

9 Basic Principles of Government (II)

9.1 REPRESENTATIVE GOVERNMENT

Representative government is one in which the people govern indirectly through their elected representatives. Representative government is an indirect democracy.

Features of Representative Government

- (i) **Regular Periodic Elections:** In representative government, members of the legislature and the executive are chosen through election by the people, to serve for a specific period of time. The secret ballot is adopted in this process to ensure a free and fair election.
- (ii) **Political Party System:** Political party is a feature of representative government. Political parties nominate candidates for election, campaign for them and ensure that they win the election. Parties aggregate interests which are presented to the electorate in form of manifestoes for approval or rejection during the election.
- (iii) **Universal Franchise:** The establishment of representative government is often followed by the introduction and adoption of the universal adult suffrage in which all adult citizens exercise the right to vote and be voted for.
- (iv) **Exercise of Mandated Power:** The elected representatives do not exercise their own powers. They exercise the powers conferred on them by the people who elected them to office.
- (v) **Popular Sovereignty:** The ultimate political power of the State resides with the people. The representatives exercise political power on behalf of the people. The people who put them in office have the power to remove them.
- (vi) **Responsible government:** Representative government is a responsible government in the sense that the elected representatives are accountable and answerable to the electorate for their actions in government. They can be removed by the electorate at the next election if they perform poorly.
- (vii) **System of Control:** In a representative government, the electors establish a system of control to ensure that elected representatives do not abuse the powers delegated to them. These include a written constitution, the establishment of fundamental rights, a fearless and independent judiciary, a free press, and a virile, educated and well- informed public opinion.
- (viii) **Informed Electorate:** For representative government to succeed, the electorate must be well educated and informed. This means that they should be able to elect the most capable citizens into political office. They should also be able to scrutinise the policies and programmes of the government as well as evaluate the performances of elected officials and personnel of government.
- (ix) **Indirect Political Participation:** In a representative government, political participation by the populace is indirect. That is, they are not involved in direct policy making. Rather, political participation by the populace is restricted to voting, electing officials, and the jury and voting in referendums to decide particular issues brought before them in order to seek their opinion. They may also attend hearing in tribunals set up by the government on specific issues or serve as members of advisory bodies in the government.

Representation Based on Common Interests: Representative government operates with the principle that a representative should possess identical interests with those people he is representing. This makes it possible for him to represent their interests adequately. Representation is made either on geographical

area called geographical representation or on economic or occupational grouping which is called functional representation.

Means and Conditions for the Establishment of Representative Government

The following provisions are necessary to ensure a healthy atmosphere that will allow representative government to thrive:

- (a) **Establishment of the Electoral Process:** The constitution must establish the elective offices of government and their powers as well as limitations to such powers. It should also specify the qualifications and disqualifications for such elective positions. The electoral law must be passed to provide for the legal bases of the electoral principles and processes. It also establishes the functions and powers of the Electoral Commission and its officials. These officials are responsible for demarcating the constituencies and enforcing the electoral laws. The most prominent aspect of the process is the secret ballot which ensures that voters cast their votes for candidates of their choice without fear of molestation from opponents.
- (b) **Establishment of Universal Franchise:** Representative government can only work if all adult citizens are allowed by law to exercise their voting rights as well as stand elections. Sex, race or creed should not be a barrier. This also means the abolition of plural vote which allows some individuals of substance to have more than one vote.
- (c) **Recognition of the Opposition:** Both official or unofficial opposition must be recognised by the government in power. Under parliamentary system, the party which wins the next highest number of seats in parliament forms the opposition in parliament. The opposition leader is usually placed on a salary. His party's constructive criticism of government policies and actions must be tolerated and accepted in good faith. Also any official opposition should be seen as the alternative government.
- (d) **Establishment of Fundamental Freedom:** The most important of these freedoms in this context is the freedom of speech. Members of the legislature and the general public should be able to discuss freely and criticise the government without fear of persecution or prosecution. In parliament, it is called parliamentary immunity. Other freedoms include freedom of association which allows one to belong to any political party of his choice or trade unions, etc.; freedom of the press allows journalists to publish and disseminate information without let or hindrance. They should not be compelled to reveal their sources of information. There is another, which is the right to personal liberty and protection from imprisonment without trial, freedom of movement and of peaceful assembly. Also, is the right to hold an opinion and change that opinion as one desires.
- (e) **Independence of the Judiciary:** Judges must be free and fearless in deciding cases which come before them as these particularly touch on the fundamental freedoms of citizens. This can only be possible if the judiciary is free from the control of the other arms of government. Among the ways of securing independence of the judiciary are security of tenure, appointment by an independent body, and salaries being the first charge on the Consolidated Revenue Fund.
- (f) **Rule of Law:** The rule of law must be recognised because it stresses the principle of equality before the law. It encourages basic political equality which must be assumed if representative government is to succeed.

Merits of Representative Government

- (i) **Political Participation:** Because of the inherent need to expand the franchise, representative government tends to provide for political participation among the populace. The people can vote and be voted for. They can criticise the government of their country or offer useful suggestions.
- (ii) **Sense of Identity with and Belonging to the Government:** The populace may not directly participate in decision making but their elected representatives do. They are elected from their local governments, towns and villages. The people see them as their very own sons, daughters and

kinsmen in government. So they feel they have a lot at stake in the government and are willing to support it. This sense of identity with and belonging to the government tends to make representative government work.

- (iii) **Political Education:** The representative form of government provides opportunity for political education of the populace. Political parties perform this function when they are campaigning for their candidates. They discuss the policies and programmes of their parties and entertain questions from the people so as to clarify certain issues and problems of the country. This helps the populace, particularly those in the rural areas, to acquire deeper knowledge about their country and its problems and how to solve them.
- (iv) **Discussion of Policies:** It provides the basis for the discussion of the problems of the community by its people through their own representatives. Once problems are identified and discussed, it is much easier to find solutions to them.
- (v) **Existence of Fundamental Rights:** Representative government provides the regime for the enjoyment of fundamental rights since they are necessary conditions for the success of such government.
- (vi) **Unifying Elements:** Representative government tends to provide a unifying framework for all divergent interests, ethnic groups, races and religious persuasions in the country. This is because each section of the country is represented by at least one person in the legislative and executive councils.
- (vii) **Government of the People:** Representative government is a government of the people for the people by the people's elected representatives who are accountable and responsible to the people. The higher demand for accountability and responsibility ensures that the interests of the people are uppermost in the minds of their representatives.
- (viii) **Popular Sovereignty:** Representative government has mandate from the electorate to govern only for a specified period of time. The representatives may present themselves again to the people for another term of office. Depending on their performance, the people reserve the right to re-elect or not to re-elect them into office. This power of re-election of government exercised by the populace serves as a check against excesses and abuse of power by political office holders.

