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# Political Theory: Concepts and Debates

BAPCC201

**CENTRE FOR DISTANCE AND ONLINE EDUCATION**



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**12-B Status from UGC**

**POLITICAL THEORY:  
CONCEPTS AND DEBATES  
(BAPCC201)**

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# **Political Theory : Concepts and Debates**

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## Unit-I : Freedom

### Lesson-1

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## Liberty : Negative and Positive

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### Concept of Liberty

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The term liberty means freedom. Freedom can be understood in different ways i.e. freedom of speech, freedom to move, freedom to practice profession of one's choice, freedom to practice and propagate religion of one's choice. In short freedom means absence of any kind of restrictions, where a person can do whatever he/she wishes to without any hindrance.

In order to understand freedom in a better way we can take some other examples like desire of bird in a cage to fly in the open air, desire of the prisoner to set himself free from the prison and lead a free life, desire of patient to go home who is admitted long time in a hospital for treatment. Freedom also implies non-interference in one's life in any form word or action. So we can say liberty has different meanings to different people. The term liberty is derived from the Latin word *liber*, which means "absence of restraints". In other words, liberty implies freedom to act without being subject to any restraint. Liberty signifies "*a power or capacity of doing or enjoying something worth doing or enjoying.*"

According to Hobbes, 'By liberty is understood...absence of external impediments, which impediments may oft take part of man's power to do what he would do'. According to Hegel liberty consists of obedience of law. Rousseau said that liberty consists in the obedience of General will. J.S. Mill describes, 'The only freedom which deserves the name is that of pursuing our own good in our own way so long as we do not deprive others of theirs or impede their efforts to obtain it.'<sup>i</sup>

Laski explains liberty as "Absence of restraints upon the existence of those social conditions which in modern civilization are a necessary guarantee of individual happiness".<sup>ii</sup>

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### Scope of Liberty

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One of the major issue in liberty is adjustment of claims between individuals and society (community). Here State is plays an important role because it is the instrument or agency for regulating their relations. If the claim of the individual is stretched to an extreme in utter disregard of the interest of society, liberty would be reduced to 'licence'. On the other, if liberty of the individual is increasingly restricted in the supposed interest of society, the result would be an unconditional submission to authority, hence the loss of liberty, it is therefore, essential to draw a distinction between liberty and licence on the one hand, and to fix the proper frontier between liberty and authority, on the other.

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## **Liberty and Licence**

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When liberty is interpreted as the absence or removal of all restraints on the action of individual in utter disregard of the interest of other individuals, liberty degenerates into licence. Such a condition is not compatible with the maintenance of social order, nor with maintenance of liberty itself. In that case, one man's liberty would become another's constraint or oppression; liberty of the strong would amount to the suppression of the weaker; liberty of the wolf would amount to death of the innocent sheep; large fish will be free to swallow the smaller one, and there would be a still larger fish to swallow the former. A thief's liberty to take away anybody's property would become a threat to everybody's security. A driver's freedom to drive at any speed in any direction at his own whim would endanger the life and liberty of all users of the road. Such a situation is obviously self-contradictory. It cannot be permitted in a civil society, otherwise it would defeat the very purpose of social organization.

If freedom is not to become a prerogative of a single individual, or for that matter a group of individuals, it must be regulated in such a way that none shall use his freedom so as to destroy the freedom of others. L.T. Hobhouse has pointed out: "The unchartered freedom of one would be the conditional servitude of all but one, and conversely a freedom to be enjoyed by all must impose some restraint upon all".<sup>iii</sup> Earnest Barker has sought to apply this principle in the wider socio-economic context: The need for liberty for each is necessarily qualified and conditioned by the need of liberty for all...The liberty of the owner of capital to determine the conditions of work in a the factory which he owns is a relative liberty which must be adjusted to the liberty of the worker to do his work under such conditions as leave him still a free agent and give him also a share in the determination of the conditions of work. Because the liberty of each is, thus relative to that of others, and has to be adjusted to that of others, it must always be regulated; and indeed it would not exist unless it was regulated.<sup>iv</sup>

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## **Liberty and Authority**

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Liberty of the individuals has to be restricted by a measure of equal liberty to be enjoyed by others. In other words, one man's liberty should not become an obstruction in the enjoyment of liberty of others. As liberty is demanded for a man as a 'rational being', it follows that liberty is meant to enable men to pursue 'rational objects' or 'ideal objects'. If they do so, each individual shall pursue his happiness in consonance with the happiness of society; and individual's good will become an integral part of the social good. In such a perfect state, no regulations would be necessary. But since, in the real world, individuals are not perfect-they are only capable of perfection-the regulation of liberty becomes necessary to safeguard liberty itself. Barker has further observed: Liberty within the State is thus a relative and regulated liberty: it is the common measure of liberty which is possible for all, as determined and defined (i) by the need of each to enjoy similar and equal liberty with others; (ii) by the need of all to enjoy the specific liberty of realizing specific capacities.

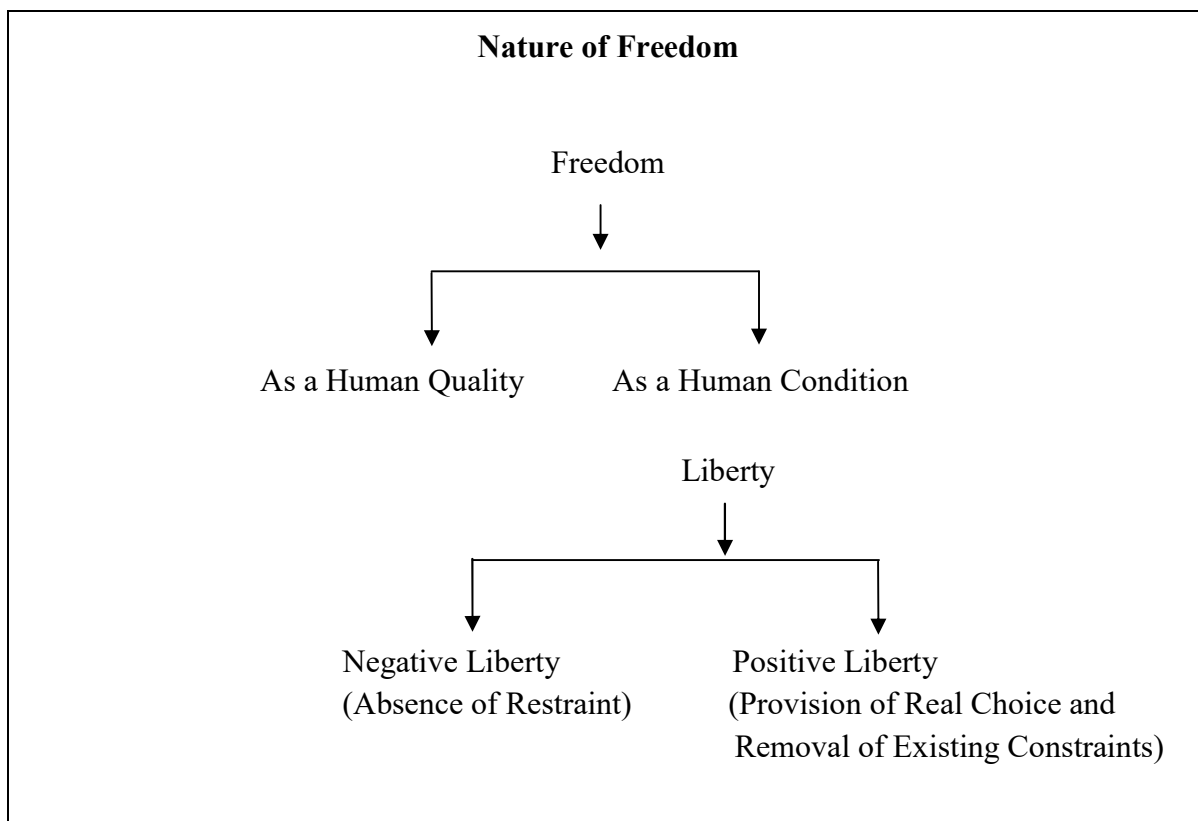
This view of relative and regulated liberty does not dismiss or dilute the essence of liberty. On the contrary it provides for a more substantive foundation thereof. As Barker has elucidated: A relative and regulated liberty, actually operative and enjoyed, is liberty greater in amount than absolute liberty could ever be – if indeed such liberty could ever exist, or ever amount to anything more than nothing at all.

Regulation of liberty implies the recognition of authority of the state over the individual. If the liberty of the individual cannot be permitted to be absolute, can we allow the authority of the state to become absolute? Thus, the conflict between liberty and authority is no less grave than the conflict between liberty and license. In other words, if we deny absolute liberty to the state because no state on earth is perfect. The conflict between liberty and authority has remained a burning issue in political theory. D.D. Raphael has illustrated: Most political theorists recognize that individual liberty and State authority conflict with each other, and that a balance has to be struck between them and the values they represent. Some, like Hobbes, are prepared to say that liberty must be severely limited to make way for the benefits of State authority.<sup>v</sup> Other thinkers like J.S. Mill and Locke think that State authority should be markedly limited so as to leave as much room as possible for liberty.

Whatever be the situation, limitations on the authority of the State have to be laid down to make authority more meaningful with reference to its social purpose. A State may possess unlimited legal powers. For instance, the British Parliament is regarded as legally omnipotent. But in the real world, no State can afford to exercise unlimited powers. Raphael clearly stated that: no state has unlimited practical power to make any law that it pleases, even though it may possess unlimited legal powers. A legislature that has any sense and that wants to remain in office will pay more regard to political than to legal possibilities, to what it can effectively do than to what it may legally do.

As State makes, law; it has the power to enforce that law by coercion. In other words, the law is backed by sanctions; the state is free to use the methods of compulsion. However, compulsion comprises a physical weapon, not a moral weapon which would not only be more effective, but more conducive to the justified if it is backed by moral support and legitimacy instead of mere force. Legitimacy denotes the support extended by the people to the state and its law out of their moral beliefs and values.

Legitimacy comes from the people. A State is legitimate if people believe that it is necessary for them and that its action is lawful and valuable to society. As long as its legitimacy is unquestioned, the State will rarely need to use force. But if its legitimacy is widely questioned, the State is in a dangerous situation. A regime is in serious trouble if the people believe that its military is illegitimate, its police brutal, and its courts unfair. It may have power- the ability to get its orders obeyed despite widespread opposition-but it does not have authority of State or law would prove most effective only when most people accepted it on moral grounds. When most people recognize a moral obligation to obey law, they would be acting from a moral motive, and not under compulsion.<sup>vi</sup>



Source: O.P. Gauba, “Political Theory and Thought”, p.5.4

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### **Various Notions of Liberty**

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*Positive Liberty*: During the latter half of the 19<sup>th</sup> century, a positive concept of liberty developed. We can find it in the writings of Rousseau, Kant, Hegel, T.H. Green, Bosanquet, Barker and Laski. Kant said that there are higher and lower selves in an individual. Freedom comes when an individual subjects him/herself to the dictates of universal reason. He refused to accept the free will concept and regarded man/woman as a rational and self-conscious creature. Laski, Hobhouse and MacIver were of the view that, “Liberty is good, but to be free to do undesirable things is to enjoy no liberty, but ‘licence’, and that is bad”. John Locke and Adam Smith regarded every law as involving a decrease in liberty, whereas Green and Laski desired to reform society through the agency of laws. According to them, liberty does not mean “absence of restraints, it rather signifies “an opportunity” for you to do something which is worth doing. Laski explains, “*by liberty I mean the eager maintenance of that atmosphere in which men have the opportunity to be their best selves*”

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### **Views of Laski**

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Laski says: “By liberty I mean the eager maintenance of that atmosphere in which men have the opportunity to be their best selves. Liberty, therefore, is a product of rights...Without rights there cannot be liberty because without rights people are subject to law unrelated to the needs of personality. Liberty therefore, is a positive thing. It does not merely mean absence



restraint”.<sup>vii</sup> He criticized Mill’s view of liberty, he maintained: “Liberty thus involves in its nature restraints, because the separate freedoms I use are not freedoms to destroy the freedoms of those with whom I live:”<sup>viii</sup> Laski give importance to the relationship of the individual’s liberty with society. Personal liberty cannot be enjoyed in isolation from society. Laski states maintains that liberty should not be left at the mercy of the State because “...in this context can be called to account; and it should always be so called to account when it invades rights”.<sup>ix</sup> Laski supports the positive concept of liberty, he is suspicious of governments and does not surrender liberty to the State. He says, “...governments may in fact invade liberty even while they claim to be acting in the common interest...Liberty, therefore, is not merely obedience to a rule” .<sup>x</sup> Laski differs from the idealist view of liberty that liberty lays merely in obedience to the laws of the State.

Laski associates liberty with the availability of opportunities for the development of personality. He says, “...the freedoms I must possess to enjoy a liberty are those which, in their sum, will constitute the path through which my best self is capable of attainment...Freedoms are, therefore, opportunities which history has shown to be essential to the development of personality”.<sup>xi</sup> Laski talks of three kinds of liberties- private, political, and economic-are essential to the development of the human personality. Private liberty is negative and it”...is thus that aspect of which the substance is mainly personal to a man’s self. It is the opportunity to be fully himself in the private relations of life”.<sup>xii</sup> Defining political liberty he says that it, “...means the power to be active in affairs of State. It means that I can let my mind play freely about the substance of public business”. He mentions two conditions that are required for political liberty to be real. These are education and the provision of an honest and straightforward supply of news. “A people without news is, sooner or later, a people without the basis of freedom”.<sup>xiii</sup> Laski realized the importance of right to information which is being demanded by the fourth generation of rights. He defines Economic liberty as “...security and opportunity to find reasonable significance in the earning of one’s daily bread...I must be safeguarded against the wants of tomorrow”.<sup>xiv</sup> In order to uphold economic liberty he pleads for democracy in industry. Laski describes about the nature of three kinds of liberties -Private liberty is mainly a negative thing, whereas political and economic liberties need some socio-economic conditions for their fulfillment, and are positive in nature. Positive and economic liberties are meaningless without the conditions required for their realization. The responsibility of creating these without the conditions required for their realization. The responsibility of creating these without the conditions lies with the government.

Laski mentions positive conditions required for the realization of liberty. They are as follows:-

- i) The absence of Special Privileges: Freedom cannot exist in the presence of special privileges. The special privileges leads to frustration, the habit of creativeness is lost due to this and people lose the ability to realize their own good. Laski says, that “...those who desire the good of all begin by abolition of special privileges...Special

privilege is incompatible with freedom because the latter quality belongs to all alike in their character as human beings”.<sup>xv</sup> Thus liberty is possible only when equality is there.

- ii) **The Presence of Rights:** Liberty can only be enjoyed in the presence of rights. There cannot “...be liberty where the right of some depends upon the pleasure of others”.<sup>xvi</sup> It is the duty of the state to maintain equal rights.
- iii) **Responsible Government:** The government must be responsible. Only a responsible government can create the socio-economic and political conditions required for the realization of rights and liberty.<sup>xvii</sup>

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### **Views of Macpherson**

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Macpherson call positive liberty as ‘developmental liberty’. He says, “...the division will be better marked if we change the name of positive liberty to *developmental liberty*”. Macpherson defines “positive liberty to act as a full human being. A man’s positive liberty is virtually the same as what I have called a man’s power in the developmental sense”.<sup>xviii</sup> According to Macpherson liberty means availability of life and labour to each member of society. For this he suggests that the capitalist mode of production, based on private property, should be replaced by some other system. Liberty is not negative liberty because in such a case the liberty because in such case the liberty of one individual can destroy the liberty of another individual. He says, “...since each individual’s liberty must diminish or destroy another’s the only sensible way to measure individual’s liberty is to measure the aggregate net liberty of all the individuals in the society.”<sup>xix</sup> So the measurement of liberty is the total liberty. However, Macpherson does not accept the division between negative and positive liberty and maintains that negative liberty is absence of any extractive power.<sup>xx</sup>

### **Important Points of Positive Liberty**

- i) Liberty is not the absence of restraints, rather it is the presence of those socio-economic and political conditions without which it cannot be realized.
- ii) The object of liberty is the development of man as a social being.
- iii) Without proper opportunities and social conditions liberty cannot be realized.
- iv) Rights are necessary for liberty and it is related to justice, morality and equality.
- v) The liberties of an individual must correspond with social welfare.
- vi) The duty of the State is to create positive conditions for the realization of liberty and for this the State can limit the liberties of some individuals. However, the government must be a responsible government. The State is not viewed as an enemy of personal liberty.
- vii) Liberty is social requirement of social man and it is not given to an asocial or *anti-social* beings.
- viii) Only in a welfare State can positive liberty exist.

**Negative Liberty:** Negative liberty means, “absence of external restraints”. The supporters of Negative liberty include John Locke, Adam Smith and Herbert Spencer. They were of the

opinion that the sphere of State activity should be restricted to the narrowest possible limits. According to John Locke, the rights to life, liberty and property are the natural rights of man. The Legislature or the Executive cannot be allowed to impose restrictions on these rights. Adam Smith propounded the theory of “laissez faire”, i.e. government should not interfere with business, finance or people’s economic conditions. Herbert Spencer also upholds the same view.

J.S. Mill describes that man’s actions are of two kinds, i.e. “self-regarding” and “other-regarding”. The self-regarding actions have an effect only on the doer, whereas other regarding actions have an effect other’s existence. No individual can be granted absolute freedom regarding activities which have an effect other’s existence. For example, these acts affect other’s freedom: obscene behaviour, talking nonsense under the influence of liquor and committing theft etc. Society would be justified in stopping others from doing such deeds. But there are other activities for which complete freedom must be granted to the people. The food and drinks one takes, the religion one follows and one choice of profession are private affairs of an individuals. According to J.S. Mill, “*over himself, over his own body and mind, the individual is sovereign*”.

Negative liberty indicates the “zone of non-intervention”. According to F.A. Hayek, “*the individuals has some assured private sphere... with which others cannot interfere*”. According to them, “that government is the best which governs the least”.

The supporters of Negative Liberty believe that:-

- (i) More the laws, less is the liberty available to the individuals;
- (ii) Freedoms of thought, speech, religion and property should never be restricted;
- (iii) ‘Franchise’ should be universal;
- (iv) The sphere of State activity should be very limited.

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### **Views of J.S. Mill (1806-73)**

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Mill supported the concept negative liberty together with the support for the support for the positive view of the State. Mill was writing in the later half of the 19<sup>th</sup> century when negative liberties was vehemently opposed. He was writing in the age when the “...extending suffrage conferred a measure of power on classes who had something to gain from the legal interference in daily affairs, and...it was accepted that State had a legitimate and positive part to play in promoting welfare”.<sup>xxi</sup> In this circumstances Mill opined that there may be a possibility of ‘tyranny of the majority’ and the liberty of the minorities may vanish. He says that the advent of democracy does not mean that the liberty of individual will be protected. Majorities may take away the liberties of the minorities. Therefore, the liberty of the individual should be protected against the interference of democratic States. He says: “The notion, that the people have no need to limit their power over themselves, might seem axiomatic... such phrases as ‘self-government’ and ‘the power of the people over themselves’, do not express the true state of the case. The ‘people’ who exercise the power

are not always the same people with those over whom it is exercised; and the 'self – government' spoken of is not the government of each by himself, but of each by all the rest. The will of the people, moreover, practically means the will of the most numerous or the most active part of the people... precautions are as much needed against this as against any other abuse of power. The limitation, therefore, of the power of government over individuals loses none of its importance when the holders of powers are regularly accountable to the community...and in political speculations the tyranny of the majority is now generally included among the evils against which society is required to itself be a tyranny of the be on its guard". He maintained that even social collectivity or society may itself be a tyrant and may tyrannise over the separate individuals who compose it. Here lies the value and worth of Mill's individualism, and he is afraid of the restraints of both the democratic State and society, so far as the individual's liberty is concerned.

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### **Views of Isaiah Berlin**

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According to Berlin: "Political liberty in this sense (negative) is simply the area within which a man can act unobstructed by others".<sup>xxii</sup> The absence of coercion is the basis of liberty. He says: "You lack political liberty or freedom only if you are prevented from attaining a goal by human beings."<sup>xxiii</sup> He put forth that if a man/woman is free but unable to enjoy his/her freedom, the fault lies not in the concept of liberty but with man/woman. If a man/woman is free to purchase bread or have or tour of the world and is unable to do so because lack of money, it is his/her fault-he/she incapable of enjoying it. He says: " If my poverty were a kind of disease, which prevented me from buying bread or paying for the journey, or getting my case heard, as lameness prevents me from running, this inability would not naturally be described as a lack of freedom, least of all political freedom".<sup>xxiv</sup> Berlin supported the view propagated by Helvitius "The free man is a man who is not in irons, nor imprisoned in a jail, nor terrorized like a slave by the fear of punishment: it is not lack of freedom not to fly like an eagle or swim like a whale".<sup>xxv</sup> Berlin says: "by being free in this sense (negative) I mean not being interfered with by others. The wider the area of non interference, the wider is my freedom".<sup>xxvi</sup>

Berlin further explains that there is no logical relationship between liberty and democracy as a man/woman may be left by a dictator than by a democratic government. He says: "Freedom in this sense (negative) is not, at any rate logically, connected with democracy or self-government may provide a better guarantee of the preservation of civil liberty...But there is no necessary connection between individual liberty and democratic rule".<sup>xxvii</sup>

Berlin is of the view that liberty is something different, and the socio-economic conditions necessary for the fulfillment of liberty are altogether different. He refuses to accept the relationship between liberty and the conditions required for the realization of liberty. He says: "Thus the distinction between freedom and conditions of freedom is not a mere pedantic distinction, for, if it is ignored the meaning and value of freedom of choice is apt to be downgraded. In their zeal to create social and economic conditions in which alone freedom is of genuine value, men tend to forget freedom itself". He does not accept the relationship

between liberty and justice, and liberty and equality. If there is poverty in the society and no coercion at all, there may be injustice or inequality in the society, but liberty is very much present there. So the absence of the necessary socio-economic conditions for the realization of liberty does not mean the absence of liberty itself. In brief we can say Berlin maintains liberty is the absence of any restraints or interference in the personal affairs of an individual.

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### **Views of Milton Friedman**

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Friedman, a neo-liberal (libertarian), supports negative liberty and finds connection between liberty and capitalism. He is of the opinion that without capitalism there cannot be freedom in a society. According to him, political freedom means, "...the absence of coercion of a man by his fellowmen".<sup>xxviii</sup> In the present century with competitive capitalism, which is based on free market has given way to regulated economy and State controlled capitalism. Friedman is pleading for a free capitalistic economy as a pre-condition for freedom. He favors negative State and the regulations of the economy by it are improper. In the earlier stage political freedom was demanded for the development of capitalism, but today Friedman is demanding free capitalism for the maintenance of the political freedom. He supports that competitive capitalism is necessary, though not sufficient, condition of political freedom and "...history suggests...that capitalism is a necessary condition for political freedom".<sup>xxix</sup> He considered socialism as the main enemy of personal initiative and political freedom because in such system economic and political powers are concentrated in one hand. He attacks the positive State and the positive view of liberty because state interference in economic matters is harmful to the economic liberty of individuals and economic development of society. By economic liberty he means availability of free capitalist market economy. He does not associate liberty with human values like justice and equality.

Friedman's views are based on the assumption that free-market capitalism has got a capacity to survive, whereas the fact is that the great depression of 1929 and great financial meltdown of September 2008 in capitalist economies have proved beyond doubt that this assumption is baseless in the present century.

### **Important Points of Negative Liberty**

- i) Liberty is a negative thing- the absence of restraints.
- ii) An individual is rational and only he/she knows what is his/her interest. For the development of his/her personality he/she needs certain liberties. They has a personal sphere of their own, distinct from that of the society.
- iii) Each individual should be given personal liberty with regard to their personal affairs and the society or the State must not interfere with it. Among these personal liberties, the liberties of thought and discussion, of association and assembly are the most important.
- iv) There is no conflict between the personal interest and social interest and by serving his own interests an individual also serves the social interest. Personal liberty is a precondition of social progress.

- v) Leaving a man free in his personal affairs will lead to personal and social development. Personal development is in harmony with social development.
- vi) Those actions of individual which influence the society can be controlled by the State through the laws. But this interference of the State should be minimal.
- vii) The laws of the State cannot take away personal liberty, but can only regulate it for overall social welfare.
- viii) Democratic government is not a sufficient guarantee of personal liberty as it may lead to tyranny of the majority or a collective mediocrity and may crush minorities.
- ix) There is a difference between liberty and necessary socio-economic conditions for the realization of liberty. Liberty may be against justice and equality and in a dictatorship of man may have more liberty than in a democracy.

<b>Comparison of Negative and Positive Liberty</b>	
<b>Negative Liberty</b>	<b>Positive Liberty</b>
1. Liberty without any restrictions	Liberty with reasonable restrictions
2. It gives more weight to the personal aspect and regards liberty as inherent in the personality of an individual.	It looks at in the social context and maintains that it is based on the socio-economic and political conditions of society.
3. It assumes that the State in an enemy of personal liberty.	It assigns responsibility of creating the positive conditions for the realization of liberty to the State.
4. It emphasizes the personal and political aspects of liberty.	It emphasis the social and economic aspects of liberty.
5. It does not associate it with rights, equality, morality and justice.	It regards liberty, equality and justice as mutually related.
6. It supports the State with the minimum functions.	It supports State with welfare functions.
7. It is based on the market concept of society-that is composed of atomized individuals having natural liberty	It emphasizes the social aspects of liberty.
8. Liberalism supported negative liberty	Socialism supported positive liberty and stood for the abolition of private property.

Source: M.P. Jain, "Introduction to Political Theory, p.128

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## Marxist Concept of Liberty

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Marxist concept of freedom is different from the liberal-individualistic view. According to the Marxist thinkers, welfare policies might lessen the misery of the masses, but they do not change the exploitative character of Capitalism. Freedom is not possible only when means of production and distribution-land, factories, mines, banks, railways etc.-are all owned by society as a whole, i.e. State. There should be distributed as best possible amongst people as a whole. The Liberal democrats believed in people having a lot of economic freedom, the Marxist held that abolition of private property was necessary to ensure freedom and equality of opportunity.

