humanism stands for a philosophy which holds human dignity, human interests and human welfare are entitled to primary importance in all worldly affairs. It believes in immense potential of human understanding and treats it to be capable of finest achievements.

It is an optimistic attitude to life whose ultimate goal is human flourishing, doing good and living well in the here and now, and leaving the world better for those who come after.

- **As an ethical doctrine,** it affirms the dignity and worth of all people and their ability to determine 'right and wrong purely by appeal to universal human qualities, especially rationality. It searches for truth and morality through human means in support of human interests, and focuses on the human capacity for self-determination. It endorses universal morality (Moral Universalism) based on the commonality of the human condition.
- **As a metaphysical doctrine,** Humanism believes in naturalistic metaphysics or attitude toward the universe that considers ' all forms of the supernatural as myth, and regards Nature as the totality of being, and as a constantly changing system of matter and energy which exists independently of any mind or consciousness. It rejects the -validity of transcendental justifications, such - as a dependence on belief without reason, the supernatural, or texts of allegedly divine origin.

It considers faith an unacceptable basis for action, and holds that it'-is up to humans to find the truth, as opposed to seeking it through revelation, mysticism, tradition or anything else that is' incompatible with the application of logic to the observable evidence. It is therefore generally compatible with Atheism and Agnosticism, but does not require these, and can be compatible with some religions. It is an ethical process, not a dogma about the existence or otherwise of gods. To some extent, it supplements or supplants the role of religions, and can be considered in some ways as "equivalent" to a religion.

- **As an epistemological doctrine**, it supports scientific skepticism (i.e. it questions the authenticity of claims lacking empirical evidence) and the scientific method (the collection of data through observation and experimentation, and the formulation and testing of hypotheses).
- **As apolitical philosophy**, Humanism emphasizes individual freedom and responsibility, human values and compassion, and the need for tolerance and cooperation, and it rejects authoritarian beliefs. It affirms that we must take responsibility for our own lives and the communities and world in which we live.

Humanism is a philosophy, a world-view based on the conviction that the universe and nature is all that exists or is real. Humanism seeks to understand the universe by using science and its methods of critical enquiry, that is, logical reasoning, empirical evidence and critical evaluation to obtain reliable knowledge.

Humanism affirms that humans have the freedom and obligation to give meaning, value and purpose to their lives by their own independent thought, free enquiry and creative activity. Humanists stand for building a more humane, just, compassionate and democratic society.

According to humanism, man is the essence of reality. All truth is human truth and there is no truth beyond man. It affirms the dignity of an individual. Everyone person is an end in himself. Intrinsic value is attached to each. Humanism seeks to realize a world in which human values may be achieved to their maximum limit. For this, first physical needs have to be satisfied because in their absence no mental or spiritual development is possible. After the satisfaction of physical needs, humanists seek mental and spiritual progress.

Humanistic approach in social sciences such as political science, sociology, economy, psychology, law, medicine, education, etc. has resulted in man occupying a central position in their discussion. These sciences today are not only concerned with theoretical discussion in their fields, but they are more concerned to find out ways to realize human welfare in the fields peculiar to them.

Humanist politics

In the field of political science, after passing through various theories, political thinking today has generally admitted the importance of democratic values. Equality, liberty, justice and fraternity have been admitted as necessary values in socio-political field. The most important characteristic of democracy is that even the humblest being has a right to the above mentioned values. It aims to seek those conditions which may allow for the maximum possible and best development of human personality. The construct of democracy has given rise to the idea of welfare state which seeks the all-round welfare of all its citizens without any distinction of caste, creed, race, religion, sex and socio-economic status.

Humanist sociology

In the field of sociology, the humanist approach has led to the thinking that everywhere the social scientists have to find out social factors governing human behavior, aiming at the reform and welfare of human individual. Hence, social scientists seek to find out the causes of crime and possible ways for reforming criminals.

Humanist psychology

In the field of psychology, the humanist trend is particularly clear in the branch known as applied psychology. For example, industrial psychology not only aims at the conditions for the realizing maximum production, but also at achieving circumstances where the workers may be developed as a human being. The application of psychology could also be seen in the different field of human life, like law, medicine, environment, education, etc.

Birth

Humanism was born in the West with the birth of Western Philosophy in the Socratic emphasis about the thoughtful life. When Socrates was presented in the court, he said to the judges, "The unexamined life is not worth living." By saying so, he emphasized the role of reason in man's life. But humanism in the West developed particularly in the 20th century.

Basic tenets of humanism:

1. Human Being is the central concern of the world.
2. Human experience is the source of all values.
3. Human dignity should take precedence over all other goals.
4. Society should focus on solution of human problems.
5. Human knowledge is the key to social progress.

Different types of Humanism

1. Literary Humanism is a devotion to the humanities or literary culture.
2. Renaissance Humanism is the spirit of learning that developed at the end of the Middle Ages with the revival of classical letters and a renewed confidence in the ability of human beings to determine for themselves truth and falsehood.
3. Cultural Humanism is the rational and empirical tradition that originated largely in ancient Greece and Rome, evolved throughout European history, and now constitutes a basic part of the Western approach to science, political theory, ethics, and law.
4. Socialist Humanism: (18-19th Century)

Proponents: Saint Simon, Charles Fourier and Robert Owen.

Dubbed as Utopian Socialism by Marx. Early socialism was utopian because its proponent created very fascinating pictures of an ideal social political order which could not be realized in practice. They largely relied on benign nature of man to bring about the change of heart of capitalists.

Strongly inspired by Humanist spirit. Its exponent wanted to eliminate the cause of injustice and human misery.

- Saint Simon focused on modernizing forces of science, industry and technological innovation and insisted in adapting social and political systems to those' new forces. His humanist bias was so strong that his disciple came out with an idea of " Religion of humanity"
- Charles Fourier was severe critic of capitalist system and its values.' Advocated formation of worker's organization wherein their basic physical, mental and even emotional needs would be met through the process of mutual support and democratic self—government.
- Robert Owen: He held that problem of mechanization of the labour process under industrialism was a potentially enslaving force. He sought to fight it out by the communal ownership and control of the means of production.

In a gist, Early socialist humanism sought the amelioration of social conditions by an appeal to humanist cause and by persuading capitalists to encourage workers to set up a new just social order through their cooperative effort

5. Radical Humanism

Another variety of Socialism, introduced by M.N. Roy, an Indian political thinker. He also described it as new humanism as well as 'Scientific Humanism'. Roy was a national revolutionary who belonged to the 1st generation of Indian Communists.

Concept of Radical Humanism:

The main theme of Roy's radical humanism is an urge for human freedom which implies the realization of his creative faculties. Ignorance is the biggest' obstacle in the way to human freedom. Scientific knowledge alone can help to restore this freedom. Scientific knowledge liberates man from time-honoured prejudices about the essence of his being and the purpose of life. Man is essentially rational being. His nature is not to believe, but to ques., to inquire and to know.

Humanist Model of Politics Roy's theory of a new model of politics aims at the rejection of spiritualism nationalism, communism and stands for the acceptance of materialism. According to M.N. Roy the latter is the only possible philosophy since it represents of nature as it really exists:

The basic elements of New Humanism are three: rationality, morality and freedom.

Roy argued that human beings are subject to their environment but the rational nature of man compels him to offer better explanations of the events of nature. As a rational creature man is involved in struggle for material existence. This struggle takes two forms at the savage plane it signifies the satisfaction of his ordinary wants and at the higher plane, it signifies his struggle for freedom.

Freedom is a process and not a complete idea. In the quest for freedom, argues Roy, man as a rational being is driven to bring nature under his control And freedom "signifies the progressive disappearance of all restrictions on the unfolding of the potentialities of individuals as human beings 'Freedom of the individual is one of the central themes of ROy's scientific politics. He challenges all ideologies which deny the sovereignty of man. Roy desired to set up a new social order based on the sovereignty of the individual.'

Roy comes to conclusion that for creating a new world of liberty and social justice, revolution must go beyond an economic reorganization of society. As the urge for freedom is the basic incentive of life, the purpose of all rational human endeavor must be 'to strive for removal of social conditions which restricts the unfolding of potentialities of man. New humanism focuses on the basic fact of history that man is the maker of his world. As a thinking being he can play this role only as an individual, not as a cog in the machine of social organization.

Roy points out that the brain, as an instrument of thought is owned individually. It cannot be possessed collectively. Revolutions are heralded by iconoclastic ideas conceived by gifted individuals. A group of such gifted individuals, determined to restore the individual in his position of primacy and dignity can show the way to tide over the contemporary crisis of modern civilization.

He held education as essential in achieving in goal of new humanism or radical humanism.

Critique of Marxism:

Rejected the economic interpretation of history given by Marx he argued that by viewing the individual as only a part of the collectivity, Marxism rejected. the autonomy of the individual. According to Roy, the existence of social organization presupposes the prior existence of the individual.

In Marxist theory, mode of production included forces of production included means of production as well as labour power. He pointed out that the means of production included means of production were themselves creation of human mind and question their determination of human consciousness.

He further contended that neither socialism nor communism but freedom should be the ideal of civilized society. Describing Radical Humanism in this context he said, "We place man in the centre of scheme of things: others would sacrifice him on the altar of the-collective ego."

He viewed the Marxist model of revolution as an outdated one. Revolution through insurrection was impossible owing to the military power of modern states. He put forward the idea of a revolution by consent, guided by a philosophy with universal appeal.

Marxism regards socialism as the ideology of the proletariat. Roy differs on this. He pointed that intellectual and cultural backwardness of the proletariat does not permit them to have a long-distance view.

Roy asserted that any form of Dictatorship tends to perpetuate itself. It creates a system of political domination, cultural regimentation and economic enslavement.

Marxist view of withering away of state after the emergence is incorrect. Roy pointed out that state represents the political organization of society. It cannot cease to exist after the abolition of class distinctions. As long as Communists stay in power under the veil of "Dictatorship of proletariat", they will not allow the state to 'wither away'. Individual freedom remains crushed under their feet.

6. Philosophical Humanism

It refers to any outlook or way of life centered on human need and interest. Sub-categories of this type include Christian Humanism and Modern Humanism.'

- Christian Humanism is defined as a philosophy advocating the self-fulfillment of man within the framework of Christian principles. It is the belief that human freedom and individualism are intrinsic (natural) parts of or are at least compatible with, Christian doctrine and practice. It is a philosophical union of Christian and humanist principles. This more human oriented faith is largely a product of the Renaissance and is a part of what made up Renaissance humanism.
- Modern Humanism, also called Naturalistic Humanism, Scientific Humanism, Ethical Humanism and Democratic Humanism is defined by one of its leading proponents, Corliss Lamont, as "a naturalistic philosophy that rejects all supernaturalism and relies primarily upon reason and science, democracy and human compassion." Modern Humanism has a dual origin, both secular and religious, and these constitute its sub-categories.
 - i. Secular Humanism is an outgrowth of 18th century enlightenment rationalism and 19th century free thought. Secular humanism is the branch of humanism that rejects the theistic religious belief and the existence of a supernatural. It is often associated with scientists and academics, although it is not at all limited to these groups. Secular humanists generally believe that following humanist principles naturally leads to secularism, on the basis that religious views cannot be supported rationally.

There are secular humanistic organizations, though these could 'not be accurately described as churches more often than not, secular humanism is

what people are referring to when they speak of humanism in general, making it something of a default. Some secular humanists take this even further by denying that religious humanists qualify as genuine humanists. Others feel that the ethical side of humanism transcends the issue of religion, because being a good person is more important than supernatural beliefs.

- ii. Religious Humanism is the branch of humanism that considers itself religious or embraces some form of theism, deism or supernaturalism, without necessarily being allied with organized religion as such. It is often associated with artists, liberal christians and scholars in the liberal arts. Other types of people that may be considered religious humanists are those who, despite believing in a religion, don't consider it necessary to derive all their moral values from it. Some feel that, because their religious beliefs are moral, and therefore humane, they are humanists. In particular, it is not uncommon for religious humanitarians to be referred to as humanists, although the accuracy of this usage is disputed. -

A number of religious humanists feel that secular humanism is too coldly logical and rejects the full emotional experience that makes us human. From this comes the notion that secular humanism is inadequate in meeting the human need for a socially fulfilling philosophy of life. Disagreements over things of this nature have resulted in friction between secular and religious humanists, despite their commonalities.

The most critical irony in dealing with Modern Humanism is the inability of its advocates to agree on whether or not this worldview is religious. Those who see it as philosophy are the Secular Humanists while those who see it as religion are Religious Humanists. This dispute has been going on since the early years of this century when the secular and religious traditions converged and brought Modern Humanism into existence.

Secular and Religious Humanists both share the same worldview and the same basic principles. This is made evident by the fact that both Secular and Religious Humanists were among the signers of Humanist Manifesto I in 1933 and Humanist Manifesto H in 1973. From the standpoint of philosophy alone, there is no difference between the two. It is only in the definition of religion and in the practice of the philosophy that Religious and Secular Humanists effectively disagree.

The definition of religion used by Religious Humanists is a functional one. Religion is that which serves the personal and social needs of a group of people sharing the same philosophical world view. To serve personal needs, Religious Humanism offers a basis for moral values, an inspiring set of ideals, methods for dealing with life's harsher realities, a rationale for living life joyously, and an overall sense of purpose.

To serve social needs, Humanist religious communities offer a sense of belonging, an institutional setting for the moral education of children, special holidays shared with likeminded people, a unique ceremonial life, the performance of ideologically consistent rites of passage (weddings, child welcoming, coming-of-age celebrations, funerals, and so forth), an opportunity for affirmation of one's philosophy of life, and a historical context for one's ideas.

Religious humanists maintain that most human beings have personal and social needs that can only be met by religion. They do not feel that one should have to make a choice between meeting these needs in a traditional faith context versus not meeting them at all. Individuals who cannot feel at home in traditional religion should be able to find a home in non-traditional religion. .

Finally, Religious Humanism is “faith in action”. Humanism teaches us that it is immoral to wait for God to act for us. We must act to stop the wars and the crimes and the brutality of this and future ages. We have powers of a remarkable kind. We have a high degree of freedom in-choosing what we will do. Humanism’ tells us that whatever our philosophy of the universe may be, ultimately the responsibility for the kind of world in which we live rests with us.

"Now, while Secular Humanists may agree with much of what religious Humanists do, they deny that this activity is properly called “religious.”. Secular Humanists maintain that there is so much in religion deserving of criticism that the good name of Humanism should not be tainted by connection with it.

Once we leave the areas of confusion, it is possible to explain, in straightforward terms, exactly what the modern Humanist philosophy is about. It is easy to summarize the basic ideas held in common by both Religious and Secular Humanists. These ideas are as follows

Essence of Humanism:

1. Humanism is one of those philosophies for people who think for themselves. There is no area of thought that a Humanist is afraid to challenge and explore.
2. Humanism is a philosophy focused upon human means for comprehending reality. Humanists make no claims to possess or have access to supposed transcendent knowledge.
3. Humanism is a philosophy of reason and science in the pursuit of knowledge. Therefore, when it comes to the question of the most valid means for acquiring knowledge of the world, Humanists reject arbitrary faith, authority, revelation, and altered states of consciousness.
4. Humanism is a philosophy of imagination. Humanists recognize that intuitive feelings, hunches, speculation, flashes of inspiration, emotion, altered states of consciousness, and even religious experience, while not valid means to acquire knowledge, remain useful sources of ideas that can lead us to new ways of looking at the world. These ideas, after they have been assessed rationally for their usefulness, can then be put to work, often as alternate approaches for solving problems.
5. Humanism is a philosophy for the here and now. Humanists regard human values as making sense only in the context of human life rather than in the promise of a supposed life after death.

6. Humanism is a philosophy, of compassion. Humanist ethics is solely concerned with meeting human needs and answering human problems—for both the individual and society—and devotes no attention to the satisfaction of the desires of supposed theological entities.
7. Humanism is a realistic philosophy. Humanists recognize the existence of moral dilemmas and the need for careful consideration of immediate and future consequences in moral decision making.
8. Humanism is in tune with _the science of today. Humanists therefore recognize that we live in a natural universe of great size and age, that we evolved on this planet over a long period of time, that there is no compelling evidence for a separable “soul,” and that human beings have certain built in needs that effectively form the basis for any human oriented value system.
9. Humanism is in tune with today’s enlightened social thought. Humanists are committed to civil liberties, human rights, church-state separation, the extension of participatory democracy not only in government but in the workplace and education, an expansion of global consciousness and exchange of products and ideas internationally, and an open ended approach to solving social problems, an approach that allows for the testing of new alternatives.
10. Humanism is in tune with new technological developments. Humanists are willing to, take part in emerging scientific and technological discoveries in order to exercise their moral influence on these revolutions as they come about, especially in the interest of protecting the environment.
11. Humanism is, in sum, a philosophy for those in love with life. Humanists take responsibility for their own lives and relish the adventure of being part of new discoveries, seeking new knowledge, exploring new options. Instead of finding solace in prefabricated answers to the great questions of life, Humanists enjoy the open-endedness of a quest and the freedom of discovery that this entails.

Humanism is the naturalistic philosophy or way of life centered on human concerns and values that asserts the dignity and worth of humans and their capacity for self-actualization through the use of reason and scientific inquiry. ,

Humanism is a philosophy, world view, or life stance based on naturalism the conviction that the universe or nature is all that exists or is real. Humanism serves, for many humanists, some of the psychological and social functions of a religion, but without belief in deities, transcendental entities, miracles, life after death, and the supernatural.

Humanists seek to understand the universe by using science and its methods of critical inquiry—logical reasoning, empirical evidence, and skeptical evaluation of conjectures and conclusions—to obtain reliable knowledge. Humanists affirm that

humans have the freedom and obligation to give meaning, value, and purpose to their lives by their own independent thought, free inquiry, and responsible, creative activity. Humanists stand for the building of a more humane, just, compassionate, and democratic society using a realistic ethics based on human reason, experience, and reliable knowledge—an ethics that judges the consequences of human actions by the well-being of all life on Earth.

Humanism is therefore concerned largely with two issues: first, a rejection of all forms of theism, supernaturalism, and their associated miracles, superstitions, dogmas, authoritarian beliefs, and wishful and hopeful thinking, and second, the resulting necessity of creating or finding values, meanings, and ethical beliefs in a completely naturalistic universe by the sole use of human reason and individual inquiry.

Contemporary thoughts have witnessed several types of humanism. Out of these, naturalist humanism is the most important. It is also known as scientific humanism because it has firm faith in the science. It is also called as secular humanism due to its emphasis on secular values. Further, it can also be called as democratic humanism due to its faith in democracy.

Secularism

The word secular means “of this world” in Latin and is the opposite of religious. As a doctrine, secularism is usually used to describe any philosophy which forms its ethics without reference to religious dogmas and which promotes development of human art and science.

The concept of secularism was originally developed as a philosophy focused upon the need and concerns of humanity in this life, not the possible need and concerns associated with any possible afterlife. Secularism can also be defined as a materialistic philosophy, both in terms of means in which human life was to be proved and in its understanding of the nature of universe.

Although secularism can be understood simply as absence of religion and treated as a philosophical system, with personal, political, cultural and social implications, for those who treat it as philosophy, it is a humanistic and even aesthetic philosophy that seeks the good of humanity in this life.