Demerits of Representative Government

- (i) **Dilemma of the Representative:** One of the problems associated with representative government is the question of what interests the representative should promote in the legislative or executive council. If he exercises his initiatives in casting his votes on issues at stake in the House, he is accused of being self-willed and of subverting the interests of his constituencies. If, on the other hand, he sticks to the dictates of his constituents, he is accused of parochialism and of neglecting national interest in pursuit of narrow and local interest. Therefore, the major demerit of representative government is that the mandate given to the elected representative is not often clear and definite. The representative often finds it difficult to reconcile his interests and values with those of his constituents.
- (ii) **Problem of Toeing the Party Line:** Representative governments are usually associated with party systems. Whether they are single or multi-party systems, the representatives are often required to toe the party line. They are usually asked to vote one way or the other over issues at stake in the House even where such actions may threaten national interest while serving certain vested interests in the party hierarchy.
- (iii) **Tendency for Political Parties to Hijack the Government:** Representative government cannot function effectively unless interests are aggregated, articulated and organised around a political party or parties. The party which forms the government tries to translate these interest into policies.

But more often than not, the party leadership tends to modify government policies to serve its vested interests. This is an abuse of the mandate given them by the electorate at the polls.

- (iv) **Expensive in Nature:** Representative government is expensive to run, most especially under multi-party systems. Much money is spent on election campaigns and the conduct of elections. The corruption accompanying this makes it more expensive not only for government but also for individual candidates.
- (v) **Problem over the Most Appropriate Basis of Representation:** In representative government, it is not often clear which is the most appropriate basis of representation. Representatives are elected from geographical areas of constituencies roughly equal in population. In the case of functional representation, representatives are elected on the basis of economic or occupational groupings. Advocates of geographical basis of representation consider the functional basis as inappropriate since these interests are not clearly defined. For example, it is not easy to identify all those who have common economic interests in the society. On the other hand, geographical basis of representation in a given constituency does not necessarily share similar interests with all constituents. The conclusion from this is that whichever basis is adopted to form a representative government, it is bound to leave out a substantial portion of the populace unrepresented or under-represented.
- (vi) **Slow Decision Making:** In representative government, a lot of consultations have to be made before final decisions are arrived at. This is necessary because of conflicts in interests and goals of individuals, groups and ethnic or linguistic blocks that must be resolved. It also involves making some payoffs and concessions among groups. All these take a long time. In non-representative government such as the military government, decisions can be made much faster.
- (vii) **Election of Minority Candidates:** The electoral systems which are adopted by most nations result in the election of minority candidates. This always happens in a single-member constituency where more than two candidates stand for a election. The candidate who wins in the election is the one with the highest votes. This is illustrated with the following data from the 1979 presidential election of Nigeria:

TABLE 9.1: 1979 PRESIDENTIAL ELECTION RESULTS

Name	Party	Total Votes Scored	Percentage of Votes
Alhaji Shehu Shagari	NPN	5,688,857	33.8
Chief Obafemi Awolowo	UPN	4,916,651	29.2
Dr Nnamdi Azikiwe	NPP	2,822,523	16.7
Alhaji Waziri Ibrahim	GNPP	1,686,489	10.0
Mallam Aminu Kano	PRP	1,732,113	10.3
Total		16,846,633	100.0

It is clear from the table that no candidate scored a majority of all the votes cast. Alhaji Shehu Shagari was declared elected as President because among other considerations, he got the highest votes cast by the Nigerian electorate. Some nations, in an attempt to solve this problem, have adopted proportional representation. This representation, however proportional, has serious problems. It is very complex to administer and requires a literate electorate. Moreover in proportional representation, voters cast their votes for political parties that present candidates for the election and not really for the candidates.

(viii) **Election Problems and Malpractices:** Elections often do not produce the right representative as a result of election rigging and ignorance of most voters. Often, elections result in thuggery, arson, and destruction of lives and property. Elections may also produce victimisation, oppression and whipping up of ethnic and religious sentiments.

9.2 POLITICAL PARTICIPATION

Political participation is a process by which members of the society take part in political process by choosing their rulers and being involved in taking decisions with which the State is governed.

Forms of Political Participation

In every society, people are involved in politics in varying degrees. Those who take part in politics, in whatever degree, are called political activists. Political activists' participation in political activities can be classified into three groups:

- (a) Full, active participation
- (b) Transitional, partial participation
- (c) Spectator participation

(a) **Full, Active Participation:** This refers to intense, active political participation. Political activists are involved personally in the following activities:

- (i) *Active Membership of a Political Party:* By this, we mean that the activist is a financial member of a political party. He holds a membership card. He takes active part in running the party, organising electioneering campaigns and political rallies. He attends all meetings of major party organs such as the party caucus which is attended by the most senior and influential members of the party. He may hold a party post such as chairman to the party, general secretary or publicity secretary.
 - (ii) *Contesting Election as a Candidate:* This involves standing as a candidate for elective position on the platform of a party. It could be done by becoming a candidate for the State House of Assembly, House of Representatives or the Senate elections. It also includes those who contest election into party posts such as chairman, Secretary general, publicity secretary or treasurer.
 - (iii) *Holding Party or Public Posts:* These may be elective or non-elective posts. An example of such posts are those of commissioner, minister, ambassador, secretary to the Governor or President, or member of a statutory or non-statutory board. Full, active participation also involves campaigning for other candidates or for the party and acting as party representative at the polling station and vote counting centres. It also involves making speeches during political campaigns and raising funds for the party.
- (b) **Transitional, Partial Participation:** In this case, political activists are yet to be fully involved in serious political participation. So far, they only attend political rallies. They listen to speeches of party chiefs, candidates and other activists. The main concern is to identify with programmes and personalities of various parties. They may also contribute money to the party's purse for campaigns. These activities are stepping stones towards full and active political participation.
- (c) **Spectator Participation:** In this level of participation, political activists are on the side line, only interested in observing events. Participation is restricted to mere party identification, voting, inducing others to vote for one party or the other, and listening to political debates and discussions over the radio and television.