Marxism analyses socio-economic and political problems and concepts on the basis of dialectical materialism. Personal freedom is not something abstract and *asocial*. During 18<sup>th</sup> and 19<sup>th</sup> centuries the liberal supporters of liberty based their concept of liberty on the alienated individual, and personal, political and religious liberty were demanded liberal writers were supporting the capitalist system, and on the other way were giving the slogans of liberty, equality and fraternity. The development of capitalism resulted in a society where oppression, exploitation, unemployment and starvation were dominant and liberty was not available to a vast majority. Marx and Engels criticized the inhumanity of the capitalist system and gave a new materialist interpretation of human essence, purpose and value. They interpreted rights, freedom and morality on a scientific basis and emphasized all round and harmonious development of man. All these ideas are known as 'Marxian Humanism' and are associated with Marx's philosophical anthropology or the theory of man. The Marxist concept of freedom is associated with concepts like self-realization, self-development, self-fulfillment, and self-creativity. Any fruitful discussion on Marxist concept of freedom has to consider Marxian view of man in its multi-dimensional aspects and his relationship with self, nature and society. Marxist concept of freedom has been divided into the following parts:-

- i) ***Critique of man and his freedom in bourgeois societies:*** Marx presented a sound and scientific criticism of the position of man and woman and his freedom in bourgeois societies. He explains that bourgeois revolution has politically emancipated people and their freedom can be achieved only by abolishing private property and establishing social ownership of the means of production. Marx borrowed the concept alienation from Hegel and Feuerbach gave an altogether humanity in the capitalist system. The system of private property separates man from their human essence. The inhuman power of private property separates man from his humanity and instead of real man what is found in such societies is a slave, a slave of his property (rich man) and a slave of his property and slave of his physical needs (poor man/woman). A worker such a society gets alienated from his/her labour, from nature and from their fellow beings and becomes an animal-like commodity in the capitalist market. Alienation is a rotten product of capitalist socio-economic and political system and it dehumanizes man/woman.

Marx concludes that private property is the enemy of humanity, and freedom- a human quality- is not possible along with it.

- ii) **Views on human essence, purpose and value:** The understanding of philosophical concept of man/woman is the first requirement for understanding any problem of man/woman. Marx scientifically analysed the then prevailing different views of people anthropological, spiritual, idealist, individualist, mechanical and materialist pointed out the weaknesses of these and then gave his own view. “The-Marxist social thought relied theoretically on the concept of man in the abstract, man in general. Divorced from all socio-political, economic, legal and other relation, and hence from political activity”.<sup>xxx</sup> Marx gave a different interpretation to man/woman as a creating social-being. Marx said, human essence”...is the totality of the social relations”. He further said that: “The essence of the individual person’ lies not in his beard, not in his blood, not in his abstract physical nature but in his social quality”.<sup>xxx1</sup> Human beings are social animal and cannot be studied under isolation. Mere existence is not their existence in social nature. The purpose and values of man are closely associated with human existence. Non-Marxist ideologies have insisted that the purpose of man is abstract truth and virtue (idealism), personal happiness (individualism), achievement of salvation or spiritualism (religion), etc.
- iii) **The meaning of freedom:** Freedom and necessity: Marxism does not regard absence of restraint as freedom, nor does not it accept that the personal and political freedoms are the highest ideals and other freedoms are based on these. It defines freedom by associating it with essence and purpose of man. Explaining the Marxian view of freedom, Huberman and Sweezy: “Freedom means living life to the fullest-the economic ability to satisfy the needs of the body in regard to adequate food, clothing and shelter, plus effective opportunity to cultivate the mind, develop one’s personality, and assert one’s individuality.<sup>xxxii</sup> Similarly, Petrosyan says: “Marx’s understanding of freedom implies activity aimed at creating real conditions for the free all-round development and flowering of man’s individuality.”<sup>xxxiii</sup>
- iv) **Freedom and praxis (purposive social activity):** Praxis means social activity of man. Marxism regards knowledge of objective law as the necessary condition for freedom, but this alone is not sufficient. Freedom can be achieved by revolutionary social activity (*Praxis*), based on the knowledge of objective laws of nature and society. Knowledge makes possible the mastery of man over nature and society, but without man’s revolutionary social activity this knowledge is useless. Engels stresses that “ Freedom, in the sense of the laws of nature and society not only come as a result of practical revolutionary activity based on such knowledge of the laws of historical development”.<sup>xxxiv</sup>
- v) **Freedom as a class concept:** Marx describes that in a class divided society freedom will mean different things to different classes. For the owners of the property it



will mean freedom of private property, of profits, of free contracts, of employing someone or removing them from their exploitation and bad working conditions. Freedom of one class becomes the bondage of another class. Thus, freedom does not have a universal character in a class divided society. Giving an example of Huberman and Sweezy “The shepherd drives the wolf from the sheep’s throat, for which the sheep thanks the shepherd as his liberator , while the wolf denounces him for the same act, as the destroyer of the liberty...Plainly, the sheep and the wolf are not agreed upon the definition of the word liberty”.<sup>xxxv</sup> Similarly Claudwell writes, “...bourgeois social relations alike give rise to these two extremes, the freedom of the idle bourgeois and the unfreedom of the proletarian worker...The bourgeois could not enjoy his idleness without the labour of the worker...thus the liberty of the few is in bourgeois social relations built on the unfreedom of the many”.<sup>xxxvi</sup>

- vi) ***Freedom, where and How?:*** According to Marx freedom can be available in the free atmosphere of a free society. Free society will be a classless society in which everyone will be free from exploitation from his fellow beings. The wall of private property will not remain between man in the society and man can live in the society with his true essence, purpose and values. Freedom means multi-dimensional development of social man and a free socialist society provide ample opportunities for this. Here alienation between man and his nature, society and his labour will come to an end and man will not be dehumanized. There will not be a gap between his essence and existence. Marx says, “Communism” will lead to reintegration of his personality , to man to return to himself his own human essence or in other words, to the elimination of all form of all form of human alienation, to elimination of the contradictions between essence and existence to the all round development of man as a person and individual”.

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### **Evaluation and Main Points of Marxian Freedom**

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- The issue personal liberty is associated with Marxian humanism.
- Man’s essence is the totality of social relations. In a class-divided society based on private property, man is alienated and his existence contradicts his essence. In such situation the question of freedom does not arise.
- Human freedom should be considered in the totality of social relations and with due reference to man’s essence, purpose and values.
- Freedom means availability of conditions for self realization and self-fulfillment. It mean’s multi-dimensional development as a social being.
- There is nothing like will of man as there are certain objective laws of nature and society (necessity) which exist independently of human will and the free will of an individual is restricted by these laws.
- Man can realize freedom having scientific understanding of these objective laws. Thus, scientific knowledge is the necessary requirement of freedom.

- On the basis of scientific understanding, there should be revolutionary social activity (praxis) because without changing society and nature, freedom is not possible.
- In a class divided society the freedom of owners of property is built upon the unfreedom of the property less. So freedom in such a society has a class future.
- Freedom to all can only be available in a free society man gets free socio-economic conditions for free development of his personality.
- Communist society can be established by a socialist revolution and the struggle for socialist revolution is a struggle for freedom.

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### Various Dimensions of Liberty

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- i) **Civil Liberty:** It includes Protection of life, liberty and property; Domestic liberty (Right to privacy); Freedom of Speech and Assembly; Religious liberty; Freedom to form Union and Associations; Freedom of Movement etc.
- ii) **Political Liberty:** It includes right to participate in decision making and right to choose one's own representative. Right to vote; Right to get elected to the Legislature and other Public bodies; The Right to organize Political parties, Right to criticize the government.
- iii) **Economic Liberty:** It includes Right to Work and the Right to Rest and Leisure, Freedom to acquire, hold and dispose of property; Racial and National Liberty.

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### Safeguards to Liberty

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Few measures to safeguard the rights and liberties of the people:-

- i) **Democratic Form of Government:** Dictatorship is characterized by 'Command' and 'Coercion'. Democracy, on the other hand bestows upon each citizen the right to participate in decision-making processes, through their elected representatives.
- ii) **Safeguards afforded by a written constitution:** One of the objectives of the Constitution is to safeguard the rights of the citizens. Several rights have been guaranteed to citizens by the American and Indian Constitutions. Some Constitutions not only lay down the rights, but also provide the means to enforce them.
- iii) **Decentralization of powers:** The powers of the government have to be subjected to limitations. One method to preserve the liberty of people is to divide the legislative, executive and judicial powers among separate bodies or organs of the government. This is known as 'Separation of Powers'. The powers have further to be divided between the Central Government and the State Governments. Such an arrangement is found in a federal government. At the same time, local-self government institutions need to be strengthened.
- iv) **Free and Impartial Judiciary:** Free and impartial judiciary is essential if we want to protect rights and liberties of our people. Moreover, judicial procedures need to be speedy and inexpensive. Indian Constitution provides Free Legal Aid under Article 39-A, Article 14 provides Equality before Law.

- v) **Rule of Law:** Rule of Law denotes the absence of arbitrary powers. It means the rule of law and not of men”. Law of the Land is Supreme and nobody is above the law, be it ruler or the subject both are under the law, nobody is above the law. According to Ivor Jennings, Rule of law implies a Constitutional Government as distinct from Dictatorship” or a Police State.
- vi) **Autonomy of Groups and Associations:** There are various groups and associations operating in the fields of education, business, trade, art, religion and science. The associations keep the government in touch with the trend of public opinion, so that it may shape its policies accordingly.
- vii) **Role of the Opposition:** The opposition keeps the government on its toes. It is as much the duty of the Opposition to criticize as it is of a government to government to govern. No government can totally ignore the opposition’s viewpoint. The parties provide a link between the people and the government.
- viii) **Independent Mass media:** The government should not have absolute control over the mass media, i.e. radio, television and the newspapers. Independence of the mass media strengthens freedoms of the masses.
- ix) **Egalitarianism:** It suggests that “all people are equal and deserve equal rights, opportunities and privileges”. Thus regardless of one’s race, religion, caste, or sex, all should have equal opportunities to develop their talents.
- x) **Enlightened Public Opinion:** An enlightened public opinion is the best guarantee of freedom and growth. There are various agencies which formulate the public opinion. Newspapers, literary works, parties associations, voluntary organizations and the educational institutions are the most prominent among such agencies. Curbs on the freedom of press or intentional distortion of facts and news by the mass media act as a hindrance in the way of sound public opinion. Therefore, the citizens have to keep their eyes open. **Eternal Vigilance is the Price of Liberty.**

**Learning Outcome**

- Liberty-The aim of this section is to introduce the student with the concept of liberty, different notions and types of liberty; to make the students to exercise liberty without restricting the liberty of others.

**Questions**

- 1) What is the meaning of liberty. Explain the various notions of liberty?  
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- 2) What is the difference between positive and negative liberty?  
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3) What is the Marxian concept of freedom.

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## Lesson-2

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### Freedom, Emancipation, Swaraj

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#### Freedom

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A belief in the supreme importance of the individual leads naturally to a commitment to individual freedom. Individual liberty (liberty and freedom being interchangeable) is for liberals the supreme political value and, in many ways, the unifying principle within liberal ideology. For early liberals, liberty was a natural right, an essential requirement for leading a truly human existence. It also gave individuals the opportunity to pursue their own interests by exercising choice: the choice of where to live, for whom to work, what to buy and so on. Later liberals have seen liberty as the only condition in which people are able to develop their skills and talents and fulfill their potential.

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#### Freedom (or Liberty)

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The ability to think or act as one wishes, a capacity that can be associated with the individual, a social group or a nation.

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#### Perspectives on Freedom

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*Liberals* give priority to freedom as the supreme individualist value. While classical liberals support negative freedom, understood as the absence of constraints – or freedom of choice – modern liberals advocate positive freedom in the sense of personal development and human flourishing.

*Conservatives* have traditionally endorsed a weak view of freedom as the willing recognition of duties and responsibilities, negative freedom posing a threat to the fabric of society. The New Right, however, endorses negative freedom in the economic sphere, freedom of choice in the marketplace.

*Socialists* have generally understood freedom in positive terms to refer to self-fulfillment achieved through either free creative labour or cooperative social interaction. Social democrats have drawn close to modern liberalism in treating freedom as the realization of individual potential.

*Anarchists* regard freedom as an absolute value, believing it to be irreconcilable with any form of political authority. Freedom is understood to mean the achievement of personal autonomy, not merely being ‘left alone’ but being rationally self-willed and self-directed.

*Fascists* reject any form of individual liberty as a nonsense. ‘True’ freedom, in contrast, means unquestioning submission to the will of the leader and the absorption of the individual into the national community.

**Greens**, particularly deep ecologists, treat freedom as the achievement of oneness, self-realization through the absorption of the personal ego into the ecosphere or universe. In contrast with political freedom, this is sometimes seen as ‘inner’ freedom, freedom as self-actualization.

**Islamists** see freedom as essentially an inner or spiritual quality. Freedom means conformity to the revealed will of God, spiritual fulfillment being associated with submission to religious authority. Never the less, liberals do not accept that individuals have an absolute entitlement to freedom. If liberty is unlimited it can become ‘licence’, the right to abuse others. In *On Liberty* ([1859] 1972) John Stuart Mill argued that ‘the only purpose for which power can be rightfully exercised over a member of a civilized community, against his will, is to prevent harm to others’. Mill’s position is libertarian in that it accepts only the most minimal restrictions on individual freedom, and then only in order to prevent ‘harm to others’. He distinguished clearly between actions that are ‘self-regarding’, over which individuals should exercise absolute freedom, and those that are ‘other-regarding’, which can restrict the freedom of others or do them damage. Mill did not accept any restrictions on the individual that are designed to prevent a person from damaging himself or herself, either physically or morally. Such a view suggests, for example, that laws for cingcar drivers to put on seat belts or motorcyclists to wear crash helmets are as unacceptable as any form of censorship that limits what an individual may read or listen to. Radical libertarians may defend the right of people to use addictive drugs, such as heroin and cocaine, on the same grounds. Although the individual may be sovereign over his or her body and mind, each must respect the fact that every other individual enjoys an equal right to liberty. This has been expressed by John Rawls in the principle that everyone is entitled to the widest possible liberty consistent with a like liberty for all. While liberals agree about the value of liberty, they have not always agreed about what it means for an individual to be ‘free’. In his ‘Two Concepts of Liberty’ ([1958] 1969), Isaiah Berlin distinguished between a ‘negative’ theory of liberty and a ‘positive’ one. Early or classical liberals have believed in **negative freedom**, in that freedom consists in each person being left alone, free from interference and able to act in whatever way he or she may choose. This conception of freedom is ‘negative’ in that it is based on the absence of external restrictions or constraints on the individual. Modern liberals, on the other hand, have been attracted to a more ‘positive’ conception of liberty – **positive freedom**– defined by Berlin as the ability to be one’s own master; to be autonomous. Self-mastery requires that the individual is able to develop skills and talents, broaden his or her understanding, and gain fulfillment. This led to an emphasis on the capacity of human beings to develop and ultimately achieve self-realization. These rival conceptions of liberty have not merely stimulated academic debate within liberalism, but have also encouraged liberals to hold very different views about the desirable relationship between the individual and the state.

**Negative Freedom:** The absence of external restrictions or constraints on the individual, allowing freedom of choice.

**Positive Freedom:** Self-mastery or self-realization; the achievement of autonomy or the development of human capacities.

## ***Reason***

The liberal case for freedom is closely linked to a faith in reason. Liberalism is, and remains, very much part of the Enlightenment project. The central theme of the Enlightenment was the desire to release humankind from its bondage to superstition and ignorance, and unleash an 'age of reason'. Key Enlightenment thinkers included Jean-Jacques Rousseau, Immanuel Kant, Adam Smith and Jeremy Bentham. Enlightenment rationalism influenced liberalism in a number of ways. In the first place, it strengthened its faith in both the individual and freedom. To the extent that human beings are rational, thinking creatures, they are capable of defining and pursuing their own best interests. By no means do liberals believe that individuals are infallible in this respect, but the belief in reason builds into liberalism a strong bias against **paternalism**. Not only does paternalism prevent individuals from making their own moral choices and, if necessary, from learning from their own mistakes, but it also creates the prospect that those invested with responsibility for others will abuse their position for their own<sup>1</sup>

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## **Freedom and Indian Constitution**

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Article 19-22 of the Indian Constitution deal with freedom. Article 19 guarantees to all citizens the six rights. These are:–

- (a) Right to freedom of speech and expression.
- (b) Right to assemble peaceably and without arms.
- (c) Right to form associations or unions.
- (d) Right to move freely throughout the territory of India.
- (e) Right to reside and settle in any part of the territory of India.
- (f) Right to practice any profession or to carry on any occupation, trade or business.

Right to freedom of speech and expression:– It implies that every citizen has the right to express his views, opinions, belief, and convictions freely by word of mouth, writing, printing, picturing or in any other manner. The Supreme Court held that the freedom of speech and expression includes the following:–

- i) Right to propagate one's view as well as view of others.
- ii) Freedom of the Press.
- iii) Freedom of commercial advertisements.
- iv) Right to telecast, that is, government has no monopoly on electronic media.
- v) Right against bundh called by a political party or organization.
- vi) Right to know about government activities.
- vii) Freedom of silence.
- viii) Right against imposition of pre-censorship on newspaper.
- ix) Right to demonstration or picketing but not right to strike.

The State can impose reasonable restrictions on the exercise of the freedom of speech and expression on the grounds of sovereignty and integrity of India, security of the State, friendly

relations with foreign states, public order, decency or morality, contempt of court, defamation and incitement to an offence.

***Right to assemble peaceably and without arms:*** Every citizen has the right to assemble peaceably and without arms. It includes the right to hold public meetings, demonstrations and take out processions. This freedom can be exercised on public land and the assembly must be peaceful and unarmed. This provision does not protect violent, disorderly, riotous, assemblies, or one that causes breach of public peace or one that involves arms. This right does not include the right to strike. The State can impose reasonable restrictions on the exercise of the freedom of speech and expression on the grounds of sovereignty and integrity of India, security of the State. Under section 144 of criminal Procedure Code (1973), a magistrate can restrain an assembly, meeting or procession if there is a risk of obstruction, annoyance or danger to human life, health or safety or a disturbance of the public tranquility or a riot or any affray. Under section 141 of the Indian Penal Code, as assembly of five or more persons becomes unlawful if the object is a) is to resist the execution of any law or legal process; b) to forcibly occupy the property of some person; c) to commit any mischief or criminal trespass; d) to force some person to do an illegal act; e) to threaten the government or its officials on exercising lawful powers.

***Right to form associations or unions:*** All citizens have the right to form associations and unions. It includes the right to form political parties, companies, trade unions, or any body of persons. It not only includes the right to start an association or union but also to continue with the association or union as such. Further, it covers the negative right of not to form or join an association. The State can impose reasonable restrictions on the exercise of the freedom of speech and expression on the grounds of sovereignty and integrity of India, public order and morality. Subject to these restrictions, the citizens have complete liberty to form associations or unions for pursuing lawful objectives and purposes. However, the right to obtain recognition is not a fundamental right. The Supreme Court held that the trade unions have no guaranteed right to declare a lock-out. The right to strike can be controlled by an appropriate industrial law.

***Right to move freely throughout the territory of India:*** This freedom entitles every citizen to move freely throughout the territory of India. He can move freely from one state to another or from one place to another within a state. This right underlines the idea that India is one unit so far as the citizens are concerned. Thus, the purpose is to promote national feeling and not parochialism. The grounds of reasonable restrictions on this freedom are two, namely, the interests of general public and the protection of interests of any scheduled tribe. The entry of outsiders in tribal areas is restricted to protect the distinctive culture, language, customs and manners of scheduled tribes and to safeguard their traditional vocation and properties against exploitation. The Supreme Court held that the freedom of movement of prostitutes can be restricted on the ground of public health and in the interest of public morals. The Bombay High Court validated the restrictions on the movement of persons affected by AIDS. The freedom of movement has two dimensions, internal (right to move inside the country) and external (right to



move out of the country) and right to come back to the country. Article 19 deals with the first dimension and Article 21 (Right to life and liberty) deal with the second dimension.

***Right to reside and settle in any part of the territory of India:*** Every citizen has the right to reside and settle in any part of the territory of the country. This right has two parts: (a) the right to reside in any part of the country, which means to stay at any place temporarily, and (b) the right to settle in any part of the country, which means to set up a home or domicile at any place permanently. The right is intended to remove internal barriers within the country or between any of its parts. This promotes nationalism and avoids narrow mindedness. The State can impose reasonable restrictions on the exercise of this right on two grounds, namely, the interest of general public and the protection of interests of any scheduled tribes. The right of outsiders to reside and settle in tribal areas is restricted to protect the distinctive culture, language, customs and manners of scheduled tribes and to safeguard their traditional vocation and properties against exploitation. In many parts of the country, the tribals have been permitted to regulate their property rights in accordance with their customary rules and laws. The Supreme Court held that certain areas can be banned for certain kinds of persons like prostitutes and habitual offenders.

***Right to practice any profession or to carry on any occupation, trade or business:*** All citizens are given the right to practice any profession or to carry on any occupation, trade or business. This right is very wide as it covers all the means of earning one's livelihood. The State can impose reasonable restrictions on the exercise of this right in the interest of the general public. Further, the State is empowered to:

- (a) Prescribe professional or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business;
- (b) Carry on by itself any trade, business, industry or service whether to the exclusion (complete or partial) of citizens or otherwise.

Thus, no objection can be made when the State carries on a trade, business, industry or service either as a monopoly (complete or partial) to the exclusion of citizens (all or some only) or in competition with any citizen. The State is not required to justify its monopoly. This right does not include the right to carry on a profession or business or trade or occupation that is immoral (trafficking in women or children) or dangerous (harmful drugs or explosives etc).

***Protection in Respect of Conviction for Offences:*** Article 20 grants protection against arbitrary and excessive punishment to an accused person, whether citizen or foreigner or legal person like a company or a corporation. It contains three provisions in that direction:

- (a) No ex-post-facto law: no person shall be convicted of any offence except violation of a law in force at the time of the commission of the act, nor subjected to a penalty greater than that prescribed by the law in force at the time of the commission of the act.
- (b) No double jeopardy: No person shall be prosecuted and punished for the same offence more than once.

- (c) No self-discrimination: No person accused of any offence shall be compelled to be a witness against himself.

**Protection of Life and Personal Liberty:** Article 21 declares that no person shall be deprived of his life or personal liberty except according to the procedure established by law. This right is available to both citizens and non-citizens. The Supreme Court has reaffirmed its judgement in the *Maneka Gandhi* case. It has declared the following right as a part of Article 21:

- (a) Right to live with human dignity.
- (b) Right to decent environment including pollution free water and air and protection against hazardous industries.
- (c) Right to livelihood
- (d) Right to privacy.
- (e) Right to shelter.
- (f) Right to health.
- (g) Right to free education upto 14 years of age.
- (h) Right to free legal aid.
- (i) Right against solitary confinement.
- (j) Right speedy trial.
- (k) Right against handcuffing.
- (l) Right against inhuman treatment.
- (m) Right against delayed execution.
- (n) Right to travel abroad.
- (o) Right against bonded labour.
- (p) Right against custodial harassment.
- (q) Right to emergency medical aid.
- (r) Right to timely medical treatment in government hospital.
- (s) Right not to be driven out of a state.
- (t) Right to fair trial.

**Protection Against Arrest and Detention:** Article 22 grants protection to persons who are arrested or detained. Detention is of two types, namely punitive and preventive. Punitive detention is to punish a person for an offence committed by him after trial and conviction in a court. Preventive detention means detention of a person without trial and conviction by a court. Its purpose is not to punish a person for a past offence but to prevent him from committing an offence in the near future. Thus, preventive detention is only a precautionary measure and based on suspicion. Article 22 has two parts-the first part deals with the cases of ordinary law and the second part deals with the cases of preventive detention law.

The first part of Article 22 deals with the cases of ordinary law and second part deals with the cases of preventive detention law-i) Right to be informed of the grounds of arrest; ii) Right to consult and be defended by legal practitioner; iii) Right to be produced before a magistrate within 24 hours, excluding the journey time; iv) Right to be released after 24 hours unless the

magistrate authorizes further detention. These safeguards are not available to an alien or a person arrested or detained under a preventive detention law.

Second part of Article 22 grants protection to persons who are arrested or detained under a preventive detention law. This protection is available to both citizens as well as aliens and includes :- i) the detention of a person cannot exceed three months unless an advisory board reports sufficient cause for extended detention. The board is to consist of judges of a high court; ii) The grounds of detention should be communicated to the detenu. However, the facts considered to be against the public interest need not be disclosed; iii) The detenu should be afforded an opportunity to make a representation against the detention order.<sup>2</sup>

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## **Emancipation**

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Emancipation means empowerment or upliftment. For example uplifting the poor and downtrodden, bringing policies and programmes to improve their conditions, equip the people with such conditions or power which enable them to work independently their own. Emancipation also includes prohibiting any kind of discrimination or exploitation based on class, caste, creed, religion, sex, place of birth Empowerment generally means to equip an individual with power, basically the under- privileged class. In India there were many people who were associated with emancipation, empowerment or upliftment of the common people. Gandhiji stood for woman empowerment and uplifting of the untouchable and making them to stand on equal footing. Ishwara Chandra Vidya Sagar and Swami Dayanand Saraswati stood for women education and widow remarriage, Raja Ram Mohan Roy abolished Sati System prevalent in India. In America President Abraham Lincoln stood abolished slavery completely, In South Africa Nelson Mandela and Gandhiji opposed racial discrimination. Pandit Rama Bai, Sarojini Naidu, Suchita Kripalani, Kamala Nehru and Anie Beasant etc were very actively involved in empowering people from all classes and sections in the Indian Society.

Empowerment in the era of human rights means there is unlimited access to rights. International bodies and the State has made many efforts through various laws to uplift the conditions of common man and enacted necessary laws to protect and prevent the gross human rights violations among the most vulnerable sections of the society. Empowerment is a concept that aims to giving power to an individual at all levels, regardless of sex, class, creed, religion or place of origin. It literally means to give strength to the weak or the powerless. While placing all the people equally and by eradicating discrimination. Empowerment does not mean to exploit the weak or the powerless. It aims to create equal status for all the people in the society.