Secularism is a code of duty pertaining to this life and intended mainly for those who find theology inadequate, indefinite, unreliable and unbelievable. It is a protest against wasting this life for the sake of one about which we do not know. It proposes to let the God take care of himself. It means living for ourselves and each other, for the present instead of the past, for this world "instead of another. It is an effort to do away with violence, ignorance, poverty and disease.

Secularism is a positive philosophy concerned entirely with the good of human beings of this life. The improvement of human conditions is treated as a materialistic question and not a spiritual one and is best achieved by human efforts.

Today, philosophy called secularism tends to be labeled as secular humanism. The first and perhaps the most common understanding of secularism stands in opposition to religious. Hence, something is secular when it can be categorized with the worldly, civil and non-religious sphere of human life. Further, secularism is contrasted with anything which is regarded as holy and sacred. Consequently, something is secular when it is not venerated, when it is not worshipped and when it is open for critique, judgment and replacement;

Western model of secularism

All the secular states have one thing in common. They are neither theocratic nor do they establish religion. However, in most commonly prevalent conception, inspired by mainly American model, separation of religion and state is understood as mutually exclusive. It implies that state will not intervene in the affairs of religion and in the same manner; religion will not interfere in the affairs of State. No policy of the state can

have an exclusively religious rationale. No religious classification can be the basis of any public policy.

The state cannot aid any religious institution. It cannot give financial support to “educational institutions run” by religious communities. It cannot hinder the activities of the religious communities as long as they are within the broad limits set by the law of the land. For example, if a religious institution forbids a woman from becoming a priest, then the state can do little about it. Hence, religion is a private affair, not a matter of state policy or law.

Secularism emphasizes freedom and equality in an individualist manner, that is, liberty is the liberty of individuals and equality is between individuals. There is little scope for community based rights in a secular society. It is validated when we see the history of Western societies. Except for the presence of the Jews, large parts of Western society were categorized by a great deal of religious homogeneity. So, naturally they focused on intra-religious domination. The issue of inter-religious equality is often neglected.

In the Western concept of secularism, there is no place for the idea of state-supported religious reforms.

Indian model of secularism

Sometimes it is said that Indian secularism is an imitation of Western Secularism. But, a careful study of our history and constitution shows that this is not the case. Indian secularism is fundamentally different from Western secularism. Its main features are as follows:

1. Indian secularism does not focus solely on the church-state separation. The idea of inter-religious equality is more crucial.
2. Indian secularism is distinct and is of its own kind. From the very beginning, it arose in the context of deep religious diversity that predated the advent of Western modern ideas. There was already a culture of inter-religious tolerance in India.
3. The advent of Western modernity brought to the mainstream the notion of equality which was earlier neglected and marginalized. It also cultivated the idea of inter-community equality to replace the notion of hierarchy. Thus, Indian secularism took a distinct form as a result of an interaction between what already existed in a society that had religious diversity and the idea that came from the West.

It resulted in equal focus on intra-religious and inter-religious domination. Indian secularism equally opposed the oppression of the dalits and women within Hinduism, the discrimination against women within Indian Islam and

Christianity and the possible threats that a majority community might pose to the rights of the minority religious community. Indian secularism deals not only with the religious freedom of the individual, but also with religious freedom of the minority community. Within it an individual has the right to profess the religion of his or her choice. Similarly, religious minorities also have rights to exist and to maintain their own culture and educational institutions.

4. A secular state must be concerned with intra-religious domination. Hence, Indian secularism is compatible with the idea of "state-supported religious reforms". Hence, Indian constitution bans untouchability. State has enacted several laws abolishing child-marriages.
5. The secular characteristic of Indian state is established by the virtue of the fact that it is neither theocratic nor has it established one or multiple religions. Beyond that it has adopted a very sophisticated policy in the pursuit of religious equality. This allows it either to disengage with religion in American style or engage with it if required. The Indian state may engage with religion negatively to oppose religious tyranny. For example, it bans untouchability. It may also choose a positive mode of engagement. Thus, Indian Constitution grants all religious minorities the right to establish and maintain their own educational institutions which may receive state assistance. All these complex strategies can be adopted by the state to promote the values of peace, freedom and equality.
6. It should be clear that Indian secularism cannot be captured by the phrase "equal respects for all religions". If by this phrase is meant "peaceful co-existence of all religions and inter-religious tolerance" then this will not be enough because secularism is much more than peaceful co-existence or tolerance.

If this phrase means equal feeling of respect towards all established religions and their practices, then there is an ambiguity that needs to be cleared. Indian secularism allows "principled state intervention" in all religions. For example, religiously sanctioned caste-hierarchy is not accepted in Indian secularism. The secular state does not have to treat every aspect of every religion with equal respect. It allows equal disrespect for some aspects of organized religions.

Critique and response

- ✚ It is criticized that Indian secularism is anti-religious. However, on careful examining we find that Indian secularism is against institutionalized religious domination which is not same as anti-religious.
- ✚ It has been argued that secularism threatens religious identity.

However, on the contrary, secularism promotes religious freedom and equality. Hence, it clearly protects religious' identity rather than threatening it. Of course, it does undermine some forms of religious identity, that is, which are dogmatic, violent, fanatical, exclusivist and those which have hatred for other religions.

- ⊕ It is said that Indian secularism is linked to Christianity and is Western and therefore, is ill-suited to Indian conditions. However, it seems to be a very strange complaint. The state to be truly secular must have the ends of its own. Western states became secular when they challenged the control of established religious authority over social and political life. Therefore, Western model is not a product of Christian world. The mutual exclusion of religion and state which is supposed to be the ideal of Western secular society is also not the defining feature of all secular states. The idea of separation can be interpreted differently by different societies. A secular state may keep a principled distance from religion to promote peace between communities and may also intervene to protect the rights of specific communities. This is what exactly happened in India. India evolved a variant of secularism that is not just an implant from the West. The fact is that secularism has both Western and non-Western origin. In the West, it was the church state separation which was in the central and in countries like India, the idea of peaceful co-existence of different religious communities has been important.
- ⊕ Another criticism against secularism is a charge of minoritism. It is true that Indian secularism advocates minority rights. It is justified on the ground that fundamental interest of the minorities must not be harmed and must be protected by the Constitutional law. It is this philosophy which made India to incorporate articles 25 - 28 in Indian constitution supporting the right to freedom of religion. This is exactly how it is in Indian constitution. Minority rights are justified as long as these rights protect their fundamental interests.
- ⊕ It is claimed that Indian secularism is coercive and it interferes excessively with the religious freedom of the community. However, this claim is a misreading of Indian constitution. It is true that by rejecting the idea of separation as mutual exclusion, Indian secularism rejects non-interference in religion. But, it does not follow that. It is excessively interventionist. Indian secularism follows the concept of principled distance which also allows for non interference. Apart from this, interference need not automatically mean coercive or forceful intervention.
- ⊕ It is true that Indian secularism permits state supported religious reforms. But, this should not be equated with a change imposed from above with forceful intervention. It is argued that secularism cannot work because people with deep religious differences will never live together in peace. However, this is a false claim. The history of India civilization shows that such kind of living together is realizable. It was realized elsewhere also. The Ottoman Empire is an example of this.

Multiculturalism

Multiculturalism first emerged as a theoretical stance through the activities of the black consciousness movement of the 1960s, primarily in the USA. Immigrants into the UK in the 1950s and 1960s came mainly from the West Indies and the Indian subcontinent, while immigration in France came largely from Algeria, Morocco and Tunisia.

The term multiculturalism has been used in a variety of ways, both descriptive and normative.

As a descriptive term, it has been taken to refer to cultural diversity that arises from the existence within a society of two or more groups' whose beliefs and practices generate a distinctive sense of collective identity. Multiculturalism, in this sense, is invariably reserved for communal diversity that arises from racial, ethnic and language differences. It takes plurality of culture as a fact

As a normative term, multiculturalism implies a positive endorsement or acceptance, even celebration, of communal diversity, typically based on either the right of different cultural groups to respect and recognition or to the alleged benefits to the larger society of moral and cultural diversity.

The most significant themes within multiculturalism are the following :

Core themes

1. Post-colonialism

The foundation for the ideas of multiculturalism was laid by postcolonial theories that developed out of the collapse of the European empires in the early post-1945 period. The Black Nationalism that emerged in the 1960s can be seen as a manifestation of post colonialism, and multiculturalism itself can be viewed as one of the offshoots of post colonialism.

The significance of post-colonialism was that it sought to challenge and over-turn the cultural dimensions of imperial rule by establishing the legitimacy of non-western and sometimes anti-western political ideas and traditions. Post-colonialism has nevertheless taken a variety of forms. For example, Gandhi advanced a political philosophy that fused Indian nationalism with an ethic of non-violence and self-sacrifice that was ultimately rooted in Hinduism.

Post-colonialism made two important contributions to emergent multiculturalism:

- It challenged a predominantly Eurocentric world view in that it attempted to give the developing world a distinctive political voice separate from the Universalist pretensions of western ideologies such as liberalism. This not only allowed non-western religions, ideas and philosophies to be taken more seriously, but also encouraged a broader reassessment within political thought. In particular, it allowed western and non—western‘ ideas — for instance, liberal and Islamic political theories - to be considered equally legitimate in articulating the traditions, values and aspirations of their own communities.
- It highlighted the political importance of culture, by focusing in particular on the cultural legacy of colonial rule. If people are encouraged to view an ‘imposed’ culture as oppressive and demeaning, they are thereby invited to seek emancipation through the rediscovery of their ‘native’ culture.

2. Identity and culture

Multiculturalism is a form of identity politics. Identity politics seeks to advance the interests of particular groups in society, usually in the face of actual or perceived social injustice, by strengthening its members' awareness of their collective identity and common experiences. Identity, in this sense, links the personal to the social, and sees the individual as ‘embedded’ in a particular cultural, social, institutional or ideological context.

A particular emphasis within multiculturalism is placed on the role and significance of culture. Culture, in its broadest sense, is the way of life of a people. The vital importance of culture, from the multiculturalist’s perspective, is that it shapes the values, norms and assumptions through which individual identity is formed and the external world becomes meaningful.

A pride in one’s culture, and especially a public acknowledgement, even celebration, of one’s culture identity, thus gives people a sense of social and historical rootedness. In contrast, a weak or fractured sense of culture identity leaves people feeling isolated and confused. In its extreme form, this can result in what has been called culturalism which portrays human beings as culturally defined creatures.

Although modern multiculturalists rarely sympathize with this form of crude cultural determinism, the rise of "multiculturalism nevertheless reflects a shift away from universalizing to particularism reflecting an emphasis less on what people share or have in common and more on what is distinctive about the groups to which they belong.

This concern with culture helps to explain the stress within multiculturalism on ethnicity, religion and language.

Ethnicity is a complex term because it carries both racial and cultural overtones. The members of ethnic groups are often seen, correctly or incorrectly, to have descended from common ancestors, and these groups are therefore thought of as extended kinship groups, in which case they are united by blood. More commonly, though, ethnicity is understood as a form of cultural identity, albeit one that operates at a deep and emotional level. An ethnic' culture encompasses values, traditions and practices, but, crucially, it also gives a people a common identity and sense of distinctiveness, usually by focusing on their origins and descent.

Religion is defining feature of cultural identity particularly amongst cultural groups from non-western countries of origin.

However, for groups such as the Quebecois in Canada, the Welsh in the UK, the Basques in Spain and France and the Flemish in Belgium, the maintenance of cultural distinctiveness has been closely linked to the preservation of their national language. Language is often an important component of cultural identity both because it helps to keep alive a body of traditional literature as well as myths and legends and because it helps to shape how the world is viewed and understood.

3. Minority Rights

The advance of multiculturalism has gone hand in hand with a willingness to recognize minority rights, sometimes called multicultural rights; the most systematic attempt to identify such rights was undertaken by Will Kymlicka (1995). Kymlicka identified three kinds of minority rights; self-government rights, poly-ethnic rights and representative rights.

❖ **Self Government rights** belong to national minorities, peoples who are territorially concentrated, possess a shared 'language and are characterized by a 'meaningful way of life across the full range of human activities'. Example would include the Native Americans, the Inuits in Canada, the Maoris in New Zealand and the aboriginal peoples in Australia. In these cases, the right to self-government should involve the devolution of political power, usually through federalism, to political units that are substantially controlled by the members of national minority, although it may extend to the right of succession and therefore sovereign independence.

❖ **Poly-ethnic rights** are rights that help ethnic groups and religious minorities, which have developed through immigration, to express and maintain their cultural distinctiveness. This would, for instance, provide the basis for legal exemptions, such as the exemption of Jews and Muslims from animal

slaughtering laws, and the exemption of Muslim girls from school address codes.

- ⊕ **Special representation rights** attempt to redress the under-representation of minority or disadvantaged groups in education and in senior positions in political and public life. Kymlicka justified reverse or positive discrimination in such cases, on the grounds that it is the only way of ensuring full and equal participation which, in turn, guarantees that public policy reflects the interests of all groups and peoples, and not merely those of traditionally dominant groups.

A Minority or multicultural rights are distinct from the traditional liberal conception of rights, in that they belong to groups rather than to individuals. This highlights the extent to which multiculturalists subscribe to collectivism rather than individualism. Minority rights are also often thought of as special rights. This applies in two senses.‘

- A. **Minority rights are specific** to the groups to which they belong, each cultural group having different needs for recognition based on the specific character of its religion, traditions and way of life. For instance, legal exemptions for Sikhs to ride motorcycles without wearing crash helmets, or, perhaps, to wear ceremonial daggers, would be meaningless to other groups.
- B. **Minority rights are special** in that they may specifically set out to advantage certain groups over other groups. This reflects the fact that, although multiculturalism may, in principle treat all cultural groups as equal in their entitlement to recognition and basic rights, it is prepared to violate the principle of formal equality by granting preferential rights to certain groups to compensate them for past injustices or present disadvantages.
Multiculturalism, in this sense, sets out to redress social injustice. It has typically discharged its commitment to promote social justice through support for ‘positive discrimination’.

The issue of minority rights has nevertheless been highly controversial

- ⊕ Because minority rights address the distinctive needs of particular groups, they have sometimes been criticized for blocking integration into the larger society. The issue of the veil, as worn by some Muslim women, has attracted particular attention in this respect. While supporters of the right of Muslim women to wear the veil have argued that it is basic to their cultural identity, critics have objected to it either because it discriminates against women or because the veil is a symbol of separateness,
- ⊕ Second, positive discrimination has been criticized, both by members of majority groups, who believe that it amounts to unfair discrimination, and by

some members of minority groups, who argue that it is demeaning and possibly counterproductive because it implies that such groups cannot gain advancement through their own efforts.

- Third, considerable debate has surrounded the vexed issue of offence and the alleged right not to be offended. This especially concerns religious groups, which consider certain beliefs to be sacred, and therefore particularly deserving of protection. To criticize, insult or even ridicule such beliefs is thus seen as an attack on the group itself, as was evident, for instance, in protests against the publication of Salman Rushdie "The Satanic Verses" and against allegedly anti-Islamic cartoons published in Denmark in 2006. States such as the UK have, as a result, introduced laws banning expressions of religious hatred.

However, such rights have major implications for traditional liberal rights, notably the right to freedom of expression. If freedom of expression means anything, it surely means the right to express views that others find objectionable or offensive.

- Finally, there inevitable tension between minority rights and individual rights, in that cultural belonging, particularly when it is based on ethnicity or religion, is usually a product of family and social background, rather than personal choice; most people do not join ethnic or religious groups. Some multiculturalists have gone as far as to question whether people have the right to opt out from 'a culture' or to opt in.

4. Diversity

Multiculturalism shares much in common with nationalism. Both emphasize the capacity of culture to generate social and political cohesion, and both seek to bring political arrangements into line with pattern of cultural differentiation.

Nevertheless, whereas nationalists believe that stable and successful societies are ones in which nationality, in the sense of a shared cultural identity, coincides with citizenship, multiculturalists hold that cultural diversity is compatible with political cohesion.

Multiculturalism is characterized by a steadfast refusal to link diversity to conflict or instability. All forms of multiculturalism are based on the assumption that diversity and unity can, and should, be blended with one another; they are not opposing forces. In this sense, multiculturalism accept that people can have multiple identities and multiple loyalties; for instance, to their country of origin and their country of settlement. Indeed, multiculturalists argue that cultural recognition underpins political stability. People become willing and able to participate in society precisely because they have a firm and secure identity rooted

in their own. From this perspective, the denial of cultural recognition results in isolation and powerlessness, providing a breeding ground for extremism and the politics of hate. For instance, growing support for militants Islam, and other forms of religious fundamentalism have been interpreted in this light.

Multiculturalism do not just believe that diversity is possible; they believe it is also desirable and should be celebrated. Apart from its benefits to the individual in terms of a stronger sense of cultural identity and belonging, multiculturalists believe that diversity is of value to society at large. This can be seen, in particular, in terms of the vigour and vibrancy of a society in which there are a variety of lifestyles, cultural practices, traditions and beliefs.

Multiculturalism, in this sense, parallels ecologism, in drawing links between diversity and systemic health. Cultural diversity is seen to benefit society in just the same way that biodiversity benefits an ecosystem. 'An additional advantage of diversity is that by promoting cultural exchange between groups that live side by side with one another it fosters cross-cultural tolerance and understanding, and therefore a willingness to respect 'difference'. Diversity in this sense, is the antidote to social polarization and prejudice.

Nevertheless, this may highlights internal tension within multiculturalism itself. On the one hand, multiculturalists emphasize "the distinctive and particular nature of cultural groups and the need for individual identity to be firmly embedded in a cultural context. On the other hand, by encouraging cultural exchange and mutual understanding, they risk blurring the contours of group identity and creating a kind of 'pick and mix', melting pot society in which individuals have a shallower sense of social and historical identity. As people learn more about other cultures, the contours of their own culture, arguably, become blurred.

Main tenets of Multiculturalism

1. Culture has a prime value in human life.
2. Human beings are not independent creature but they are the product of culture.
3. Equality as difference and not sameness: Multiculturalist is skeptic about conventional notions of equality, justice, Politics & citizenship as they have different thoughts on this. According to multiculturalist's philosophy, the conventional notion of equality focuses on sameness. The purpose of equality is to treat individuals in a similar manner, irrespective of religion, caste etc.

On contrary, multiculturalism defines equality as differential treatment instead of similar treatment. According to Multiculturalism equality is the recognition of

difference. For them real equality means to allow / permit different cultural groups to exist with their different beliefs & viewpoints. If this right is equally given to all cultural groups then this is called equality. Therefore equality is equal rights of all cultures to maintain its differential identity.

Multiculturalism and Politics

All forms of multiculturalism advance a political vision that claims to reconcile cultural diversity with civic cohesion. However, multiculturalism- is not a single doctrine in the sense that there is no settled or agreed view of how multicultural society should operate. Multiculturalists disagree both about how far they should go in positively endorsing cultural diversity, and about how civic cohesion can best be brought about.