Purpose and Values of Political Participation

Men participate in politics because they seek to satisfy certain needs and values. These are:

- (a) Political values
- (b) Economic values

(c) Social and psychological values

- (a) **Political Values:** The main reason why people seek participation in the politics of their country is that they want to manage their own affairs. This promotes democracy and good government.

People also participate in politics because they want to take part in arresting poor situations in their country. For example, many people in Nigeria are worried by the poor performance of governments in Nigeria since independence. They have been unable to provide needs such as pipe-borne water supply, shelter and basic health facilities for majority of the population in the rural areas. As a few get richer, many get poorer. Young people, for example, read about other countries and the human progress that takes place there. By this, the seed of taking part in politics is sown in them with determination to bring about changes in their fatherland.

There are others who participate in politics because they seek power over others i.e. they want to control others.

- (b) **Economic Values:** Another reason for participating in politics is to seek economic and material gains. Some people believe that by holding public or political office, they will be able to increase their income. For example in Nigeria, a lot of people believe that if one is a member of the political party in power or holds political office or top public office under its banner, he has a one-way ticket to material wealth. He and his family can now win government contracts worth millions of naira. They can acquire houses and essential commodities when they are scarce. This, however, is an extreme view of economic motive for political participation because its mercenary motive is totally bad.

(c) **Social and Psychological Values**

- (i) *Search for Friendship and Company:* Some people participate in politics because they seek to associate with people of like minds, who think and reason like them. They desire a lot of psychological release from affection, bond of friendship and love which usually grows among close political associates and allies.
- (ii) *Release on Anxiety and Stress:* Stress and anxiety naturally build up in men and women. They seek to release these by getting involved in political activities. In politics, they meet men and women of all shades of opinion and social backgrounds. And the openness, informality and often combative nature of political relations tend to met their needs.

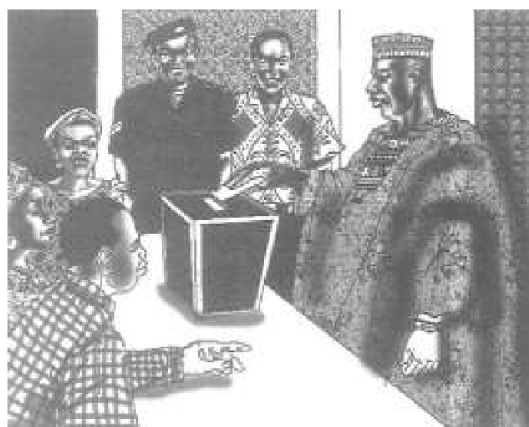


Figure 9.1: A citizen casting his vote

- (iii) *Search for Self-esteem:* There are persons who seek political office because they feel it will improve their self-image and self-esteem. Their self-confidence receives a boost when they win an elective post or get a political appointment. They think others will respect them the more.

- (iv) *Search for Self-actualisation:* Some people have reached the peak in their other careers and professions such as law, medicine, business, accountancy or academics and still feel they need to achieve more in order to realise their total self. They may feel that election to high political offices such as Governor of a state or President and Head of State will enable them to express other aspects of their abilities and resourcefulness that are yet untapped in their careers. Perhaps if they succeed, they have a chance of fulfilling a strong personal need for self-fulfillment at the highest level. The main reason for participation is to ensure that people manage their own affairs.

Ways to Enhance Political Participation

- (i) **Multi-Party System:** There must be provision for a multi-party system. It helps citizens with different options in terms of policy preference and party identification. If they do not like candidate A and his party's programme they can vote in B or C if they approve of them and their party programmes. The multi-party system increases the number of political activists in a nation.
- (ii) **Expansion of the Franchise:** Expansion of franchise from limited franchise to universal adult suffrage is young to enhance political participation. Previously, disenfranchised groups such as women, persons of limited means, native population under colonial rule and so forth have since been given the power to vote. They now feel more involved in government than they were before.
- (iii) **Rule of Law:** The recognition of the rule of law particularly equality before the law is a necessary condition for political participation. This is because it gives an individual the right to vote. It has thus, opened up chances for persons of limited means in the face of economic inequality.
- (iv) **Egalitarianism and Equal Opportunity:** Political participation is much enhanced in a political system in which there is equal opportunity among individuals and groups. It demands that situations of extreme poverty in the midst of opulence must be avoided. Extreme poverty tends to discourage individuals from active participation in politics. This is because they feel alienated from the political system. They have very little expectations that government policies alter their miserable circumstances. Individuals must, therefore, be given equal chances to exploit opportunities for general and higher education. There should also be adequate provision for basic social amenities for all groups of the population. Thus, by giving everybody a fair chance to develop his or her potentialities, the system would have laid a solid foundation for popular participation in politics of the country. For the masses of people to effectively participate in politics, they must be able to read and understand the manifestoes of the various political parties before casting their votes. They must also be well informed before they can offer constructive criticism of government programmes and politics.
- (v) **Freedom of Trade Union and Right to Strike:** Workers must be allowed to seek their economic rights on the basis of collective bargaining. They also reserve the right to go on strike to fight for their rights whenever they are encroached upon by management. Without economic equality or at least the existence of means of attaining it, political equality is a mirage. This means that workers from whose labour the wealth of the society is produced will remain isolated from the mainstream of the political process.
- (vi) **Recognition of the Opposition and Alternative View:** Political participation is enhanced if the system allows for official opposition to the government and party in power. The opposition must be seen as an alternative government. Its views and constructive criticisms of government policies must be accepted in good faith by the government. In a presidential system where official opposition is not usually practised, the government must be prepared to accept alternative views and criticism from the legislature and the public at large as valuable input.
- (vii) **Independence of the Judiciary:** This is necessary to check the excesses of government and protect individual rights. For example, individuals should feel free to criticise government without fear of persecution.

(viii) **Secret Ballot:** The use of secret ballot enables individuals to exercise their right to vote without fear of molestation from those who hold different opinions from them.