The various notions of empowerment clearly indicate that it aims to uplift a person, it gives sufficient power so as to overcome all the problems or burden, it empowers to fight against inequalities exist in the society, it empowers to raise voice for the implementation of rights, it enhances the confidence of people, it encourages people to participate in the development and progress of the country, it empowers to gain access to basic resources like food, water, health,

education and other necessary things, it empowers to overcome illiteracy and ignorance and enables one to demand their rights.

The term empowerment has an element of ‘selfishness’, which implies empowering self. It puts “I” before ‘we’. When we talk of empowerment, first thing that comes to our mind is the empowerment of self and then we think of empowerment of others. To understand the concept of empowerment we can take the example of rights and basic needs of an individual living in the society, which is the basic component of a society. If a person’s right is violated, then he or she raises his/her voice to get the rights implemented by the authority, who is responsible for the implementation of it.

Empowerment as a concept is very simple to define but it is not a narrow concept. It is a broad concept, used in different scenarios and different contexts. For instance, empowerment for a poor person will be to reduce the economic disparity; empowerment for a wealthy person will be to have control over the economy; empowerment for an unemployed individual will be to get employed; empowerment for a person living in a village will be to have good infrastructure facilities like good roads, electricity, construction of tube wells and canals etc; empowerment of a person living in cities will be digital literacy, access to quick transportation such as metro; empowerment for a child may be to have innumerable toys and gifts; empowerment for an accident victim will be to have immediate medical aid. By seeing the above definition we can say that empowerment as a concept varies from person to person.

According to Naila Kabeer, empowerment is “the expansion in people’s ability to make strategic life choices in a context where this ability was previously denied to them”.<sup>3</sup> From this definition, we can say that the underprivileged people who were first denied of basic rights and necessities are now empowered. M .S. Lazo defines, “empowerment is a moving state; it is continuum that varies in degree of power. It is relative, one can move from an extreme of having absolute power”.<sup>4</sup> Here the author opines that empowerment is an unending process and the degree of power that a person receives cannot be measured. Power is not used in a narrow or selfish sense but it is used in a broader way, stating that, power does not provide ultimate or absolute power to a person to control others however it gives power to a person without causing harm to others.

Jo Rowlands, explains ‘empowerment’ is bringing the people into the decision making process who were not a part of it earlier.<sup>5</sup> Rowlands’s definition talks about the inclusion of people in the decision making process. That is, he favors participatory democracy, where every person has equal say in the decision making process affecting their life. In a similar approach, McWhirter believes ‘empowerment’ is the process through which people, organization or groups who are powerless, become aware of power dynamics at their work and develop the skills and capacity for gaining reasonable control over their lives, exercising control over others without infringing the rights and support the empowerment of the community.<sup>6</sup>

### ***Types of Empowerment***

Empowerment as a socio-political concept goes beyond political participation and conscious arousing in the people. Empowerment in general can be classified into five major types. They are social, economic, political, and legal and gender empowerment. All these types of empowerment are important in one way or another. Each of it has its own importance in the way it is implemented in the society. One type of empowerment cannot be replaced by another.

***Social empowerment*** enhances the power of a person to resist oppression, exploitation or any kind of discrimination. For example, ability to stand against discrimination based on caste, class, creed, sex, religion or place of birth. There are various Articles of the Indian Constitution that provide social empowerment to the people such as the 'prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth (Article 15); Abolition of untouchability (Article-17); Prohibition of human trafficking and forced labor (Article- 23); Freedom of Conscience and free profession, practice and propagation of religion (Article- 25); Protection of the interest of the minorities (Article- 29); promotion of educational and economic interests of Schedule Castes, Scheduled Tribes and so on. Some of the laws enacted in India are Abolition of untouchability Act 1955; The Schedule Castes and The Scheduled Tribes (Prevention and Atrocities) Act, 1989; Right of Children to Free and Compulsory Education Act, 2009 etc.<sup>7</sup>

***Political Empowerment*** includes right to vote, right to participate in the decision making, right to contest in elections, reservation of seats for SC/ST and provision of reservation for women in Union, State, District and other local bodies.

***Economic Empowerment*** aims to reduce the gap between the rich and the poor and provides equal opportunities. It creates an environment where a person can work to earn for himself and his family. Each individual can practice their own choice of profession. Equal opportunities in employment (Article 16); equal pay for both men and women ; right to work (Article 41); right to just conditions of work (Article- 42); to organize trade unions (Article 43); promotion of trade; providing compensation to people in case of accidents or accidental death at the work place; providing insurance and other health facilities. There are many laws which have already been enforced to grant economic empowerment to the people. Some of them are Industrial Disputes Act 1947; Minimum Wages and Remuneration Act 1948; Payment of Bonus Act 1965.

***Legal Empowerment*** is guaranteed through a good legal system in every country. These include basic human rights of a person, fundamental rights and other rights which the State enforces from time to time. Legal rights are enforceable by the courts and violation of these will invite punishment. Hence, an independent and impartial judiciary is important for legal empowerment. Some rights are for the citizen of a particular state while some rights are granted to each and every person despite of the geographical boundaries. Fundamental rights granted under the Indian Constitution are Right to equality (Article 14); Right to particular freedoms (Article 19-22); Right against exploitation (Article 23); Right to freedom of religion (Article 25); Cultural and educational rights (Article 29-30); Right to constitutional remedies (Article 32). Apart from these rights, Article 39 provides equal justice and free legal aid to the needy people.

**Gender Empowerment** aims to abolish the inequality between men and women in the society. It aims to treat women in par with men, if women are provided with education, skill and training, they can also perform all the work and responsibilities that men undertake in the society. If women are denied their basic rights and respect, then the economy will not move with a single wheel – the world cannot stand through a man’s presence and gender-based violations and discrimination. Some laws that are already enacted to end discrimination are; Immoral Traffic And Prevention Act 1956; Dowry Prohibition Act 1961; Indian Divorce Act 1869; Protection of women from Domestic Violence Act, 2005; Indecent Representation of Women’s Act, 1986. Some of the schemes run by the government to empower women are; Rashtriya Mahila Kosh, Janani Suraksha yojana, Ladli Scheme, Mahila Samridhi Yojana, Pratibha Kiran yojana, Indira Mahila Yojana, Vande Mataram Schemes and Rajrajeshwari Mahila Kalyan. Laws and schemes are running parallel to provide empowerment to the women who are in need. National Commission for Women and National Human rights Commission are constituted at the Centre, State and District are working to protect the interests and rights of the vulnerable women.

Lee H Staples, on the other hand, contends that there are two types of empowerment the individual and the collective empowerment. Individual Empowerment aims to empower each and every person in the society or state wherever he/she is placed. Every person is given equal opportunity, so that they create a place for themselves. Some of the factors that help a person to establish themselves are knowledge, capacity and skills that the person actually possesses. Collective Empowerment refers to the process in which every individual in the society stands together and help each other for their common interests. They share the available resources in the community for a common purpose by influencing the external institutions and political organizations. It creates consciousness among the people about the current issues they are facing and arrive at a solution by discussing and debating with each other.<sup>8</sup>

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### **Ways to Empower People**

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**Imparting quality of education** to the people: it will help to ingrain good qualities and inspire them to become a resourceful person. The people are treasured resources of a country. When people receive standard education, it will help them to achieve their goals and improve their lives. Education is the backbone of a society, illiteracy is a curse and a burden on the country. The more they are educated, the more they will participate in the process of nation building. Creating awareness about the government policies and programmes from time to time will help the people to know the implementation of social and economic schemes that are run by the government. Creating awareness is a good step and it will help them to become a beneficiary to the welfare scheme. Lack of awareness does not invite the right beneficiary, thus public funds remain unutilized, or is misused by the concerned officials who are dealing with it.

**Access to information** helps people to get information about the day to day activities and functions of the government. In a democracy, there is no place for secrecy. Secrecy invites corruption and malfunctioning. Access to information enables the citizens to get the right information at the right time. One can track the status of an application through information law.

The information law in India turned out to be a grievance redressal tool and it empowers the people to know about the details of ration entitlements, availability of pension and scholarship.

**Access to justice** is the right of every person. The Indian constitution under Article 14 provides equality before law which clearly means everybody is equal before law despite of any class differences, creed, religion, status or place of birth. Impartial and speedy justice is the right of each citizen. Law is futile if it cannot do away with the injustice. Article 39 provides free legal aid to the poor. Legal Aid clinic and Lokadalat is established to ensure speedy justice to the people without incurring any money.

**Imparting skills and training** to the people will boost their abilities. This will help them to stand on their feet and earn their livelihood. The Government in India is running many programmes to impart semi-skills and other youth training, so that people may start their small business at home. For example; Training to Rural Youth for Self Empowerment (TRYSEM) aims to provide technical education to the youth between the age group of 18-35. The next important programme is Krishi Vigyan Kendras which organizes employment oriented training programmes for both men and women in the field of agriculture.

**Access to basic services** food, health, education and shelter will improve the standard of living and conditions of the people. These are the basic necessities of life and should not be denied to any person. First and foremost is the necessity of food. When a person's hunger is satiated then only he thinks of other materialistic things. In the food sector, government of India is running many programmes such as mid day meals scheme for the school going students up to class eighth and Balwadi Nutrition Programme for the children of the age group three to five. In education sector, there are schemes like Sarva Shiksha Abhiyan, Shiksha Sahyog Yojana, Right to Compulsory Education Act, 2009 etc. In the Health sector, there are schemes such as Janani Suraksha Yojana, National Rural Health Mission, Employment Assurance Scheme etc.

**Freedom of speech and expression** ensure that each and every person should express his or her views freely without any fear. A person is free to criticize the government policies and programmes if it is not in tune with the requirement of the people. Currently government has enacted Public Grievance Redressal Bill that ensures a person grievance to be heard orally within fifteen days of filing the complaint. Other legal philosophy is *audi alterem partem* which means 'let the other party be heard'. Justice is incomplete without hearing both the sides. Freedom of opinion is utmost important for a democratic society, without it, truth will not come out. People will feel insecure if they are not allowed to express their opinion.

**Social inclusion** means inclusion of the people irrespective of their class, creed, sex, religion or place of birth. Every person is equal partakers in democracy, exclusion of particular class will restrict the progress and development of the country. Countries are known in the global arena for the quality of people and the quality of work they perform. Each class of people have separate tasks to perform, for example, agriculturalist performs the task of farming, middle class engages itself to provide services like banking, health, education and the business class do business with

other countries of the world. In this way each class engages itself to contribute towards the progress of the country in which they are placed.

**Equality and Non-discrimination** is the basic principle in a democracy. Everybody must be considered as equal partakers. To establish peace, progress and development, every citizen should feel secure. This basically means that individuals should not view people from a different culture as different beings.

Decentralization of power between centre, state, district and other local bodies is one of the best features which enables a large democratic country like India to function smoothly. Decentralization does not mean the one related to political decentralization but also transferring of power to the common people. There is a shift from representative democracy to participatory democracy. Now there is a shift from government to the citizens (G2C) concept. The stress is on citizen centric administration, where a citizen will decide how the government should function. There are some good examples such as right to information law, public service bill, public grievance redressal bill and so on.

#### ***Evaluation of Empowerment: Principles***

Miller and Campbell have laid down ten principles to evaluate empowerment. These principles are necessary conditions to evaluate how empowerment is being experienced by the common people. It is a continuous process. As long as the people continue to exist, empowerment will also continue its work.

**Democratic participation** implies participation of the common people in the affairs of the government. People of the country have the right to vote and elect their own representative, to participate in the decision making process and the right to criticize the policies and programmes of the government contrary to the will of the people.

**Social justice** basically means to do away with discrimination and any other inequality on various grounds based on class, creed, sex and religion. There should be absence of recognition to any particular class or creed. Citizens of a country should be equal in all respect, there are no low or high, everybody should be identified or represented equally.

**Accountability** implies accountability to the people. Government authority cannot wash away their hands from their duties and responsibilities. They are responsible for the performance and non-performance of their duty. People can question the authorities whenever there is malfunctioning or mismanagement. Freedom of information in India has brought legislature, executive and judiciary within its ambit.

**Community ownership** implies common ownership by the group of people or organizations. There are many programmes being run by the Civil Society, NGO's, Self Help Groups, etc. In India, sanitation programmes have been successfully carried out by the NGO called 'sulabh', another example is the Mid day meal contract which is given to ISKCON, Akshaya Patra Foundation and Ekta Foundation. The programmes are successfully implemented and provide the



people with quality of services. When a group of people come together for a common interest, the society moves a step ahead.

**Capacity building** aims to build skills and gives training to the people, so that they are able to stand their own feet. Government along with the help of NGO runs training programmes at villages, rural areas, semi-urban and urban areas to impart skills to the young groups. They provide training to tailors, weavers and individuals who make homemade goods, so that it meets the standard quality of the market. The training helps the people to earn a good amount for their livelihood.

**Organizational learning** basically means providing the technical skills to people such as computer courses, electrician work, mobile repairing, typing course, secretarial and official training, etc. The technical course helps the youth to work with a good company as most of the time the institutes are tied up with big companies and they place their students accordingly. The courses help them to raise the standard of living and contribute for the economic growth of the society.

**Improvement** implies rising above from the level you come from. That is the stage of higher development from the level of lower development. It emphasizes on continuous development of the people. An economy or society is never constant; they keep on moving a step further. For example, changes and advancement in science, defence, technology, information technology, medicine and other related fields.

**Community knowledge** implies knowledge and awareness about the community in which they live. The people living in the society must be aware about the problems and ongoing development around them. Awareness is possible through newspapers, radio, and television. It informs us about the current issues or any emergency situation that the society is passing through. For example, the rising dengue cases in Delhi has resulted in government issuing orders to hospitals and health authorities to take immediate measures to control and prevent it. As a result of which, the number of beds at the government hospitals has been increased to control the swarm of people coming in for treatment.

**Inclusion** means larger inclusion of people in the welfare programmes that are run by the government. If the policies and programmes are made but not implemented, it will not benefit the real beneficiary. This way the inclusion is considered as nil. Under the Indira Awas Yojana, poor people are allocated to small homes but instead of acquiring homes by the beneficiary, it has been occupied by the rich people. Another example is the enactment of Right to Education Act which provides twenty five percent reservations to the students belonging to Economically Weaker Section (EWS). However students belonging to higher economic class made forged documents with the help of Sub Divisional Magistrate (SDM) and other government officials to get admission in reputed private schools. This problem excluded the real beneficiary and they did not get the benefits.<sup>9</sup>

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## **Swaraj**

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Swaraj means self rule. It has a metaphysical in the system of Gandhiji. The word Swaraj is a sacred word, a Vedic word, meaning self-rule and self-restraint, and not freedom from all restraint which 'independence' often means.<sup>10</sup>(YI, 19-3-1931, p.38) To understand Gandhiji's swaraj we should understand his dream or aim for India. Gandhiji consistently fought for two fronts simultaneously, one against the British Rule and the Second against the evils of Indian society. It was equally important to break the socio-cultural evils like untouchability, women seclusion etc, were prevalent in the villages. Gandhiji had the realization that unless these internal barriers are removed it would be impossible to mobilize people for the said objective.<sup>11</sup>The four cardinal principles of Gandhi namely, the re-establishment of communal harmony and village republics, and the upliftment of women and Harijans were also parts of philosophy and existence of peasantry in India; and his methods of struggle for justice, namely non-violence and satyagraha and non-cooperation. With the re-establishment of communal disharmony between the two prominent religious communities, namely, Hindu and Muslim had began ugly head in the 20<sup>th</sup> century. For centuries Muslims in India had been co-existing with Hindus as an integral part of Society in thousands of villages spread through out the nook and corner of the country. Muslims in India were local converts who belonged to the lower order of the village society. The caste or class economic division within Hindus and Muslims forced the members of these communities to identify themselves with each other on economic division rather than on religious beliefs.

The other two prominent problems that engaged the mind of Gandhi were low status of Harijans and women in the villages of India. By Swaraj Gandhiji mean the government of India by the consent of the people as ascertained by the largest number of the adult population, male or female, native-born or domiciled, who have contributed by manual labour to the service of the State and who have taken the trouble of having their names registered as voters. Swaraj will come, not by the acquisition of authority by a few, but by the acquisition of the capacity by all to resist authority when it is abused. In other words, Swaraj is to be attained by educating the masses to a sense of their capacity to regulate and control authority.<sup>12</sup> (Young India, 1925, p. 41).Self-government means continuous effort to be independent of government control, whether it is foreign government or whether it is national.<sup>13</sup> (YI,6-8-1925, p. 276)

### ***Swaraj for the Poor***

The Swaraj of Gandhi's dream recognizes no race or religious distinctions. Not is it to be the monopoly of the lettered persons or yet of moneyed men. Swaraj is to be for all, including the former, but emphatically including the maimed, the blind, the starving, toiling millions. (YI, 1-5-1930, p. 149)

*The Swaraj of Gandhi's dream is the poor man's Swaraj.* The necessities of life should been joyed by you in common with those enjoyed by the princes and the moneyed men. But that does not mean that they should have palaces like theirs. They are not necessary for happiness. But people should get all the ordinary amenities of life that a rich man enjoys. Gandhi said "I have

not the slightest doubt that Swaraj is not Poorna Swaraj until these amenities are guaranteed to you under it".(YI, 26-3-1931, p. 46)... What we mean and want through Poorna Swaraj ... is an awakening among the masses, a knowledge among them of their true interest and ability to serve that interest against the whole world, ... harmony, freedom from aggression from within or without, and a progressive improvement in the economic condition of the masses... (YI, 18-6-1931, p.147)

Real Swaraj must be felt by all-man, woman and child. To labour for that consummation is true revolution, India has become a pattern for all exploited races of the earth, because India's has been an open, unarmed effort which demands sacrifice from all without inflicting injury on the usurper. The millions in India would not have been awakened but for the open, unarmed struggle. Every deviation from the straight path has meant a temporary arrest of the evolutionary revolution. (H, 3-3-1946, p. 31)

### ***No Majority Rule***

It has been said that Indian Swaraj will be the rule of the majority community, i.e., the Hindus.

There could not be a greater mistakes than that. If it were to be true, I for one would refuse to call it Swaraj and would fight it with all the strength at my command, for to me Hind Swaraj is the rule of all people, is the rule of justice. Whether, under rule, the ministers were Hindus or Musalmans or Sikhs and whether legislatures were exclusively filled by the Hindus or Musalmans or any other community, they would have to do even-handed justice. (YI, 16-4-1931, p. 78) Today our minds are clouded by delusion. In our ignorance, we quarrel with one another and indulge in rowdyism against our own brethren. For such as these there is neither salvation no Swaraj. Self-discipline or rule over self is the first condition of self-rule or Swaraj. (H, 28-4-1946,p. 111)

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### **Achievement of Swaraj**

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Gandhi's Swaraj could not be granted even by God. We would have to earn it ourselves. Swaraj from its very nature is not in the giving of anybody. (YI, 25-5-1921, p. 164)

***Swaraj is the abandonment of the fear of death.*** A nation which allows itself to be influenced by the fear of death cannot attain Swaraj, and cannot retain it if some-how attained. (YI, 13-10-1921, p. 326)

***Swaraj can never be a free gift by one nation to another.*** It is a treasure to be purchased with a nation's best blood. It will cease to be a gift when we have paid dearly for it. ... Swaraj will be a fruit of incessant labour, suffering beyond measure. (YI, 5-1-1922, p. 4) Surely Swaraj will not drop from the clouds. It will be the fruit of patience, perseverance, ceaseless toil, courage and intelligent appreciation of the environment. (YI, 27-8-1925, p. 297)

For Gandhiji the only training in Swaraj we need is the ability to defend ourselves against the whole world and to live our natural life in perfect freedom, even though it may be full of defects. Good government is no substitute for self government. (YI, 22-9-1920, p. 1)The pilgrimage to

Swaraj is a painful climb. It requires attention to details. It means vast organizing ability, it means penetration into the villages solely for the service of the villagers. In other words, it means national education, i.e., education of the masses. It means an awakening of national consciousness among the masses. It will not spring like the magician's mango. It will grow almost unperceived like the banyan tree. A bloody revolution will never perform the trick. Haste here is most certainly waste. (YI, 21-5-1925, p. 178)

One sometimes hears it said: 'Let us get the government of India in our own hands and everything will be all right. There could be no greater superstition than this. No nation has thus gained its independence. The splendor of the spring is reflected in every tree, the whole earth is then filled with the freshness of youth. Similarly, when the Swaraj spirit has really permeated society, a stranger suddenly come upon us will observe energy in every walk of life, he will find national servants engaged, each according to his own abilities, in a variety of public activities. (Swaraj, p. 146)

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### **Basis of Self-Sacrifice**

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Swaraj can be maintained only where there is a majority of loyal and patriotic people to whom the good of the nation is paramount above all other considerations what-ever including their personal profit. (YI, 28-7-1921, p.238) Gandhi said "My Swaraj will be... not a result of murder of others but a voluntary act of continuous self sacrifice. My Swaraj will not be blood usurpation of rights, but the acquisition of power will be a beautiful land natural fruit of duty well and truly performed. It will...provide amplest excitement of the Chaitanya type, not of the Nero type.... It can come often does come, when the horizon is the blackest. But I know that it will be preceded by the rise of a class of young men and women who will find full excitement in work, work and nothing but work for the nation".(YI, 27-8-1925, p. 297). Without a large, very large, army of self sacrificing and determined workers, real progress of the masses I hold to be an impossibility. And without that progress, there is no such thing as Swaraj. Progress towards Swaraj will be in exact proportion to the increase in the number of workers who will dare to sacrifice their all for the cause of the poor. (YI, 24-6-1926, p. 226) Without a large, very large, army of self sacrificing and determined workers, real progress of the masses hold to be an impossibility. And without that progress, there is no such thing as Swaraj. Progress towards Swaraj will be in exact proportion to the increase in the number of workers who will dare to sacrifice their all for the cause of the poor. (YI, 24-6-1926, p. 226) Through Truth and Nonviolence If we wish to achieve Swaraj through truth and non-violence, gradual but steady building-up from the bottom upwards by constructive effort is the only way. This rules out the deliberate creation of an anarchical state for the overthrow of the established order in the hope of throwing up from within a dictator who would rule with a rod of iron and produce order out disorder. (H, 18-1-1942, p. 4)

We have all-rulers and ruled-been living so long in a stifling, unnatural atmosphere that we might well feel, in the beginning, that we have lost the lungs for breathing the invigorating ozone

of freedom. If the reality comes in an orderly, that is, a non-violent manner, because the parties feel that it is right, it will be a revealing lesson for the world. (H, 7-4-1946, p. 70)

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### **Genius of Our Civilization**

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Gandhiji's Swaraj is to keep intact the genius of our civilization which should be written as many new things but they must be all written on the Indian slate. If Swaraj was not meant to civilize us, and to purify and stabilize our civilization, it would be nothing worth. The very essence of our civilization is that we give a paramount place to morality in all our affairs, public or private. (YI, 23-1-1930, p. 26).

Gandhi's Ramrajya is regarded as the part of Swaraj. Ramrajya is regarded as the kingdom of dharma. Gandhi said swaraj is all embracing. It does not include complete independence along with many other things. Sardar Vallabhai Patel, Vinayak Damodar Savarkar, Maulana Abul Kalam Azad and Ram Manohar Lohia gave a moral boost to Gandhiji to attain Swaraj for the country. The Swaraj of Gandhiji consisting of a state embracing a society which is dependent on morals, a society which is the embodiment of equality –social, political and economical.

Gandhiji did not want any economic classification of social classes or casteism under his concept of Swaraj. Gandhi fought for Indian independence from foreign domination. In order to define swaraj, Gandhi also talked about Village Swaraj. The Village Swaraj according to him, is a complete village republic, independent, of its neighbours for its vital needs. The first concern of every village would be to run its affairs on cooperative basis. The government of the village would be conducted by the Panchayat of five persons, annually elected by the adult villagers, male and female. Swaraj can mean generally self-governance or "home-rule". The soul of Swaraj to him is Swadeshi. Swadeshi means self-sufficiency. Muhammad Ali Jinnah was the main critique and died against swaraj and said swaraj could be achieved through constitutional struggle. Navjivan Trust was one of the organizations and stood for peaceful means in the attainment of Swaraj that is Hind Swaraj. Khilafat leaders also participated and supported Swaraj for the future results for the Indians.

Gandhiji changed the character of the national movement, gave it a new ideology, a new method of action, a unique moral code and a mass based leadership in the post-first world war era. Gandhi evolved a programme of struggle which mobilized the divergent groups and classes and various sections of people—industrialist, workers, peasants, traders, students, lawyers, lower classes and women—and made it a multi-class and mass based national movement. He called upon the peasants not to pay taxes to the government, exhorted the students to boycott the educational institutions, called upon the lawyers to desert the courts and asked women to picket the liquor shops. Millions of people marched in demonstrations, faced lathis, bullets and went to jails. He evolved a new technique of mass struggle such as satyagraha, non-cooperation, civil disobedience, hunger strike, khadi and cottage industries and indigenous system of education. Apart from being a mass leader, he was an outstanding social reformer who passionately worked for the elimination of inhuman institutions like untouchability and casteism.

*Satyagraha* and *ahimsa* (non-violence) formed the basis of his philosophy. According to him search for truth was the goal of life and since no one could be sure of having attained the ultimate truth, use of violence to enforce one's own truth was sinful. For him, the real enemy was not the British political domination alone but the whole modern industrial civilization of which British Raj was the symbol. Hence for him, attainment of political swaraj would only mean 'English rule without Englishmen'. Against the liberal view of the state, he propounded an alternate view of the state. Ideally preferred an enlightened anarchy under which socially responsible and morally disciplined men and women would never harm one another and would not need not any polity. But given circumstances, he opted for an 'ordered anarchy' in which citizens enjoy maximum freedom consistent with minimum necessary order. Such an 'ordered anarchy' would consist of three elements: non-violent state through village republics, *Swaraj* and *Ramrajya*. To quote *Hind Swaraj* again, 'the state should be composed of self-governing and self-sufficient village communities with expanding circles upward, i.e. from village to *talukas*, from *talukas* to district, from district to province to the centre, each tier enjoying considerable autonomy. The decentralization is combined with economic decentralization based upon was that every person should lead a simple life and limit himself to basic necessities. By swaraj, he meant a polity based upon small village communities developing and actualizing the power of the people. And it is only when there is political, economic and moral Swaraj or self rule that one can talk of *Ramrajya*. For Gandhi *Ramrajya* was a state based upon the denial of power and renunciation of the use of force.