The 3 main models of multiculturalism due to differences on reconciliation of cultural diversity and civic cohesion:

- a. Liberal multiculturalism
- b. Pluralist multiculturalism
- c. Cosmopolitan multiculturalism-

Liberal multiculturalism

Central idea is commitment to toleration and a desire to uphold freedom of choice in the moral sphere, especially in relation to matters that are of central concern to particular cultural or religious traditions.

It draws an important distinction between 'private' and 'public' life. It sees the former as a realm of freedom, in which people are, or should be, free to express their cultural, religious and language identity, whereas the latter must be characterized by at least a bed-rock of shared civic allegiances.

Citizenship is thus divorced from cultural identity, making the cultural identity essentially a private matter. So Liberal multiculturalist stance implies that multiculturalism is compatible with civic nationalism. This can be seen in the so-called 'hyphenated nationality' that operates in the USA, through which people view themselves as African - Americans, Polish Americans, German Americans and so forth. In this tradition, inclusion, rather than diversity, is emphasized in the public sphere. The USA, for instance, stresses proficiency in English and knowledge of USA political history as preconditions for gaining citizenship.

It regards liberal democracy as the sole legitimate political system. The virtue of liberal democracy is that it alone ensures that government is based on the consent of the people, and that it provides guarantees for personal freedom and toleration. Liberal multiculturalists would therefore oppose calls, for instance, for the establishment of an Islamic state based on the adoption of Sharia law and may be willing to prohibit groups & movements that campaign for such a political end. Groups are therefore only

entitled to toleration and respect, if they, in turn, are prepared to tolerate and respect other groups.

Pluralist multiculturalism

Pluralism provides firmer foundations for a politics of differences than that of liberalism, liberals; diversity is endorsed but only when it is constructed within a framework of toleration and personal autonomy. Isaiah Berlin nevertheless went beyond liberal toleration in endorsing the idea of value pluralism that people are bound to disagree about the ultimate ends of life, as it is not possible to demonstrate the superiority of one moral system over another. As values conflict, the human dilemma is inevitably characterized by moral conflict. In this view, liberal or western beliefs, such as support for personal freedom, toleration and democracy, have no greater moral authority than illiberal or non-western beliefs.

Berlins View

Berlin's (1969) stance implies a form of 'live - and - let - live-' multiculturalism, or what has been called the politics of indifference. However, as Berlin remained a liberal to the extent that he believed that only within a society that respects individual liberty can value pluralism be contained, he failed to demonstrate how liberal and illiberal cultural beliefs can co-exist harmoniously within the same society. Nevertheless, once liberalism accept moral pluralism, it is difficult to contain it within a liberal framework. John Gray, argued that pluralism implies a 'post-liberal' stance, in which liberal values, institutions and regimes are no longer seen to enjoy a monopoly of legitimacy.

Bhikhu Parekh's View:

- A. An alternative basis for pluralist multiculturalism.
- B. Cultural diversity is at heart, a reflection of the interaction or interplay between human nature and culture. Although human beings are natural creatures, who possess a common species -derived physical and mental structure, they are also culturally constituted in the sense that their attitudes, behavior and ways of life are shaped by the groups to which they belong. A recognition of the complexity of human nature, and the fact that any culture expresses only part of what it means to be truly human, therefore provides the basis for a politics of recognition and thus for a viable form of multiculturalism.

Beyond pluralist multiculturalism, a form of Particularist multiculturalism can be identified. Particularist multiculturalists stress that cultural diversity takes place within a context of unequal power, in which certain groups have customarily enjoyed

advantages and privileges that have been denied to other groups. Particularist multiculturalism is very clearly aligned to the needs and interests of marginalized or disadvantaged groups.

The plight of such groups tends to be explained in terms of the Corrupt and corrupting nature of western culture, values and lifestyles, which are either believed to be tainted by the inheritance of colonialism and racialism or associated with polluting ideas such as materialism and permissiveness. In this context, an emphasis on cultural distinctiveness amounts to a form of political resistance, are fused to succumb to repression or corruption. However, such an emphasis on cultural ‘purity’, which may extend to an unwillingness to engage in cultural exchange, raises concerns about the prospects for civic cohesion; diversity may be stressed at the expense of unity. Particularistic multiculturalism may thus be an example of ‘plural monoculturalism’ rather than a form of multiculturalism.

Cosmopolitan Multiculturalism

Cosmopolitanism and multiculturalism can be seen as entirely distinct, even conflicting, ideological traditions. Whereas cosmopolitanism encourage people to adopt a global consciousness, that emphasizes that ethical responsibility should not be confined by national borders, multiculturalism appears to particularize moral sensibilities, focusing on the specific needs and interests of a distinctive cultural group. Cosmopolitan multiculturalists endorse cultural diversity and identity politics, but they view them as essentially transitional states in a larger reconstruction of political sensibilities and priorities. This position celebrates diversity on the ground of what each culture can learn from other cultures, and because of the prospects for personal self development that are offered by a world of wider cultural opportunities and options. This results in what has been called a pick and mix multiculturalism, in which cultural exchange and cultural mixing are positively encouraged. People, for instance, may eat Italian food, practice yoga, enjoy African music and develop an interest in world religions.

Culture, from this perspective, is fluid and responsive to changing social circumstances and personal needs; it is not fixed and historically embedded, as pluralist or Particularist multiculturalists would argue. A multicultural society is thus a ‘melting pot’ of different ideas, values and traditions, rather than a cultural mosaic of separate ethnic and religious groups. In particular, the cosmopolitan stance positively embraces hybridity. The benefit of this form of multiculturalism is that it broadens moral and political sensibilities, ultimately leading to the emergence of a one-world perspective. However, multiculturalism from rival traditions ‘criticize the cosmopolitan stance for stressing unity at the expense of diversity. To treat cultural identity as a matter of self-definition, and to encourage hybridity and cultural mixing, is, arguably, to weaken any genuine sense of cultural belonging.

Critiques of Multiculturalism

1. Liberals criticism is that multiculturalism poses threat to individualism, reflected in the core multiculturalist's assumption that personal identity is embedded in group or social identity. Multiculturalism is therefore, like nationalism and even racism, just another form of collectivism, and, like all forms of collectivism, it subordinates the rights and needs of the individual to those of the social group. In this sense, it threatens individual freedom and personal self-development.
2. Multiculturalism breeds a kind of ghettoization that diminishes, rather than broadens, cross cultural understanding.
3. According to Amartya Sen, conservative thinking is also evident in ideas that emphasize the incompatibility of cultural traditions, such as the clash of civilization thesis.
4. Even when liberals are sympathetic to multiculturalism they condemn pluralist and especially Particularist multiculturalism for endorsing as legitimate ideas, such as the theories of militant Islam, which they view as antidemocratic and oppressive.
5. Conservatism's main objection to multiculturalism is that shared values and a common culture are a necessary precondition for a stable and successful society. Conservatives thus favor nationalism over multiculturalism. Their justification for such a view is the belief that human beings are drawn to others who are similar to themselves. A fear or distrust of strangers or foreigners is therefore natural and unavoidable. From this perspective, multiculturalism is inherently flawed; multicultural societies are inevitably fractured and conflict - ridden societies, in which suspicion, hostility and even violence come to be accepted as facts of life. The multiculturalist's image of diversity within unity is thus a myth, a sham exposed by the simple facts of social psychology.
6. A further aspect of the conservative critique of multiculturalism is a concern about its implications for the majority or host community. In this view, multiculturalism perpetrates anew, albeit, 'reverse' set of injustices, by demeaning the culture of majority groups through its alleged association with colonialism and racism, while favoring the interests and culture of minority groups through positive discrimination and the allocation of special rights.
7. The relationship between feminism and multiculturalism has sometimes been a 'difficult one. Feminists have more commonly raised concerns about some of the implications of multiculturalism. This happens when minority rights and the politics of recognition serve to preserve and legitimize patriarchal and traditional

beliefs that systematically disadvantage women (this is an argument that -may equally be applied to gays and lesbians). This occurs when cultural practices such as dress codes, family structures and access to elite positions establish structural gender biases. Indeed, some aspects of multiculturalism can be seen as systematic attempts to protect patriarchal power.

8. Social reformists links multiculturalism to its wider failure to adequately address the interests of disadvantaged groups or sections of society. Concerns, for instance, have been raised about the extent to which multiculturalism encourages groups to seek advancement through cultural or ethnic assertiveness, rather than through a struggle for social justice. In that sense, the flaw of multiculturalism is its failure to address issues of class inequality; the real issue confronting minority groups is not their lack of cultural recognition but their lack of economic power and social status.
9. **By virtue of its emphasis on cultural distinctiveness, multiculturalism serves to divide**, and therefore weaken, people who have a common economic interest in alleviating poverty and promoting social reform. Similarly, a more acute awareness of cultural difference may weaken support for welfarist and redistributive policies, as it may narrow people's sense of social responsibility. The existence of a unifying national culture may therefore be a necessary precondition for the politics of social justice.

Merit:

- 1) It seeks diversity in unity.
- 2) It fosters cross cultural tolerance and people learn to respect differences.
- 3) Diversity leads dynamism, vigor, vibrancy, resilience and sustainability just biodiversity maintains ecological balance by providing resilience.
- 4) Multiculturalism provided vent to the voice of minority groups.
- 5) It highlighted the issue of minority rights.
- 6) It gave alternative explanation for various political concept
- 7) It brings harmony, peace and sense of co-existence in the society.

Multiculturalism in the twenty - first century

In many ways, multiculturalism may turn out to be the ideology of the twenty first century. One of the features of globalization has been a substantial increase in geographical, and particularly cross-border mobility, more and more societies have, as a result, accepted multiculturalism as an ir-reversible fact of life. Not only is the relatively homogeneous 'nation - state' a receding memory in many parts of the world, but attempts to reconstruct it through, for example, strict immigration controls, enforced assimilation or pressure for repatriation -increasingly appear, to be politically fanciful.

If this is the case, just as nationalism was the major ideological force in world politics during the 19th and 20th centuries, helping to reshape the contours of political authority as well as the relationship between different societies, multiculturalism its successor, may be the predominant ideological force of the twenty first century. The major ideological issue for our time, and for succeeding generations, may therefore be the search for ways in which people with different moral values and from different cultural and religious traditions can find a way of living together without civil strife and violence. Multiculturalism is not only the ideology that most squarely addresses this question, but it also offers solutions, albeit tentative ones.

On the other hand, multiculturalism may prove to be a once-fashionable idea whose limitations, even dangers, were quickly exposed. In this view, multiculturalism is a particular response to an undeniable trend towards cultural and moral pluralism in modern societies. However, its long-term viability is more in question. Multicultural solutions maybe worse than the disease they set out to tackle. The flaw of multiculturalism, from this perspective, is the belief that by endorsing diversity people will be drawn together as a collection of mutually respectful and tolerant cultural groups.

Instead, diversity may endorse separation and lead to 'ghettoization', as groups become increasingly inward-looking and concerned to protect their 'own traditions and cultural purity.'

Multiculturalism may thus encourage people to focus on what divides them rather than on what unites them. If this is the case, the twenty - first century is destined to witness a retreat from multiculturalism, seen as a non-viable means of addressing the undoubted challenge of cultural diversity.

However, what will replace multiculturalism..?

One possibility is that the failure of multiculturalism will lead to a return to nationalism, whose enduring potency derives from the recognition that, at some level and in some way, political unity always, goes hand in hand with cultural cohesion. The strains generated by irreversible trends towards the construction of multi-ethnic, multi-religious and multicultural societies can therefore only be contained by the establishment of a stronger and clear sense of national identity.

The other possibility is that multiculturalism will be superseded by a genuine of cosmopolitanism. This would require (as some multiculturalists anyway hope) that differences of both culture and nationality are gradually recognized to be of secondary importance as people everywhere come to view themselves as global citizens, united by a common interest in addressing ecological, social and other challenges that are, increasingly, global in nature.

Crime and Punishment:

Corruption, Mass Violence, Genocide, Capital Punishment

Crime

Since the dawn of human civilization, crime has been a baffling problem. There is hardly any society which is without the problem of crime. Violation of norms and rules do occur in a society. Durkheim in his book *Crime as a Natural Phenomenon* said: "A society composed of person's with angelic qualities would not be free from violation of the norms of that society.

"The concept of crime is essentially concerned with the social order. A sense of mutual respect and trust for the rights of others regulates the conduct of the member of society inter se. Although most people believe in peace and harmony, yet there are a few who deviate from this normal behavioral pattern. This imposes an obligation on the State to maintain normalcy in society, which it performs through the instrumentality of law.

The concept of crime is closely related to social policy of a given time. With changes in ideologies or values, the concept of crime also changes. What is crime today may become a permissible conduct tomorrow and vice versa.

It is for this reason that the criminal law has often been considered as a barometer to gauge the moral turpitude of the society at a given time. In other words, the social standards of the society can easily be judged by studying the criminal policy adopted by it. The legislative measure to legalise abortion in certain cases sufficiently reflect the changing concept of morality in Indian society. More recently, the stringent anti-dowry laws enacted to prevent the incidence of dowry-deaths and bride-burning, and deterrent legislation against the practice of sati providing for death sentence, etc. clearly indicates that the society is no longer going to tolerate atrocities against women and wants to assure them a dignified place in the community.

Further, crime is a relative term. That is to say, what is wrong (crime) at one place may not be so at another place.

There has been a considerable increase in crime rate in recent decades. This can be attributed to the changes in social values brought about by the modernization and industrialization of the present society. In a society, as competitive as today is, one is often compelled to go for 'unfair means', to raise one's status in the society. That is why "white collar crimes" have become prominent in recent times. With economic growth, our thrust for wealth and other luxuries of life has increased beyond limits which cannot be satisfied with the available resources. The incidence of crime in western countries is far greater than that of India perhaps, because of the variance of social conditions in these countries. The factors such as greater control of family over

the children and respect for morality and religion, etc., have acted as effective restraints to reduce the incidence of crime in India. This leads us to the conclusion that criminal law is an index of socio-economic progress of the society. Modern criminologists even consider increase in crime as a symptom of social progress.

It is difficult to give a precise definition of 'crime'. Most of the writers, however, generally agree that every criminal act involves some sort of law-violation.

Broadly speaking, there are two kinds of definition of crime; legal and sociological. The legal definition is more acceptable, because of its elaborate and specific nature and element of certainty. The legal definition of crime has been criticized because of its relativity and variable content (i.e. different in different place and at different times). The categories set up by it are unscientific.

However, the advocates of legalistic approach criticize the sociological definition because of its inaccuracy and impermanent character because social norms and values are relative and change with time.

The legal definition appears to be more correct because of its elaborate and specific nature and element of certainty. Criminal law not only gives precise definition of forbidden acts that constitute crime, but also has the machinery and procedure to determine violators, and therefore able to identify offenders. For example, convicted criminals represent the closest possible approximation to those who have in fact violated law, even if this group may not be fully representative of all those who have committed crime. This is not possible in cases where certain conduct branded as criminal in social terms. Moreover, the criminal law establishes substantive norms of behavior, and more clear-cut specific and detailed standard than the norms in any other category of social controls.

However, the understanding of crime must be based on understanding human behavior, of development, society and of a criminal justice system that provides control of deviant behavior.

Characteristics of Crime

The main characteristics of crime are as follows

- (1) External consequences - Crime always has a harmful impact on society, may it be social, personal, emotional or mental.
- (2) Act (Actus) - There should be an act or omission to constitute a crime. Intention alone shall not constitute a crime unless it is followed by some external act.
- (3) Guilty mind - It is one of the essential ingredients of a crime. It may, however, be direct or implied

- (4) Prohibited act - The act should be prohibited or forbidden under the existing law.
- (5) Punishment - The act should not only be prohibited by the law but should also be punishable by the State.

Distinction between Deviance, Crime and Sin

In a society people have norms, beliefs, customs and traditions which are implicitly accepted by its members as conducive to their well-being and healthy all round development. Infringement of these cherished norms and customs is condemned as anti-social. Thus many a writer has defined the term crime as anti-social, immoral or sinful, deviant behaviour

Deviance - Crime

A deviant behavior is one that violates normative rules, understanding or expectations of a social system. In simple terms, deviance is the failure to obey group rules, that is why a deviant is considered an "outsider". However, unlike a criminal, a deviant may not cause a direct or indirect injury to others, and may not act in breach of law, and his act may not be punishable by the State.

For example, we think of the person who commits a traffic violation or gets a little too drunk at a party as being, after all, not very different from the rest of us and treat his infraction tolerantly. But we regard the thief as less like us and punish him severely, Crimes such as murder, rape or treason lead us to a view the violater as a true outsider. This would imply that all deviant behaviours are not crimes, but all crimes are deviant behaviour. For example alcoholism, beggary, etc., are deviant behaviours but not necessarily crimes. Homosexuality is a deviant behaviour but not a crime in many countries (however in India it's a crime).

It is to be noted that deviance and crime, both are relative terms. Thus, what may be considered as a deviant behaviour or crime by one group (or country), may not be considered so by another group or country.

Sin-Crime

Though there is some kind of resemblance between sin and crime, the two radically differ in their content, scope and consequences.

The concept of sin emanates from religion, where as crime is a legal proposition. Sin results in violation of rules of religion while crime involves breach of law. A sinner is punished by God, but a criminal is punished by the State. There is no direct injury or harm in case of a sin but a crime necessarily involves some kind of direct injury. The remedy for a sin is penance whereas a person who commits a crime is subjected to a term of sentence by the court. A sin is necessarily an immoral behavior.

A sin in necessarily an immoral behaviour.

Positive social functions of Crime and Criminality

The existence of crime in a society is a challenge to its members due to its deleterious effect on the ordered social growth. In fact, it leads to a colossal waste of human energy and an enormous economic loss.

On the contrary, its very prevalence makes it a normal feature of any society and it must therefore continue to exist because it has some useful purpose to serve. It may be that crime is useful because it provokes people to organize against it and thereby promote social order or solidarity.

Crime is said to be a form of adjustment, brought about by pressures and tensions of existence e.g. deprivation, conflicts, etc. (In other words, crime is an outward expression of other social-economic or psychological problems), and thus its presence forces the groups or the authorities to look into the changed circumstances which forced the individual to become criminal. Thus, attention gets focused on the various socioeconomic and psychological problems, and the remedies or solutions sought for (For example, the investigation into the cases of juvenile delinquents reveals that they embark on that career because their energies are not properly channelized).

It could be that the protest, which is embodied in crime, against present restrictions and values is a subtle but dynamic factor in the whole process of social change and development: Thus, though crime is a threat to the stability of society, however it is not always dysfunctional and it may become source of the social change. And social change is necessary for the running or progress of human civilization. Thus, crime is also functional.

Causal approaches to Explanation of Criminal behavior

This involves the observation of facts in relation to phenomenon of crime and interpreting them in relation to the possible causes of criminal behavior. Under physical sciences, a cause - effect relationship can be easily established. For example a particular factor (i.e. cause) leads to a particular change (i.e. 'effect') e.g. heat (cause) makes the wax melt (effect). Unlike physical sciences, no cause can be attributed to any criminal behavior which may be both sufficient and necessary. For example, none of the factors like poverty, age, sex, etc. which may be relevant in interpretation of criminal behavior, is either sufficient or necessary for commission of crime.