Causes of Political Apathy

Political apathy refers to the tendency of some members of a society to shy away from political activities in their country. This passivity is often reflected in feelings of helplessness and frustration. The degree of apathy depends on the particular experiences of individuals or groups. At some point, they are likely to become alienated from the political system. They may also feel rejected by the society as a whole. Under these situations, the individuals may feel they are incapable of making any contributions which will influence the political system in any way. Specific factors that cause political apathy are as follows:

- (a) Illiteracy
 - (b) Discrimination against women
 - (c) Low socio-economic status
 - (d) Low self-esteem
 - (e) People on the fringe of the population
 - (f) Political culture
- (a) **Illiteracy:** The illiterate population, particularly in developing nations, does not often see itself as part of the complex society of modern States. This is more so as ability to read and write, level of literacy and education or vocational achievement all tend to determine one's occupation, income, and social status. Most illiterate persons tend to develop feelings of helplessness and in some cases, frustrations which make them withdraw from politics. They feel they cannot make much impact on the political process.
- (b) **Discrimination against Women:** In most societies, women are the largest number of the passive population in terms of political participation. One of the reasons is that women have often been regarded as the weaker sex. They have, therefore, tended to remain at the background, not taking active part in decision making at home and in public life. In fact, in the past, they were not allowed to vote. Women in Nigeria, for example, have invaded roles and professions previously dominated by men such as engineering, medicine, law and business.
- (c) **Low Socio-economic Status:** Persons in low income groups are first and foremost concerned about filling their stomachs. Poverty has a way of filling the minds of individuals with anger against government. Some people in low income groups feel, and perhaps rightly so, that their misfortune is caused by the bad policies of politicians. This reason, among others, explains their indifference towards politics.
- (d) **Low Self-esteem:** While persons with high self-esteem tend to desire participation in politics, those with low self-esteem shy away from it. They have ambition. They lack the drive and push that is often demanded of political activists. They exhibit lack of confidence in themselves and in their ability to influence the political system in any direction.
- (e) **People on the Fringe of the Population:** These include racial minorities; for example, the blacks and Hispanics in the United States of America. They exhibit considerable level of passivity in American politics. Also in Nigeria, minority elements may be alienated from the Nigerian political process and may account for a tangible level of political apathy in the country. These groups tend to react negatively to their insignificance in terms of their contribution to total percentage population. Their passivity is an acceptance of the reality of their being incapable of influencing the politics of their country in any way. Also, they have little expectations that changes in the political system will have any impact on their lives.
- (f) **Political Culture:** In an authoritarian political system, individuals are not encouraged by the legal regime to take part in making public policy or in choosing their leaders. The dictator, more or less,

imposes policies on the populace and does not allow opposition or criticism even if it is constructive. This has been classified as an example of subject political culture. Central African Republic under Emperor Bokassa and Republic of Zaire under Mobutu Sese Seko are good examples of subject political culture. Also, in parochial political culture, majority of the people are still loyal to traditional political structures. They are yet to be fully introduced into the highly specialised political structures of modern States, hence, their passivity towards it. A good example is the rural population in many developing States where a traditional political system is still powerful and influential.

9.3 Centralisation of power

Centralisation refers to when the power of government is concentrated in one single authority called central authority.

Unitary States, like Britain, are examples of centralisation of powers. In Britain, for instance, there is only one parliament, executive and judiciary. Power is centralised in the parliament which is supreme. It makes all the laws and policies with which all parts of the country are governed. It does not share its powers. It may, however, delegate minor powers to local authorities which can only exercise those powers given them and no more. These authorities include local governments, public corporations, etc. The central authority exercises full control over all these bodies. Centralisation of powers also entails that all planning and decisions in all areas of national effort, be it economics, technology, health, social welfare and so forth emanate from the central authority and are binding on all parts of the country.

Merits of Centralisation

- (i) **Strength in the Unity of a Country:** Because there is a single parliament, judiciary and executive that exercise the power of government over the whole country, centralisation of powers tends to rule out the type of divisive tendencies that exist in federal state where those powers are exercised by more than one authority. Centralisation, therefore, tends to strengthen national unity.
- (ii) **Non-duplication of Offices:** If all units and activities are concentrated in the centre, there would be no need to duplicate offices and functions of government.
- (iii) **Reduction of Costs:** Since centralisation rules out the possibility of duplication of functions of government, it cuts down costs and wastes in resources that would have been invested in running multiple governmental authorities.
- (iv) **Creation of Certainty:** In centralisation, there is no doubt about who exercises what powers. Thus, central authorities are bound to be praised or blamed by the results produced by their policies and actions.
- (v) **Decrease in Divided Loyalty:** Centralisation of powers saves citizens the troubles often resulting from divided loyalties in situations where they are under the central, and other multiple government authorities.
- (vi) **Absence of Competition:** It also rules out the possibility for officials and programmes to compete for scarce resources at the implementation stage.
- (vii) **Absence of Clash of Authority:** Centralisation rules out the possibility of clash of authorities. The local authorities merely exercise delegated powers and are subject to the control imposed by the officials of the central government.

Demerits of Centralisation

- (i) **Limited Participation:** Centralisation of powers and functions of government in a single authority tends to confine the opportunity to participate in decision making to a few and deny it to a large body of citizens of the country.

- (ii) **Neglect of Local Interests:** In large States, central authorities are not likely to cater for local problems due to their crowded schedules as well as their unfamiliarity with the local area and its problems.
- (iii) **Tendency to Despotism:** It can lead to some form of despotism. So much focus of power in the centre does not only make power too concentrated but also breeds despotism and abuse of power.
- (iv) **Abuse of Delegated Powers:** Centralisation tends to require delegation of powers to local bodies who may go beyond their delegated powers and escape unchecked by central authorities who already have much work on their hands.
- (v) **Remoteness of Government:** Local people do not feel the impact of the central government which may be stationed far away from them. They are, therefore, not bothered by what is happening in government.
- (vi) **Uneven Development:** It does not promote even and rapid development of all the areas of the country. This is because the government is not near to the people and the people do not participate effectively in government.

9.4 DECENTRALISATION OF POWER

Decentralisation is the transfer of powers of government on geographical basis to authorities that are agents of the central government. The bodies include local governments, public commissions and corporations. They are legally distinct from the central government.

Forms of Decentralisation

There are two forms: *Deconcentration* and *Devolution*. These are illustrated below in Fig. 9.2.

- (a) **Deconcentration:** Deconcentration is the transfer of administrative authority to various locations in the country (such as provinces, divisions, native authorities and so forth), so that persons stationed there can take action on the spot, instead of administering the area from the centre.