***Ramrajya:*** By Ramrajya Gandhiji do not mean Hindu Raj. I mean by Ramrajya Divine Raj, the Kingdom of God. For him Rama and Rahim are one and the same deity. He acknowledge no other God but the one God of truth and righteousness. Whether Rama of my imagination ever lived or not on this earth, the ancient ideal of Ramrajya is undoubtedly one of true democracy in which the meanest citizen could be sure of swift justice without an elaborate and costly procedure. Even the dog is described by the poet to have received justice under Ramrajya. (YI, 19-9-1929, p. 305) Ramrajya of my dream ensures equal rights alike of prince and pauper. (ABP, 2-8-1934).

### ***Definition of Independence***

By political independence he do not mean an imitation to the British House of commons, or the soviet rule of Russia or the Fascist rule of Italy or the Nazi rule of Germany. They have systems suited to their genius. Gandhi said, we must have ours suited to ours. What that can be is more than I can tell. Gandhi have described it as Ramrajya i.e., sovereignty of the people based on pure moral authority. (H, 2-1-1937, p. 374). Friends have repeatedly challenged him to define independence. Gandhi told that independence of my dream means Ramrajya i.e., the Kingdom of God one arth. He do not know it will be like in Heaven and have no desire to know the distant scene. If the present is attractive enough, the future cannot be very unlike. (H, 5-5-1946, p. 116)

***No Coercion:*** Gandhiji's conception of Ramrajya excludes there placement of the British army by a national army of occupation. A country that is governed by even its national army can never

be morally free and, therefore, its so-called weakest member can never rise to his fullest moral height. (ibid) There can be no Ramrajya in the present state of iniquitous inequalities in which a few roll in riches and the masses do not get even enough to eat ... my opposition to the Socialists and other consists in attacking violence as a means of effecting any lasting reform. (H, 1-6-1947, p.172). Gandhiji compared nirvana to Ramrajya or the Kingdom of Heaven on earth.... The withdrawal of British power does not mean Ramrajya. How can it happen when we have all along been nursing violence in our hearts under the garb of nonviolence?(H, 3-8-1947, p. 262)

**Respect for Others:** Hinduism according to Gandhiji teaches to respect all religions. In this lies the secret of Ramrajya. (H, 19-10-1947, p. 378) If you want to see God in the form of Ramrajya, the first requisite is self-introspection. You have to magnify your own faults a thousand fold and shut your eyes to the faults of your neighbours. That is the only way to real progress. (H, 26-10-1947, p. 387)

Gandhi was primarily a man of action and not a philosopher or political theorist. At practical level, he initiated a movement which was national in the real sense and the philosophy which could assimilate the fundamental tenets of various political groups inside the country, thereby making it considerable section of people. For the success of such movement, it was necessary that it should be so designed as to satisfy diverse groups with conflicting ideas and even clashing interests. Gandhi achieved success to a remarkable extent in performing this task. He had in his movement the characteristics of liberalism and economic content of the philosophy of moderates, the political radicalism and religious interpretation of Khilafat, and the influence of Home Rule League. He tried to combine these various elements through his own technique of non-cooperation and mass civil disobedience against an alien government on a national scale.

### ***Movements Led by Gandhiji to Free India From the Britishers Include***

**Rowlatt Act:** The Sedition committee appointed under the Chairmanship of Justice Rowlatt to study the revolutionary activities suggested certain measures of arbitrary arrests without trial and restrictions on the movement of persons suspected of anti-government activities. The Government moved two bills in the central legislature in February 1919 to give effect to the recommendations of the Rowlatt Committee (The bills came to be known as Rowlatt Bills or Black Bills). The Bills were introduced against the unanimous opposition of all non-official Indian members. Under these Acts, the Government armed itself with unrestricted powers to control the press, to try the political offenders without the help of juries and to arrest and detain a person suspected of subversive activities for any length of time without trial, subject to maximum period of two years. The bills were a crude attempt to curtail civil liberties of Indian in the name of curbing terrorist violence at a time when, after the war, Indians were expecting constitutional concessions in return for their whole-hearted support to the British government during the war. In spite of unanimous Indian opposition, the Bills were passed as Anarchical and Revolutionary Act, 1919. The Bills provoked a wave of resentment throughout the country among the Moderates, Extremists, the younger generation and members of the Home Rule Leagues. Though opposition was unanimous, it was left to Gandhi to lead an all-India

protest against it. Gandhi started a countrywide campaign against the Act and decided to oppose it through *Satyagraha*.<sup>14</sup>

**Khilafat Movement:** As the agitation against Rowlatt Act came to an end, Gandhi was being drawn into the Khilafat question which soon gave him an opportunity to forge Hindu-Muslim unity and launch a non-cooperation movement against the British rule. The Lucknow Pact did not form an adequate basis for unity and Khilafat agitation was 'an opportunity of uniting Hindus and Muslims as would not rise in a hundred years. The Khilafat agitation aimed to conserve the Ottoman Empire, it was an extraordinary movement. Till the middle of 19<sup>th</sup> century, the Indian Muslims had shown no concern in the affairs of Turkey. In fact, they did not recognize the Ottoman Sultan as their Caliph. The Khilafat question was based on the fact that the Sultan of Turkey was recognized Caliph i.e. religious head of the Muslims and had to perform certain duties towards the holy places of Islam situated in Jazirat-ul-Arab. It was necessary that the holy places should be under his supervision and control. Therefore they demanded (i) maintenance of the religious prestige and temporal power of the Caliph's duties in the preservation of holy places such as Palestine, Mesopotamia, and Arabia. This could be done by giving complete self-government under Caliph's control over the holy places; (ii) Guaranteeing sovereignty of the Muslim states, forbidding the imposition of the members of Britain and France over the State of Arab states. The Arabs were incited by the British, revolted against their Sovereign Caliph. The Greeks were incited to grab even the homeland of the Turks, the Arab Provinces of Turkey. Mustafa Kamal Pasha by his force by his heroic efforts saved by Turkey but lost control of the Arab lands including the Holy places of Islam. The conduct of Britain was treacherous. In September 1919, an All India Khilafat Committee was formed which had Gandhi M.M. Malviya as members.<sup>15</sup> Three central demands presented by Mohammad Ali to the diplomats in Paris in March 1920 were: i) Turkish Sultan must retain control over the Muslim sacred places; ii) He must be left with sufficient territory to enable him to defend the Islamic faith and; iii) the Jazirat-ul-Arab (i.e. Arabia, Syria, Iraq, Palestine) must remain under Muslim sovereignty.

The Khilafat movement had two strands-*Moderates* and *Radicals*. Moderates focused around the All India Khilafat Committee wanted to limit the agitations to meetings, deputations and memorials to London and Paris. The radical strand consisted of lower class journalists and Ulama with considerable influence over small towns and villages and was led by Ali Brothers. Gandhi played a mediating role for both the groups. In February 1920, he suggested to Khilafat Committee to adopt a programme of non-violent non-cooperation to protest against the Government behaviour. On June 9, the Khilafat Committee met Allahabad had enunciated a four stage non-cooperation programme. It included: i) Surrender of titles and honorary posts, ii) resignation from the services in the police and army, iii) Resignation of posts of civil services of government, iv) refusal to pay taxes. Gandhi called upon the Hindus to help the Muslims and to desist from helping the government.

**Non-Cooperation Movement:** The Indian nation leadership had contributed a great deal towards the British effort to win the first world war with the hope that India would be rewarded with



some major reforms, if not complete self-government, after the war. However, their hopes were shattered and they were forced to fight back. During the war, since imports from Britain and other foreign countries had stopped, the needs were met through increased production in India. As a result, India trade and industry prospered to a certain extent and showed its potentiality that, given an opportunity, it can match the foreign competitors. Indian industrialists and businessmen reaped enormous profits. But the exports suffered during the war.

Though the Khilafat Committee had passed a resolution non-cooperation, for its success support of the Congress was essential. The non-cooperation movement was launched formally on 1 August 1920 on the twin issues of Khilafat question and Punjab wrongs, after the expiry of notice that Gandhi had given to the viceroy in which he asserted the right recognized from time immemorial of the subjects to refuse to assist a ruler who misrules. The Congress had not so far given its formal approval to the movement. A special session of the congress was convened between 4-9 September 1920 at Calcutta under the Chairmanship of Lala Lajpat Rai. Some of the members of Indian National Congress (INC) suggested measures which includes:- resignation from councils, renunciation of legal practice, nationalization of education, economic boycott, organization of workers for national service, raising of a national fund and Hindu-Muslim unity. Thus, the Congress and the Khilafat Committee agreed upon the triple purpose of non-cooperation; i) Redressal of Punjab grievances, ii) rectification of Khilafat wrongs and iii) establishment of Swaraj.

***Non-cooperation movement had two objectives:*** negative and positive. The negative objectives included boycott of law courts by lawyers, boycott of schools and colleges owned or aided or recognized by government, boycott of elections to legislative assemblies and provincial councils, surrender of honours and titles, boycott of official functions, boycott of british goods and prohibition of drinking liquor. The positive objectives included establishment of national educational institutions, setting up of popular tribunals for administration of justice, encouragement of Swadeshi specially *khaddar* or home-spun, home-woven cloth, raising a fund of one crore rupees in the name of Tilak to finance non-cooperation activities, to enroll a volunteer corps of one crore members to help in the promotion of various boycotts-social, educational, legal and economic, and to distribute twenty lakh spinning wheels to provide work to the unemployed and under-employed. Complete Boycott of the foreign cloth was achieved by September. A meeting was called upon by Gandhi at Bombay beach to bonafire of foreign clothes. But the mob turned violent and assaulted the Europeans and Parsees who showed their loyalty to the Prince. The police firing led to 53 killings. Similarly, the hartal in Calcutta was followed by clashes between police and Khilafat volunteers. Gandhi looked upon violence with distaste and criticized the defaulters. Picketing of shops selling foreign cloth was also a major form of boycott. In August 1921, the Moplahs, a fanatical muslim community in Kerala had rebelled and established Khilafat kingdom and in the process massacred Hindus and such Europeans as they could lay hand upon. By November 1921, the government was forced to take repressive measures. After the arrests of Ali brothers, Khilafat leaders were demanding complete independence.

***Civil Disobedience Movement:*** The government declared Khilafat organizations as well as the Congress as unlawful. Public assemblies and processions were banned. C.R. Das decided to accept the challenge and disobeyed the orders. Thousands of volunteers swelled jails. This was followed by mass arrests. During the next three months, more than 30 thousands of nationalists were in the prisons. The Ahmedabad session of Congress in 1921 authorized Gandhi consequently informed the viceroy on 1 February 1922 that he had decided to start Civil Disobedience movement in those areas which he considered sufficiently prepared to undertake the responsibility placed on them such as Bardoli in Gujarat and Guntur in madras with no tax campaign that would gradually bring the wheels of government in these districts to a halt. However, before the movement could start in Bardoli, outburst of violence took place on 5February 1922 at Chauri Chaura in the United Province. A crowd composed of peasants attacked and set fire to a police station leading to the death of twenty two policeman. On hearing about the incident Gandhi decided to withdraw the agitation. The Congress Working Committee was hastily summoned and at Gandhi's insistence, it ratified the decision of Gandhi, dropped civil disobedience.<sup>16</sup>

### ***Home Rule Movement by Anie Beasant***

Home Rule Movement by Anie Beasant in 1916 to speeding the process of freedom struggle in India. There were two home rule leagues launched. Tilak launched the Indian Home Rule League in April 1916 at Belgaum. Annie Besant launched the Home Rule League in September 1916 at Madras. They had the common objective of achieving self-government in India. There was an informal understanding between both the leagues wherein Tilak's league worked in Maharashtra (except Bombay), Karnataka, Berar and the Central Provinces. Besant's league worked in the rest of the country. Tilak's league had its headquarters in Delhi. It had 6 branches. Besant's league had 200branches and was a looser organisation compared to Tilak's. The two leagues worked closely with one another. However, they did not merge to avoid friction between both the leaders.

### ***Objectives***

- To achieve self-government in India.
- To promote political education and discussion to set up agitation for self-government.
- To build confidence among Indians to speak against the government's suppression.
- To demand a larger political representation for Indians from the British government.
- To revive political activity in India while maintaining the principles of the Congress Party.

### ***Activities***

- The leagues organised demonstrations and agitations.
- There were public meetings in which the leaders gave fiery speeches.

- They were able to create a stir within the country and alarm the British to such an extent that Annie Besant was arrested in June 1917.
- This move by the British created a nation-wide protest and now even moderate leader joined the league. Besant was released in September 1917.

### ***Significance***

- The Home Rule League functioned throughout the year as opposed to the Congress Party whose activities were confined to once a year.
- The movement was able to garner huge support from a lot of educated Indians. In 1917, the two leagues combined had around 40,000 members. Many members of the Congress and the Muslim League joined the league. Many prominent leaders like Muhammad Ali Jinnah, Joseph Baptista, G S Kharpade and Sir S Subramanya Iyer were among its members.
- The moderates, extremists and the Muslim League were briefly united through this movement.
- The movement was able to spread political consciousness to more regions in the country. This movement led to the Montague Declaration of 1917 in which it was declared that there would be more Indians in the government leading to the development of self governing institutions ultimately realising *responsible governments* in India. This Declaration (also known as August Declaration) implied that the demand for home rule would no longer be considered seditious. This was the biggest significance of the movement.

### ***Failure and Decline***

- The movement was not a mass movement. It was restricted to educated people and college students.
- The leagues did not find a lot of support among Muslims, Anglo-Indians and non-Brahmins from Southern India as they thought home rule would mean a rule of the upper caste Hindu majority.
- Many of the moderates were satisfied with the government's assurance of reforms (as precluded in the Montague Declaration). They did not take the movement further.
- Annie Besant kept oscillating between being satisfied with the government talk of reforms and pushing the home rule movement forward. She was not able to provide firm leadership to her followers. (Although ultimately she did call the reforms 'unworthy of Indian acceptance').
- In September 1918, Tilak went to England to pursue a libel case against Sir Ignatius Valentine Chirol, British journalist and author of the book 'Indian Unrest'. The book contained deprecatory comments and had called Tilak the 'Father of Indian Unrest.' (Tilak lost the case).

- Tilak's absence and Besant's inability to lead the people led to the movement's fizzing out. After the war, Mahatma Gandhi gained prominence as a leader of the masses and the Home Rule Leagues merged with the Congress Party in 1920.

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## **Swarajists**

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The Swarajists entered the councils through the elections held in November 1923. Within a short span of time they are managed to get 42 out of 101 elected seats in the central legislative assembly, clear majority in the Central Province, largest party in Bengal, fared well in Bombay, UP and were less successful in Madras, Punjab due to strong bias.

***Aims and Objectives of Swarajists:*** They adopted the programmes and policies of the Congress. They kept in view the essential principles of non-violence and non-cooperation. They aimed at securing Swaraj or Dominion Status within the British empire. Whereas no-changers wanted to attain Swaraj through constructive programmes and building mass movement, the Swarajists wanted to achieve this aim by making use of the legislative councils for displaying their popularity and strength of the organization. Their purpose was to secure the changes through parliamentary methods, and if not possible, make the councils completely unworkable. They demanded the release of all political prisoners, repeal of repressive laws, provincial autonomy, calling a round table conference to draw up a scheme for full control government by the legislative councils and development of industries. On the economic front, the Party believed in liberal capitalism prevailing at that time i.e. private and individual right to property, civil liberties. Harmony between capitalist enterprises and demands of the labourers. They had two fold objectives: destructive and constructive. The destructive part consisted of the rejection of proposals emanating from bureaucracy and rejection of budget and 'smashing the councils and wrecking reforms'. The constructive side included presenting resolutions necessary for the healthy growth of national life, displacement of bureaucracy and give support to the constructive programme of Gandhi.

### ***Swaraj According to Balgangadhar Tilak***

Tilak was a strong believer in Vedic philosophy and social ideas. Born as Keshav Gangadhar Tilak on 23 July 1856, in the small coastal town of Ratnagiri in Maharashtra, he soon moved to Poona (now Pune). Tilak's father was a renowned Sanskrit scholar, and belonged to the Marathi Chitpavan Brahmin section. *Bal Gangadhar Tilak*, the great educationist, social reformer, author and freedom fighter, is widely acknowledged as 'the father of the Indian Unrest'. His contribution to the freedom struggle was monumental, and his role in awakening the political consciousness in the lay people, and uniting them against the British for the common cause of independence is widely acknowledged. His untiring struggle and single-minded love for the country earned him the respectful title of '*Lokmanya*' meaning 'revered by the masses' from his followers and supporters. A learned scholar of Sanskrit, Philosophy and Political Economy, *Tilak's* entire life was a '*karma yajna*', dedicated to the ideal of independence for India. *Tilak* was the first leader to propound the ideal of '*sampoorna swarajya*', and his statement, "*Swaraj is my birth right and I*

*shall have it*”, inspired thousands of Indians, and laid the foundation for an organized and united freedom movement. *Tilak*, through his newspapers, ‘*Kesari*’ and ‘*Mahratta*’, played a vital part in arousing the indignation of Indians against the callousness and excesses of the British rule, and exposed the sufferings and indignities which the Britishers were subjecting the Indians to. His bitter denunciations of the Government’s handling of the famines and epidemics that rocked parts of India during the end of the 19th century aroused anti-British feelings amongst the countrymen and were a major factor in uniting the nation against foreign rule. His writings inspired several revolutionary leaders, and is said to have led to the assassination of Mr. Rand, the notorious plague commissioner of Pune in 1897. *Tilak* established the Deccan Education Society in 1884 with some of his colleagues from university, with the view of improving education for the Indian youth. Two of the institutions set up by the society that still exist today are the New English School for secondary education and the Fergusson College.

From teacher and lawyer to journalist and independence activist, *Tilak*’s life went through some distinct phases. Bal Gangadhar *Tilak* joined the Indian National Congress (INC) in 1890; He wanted to stop being loyal to the British and not use constitutional agitation as a means to gain their goals. Instead, he wanted to get *Swarajya* or self-rule which he believed to be the essence of freedom and important for the growth of a nation. Because of his radical approach, *Tilak* came into direct opposition with his contemporary, Gopal Krishna Gokhale, who was one of the stalwarts of the Congress at that time. However, he did gain the support of other radicals, like Aurobindo Ghose and V.O Chidambaram Pillai. *Tilak* also formed the famous Lal-Bal-Pal trio alongside Lala Lajpat Rai and Bipin Chandra Pal. They took over the leadership of the radical section of the Congress after the split at the Surat session in 1907. *Tilak* was considered to be a radical nationalist, but was socially conservative, believing that society should be based on Hindu revivalist structures.

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### **Swadeshi and Home Rule League**

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Two of the most prominent movements organized by Bal Gangadhar *Tilak* were the Swadeshi and Boycott (of foreign goods) movement and the Home Rule League. The Swadeshi and Boycott movement was a revivalism of traditional Indian cottage industries. It was intensified after the Partition of Bengal in 1905, and the impact of the movement was felt all over the country where there were Indian industries, schools, universities and traditional cottage industries being set up.

It also came with the boycott of all English made goods like Lancashire and Manchester made goods. The Home Rule League was organized by *Tilak* along with Annie Besant and G.S. Kharparde. The aim of this movement was to recruit members and form a pressure group which would eventually lead to home rule for India. This was inspired by the Irish freedom movement, and Besant being an Irishwoman brought this idea to India. *Tilak* was also a major supporter of the Home Rule movement between 1916 and 1918, founded by *Annie Besant*. Through articles in his newspapers, and speeches, *Tilak* helped the movement spread and gain a mass following and support, causing more and more uneasiness to the ruling Britishers. *Tilak* travelled abroad and

succeeded in getting the support of the British Labour Party. Along with *Lala Lajpat Rai*, he also oversaw the spread of the movement to America. *Tilak* was a radical as far as political ideology was concerned, but his conservative nature and thought in social and religious matters too was manifest from his life. He said, “a true nationalist desires to build on old foundations ... but without detriment to progress and reform needed for our national reconstruction”. *Tilak* made people aware of their identity as a nation, and their rights, and gave them the moral courage and conviction to fight for their rights against all opposition.

### ***Sedition Charges and Life in Prison***

His support for revolutionaries got him into serious trouble with the British authorities. *Tilak* was charged and tried of sedition for this, and sentenced to eighteen months of imprisonment. *Tilak* was one of the torchbearers of revolutionary nationalism in India and along with leaders like *Bipinchandra Pal*, *Lala Lajpat Rai* and *Aurobindo Ghosh*, was among its most prominent and outspoken leaders. *Tilak* was a political ‘extremist’ and was a vocal critic of the moderate policy of the Indian National Congress. He regarded the peaceful and Constitutional methods of protest as ‘useless’, and propounded the path of direct action. The conflict of ideology between the moderates and extremists within the Congress, led to the split in it in 1907 during the Surat Session. He was charged with sedition and sentenced to six years of imprisonment in Mandalay (Burma, now Myanmar) between 1908-1914. He focused on reading and writing while in jail. After being released, *Tilak* tempered his views, and decided to focus more on getting concessions from the British rather than a full-scale self-rule all at once. When the first World War started, *Tilak* cabled George V, King-Emperor of the United Kingdom and its territories, to lend his support. When Morley-Minto released the Indian Councils Act, 1909, *Tilak* welcomed it saying that it marked an increased confidence between the rulers and the ruled. He was also convinced that violence diminished, rather than hastened, the pace of political reforms in India. However, *Tilak* was not totally removed from his goal of *Swaraj*, and he told Gandhi when they first met that total non-violence should not be the goal, but attaining self rule by all means necessary.<sup>17</sup>

*Lokmanya Tilak* was widely respected and admired by contemporary leaders, even those who did not subscribe to his ideology or methods. *Mahatma Gandhi* said about him, “I admire *Lokmanya Bal Gangadhar Tilak* like millions of his countrymen for his indomitable will, his vast learning, his love of country, and above all, the purity of his private life and great sacrifice. Of all the men of modern times, he captivated most the imagination of his people. He breathed into us the spirit of *Swarajya*. No one realized the evil of the existing system of government as *Tilak* did.” *C. R. Das* called him “*the greatest Maratha since Shivaji*”.

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### **Debate: Free Speech Expression and Dissent**

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Freedom of speech and Expression is enshrined in Article 19 (1)(a) of Indian Constitution. It is the most and widely recognized right across the world. It includes right express ones view written, orally etc. Freedom of speech and expression also includes free media. More over right

to information is also the extension of 19(1)(a). It provides for right to access to information held by the public authority.

***Right to freedom of speech and expression:*** It implies that every citizen has the right to express his views, opinions, belief, and convictions freely by word of mouth, writing, printing, picturing or in any other manner. The Supreme Court held that the freedom of speech and expression includes the following:

- i) Right to propagate one's view as well as view of others.
- ii) Freedom of the Press.
- iii) Freedom of commercial advertisements.
- iv) Right to telecast, that is, government has no monopoly on electronic media.
- v) Right against bundh called by a political party or organization.
- vi) Right to know about government activities.
- vii) Freedom of silence.
- viii) Right against imposition of pre-censorship on newspaper.
- ix) Right to demonstration or picketing but not right to strike.

The State can impose reasonable restrictions on the exercise of the freedom of speech and expression on the grounds of sovereignty and integrity of India, security of the State, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation and incitement to an offence.

*International Covenant on Civil and Political Rights (ICCPR) Article 19:*

- (1) Everyone shall have the right to hold public opinions without interference
- (2) Everyone shall have the right to freedom of expression; this right includes freedom to seek, receive and impart information and ideas of all kinds, regardless of all frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

### ***Gandhiji on Freedom of Expression***

According to Gandhi in a vast country like this, there must be room for all schools of honest thought. And the least, therefore, that we owe to ourselves, as to others, is to try to understand the opponent's view-point and, if we cannot accept it, respect is as fully as we expect him to respect ours. It is one of the indispensable tests of a healthy public life and, therefore, fitness for Swaraj. (YI,17-4-1924, p. 170). Freedom of speech and pen is the foundation of Swaraj. If the foundation stone is in danger, you have to exert the whole of your might in order to defend that single stone. (H, 29-9-1940, p. 306).

### ***Freedom of speech and expression was upheld by following cases in India:***

In the case *S. P. Gupta v/s Union of India (AIR 1982 SC 149)* opined that, "the guarantee of freedom of speech and expression elevates the right to know and the right to information to the status of fundamental right. Open government is the new democratic culture of an open society towards which, every liberal democracy is moving and our country should be no exception".

In the famous Judges case, *S. P. Gupta vs Union of India*, 1981 Supp SCC 87 Justice Bhagwati said that, Now it is obvious from the constitution that we have adopted a democratic form of government. Where a society has chosen to accept democracy as its creedal faith, it is elementary that its citizen ought to know what their government is doing. The citizens have a right to decide by whom and by what rules they shall be governed and they are entitled to call on their behalf to account for their conduct. No democratic government can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the government. It is only if people know how government is functioning that they can fulfill the role which democracy assigns to them and make democracy a really effective participatory democracy.<sup>18</sup> A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both. The citizen's right to know the true facts about the administration of the country is thus one of the pillars of a democratic state and that is why the demand for openness in the government is increasingly growing in different parts of the world.

In the case *A. K. Koolwol v/s State of Rajasthan*, AIR 1988, and Justice Dinakaran said, "Every citizen has the right to know about the activities, administrative efforts and initiatives of the government." These judicial pronouncements suggest that there was a general consensus on the need to have right to information granted to the people.

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### **Right to Freedom of Speech and Expression and the Role of Press in India**

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Freedom of speech and expression is considered as a basic right in the democratic polity. Freedom of press is considered as an important aspect of freedom of speech and expression. The set of regulation was framed by Governor General Wellesley in the year 1799. By asserting freedom of press in India, it was to introduce a set of regulations and rules to regard pre-censorship of the news before secretary of the ongoing British Government in India.