Punishment

The concept of punishment is that of inflicting some sort of pain on the offender for his violation of law. This is an instrument of public justice. During the last two hundred years, the practice of punishment and public opinion concerning it have been drastically modified. The pertinent question today is what should be the society's attitude towards a criminal. Should he be regarded as a miscreant to be abated, or a patient to be treated or a refractory child to be disciplined? The philosophers today are concerned with the crucial problem as to what end should punishment be directed.

Retributive theory of punishment

Retributive theory of punishment is based on the practice of getting even with a wrongdoer to diminish the perceived need for street justice, revenge, etc. That is, it is based on the philosophy of regaining equality or banishing the injustice. In other words, it is based on an eye for an eye and a tooth for a tooth.

A court of law repays to one only that which he has acquired. He has done crime and it is logical that the reward of his crime, the equivalent of his destructive value, be given to him. According to Aristotle and Hegel, punishment is the negative reward of the criminal who acquires it by infringing the moral law. It is his award which he must receive. It is because of this reason when some offenders escape with lighter punishment than the merit of their crimes, they try to reap the reward of their misdeeds by penance.

Such theory of punishment has two features. First, in it personal revenge and punishment get merged. Second; it has been recognized in the theory that the punishment is quantitatively equal to the crime. -Retributive theory has two forms such as rigorous and liberal. According to regression, retributive theory, the criminal should be punished severely for a serious crime, while the liberal.

Retributive theory also includes the consideration of the circumstances. However, this theory of punishment is criticized on various grounds such as:

1. It is not essential that criminal will, after having been punished, realizes his mistake and feel remorse for his misdeeds.
2. A criminal may become even worse after punishment.
3. Retributive theory is not practical because it does not remove the causes of crime. Prevention of crimes or transformation of the criminal can be achieved only by preventing crimes or transforming the criminal and not punishment. One of the thinkers such as John Dewey has correctly said that we are not relieved of the responsibility for the consequences of our procedure by the fact

that the offender is guilty. Hence, it is more important to remove those economic, social, mental and physical causes which might lead to crime.

Deterrent theory of punishment

According to deterrent theory of punishment, the aim of punishment is to set an example to others and to prevent them from criminal tendencies. Here, the objective is to discourage someone from future wrong-doing by making punishment severe enough such that benefit of crime is outweighed by the punishment. In simple terms, the objective of the punishment is to deter or prevent others from committing crime. This theory is expressed by the judge's formula: "You are not punished for stealing sheep, but in order that sheep may not be stolen."

There could be individual deterrence, that is, on offender himself such that crime is not paying or it could be general deterrence that is, punishment sets an example for others. The type of punishment under such theory is very harsh and severe and it even subscribes to capital punishment. According to some thinker, the greatest strength of this theory is that it discourages crime effectively. However, this theory of punishment is criticized on various grounds such as:

1. It uses offender as a means and not as an end.
2. This does not affect any improvement in the culprit. Rather, he is made the means of improvement of the others.
3. It is incorrect from practical point of view. Actually, everyone cannot become a criminal. So, there is no use of example of punishment for them.
4. It is improper and inhuman.
5. It ignores impulsive factors.
6. It also does not seek to remove the causes of crime.

Reformative theory of punishment

According to reformative theory, the aim of punishment is the improvement of the offender himself. The objective is to transform the offender to a law-abiding citizen. It is believed that experience of punishment brings changes in his personality, attitude and behaviour. It implies that an offender is punished for his own benefits.

Reformative theory is closely related to rehabilitation program. For example, as government promises rehabilitation for the offenders, dacoits, etc. on account of their surrender. Under such theory, type of punishment is not very harsh and often punishment is supplemented by counseling, education and training.

This theory of punishment is considered to be superior as compared to others because it is in tune with the modern humanitarian and philosophy of humanism trend in thoughts. It is effective in all conditions in which criminals commit crimes in ignorance

or compelled by circumstances. Moreover, it seeks to eliminate the very causes of crime and thereby preventing it. Reformative theory is justified on various grounds such as:

1. **Criminal anthropology**. According to it, crime is a disease, a pathological state or the state of inherited or acquired degeneration. Thus, it is necessary to treat a criminal instead of punishing him. Hospitals, asylums, welfare homes, etc. are better adapted to the execution of projects to decrease crime than prisons. '

However, it is criticized on the ground that it assumes that causes of a limited number of crimes to be the causes of all crimes. All crimes cannot be attributed to diseased conditions.

2. **Criminal sociology**.

It emphasizes the responsibility of social circumstances for crime. Thus, it is more important to induce improvement in social and economic conditions, to remove inequalities, poverty, deprivation, exploitation, etc. than to punish the criminal. Crimes can be stopped not by punishment but by organization of society on the basis of justice and liberty.

However, this view is also criticized as the causes of all crimes cannot be analyzed in this way. Many people commit crimes while being fully conscious of the fact, especially the crimes of white-collar criminals cannot be included in such viewpoint.

3. **Psycho-analysis**.

According to great psychologist Sigmund Freud, crimes are caused by repressed complexes and tendencies of sex and jealousies, caused by desires and frustrated sexual passions. Thus, education and psycho-analytical treatment are needed for preventing crimes instead of punishment.

This also holds true in relation to particular criminals only. We cannot universalize their views.

Capital punishment

Arguments in favour of capital punishment

1. Capital punishment is a definite deterrent to a crime.
2. Capital punishment is a moral war. Some thinker believes that capital punishment is a weapon by which society fights a moral war against criminals and immoralists.

3. Capital punishment is a social need. It is a need because it is necessary for the maintenance of social order, peace and harmony.
4. Capital punishment is a selective process. It is a method by which nature eliminates those individuals who are dangerous for the society and whose continuing existence in the society poses a threat to social law and order. According to a famous Greek philosopher, Plato, "If a man cannot be harmless otherwise than in sleep, it is better for him to die than live."
5. Capital punishment is a legal demand. If the criminal is let off unpunished, this would militate against the majesty of the law and gradually respect for law will vanish from the society. Losing faith in law and justice would make people to go for street—justice and avenging the wrong at the personal level.
6. According to some thinker, capital punishment is economic saving.

Arguments against capital punishment

1. Capital punishment can result in grave injustice. No innocent should be convicted. However, in actual practice, the error of judgement cannot be ruled out. The law courts are bound by admissible evidences produced inside the courts which can be manipulated. Winning the case is more dependent upon the competence of the lawyer rather than merit of the case.
2. Capital punishment leaves no room for repentance. No man is above wrong. To err is human. A person who realizes his mistake and repents for it, usually not only become law-abiding citizen, but also become a social reformer in some instances.
3. Capital punishment is not selective. Many innocents are hanged because they lack resources to defend themselves. And on the contrary, many hardened criminals escape even detection.
4. Capital punishment does not save' money.
5. Capital punishment is irreligious. Most of the religions of the world are based upon implicit faith in God. God is considered the ultimate creator and he alone has the power to destroy. Anyone who has not the power to make life also has no power to take the life. Howsoever mighty the state may be, it cannot make life. Therefore, from the religion point of view, it also has no authority to deprive anyone of life.
6. Capital punishment does not reduce the crime level. It has been seen that it does not act as definite deterrent.

Genocide

Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life; calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group;[and] forcibly transferring children of the group to another group. Stage:

1. **Classification: People** are divided into "us and them". "The main preventive measure at this early stage is to develop universalistic institutions that transcend... divisions."
2. **Symbolization:** When combined with hatred, symbols may be forced upon unwilling members of pariah (outcaste) groups... To combat symbolization, hate symbols can be legally forbidden as can hate speech".
3. **Dehumanization:** One group denies the humanity of the other group. Members of it are equated with animals, vermin, insects, or diseases. Local and international leaders should condemn the use of hate speech and make it culturally unacceptable. Leaders who incite genocide should be banned from international travel and have their foreign finances frozen.
4. **Organization:** Genocide is always organized... Special army units or militias are often trained and armed... The U.N. should impose arms embargoes on governments and citizens of countries involved in genocidal massacres, and create commissions to investigate violations.
5. **Polarization:** Hate groups broadcast polarizing propaganda... ~Prevention may mean security protection for moderate leaders or assistance to human rights groups... Coups d'état by extremists should be opposed by international sanctions."
6. **Preparation:** Victims are identified and separated out because of their ethnic or religious identity..."At this stage, a Genocide Emergency must be declared. ..."
7. **Extermination:** It is 'extermination' to the killers because they do not believe their victims to be fully human". "At this stage, only rapid and overwhelming armed intervention can stop genocide. Real safe areas or refugee escape corridors should be established with heavily armed international protection.
8. **Denial:** The perpetrators... deny that they committed any crimes. The response to denial is punishment by an international tribunal or national courts"

Development and Social Progress

The genesis of development came into picture in the context of the breakdown of feudalism and the rise of modern capitalist societies. The rise of capitalism with its emphasis on science, progress, economic growth, production, profit, freedom of trade etc, provided the material conditions within which the idea of development took shape. The intellectual tradition of the time, the enlightenment tradition, redefined the notion of the individual as having the faculty of reason, and possessing the capacity to take rational decisions. At the same time, the idea of the rational individual, capable of self-determination, became instrumental in the emergence of a conscious political struggle for individual freedom and autonomy.

What is development?

In the broadest sense of the term, development conveys the ideas of improvement, progress, well-being and an aspiration for a better life. Through its notion of development a society articulates what constitutes its vision for the society as a whole and how best to achieve it.

In a narrower sense it refers to more limited goals such as increasing the rate of economic growth, or modernizing the society.

Development has unfortunately often come to be identified with achieving pre-set targets, or completing projects like dams, or factories, hospitals, rather than with realising the broader vision of development which the society upholds. In the process some sections of society may have benefited while others may have had to suffer loss of their homes, or lands, or way of life, without any compensatory gains which has led to social inequity.

Since the 1960s, however, significant strands of development theorists started questioning the association of development with economic progress as well as the idea that there was only one path to this progress, which had already been traversed by the western countries.

Emergence of Holistic development:

By the 1960s, the skepticism with a narrow ‘definition of development as economic progress made itself manifest in the form of the ‘social development’ approach, which combined growth with improvement in health care, education, redistribution of wealth and popular participation in political decision making. The ‘basic human needs’ similarly emphasized the need to redefine the meaning of development to include reduction of poverty, inequality and unemployment.

Relation between Development and Capitalism

According to Jorge Larrain:

1. The concept of development is closely bound up with the evolution of capitalism,
2. Each phase of capitalism can be seen as having a specific set of notions about development. He sees capitalism as having developed in three main stages and identifies the corresponding theories of development for each phase.
3. From 1700, the age of competitive capitalism, marked by the struggles of the new industrial bourgeoisie was also the time when capitalism, from its emergence in Britain, starts expanding all over the world in search of markets or colonies.
4. 1860-1945- The second stage of capitalism, the age of imperialism, took development for granted and saw the firm entrenchment of capitalism as the predominant mode of production. The neo-classical theory of development, working with the assurance that the capitalist mode of production had strong roots and an inherent capacity to maintain equilibrium.

View of Marxist on Development: Marxists like Rosa Luxemburg, Bukharin, Hilferding and Lenin, points that, however, that as long as the colonial bond was not broken, the development of colonised countries would remain arrested.

The right to development adopted by the General Assembly on 4th December 1986, provided the basis for claims to an egalitarian world order.

5. The right to development encapsulates the right to self-determination and the right to sovereignty, and asserts that all rights, civil, political, economic, social and cultural are equally important and should be promoted and protected equally.

It also brings in the important supposition that international peace and security are essential elements for the establishment of conditions conducive to development. Amartya Sen's enunciation of development as freedom emphasised both the 'constitutive' and 'instrumental' role of freedom in development. Political freedoms, economic opportunities, social security, trust and transparency in public affairs and social opportunities are considered by Sen as certain freedoms which are instrumental in providing conditions which promote development. It may also be emphasized that these freedoms also constitute substantive characteristics of development.

Recognizing that development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting from the refrom.

Recalling the provisions of the international Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights,

Recalling the right of peoples to self-determination, by virtue of which they have the right freely to determine their political status and to pursue their economic, social and cultural development.

Recalling also the right of peoples to exercise, subject to the relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources.

Concerned at the existence of serious obstacles to development, as well as to the complete fulfillment of human beings and of peoples, constituted, inter alia, by the denial of civil, political, economic, social and cultural rights, and considering that all human rights and fundamental freedoms are indivisible and interdependent and that, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of, respect for and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms.

Relation between disarmament and development

There is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and Well-being of all peoples and, in particular, those of the developing countries.

Recognizing that the human person is the central subject of the development process and that development policy should therefore make the human being the main participant and beneficiary of development.

It is the primary responsibility of states for the creation of conditions favorable to the development of peoples and individuals.

Aware that efforts at the international level to promote and protect human rights should be accompanied by efforts to establish a new international economic order. The right to development is inalienable human right and that equality of opportunity for development is, a prerogative both of nations and of individuals who make up nations,

It is somewhat easier to say which countries are richer and which are poorer. But indicators of wealth, which reflect the quantity of resources available to a society, provide no information about the allocation of those resources—for instance, about more or less equitable distribution of income among social groups, about the shares of resources used to provide free health and education services, and about the effects of production and consumption on, people's environment. Thus it is no wonder that countries with similar average incomes can differ substantially when it comes to people's quality of life: access to education and health care, employment opportunities, availability of clean air and safe drinking water, the threat of crime, and so on. With that in mind, how do we determine which countries are more developed and which are less developed?

Goals and Means of Development:

Different countries have different priorities in their development policies. But to compare their development levels, you would first have to make up your mind about what development really means to you, what it is supposed is the goal merely to increase national wealth, or is it something more subtle? Improving the well-being of the majority of the population? Ensuring people's freedom? Increasing their economic security?

Development as Human Development:

Recent United Nations documents emphasize "human development" measured by life expectancy, adult literacy, access to all three levels of education, as well as people's average income which is a necessary condition of their freedom of choice. In a broader sense the notion of human development incorporates all aspects of individuals' well-being, from their health status to their economic and political freedom. According to the Human Development Report 1996 published by the United Nations Development Program, "human development is the end—economic growth a means".

It is true that economic growth, by increasing a nation's total wealth, also enhances its potential for reducing poverty and solving other social problems. But history offers a number of examples where economic growth was not followed by similar progress in human development. Instead growth was achieved at the cost of greater inequity, higher unemployment, weakened democracy, loss of cultural identity, or overconsumption of resources needed by future generations. As the links between economic growth and social and environmental issues are better understood, experts including economists tend to agree that this kind of growth is inevitably unsustainable—that is, it can't continue along the same line for long.

To be sustainable, economic growth must be constantly nourished by the fruits of human development such as improvements in workers' knowledge and skills along with opportunities for their efficient use: more and better jobs, better conditions for new businesses to grow, and greater democracy at all levels of decision making (Figure 1.1). Conversely, slow human development can put an end to fast economic growth.

Both human development and growth can become mutually reinforcing. Since slower human development has invariably been followed by slower economic growth, this growth pattern was labeled a "dead end."

Consider emissions of greenhouse gases, generated mainly by industrial countries, which can lead to global warming and flooding of certain low-lying islands – resulting in the displacement and impoverishment of entire nations.

Sustainable development

Social justice defined as equality of opportunities for well-being, both within and among generations of people, can be seen as having at least three aspects: economic, social, and environmental. Only development that manages to balance these three groups of objectives can be sustained for long; conversely, ignoring one of the aspects can threaten economic growth as well as the entire development process.

Difference between economic development and economic growth

Economic development: 'Qualitative change and restructuring in a country's economy in connection with technological and social progress. The main indicator of economic development is increasing GNP per capita (or GDP per capita), reflecting an increase in the economic productivity and average material wellbeing of a country's population. Economic development is closely linked with economic growth.

Economic growth: Quantitative change or expansion in a country's economy.

Economic growth is conventionally measured as the percentage increase in gross domestic product (GDP) or gross national product (GNP) during one year. Economic growth comes in two forms: an economy can either grow "extensively" by using more resources (such as physical, human, or natural capital) or "intensively" by using the same amount of resources more efficiently (productively). When economic growth is achieved by using more labor, it does not result in per capita income growth. But when economic growth is achieved through more productive use of all resources, including labor, it results in higher per capita income and improvement in people's average standard of living. Intensive economic growth requires economic development.

Development as Freedom:

According to Amartya Sen,

Rather than the common focus on income and wealth, or on mental satisfaction (by Utilitarians) or processes (by libertarians), he suggests a focus on substantive human freedoms. And he argues for a broad view of freedom, one that encompasses both processes and opportunities, and for recognition of "the heterogeneity of distinct components of freedom.

Freedom is both constitutive of development and instrumental to it: instrumental freedoms include political freedom, economic facilities, social opportunities, transparency, and security, which are all different but inter-connected.

Development can be seen as a process of expanding the real freedoms that people enjoy. Focusing on human freedoms contrasts with narrower views of development, such as identifying development with the growth of gross national product, or with the rise in personal incomes, or with industrialization, or with technological advance, or with social modernization. Growth of GNP or of individual incomes can, of course, be very important as means to expanding the freedoms enjoyed by the members of the society.

But freedoms depend also on other determinants, such as social and economic arrangements (for example, facilities for education and health care) as well as political and civil rights (for example, the liberty to participate in public discussion). Similarly, industrialization or technological progress or social modernization can substantially 'contribute to expanding human freedom, but freedom depends on other influences as well. If freedom is what development advances, then there is a major argument for concentrating on that overarching objective, rather than other some particular means, or some specially chosen list of instruments. Viewing development in terms of expanding substantive freedoms directs attention to the ends that make development

important, rather than merely to some of the means that, inter alia, play a prominent part in the process.

Development requires the removal of major sources of unfreedom: poverty as well as tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or over activity of repressive states.

Freedom is central to the process of development for two distinct reasons:

1. **The evaluative reason:** assessment of progress has to be done primarily in terms of whether the freedoms that people have are enhanced;
2. **The effective reason:** Achievement of development is thoroughly dependent on the free agency of people. In pursuing effective reason, we have to look at the relevant empirical connections, in particular at the mutually reinforcing connections between freedoms (Political, economic, social) of different kinds. It is because of these interconnections that free and sustainable agency emerges as a major engine of development. Not only is free agency itself a "constitutive" part of development, it also contributes to the strengthens of free agencies of other kinds.

Social Progress

The literal meaning of the word progress is moving forward towards some objective or simply 'moving forward'. But moving forward or backward, progress or regress, are relative terms. If it be remarked, that such and such a country has progresses, no meaningful information can be extracted from such a statement unless the direction towards which progress has been made be known. In this way, progress is not mere change. It is change in a particular direction.

The word progress cannot be appended to change in every direction. For example, if the condition of agriculture in a particular country worsens and a famine results it is undeniably change, but it will not be, called progress. Progress means moving forward in the direction and achievement of some aim. In this way, its meaning is less comprehensive than of evolution. According to Burges "Any change or adaptation to an existent environment that makes it easier for a person or a group of persons or other organized form of life may be said to represent progress."

In this way, progress can roughly be descriptive of any change, that assists in the life of an individual, group or institution because even though not an ultimate value. 'To live' is certainly a primary and indispensable value. Thus, any change desirous of being dignified by the name of progress should at least be life giving.