For example, the old British colonial administration in Nigeria was a form of deconcentration. The whole country was subdivided into provinces, divisions and native authorities. The central government in Lagos posted officials in those locations and gave them power to take decisions and act on some matters on the spot without reference to Lagos. Field offices of various government ministries is also an example of deconcentration.

- (b) **Devolution:** is the transfer of political authority from the centre to local bodies such as local government authorities, regional authorities and special statutory bodies.

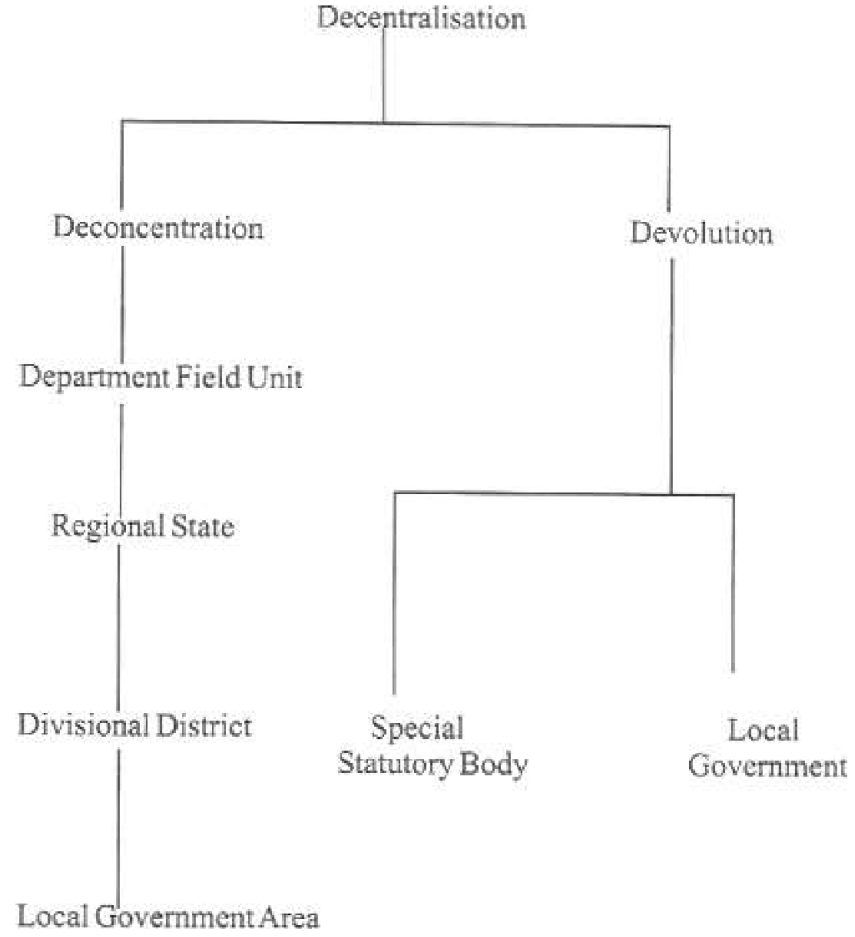


Fig. 9.2

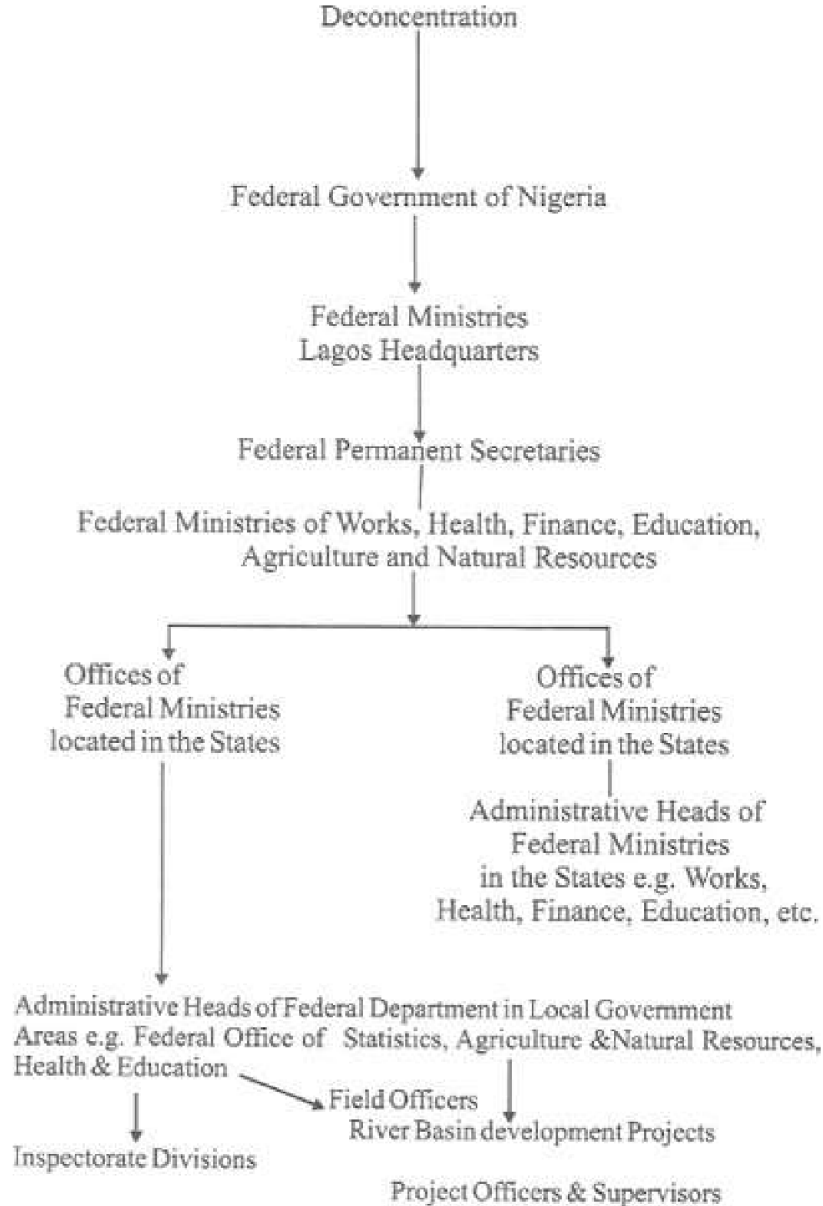


Fig. 9.3

Merits of Decentralisation

- (i) **Accommodation of Local Differences:** It gives allowance for local differences and encourages development of regions and localities according to their special needs and scope.
- (ii) **Check on Tyranny:** It is a check on the type of tyranny that may develop under highly centralised system.
- (iii) **Leadership Training:** It allows for leadership training at the local level, since field officers are bound to exercise their initiatives and take decisions on the spot.
- (iv) **Closeness between the Government and People:** It brings government closer to the people.
- (v) **Enhancement of Political Participation:** It broadens the basis for political participation at the local levels. People previously alienated by national government now come under the influence of governing authorities at the grassroots.