In 1818 an attempt was made by Governor General Lord Hastings, who favored freedom of press. In 1823, Governor General John Adam issued an ordinance to provide license to the press for printing all the matters except the commercial matters. This rule was soon replaced by Press Act 1835, popularly known as the Metcalfe's Act, which required the printer and publisher of every newspaper to declare the premises of its publication. Metcalfe requested Lord Macaulay, the Law member of Governor-General-in-Council, to prepare a draft press bill. Macaulay believed that the existing licensing regulations of the press were defensible and also believed that the repressive press laws in India did not ensure the security of the government and that government did otherwise possess sufficient powers to enforce security and emergency legislation. He said that the Act would remove evils and also establish a perfect uniformity in the laws regarding the press throughout India. When the Act is adopted, each person can set up a newspaper without even seeking permission. But no person will be allowed to print or publish sedition without government's permission. H.T. Prinsep and Lt. Colonel Morison who were members of the Council opposed Metcalf. However, Metcalfe warned the members of the Council that their tenure is dependent and the attempts to suppress the communication of public



opinion could not last long and will fail. Metcalfe finally convinced the members of the Council and the Press Act 1835 was passed. The Press Act 1835 was the most liberal Act in the Indian press history. After this, Lord Canning, The Governor General reintroduced the licensing Act that came to be known as Gagging Act in 1857. The Indian Penal Code, 1860 made the offences of defamation and obscenity punishable to the press also.

*The Press and Registration of Books Act, 1867* were still in force. The Act specifically deals with the Press. It does not control the press and the publication of newspapers and books. It also provides the preservation of every book and newspaper printed in India. The Act intended to prevent publication of anonymous literature. Then, the Vernacular Press Act 1878 came about, which gave punishment to those who published seditious writings in newspapers in Indian languages. The Newspapers (Incitement to Offences) Act 1908 and The Indian Press Act 1910 intended to prevent revolutionary activities in India. The first Act empowered the local authority to take judicial action against the editor of any newspaper for publishing matters which in its view was an incitement to a rebellious act. As per provisions of the Act, search warrants could be issued. There was a provision that no forfeiture could be questioned in any court except the High Court. Both these Acts later repealed in 1922.

To have more control on the press, the *Official Secrets Act* was enacted in the year 1923 to maintain the security of State against the leakage of any information. The Press ordinance was passed in 1930 to follow the stringent provisions of the repealed Act 1910. Then, the Press (Emergency Powers) Act was passed 1931 to curb terrorists' activities. In 1956, the Parliament passed the Newspapers (Price and Page) Act 1956 which empowered the Central Government to regulate the prices of newspapers in relation to the pages and sizes and to regulate the allocation of space for advertising matters. Under this Act, the government promulgated the Daily Newspapers (Price and Page) Order 1960, thereby fixing the maximum number of pages that might be published by a newspaper according to the price charged and prescribing the number of supplements that could be issued.

First Press Commission, Parliament passed the Press Council Act 1965 for the establishment of a press council whose objective was to preserve the freedom of press and to maintain and improve the standards of newspapers in India.<sup>19</sup>

In 1991, there were reports in the Press that Official Secret Act will be replaced by freedom of information legislation. In 1996, the Press Council of India drew up the draft of freedom of information bill. The draft affirmed the right of every citizen to have access to information held by the public body. According to the draft, 'public body' included not just the State but also privately owned undertakings, non-statutory statutory authorities and companies. Information cannot be denied to the Parliament or State Legislatures. The draft also provided penalty for the defaulter authorities.

The Press Council of India Bill of 1996 defined the right to information as a right to access to information, it also includes inspection, taking notes, taking extracts and obtaining certified copies of documents or records held by the Public Authority. The draft bill provided that the

public authority shall be under an obligation to maintain the records duly catalogued and indexed to make it available to the citizens whenever it is required.

In the case of *Romesh Thapar v. State of Madras, 1950*, the court held that freedom of speech and press is the foundation of all democratic organizations. Without free political discussion and public education, proper functioning of popular government is not possible. The democratic form of government itself demands its citizen's active and intelligent participation in the affairs of the community. According to the Chief Justice Pathanjali Shastri, "Every citizen has an undoubted the right to lie what sentiments he pleases before the public. Freedom to air one's view is the lifeline of any democratic institution and any attempt to stifle, suffocate or gag this right would sound a death knell to democracy and would help ushers in autocracy or dictatorship".<sup>20</sup>

In the case of *Bennet Coleman and Co. v. Union of India*, the government issued an order to control, import and supply of newsprint on a quota system. The new Newsprint Import Control Policy of 1972 and 1973 limited the circulation of newsprint and also prevented the number of pages, page area, and periodicity and so on. The Supreme Court declared that the government had the power to control the supply and use the newsprint but the court struck down under that order and put unreasonable restrictions on freedom of the press guaranteed under Article 19 (1)(a). Justice Ray found the Newsprint Import Policy as abridging the fundamental rights of the petitioners as the newspapers were not allowed their right to bring out newspapers or editions. It was pointed out that freedom of the press lays both in circulation and content and the new policy restrained newspapers to adjust their page numbers and circulation.<sup>21</sup>

In the case of *Secretary, Ministry of I & b v. Cricket Association Bengal, 1995* the Supreme Court referred to the justification given by David Feldman in his book, '*Civil Liberties and Human Rights*'. The liberty to express oneself freely is important as it is a significant instrument of freedom of conscience and self-fulfillment. Freedom of expression enables people to contribute to debate about social and moral value. Freedom of expression allows a political discourse which is necessary for any country which aspires democracy.<sup>22</sup> In the case of *Public Union and Civil Liberties, 1997* the freedom of speech and expression guaranteed under article 19(1) (a) means right to speak and to express one's opinion by mouth, writing, printing and posting pictures.<sup>23</sup> In the case of *Union of India v. Motion Picture Association 1999* which held the right to freedom of speech and expression also includes compelled speech. It asserted that in cinema, the exhibitor of the film must show a film which may be educational or scientific. A documentary carrying news or current events is not violating in Article 19(1) (a). When a significant population is illiterate and does not have access to information or ideas, the audio-visual communication are utilized not just for entertainment but also for education, information and ideas.<sup>24</sup>

In the case of *Brij Bhushan v. State of Delhi 1950*, the Supreme court struck down as violating under Article 19(1)(a) the order given by the Chief Commissioner of Delhi issued an order in pursuance of section 7(1)(c) of the East Punjab Public Safety Act, 1949 as the extended Province of Delhi, against the petitioner, the printer, publisher and editor of an English weekly, "*The*

*Organizer*” published from Delhi, directing them to submit scrutiny in duplicate form before publication and till further orders, all communal matters and news about Pakistan including photographs and cartoons other than those derived from official sources or supplied by the news agencies.<sup>25</sup>

In the case of *Virendra v. State of Punjab*, The Supreme Court held that banning of publication in the newspapers of its own views or views of the correspondents about burning topic of the day was, “serious encroachment on the valuable and cherished right to freedom of speech and expression”.<sup>26</sup>

In the case of *Reliance Petro Chemicals Ltd. V. Proprietors of Indian Express Newspaper, Bombay Put Ltd 1989* , The Supreme Court said that pre-publication ban even under a court injunction could be justified in the interest of the justice only when there was a clear and imminent danger to the administration of fair justice.<sup>27</sup>

In the case of *R. Rajgopal v. State of Tamil Nadu, 1995*, the Supreme Court held that neither the government nor any officials have any authority to impose prior restraint upon the publication of a material on the grounds of defamation. The right to publish the life story of a prisoner convicted with or without his/her consent or authorization has been held to be included under the freedom of press guaranteed under Article 19(1) (a). No prior permission is required for it.<sup>28</sup>

In the case *M. Hasan v. Government of Andhra Pradesh, 1998*, the Andhra Pradesh Court held that refusal of a journalist and videographer seeking interview with the prisoners means to deprive the rights of a citizen. It is a fundamental right to freedom of speech and expression under Article 19(1)(a). The court held that the prisoner has the same right that of a free citizen. He/she is free to give ideas when entitled to being interviewed or televised. The press while interviewing a person must obtain his willingness to be interviewed.<sup>29</sup>

In the case of *State of Maharashtra v. Rajendra Jawanwal Gandhi, 1997*, the Court held the right to interview the prisoners is not absolute nor the Article 19(1)(a) provides any right to have unrestricted access to means of information. In certain sensitive matters like the commission of rape, the unnecessary publicity leads to miscarriage of justice.<sup>30</sup>

In the case *Express Newspaper v. Union of India, 1958*, the Apex Court held that violation of liberty of press not only affects it when there is a ban on the circulation but also when some action on the part of government adversely affects the circulation.<sup>31</sup>

In the case of *Printers (Mysore) Ltd v. Asst. Commercial Tax officer, 1994*, the Supreme Court held that, “there should be prohibition upon the imposition of any restriction to disseminate information and to circulation of newspaper”.<sup>32</sup>

In the case of *Saroj Iyer v. Maharashtra Medical Council of Indian Medicine*, the Court held that, “freedom of speech and expression guaranteed by Article 19(1) (a) includes freedom of press”.<sup>33</sup>

In the case of *Sushil Chowdhary v. State of Tripura, 1998*, the Court held that freedom of press is not of much benefit for the press, as it is for the benefit of the general community.<sup>34</sup>

In the case of *Hindustan Times v. State of Uttar Pradesh, 2002*, the Court held ‘Executive order, which interferes with rights and liabilities of newspapers without any sanction of law, is opposed to equity and good conscience and is arbitrary’.<sup>35</sup>

In the case of *Tata Press Ltd. V. Mahanagar Telephone Nigam Ltd, 1995*, the Supreme Court held that, “commercial speech” could not be denied under the protection of Article 19(1)(a). Court explained that, “advertising is considered to be the cornerstone of our economic system. Low prices for consumers are dependent upon mass production; mass production is dependent upon advertising. Apart from the lifeline of the free economy in a democratic country, advertising can be viewed as the life blood of free media playing of the costs and thus making the media widely available.”<sup>36</sup>

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### **Efforts Made by International Bodies**

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It is not just third world countries like India making an attempt to bring freedom of information law, but many countries across the world did make tremendous efforts in this direction. Apart from member countries, international organizations such as the Council of Europe, the European Union, the African Union, the Commonwealth and the Organization of American States through its declaration and conventions approved freedom of information law. **Council of Europe** was founded in 1949 and comprised of forty six countries. In 1979, the Council of Europe Parliamentary Assembly (PA Recommendations 854) recommended the Council of Ministers to call the national government to adopt laws on freedom of information. In 2002, the Council of Ministers approved a recommendation [Rec (2002)2] for the member states to adopt a national law on access to information held by the public authorities. The act had provision for appeals and exemption. **European Union (EU)** provides special rules for the access to information. It follows rules on freedom of information and data protection that gives citizens a right to demand information from the European body. Article 255 of the Treaty of European Union elaborates that any citizen of the Union, be it natural or legal people residing or having their registered office in a Member State, shall have the right to access the European Union Parliament, Council and Commission’s documents, which is subject to a condition defined in paragraph 2 and 3. Each of the bodies of the EU has adopted rules on the access to information similar to the national Freedom of information Law. European Ombudsman mediates the cases; the appeal can also be made to European Court of Justice.

**The African Union** adopted Convention on Preventing and Combating Corruption. It was adopted in June in the year 2003. The treaty was signed by forty of the fifty three members and was ratified by 15. It went into effect in July 2006. Article 9, Access to Information, states that each State Party shall adopt such measures so as to enable the right to access any information required to assist in the fight against corruption and related offences. Article 9(1) of the African Charter on Human and People’s Rights, states that every individual shall have the right to receive

information. The Convention created the African Commission on Human and People's Rights. In October 2002, the Commission adopted Declaration of Principles on freedom of expressing rights. Section IV of the Freedom of Information states that public bodies should not hold information for themselves but as the custodians of the public, they should be good and everyone should have the right to access information.

In 1980, the Commonwealth of Nations adopted a resolution encouraging its members to enhance the citizen's access to information. In 1999, the Commonwealth Law Ministers recommended the member states to adopt laws on the principles of disclosure, promoting a culture of openness with limited exemptions, record management and a right to review. In 2003, the Commonwealth Secretariat issued a draft bill on freedom of information (FOI). The draft sets out detailed procedures for Parliamentary systems based on the freedom of information law based on Canada, Australia and other Commonwealth countries.

Article 31 of the American Convention on Human Rights adopted by Organization of American States (OAS), states that everyone has a right to freedom of thought and expression. This includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers either orally, written, printed form of art or through any other medium of one's choice.

<sup>37</sup> The Inter-American Declaration of Principles on Freedom of Expression adopted in the year 2000, recognizes access to information held by the State is a fundamental right of every individual. In October 2006, the Inter-American Court of Human Rights recognized the right to access to information.

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### **New International Information Order**

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The demand and movement for NIIO started in the decade of 1970's. The New International Information order aimed to provide a universal, equitable, free fair and balanced flow of information, updated and attuned to the new social conditions generated by the electronic era. It is an information order that is equitable and egalitarian. Cees Hamelink, in his critique on MacBride Report, suggested that the new order should be multidirectional in structural from ethnocentric to culturally pluralistic and multidimensional in perspective. It is "an international exchange of information in which States which develop their cultural system in an autonomous way and with complete sovereign control of resources, fully and effectively participate as independent members of the international community".<sup>38</sup>

In the New Information Order, the freedom of information is challenged by three threats, namely computer cum satellite, direct broadcasting satellite and remote sensing device. They often bring clashes between the doctrines of free flow of information within the concepts like sovereignty by national security. This is a universal problem especially in advanced countries like Sweden, Canada, Switzerland and Western Europe, who have been in the process of attaining defense against the free flow of information.

The new order not only aims to decolonize and democratize the information but also tries to bring the entire infrastructure of both international and domestic media and telecommunications.

It tries to attain fair and competent coverage of international news so as to facilitate free movement of journalists within the countries and also between countries. It aims to guarantee protection to the journalists on professional duty and ensures that their rights are well protected while taking care of the responsibilities. It tries to formulate a code of conduct and ethics for the profession they are engaged in. It also attempts to do correction in reporting other words, through the entire software content by ensuring quality and quantum of news flow.

According to Mustapha Masmoudi, Tunisia's ambassador to UNESCO, "The International Information Order is founded on democratic principles, it seeks to establish relations of equality in the communications field between developed and developing nations and aims to bring greater justice and greater balance".<sup>39</sup> The first requisite of NIIO is to ensure free flow of information and balanced flow of information in terms of quantity and quality. There is a need for two-way flow of information; free outgoing of information and free incoming of information, which in other words, is expressed as free exchange of information.

Some attributes of NIIO are media to be made free and responsible; right of every country to protect its own cultural identity against the align media, "invasion"; right of every country to formulate its own communication policies and cultural identity against the align media invasion, information being a national resource, a country's sovereignty over its information must be recognized, to ensure equal distribution of the electro-magnetic spectrum and satellite slots in the outer space based on the balanced allocation of all regions of the globe, imbalances and inequalities in the telecommunications and tariffs must be sorted out, tariffs for sending satellite transmission of messages and images must be reduced, so as to be within the reach of the developing countries, promotion of international cooperation and self-reliance for the purpose of communication development, wider access and diversification of the news sources, to build a high field of communication in developing countries; regional and inter-regional machinery must be set up to exchange, distribute and sell literature of cultural, scientific, literary and developmental interest, in order to brake the walls of isolation hitherto separating them from each other; measures must be taken in the international sphere for adequate printing and supply of newsprint in the developing countries to increase the production of news papers and books, so as to ensure free flow of information and knowledge.<sup>40</sup>

Baghdad resolution was adopted in June 1980 to New International Information order. Some of the points includes the self-determination of people and sovereign equality, it also promotes non-interference in the internal affairs, it promotes the right of every nation to develop its own independent information system to protect its national sovereignty and cultural identity in particular by regulating the activities of the trans-national corporations; right to participate in free exchange of information under favorable conditions in the sense of equality, justice and mutual advantage.

UNESCO's resolution on the MacBride recommendations tabled at Belgrade session in October 1980, has laid down some basis of New International Information Order. It includes elimination of imbalances and inequalities present in the current set up; do away with the monopolies, be it

public or private spheres, absolute removal of internal and external obstacles so as to have free flow as well as balanced dissemination of information and ideas, plurality of sources and channels of information, freedom of the press and information, freedom of journalists and all professionals in the media, to improve the capacity of developing countries by providing equipment, infrastructures, to help the developed countries to develop and to attain the objectives, to respect the cultural identity of every nation to inform its interest, aspirations and cultural values, to respect the right of all the people to participate in international exchange of information on the basis of equality, justice and mutual benefit, respect for all the ethnic and social groups and their access to information, so as to enable them to participate actively communication process.

### **Learning Outcome**

- Freedom- The aim this section is to impart students with the concept of freedom; To classify different kinds of freedom available for a citizen of India and utilize them when ever need; What are the restrictions on freedom; What a citizen has to do their freedom is curtailed.
- Emancipation- The aim of this section is to understand meaning of emancipation or empowerment; How a common person can be empowered; What are the different types of empowerment; What are measures taken by the government to empower the common man and to utilize the same.
- Swaraj- The aim of this section is to make the student to understand what is Swaraj and Why it is important; How can we realize Swaraj or self-rule; It also draws our attention towards Gandhiji, Tilak and Anie Besant concept of swaraj; How Gandhiji motivated the common people to achieve self rule by peaceful methods.
- Free Speech and Expression- This section aims to impart students to utilize the right to freedom of speech and expression to speak truth without any fear or coercion; We can express our views in written or orally, painting etc. It also permit every person when to keep quiet; This right also includes right to information from the government

### **Questions**

- 1) What is freedom. What are two major types of freedom?
- 2) What are the various perspectives of freedom?
- 3) What are categories of freedom granted by constitution of India. Explain in detail?
- 4) Is the freedom granted by the Indian constitution is absolute or it can be restricted. Explain briefly?
- 5) What do you understand by the term 'Emancipation'. What are ways of emancipation or empowerment?
- 6) What is 'Empowerment'. What are the types of empowerment?
- 7) What is the term 'Swaraj' means. Explain Gandhiji and Bal Gangadhar's view on Swaraj?

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## Unit-II : Equality

### Lesson-1

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## Equality of Opportunity and Equality of Outcome

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### Objectives

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The main objective of this chapter is to understand the meaning of equality and the theoretical issues connected with this concept. After reading this chapter students will be familiar with:

- Meaning and importance of equality for individuals and societies.
- Kinds of equality and characteristics of equality
- Explain formal equality, equality of opportunity and equality of outcomes
- Explain the Equality of Resources Luck Egalitarians
- Explain the Liberal and Marxist View
- Discuss the Affirmative Actions

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### Introduction

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In social contexts, equality means the status of a society in which all the people of that society have equal rights or status. For social equality, 'equal rights before the law' is a minimum requirement under which security, voting rights, freedom of speech, freedom to gather, property rights, equal access to social goods and services etc. Apart from this, equal opportunity and equal responsibility also comes under it. The concept of equality is rooted in the core of normative political theory. This is an idea based on which crores of people have been rulers for centuries. They have been and will continue to fight against unjust social systems and undemocratic governments or policies. In this sense, equality is placed in the category of permanent and universal concepts. A state of relationship between two or more people or groups is one that can be defined as equality. However, equality as an idea is not so simple and simple, as there is always more than one way to define that relationship, set its goals, and prioritize one aspect of it over another. Different definitions of the idea of equality emerge when different methods emerge. From the ancient Greek civilization to the twentieth century, there have been many drastic changes in the design of this idea. Many thinkers have contributed to its development and the changes in it, including Aristotle, Hobbes, Russo, Marx and Tocveil.

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### Meaning of Equality

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The belief of equality is a major assumption of a self-governing society. Equality does not entail complete equality. Equality originates from *aequalis*, *aequus* and *aequalitas*. These are all old French or Latin words. These French/Latin words mean even, level and equal. In general term, equality means full equality of treatment and reward for all. It is needed as natural equality. It is thought that all men are born natural and free. Men are neither equal in

respect of their physical features nor in respect of their mental capabilities. Some are stronger others weaker and some are more intelligent and capable than others. In common word, the meaning of equality is taken equally. It is considered opposite of disparity. Equality has been demanded in society since ancient times. Many theoretical and intellectual grounds have also been presented for this. In other words, equality means that all people in the society should have equal status and everyone should get equal privileges. But this is not completely real because not all people are equal. Man has been made equal by nature. Depending on anatomy, form, color, strength, intelligence, the variation found in individuals is found. Due to the fundamental distinctions given by nature, complete equality cannot be brought in a person. For example, in the same way that all the fingers of the hand cannot be equal, in the same way not all the people of the society can be equal. Equality does not mean that all individuals get equal property. The basis of property sharing is also physical and intellectual inequality. In the end, not every person can get the same property.

The real meaning of equality is that all people should get equal opportunity for their development and should not be differentiated on the basis of caste, birth, religion, sex, class, property race. The state should provide proper opportunities for the development of their intellect and personality without any discrimination. One should not be bound in the development of a person by qualification. Here equality has three Basic elements:

- a) Absence of special privileges in society.
- b) Presence of adequate and equal opportunities for development of all.
- c) Equal satisfaction of basic needs of all.

According to **Laski**, the most influential positive liberal thinker, set down the following conditions for equality:

1. End of special privileges in society
2. Adequate opportunities to all for developing the full potential of their personalities.
3. Access to social benefits for all with no restrictions on any ground like family position or wealth, heredity etc.
4. Absence of economic and social exploitation.

According to **D.D Raphael**, "The Right to Equality proper is a right of equal satisfaction of basic human needs, including the need to develop and use capacities which are specifically human."

Therefore, as a whole, equality does not mean absolute equality in all spheres and to every person. It does not aim at identity of treatment as intellectual and physical capacity varies. It opposes inequitable treatment. It means complete and absolute equality at the bottom most level and then equal opportunity to develop one's inner potentiality.

#### **Characteristics of Equality:**

- Equality does not stand for absolute equality. It accepts the presence of some natural dissimilarities.

- Equality stands for absence of all unnatural manmade inequalities and specially privileged classes in the society.
- Equality assumes the grant and guarantee of equal rights and freedoms to all the people.
- Equality infers the system of equal and adequate opportunities for all the people in society.
- Equality means equal satisfaction of basic needs of all the persons before the special needs', and luxuries of some persons may be met.
- Equality supports an equitable and fair distribution of wealth and resources i.e. Minimum possible gap between the rich and poor.

Equality accepts the principle of protective discrimination for helping the weaker sections of society. In the Indian political system, right to equality has been given to all and yet there stands incorporated provisions for granting special protection facilities and reservations to persons belonging to scheduled castes, scheduled tribes, other backward classes, minorities, women, and children.

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## **Development of Equality**

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### **Greek Philosophy**

The problem of equality and inequality has figured in political thought since earliest times. We have two different tradition (a) Inequality which was supported by Plato and Aristotal, (b) Equality which was supported by Pericle, Sophists, Antiphon and Stoics. **Aristotle** discovered that 'inequality' was a cause of rebellion in many a state. He defined justice as treating equals equally and unequals unequally. This was a typical statement in that it insisted on recognition and maintenance of existing inequalities in society—between master and slave, between rich and poor, between morally superior and morally inferior, and so on.

Whereas **Plato** classified men into a man of Gold , man of Silver , man of Iron. The Stoic philosophy gave the idea of universal brotherhood and citizenship based on natural law and reason. They opposed slavery and pleaded for natural equality among men. Therefore equality is force which binds together friends, cities and allies.

### **The Medieval Period**

During the medieval period Christianity raised the voice for equality but soon it got converted into equality before God. During this period feudalism emerged in Europe and unequal rules of aristocracy developed. In fact feudalism was emerged a combination of legal and military customs in medieval Europe that flourished between 9<sup>th</sup> and 15<sup>th</sup> century broadly defined it was way of structuring society around relationship derived from the holding of land in exchange for service and labour. In fact during the medieval period social inequalities got legal recognition and legal privileges to the clergy and the nobility were accepted in society. The social inequality of caused where resources in given society are distributed only typically

through norms of allocation that gender specific pattern non alliance of socially defined category.

### **The Renaissance**

The Renaissance and the reformation played an important part in weakening and shaking the existing social and political system. Beside this the Renaissance influenced Gender inequalities in term of marriage, wealth, ownership and freedom of expression. The emerging middle class challenged the legal, social, and political privileged of the feudal order. In European history the middle class played the important role as an agent of change to transform society. It was patronised by rulers to encounter feudal lords who challenged their authority and rebels against them to empower the middle class ruler granted them charter or official rights to trade a broad and to take responsibility of the administration of cities with stabilities Municipalities.

Thus the Glorious Revolution of 1688 in England, the American declaration of Independence of 1776 and the French revolution of 1789 helped the cause of equality.

### **Nineteenth Century and twentieth Century**

A demand for socio-economic equality from newly working class. As result of the industrial revolution economic disparities has increased and the demand for economic equality and justice came from quarters. In fact the industrial and economic development of the industrial revolution bought significant social changes. Industrialisation resulted in an increase population phenomenon urban growing number of people move to urban centre in search of employment. Thus the movement of political equality also became stronger and adult franchise became the battle – cry of the democrats. It is noteworthy that until the 18<sup>th</sup> century, the notion of equality remained largely confined to the legal side. But the succession of capitalism has increased the scope of inequality even further. Initially Utopian socialists and later Angels and Marx raised the demand for economic equality. Subsequently, political equality was also demanded along with the demand for economic equality.

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### **Types of Equality**

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#### **1. Natural Equality**

Though human differ in respect of their physical features, psychological traits, mental abilities and capacities, all humans are to be treated as equal humans. All are to be considered to avail all human rights and freedoms.

#### **2. Social Equality**

Social equality is referred as equal rights and opportunities for development for all classes of people without any discrimination such as civil rights, freedom of speech, property rights, and equal access to social goods and services. However, it also includes concepts of health equity, economic equality and other social securities. It also includes equal opportunities and obligations, and so involves the whole of society. Social equality requires the absence of

legally enforced social class or caste boundaries and the absence of discrimination motivated by an inalienable part of a person's identity. For instance, sex, gender, race, age, sexual orientation, origin, caste or class, income or property, language, religion, convictions, opinions, health or disability must not result in unsatisfactory treatment under the law and should not reduce opportunities unreasonably.

**Specifically, Social equality stands for:**

- a) Absence of special privileges for any class or caste or religions group or an ethnic group.
- b) Prohibition of discrimination against any one on the basis of caste, colour, creed, religion, sex and place of birth.
- c) Free access to public places for all the people, i.e. no social segregation.
- d) Equality of opportunity for all people. It however accepts the concept of protective discrimination in favour of all weaker sections of society.