Characteristics of Progress

The concept of progress will be clarified by a knowledge of its characteristics. The following are its main general characteristics:

1. There is change in progress--Progress is change or motion in some direction. Hence change is its first essential characteristic.
2. In progress, the desired aim is achieved — but mere change cannot be called progress. It can be called progress only when it fulfills the desired aim. Whatever this desired objective may be it must be beneficial and pertain to welfare since no one desires his own ill being.
3. Progress is communal — Progress, in its ethical and certain other meanings, is also personal but in sociology this meaning of progress is not accepted since sociology is the science of society and in it, the individual is taken into consideration only as a -part of society. Thus, progress according to sociology, is communal, or in other words, in progress the entire group moves ahead in some desired direction.
4. Both harm and gain are possible in progress — it is not that there is only gain and no loss in progress, although ultimately, of course, there is more gain than loss. In case the loss is greater than gain, the social change involved cannot be called progress. In every progress the community has to suffer hardships and make sacrifices. In gaining its independence what hardships India did not suffer and what sacrifices it was not compelled to make? But nevertheless every struggle in the history of independence was a step towards progress.-
5. **Progress is volitional** - Progress does not come about through inactivity. Desire volition are needed for progress. It is an uphill task. Efforts have to be made and when these efforts are successful it is called progress. It must be remembered that every efforts is not progress are also wasted and despite the most desperate endeavor we make no headway whatsoever.
6. **Concept of progress is variable** -- the concept of progress does not remain content in all times and at all places. That which is today considered the symbol of progress may tomorrow be considered and treated as a sign of regress. In India a particular fact may be interpreted as an indication of regress whereas the same fact may in the west, may symbolic progress.

Influence of value on progress

In defining progress, Lumley has written, "progress is the realization of our social ideals." In this way, progress is determined by social values. The concept of progress will accord with the social values of the time and place to which it belongs. Before studying the effect value on progress it would be better to understand the exact meaning of the word value as it is interpreted in society.

In sociology, the word ‘value’ carries a very special significance. In “Patterns of Culture” Gillin write, “The value of a thing is its desirability or worth as compared with something else. Value clusters around:

- (I) Activities and attitudes which serve needs of the group or a large or dominant portion of the group, or
- (II) About ways of life which have become habitual or customary and therefore require little conscious adjustment from day to day or they are so interwined with other elements in the culture that the disturbance of one part of the complex threatens other.

In this way the desirable or desired is value or valuable. It is based on those actions or thoughts that fulfill the needs of the communal life. Value is related to those facts which have become habits and have been absorbed into the culture. In this way, it is apparent that values are social and we want their increase or that society has need for an increase in them. Hence the more the social values are achieved the further shall society progress in the desired direction. It is clear that progress is based on social values.

Whether any change shall be considered progress or regress depends upon the social values which are constantly changing. Thus there is no object which can uniformly or eternally be considered valuable irrespective of time and place.

In this way the concept of progress changes colour like a chameleon. Here some people can argue to the contrary by citing the uniformity and constant nature of concepts of abstaining ‘from theft, killing, exploitation etc. but a careful and minute observation will make it apparent that these words have different meanings in different times and at different places.

For example, the Jain religion looks down upon the killing of even mosquitoes and flies whereas in the political sphere even the elimination of an enemy does not count as a wrong. Similarly, there was a time when even the practice of slavery was not considered to be exploitation. And even today the word exploitation has different meaning in the communistic and capitalistic contexts. In this way, the meaning of progress depends upon specific social values. This changeability of values does not mean that the concept of progress is not definite. All that it means is that progress does not have ‘precisely the same meanings at all times and places and that it is dependent upon and is determined by social values.

These social value change but at a very slow rate and many values suffer very insignificant variation even over, very long periods. Hence upto this limit concept of progress remains constant. Thus, it is evident that the concept that the concept of progress depends upon social values.

Conditions Determining Social Progress

In the way in which the concept of social progress is based upon social values, in much the same way, the conditions conducive to social progress also are not the same in all time and at all places. Besides, the conditions conductive to social progress will vary with the different spheres of progress.

Conditions conductive to progress in various countries vary according to the respective stage of progress. To take an example the provision of education, means of livelihood, food grains, etc., in India would be conditions which are favorable to progress in this country. These commodities are essential for every society but where these are available at the outset, progress would take place in spheres other than these. Hence, it would stand in need of different conditions.

Programmes of cultural development can be advantageous to progress in the country in which the population is adequately and properly fed. Such programmes would be a waste of effort and time in a country in which the people do not have enough to eat. In this way, it is not possible to prescribe such conditions conductive to social progress that would hold true for and be applicable to all times and places. Keeping in mind their essentially relative nature, the following can be said to be the major general conditions of progress:

1. **Physical and mental health** - A healthy mind and body are the first conditions of progress in any direction. Only this can ensure a healthy future generations and a bright future for the country.
2. **Collection of physical objects** — Besides having health, it is also essential to get rid of poverty. Health can hardly be expected to be good in poverty and starvation. Hence the acquisition of objects necessary for life is an essential condition of progress.
3. **Universal education** - In addition to the appropriate means a universal education is also necessary. Without this science and knowledge would remain undeveloped.
4. **Social Security** --Another important condition which conduces to progress is the provision of social security in the form of insurance against disease, accident, old age, unemployment etc.
5. **Liberty and Equity** - Without liberty and equality people cannot access fully work towards progress. Both of these render much assistance in progress.
6. **Possibility of progress** - People should have faith in the possibility of progress and should be free from any fear. But on the other hand, progress should not seem to be inevitable, for people would then stop their efforts in this direction.

7. **Minimum obstacles** - It is encouraging to be faced with a minimum of obstacles in one's movements, behaviour and paths to progress in life. This helps progress. Man should have maximum freedom in his work

It need hardly be said that the foregoing description of conditions conducive to progress is both brief as well as incomplete. According to their time and place or their context these conditions can be elucidated. This description comprehends only those fundamental conditions which are indispensable to progress.

Criteria of Progress

As in the case of conditions for progress, it is difficult to explain or describe the criteria of progress, which also are relative to their temporal context. Social values are the criteria of progress and social values change with time and place. Hence it is difficult to formulate a universally acceptable criterion of progress. But nevertheless, the following can be tentatively suggested.

1. **Health and longevity of life** - Average length of life is the one sure index of whether the world is growing better. But it does not necessarily follow from this that a longer life must also be more pleasurable and better. Hence this criterion is inadequate.
2. **Wealth** — in the opinion of some person's wealth or economic progress is a criterion of progress. But what does wealth avail when an individual lacks in health? In a country like India, religion has always been valued more highly than wealth.
3. **Population** — some people hold that an increase in population is a sign of progress. But if this is so, then it is India and China and not Japan and America, which should be considered the most progressive countries.
4. **Moral Conduct** — According to some thinkers, among them Mahatma Gandhi, it is moral conduct that is the criterion of progress. This view is generally correct and tenable but is difficulty arises from the fact that the moral basis is undefined.

It would have transpired, from the foregoing description, that it is not possible to formulate any one criterion of progress because Life has many facts. Yet it can be stated that the integral development of society is the criterion of progress. Integral development comprehends all mental, physical and spiritual aspects. It also comprehends the above four criteria.

Amartya Sen's Capability Approach to Development

A Development Model beyond Economic Growth

Over the past decade Amartya Sen's Capability theory has emerged as a serious alternative model of progress and development. It goes well beyond the boundaries of economic or industrial growth as practiced today but includes them among other means of development which it sees as expansion of people's capabilities. Rather than goods and resources (the inputs), the focus of Sen's capability approach is people and their capabilities (the end-results). It also provides the frameworks for thinking about issues like poverty and inequality that can't be adequately addressed by the economic tools alone.

The CA can be used as a normative framework for assessing social arrangements, social justice, equality, and quality of life, as well as for designing policies. It has also been seen as a theory of social justice — seeking to reduce social exclusion and inequalities. The CA is perhaps best known for having inspired the creation of the Human Development Index (HDI in 1990 by the United Nations Development Programme (UNDP) in order to gauge countries level of human development or well-being. The HDI offered an alternate measure of human progress in terms other than GDP growth and has played a key role in advancing alternative ideas about development and welfare.

Sen's approach is both comprehensive and flexible.

- It focuses on people as ends in themselves rather than treating them as mere tools to achieve economic growth.
- Rather than talking of some theoretical equality of people or seeing them in terms of numbers, the capability approach explicitly recognizes the differences in individuals coming from say, age, sex, race, class, health, intelligence, education and so on.
- It also accepts that people's abilities are affected by external factors coming from the other people, social arrangements, access to infrastructure and public services, opportunities to participate in social and political activities, freedom' to speak and influence state policies, and so on.

Thus, the scope of the capability approach is quite vast. It considers all possible factors personal, economic, social, political, or environmental that can possibly influence human capabilities which dictate the real well-being of people. In this sense, it is a complete human development model. Although Amartya Sen is commonly associated with welfare economics, but in recent years his theory has been increasingly used for analysis of social policies in economically advanced nations, for example France.

How A Rich Country can have Poor Human Life?

A country can be very rich in conventional economic terms (say, per capita GDP) and yet has very poor quality of human life. How can a country with plenty of money be very poor? It can be answered in three ways.

- First, human well-being is a multidimensional phenomenon that cannot be measured in wealth or income. Such measures also fail to indicate how well people live and how equally economic resources (functionings) are distributed among individual, households, and different social groups.
- Second, we need to consider conversion of resources. Obtaining goods and services is one thing and converting them into functionality is another. For example, a bicycle makes it possible to move around freely. But mere possession of a bicycle does not in itself assure the function of mobility. A person with some handicap would find it difficult to convert the bicycle into mobility. Similarly, a country may be achieving high economic growth, but if it is concentrated in few hands it would not assure increased well-being for the masses.
- Third, economic growth often ignores inequalities and injustice leading to social exclusion. People are excluded not just because they are currently without a job or income, but also because they have little prospects for the future. Social exclusion is a matter not only of current status but also of the future expectations — likelihood of future improvement and empowerment.

Sen Praises Democracy and Rejects Authoritative Regimes

For Sen, democracy is not limited to voting and elections from among multiple parties. Rather, “democracy is best seen as government by discussion”, namely people’s participation and public reasoning. Analysing past famines, Sen emphasizes the importance of democracy and freedom of the press, and argues that “no major famine has ever occurred in a functioning democracy with regular elections, opposition parties, basic freedom of speech and a relatively free media (even when the country is very poor and in a seriously adverse food situation)”. ‘The prevalence of famines, which had been a persistent feature of the long history of the British Indian Empire, ended abruptly with the establishment of a democracy after independence.’ Another historical example he cites is the massive famine in China during 1958-61 during the failed ‘Great Leap Forward’, which claimed close to 30 million of lives.

Functioning's and Capabilities

Sen argues that people’s well-being depends upon what they are actually able to be and do. Knowing the availability of resources or wealth alone doesn’t tell how well their lives are going. For instance, availability of a cycle is fine but can’t tell whether the person can get the capability of transportation from it. Therefore, the Capability Approach demands that while designing policies,

- the focus should be on enhancing capabilities of people;

- It also involves removing hurdles from their lives so that they have more freedom to 'live the life they value'.
- The CA focuses directly on the quality of life that individuals are actually able to achieve in other words, a capability is a perspective in terms of which the advantages and disadvantages of a person can be reasonably assessed.
- The capability approach focuses on two things: freedoms to achieve and the capabilities to function.
- Functionings: A functioning therefore refers to the use a person makes of whatever is at his/her command. Functionings are what people really "do and are". They are achievements of people: they are 'doings' or 'beings'. Taken together, these doings and beings - achieved Functionings — give value to life. The functionings may include being well-nourished, having shelter, able to work, rest; or being literate or healthy; being part of a community or group; being respected, and so on.

They should be distinguished from the commodities employed to achieve them (as 'cycling' is distinguishable from 'possessing a cycle). Achieving a functioning (for example, being adequately nourished) with a given bundle of commodities (say, bread or rice) depends on a range of personal and social factors (e.g. age, gender, activity levels, health, access to medical services, nutritional knowledge and education, climatic conditions, and so on).

- **Capability:** It refers to the 'set of valuable functionings that a person has effective access to. In other words, capabilities are different combinations of functionings that a person can achieve and reflect his freedom to choose. They are like opportunities about what a person may like to do, have, or be. A person's capability is best thought to be the equivalent of a person's opportunity set.

• **Difference between functioning and capabilities**

Thus, while functionings refer to what people really "do and are", capabilities denote what people really "can do and can be". The achieved functionings are the realized achievements and the capabilities are potentially possible. Functionings are, in a sense, more directly related to living conditions, since they are different aspects of living conditions. Capabilities, in contrast, are notions of freedom, in the positive sense: what real opportunities you have regarding the life you may lead.

The difference between functioning and capability can be best clarified with an example. Consider two persons, both don't eat enough. One is a victim of a famine in Ethiopia and the other decided to sit on a hunger strike in front of the US embassy in London to protest against its troops in Afghanistan.

Although both lack the functioning of being well-fed, the freedoms they have to avoid hunger are vastly different. The first person is badly constrained in freedom and lacks the capability to achieve the functioning to be well-fed; the second person has this capability.

Likewise, you are capable of driving a car — i.e., you have the functioning ability to drive a car. It is a skill that you have. It becomes a capability if you have the freedom (having the driving license, road connectivity, availability of fuel, as well as the motivation) to use it to live or do things you value. So, merely having a car or being able to drive it by itself does not add value to your life. You also lose this capability if, say, you are a female and the state passes a law forbidding women to drive. In Afghanistan/Pakistan, the Talibans regularly issue decrees (or threats) to prevent girls from going to schools.

Thus, poverty is seen in terms of a shortfall of ‘basic capabilities’ or ‘basic capability failure’. Such failure involves the inability to achieve certain minimally adequate levels of crucially important functionings, such as being nourished and being sheltered.

- **Application of the Capability Approach:**

Many attempts have been made to apply the CA. For instance, it has been used to investigate poverty, inequality, well-being, social justice, gender, social exclusion, health, disability, child poverty and identity. It has also been related to human needs, human rights and human security as well as development more broadly. Most empirical studies fall into at least one of three categories.

1. First, there have been numerous attempts to apply the CA to the measurement of poverty and well-being. The most well-known measure is the human development index, which covers income (opportunities), life expectancy, and education.
2. Second, several studies have investigated the links between income (or expenditure) and various capabilities. Studies provide evidence that income and capabilities do not always go together.
3. Finally, a third strand of work highlights group disparities by pointing to gross inequalities in terms of life expectancy, nutrition and literacy, etc, along the lines of gender, race, class, caste and age.

UN Declaration on Social Progress and Development

PRINCIPLES

All peoples and all human beings, without distinction as to race, colour, sex, language, religion, nationality, ethnic origin, family or social status, or political or other conviction, shall have the right to, live in dignity and freedom and to enjoy the fruits of social progress and should, on their part, contribute to it.

Foundation of Social progress and development

- Social progress and development shall be founded on respect for the dignity and value of the human person and shall ensure the promotion of human rights and social justice, which requires:
 1. The immediate and final elimination of all forms of inequality, exploitation of peoples and individuals, colonialism and racism, including Nazism and apartheid, and all other policies and ideologies opposed to the purposes and principles of the United Nations.
 2. The recognition and effective implementation of civil and political rights as well as of economic, social and cultural rights without any discrimination.

Related to sovereignty

The following are considered primary conditions of social progress and development:

- (a) National independence based on the right of peoples to self-determination;
- (b) The principle of non-interference in the internal affairs of States;
- (c) Respect for the sovereignty and territorial integrity of States;
- (d) Permanent sovereignty of each nation over its natural wealth and resources;
- (e) The right and responsibility of each State and, as far as they are concerned, each nation and people to determine freely its own objectives of social development, to set its own priorities and to decide in conformity with the principles of the Charter of the United Nations the means and methods of their achievement without any external interference;
- (f) Peaceful coexistence, peace, friendly relations and co-operation among States irrespective of differences in their social, economic or political systems.

Human resource

Social progress and development require the full utilization of human resources, including, in particular:

- (a) The encouragement of creative initiative under conditions of enlightened public opinion;

- (b) The dissemination of national and international information for the purpose of making individuals aware of changes occurring in society as a whole;
 - (c) The active participation of all elements of society, individually or through associations, in defining and in achieving the common goals of development with full respect for the fundamental freedoms embodied in the Universal Declaration of Human Rights;
 - (d) The assurance to disadvantaged or marginal sectors of the population of equal opportunities for social and economic advancement in order to achieve an effectively integrated society.
- ⊕ Social development requires the assurance to everyone of the right to work and the free choice of employment. Social progress and development require the participation of all members of society in productive and socially useful labour and the establishment.
- ⊕ The rapid expansion of national income and wealth and their equitable distribution among all members of society are fundamental to all social progress, and they should therefore be in the forefront of the preoccupations of every State and Government.
- ⊕ Responsibility of governments towards social progress and development. Each Government has the primary role and ultimate responsibility of ensuring the social progress and well-being of its people, of planning social development measures as part of comprehensive development plans, of encouraging and coordinating or integrating all national efforts towards this end and of introducing necessary changes in the social structure.
- ⊕ Role of International community in Social Progress and Development Social progress and economic growth require recognition of the common interest of all nations in the exploration, conservation, use and exploitation, exclusively for peaceful purposes and in the interests of all mankind, of those areas of the environment such as outer space and the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, in accordance with the purposes and principles of the Charter of the United Nations.

OBJECTIVES of Social Progress and development:

Social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms, through the attainment of the following main goals:

- The assurance at all levels of the right to work and promotion of full productive employment and elimination of unemployment and under-employment;
- The elimination of hunger and malnutrition and the guarantee of the right to proper nutrition;
- The elimination of poverty
- The achievement of the highest standards of health and the provision of health protection for the entire population, if possible free of charge;
- The eradication of illiteracy and the assurance of the right to universal access to culture, to free compulsory education at the elementary level and to free education at all levels; the raising of the general level of life-long education;
- The provision for all, particularly persons in low income groups and large families, of adequate housing and community services.