Demerits of Decentralisation

- (i) **Inhibition of National Unity:** It does not promote national unity since there exists multiple governmental authorities whose interests and objectives may conflict from time to time.

- (ii) **Dual Loyalty:** It may create confusion in the minds of the citizens as to which government to obey, the central or local authority. This has been referred to as the problem of dual loyalties.
- (iii) **Conflict of Powers:** Central and local governments tend to engage in conflict over functions and policies.
- (iv) **Abuse of Delegated Functions:** There is also the problem of abuse of delegated powers by local authorities whose interests and objectives may be different from the legislature which enacted the parent laws.

9.5 DELEGATED LEGISLATION

Delegated legislation can be described as a body of laws enacted, not by parliament directly, but by other authorities or persons that parliament transferred such powers of legislation to, making them subject to its control.

Examples of Delegated Legislation are:

- (i) Bye-laws made by local authorities to enable them to perform their functions. They must conform with Acts of Parliament which delegate the authority to the body.
- (ii) Statutory regulations made by ministers, government departments and statutory corporations.

Types of Delegated Legislation

- (a) **Provisional Order:** This is an Act of Parliament transferring powers to a minister, authority, or body to do something such as the execution of a welfare project like providing market stall, or pipe-borne water or building a remand home etc. The order is provisional because it cannot be in force until it has been confirmed by parliament. The minister first holds a local enquiry before making the required order. Following this, he introduces a provisional order confirmation bill in the legislature so that the House may approve it. This saves the time that would have been spent promoting a local Act of Parliament. Furthermore, the authority is now in much better position to obtain the necessary powers.
- (b) **Special Procedure Order:** It transfers special powers to local authorities within certain limits. As in the case of provisional order, the minister also holds a local enquiry before making the required order and then presents the bill to the legislature. The order should come into force after 14 days if the legislature does not annul it or some persons write petition of general objection against the order.
- (c) **Statutory Instrument:** This is a regulation made by the minister and applies to the whole country generally, as against the person, authorities or bodies. There are three procedures for making it.
 - (i) *Draft:* In this case, the minister introduces before parliament draft of the regulation in question. It is up to the House to decide whether the draft be made or not and when it is made it becomes effective in draft form.
 - (ii) *Annulment:* The annulment instrument comes into force unless the House tables a petition for annulment within 40 days.
 - (iii) *Tabling:* This instrument is made and comes into force immediately it is deposited on the table of the House to enable members to move a motion for annulment.
- (d) **Delegation of Taxing Power:** Parliament delegates powers to the government in power to enable it to run the economy efficiently. Powers of legislation are transferred to government experts in the treasury and Ministry of Finance to re-examine and develop the different forms of tax and tariffs on goods coming from abroad, import duties, excise duties, income tax, company tax and petroleum tax. They are also empowered to review trade agreements with other countries from time to time. However, parliament subjects these powers to strict control by ensuring that the minister's

proposals are laid before parliament every financial period before the beginning of business in the House.

- (e) **Subdelegation:** Subdelegation of power often arises during periods of emergency when officers are allowed under the law to subdelegate powers delegated to them by parliament or cabinet. The problem with subdelegated powers lies in the view expressed by some authors that they are illegal, since persons or bodies exercising delegated powers have no power to subdelegate to another person. One of the limitations of subdelegated powers arises from the difficulties which parliament is bound to encounter in trying to control these powers effectively.
- (f) **Retrospective Operation:** Though it is rare, parliament may delegate retroactive laws or some authorities to persons. This, in effect, means that such bodies have powers to make laws which are effective from a given period in the past. This, however, tends to be subversive to the rule of law. As such, parliament is inclined towards strict control over such powers to ensure that the provisions and terms of such delegations are tabled in the House for fair assessment.
- (g) **Exclusive Jurisdiction of the Court:** It is only the courts of law that have jurisdiction to entertain questions about the extent of delegated legislation. It is the duty of the courts, therefore, to declare delegated legislation either *ultra vires* or *bona fide*. However, questions about the control of delegated legislation remains a purely legislative and administrative matter.

Reasons for Delegated Legislation

- (i) **Time Factor:** Parliament of modern times cannot afford the time to deal in required detail with the large volumes of legislation needed to govern a modern State. All they do is prepare the Acts in broad outlines. But the details are left to the executive in form of delegated legislation, while parliament reserve the power to control the exercise of such legislative powers.
- (ii) **Demands of Technical and Professional Expertise:** In most cases, parliament does not possess the technical and professional expertise needed to deliberate and make laws on some matters. These are usually left to ministry officials who possess such expertise.
- (iii) **Need for Flexibility:** Some items of legislation, particularly on social welfare and economic management will need to be updated from time to time. But parliaments do not find it convenient to deliberate on them all over again in response to changing times. These are, thus, left to the executive in the form of delegated legislation. They are in a better position to respond to the flexibility demanded by new development. In this way, the relevance of the parent Acts made by parliament is retained.
- (iv) **Demands of Emergency Situations:** Emergency situations such as war, economic crisis and strikes do not often provide the right atmosphere and time for parliament to take quick decisions to bring the situation under control. Parliament may, therefore, delegate some of its legislative powers to authorities or persons who are in a vantage position to take a quicker decision to contain the crisis situation.

Merits of Delegated Legislation

- (i) **Relief in Parliament Work:** In modern times, parliaments cannot cope with the heavy load of legislation needed to govern a modern state. It can relieve itself of some of the pressure particularly on social and economic legislations by transferring some of its powers of making laws to the executive, in the form of delegated legislation.
- (ii) **Reduction in Time Spent:** Much of its time can be saved if smaller details of an Act of Parliament are attended to by the executive. They make statutory instruments, while local authorities make bye-laws. This allows parliament extra time to concentrate on broader principles of the law.