Contemporary theme of social equality is to eliminate gender inequality, to ensure equal status and opportunities to the women and to ensure equal rights of male and female children to live and develop.

**3. Political Equality**

It is referred as equal opportunities for participation of all in the political process. This involves the concept of grant of equal political rights for all the citizens with some uniform qualifications for everyone. All citizens must possess similar political rights, they should have similar voice in the working of the government and they should have equal opportunities to actively participate in the political life and affairs of the country. Political equality guarantees the enjoyment of similar political rights to all citizens. Universal adult franchise is a means to this end. Universal adult suffrage has been introduced in India. The same provision has been made in England, U.S.S.R., U.S.A., France and many other countries.

**4. Economic Equality**

Economic equality does not indicate that equal treatment or equal reward or equal wages for all. It denotes to fair and adequate opportunities to all for work and for earning of their livelihoods. It also means that primary needs of all should be fulfilled before the special needs of few are gratified. The gap between rich and poor should be lowest. There should be equitable distribution of wealth and resources in the society.

**5. Legal Equality**

Legal Equality is defined as equality before law, equal subjection of all to the same legal code and equal opportunity for all to secure legal protection of their rights and freedom. Equality before the law is the principle that each independent being must be treated equally by the law and that all are subject to the same laws of justice. Therefore, the law must guarantee that no individual or group of individuals be privileged or discriminated against by

the government. Equal protection of law means that law provides equal opportunities to all those who are in similar circumstances or situations. This concept is slightly positive in connotation.

### **Formal Equality**

Nowadays a term is frequently used and it is formal equality. The political scientists do not especially use this term but it is manifest from their analysis that the idea of formal equality is quite fresh in their minds. It is believed that formal equality is legal equality. The inner idea is that every citizen is a legal member of the state which is a legal association.

As a legal member of the legal association every person has certain claims to equality. There are two very important forms of legal or formal equality. One is equality before law and equal protection of law. We have already mentioned these two. What is to be noted here is that the legal member of the legal association (Barker calls a state a legal association) can legitimately claim that all the citizens (including him) must be treated equally by law and no discrimination is to be allowed.

There is another type of formal equality and it is equal protection of law. It is the primary function of law to give protection to all citizens and while doing this it makes no distinction between rank, position and wealth. Legal or formal equality, to speak the truth, constitutes the very core of rule of law. In this sense the formal equality comes to be associated with equality.

It has been pointed out by **Heywood** that the formal equality is basically negative because the state authority takes special care in regard to the distribution of opportunities. The objective shall always be not to allow awarding special privileges to few persons.

Naturally to attain this goal the state must impose restriction in one form or other upon the distributing machinery or the state must take policy to that extent. We have already noted that Laski has observed that equality means the absence of 'special privileges.

Formal or legal equality has received almost universal approval from conservatives, liberals and even socialists. It is absolutely irrational, unjustified and even bigotry to deprive some persons of their legitimate share in wealth, income and manifold privileges on the ground of accidental birth in poor families or in so called neglected religious groups.

### **Equality of opportunity**

The rationale behind this political ideal is that society is uneven, with privileges, standing and potential for success being heavily influenced by many different factors predetermined by birth. The political ideal places an individual in any given rung of social hierarchy as a result of their background. Equality of opportunity calls on a 'fairness of outcome' in society. The notion of equality of opportunity follows from the idea of formal equality and can be traced even in the writings of Plato who propose educational system that offers all children equal chance to realize their talents and social positions based upon merit and efforts. The concept of formal equality does not address the opportunities and chances available to the individual. Equality

of opportunity is concerned with initial conditions available meaning it is not required that all runners must finish the race in line together because they left the starting point together rather it is the equal start to the race which legitimizes its unequal outcome. Thus the concept of equality of opportunity recognizes equal opportunities to become unequal. The concept advocates removal of obstacles that stand in the way of individual development a right that should surely be enjoyed by all citizens. The issue of debate is how to ensure equality of opportunity. Does this mean providing equal welfare or ensuring equality of opportunity by removing effects of inequality in social and economic circumstances or talent of the individuals? Does rigorous application of equality of opportunity lead to State intervention in social and personal life? Let's discuss different views to ensure substantive equality of opportunity. (In a factory setting, equality of opportunity is often seen as a procedural fairness along the lines of "if you assemble twice as many lamps, you'll be paid double". In this sense, the concept is in contrast to the concept of equality of outcome which might require that all workers be paid similarly regardless of how many lamps they made).

According to **Rawls** formal equality of opportunity is not enough. It is important to incorporate intelligence and social position as part of the distributive criteria. The notion of Equality of opportunity does not compensate inequalities that arise due to factors that are arbitrary from moral point of view. Social economic circumstances and special talents of individuals are arbitrary from the moral point of view because they are the result of brute luck. John Rawls' second principle allows social and economic inequalities if they provide greatest benefits to the least advantaged member of the society and offices and position remain open to all under fair equality of opportunity. In the original position the device of the veil of ignorance is used to conceive people as equal. However even in the original position people behind veil of ignorance have a capacity for having a conception of good and sense of justice. In the original position equal participation takes place as they are equal part of the process designed to choose the principle of justice. Fair equality of opportunity is ensured and so is the principle that no one deserves his talents – the product of natural lottery.

### **Equality of Resources Luck Egalitarians**

Luck egalitarian theory is based around the notion that individual is responsible for his choice but not for his unchosen circumstances. "People's fates are determined by their choices and their circumstances and this must remain argue luck egalitarians a fundamental insight when considering what constitute a just distribution. Ronald Dworkin, Richard Arneson, G.A. Cohen, Philippe V. Parjisa are the thinkers who endorse the position termed as Luck Egalitarians by Elizabeth Anderson. Though there is disagreement among luck egalitarians as what should be equalized resources or opportunity for welfare. However the point on which Luck egalitarians are in agreement are inequalities are just if they are the result of voluntary made choices. People are responsible for their voluntarily made choices and not for their unchosen circumstances.

Ronald Dworkin's influential account of luck egalitarianism is based on equality of resources. In *Sovereign Virtue* Dworkin writes, "Equal concern is the sovereign virtue of



political community—without it government is only tyranny –and when a nation’s wealth is very unequally distributed, as the wealth of even very prosperous nation now is, then its equal concern is suspect. For the distribution of wealth is the product of a legal order :a citizen’s wealth massively depends on which laws his community- has enacted – not only its laws governing ownership, theft, contract but its welfare laws, tax law, labour law, civil rights law, environment regulation law and laws of practically everything else.

**Dworkin** believe that the basic structure of society should be publicly justified to all citizens with special emphasis on two fundamental principles of ethical individualism...

The principle of Equal importance-----It is important from an objective point of view that human lives are successful rather than wasted, and this is equally important from an objective point of view, for each human life.

Principle of special responsibility---Though we must recognize the equal objective importance of the success of a human life, one person has a special and final responsibility for that success –the person whose life it is.

The principle of equal importance requires government to formulate laws and policies that are insensitive to the special particulars of individual. This means being insensitive to their economic background, gender, race and particular set of skill. The second principle of special responsibility requires government to make laws and policies as far as possible sensitive to the choices that people willingly make. Dworkin’s theory of equality of resources is ambition sensitive and endowment insensitive. Unequal share of social goods is fair if it is result of intentional action of those concerned. This means an autonomous individual bear responsibility for the consequences of his actions. However inequality that are due to arbitrary social circumstances or natural endowments are unfair.

Moreover the benefits of equal resources may differ for different individuals. **Amartya Sen** imagines two persons A and B. Person A as a cripple gets half the utility that the pleasure Inthe real world income tax is a devise that is used to neutralize the effects of differential talents and handicaps. Wizard B does from a given level of income. Neither Rawls Difference Principle nor Dworkin’s Equality of Resources takes this “utility disadvantage’ for which it would be absurd to hold A responsible into account.

Luck egalitarians are also targeted for radical rejection of merit and personal identity. According to this approach we cannot recognize ourselves with our own achievements. Moreover the criterion of individual responsibility could turn out to be inhuman in its consequences because applying the principle of choice if a person is responsible for his misery then that person would be supposedly left alone with his misery. But in another situation when people are in terrible situation due to factors beyond control or brute luck the reasons proposed to help them are supposedly stigmatizing if based on pity. Moreover to decide such cases involvement of political institutions is required that means taking certain decisions for which some important relevant information need to be gathered about citizens which according to some may harm their private sphere.

## **Equality of Welfare**

To assess the merit of laws or policies Utilitarian's adopt a welfarist metric and the right policy is that which promotes the greatest happiness of the greatest number. Equality of welfare requires that those whose welfare is restricted may receive extra resources so that the amount of welfare can be equalized but fails to accommodate the principle of special responsibility towards oneself for example if a person is born with a disease or handicap he/she may have less welfare due to factors which are not in his control but what about those who need extra resources due to expensive way of life and taste and need extra Focus on resources to achieve the same level of welfare. Equality of welfare fails to distinguish between deserving and undeserving beneficiaries.

## **Equality is complex**

**Walzer** argues for complex equality, the idea is different goods belong to different distributive spheres and each has its own distributive principles. For example unequal distribution of money is permissible if that inequality is the result of some fair mechanism, which is people's ability to make money and as long as money inequality does not influence the distribution of goods belonging to other spheres for example education or health. According to this view inequality justified by relevant reasons is not objectionable if it is not disturbing equality in other spheres.

According to the above mentioned discussion of various positions equality of opportunity seeks to correct for all unchosen disadvantages natural as well as social and difference of Achievement--- Equality of Welfare emphasizes on achievement, meaning the final satisfaction that people derive from different state of affairs.

Means of achievement-- Rawls and Dworkin's principle of primary goods and equality of resources represents shift towards means to achieve various state of affairs. Freedom to achieve---Amartya Sen's capability approach emphasize freedom to achieve desired state of affairs. Egalitarian Liberals emphasizes that liberty and equality are compatible political values. In society for just division of benefits and burdens of social cooperation both these values should be given due consideration. However there is no consensus about distributive outcome that best complement liberty and equality. Outcome reflect difference of choice. This means as long as people make informed choice and are aware of its consequences equality of opportunity amounts to equality of outcome. Difference of outcome is not inequality. For example A works longer hours than B thus earning more money while B works less and enjoy more leisure and earns enough to stay alive, in this example with respect to money outcome there is inequality but they will have equal outcome in terms of overall bundle of income plus leisure.

## **Equality of Opportunity vs. Equality of outcome**

- Equality of opportunity is concerned principally with initial conditions and the removal of obstacles that stay in the way of personal development; equality of outcome is concerned with end results. Equality of outcome may refer to resources,

level of welfare, social circumstances, material equality and also involves transfer of income or wealth or some other measure to promote equality of outcome.

- The equality of outcome whether in its moderate or radical sense usually argue that it is the most vital form of equality because equal legal and civil rights are of little benefit to citizen who do not possess secure jobs. Moreover the doctrine of equal opportunity is used to defend material inequalities by creating the myth that they are the result of informed choice of the people.
- Equality of outcome is also a prerequisite for securing individual liberty. As far as individuals concerned a certain level of material prosperity is essential if people are to lead worthwhile and fulfilled lives.
- Rousseau recognized the danger of social inequality and argued “no citizen shall be rich enough to buy another and none so poor as to be forced to sell him” Material inequality may lead to enslavement of the poor and deprive them of both moral and intellectual autonomy.
- Criticizing equality of opportunity **R T Tawney** named it as the “Tadpole philosophy” where all start from the same position but are then left to the vagaries of the market, some succeed and many fail. Opportunity to rise could not be equalized in a society where the circumstances surrounding it from birth are themselves unequal. Social well being also depends upon cohesion and solidarity in society.
- Equality of outcome is criticized because it may lead to stagnation and injustice. Stagnation results from the fact that social leveling serves to cap aspirations and remove the incentive for enterprise and hard work. It may become the reason for injustice because injustice arise not only when equals are treated unequally but also when unequals are treated equally.
- Equality of outcome can be achieved by massive interference because people are different in their abilities and aspirations. Talent is penalized and equal result is achieved by process of leveling downwards.
- In a society mechanism to achieve equal outcome are filled with moral as well as practical problems. To achieve equality of Outcome State has to employ different ways to compel the transfer of resources.

### **Marxist Theory of Equality**

Like his other political concepts, equality is also a part of his entire political philosophy which is primarily linked with the unmasking the real nature of capitalist system, its abolition and emancipation of working class. From the study of various aspects of society Marx concluded that there were number of inequalities in capitalist system.

For example, social, political, economic etc.; and these were due to the bourgeois structure. In any capitalist state there were inequalities between men and women, rich and poor, there were discriminations among various religious groups.

Even the inequalities were institutionalised by the capitalists. Theoretically the bourgeois scholars and political scientists propagate for equality and strongly argue for formal or legal equality. Even the bourgeois constitutions (constitutions framed by the bourgeois scholars to meet the needs of a particular class) pontifically announce the inclusions of rights, liberties and equalities as parts of the constitution and also make provision for their protection.

### **How to Achieve Equality?**

On the Jewish Question Marx dealt with several issues and one of these is equality. He had said that it was mere farce to think of emancipation of all exploited people through the declaration of equal civil rights and liberties. To Marx such declaration amounted to political emancipation.

But people's equal rights and privileges could never be obtained through the announcement of political emancipation. According to Marx it was merely partial emancipation. For achievement of all forms of equality (also of rights and liberties) human emancipation was necessary. By human emancipation he meant emancipation of all men and women from every type of bondage created and imposed by the capitalists. Emancipation only of the Jews could not achieve that ambitious objective.

So Marx on the Jewish Question ridiculed the emancipation only of the Jews. Marx believed that the institution of private property was the chief evil and it always acted for the creation of inequalities and differences among people. For this reason he recommended the abolition of private property through the seizure of political power. Prevalence of market economy was another factor for the growing menace of inequality and exploitation.

The weaker sections of the body politic were gradually being eliminated from the market because of money power exercised by the capitalists. Therefore, the abolition of capitalism was the first precondition for the attainment of universal political values such as equality, right and liberty, also justice.

### **Two Principles of Equality**

A serious analysis of Marxist thought reveals that Marx had two types of equality in his mind. The two principles of equality are—"From each according to his abilities, to each according to the amount of work performed".

There is another principle: "Each according to his abilities, to each according to his needs". This principle indicates that each person in the society will perform his duties as far as his abilities permit him to do. That is, none will be asked to do any work beyond his capacity.

In the first stage of the post-revolutionary society, Marx claimed, this objective or principle could be achieved. Marxists did not treat this stage as the stage of just equality. It was apprehended that due to differences in ability and talent there might appear differences among men in many respects. Nevertheless, this principle might be regarded as the stepping stone to equality.

There is another principle delineated by Marxists: "From each according to his abilities, to each according to his needs". Marxists (including Lenin) stressed this principle and held that only in a communist society this principle could be achieved. Under communism will there be equal treatment of unequal human beings with all their necessarily unequal needs".

### **Affirmative actions**

Affirmative action is the strategy to errand members of a disadvantaged group who currently suffer or historically have suffered from discrimination within a culture. Often, these people are deprived for historical reasons, such as oppression or bondage. The notion of "affirmative action" was first used in the United States in 1961, which included a provision that government contractors "take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, creed, colour, or national origin."

In simple term, Affirmative action is anticipated to promote the opportunities of defined minority groups within a society to give them equal access to that of the majority population. Affirmative action denotes to the policies and laws that attempt to redress a situation of discrimination and promote equal opportunity. Affirmative action is also related to positive discrimination, which entails means to compensate or counter the effects of prejudices in terms of race, gender and / or disabilities.

### **Affirmative action in India**

**Reverse Discrimination:** In the system of Affirmative action, the Majority of populace feel omitted and discriminated against as the allocation of jobs and positions in various fields is based on a quota system or reservations. In India, the government continues to reinforce reservations, and increases the quotas to gain vote bank, and the majority feel acutely sidelined. The system of reservation was meant to last for a decade or so, but it has become so established in the contemporary times, that the majority are naturally in disdain of it. The heated issue of Patidar Reservation Agitation in India is best example of reverse discrimination in India. Patels, as a prosperous caste in India are also highlighting themselves as 'backward classes'. In doing so, they demand reservations in jobs and educational institutions the same way the disadvantaged OBCs are entitled to. With considerable quotas put aside for the marginalised, the majority has to bear the brunt of tightened and hence highly competitive vacancies and posts resulting in many meritorious candidates losing at academic and career opportunities. If Patels who belong to a commercial community fear the loss of their jobs or unavailability of jobs altogether, it speaks volumes on Reverse discrimination in India.

**Brain Drain:** It is major outcome of identity-based politics in India. Due to reservations, and quota based systems, the public feels challenged, destabilised and even rejected as selections in jobs and education are made on the criterion of Caste than Merit. Hence, the intellectuals are forced to work abroad and the phenomenon of Brain Drain keeps draining India of its think tanks, learned scholars and intellectuals.

**Against Constitution:** If the constitution struggles for an democratic society with equal rights for everyone irrespective of caste, colour and creed, then the case of preferential treatment as evidenced in the policies of Affirmative Action may/will attack as a double standard. Because of this fact, in many countries Affirmative Action on the basis of race is deemed prohibited but in India such is not the case.

**Creamy layer:** It has been observed that there are economic divisions even in the impoverished classes such as OBCs. Mostly the well-off sections of the same community tend to seize the reservations while the poor remain poor and incapable to access the welfare schemes meant to rehabilitate them. In order to arrest such a practice, the concept of creamy layer was introduced in India according to which the upper and middle sections of OBCs are not eligible for reservations allowing the poor OBCs access to government's welfare programs. In this system, the sections belonging to low castes that have progressed in educational and job circles will not be entertained as marginalised and can compete with the majority without the helping hand of the reservations. Simultaneously, the poor castes can benefit from the quota system, and advance themselves to the level of not needing reservations in the long run.

There are critics who stated that affirmative actions are not good practices. Challengers of affirmative action such as George Sher consider that affirmative action diminishes the accomplishments of people who are chosen based on the social group to which they belong rather than their qualifications, thus rendering affirmative action counterproductive.

But affirmative action is intended to enhance the life of deprived people. Affirmative action is a set of measures approved by governments and public and private institutions such as political parties, educational establishments, corporations and companies to address a history of systemic discrimination and exclusion of particular social groups or to encourage the efforts of particular social groups in the interests of certain development goals. Affirmative action is expected to improve development indicators by reducing inequalities and facilitating the contribution of particular social groups to development.

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## **Conclusion**

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To summarise, equality is an important notion of Political Science. It is demonstrated in Chinese Dictionary that equality refer to the process in which people are entitled to the same treatment in terms of society, economy, laws and the same status. That is to say, people possess the same social status and enjoy the same treatment. In the political thought, equality is described that all human beings are equal, and equality in distribution, namely equal distribution of wealth, social opportunities and political power. There are different types of equality such as political, social, legal, natural, and economic equality. There is a strong link between freedom and equality. Regarding affirmative actions, it can be appraised that Affirmative action is considered to be an effective way of eliminating or reducing the impact of discrimination.

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## Lesson-2

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### **Egalitarianism: Background Inequalities and Differential Treatment**

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Equality is most commonly used term in modern era. The concept of equality can be tracked from political thought since Greek philosophy. During Greek era it has been used by Aristotle in terms of cause of revolution in many states. He said that the absence of balanced equality, of a fair deal, leads to lack of justice and splits the city into fractions. Aristotle asserted that more the equality more stable the state is. He considers that state as the best, which is dominated by a middle class, because in such a state, there shall be less inequality and hence very little chances of revolution. Rousseau made a mark in political thought in 1749 when he wrote *Discourse on the Origin and Foundation of Inequality*, in which he severely attacked the institution of private property and held it responsible for the inequality in the society.

The term equality can be widely understood to entail civil, political, and social rights. The American and French Revolutions, equality was moved to the foreground of political ideals, becoming a realistic aspiration attached to the promise of democracy. This term have many identical terms like similar, identical and equivalent. The term has many aspects and it cannot be explained in a single sentence. The exact meaning of the term can be understood on the basis of various scholars' definitions and meanings. According to Cambridge dictionary, the term equality stands for "the right of different groups of people to have a similar social position and receive the same treatment: equality between the sexes, racial equality, the government department responsible for equalities". Furthermore, it has been explained as "a situation in which men and women, people of different races, religions, etc. are all treated fairly and have the same opportunities".

Whereas, Harold J Laski has mentioned in his book *A Grammar of Politics* that equality is coherence of ideas each one of which needs special examination. Undoubtedly, it represents fundamentally a certain levelling process. It means that no man shall be so placed in society that he can over-reach his neighbour to the extent which constitutes denial of the latter's citizenship. Equality therefore means, first of all the absence of special privilege and secondly adequate opportunities are laid open to all.

Explaining the meaning of equality Harold J Laski said, equality means adequate opportunities should be laid in front of all, there should not have any form of discrimination—there should not have special privilege to anyone, all the persons have access to all kinds of social, economic and political benefits—it should not be restricted to few special persons in terms of birth, hereditary etc.

Rawls' has mentioned about the equality in his book *A Theory of justice* (1971), in which he had mentioned that to attain the equality we need to distribute the rights "Each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties of others". According to him, every individual has the right to



claim equal liberties with others in this process it is the role of state authority to ensure it. The state must see that in regard to the allotment of rights the principle of equality has been most carefully observed.

The liberal thinker's main concern was moral equality which implied the right of each man to be treated as an end and not a means. They carried to achieve the equality through the rule of law or written constitution. In contemporary era, the term equality represents the theory of rights. It postulates that man as rational being. The physical, emotional and intellectual needs of all the men are similar and hence they are entitled to equal rights. Equality as a principle correcting the unjust inequalities in society is a modern idea.

R. H. Tawney mentioned 'if liberty means every individual shall be free, according to his opportunities, to indulge without limit his appetite...it is the term equality does not mean similar treatment to all the persons. It means proportional equality—amongst equals and unequal among equals. In this process of treatment—equals and unequal should be rational and just. At the end liberty means, equality of treatment—equality of rights and duties, equality before law and equal protection of law, absence of all the forms of exploitation—based on gender, class, caste, religion, race etc.

### ***Legal Equality***

The term equality has many dimensions. Especially in a democratic country the concept has gained many entrances in many fields. There was a period when the concept interpreted with a narrow sense but in contemporary era it has wide range of horizons. In the modern world, the concept of equality can be understood with different ways as it has been mentioned by the Lord Bryce that there are four types namely, political, economic, social and legal. According to Earnest Barker, it has two forms legal and social whereas according to Laski political and economic equality.

The demand for equality has been raised during the *French Revolution* and *American Revolution*. There was demand for legal equality to protect and overcome from other forms of discriminations most especially by the feudal system. It means equality before law and equal protection of law. Law never does distinction between rich and poor and in other forms it treats all the persons equally. The legal equality does not merely mean equal laws but also the opportunities to get justice from the courts. In modern world, man needs both the time and money to have justice which the poor cannot afford. In this term legal quality is fictitious in a society where the people are not able to pay the cost of legal system. In this term Earnest Barker has used the term 'equality of legal personality' to explain the legal dimension of equality. Legal personality means the citizen is granted certain legal rights by legal principles under which those rights are utilised for example article 14 of Indian Constitution 'equality before law' under the fundamental rights.

The legal equality represents the moral considerations and serves as the basis of equal rights of man. Earnest Barker has mentioned in his book *Principles of Social and Political Theory*, that the principle of right to equality have also same measures. It can be granted to others in

terms that whatever rights are given to others shall also be given to me. Legal equality was achieved after the long struggle. Till 1772, the slaves were denied any legal rights, he was also not person in the eye of law and he had no share in the enjoyment of rights. Moreover till 1918 a person in poor receipts of poor relief was similarly condemned to an inferior degree of legal capacity by being denied the rights of voting along with and on the same earn as others. In this view J R Lucas said “Equality before the law does not guarantee equal treatment by the law but equal access to the law and consider only of those factors lid down by as relevant. The legal system will decide the dispute after hearing from both the sides, fairly, and impartiality without fear or favour”.

### ***Political Equality***

The issue of political equality has been raised during the 19<sup>th</sup> century by the John Locke to J S Mill philosophy ‘natural rights and freedom of expression’ equal rights to vote or adult franchise. According to political equality every citizen should have the equal right—right to vote, equal rights to public services, right to contest election and no difference should be made on the ground of race, colour, class, caste, sex, religion and language. Empirically political equality centred around the universal suffrage and representative government. According to this, each and every citizen has right to vote. It was an important step toward to establish the political equality but not the end. Right to vote granted after the political movement and demands from any section from the society. In 20<sup>th</sup> century women won the right to vote.

Harold J Laski feels that political equality can never be real unless it is supported by fundamental economic equality. There were other persons too who have raised the issue like Mosca, Pareto and Michel’s according to them every ordinary citizen have votes, have no real access to political power because the political results in the usurpation of power by governing elite which is oligarchical in nature. Laski has also mentioned that political equality can never achieved unless the economic equality; political power there is based on the economic equality. Apart from him, Karl Marx has also mentioned that no real political equality can be achieved in a society based on capitalism. The men of property have control over legislature, executive and the mass media. Moreover, in contemporary world government is very complex and real powers in the hands of bureaucrats over which people don’t have virtual control over them.

### ***Social Equality***

The term equality can also be equating with the citizens equality to access and opportunity for the individual need and requirement irrespective of race, caste, religion, sex, race, language, and ethnicity. There are other forms of distinction too in the society in terms of occupation, profession and law superiority or inferiority. As it has been mentioned by the Jacobin men during 1789 as a ‘equality before the law’ which means eliminating and feudal obligation and societal hierarchy. The question for social equality arose in during the 19<sup>th</sup> century against the hereditary nature, slavery, capitalism and social inequalities on the basis of colour, race, caste, sex, gender and religion. The struggle for racial equality in countries

like South Africa and racial inequalities practised in the United States of America and the current caste issue in India.