Social progress and development shall aim equally at the progressive attainment of the following main goals:

- The provision of comprehensive social security schemes and social welfare services;
- The protection of the rights of the mother and child;
- The protection of the rights and the assuring of the welfare of children, the aged and the disabled.
- The education of youth in, and promotion among them of, the ideals of justice and peace, mutual respect and understanding among peoples; the promotion of full participation of 'youth in the process of national development.
- The provision of social defence measures and the elimination of conditions leading to crime and delinquency especially juvenile delinquency.
- The establishment of a harmonious balance between scientific, technological and material progress and the intellectual, spiritual, cultural and moral advancement of humanity;

MEANS AND METHODS

On the basis of the principles set forth in this Declaration, the achievement of the objectives of social progress and development requires the mobilization of the necessary resources by national and international action, with particular attention to such means and methods as:

- Planning for social progress and development as an integrated part of balanced overall development planning.
- The establishment of national systems for framing and carrying out social policies and programmes.
- The promotion of basic and applied social research, particularly comparative international research applied to the planning and execution of social development programmes.
- Participation of people in preparation and execution of plan and programme.
- Mobilization of public opinion, at both national and international levels, in support of the principles and objectives of social progress and development;
- The dissemination of social information to make people aware of changing circumstances in society as a whole, and to educate the consumer.
- Maximum mobilization of all national resources and their rational and efficient utilization.
- The adoption of measures to accelerate the process of industrialization,
- Integrated planning to meet the problems of urbanization and urban development;
- Comprehensive rural development schemes to raise the levels of living of the rural populations and to facilitate such urban-rural relationships and population distribution as will promote balanced national development and social progress;
- The adoption of appropriate legislative, administrative and other measures ensuring to everyone political and civil rights, but also the full realization of economic, social and cultural rights without any discrimination;
- The promotion of democratically based social and institutional reforms and motivation for change basic to the elimination of all forms of discrimination and exploitation.
- The adoption of measures to boost and diversify agricultural production through, inter alia, the implementation of democratic agrarian reforms,

- The adoption of measures to introduce, with the participation of the Government, low- cost housing programmes in both rural and urban areas;
- Health services, Social security schemes, Social services to migrants, rehabilitation of mentally or physically disabled person.
- The training of national personnel and cadres, including administrative, executive, professional and technical personnel needed for social development and for overall development plans and policies.
- The adoption of measures to accelerate the extension and improvement of general, vocational and technical education and of training and retraining, which should be provided free at all levels.
- Raising the general level of education; development and expansion 'of national information media.
- The formulation of national and international policies and measures to avoid the "brain drain" and obviate its adverse effects.
- International co-operation on exchange of information, knowledge; technical, scientific and cultural co-operation.
- Establishment of Legal and administrative agencies.
- Complete Disarmament, prohibition of test of nuclear weapons.

GENDER DISCRIMINATION: FEMALE FOETICIDE, LAND AND PROPERTY RIGHTS; EMPOWERMENT

If you give a woman a fish, you have fed her a meal. If you teach her to fish, she is able to feed herself and her family.

Hence, this philosophy teaches women to “fish” by helping them discover the keys to unlocking their potential.

“When women are the advisor, the Lords of creation don’t take the advice till they have persuaded themselves that it is just what they intended to do; then they act upon it and if it succeeds, they give the weaker vessel half the credit of it; if fails, they generously give herself the whole”. Louisa May Alcott

India today is at the cusp of a paradigm change in its growth and its position in the World. We (both men and women) must act decisively to capture this opportunity. We need to think big and scale up rapidly in each and every area, be it education, infrastructure, industry, financial services or equality of both genders. For around two centuries, social reformers and missionaries in India have endeavored to bring women out of confines in which centuries of traditions had kept them. According to the 2001 Census, the percentage of female literacy in the country is 54% up from 9% 1951.

But we should not forget that history is witness to the women who have in the past demonstrated unique leadership capabilities. Razia Sultana, Rani of Jhansi, Sarojini Naidu and Indira Gandhi are motivation examples of women empowerment. Earlier, most women were able to demonstrate the leadership qualities only on their home fronts, as in Indian society man has always acted as the master of the scene and the decision regarding the issue of empowering women has always been taken by him. God has gifted women with compassion, tender-heartedness, caring nature, concern for others. These are very positive signs which imply that women can be leaders.

Though some women have shown their mettle yet a large number of them have to sharpen their leadership qualities in various ways. In order to help women to be in limelight, they need to be empowered. Therefore, empowerment of women is the prerequisite to transform a developing country into a developed country.

Let us to peep into the past when the stature of women was destroyed. They were treated as chattel in the early Roman society. In France, they were termed as half-soul creatures responsible for the destruction of society. The Chinese considered them as devil’s soul. Japanese men preferred to live unmarried lives. Before the advent of Islam, Arabs buried their daughters alive considering them as a sign of disgrace. In this way, they deprived women of their due place. Most men view themselves as being the superior life-form in society. They justify this belief by saying that they are stronger and more capable; thus, making them more qualified for the more important roles in society they place themselves on pedestals and force women to believe in their own inferiority to men and their incapability to excel educationally, politically,

economically and domestically. But the truth is that women have advanced in all those areas.

In Shakespeare's works, many female characters are portrayed as being manipulated, if not controlled outright by the men in their lives as fathers, uncles, suitors, husbands. Therefore, Shakespeare's works appear to send mixed signals regarding the notion of female empowerment. Empowerment has multiple, interrelated and interdependent dimensions economic, social, cultural and political. It can be understood in relation to resources, perceptions, relationship and power. But what does women empowerment mean? Women empowerment generally has five components : firstly, women's sense of self-worth; secondly, their right to have the power of control their own lives, both within and outside home; and lastly, their ability to influence the direction of social change to create a just social and economic order nationally, internationally and universally.

Educational attainment and economic participation are they key constituents in ensuring the empowerment of women. Educational attainment is essential for empowering women in all spheres of society, for without education of comparable quality and content given to boys and men, updated with existing knowledge and relevant to current needs, women will be able to have access to well-paid formal sector jobs and advance with men. The economic empowerment of women is a vital element of strong economic growth in any country. Empowering women enhances their ability to influence changes and to create a better society.

Other than educational and economic empowerment, changes in women's mobility and social interaction and changes in intra-household decision-making are necessary. Slight improvement in women's involvement in household 'decision-making' in male-headed household, on such issues as credit, the disposal of household assets, children's education and family health care can work wonders. Traditionally, gender based divisions persisted in intra-household decision-making. Women basically decide on food preparation and men make the financial decision. Women are one of the greatest assets in our society. They equal to men in all aspects. Women are more perfectionists in the power to create, mature and transform. Today, women are emerging as leaders in growing range of fields. be it aeronautics, medicine, space, engineering, law, politics, education, business...you just name the profession and they are there, all that needed in today's world in their empowerment.

In India, the empowerment process has already begun. We are now witnessing a steady improvement in the enrolment of women in schools, colleges and even in profession institutes. Their health is better as compared to earlier decades. In this decade, women are entering into the job market in increasing numbers. They are showing their skills even in non-traditional sectors like police, defence, administration, media and research fields. Twenty-six laws have been enacted so far to protect women from various crimes. The recent law on the 'protection of women against domestic violence' satisfies the long pending demand of the women activities. In the political field, the reservation for women is a significant step forward towards their political empowerment. When thirty-three percent reservation for women in Parliament

becomes a reality, women's voice will be heard in the highest forum of democracy. The day, women of India will reach zenith in their empowerment.

But a lot of work has to be done as there is a category of women (who consider themselves highly educated) that proudly accepts that they don't have digital literacy even though they own a computer, they cannot even operate bank accounts or make travel arrangements for family or handle hospital admissions even during emergencies. Even for a simple task like social visits or shopping generally they need the company of their husbands.

Women in India feel proud to display that they are well protected and pampered by their husbands without realizing that they are making themselves helpless. Such women's economic literacy is so low that they cannot play any role in family's decision regarding family's budget, savings and investments. To such women, the national budget discussion is for men only and soap operas are for them. Such women suffer a lot if something untoward happens to their husbands. This type of extreme dependency is not good for the development of women.

Women should remember that they are also rational, intelligent and thinking human beings. Dependent women are not empowered women. If modern "women think that they are empowered, it's a myth for them. Empowerment means to inspire women with the courage to break free from the chains of limiting beliefs, patterns and societal or religious conditions that have traditionally kept women suppressed and unable to realize their true beauty and power.

Some qualities to be acquired by women to become truly empowered are awareness about risk prevailing at home, in work place, in traveling and staying outside home. They should have political, legal, economic and health awareness. They should have knowledge about support groups and positive attitudes towards life. They should get goals for future and strive to achieve them with courage.

The best gift parents today can give to their daughters is education. If women choose to be ignorant then all the efforts taken by the Government and women activists will go in vain. Even in twenty fifth century, they will remain backward and will be paying a heavy price for their dependence. So, it is a wake-up call for women to awake from their deep slumber and understand the true meaning of their empowerment. In the end I would like to conclude with the following words, "Women as the motherhood of the nation should be strong, aware and alert".

In the last decade the word 'Women Empowerment' has been circulated at a very large scale to the extent that it appears that it has lost its real essence. For one person the meaning is that she should be empowered the old 'Parampara' and confine to home to take care of the family members. These are the same paramparas which are responsible for her slavery for the centuries together. These are the shackles in her legs which never allowed her to stand on her own feet. Sati Partha is glaring example of the same. There people and organizations which still want that Sati partha is to be followed by each women religiously. 'Roop Kanwar Sati event' which happened in Rajasthan, is an example of such empowerment. Roop Kanwar was empowered to sacrifice herself at the funeral pyre of her husband. Most of us not concerned about the real facts of that episode. Majority of Indians ridiculed this custom. But a good

number of men and women (in lakhs) gathered to celebrate the anniversary of her sacrifice.(In a way these men and women who came were empowered one). This philosophy wants women to empower in home work and train her in methods to individually defend herself like judo and karate.

For other person the empowerment of women means that she should have complete freedom to sell her body in the market in one way or the other. This philosophy advocates that when a woman has a good and beautiful body, why not she should sell it and enjoy? With this mind set the women in this capitalist system is earning for enjoyment through her body by working in odd advertisements, working as models, working as sales women, exploit the other side for favors of promotion etc. In this male dominated society the manhood wants to empower her to come out of the premises of the home and accompany him to five star hotels where he can have free launce with her. He considers her as an object and not a human being. Many of the women are falling victim to such pseudo empowerment. She becomes prey to open market consumerism.

For third person the meaning of empowerment is that she should get self respect in society, should get equal rights as man is having in the society, should grow and work in a gender friendly environment. In real sense she should be equal partner of the civic society. Question is how it can be achieved? Let us all of us ponder over it and contribute for real empowerment of women. The society will have to develop a clear vision to remove the obstacles to the path of women's emancipation both from the government and women themselves. Efforts should be directed towards all round development of every Indian woman by giving them their due share. This will need another new Nav-jagran, an upheaval to shatter the shackles of women.

In ancient India, women enjoyed a very high position but gradually their position degenerated into merely objects of pleasure meant to serve certain purpose. They lost their individual identity and even their basic human rights. It is high time we looked into the factors responsible for this degeneration and mended our ways so that a very vital section of the society does not stay ignored because then such a society would gradually decay. ".

What: Empowerment of Women

If can imagine a situation where a woman has the Freedom of right to choose; she enjoys that liberty, in which she can have this right executed in whatever she does, be it her wearing of cloths or choosing arts or other humanities subject instead of science in her schooling days or preferring acting as a career instead of being a doctor, be it her choice of doing films or flying a fighter jet or fight an election etc, if she has her say in all of these, we would call this women empowerment in the sense of the term.

Empowerment is a multi-faceted, multi-dimensional and multi-layered concept. Women's empowerment is a process in which women gain greater share of control over resources - material, human and intellectual like knowledge, information, ideas and financial resources like money - and access to money and control over decision-making in the, home, community, society and nation, and to gain 'power'. According to the Country Report of Government of India, "Empowerment means moving from a

position of enforced powerlessness to one of power". But, from time immemorial, the women were treated as a sort of thing. Her placing in the society was not at par with other human beings. She has no rights. She cannot move nor do anything at her will. In Hindu Shastras, she has been branded just like animals or some objects of enjoyment. From the verses of Ramayana as written by Tulsi Das, "Dhol, ganwar, shudra, pashu, naari- Ye sab tadan ke adhikari," In 'Manusmrti' the ancient Hindu Code-book, the status granted to women is quite visible and she was put to the lowest rung of humanity as she was treated at par with the animals and slave by the proprietors of Hindu Dharma. Such was the placement earmarked to our mothers, sisters and even great grandmothers that humanity was ashamed of.

That is why Dr. Ambedkar, the father and architect of Indian Constitution, was of the firm opinion that until and unless, we defy the Hindu Dharma-Shastras, nothing much can be changed. In the name of sanskaras, the Hindu women are tied to bondages of superstitions, which they carry till their death. They are also responsible for inculcating certain wrong notions learnt through baseless traditions and preaching of the Shastras, in the budding minds of their offspring. Otherwise also, the women have remained a matter of joy (i.e. pleasure giving objects) and a source of amusement; as such she was and also up to some extent, 'has been' used and misused by men just to serve their evil ends. She has been used just like a machine for procreation.

It has also been mentioned in Hindu Shastras that the woman is the slave of her father when she is young, of her husband when she is middle-aged and of her son when she is a mother. Of course, all the epigrams, aphorisms, proverbs, platitudes and truisms bear necked truth about the stature of women in India. But, efforts have been made in the past to bring dignity to women. In the Rig Vedic period, women enjoyed very pious status, they were no less than their men counterparts. But later on, the condition of women degraded and became pathetic. But, the medieval time in Europe, Christianity inaugurated the Era of equality, liberty and fraternity by preaching that a prince and pauper are equal in the eyes of God. There is also a very long tradition of social reforms by our saints and other social reformers. But, the proprietors of orthodoxy thwarted these efforts. In the absence of any legal sanction or authority, these efforts could not sustain for long.

After independence, the sheers and our constitution makers made comprehensive efforts to ensure the rights of women and prohibit their exploitation in all its forms. The reforms introduced by Dr. Ambedkar through "Hindu Code-bill" have been adhered to and have been accepted by and large. He, by codifying Hindu Law in respect of marriage, divorce and succession, rationalised and restored the dignity of women. Prior to the Hindu Succession Act, 1956 and Hindu Marriage Act, 1955, the Hindu Law was unmodified in large measures. Though, Hindu Women's Right to Property Act, 1937, was the subject of legislative intervention; The Sharda Act is also worth mentioning. It has set the seal of authority upon that piece of social reforms, which the heads of orthodoxy were imposing and impending. In Hindu Code Bill, the principles of codification covered: (i) Right to property, (ii) Order of succession to property, (iii) Maintenance, marriage, divorce, adoption, minority and guardianship. Needless to say, the Bill was a part of social engineering via law. It was by any

standard of any time a revolutionary measure. It was really a first step towards the recognition and empowerment of women in Modern India.

The Government of India had made Empowerment of Women as one of the principal objectives of the Ninth Five Year Plan (1997-2002) and also declared 2001 as the year of 'Women's Empowerment'.

These issues of gender equality are discussed in World Conferences, National and International Conferences, etc. Our Constitution has conferred and guaranteed equality before law, universal adult franchise and equal opportunities for men and women as fundamental rights. The imperative of gender partnership in matters of development has been recognised.

In order to give a fillip to empowerment of women and appropriate institutional mechanisms and interventions have been consciously built into the development design. Separate institutions for women and child development, departments at the Central and State levels, creation of the National Commission for Women m also State Commission for Women in several States are some of the important developments for the betterment and prosperity of women. The launching of Rashtriya Mahila Kosh, Indira Mahila Yojana, Mahila Samridhi Yojana, reserving of one third of the number of seats in Panchayats and the local bodies are programmes launched with a view to improve and empower women s0cially, economically and on political frontiers.

Female Foeticide

Historically, in the absence of genetic testing, infanticide was the only inhumane option for discarding the female child. This heinous practice continues today in the southern parts of India where families cannot afford an illegal ultrasound test. People in Punjab, Haryana and other Western states can afford illegal test to determine the sex of the baby and discard it. Thus the act of having a family gets reduced to an economic activity instead of a union of two souls. In China and India, males are considered heirs to property, thus exacerbating the problem and reducing humanity back to our ape ancestry.

As India becomes a stable country and males do not get consumed to hateful acts by fellow humans, the numbers of males have gone up. However, the practice of dowry remains stronger than ever. The families that commit female Foeticide love their living daughters; however that passion is not extended to the female foetus. The progressive feminine movements tend to have mixed feeling towards this inhuman cruelty as they are in favour or overall freedom of abortion. Their voices get blunted as they have to support both sides of the coin. As females drop in number in a society, society gets destabilized. Similar destabilization, violence and lack of progress is observed in polygamous societies, where females are treated as properties and the source of all violence is to "acquire and control" females.

Here are some ideas to prevent female infanticide and female foeticide.

- ⊕ Free education for women up to college and even post graduate education in government run institutions (Similar plans are being implemented in many states in India)
- ⊕ Males should stand up to their own moms and dads when they start chirping about unwanted female children.
- ⊕ Create a feminine movement so that women- feel a sisterhood towards each other and stand up for a woman in a neighboring house rather than turn a blind eye.
- ⊕ Refuse marriage of women into households or be very careful of families that have only male children or a very high percentage of males. Chances are high that they did you know what. Again, a few innocents will be in needless trouble, but sometimes poisonous and normal snakes look alike and it is better to get out a stick and protect your own daughters and sisters.
- ⊕ Do not provide any government incentives to families that have only males. Consider it payback for all the dead female children.
- ⊕ Provide extra incentives for families that have more than one girl child. This will help correct the gender balance in a few years.
- ⊕ If you have a female child, educate her and provide her the same opportunities as a male child. This is the one thing that makes female killing folks look foolish and dumb.
- ⊕ Encourage marriage of males to educated women. Conversely, an educated 'female class will be more aware of their rights.

Enforce the ban on sex determination test

The Supreme Court's directive to the government to implement the provisions of the Pre-Natal Diagnostic Techniques 7(Regulation and Prevention of Misuse) Act banning sex determination tests and sex selection to prevent female foeticide is timely. The court has been closely monitoring the implementation of its various orders passed since May, 2001, regarding the ban on the use of ultrasound scanners for conducting such tests. Subsequently, it had sought status reports from all states and Union Territories. It had ordered compulsory registration of all diagnostic centers across the country. There was impasse in Parliament over the Bill on sex determination tests. The Indian Radiologists' Association wanted a clear distinction between clinics, which were engaged in diagnosis for gynecological purposes, and those for non-gynecological purposes such as kidney and liver problems. Parliament finally passed the Bill. Wednesday's directive reflects the Supreme Court's desire to enforce the Act with a sense of urgency.

However, doubts are bound to be raised on the effectiveness of the legislation as the issue mainly relates to people's attitudes and preferences. The desire for a son, for instance, is deep-rooted in both rural and urban areas. The problem of dowry and the choice of a son for social security have also contributed to the malady. However,

these have led to serious gender discrimination and adverse demographic implications in many states. For instance, according to an estimate, parts of Haryana have witnessed a dip in sex ratio — 618 girls for 1,000 boys. On the whole, while the national sex ratio is 933 per 1,000 men, in Haryana, Punjab, Chandigarh and Delhi, it is below 900. This shows that the menace has reached alarming proportions even in urban areas.

The Act prohibits determination and disclosure of the sex of foetus. It also prohibits any advertisements relating to prenatal determination of sex. Following the apex court's orders earlier, appropriate authorities with powers of civil court have been appointed. These were empowered to prosecute the clinics and the doctors if they used ultrasound technique for sex determination. A committee has also been constituted at the national level to monitor the enforcement of the Act through field visits. However welcome these provisions are, legislation alone will not help check female foeticide. What is of utmost importance is a change in the people's attitude. The preference for a son must go if the larger problem of female foeticide is to be tackled.

Guru Nanak asserted that women were not at all inferior to men: "From the woman is our birth, in the woman's womb are we shaped;

- To the woman we are engaged, to the woman we are wedded;
- The woman is our friend and from the woman is the family;
- If one woman dies, we seek another, through the woman are the bonds of the world;
- Why call woman evil who gives birth to kings?
- From the woman comes the woman, without woman there is none;
- Nanak, God alone is the one who is independent of the woman (because He is unborn).