- (iii) **Control of Emergency:** Delegated legislation exercised by the minister and the other local authorities in periods of emergency and crisis can be very helpful in controlling the situation. This is more so since parliament may not be in session. Even if it is, the situation may demand quick assessment, decision and action. Parliaments may not be in the position to react promptly. The reason being that parliamentary procedures which are regulated by standing orders, are time consuming.
- (iv) **Solutions to Local Problems:** Delegated legislation as exercised by local government authorities may best provide the solution to problems peculiar to the locality. The local nature of the problem may be overlooked by parliament if it were to go further to interpret the parent Act. The reason being that the central authority is quite unfamiliar with the neighbourhood.
- (v) **Tools for Interpretation of Parent Act:** Often the parent Act passed by parliament may be framed in legal jargons, and the ordinary man in the street may not understand the law. Thus, delegated legislation drafted by ministers or local government officials goes further to make the law clear and simple to understand. In this way, the whole intention of parliament is brought out.
- (vi) **Flexibility in Change:** Because delegated legislation can be changed from time to time to meet new demands, it makes for smooth running of government.

Demerits of Delegated Legislation

- (i) **Subject to Abuse:** Delegated legislation may be abused by ministers and local government officials and local government officials. They leave loopholes in the law to enable them to use it to pursue interests other than those defined by parliament in the parent Act. For example, it is common practice for the government in power to persecute the opposition by hiding behind statutory instruments and by laws which regulate public meetings and freedom of assembly.
- (ii) **Usurpation of Legislative Functions by the Executive:** The parent Act of Parliament may be so brief such that the delegated legislation issuing therefrom, may alter the original intention of the law-makers. This will amount to usurpation of legislative function by the executive.
- (iii) **Difficulty in Control:** The parliament is often too busy and does not sit all the time. Therefore, it is limited in its ability to keep close watch over the exercise of delegated legislative functions by the executive.
- (iv) **Inadequate Publicity:** It is often the practice among ministry officials to keep new laws emanating from the delegated powers of parliament in their drawers. Because they are not adequately publicised, citizens are often taken unawares when delegated legislations are enforced.
- (v) **Large Volume of Laws:** Delegated legislations may be too many since ministries, local governments and corporate bodies turn them out daily. These, in addition to laws made by parliament, produce a large volume of laws in the country. Citizens may find it difficult to keep abreast of them. In fact, they are likely to be ignorant of many of them.
- (vi) **Weakness in the Principle of Separation of Powers:** It violates the principle of separation of powers as the executive makes the laws and executes them. The advantages of the separation of powers such as avoidance of tyranny are therefore, undermined.
- (vii) **Violation of Mandate Principle:** Delegated legislation violates the mandate principle, since through delegated legislation, laws are made by those who are not elected by the people and responsible to the people. It also violates the principle of rule of law.

Control of Delegated Legislation

(a) Parliamentary Control

- (i) There is a requirement that a statutory instrument of delegated legislation be tabled before parliament for approval.
- (ii) Parliament has power to annul an instrument by its resolutions.
- (iii) As for those instruments which take immediate effect after the minister has introduced them, they will still have to be placed before parliament for approval.
- (iv) Other instruments will need to be tabled in draft form before parliament. They can then come into force only by its affirmative resolutions.
- (v) Members of parliament reserve the right to attack a particular delegated power of legislation or any administrative action based on it on the floor of parliament.
- (vi) During Question Time, members of parliament may question the minister over the exercise of a given delegated power. They can order a special administrative inquiry to provide information concerning the exercise of delegated power or the execution of statutory instruments and bye-laws.

(b) Judicial Control

- (i) By invocation of the doctrine of *ultra vires*, a citizen can ask the courts to declare that an executive action is *ultra vires*. That is, a minister has gone beyond the powers granted him by the parent Act passed by the parliament. After examining the arguments for and against the application, the court may, if the weight of evidence demands, declare the law null and void and of no effect. In its decisions, the court is always guided by the need to protect the interest of citizens whenever it is endangered by executive excesses.
- (ii) A citizen can also ask the courts to invalidate a piece of delegated legislation if he or she is of the opinion that the minister or local authority which made it did not comply with the stipulated procedure when making the law.
- (iii) A citizen may also file a case against the minister on the grounds of certiorari, mandamus and prohibition. He may also file an injunction against the government or local government, asking the court to order it to do certain things pending the decision of the court on the main (substantive) issue in court.
- (iv) The courts may also render a statutory instrument or an administrative action invalid if they are of the opinion that it conflicts with rules of natural justice and rule of law.
- (v) As a safeguard, parliament provides a procedure in the parent Act which will provide grounds for people to seek redress in courts of law.

(c) Public Criticism

Owing to strong public criticism over a piece of delegated legislation or an administrative action issuing therefrom, the minister may be compelled to withdraw it. Such criticisms are found in the media, etc. If nothing is done in this direction, the government soon becomes unpopular. This may lead to its defeat at the next election.

(d) Need to Consult Interested Persons

The Parent Acts of Parliament often prescribe the need for the ministry concerned to ensure that the persons whose interests will be affected by statutory instruments be consulted. It is often the practice to display the draft proposal in public for this purpose, as a way of consultation.

(e) Control by Means of Publicity

One of the ways of controlling delegated legislation is the demand that its draft be published in the newspapers in advance. This will enable persons whose interests are affected to file their complaints before the appropriate authority. A citizen charged to court for disobeying the law can

plead innocence on the grounds that the draft was not published. If he is able to provide this, he must be set free.

(f) Control on Bye-Laws

Bye-laws are delegated legislation made by local authorities. Control of these bye-laws by parliament is effected by demand that they must be laid before the ministry for confirmation before they come into effect. It is also required of local bodies which make bye-laws to display copies of them within the locality.

KEY POINTS

Representative Government

Representative government is one in which the people govern indirectly through their elected representatives in parliament and in executive councils.

(a) *Features of Representative Government*

- (i) *The Elective Principles:* In representative government, the people choose their leaders through the elective process.
- (ii) *Political Party System:* Political parties are responsible for articulating and aggregating interest of groups as well as converting them into policies in representative government.
- (iii) *The Universal Franchise:* All adult citizens exercise the right to vote and be voted for in representative government.
- (iv) *The Exercise of Delegated Powers:* The elected representatives exercise only those powers delegated to them by the electorate.
- (v) *System of Control:* The electorate establish a system of control over elected representatives to ensure that they do not abuse powers delegated to them.
- (vi) *Informed Electorate:* The electorate, in most representative systems of government, are educated and well informed.
- (vii) *Indirect Political Participation:* The electorate do not directly make policies or take decisions, they are only involved in these functions through their representatives.
- (viii) *Representation Based on some Interests:* Representatives champion one block of interest or the other in representative government.