The issue of equality was raised during American and French revolution. These revolutions have raised the slogans of equal between sexes, equal voting rights. In contemporary world women have raised movements like 'Women's Liberation' to fight against subtle forms of inequality in society. Different thinkers like Mary Wollstonecraft have mentioned in her book *A Vindication of the Rights of Woman* equality to both the sexes. While the time of discussing that she has stressed on the role of education in which she has mentioned mixed sex schools. She has argued that for the women's dignity and respect it is essential that they have to be given the equal treatment in terms of *basic rights* and provide the access to earn and live their life on the basis of self-support. Apart from her, many other feminist thinkers have mentioned about that there are no biological differences between the sexes—the difference is created by society and it is societal construction. Most importantly, on the basis of sex the individual should not be discriminated in the sphere of voting rights, political and social participation, entry to the professions and educational opportunities, jobs or rights to hold the highest offices in the government and industry.

The issue of social equality is linked with the principle of equality of opportunity. It is very important to create favourable equitable atmosphere in terms of equal opportunity to all. No one will deprive from any public places—temple, church, school, atmosphere etc. Likewise access to the public wells, cinemas, etc. According to social equality there should have equality of opportunity in the society to all the persons vis-à-vis caste, gender, rich, poor, religion, race, birth.

### ***Economic Equality***

Socialist theorist foundation based on economic equality. As it has been mentioned by the Laski in his book *Grammar of Politics* 'Political equality is never real unless it is accompanied by the economic equality'. It means wealth provides all kinds of opportunities to those who have it and the poor are forced to suffer from serious disadvantages. A very poor or starving man, having no economic opportunities, has no absolute political and social equality. Hence economic equality is essential condition for all the forms of equality. Economic equality doesn't mean equal distribution of money or wages. It seeks there should have equality regarding the basic goods and needs of life.

In the initial phase, economic equality considered as equality of choosing one's own trade and profession. It is also considered as all the persons are free to choose the work and profession without any restriction and barrier. Economic equality is also taken as a freedom of agreement and equal income to the citizens. All these understandings of equality are insufficient.

Economic equality represents physical and mental needs satisfactions to all the citizens. It doesn't mean that one rich person or economically strong person may purchase another person. Moreover, in such condition one person is not compelled to sell or purchase any

person. Economic equality is not only centred around individual, it is associated with the whole social and economic structure. Economic equality can exist only when all the people have reasonable economic opportunities to develop themselves. Adequate possibility of job, income, free time, trade and other economic rights creates economic equality.

The accumulation of private property in the few hands increases inequality as it has been witnessed during the industrial revolution. This issue has been mentioned by the Marx, Engels that due to inequal and discriminatory system the workers had done the revolt to overcome from inequality and discrimination. W Friedman mentioned in his book *Law in the Changing Society* that “Taxation is one of the most important weapon by which state can mitigate the two objectionable aspects of unrestricted private property: first, the inequalities of wealth and secondly, the power to use property for private profit and with regard to community purpose”. He has said with the help of taxation on high income, gross inequalities of the wealth will remove and through this method state can also pursue social schemes. Equality prevails only in a society where do we have following conditions

1. All persons are provided with adequate opportunities for the development of their personalities.
2. No class or race or group is given special privileges which are denied to others
3. Rights are equally distributed among all
4. All have equal access to opportunities leading to equality.

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### **Debate: Affirmative Action**

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According to International Encyclopaedia of Social Sciences “*affirmative action refers to policy measures designed to reduce the marginalization of groups that have historically suffered from discrimination, exclusion, or worse, and that are underrepresented in a society’s desirable positions. The measures may take the form of public laws, administrative regulations, and court orders, or of practices by private businesses and non-profit institutions*”. The concept of equality is derived from the theory of right. Equality is a prescriptive term not a descriptive. It is trying to be claimed that all the men should be treated as equal, but this does not mean that they are equal. All men are naturally equal as physical, emotional and intellectual needs of all the persons are equal hence they acquire equal rights. It is to be noticed that we do not say that all men are equal in terms of physical, mental capacities, beauty and talents. Men are differing in their skin but they are similar in colour of blood hence they should be treated equally.

The idea of equality does not represent that all the material in terms of goods and entire national income or the educational opportunities available in the society should be distributed on the principle of equal distribution. What it means that men who are different from one another in their physical and mental capacities aptitudes, skill, talent and energies should be given equal opportunities for the development of their personal qualities and capacities. In this light term ‘Affirmative Action’ policy has taken birth which means special and extraordinary privileges given in the different areas such as education, job, training,

appointment, health to bring the equality in the society. As it has been described in the encyclopaedia, *Affirmative Action* is a kind of policy that is designed to benefit the individuals those are discriminated, underrepresented identity groups. According to the policy such individuals should be treated and provided more favourable access, extra advantages in terms of employment, jobs, promotions, or admissions to educational institutions, but sometimes resources such as financial help in terms of loans and contracts, monetary support, or land rights.

The concept of Affirmative action evolved in United States of America after the civil rights movement to end the long history of injustices and to establish the equality and overcome from the model of discrimination-racism and gender. America's President John F. Kennedy signed Executive Order that has mentioned 'take affirmative action to ensure that applicants are employed without regard to their race, creed, colour or national origin'. By the late 1960s, the nature and the expansion of policy spread across the many government agencies and private institutions too. They have started giving preference to African Americans in appointment and special privileges. Thus, the term affirmative action started representing a positive action in favour of members of discriminated, marginalised groups. It was not only the effort to abolish all forms of discrimination but also to establish the real form of equality. It seeks to ensure that discrimination will not be tolerated once it is detected.

Apart from the USA, affirmative action policy has been implemented in many countries across the world like India, South Africa, Malaysia, and Sri Lanka. India was one of the first such countries to level affirmative action policy with the different name called 'reservation'. Reservation stands for since they involved quotas of reserved seats. Some deprived sections like blacks, lower caste (in India) and women were deprived due to inadequate opportunities of their development in the past, with the help of reservation. In the process, the marginalised and discriminated people will be given extra advantage to compensate the loss, for example an increase in the number of black doctors and lawyers in order to fulfil the objective of equality.

India has witnessed social and civil rights movement on the issue to caste system in India. In the early 20<sup>th</sup> century most of the popular movements were against the hierarchical nature of Indian caste system 'Brahmins'. During the British colonial rule, they have reserved some seats for non-Brahmins in some public services and educational institutions. After the independence, the Indian constitution have also mentioned the explicit provision for *affirmative action* in the form of *reservations* for Scheduled Castes and Scheduled Tribes in Lok Sabha, Rajya Sabha and state and union territory assemblies, as well as in government sector jobs and public institutions education.

Affirmative action policies are highly controversial as it has been mentioned by John Michael Eden and John Paul Ryan and many others that most point of time it has generated heated debate on the question *reverse discrimination*, inequality on the principle of providing equality. The policies as a kind of reverse discrimination represents that the principle to establish equal rights for all the individuals. It can be expressed and observed very clearly. As

per the Affirmative action policies individuals that are treated as privileged members and extra weightage in the light of underrepresented social and individual groups, those who are in the best position to take support and help to improv access to desirable positions and resources. In this light of this, it is very clear that affirmative action does not compensate those individuals most disadvantaged by past injustices, nor does it redistribute effectively from rich to poor. The policy is been questioned at the front of that it is trying to establish literal equality by affirmative action or reservation would be tragic because it would erode the respect of excellence and ability which is the base of social, moral and intellectual development.

The idea of equality is the defining feature of modern era. The modern battle of equality is different views about where and how equality should be applied. Especially in the light of establish the democratic model and system. The philosophical principle of formal equality, as long as political and legal principle, are widely accepted especially in the liberal democratic societies. The genuine legal and political equality demands people should have access to equal social resources.

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## **Unit-III : Justice**

### **Lesson-1**

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## **Justice – Procedural and Substantive**

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### **Preface**

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The concept of justice has been in the central role in political theory and behavior since ancient times, but it has undergone a fundamental change by the modern era. The relation of justice is associated with religion, morality, freedom, equality, rights, law, politics and economics etc. Generally, 'Justice' establishes harmony between individuals and in the principles of equality, freedom and co-operation. Under the traditional approach, the principle of justice is recognized as a principle in which there is balance and coordination between the principles of freedom, equality etc. Such a balance has been made in the context of some basic beliefs, such as greatest happiness of greatest number or the value of freedom and equality of all members of a society. In this context, it may be noted that it is the balancing or reconciling nature of justice, which is represented in the figure of personified justice. The figure holds a balance in her hands; it is blindfolded to convey the idea of the formal equality of the subjects of law, i.e. an equality which disregards differences of gender, religion, caste, race, wealth etc. Another important fact in the context of justice is that different philosophers have defined justice in terms of different periods and circumstances.

You will read Unit Three, 'Justice' about the meaning and concept of justice, diverse dimensions of justice, procedural justice and substantive justice, critical analysis of John Rawls's theory of justice and global justice.

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### **Objective**

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After reading this unit you will be able to:

- Understand the meaning and concept of justice.
- Learn the diverse dimensions of justice.
- Understand procedural and substantive justice.
- Will understand John Rawls view on justice.
- Understand various issues, views of global justice.

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### **Meaning and Concept of Justice**

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Defining justice is not easy like other concepts of politics theory because different philosophies of justice have been presented by different philosophers in different periods and social situations. Apart from this, the concept of justice has also changed with the change of time and circumstances. The word 'justice' is derived from the Latin words 'justitia' (to bind,

to tie together) and jus (a bond or tie). Thus, in the concept of justice, various ideals and values are adjusted or coordinated. Since the time of the French Revolution, modern liberal society recognizes freedom, equality and fraternity as the three highest values. These three ideals are essential to a just system of human relations. In the behavioral context, the relation of justice is the notion of the law of the state, which results in twin assumptions of law or justice. In other words, justice is also related to the interpretation of law and order and the rules of sentencing.

Justice is a flexible concept that can be adapted to any notion of public welfare. In a general sense, justice means duty-devotion or virtue. Justice is an essential part of any progressive civilization. As a dynamic civilization, the rights of the members of society have to be respected, the virtues have to be rewarded and the needs of the members have to be fulfilled. When society fails in the context of such actions, then critical situations arise. Through any organization, society or civilization, rights are respected, virtues are rewarded and needs are fulfilled.

Justice is an essential component for any civilized society, because if there is no justice system, then there will be a lot of chaos, insecurity in the state and the conditions of its 'Might is Right'. If we do not count justice as a virtue, then only two principles of justice remain, both of which are inherently distributional. These principles in justice are based on the distribution of the best elements of life. These principles allot rights, equal privileges and responsibilities in a particular society or all-world. The elements that are given priority by humans in the modern world are: Equality of income, security, respect and opportunity. According to the concept of justice, all the above elements focus on a single point, i.e. justice.

The principle of justice is concerned with the allocation of property, honor and opportunity in this world, not from the other worldly. This theory discusses the rules of this allocation, the rationality of various approaches related to it and its relative merits and demerits. Therefore, different ideologies are included in it. Principles of justice relate more to human interests, less to human reasoning.

The concept of justice is a difficult task to understand, as it is a complex concept. The meaning of justice is not limited only to law and legal processes, but in the modern era, the notion of justice has become very widespread and its representation has started to be expressed in various forms. Where the traditional approach to justice was concerned with the character of the person, the modern approach is concerned with social justice. Social justice mainly seeks to improve the social, economic and political condition of the deprived /weaker sections of the society, who have been deprived of basic amenities and opportunities of life for generations so that those classes join the mainstream of the nation and make their valuable contribution in nation building. Therefore, in today's era, the main problem of justice is that what should be the proper basis for sharing of goods, services, opportunities, benefits, power and honor among different classes or individuals within social life? In fact, in the modern era, the development of democratic institutions and values of life has increased



the people's aspirations, the direct and indirect reflection of which is expressed in our modern view of justice.

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### **Development of the Concept of Justice**

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We have discussed above that defining justice is a difficult task. Despite this, prominent political thinkers and philosophers in various periods have continuously tried to give a definite definition to the word justice. Greek philosophers have considered the concept of justice to be related to social order. Although the concept of justice and the meaning of justice were different for nations with democratic and non-democratic governance, it was related to social order for both. Following are the views of various scholars regarding justice:–

#### **Plato's Theory of Justice**

The principle of justice has an important place in Plato's philosophy. The main focus of Plato's book 'The Republic' is the search for justice and to determine its location. The subtitle of Plato's work is 'Concerning Justice'. This shows how much importance Plato places on the principle of justice in his philosophy.

According to Plato, justice is a part of the proper state of the human soul and the nature of human nature. In the context of Plato's personal justice, it is believed that there are three main elements of the human soul - wisdom, courage and temperance. The harmony between the three qualities of a person's soul is justice. According to the primacy of these three elements, there should be three classes in the society - philosopher / ruling class (knowledge), soldiers/military class (emotion) and traders/productive class (appetite). According to Plato here, it is social justice by these three sections of society to perform their duties and not to interfere in the actions of others.

Thus, we can say that Plato's theory of justice is related to morality rather than legal principles. According to Plato, justice means that human beings should follow all their duties with honesty, which is necessary for the purposes of society. According to the merit of individuals, the duties and religions that society and the state prescribe for them, it is justice to follow them, justice is self-righteousness.

#### **Aristotle's Principle of Justice**

Aristotle is one of the main proponents of substantive justice. According to Aristotle, the basis of justice is the sense of equilibrium. Aristotle, the father of political science, in his work 'Ethics' has considered the principle of justice as important for the state. Aristotle believes that justice is concerned with the regulation of human relations. Aristotle divides justice into two parts: first is general justice and second is particular justice.

- A. General Justice:** According to Aristotle, general justice refers to social morality. Aristotle has used the term Righteousness for general justice. By general justice, he refers to all acts of goodness done to the neighbor. Aristotle considers all acts of goodness, all virtues as general justice.

- B. Particular Justice:** Particular justice motivates man to behave fairly and equitably with other human beings. He takes this justice in the sense of proportional equality. This means that the person who should get what they want comes in this category. He has again divided the Particular justice into two parts.
- 1. Rectificatory Justice-** The main objective of Rectificatory justice is to regulate and regulate the reciprocal relations of citizens. It corrects the defects arising in the interpersonal relations of various members of the state. Rectificatory justice is also of two types:
    - **Voluntary** - It does one person to another by various treaties and agreements. The court corrects these violations.
    - **Involuntary-** When a citizen tries to harm or cause harm to another, the state hears the victim and punishes the guilty. Aristotle's Rectificatory justice re-establishes the harmony of the state, which deteriorates due to the wrong conduct of citizens.
  - 2. Distributive justice-** The distribution of the honor and wealth that gives every citizen his due place in the political community. This distribution is related to the distribution of posts, honors and awards to the citizens of the state.

Apart from this, Aristotle also indicated the existence of a universal law or natural law, which is beyond the law of any country or any era and its relation to the entire human race. This concept developed under the jurisprudence of Rome through the Stoic philosophy of ancient Greece. Subsequently in the medieval period, the Catholic Church accepted God as the source of natural law. To find out this man must use his rationality in which his divine power lies. In the early modern era, social contractalists linked the state of nature to natural law. In short, natural law was associated with the belief that common law can be considered an expression of justice only if it conforms to natural law.

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### **Justice in the Modern Era**

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In the modern era, David Hume (1711–1776) strongly criticized the principle of natural rights and tried to replace them with the theory of utilitarianism. Then Jeremy Bentham (1748–1832), the pioneer of utilitarianism, expanded David Hume's ideological tradition by declaring that the principle of 'greatest happiness of the greatest number' is the principle of justice and injustice, fair and unfair is the criterion. John Stuart Mill (1806–1873), considering justice to be a major component of social utility, argued that, since human beings aspire to protect themselves, they accept moral rules that others may experience the same protection. Therefore, utility is the core of the concept of justice. In contemporary times, such a principle is being accepted in relation to justice, which has been determined around the social, economic, political reality of life.

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## **Dimensions of Justice**

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### **Legal Justice**

Legal justice is concerned with the principles and procedures laid down by the law of a state. Such a system is called justice. In other words, legal justice relates to earlier decisions made or passed by laws, customs and human frameworks. Two facts are important in the legal context of justice: First, the creation of fair law and second, the availability of justice, according to law. Fair lawmaking means that laws made by the Legislature should be fair and logical. Let the law be equal and fair for all individuals. Equitable law making does not mean that the same law for every person (child and old). Law can also be unequal on justifiable grounds. For example, it is free for children under three years of age to travel by train. There is a provision for half fare from the age of three to twelve years, full fare from twelve to sixty years and special exemption in fare for senior citizens above sixty years of age.

This difference of fares is justifiable. Therefore, which law is fair or which law is not justified, it depends on the beliefs and moral outlook of a particular community. In other words, if a law is acceptable in one society, the law can also be rejected in the context of the social background of another society.

Another important aspect of legal justice is the availability of justice according to law. This idea is based on the principle of 'rule of law'. In society, it is only justice to treat individuals as equal before law and to use them lawfully.

### **Political Justice**

Political justice means every person getting a stake in the state without any discrimination. In this context, the presence of adult suffrage, elected government, and civil rights are among the prerequisites for the establishment of political justice. The political dimension of justice relates to the actual policies through which political processes provide the ideals of justice. The constitution, parliament and courts are primarily concerned with the legal aspects of justice, but bureaucracy, political parties, interest groups and voluntary organizations give legal values of justice the form of functional political programs.

### **Social Justice**

Social justice refers to a concept that seeks to prevent discrimination on the basis of birth, caste, religion, gender so that the national resources and wealth can be distributed equally. All courts are inclined to change their judicial approach from time to time to suit public needs. Our Supreme Court has taken a very conservative view in property disputes. On the other hand, his approach has been very correct in terms of protecting civil rights. At present, social justice is being interpreted in a broader sense, which includes all three social, economic and political justices.

## **Economic Justice**

Economic justice means the end of economic exploitation, the proper distribution of material resources of the country and the use of it in the interests of more and more people. Liberal ideology emphasizes on the political and social aspects of justice, the same Marxists and socialists believe that economic justice cannot be imagined without abolishing the basis of rich and poor in society and class division of society. According to him, the basic objective of justice is to provide basic economic resources to all the people in the society, which can only be available in future in a classless communist social system.

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## **Procedural Justice and Substantive Justice**

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What should be the nature of justice in social life? In this context, differences are found in the proponents of procedural justice and substantive justice under contemporary thinking. Procedural justice is basically formal or legal justice. Contemporary liberal thinkers believe in this method of justice. Proponents of this judicial system believe that the process or method of distribution of services, posts and goods etc. should be fair. Who gets what is not a matter of dispute. In other words, in this concept the process is emphasized, not the result. On the contrary, the supporters of substantial justice believe that the distribution of the above services, posts and goods etc. should be fair. Necessary adjustments should be made in its process to achieve this goal. Thus, procedural justice means formal or legal justice, and substantial justice means socio-economic justice. In procedural justice, where the emphasis is on competence, not on requirement, the same substantive justice emphasizes equality of opportunity while trying to meet the basic economic needs of the individual. A market economy or a capitalist economy is considered important in procedural justice. According to this, the market system automatically attracts the elements of production and creates conditions for their best use. Among the thinkers of procedural justice are Herbert Spencer (1820–1903), F.A. Hayek (1899–1992), Milton Friedman (1912–2006), and Robert Nozick (1938–2002). Besides, John Rawls (1921–2002) presented a detailed theory in the context of justice by combining procedural justice with the theory of social justice.

Procedural justice theory opposes any form of discrimination between human beings in society on the basis of caste, religion, colour, gender, region, language and culture etc. This principle accepts the equal dignity and equal importance of all human beings in society. From this point of view, it seems to be a progressive idea, but considering this important market economy and capitalist economy, it believes that in by making equal rules for all, all members of society can adjust their mutual relations in a lawful manner. And the government need not interfere in this process. In the context of this view, Herbert Spencer argues that the government should not help the differently-abled as well, but whoever is proven incapable of life struggle should be allowed to die. F.A. Hayek argues that the government should abandon the idea of controlling the market economy for the purpose of public welfare. Milton Friedman believes that competitive capitalism supports the 'Free exchange economy'.

Therefore, the government should take responsibility only for those functions which the market economy does not handle. The government's job is not to control the market economy, but it should not have anything to do with public welfare, social security and market regulation.

Robert Nozick in his book 'Anarchy, State and Utopia' (1974) explains his theory of justice. Nozick considers property rights to be the foremost human rights, arguing that the main function of the state is to protect property. According to him, the state does not have the right to acquire and redistribute the property of its citizens because they were originally its servants. Any property in society can be acquired only by 'production' and 'voluntary transfer'. Asymmetries that arise as a result of this process, attempts to convert them to the level of distribution would be unjust. Nozick holds that taxation can also be considered justifiable to the extent it is necessary to bear the expenses of a 'Minimal state'. In this context, they strongly oppose the welfare state.

Critics of procedural justice are of the view that the biggest mistake of this judicial system is that they have presented the concept of justice in the context of individualism, not in terms of human social beings. The position of different individuals in society is abnormal. Therefore, in an asymmetric society, the procedural form of justice proves inconsistent.

Unlike procedural justice, the idea of substantial justice or social justice is closely associated with Marxism and Socialism. He imagines a communist society in which the entire society has control over the means of production. Therefore, they support equal conditions for all, rather than equality of opportunity. They believe that open competition in economic life leads to such inequalities that the poor class is forced to act on the conditions set by the rich class. Even in political, social and cultural life, the poor have to face inferiority status. In short, it can be said that the goal of substantial justice is that the benefits of social development should not be confined in the hands of a select few, but it should be arranged to bring them to the weak, deprived and disadvantaged level in the society.

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## **Global Justice**

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From the beginning of the modern era to the entire period of the 21st century, political thinkers who were interested in the concept of justice mainly considered only national issues and problems within the nation. That is, how the state should treat its citizens and what and how the citizens should interact. Justice among individuals between mutual sovereign states or across borders was a secondary subject, which he had left to theorists of international relations. After 1980, global justice became an important issue of contemporary political philosophy. The notion of global justice revolves primarily around three related issues of distributive justice, moral universality and major financial institutions. The issue of distributive justice relates to the equitable process on the current distribution of wealth, prosperity and resources. If there is poverty in our country, is it the duty of the capitalists to help the poor or does the spirit of help stop coming to charity and charity or is it so important from moral point of view.

Also, will global politics and economic institutions like the United Nations, World Bank, International Monetary Fund, World Trade Organization, International Non-Governmental Organization, Multinational Corporations and International Courts be the best in achieving the ideal of global justice. Till now issues like freedom, equality, justice and rights were within the jurisdiction of nation-states within a certain land boundary. But the notion of globalization presents an open challenge to these traditional assumptions. The biggest question that arises today is whether the rich countries of the west should concentrate on the neglected sections, cultures, illusions of developing and underdeveloped countries or should restrict themselves only to the exploitation of natural and human resources.

How possible is the project of global justice internationally? This approach mainly consists of five approaches: Such as Nationalism, Realism, Particularism, Cosmopolitanism and the Social of States Tradition.

**First:** In nationalism, this feeling has been contained since the beginning, what would be the difference in moral duties inside and outside the nation, for example, only the residents of a particular state get the welfare benefits of that state, similarly helping the unhappy citizens of the state is the moral duty of the state. But the issue of distributive justice is only in the context of the residents within the country.

**Second:** Realists like Morgenthau, Kenneth waltz are of the opinion that there is no such notion as global justice. The states are the main actor in the present age, who always protects his interests. There is no obligation to help the poor, unless doing so helps to further a state's strategic aims.

**Third:** According to the Particularism, any kind of moral standards arise from mixed traditions. Because we all know that every society has its own norms and the residents living inside it are obliged to it. Communitarians believe that the slackening of state boundaries increases the pressure on unemployment, education, health, transport, housing. As a result, reactions such as separatism, fundamentalism and blocking of public welfare are becoming serious problems. At the same time, the sovereignty of the state also pose a threat. As a result, there may be a decrease in security and self-determination capability.

**Forth:** According to the Cosmopolitanism, morality is a universal truth. All people come under the concept of comprehensive justice on the basis of being a human being, not only because they are mutually related.

**Fifth:** In the Social of States Tradition, states go as a distinct individual entity who mutually agrees on their common interests and moral rules. Rawls, in his work 'The Law of Peoples' (1999) extended the notion of global justice to his first book, A Theory of Justice. Under this, he said that such an arrangement will be chosen by the representatives of different countries, in which no one will know who they are representing. In other words, decisions will be made on the basis of ignorance. They support Kant's notion of international morality. In which the main duty of the states is to follow the treaties and stop the war. But this does not exactly mean redistribution of assets globally. We can also say that the notion of global justice is

limited to the system of independent states (mutual allies). Which Rawls calls a 'realistic utopia'. Rawls believes that all individuals of world fraternity join the notion of justice by being human beings with each other, not by having the same race, religion or class. The main goal of Rawls's justice was to formulate a principle that could equally apply to the decent and non-decent (non-liberal and non-western). According to Rawls, liberals should respect people who may not give full political equality to their citizens, but must take their advice on certain policies and guarantee them rights like freedom, property and life. It is necessary to protect human rights by decent societies. Rawls then stresses on how to treat the non-decent. In such a situation, the main goal of foreign policy will be to bring the people of the burdened society into the mainstream of the society. Rawls does not consider inequality a problem internationally. Rawls considers global poverty eradication a collective duty of all countries. Therefore, Rawls confines himself to responsibilities under international law, human rights and international treaties in the context of global justice.

There are considerable misconceptions among people in this context whether global justice is a boon or a bane. Amartya Sen is of the opinion that one must think about its need while paying attention to its good and evils. In place of fair justice and more fair distribution of opportunities under global justice, a revised global system should be attempted. Amartya Sen discusses global redistribution justice by changing the contemporary ideology of globalization. Considering the relationship between poverty alleviation and human rights, Sen is of the view that economic progress cannot take place as long as it is not linked to civil liberties i.e. freedom of thought, expression and assembly.

The Human Development Report (1999) of the UNDP presents ideas in the context of achieving global justice. For example, there should be a global code of conduct for international corporations so that the laws related to environment and labor can be followed. New laws should be introduced for the World Trade Organization, including antimonopoly power so that they prevent multinational corporations from exercising their control over industries. Global central banks help poor countries in lending and regulate the financial market. Many NGOs are trying to improve the global economy, but this can only be possible if these institutions leave the dictatorial attitude and work at the democratic level. Similarly, those states that want to join the principles of distributive justice should be ready to sacrifice their sovereignty.