"Killing the girl child is one of the biggest sins according to the Quran. When a girl is born, Allah comes down to the earth to bless the child and the family is bestowed with all His blessings..."

With words like these from the scriptures, the All India Muslim Personal Law Board (AIMPLB) will now try to curb the increasing number of female foeticide and dowry cases among Muslims across the country. The AIMPLB will be using two booklets written by eminent clerics, Maulana Mufti Fuzail- ur-rehman Hilal Usmani, an active member of the AIMPLB who hails from Punjab and Wali Rehmani, AIMPLB secretary hailing from Munger in Bihar, to create awareness about these social evils.

The books are titled as Dukhtarkashi ki laanat aur iska hal (The ills of foeticide and solutions) and Ladkiyon ka katlaam (Killing of girls). Apart from the quotes from Quran, the books have extensive data on dowry and foeticide from all over the country.

KNOWLEDGE is known to spread light - opening up closed minds. But it does not always shield the girl child. Prosperity drives one to charity; unborn little girls do not benefit from them.

An extraordinary four—year research in the heart of rural India, post 2001 Census, shows that people living in areas with a higher level of education and affluence slaughter more female foetuses than those languishing in the social and economic backwaters.

The study, funded by the Swedish Research Council and carried out by the economic history department of Lund University as part-of its research on developing economies, shows that “progressive areas” of India have a lower child sex ratio (CSR). Researchers claim that “ill-focused development is triggering a conscious choice to eliminate the girl child from the family”. The study carried out in five states - Karnataka, Tamil Nadu, Himachal Pradesh, Uttar Pradesh and Uttarakhand - revealed wide differences in sex ratio in villages of Karnataka and Uttarakhand. The less prosperous villages had a healthy ratio, while their wealthier neighbours, with higher indices of education and development, logged lesser number of girl children. It showed a strong shift from “son preference to active daughter discrimination”.

Factors like nuclear families, high education cost and access to technology contribute to it, say researchers Mattias Larsen and Neelambar Hatti. “Discrimination against girls is much higher where mothers are literate. In most cases, literacy is just confined to formal degrees; mindsets are primitive,” Hatti said.

According to researchers, it is easy to detect the sex of the child with improved technology and nuclear families make frequent use of sex determination techniques to do away with “unwanted” girls.

Economics has a role to play. “Sons are preferred to daughters as couples opt for a single child. They feel that the returns on investing on a male child will be much higher compared to a girl, who eventually moves to her husband’s home after marriage,-” Larsen says. Bloodline is another important consideration. “Parents opting for single child prefer boys as they carry forward the bloodline,” he added.

The study brings to light the “disconnect” between economic improvement and human development. “The new and ugly form of sex discrimination has now become visible - one that is strongly linked to prosperity and daughter-aversion. Higher education level does not necessarily translate into gender sensitivity,” the study says.

Tim Dyson, a professor at the London School of Economics and an Indian demography expert, accepts the premise. In India, development and education have not been able to influence people in the right direction and inculcate the right values. Look at the cities. Female foeticide is much higher. There were similar signs in Japan and the US 30 years ago, which they tackled effectively,” he said.

The areas with high child sex ratio are relatively isolated and the level of education is low. In these areas, there has been a change in agricultural and economic conditions. Overall, it is a combination of population pressure and land reforms, which changed the agrarian structure and the conditions for agricultural output. Facts that scare Tale of two neighbours A UNICEF study says five crore girls have gone missing in India in the last decade. It is estimated that a girl child is killed or disowned every hour in India.

According to the 7th All India Education Survey, 2002, one out of every six girls does not live to see her 15th birthday. Of the 12 million girls born in India, one million do not see their first birthday.

One—third of these deaths “take place at birth. Every sixth girl child’s death is due to gender discrimination. Females are victimised far more than males during childhood.

UNFPA says legal action by itself is not enough to eliminate harmful traditional practices.

Legislation should be part of broad and integrated campaign that involves opinion makers and custodians of culture.

In case of sex-selective abortion, the campaign should also address structural issues under lying gender discrimination, in particular a widespread preference for sons.

Confronting harmful practices that are national in scope can best be addressed through a broad coalition of actors’, each of whom can bring their own expertise in creating awareness and moving the issue forward. It should be treated as a national issue and not a regional issue.

Women’s Land & Property Rights

In many countries around the world, women’s property rights are limited by social norms, customs and at times legislation, hampering their economic status and opportunities to overcome poverty. Even in countries where women constitute the majority of small farmers and do more than 75 percent of the agricultural work, they are routinely denied the right to own the land they cultivate and on which they are dependent to raise their families.

Ownership of land and property empowers women and provides income and security. Without resources such as land, women have limited say in household decision-making, and no recourse to the assets during crises. This often relates to other vulnerabilities such as domestic violence and HIV and AIDS.

In regions of conflict, the impact of unequal land rights has particularly serious consequences for women — often the only survivors. In conflict and post—conflict situations, the number of women- headed households often increases sharply as many men have either been killed or are absent. Without their husbands, brothers or fathers — in whose name land and property titles are traditionally held — they find themselves denied access to their homes and fields by male family members, former in-laws or neighbors. Without the security of a home or income, women and their families fall into poverty traps and struggle for livelihoods, education, sanitation, health care, and other basic rights.

Much like those of women of any other country, property rights of Indian women have evolved out a continuing struggle between the status quoist and the progressive forces. And pretty much like the property rights of women elsewhere, property rights of Indian women too are unequal and unfair: while they have come a long way ahead in the last century, Indian women still continue to get less rights in property than the men, both in terms of quality and quantity.

What may be slightly different about the property rights of Indian women is that, along with many other personal rights, in the matter of property rights too the Indian women are highly divided within themselves. Home to diverse religions, till date, India has failed to bring in a uniform civil code. Therefore every, religious community continues to be governed by its respective personal laws in several matters property rights are one of them. Infact even within the different religious groups, there are sub'-groups and local customs and norms with their respective property rights. Thus Hindus, Sikhs, Buddhists and Jains are governed by one code of property rights codified only as recently as the year 1956, while Christians are governed by another code and the Muslims have not codified their property rights, neither the Shias nor the Sunnis. Also; the tribal women of various religions and states continue to be governed for their property rights by the customs and norms of their tribes. To complicate it further, under the Indian Constitution, both the central and the state governments are competent to enact laws on matters of succession and hence the states can, and some have, enacted their own variations of property laws within each personal law.

There is therefore no single body of property rights of Indian women. The property rights of the Indian woman get determined depending on which religion and religious school she follows, if she is married or unmarried, which part of the country she comes from, if she is a tribal or non-tribal and so on. Ironically, what unifies them is the fact that cutting across all those divisions, the property rights of the Indian women are immune from Constitutional protection; the various property rights could be, as they indeed are in several ways, discriminatory and arbitrary, notwithstanding the Constitutional guarantee of equality and fairness. For by and large, with a few exceptions, the Indian courts have refused to test the personal laws on the touchstone of Constitution to strike down those that are clearly unconstitutional and have left it to the wisdom of legislature to choose the time to frame the uniform civil code as per the mandate of a Directive Principle in Article 44 of the Constitution.

Following is an attempt to chart this interesting interplay of socio-legal forces leading to the property rights of Indian women as they stand today, and the challenges ahead.

Constitution: Framework of Equality, formal and substantive, through affirmative action, positive discrimination Indian Constitution has a substantially elaborate framework to ensure equality amongst its citizens. It not only guarantees equality to all persons, under Article 14 as a fundamental right, but also expands on this in the subsequent Articles, to make room for affirmative action and positive discrimination.

Article 14 of the Constitution of India states that: "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." In practice this guarantee has been read to infer 'substantial' equality as

opposed to ‘formal’ equality, as judicially explained and elaborated upon in several judgments of the Supreme Court of India as well as the Indian High Courts.

The latter dictates that only equals must be treated as equals and that unequal may not be treated as equals. This broad paradigm itself permits the creation of affirmative action by way of special laws creating rights and positive discrimination by way of reservations in favour of weaker classes of society.

This view is strengthened by Article 15 of the Constitution, which goes on to specifically lay down prohibition of discrimination on any arbitrary ground, including the ground of sex, as also the parameters of affirmative action and positive discrimination:

As can be seen, firstly, women are one of the identified sections that are vulnerable to discrimination and hence expressly protected from any manifestation or form of discrimination. Secondly, going a step further, women are also entitled to special protection or special rights through legislations, if needed, towards making up for the historical and social disadvantage suffered by them on the ground of sex alone.

The Indian courts have also taken an immensely expansive definition of fundamental right to life under Article 21 of the Constitution as an umbrella provision and have included within it right to everything which would make life meaningful and which prevent it from making it a mere existence, including the right to food, clean air, water; roads, health, and importantly the right to shelter housing.

The Present Position of Property Rights Of Indian Women:

HIS Hindu women's property rights:

The property rights of the Hindu women are highly fragmented on the basis of several factors apart from those like religion and the geographical region which have been already mentioned. Property rights of Hindu women also vary depending on the status of the woman in the family and her marital status: whether the woman is a daughter, married or unmarried or desened, wife or widow or mother. It also depends on the kind of property one is looking at: whether the property is hereditary ancestral or self-acquired, land or dwelling house or matrimonial property.

Prior to the Hindu Succession Act, 1956 ‘Shastric’ (Hindu Canonical) and customary laws that varied from region to region governed the Hindus. Consequently in matters of succession also, there were different schools, like Dayabhaga in Bengal in eastern India and the adjoining areas; Mayukha in Bombay, Konkan and Gujarat in the western part and Marumakkattayam or Nambudri in Kerala in far south and Mitakshara in other parts of India, with slight variations.

Mitakshara school of Hindu law recognizes a difference between ancestral property and self-acquired property. It also recognises an entity by the name of “coparcenary”. A coparcenary is a legal institution consisting of three generations of male heirs in the family. Every male member, on birth, within “three generations, becomes a member of

the coparcenary. This means that no person's share in ancestral property can be determined with certainty. It diminishes on the birth of a male member and enlarges on the death of a male member. Any coparcener has the right to demand partition of the joint family. Once a partition takes place, a new coparcenary would come into existence, namely the partitioned member, and his next two generations of males. For this reason coparcenary rights do not exist in self-acquired property, which was not thrown into the common hotchpotch of the joint family.

Thus the concept of a birthright, at which a person acquires rights on his birth even if the ancestor is still alive, is fundamental to an understanding of the coparcenary in fact, the birth of a male child diminishes the right of the ancestor instantly, as each coparcener has an equal share in the undivided whole. As contrasted with this, inheritance, whether testamentary or intestate, is a right that accrues on the death of a person. Inheritance can only be in that property which a man leaves on his death. Until then, a person has an unrestricted right to enjoy the property or alienate it.

The Hindu Succession Act enacted in 1956 was the first law to provide a comprehensive and uniform system of inheritance among Hindus and to address gender inequalities in the area of inheritance — it was therefore a process of codification as well as a reform at the same time. Prior to this; the Hindu WOrnen's Rights to Property Act, 1937 was in operation and though this enactment was itself radical as it conferred rights of succession to the Hindu widow for the first time, it also gave rise to lacunae which were later filled by the Hindu Succession Act (HSA). HSA was the first post-independence enactment of property rights among Hindus — it applies to both the Mitakshara and the Dayabhaga systems, as also to persons in certain parts of South India previously governed by certain» matriarchal systems of Hindu Law such as the Marumakkattayam, Aliyasantana and Nambudri systems.

Under the old Hindu Law only the "streedhan" (properties gifted to her at the time of marriage by both sides of the family and by relatives and friends) was the widow's absolute property and she was entitled to the other inherited properties only as a life-estate with very limited powers of alienation, if at all. Even under the 1937 Act, the concept of "limited estate" continued. Section 14 of the Hindu Succession Act removed the disability of a female to acquire and hold property as an absolute owner, and converted the right of a woman in any estate already held by her on the date of the commencement of the Act as a limited owner, into an absolute owner. The provision is retrospective in that it enlarged the limited estate into an absolute one even if the property was inherited or held by the woman as a limited owner before the Act came into force. The only exception, in the form of a proviso, is for the acquisitions under the terms of a gift, will or other instrument or a decree, or order or award which prescribe a restricted estate.

The second important change has been brought about by Section 6 of the HSA by virtue of which on the death of a member of a coparcenary, the property devolves upon his mother, widow and daughter, along with his son, by testamentary or intestate succession, as the case may be, and not by survivorship. This rule confers on the women an equal right with the male member of the coparcenary. However, when the proviso to Section 6- applies, there is no disruption of joint family status the proviso creates a fiction so that persons who are to inherit are identified.

While the Hindu Succession Act may be said to have revolutionized the previously held concepts on rules of inheritance, it has its own flaws while dealing with property rights of women since it still does not give the right to the daughter of a coparcener in a Hindu joint family to be coparcener by birth in her own right in the same manner as the son or to have right of claim by birth.

Also, there is a provision in Section 23 which states that “when the coparcenary property includes a dwelling house, the rights of a daughter to claim partition of the dwelling house shall not arise until the male coparceners choose to divide their respective shares and the daughter shall be entitled to a right of residence there in”. This fails to take into account that the right to claim partition of dwelling houses is one of the basic incidents of ownership by women. Under this provision in its present form a daughter has to wait till the male members seek a partition.

Though an amendment by the Central Government, to address these anomalies, is on the anvil, in five southern States in India namely, Kerala, Andhra Pradesh, Tamil Nadu, Maharashtra and Karnataka necessary amendments have been made.

As per the law of four of these states, except Kerala, in a joint Hindu family governed by Mitakshara law, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son. Kerala, however, has gone one step further and has abolished the right to claim any interest in any property of an ancestor during his or her lifetime founded on the mere fact that he or she was born in the family. In fact, the Kerala Act is the only law that has abolished the Joint Hindu family system altogether in the state including the Mitakshara, Marumakkattayam, Aliyasantana and Nambudri systems.

A lingering anomaly is that although the Hindu Succession (State Amendment) Acts have conferred upon the daughter of a coparcener status but there is still a reluctance to making her a Karta (manager of the joint family) because of the general male view that she is incapable of managing the properties or running the business.

The proposed 2004 Bill also leaves untouched a person's unrestricted testamentary rights over his/her property. In principle this right is gender-neutral since both sexes enjoy it, but in practice (given male bias in our society) the provision can be used to disinherit female heirs. In fact, the man can will away not only his separate property but also his “notional” share in the coparcenary. This could totally disinherit the widow in states where she gets no share on partition.

Another continuing area of discrimination is that Section 4(2) of the HSA exempts significant interests in agricultural land from the purview of the Act and the agricultural lands continue to be covered by the existing laws providing for the prevention of fragmentation of agricultural holdings or for the fixation of ceilings or for the devolution of tenancy rights in respect of such holdings. Hence, interests in tenancy land devolve according to the order of devolution specified in the tenurial laws, which vary by state.

Broadly, the states fall into three categories.

- (i) In the southern and most of the central and eastern states, the tenurial laws are silent on devolution, so inheritance can be assumed to follow the personal law', which for Hindus is the HSA.
- (ii) In a few states, the tenurial laws explicitly note that the HSA or the 'personal law' will apply. But (m) in the northwestern states of Haryana, Punjab, Himachal Pradesh, Delhi, Uttar Pradesh, and Jammu & Kashmir the tenurial laws do specify the order of devolution, and one that is highly gender-unequal. Here (retaining vestiges of the old Mitakshara system) primacy is given to male lineal descendants in the male line of descent and women come very low in the order of heirs. Also, a woman gets only a limited estate, and loses the land if she remarries (as a widow) or fails to cultivate it for a year or two. Moreover, in Uttar Pradesh and Delhi, a 'tenant' is defined so broadly that this unequal order of devolution effectively covers all agricultural land.

Agricultural land is the most important form of rural property in India; and ensuring. Gender equal, rights in it is important not only for gender justice but also for economic and social advancement. Gender equality in agricultural land can reduce not just a woman's but her whole family's risk of poverty, increase her livelihood options, enhance prospects of child survival, education and health, reduce domestic violence, and empower women.

As more men shift to urban or rural non-farm livelihoods, a growing number of households will become dependent on women managing farms and bearing the major burden of family subsistence. The percentage of de facto female-headed households is already large and growing. Estimates for India range from 20 to 35 percent. These include not just widows and deserted and separated women, but also women in households where the men have migrated out and women are effectively farming the land. These women will shoulder (and many are already shouldering) growing responsibilities in agricultural production but will be constrained seriously by their lack of land titles. These aspects have been totally ignored in-the amendment bill.

Rights of tribal women:

It is also pertinent to mention here that as far as property rights of the tribal women are concerned, they continue to be ruled by even morearchaic system of customary law under which they totally lack rights of succession or partition. Infact the tribal women do not even have any right in agricultural lands. What is ironical is that reform to making the property rights gender just are being resisted in the name of preservation of tribal culture!

Muslim, women's property rights: Indian Muslims broadly belong to two schools of thought in Islamic Law: the Sunnite and the Shiite. Under the Sunnite School which is the preponderant school in India, there are four sub categories; Hanafis, Shafis, Malikis and Hanbalis. The vast majority of Muslims in India, Pakistan, Afghanistan, and Turkey are Hanafis. The Shiites are divided into a large number of sub schools, the two most important of which, so far as India is concerned are the Ismailis and the Ithna Asharis, but they form a smaller section of the Indian Muslim population. The usual practice in this sub-continent is to use the terms 'Sunni' law or 'Shia' law.

Strictly speaking, this is inexact; by the former is meant the Hanafi Law and by the latter, the Ithna Ashari school.

Broad principles of inheritance in Muslim law: Till 1937 Muslims in India were governed by customary law which were highly unjust. After the Shariat Act of 1937 Muslims in India came to be governed in their personal matters, including property rights, by Muslim personal law as it preference to custom. However this did not mean either "reform" or "codification" of Muslim law and till date both these have been resisted by the patriarchal forced in the garb of religion.

Broadly the Islamic scheme of inheritance discloses three features, which are markedly different from the Hindu law of inheritance: (i) the Koran gives specific shares to certain individuals (ii) the residue goes to the agnatic heirs and failing them to uterine heirs and (m) bequests are limited to one-third of the estate, i.e., maximum one-third share in the property can be willed away by the owner.

The main principles of Islamic inheritance law which mark an advance vis-a-vis the pre Islamic law of inheritance, which have significant bearing on the property rights of women, are: (i) the husband or wife was made an heir (ii) females and cognates were made competent to inherit (iii) parents and ascendants were given the right to inherit even when there were male descendants and (iv) as a general rule, a female was given one half the share of a male.

The newly created heirs were mostly females; but where a female is equal to the customary heir in proximity to the deceased, the Islamic law gives her half the share of a male. For example, if a daughter coexists with the son, or a sister with a brother, the female gets one share and the male two shares.