(b) *Means and Conditions for the Establishment of Representative Government*

- (i) *Establishment of the Electoral Process:* The process for recruiting rulers in representative system must first be clearly understood, documented and institutionalised.
- (ii) *Establishment of Franchise:* All adult citizens must first be given the right to vote and be voted for if a given representative government is to be considered meaningful.
- (iii) *Recognition of the Opposition:* If representative government must work, individuals or organised groups must be allowed to differ in their view with those held by the government. The society should be able to see them as capable of providing alternative solutions to its problems.
- (iv) *Establishment of Fundamental Freedoms:* The establishment of fundamental rights such as freedom of speech, press, association, movement and so forth, are essential conditions for the efficient operation of representative system of government.

- (v) *Independence of the Judiciary*: Judges must be free and fearless in deciding cases which come before them.
- (vi) *Rule of Law*: Rule of law must be recognised, particularly the aspect dealing with the principle of equality before the law.

Political Participation

Political participation can be defined as a process by which members of the society take part in the political process by choosing their rulers and being involved in taking decisions with which the State is governed.

(a) *Forms of Political Participation*

- (i) *Full, active participation*: This is intense active political participation in which political activists are registered members of a political party, who contest elections, campaign for other candidates or hold party or public posts.
- (ii) *Transitional, partial participation*: In this case, political activists are not fully involved in serious political participation.
- (iii) *Spectator participation*: Political activists, in this case, are mostly interested observers of political events.

(b) *Purpose and Values of Political Participation*

- (i) *Political values*: People participate in politics because they want to be involved in the management of their own affairs and in shaping events in their country. Others are more interested in acquiring power.
- (ii) *Economic values*: Political activists may also be motivated by the desire to acquire economic and material gains.
- (iii) *Social and Psychological Values*
 - 1. Political activists are in search of friendship, company and affection with people of like minds.
 - 2. They want to release anxiety and stress.
 - 3. They are in search of self-esteem.
 - 4. They are in search of self-actualisation

Centralisation of Power

In this case, the government is concentrated in one single authority.

Decentralisation of Power

It is the transfer of the powers of government on geographical basis to authorities which are agents of the central government.

(a) *Forms of Decentralisation*

- (i) *Deconcentration*: This is the transfer of administrative authority from the centre to various locations in the country as officials there can make decisions on the spot.
- (ii) *Devolution*: This is the transfer of political authority to local governments and statutory bodies.

Delegated Legislation

Delegated legislation is law enacted not by parliament but by other authorities on the powers granted by Act of Parliament.

(a) *Examples of Delegated Legislation*

(i) Bye-laws made by local authorities.

(ii) Statutory regulations made by ministers and statutory corporations.

(b) *Types of Delegated Legislation*

(i) *Provisional Order*: This is an order made by the minister deriving from an Act of Parliament and which comes into effect by its confirmation.

(ii) *Special Procedure Order*: It is an order made by the minister transferring powers to local authorities.

(iii) *Statutory Instrument*: It is an order made by the minister which applies to the country as a whole.

(iv) *Delegation of Tax Powers*: This is power delegated by parliament to the executive to review different forms of taxes and tariffs.

(v) *Subdelegation*: This is a transfer of delegated powers to another authority dealing with emergency situations.

(vi) *Retrospective Operation*: This is a retroactive law made by an authority based on an Act of Parliament.

(vii) *The Exclusive Jurisdiction of the Courts*: This is the power of the courts to declare a delegated power bona fide or *ultra vires*.

(c) *Reasons for Delegated Legislation*

(i) It saves time for parliament.

(ii) It is a means of tapping the expertise of technical and professional experts.

(iii) It makes for flexibility in governance.

(iv) It becomes inevitable due to the demands of emergency situations.

(d) *Control of Delegated Legislation*

(i) *Parliamentary Control*: Delegated instrument must be approved by parliament to ensure it conforms with the parent Act in terms of its specific provisions, execution and enforcement.

(ii) *Judicial Control*: Courts of law have the power to declare a delegated legislation or executive action based on it, bona fide or *ultra vires*.

(iii) *Public Criticism* : The public may mount a strong criticism over an order they do not like.

(iv) *Need to Consult Interested Persons*: The requirement that persons whose interests are to be affected by an order be consulted is an effective check against abuse.

(v) *Control by Means of Publicity*: The requirement that an instrument be publicised is also an important check against abuse.

SAMPLE EXAMINATION QUESTIONS

Essay Questions

1. Distinguish between centralisation and decentralisation and outline the merits and demerits of each.
2. Account for the growth of delegated legislation in modern government.
3. What is representative government? Discuss its main features.
4. What are the means through which political participation in government enhanced?

5. What are the merits and demerits of representative government?

Objective Questions

1. Political participation can be increased in some developing countries if
 - (a) many more citizens are given the national merits award.
 - (b) there is a written constitution.
 - (c) enough ballot papers are provided during elections.
 - (d) the level of literacy is raised substantially.
2. Centralisation of power is a distinctive feature of only one of the following:
 - (a) Confederal States.
 - (b) Federal States.
 - (c) Unitary States.
 - (d) A union of States.
3. Only one of the following is a form of decentralisation:
 - (a) Devolution.
 - (b) Concentration.
 - (d) Delegation.
 - (e) Decontrol.
4. The authority exercising delegated legislation is
 - (a) superior to parliament.
 - (b) parallel to parliament.
 - (c) subordinate to parliament
 - (d) concurrent with parliament.
5. One of the reasons advanced for the exercise of delegated power is that
 - (a) parliament needs to share its powers with other bodies.
 - (b) there is need to tap the expertise of professionals and experts.
 - (c) the people cannot entrust all their powers in the hands of members of parliament.
 - (d) the executive understands the needs of the society better than parliament.
6. The invocation of the doctrine of *ultra vires* against an instrument is a case of control of delegated legislation by
 - (a) the parliament.
 - (b) public criticism.
 - (c) the executive.
 - (d) the judiciary.

Answers to Objective Questions

1. d
2. c
3. a
4. c
5. b
6. d