The doctrine of survivorship followed in Hindu law is not known to Mohammedan law; the share of each Muslim there is definite and known before actual partition. Rights of inheritance arise only on the death of a person. Hence the question of the devolution of inheritance rests entirely upon the exact point of time when the person through whom the heir claims dies, the order of deaths being the sole guide. The relinquishment of a contingent right of inheritance by a Muslim heir is generally void in Mohammedan law, but if it is supported by good consideration and forms part of a valid family settlement, it is perfectly valid. The rule of representation is not recognized, for example, if A dies leaving a son B and a predeceased son's son C, the rule is that the nearer excludes the more remote and, there being no representation, C is entirely excluded by B. There is however no difference between movable-property and immovable property.

There is a provision against destitution of the family members in the Islamic law in that it is clearly provided that a Muslim cannot bequeath more than one third of his property. However if he registers his existing marriage under the provisions of the Special Marriage Act, 1954 he has all the powers of a testator under the Indian Succession Act, 1925.

Christian women's property rights:

The Indian Christian widow's right is not an exclusive right and gets curtailed as the other heirs step in. Only if the intestate has left none who are of kindred to him, the whole of his property would belong to his widow. Where the intestate has left a widow and any lineal descendants, one third of his property devolves to his widow and the remaining two thirds go to his lineal descendants. If he has left no lineal descendants but has left persons who are kindred to him, one half of his property devolves to his widow and the remaining half goes to those who are of kindred to him;

Another anomaly is a peculiar feature that the widow of a pre—deceased son gets no share, but the children whether born or in the womb at the time of the death would be entitled to equal shares. Where there are no lineal descendants, after having deducted the widow's share, the remaining property devolves to the father of the intestate in the first instance. Only in case the father of the intestate is dead but mother and brothers and sisters are alive, they all would share equally. If the intestate's father has died, but his mother is living and there are no surviving brothers, sisters, nieces, or nephews, then, the entire property would belong to the mother.

Parsi women's right to property:

Prima facie the property rights of the Parsis are quite gender just. Basically, a Parsi widow and all her children, both sons and daughters, irrespective of their marital status, get equal shares in the property of the intestate while each parent, both father and mother, get half of the share of each child. However, on a closer look there are anomalies: for example, a widow of a predeceased son who died issue less, gets no share at all.

The Response of the Judiciary:

It is clear from the foregoing that though the property rights of Indian women have grown better with advance of time, they are far from totally equal and fair. There is much that remains in Indian women's property rights that can be struck down as unconstitutional. The response of the judiciary has been ambivalent. On one hand, the Supreme Court of India has in a number of cases held that personal laws of parties are not susceptible to fundamental rights under the Constitution and therefore they cannot be challenged on the ground that they are in violation of, fundamental rights especially those guaranteed under Articles 14, 15 and 21 of the Constitution of India:

On the other hand, in a number of other cases the Supreme Court has tested personal laws on the touchstone of fundamental rights and read down the laws or interpreted them so as to make them consistent with fundamental rights. Though in these decisions the personal laws under challenge may not have been struck down, but the fact that the decisions were on merits go to show that though enactment of a uniform civil code may require legislative intervention but the discriminatory aspects of personal laws can definitely be challenged as being violative of the fundamental rights of women under Articles 14 and 15 and can be struck down. Infact in one case the Supreme Court has held that that personal laws, to the extent that they are in

violation of the fundamental rights, are void. In some judgments the Supreme Court has expressly recommended to the State to carry out its obligation under Article 44 of the Constitution and formulate a uniform civil code. There is a definite swing towards a uniform civil code and one can see that the courts are going to play a significant role to usher it in.

Another heartening trend is that the Indian courts are increasingly relying on international standards, derived from various international declarations and convention. Specifically CEDAW has been referred to and relied upon by the Supreme Court of India in some judgments. These line of judgments give a firm basis for the women of India to demand gender justice and equal rights on par with international standards.

Road ahead:

Apart from the ongoing struggle for a uniform civil code in accordance with the Constitutional framework, today the India women are fighting for rights in marital property, denied uniformly to them across all religious boundaries. There is also a significant movement in some of the hill states, towards community ownership of land by women by creating group titles and promoting group production and management of land and natural resources by landless women for joint cultivation or related farm activity. Land rights would be linked directly to residence and working on land under this approach being lobbied for under the Beijing Platform for Action. V However, the challenges are many: social acceptance of wo1nen's rights in property leads them. In a country where women continue to be property themselves the road ahead promises to be long and bumpy.

Case discrimination

Justification of Caste System

Caste system was rationalized in ancient India on various grounds. Some of them are discussed below.

Justification in the Vedas:

No Vedic tradition is valid unless it is found in the Vedas. The caste system would not have found approval among the Vedic people unless there was some reference to it in the Vedas. The Purusha Sukta in the 10th Mandate of the Rig-Veda describes how the castes came into existence, from different parts of Purusha, the Cosmic Soul, at the time of a grand sacrifice performed by the gods. The Brahmins came out of his mouth, the kshatriyas from his arms, the vaisyas from his thighs and the sudras from his feet. Many scholars believe that concepts and the imagery of Purusha Sukta belong to later Vedic period rather than the Rigvedic period and so it was probably a later day interpolation.

It is interesting that this hymn is quoted even today by many orthodox Brahmins to justify the system, despite the inconsistencies in the logic employed:-

- Firstly the one indivisible and unchanging Brahman does not have a body like humans.
- Secondly even if he has, his feet cannot be unclean compared to his mouth. Judging by the human physio, the mouth should more unclean than the feet unless God has a tendency to wallow in mud.
- Thirdly, among the bodily parts, it is the feet of God that is usually worshipped in the temples and rituals rather than any other part of his body.

Justification in the theory of Karma:

The concept of karma perfectly justifies the caste system based on birth. It favors the argument that people of lower castes have blamed themselves for their plight because of their bad karma in their past lives. Their pitiable plight is a stern warning to the rest of the humanity that the wheel of dharma operates inexorably, sparing none and favoring none.

This line of argument is found in many scriptures including the Bhagavad-Gita according to which people of good merit and those who had developed Detachment or dispassion were born in pious families. In the fourth chapter of the book, Lord Krishna declared that the fourfold Varna system was created by him based on the triple gunas and mechanism of karma.

By combining the belief in karma with the caste system, the ancient law makers prescribed different Vocational occupational duties for each caste and expected people to follow them sincerely as an integral part of their religious duty. Observing these duties without questioning them was an act of merit, which entitled them to progress on the path of dharma and obtain a better life in the next birth. .

Justification by the theory of Gunas

According to many schools of Hindu philosophy, all beings and objects in the world contain the triple gunas or qualities of Prakriti. Their dominance or suppression cause people to act and behave differently and make them fit for certain types of occupations. These three qualities are sattva, rajas and tamas.

- Sattva is characterized by purity and spirituality and manifests in men in the form of knowledge, intelligence, faith, sincerity, devotion, piousness and so on. Sattva is believed to be the predominant quality among the men of knowledge, in other worlds, Brahmins.
- Rajas is characterized by egoism and materialism and manifests in men as ambition, pride, desire for wealth and personal power, lust, hypocrisy, attachment and so on. Rajas is believed to be the predominant quality in case of men of action, in other Words, in kshatriyas and vaisyas.
- Tamas is characterized by lethargy and manifests in men in the form of Ignorance, lack of ambition, extreme austerities, demonical resolve, uncleanliness, negative attitude, un-healthy habits and other forms of undesirable behavior. Tamas is believed to be the predominant quality in men who are; unclean and ignorant, in other words, sudras.

Justification by the religious laws

The caste system was justified by most of the smriti literature, Manuscript and by such religious scriptures as the Puranas, the Sutra literature and scriptures such as the Bhagavad-Gita and some later day Upanishads. The Law books not only justified rigid caste system but prescribed severe punishments in case of violation. The very purpose for which the law books were composed and the information was organized on caste lines in ancient and medieval India was to perpetuate and justify the caste system and provide dear guidelines to the administrative machinery to enforce them with little confusion.

Critical Analysis of Caste System

The Hindu caste system had its own merits and demerits and should not be judged purely based on the social values of today. Inequalities and divisions based on economic and family status were not unknown in other parts of the world. The Nordic races followed some form of caste system. The Greeks and Romans had freemen and slaves. The British, the French and the Russians had their landed gentry and nobility in contrast to the commoners and peasants who were subject to unjust taxes and unequal treatment. The new world had its own slave system practiced for nearly two centuries.

Compared to some of these systems and practices, the Hindu caste system was more humane and gentle. Although the chandalas were excluded from social interaction, they were free men within their own world. So were the sudras. The Romans had their slave revolts. The French had their revolution. The injustices of American slave system produced deep rooted aggression, resentment and frustration in the USA.

But the low castes in India never launched large scale organized revolts or violence against the upper castes because there was no physical suppression of Pastes but only limitations of opportunities imposed by tradition and religious beliefs. There were rigid walls among the communities but within the walls life went on independent of others. Discussed below are some advantages and disadvantages of Hindu caste system.

Advantage

1. **Continuity of traditions:**

It would be unfair to say that the caste system had no merit, because if it were true it would not have survived for so long. If Hinduism survived amidst many competing traditions, religions and foreign invasions, without a central authority and with so many centrifugal forces working from all directions, a great deal of credit ought to go to the rigid caste system that discouraged people from experimenting with their faith and beliefs acting as a binding force and kept them within the boundaries established by the scriptures and the tradition. As vast majority of the Hindus were illiterate, but were not unaware of the laws of karma or their implications of violating caste rules or their commitment to their caste based family occupations and its role in ensuring their family well-being and survival.

2. **Division of labor:**

The caste system promoted division of labor and specialization of knowledge which helped each family perfect and improve their vocational skills and pass them on from generation to generation.

3. Bonds of Brotherhood:

The caste system contributed to the development of caste based guilds in the urban areas, which acted like social and labor unions and provided some kind of social insurance against unfair competition and unjust exploitation of labor. They ensured fair wages, acted like banks lending money, helped the unemployed and promoted work ethics and standards of performance among their members. In the rural areas the caste system brought together people of the same caste and promoted unity, solidarity and fraternity among them, strengthening the bonds of their relationships through marriage, friendship and other forms of social and professional interaction.

4. Purity of lineages:

Because of the rigid rules regarding marriage and physical union among the castes and prohibition of marriages within the same gotras, many families were able to maintain the purity of their lineage.

5. Unity in diversity:

The caste system was not a system of mere division of labor. While it acknowledged birth related inequalities and karma based existential problems, it also emphasized the underlying unity of all the castes and their divine nature as products of a great cosmic sacrifice, arising from various parts of the universal being. The original purpose of the caste system, at least in theory, was not to exploit the weaker castes but establish social - order, regulate the affairs of the people and preserve the sacred law (dharma).

Disadvantages

Following are some of the disadvantages of caste system

1. Exploitation of the Weak:

The Hindu caste system had inherent weaknesses which rendered it unjust and exploitative over a period of time, giving rise to social injustices, disabilities and inequalities among a vast majority of the people. Its rigidity and continued practice exposed the weaker sections of society to unjust exploitation by the socially and politically privileged groups in the name of religion and tradition.

2. Disunity and division of loyalties:

The caste system divided the society vertically and horizontally into several groups and bred distrust and resentment. It promoted disunity, distrust and caste prejudices among the people.

3. **Foreign domination:** The caste system weakened people's resolve to stand united against foreign invasions. The physically strong sudras were condemned to pure agricultural labor and menial jobs, while they could have been more useful as fighters and soldiers in defending the land and the religion against foreign invaders.

By relegating the physically strong population to menial labor and ignoring them in the political affairs of the country, except for tax and labor purposes, the Hindu rulers deprived themselves of able bodied soldiers who could have defended them and their empires against foreign aggression. It is interesting to note that the Muslim rulers and the British who recruited people from all-castes into their armies were able to conquer the subcontinent and rule it for centuries.

4. **Preferential Treatment.** The caste system based on birth rather than individual talent and vocational choice. This created many disabilities for talented individuals belonging to the lower castes. The story of Ekalavya in the Mahabharata is a good example of how the system preferred to protect the less competent among the higher castes from the more talented lower caste persons in the name of dharma. This biased approach stilted the growth of the nation and contributed to its downfall in course of time.
5. **Political and military implications**
The caste system placed the foreigners on par with the untouchables and prevented healthy exchange of knowledge and ideas. This Worked to the disadvantage of Indians in general and the armies in particular as it isolated people from the rest of the world and prevented them from knowing about the invading foreigners, their strategic moves and counter moves and methods of warfare. The caste system also divided Indian soldiers on caste lines and created groups within groups, making coordination a difficult task for the army generals.
6. **Conversion to other religions.** Caste system indirectly contributed to the decline of Hindu religion as many people belonging to the lower castes were converted to other religions to escape the social indignities and inequalities associated with their castes. Buddhism, Christianity and Islam thrived in India of the weaknesses of Hinduism rather their own merits.

Speaking of this subject, Swami Vivekananda commented in the following words, "Was there ever a sillier thing before in the world than what I saw in Malabar country? The poor Pariah is not allowed to pass through the same street as the high-caste man, but if he changes his name to a hodge-podge English name, it is all right; or to a Moahammedan name, it is all right What

inference would you draw except that these Malabaris are all lunatics, their homes so many lunatic asylums, and that they are to be treated with derision by every race in India until they mend their manners and know better.

7. **Instrument of oppression.**

The caste system became an instrument of oppression in the hands of socially privileged castes. Landlords and wealthy merchants exploited the lower castes and subjected them to inhuman treatment without fear as the lower castes did not enjoy equal rights nor the confidence of those who enforced the laws.

8. **Untouchability:** Caste system created a class of individuals who were regarded as untouchables and treated as less than human beings. They were not allowed to enter the cities and villages freely. People of higher castes were advised not to touch them or let their shadows fall on them because the shadows were also treated as sources of defilement. They were not allowed to draw water from the wells or ponds used by the upper castes. In modern times, many untouchables converted to other religions because they saw no hope in sticking with their and among those who stayed the educated lot are its worst critics.

Gandhiji' view

Gandhiji, like Ambedkar, was a great critic of caste-discrimination. But, he was not against the caste- system as such. Therefore, in his ideal society, Ramarajya, he supported Varna system or the division of society into 4 varnas, namely Brahmins, kshatriyas, vaishyas and shudras. Though Gandhiji was a supporter of fundamental equality of all individuals irrespective of their caste, yet he did not support the casteless organization of society.

The most obvious form of rejection of caste-discrimination by Gandhiji can be seen in his opposition to untouchability. He described untouchability as a curse for humanity. He gave untouchables a respected name called harijans which mean 'people of God'. '

Gandhiji gives various arguments in support of Varna-system such as:

1. **Economic.** According to Gandhiji, varna-system is a form of division of labour. It protects the hereditary skill and knowledge. Consequently, a person becomes expertized in the profession assigned by his Varna. Therefore, it is economically beneficial for society.
2. According to Gandhiji, varna-system regulates cut-throat competition in the society. Competition breeds conflict, greed, selfishness and aggression. In the Varna system, every person has to perform the task which has been assigned by his Varna. Hence, there is no competition. Therefore, Varna system is essential for the maintenance of social harmony and order.

3. According to Gandhiji, objectives should not be wealth or power, but it should be related to the performance of one's own duty. That is, he believed in the notion of swa-dharma.
4. Gandhiji believed in metaphysical monism which means that whole world is the manifestation of one supreme, ultimate reality. This reality is known by various names like Ram, Allah, Jesus, etc. Therefore, all creatures are the part of this reality and all are equally holy. It is a sin to discriminate among various human beings. He described untouchability as a curse or sin. Caste discrimination in its intrinsic form leads to untouchability where some individuals are forced to lead a subhuman life.

Gandhiji gave some arguments for the elimination of caste—discrimination such as

1. Instead of strict laws or coercive methods, he suggested change of heart through the means of satyagraha. According to him, Satyagraha breaks all barriers.
2. According to him, service should be the goal of life rather than wealth and power. Hence, according to him, we should all convert ourselves to the level of anti-shudras.
3. According to -Gandhiji, caste discrimination is related to economic disparity. Hence, economic equality will help in removing caste-discrimination. But, for bringing equality, he rejected Marxist notion of violent revolution and supported the doctrine of trusteeship which is based on non-violence and change of heart. According to the philosophy of trusteeship, owners of industry should not consider themselves as owners, but they should function as only trustees. They should take only that part of income which is essential for their subsistence. Rest should be left for the society.

Ambedkar's views

Ambedkar in his books “Who were Shudras?” and “The untouchables” refutes the popular notion of origin of untouchability. Popularly, it is believed that untouchables were non-aryans. But, according to Ambedkar, untouchables were also Aryans. According to him, shudras were a powerful tribe belonging to the Kshatriya Varna. Untouchability was the result of conflict between Brahmanism and Buddhism. Brahmanism adopted various practices in order to meet the challenges of Buddhism. However, shudra tribe did not follow these practices and hence, they were described as untouchables by Brahmins.

Ambedkar has given various arguments against the caste-system and caste-discrimination such as:

1. According to Ambedkar, caste-system in India is responsible for degeneration of Hindu » society. Hinduism could not become dynamic and accommodative and society remained a closed society.
2. Caste is an obstacle in the development of national spirit. People preferred to be identified by their caste instead of being identified with nation.
3. According to him, untouchability is the result of the caste—system only. It is the byproduct of caste-system. It is inherent and inbuilt in caste-system. So, to eliminate caste-discrimination and untouchability, caste-system has to be eliminated.
4. He believed that caste-system is responsible for exploitation of lower castes. Various ineligibilities were imposed on them. They were deprived of the freedom to choose profession. Economically also, caste-system is counter—productive. It does not permit any mobility and a person is expected to do only that profession which has been assigned by his Varna. Thereby, it discourages the entrepreneurship.
5. He believed that casteism is against the ideals of liberty, equality, justice and fraternity
6. Casteism was also responsible for social conflict and instability which got manifested in the form of caste-violence and caste-war.
7. From individual perspective also, caste-system is against the idea of dignity of individuals Instead of merit or talent, caste has become the criteria to determine one's position in the society.
8. Supporters of caste in India believe that caste is a form of division of labor. This view is also supported by Gandhiji. However, Ambedkar rejects such viewpoint. According to him, caste system is economically decides his occupation.
9. Supporters of caste-system justify its existence to protect the purity of race. However, according to Ambedkar, there is nothing like racial purity or pure caste in India. All castes in India are mixed. Moreover, it is wrong to equate caste with race. But, even if caste is considered as race, there is no logic in practising caste-discrimination. Inter-caste dining does not lead to impurity of blood.

10. The philosophical foundation of caste-system lies in religious text and scriptures. Therefore, this basic foundation must be questioned. All these texts or scriptures should be rejected.
11. He encouraged inter-caste marriages and inter-caste dining.
12. According to him, self-respect should be generated among the depressed class. Proper education will emancipate them and they will be able to live a life of self-respect. He advised them not to stick to their traditional occupation which makes them dependent on caste-Hindus. Instead of it, they should acquire new skills and new professions.
13. During Indian national movement, Ambedkar gave priority to social reforms in comparison to political reforms. For him, "freedom in India" was more important than "freedom of India." According to him, political and economic issues should be resolved only after achieving the goal of social justice. If priority is given to political emancipation, then in practice it would mean the transfer of political power from foreign rule to the upper-caste Hindu.