Thus, it can be said that in the process of globalization, justice has been pushed out of the boundaries of nation-states to the boundaries of the international arena. The way in which the nation-states provide justice to their citizens, they should be encouraged, it is easy to be happy but the question of how to achieve global justice is very difficult. The main reason for this may also be that global justice requires social, economic and political reforms. Under which it is necessary to increase the share in developing international economic policy formulation of developing countries. Apart from the exchange of objects, there is a need for the exchange of intellectual thoughts. Like civil rights, their major issues are also global, such as human rights abuse, environmental degradation and AIDS etc. In fact, global justice is our

common responsibility. In such a situation, if the nation-state renounces its sovereignty, there will surely be a possibility of allocation of goods.

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## Conclusion

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On the basis of the above discussion, we can say that there has been a lack of an acceptable definition of uniformity and universality of justice. Justice has been defined in different ways in different social systems in different time periods. In this chapter, we have understood the various dimensions of justice. Simultaneously we read about John Rawls's theory of justice. Then we understood the critical views of various scholars on Rawls's theory of justice. We have also learned about global justice in this chapter that in this era of globalization, the concept of justice has been found to expand internationally by widening the boundary of the nation-state, in which the process of globalization is playing an important role.

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## Important questions

1. Comment on the idea and concept of justice?
2. What do you understand by global justice?
3. Comment on what is the difference between Procedural justice and Substantive justice?
4. What is the difference between legal, political, social, economic justice?
5. Critically evaluate Rawls's theory of justice?



6. Briefly comment on the following:
- A. Equality of opportunity.
  - B. Rawls's views on global justice.
  - C. Criticisms of communitarians of Rawls's theory of justice.
  - D. Feminist critique of Rawls's theory of justice.
  - E. Plato's and Aristotle's views on justice.

## Lesson-2

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### Rawls and his Critics

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Justice is one of the most important moral and political concepts. The word comes from the Latin *jus*, meaning right or law. The Oxford English Dictionary defines the “just” person as one who typically “does what is morally right” and is disposed to “giving everyone his or her due,” offering the word “fair” as a synonym. Quest for justice has been an important concern of political theory since ancient time. However, the meaning of justice has been understood differently during different times. In the ancient Greece for the sophist justice meant the interest of the stronger. Plato emphasized on the moral element in justice by saying that the justice meant performance of own duty with all abilities and capacity toward the social whole. For Plato, justice is a virtue establishing rational order, with each part performing its appropriate role and not interfering with the proper functioning of other parts. Aristotle, on the other hand, held the view that justice meant equal share to the equal and unequal share to the unequal, it is distributing power and position proportional to the world or contribution of the individual. The modern idea of justice implies its legal, political and socio-economy dimensions. The legal dimension of justice assumes that law is the declare will of the state Constitution regulating activities of government. The political dimension of the justice implies political equality, universal franchise, full guarantee of the liberty, equality, and fraternity in that substantive expect. It argues for the reallocation of both materials and moral advantages of social life.

The contemporary debate on the natural of justice focuses on the distinctive between procedural justice and substantive justice. The notion of procedural justice is closely related to the tradition of liberalism. According to this view point, the function of justice is to regulate the mutual of relation between individual and groups. Hence the quest for justice should aim at evolving reasonable rules which should be (upheld, impartation) to all categories. In contrast, the idea of substantive justice demand failure of essential conditions or space within which the individual can develop their own self. In other word, the resources or opportunities should be provided to the unprivileged and this advantage section of society.

In modern time, significant part of political theory is directly or indirectly related to the problems of justice. This has given rise to diverse perspective in justice. Of these the following are particularly important:

- 1) Liberal perspective
- 2) Libertarian perspective
- 3) Marxist perspective
- 4) Democratic-socialist perspective
- 5) Feminist perspective
- 6) Subaltern perspective

## **1) Liberal Perspective**

John Rawls is the prominent liberal thinker. He considered justice as the first virtue of social institution. The problem of justice, according to Rawls is in ensuring a just distribution of primary goods. Rawls revived the social contract tradition in his Kantian version the principle of justice is a product of end original agreement in the original position. The person in the original position is rational, capable of a conception of good and have a sense of justice the two principles that the parties choose in the original position can be stated as follows;

### **(1) Liberal principle**

Each person is to have an equal right to the most extensive basic liberty, compatible with a similar liberty for theirs.

### **(2) Equality principle**

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

- a) attached to the offices and position, open to all under conditions of fair equality of opportunity,
- b) beneficial to the least advantaged section of the society

## **2) Libertarian Theory of Justice**

Libertarian perspective on justice is based on the ideal of liberty. It regards the right to property as an important ingredient of individual liberty. It is largely opposed to the idea of welfare state. Robert Nozick provides a powerful philosophical defense of the libertarian position of the minimal state. Nozick identifies three principles on which this entitlement would conform to justice.

### **(1) Initial acquisition**

The method whereby an individual comes to appropriate some previously unowned bits of the natural world. Those who come to settle in an uninhabited continent may legitimately acquire its land and natural resources on first come first served basis, as long as nobody is made worse off by their doing so.

### **(2) Voluntary transfer**

It applies to all property whether acquired through initial acquisition or by mixing one's labour with the natural world, i.e. by means of one's talents, efforts, enterprise, etc. in a market situation.

### **(3) Rectification**

This is precisely the area where the state of the international community will be justified to intervene in order to restore justice. Nozick concedes that the history of the world abounds with involuntary transfers as well as unjust acquisitions of natural sources.

### **3) Marxist Perspective**

The Marxist perspective, Marxist claimed that liberal and libertarian failed to recognize the ultimate moral significant of the ideal of social equality, and its intimate linked with justice. The Marxist's are (vocal) about uneven distribution of income as an example of injustice. They believe it is only with the destruction of capitalism, private property, and bourgeois class that it is possible to construct a society based on social equality and realize justice. Capitalism generates inequalities of wealth and welfare because the markets and enterprise work to the advantage of the capitalists and property-owners and Marx explains this with reference to the labour theory of value. Capitalism dehumanizes the human being destroying his essence. With the abolition of private property and inauguration of common ownership, workers' exploitation ceases and society will be reconstructed to bring forth cooperation and fellow feeling.

In a communist society, because of the social ownership of the means of production, justice would mean equality of all and equality for all. It would mean absence of all discrimination, all exploitation and all oppression. It would mean work for all In accordance with their abilities as also fulfillment of all the needs of the entire person in return to what each are of them does.

### **4) Democratic Socialist Theory**

While Marxism seeks to bring about socialism through revolutionary method, democratic socialism prefers evolutionary or democratic method. Unlike the Marxist the democratic socialist find justice in a regulated, restricted, and controlled system of capitalism. They believed that the goals of democracy and socialism are inseparable each other. It seeks to modify Marxian socialism in some important details. Democratic socialists hold that socialism does not require wholesale socialization of the means of production and distribution. Instead, if some essential means of production and distribution are placed under state ownership so as to ensure the supply of essential goods and services for the bulk of the population, this would be a substantial achievement in the direction of socialism. Democratic socialists insist that socialism should satisfy not only the material needs of the human being, but also should take care of the moral, intellectual and emotional need for proper development of the each individual. They also advocate enquiring the individuals ensuring the freedom of thought and expression, freedom of religion and worship, freedom of movement, and other similar democratic freedoms.

Democratic socialism is opposed to all forms of dictatorship, even if it is a 'dictatorship of the proletariat' as expounded by the Marxian theory of socialism. Democratic socialism treats democratic structures – free competition for power among political parties, freedom of pressure groups, parliamentary institutions with an effective role for the opposition, etc. – as essential for achieving the ends of socialism. Among modern thinkers, Harold J. Laski (1893-1950) has made important contribution to the theory and practice of democratic socialism. Laski has, in fact, sought to combine the ends of socialism with the democratic method of

liberalism. Democratic socialism seeks to provide for democratic rights and civil liberties as well as socio-economic rights of citizens.

### **5) Anarchist Perspective**

Anarchist perspective on justice is based on the theory of anarchism. Anarchism holds that society should be organized without coercive power of the state. In its view government is intrinsically evil.

William Godwin (1756-1836), a British political theorist, is regarded to be the first modern defender of anarchism. He believed that a society of small producers united by cooperation, but without a state, would be conducive to political justice. Proudhon advanced a number of schemes for the organization of independent associations, decentralization of authority and circumspection of state authority. Mikhail Bakunin (1814-76) asserted that all political, social and religious institutions should be eliminated immediately, and in their place a free federation of independent associations should be created where all would have equal rights and equal privileges, including the right to secession. Mahatma Gandhi (1869-1948), an Indian philosopher and a champion of non-violence, observed that the state, as a coercive institution, is based on violence. Gandhi stood for a stateless society and contributed to the theory of anarchism in his own way.

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### **Rawls Theory of Justice**

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In *Theory of Justice* (1971) is Rawls' attempt to formulate a philosophy of justice and a theoretical program for establishing political structures designed to preserve social justice and individual liberty. Rawls writes in reaction to the then predominant theory of utilitarianism, which posits that justice is defined by that which provides the greatest good for the greatest number of people. In *A Theory of Justice*, Rawls begins with the statement that, "Justice is the first virtue of social institution," meaning that a good society is one structured according to principles of justice. Rawls asserts that existing theories of justice, developed in the field of philosophy, are not adequate: "My guiding aim is to work out a theory of Justice that is a viable alternative to these doctrines which have long dominated our philosophical tradition." He calls his theory -- aimed at formulating a conception of the basic structure of society in accordance with social justice -- justice as fairness.

Rawls' theory of justice aims to constitute a system to ensure the fair distribution of primary social goods. "All social values-liberty and opportunity, income and wealth, and the bases of self-respect- are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage". The institutions established for the fair distribution of primary social goods are the subjects of justice.

Rawls proposes to develop a theory of justice by revising the social contract tradition of theorizing about justice associated with the 17th and 18th century writers John Locke, Jean-Jacques Rousseau, and Immanuel Kant. Rawls imagines a hypothetical situation to determine the principles of justice. Individuals are considered to be rational and capable of making

rationalistic decisions as a priory. Rawls set forth to determine the essential principles of justice on which a good society may be based. To identify fairness, Rawls develops two important concepts: the *original position* and the *veil of ignorance*:

The *original position* is a hypothetical situation. Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. The parties do not know their conceptions of the good or their special psychological propensities.

Fairness is achieved through the *veil of ignorance*, an imagined device where the people choosing the basic structure of society ('deliberators') have morally arbitrary features hidden from them: since they have no knowledge of these features, any decision they make can't be biased in their own favour.

The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain. Since all are similarly situated and no one is able to design principles to favour his particular condition, the principles of justice are the result of a fair agreement or bargain.

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### **Principles of Justice**

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Rawls elaborates his ideas of justice as fairness in his two principles:

1. Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.
2. Social and economic inequalities are to be arranged so that they are
  - (a) attached to positions and offices open to all under conditions of fair equality of opportunity (*Equal Opportunity*);
  - (b) to the greatest expected benefit of the least advantaged (*The Difference Principle*).

The "basic liberty" mentioned in principle 1 comprises most of the rights and liberties traditionally associated with liberalism and democracy: freedom of thought and conscience, freedom of association, the right to representative government, the right to form and join political parties, the right to personal property, and the rights and liberties necessary to secure the rule of law. Economic rights and liberties, such as freedom of contract or the right to own means of production, are not among the basic liberties as Rawls construes them. Basic liberties cannot be infringed under any circumstances, even if doing so would increase the aggregate welfare, improve economic efficiency, or augment the income of the poor.

Clause b of principle 2 provides that everyone has a fair and equal opportunity to compete for desirable public or private offices and positions. This entails that society must provide all citizens with the basic means necessary to participate in such competition, including appropriate education and health care.

Rawls do not overrule the possibility that these two primary principles will be in conflict with each other. To meet this difficulty Rawls proposes certain 'Principles of Priority'. Such priority is *'lexical'*, i.e., the first has to be fully satisfied before the second is to be considered.

These principles have been arranged lexicographically which means that the first principle of justice takes priority over the second and the principle of fair equality of opportunity takes priority over the difference principle. This implies that the equality of basic liberties and rights, including the fair value of the political liberties, is not to be overridden by other considerations.

Clause a of principle 2 is known as the "difference principle": it requires that any unequal distribution of wealth and income be such that those who are worst off are better off than they would be under any other distribution consistent with principle 1, including an equal distribution. (Rawls holds that some inequality of wealth and income is probably necessary in order to maintain high levels of productivity.)

The most important part of Rawls's second principle of justice is the difference Principle. It mandates that beyond achieving fair equality of opportunity, a just society must be organised so that any social and economical inequalities are to the greatest benefit of the least advantaged. Inequality is only permissible if it will benefit the least advantaged. The difference principle addresses the problem of inequalities due to talents, not by trying to equalise expectation across talent level directly, but by requiring that whatever benefit accrue to the more talented do so in a manner that maximally benefits the least advantaged.

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### **Critical Assessment**

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Rawls' theory of justice has given rise to numerous debates in contemporary political philosophy. Some of the major criticisms are stated below:

#### **Communitarian Critique**

Communitarian critique is one of the most prominent critiques of Rawls' theory of justice. It is basically an attack on the universal aspect of Rawlsian idea of justice. Communitarians argue that in the original position, Rawls assumptions are based upon completely abstracted individuals. Abstracted individuals are those who are put outside their social, political and cultural context. Communitarians argue that any abstract individual can't make choices, and people in Rawls' theory are signing a contract.

Michael Walzer in his book 'Spheres of Justice' and Michael and J. Sandel in his book 'Liberalism and the Limits of Justice' give the counterargument to Rawls' hypothetical individualistic aspects. Walzer asks that since the Rawlsian veil of ignorance assumes individual out of their social context then how can those decisions be applied to real life situations in actual social contexts? People in real life take decisions on the basis of what they understand to be good. The idea of good, according to Walzer, could not be shaped on the basis of individual account. It is always shaped by the community and their beliefs and cultural and social practices. Thus any idea of good would be communal in character. Individuals are basically embedded in community. For example, a caste-based society defines

justice on the basis of discrimination. In a caste based society, purity and pollution are decided by birth. Birth becomes the decisive factor in determination of access to water, land and resources. Thus Walzer argues that distribution of goods in a society is dependent upon the specific meaning those goods have, which are socially constructed and embedded in the community, its practices and its institutions.

### **Feminist Critique**

Carole Pateman, Susan Moller Okin and Martha Nussbaum are feminist scholars who gave the feminist critique of the Rawlsian understanding of justice. Carole Pateman, in her book 'The Sexual Contract' starts with the criticism of all kinds of social contract theories, and argues that all social contract theories work on the repression of the sexual contract, though it is an integral aspect of contract theories. Turning specifically towards John Rawls, she points directly at his "original position". Rawls' task is to find a picture of an original position that will confirm our intuition about the existing situation, which includes patriarchal relation of subordination. Pateman blames that Rawls did so successfully by remaining silent on the matter of sexual identities of the participants to the contract. Pateman blames that parties in the original position would have choices and reason but they are sexless people – they cannot know their sexes. This silence about the sexual contract in Rawls' theory actually denies the conjugal relationship between man and woman, and denies the existence of rights to women against patriarchal domination. It gives priority only to political rights. Pateman argues that since all men and fathers who are the part of social contract come from the womb of women, the rights of women and the social rights should come prior to political rights.

Susan Moller Okin in her book 'Justice, Gender and Family,' gives a deeper analysis of the whole political philosophy of John Rawls than just his idea of original position. Okin argues that in the book "Political Liberalism" Rawls basically creates a divide between the public and the personal spheres. He limits any discussion about an idea of justice in the domain of public sphere. In 'Political Liberalism,' Rawls basically argues for a political conception of justice. It implies that Justice is only about the achievement of political rights in the public sphere. Okin criticises this aspects of Rawls' overall political philosophy arguing that this actually denies justice in matter of inequalities within the family and the household. The denial of justice within the personal domain actually denies the political aspects of what is considered to be private and personal. It also subordinates the personal domain. Feminism, on the other hand, has shown to philosophy that the personal is political. Thus Rawlsian divide between personal and public goes against the basic philosophy of feminism, and by extension, equality and justice itself.

Martha Nussbaum, in her book 'Women and Human Development: A Capability Approach,' argues that the Rawlsian conception of justice could be made just if he would add the development of capabilities of women and children in his list of primary goods. Nussbaum criticises Rawls on three simple grounds:

First, Rawls includes family as a part of basic structure, but he also established the family as a voluntary institution analogous to the church and the university. Nussbaum argues that the



family as an institution could not be compared with church and university. It's a most basic institution of society and it has its pervasive influence on every other institution. It should therefore come prior to the church and university.

Secondly, Nussbaum critiques Rawls' faith in the nuclear family. Rawls fails to acknowledge the parochial character of this. Nussbaum emphasises that in very large parts of world, like South Asia, the idea of extended family exists, with village groups, and different women collectives. Rawls gives no reasons why we should choose the nuclear family over any other form of family?

### **Liberarian Critique**

A large portion of Robert Nozick's *Anarchy, The State and Utopia* (1974) is dedicated to refuting the theories of John Rawls. Specifically, Nozick takes issue with Rawls' conception of distributive justice with the former's entitlement theory. Nozick calls Rawls' distribution theory a patterned theory. To Nozick, no distribution is just and there should not be redistribution at all. Redistribution infringes individual's rights which, according to Nozick, trump all other considerations and subject matters.

Nozick, in general, contends that people are born with fundamental individual rights. These individual rights are paramount and that there is no need for a system to achieve moral equilibrium. He rejects all end-result theories, i.e. distributive theories such as Rawls theory of justice. Nozick rather adopts the 18th century philosopher Immanuel Kant's principle of "individual inviolability" that cannot be violated as a means to achieve particular ends, meaning the significance of each person's possessions of self-ownership is that people should not be used as resources or a means of achieving some end and this is exactly what Rawls proposes to do, Nozick criticizes. It is wrong to treat people as if they are merely of instrumental worth or to sacrifice one person for another. He claims that the rights of others determine constraints on our actions.

According to Nozick, the "classical liberal" view is that the right of people to control their bodies and actions is a property right, the right of self-ownership. He further argues for his entitlement theory where it is permissible for people to have and hold property on however an unequal basis provided it was acquired legitimately in the first place. Thus, if someone acquired a holding justly, any interference with his holdings i.e. via imposition of tax, would violate his rights. Nozick claims, a redistributive system invades that right making others "a part owner of you giving them a property right in you". Thus, a redistributive system institutes partial 'ownership by others of people and their actions and labour'. Consequently, he argues that taxation of labour income is "on a par with forced labour".

Robert Nozick is primarily concerned with the distribution of property, and argues that justice of any given distribution of income and wealth can be exhaustively covered by the repeated application of the three basic principles of justice in: acquisition, justice in transfer, and rectification when the first two principles have been transgressed: "the holdings of a person are just if he is entitled to them by the principles of justice in acquisition and transfer, or by the principle of rectification of injustice (as specified by the first two principles). If each person's holdings are just, then the total set (distribution) of holdings is just". These principles set out the entitlement theory of justice: people are entitled to holdings that are

acquired via (repeated applications of) the principles of justice in acquisition and justice in transfer, or via rectification of transgression of those first two principles. Any inequalities of income and wealth that happen to arise as a result of legitimate acquisition and legitimate transfer are a matter of complete irrelevance when it comes to determining the justice or otherwise of a given distribution – the only relevant question concerns whether the holdings were legitimately acquired and/or legitimately transferred (see pp. 150–153).

### **Marxist Critique**

Marxists generally argue that any argument put forwarded about justice in capitalist system just aims to serve for the interest of dominant class. In other words, it is argued that since Marxism regard the notion of Justice as a product belonging to superstructure, any conceptualization and theorizing justice is entirely ideological and seeks nothing but legitimating social inequalities.

Rawls argues that a fair society can be constructed by means of two principles of Justice as Fairness, since these principles suggests a progressive tendency to equality transcending dichotomy of freedom and economic equality. Even though it can be argued that Rawls tries to alleviate economic inequalities in a society, his two principles do nothing but providing a permanent inequality among different groups where bourgeoisie class benefits. More importantly, what makes Rawls' Theory of Justice unjust is based on his argument that social and economic inequalities are a-priori and inevitable. That is, Rawls claims that economic and social inequalities are natural and a theory of justice should deal with to ease these inherent inequalities without swerving liberty.

The second or difference principle is another complicated proposition. Even though it is called by Rawls as an egalitarian principle, it also functions to justify inequality. After all, it is the standard justification for inequalities everywhere that they benefit for the least advantaged. Such a Rawlsian paradox stems from his exclusive emphasis on distribution rather than production, as well. As he regards the notion of free market as a crucial element of the basic structure of a just society (at least he does not strictly object it), his theory of Justice as Fairness implicitly or explicitly accepts class divisions.

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### **Procedural and Substantive Notions of Justice**

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Procedural theory of justice emphasize upon the following just rules or procedures for ensuring justice. The focus or emphasis of procedural theory of justice, as the name suggest is about a procedure or the rule, which should be just. The premise of this procedural theory of justice is that individual is rational, autonomous agent, aware of his or her choices or decisions. The result or the consequences of decisions should be also, raised with the individual himself. And state, should not interfere with the decision-making or the opportunity or the choices that is, available to the individual.

The procedural theory of justice does not particularly, focus on the distribution of goods, benefits, and services in the society as is often, argued in the distributive conception of justice. The idea of a procedural theory is not to focus on the distribution or interference with

the individual autonomy or liberty, but to provide them with the condition or a just condition for maximization of their opportunities and for development of their talents. In that way, society's role or the role of state is minimal to ensure the implementation of just laws or a just procedure which everyone should cooperate within the framework of law or a just procedure.

To ensure justice, the scholars and theorists argue that we must have just procedure and just law. The assumption, here, is that if, we have a just theory or procedure for distribution of resources, it will naturally, lead to a just outcome without any consideration to different contexts, whether, geographical, historical, social or economic. The theory of justice could be applicable to all contexts universally, without any considerations to the specificities of a particular context, if we have a just theory. The whole discussion on the positivist tradition of law of constitution is based on the fundamental premise of theory or procedure or rules, which will lead to a just outcome in the society. The procedural theory, in that sense, is emphasizing upon arriving at just rule or procedure that will lead to an outcome. According to this theory, results or outcomes should not be the determining factor in devising or conceptualizing or constituting, what is just or a just rule and a procedure. This theory, results in or the outcome of these procedures are not quite significant. The focus or the emphasis should be on the formation or formulation of a just theory and procedure. And if, we arrive at the procedure or a just theory, then, the outcome will automatically, be just. So, the outcome or the result should not be the determining factor in formulation of a just theory or procedure. Whether a theory is just or not, it should not be determined or assist by the outcome, but on the basis of a procedure or by the formulation of a theory itself. The emphasis on the procedural theory of justice is about a procedure, and not necessarily, the outcome. So, the procedural theory of justice primarily, focuses on the individuals. The assumption in the procedural theory of justice is about individual autonomy and liberty should be always protected, and state should have very minimum role in interfering with the autonomy and liberty of individuals. And individuals should have maximum choices to make decisions, or to develop his or her skills. And if, such decisions and skills lead to different outcomes or results, then, that society should be just. In that sense, in the procedural theory, there is no kind of end-result or end-goal which should be applicable to everyone, and which should be pre-determined. Now, what should be the end and what should be the goal, these theorists will argue that individuals should be left and individuals are best to decide.

The idea of a procedural theory is not to focus on the distribution or interference with the individual autonomy or liberty, but to provide them with the condition or a just condition for maximization of their opportunities and for development of their talents. In that way, society's role or the role of state is minimal to ensure the implementation of just laws or a just procedure which everyone should cooperate within the framework of law or a just procedure. And while, following those just procedure and law, as Nozick argues , the outcome should not be determined or pre-determined by the state. So, Robert Nozick's principle of justice is a very good example of this kind of procedural theory of justice. He put forward two principles of justice, which is called historical or end-state principle of justice. Now, he pointed out that the past actions and choices or decisions which individuals make and it should determine his

or her desert or entitlements. The distribution whether state should actually, involve in distribution of resources or not will be determined by the actions of a past or historical actions of individuals, and the entitlements that he or she achieved. Let's put it this way, the individual is entitled to maximize his property, to acquire more property, and to have more entitlements. While doing so, individual must be following or must follow certain procedures, which established the just way for acquiring the property. If the individual acquires his or her property by following a just procedure established by law or the state, then, his acquiring of property or entitlements are just, and state should not interfere with his resources or do not take the responsibility of distribution among those who are less well-off. Whereas, if the individual follow certain unjust or foul means for acquiring of the property, then, a state has the responsibility to correct the past mistakes, and to redistribution. The historical actions or choices are focusing upon the individuals acquiring the property and if it is just, then state should not interfere. If it is unjust or acquired through false means, then state has the responsibility to re-distribute those resources. So, in the end-state principle, he emphasized that there should be certain goals or objectives to which the distribution pattern should look into and distribution of goods and benefits should be done, accordingly. That is, the end-result principle which focuses on certain ends and objectives are to be achieved. Nozick, explains how only, a just acquisition of property leads to the just transfer of property. If we remember in equality, also, we have discussed the idea of acquiring property in a just manner. And it is transferred to other individuals is just, if the holder has acquired his or her property in a just manner. So, the entitlement is not sufficient, but the process of acquiring that entitlement or transfer of entitlements is equally, significant. So, Nozick, argued, state should have minimal role to play in distribution. For him, distribution is justified, only, when property is acquired by foul or unjust means, otherwise, state should have very minimal role, and it should not take the responsibility of distribution if, the acquiring of property or entitlements by the individuals are just, even if, it is unequal in the society. Those inequalities in entitlements or rights are justified, if such acquisitions are based on just principles or by following the just procedure as established by law. If there is a foul or an unjust method for acquiring that property, then state has a role to take away that property and involved in the process of re-distribution, but otherwise, a state should not interfere with the individual entitlements and property.

The substantive justice, in contrast to the procedural theory of justice also, equally emphasize on the outcome or just outcome in the society. The procedural theory of justice particularly, focuses on the following procedures or rules to ensure justice, but the outcome of such procedures are not that important, while assessing a theory of justice. So, the functioning or assessment of a theory of justice is based on the procedure itself or the rule itself. And it is argued, if a just rule is formulated or a just procedure is formulated, then the outcome will necessarily, be just. We do not have to take into account, the outcome to understand a theory of justice. But, we have to formulate a theory which is just in itself, then, the outcome or the result will be taken care of on its own. However, in contrast, substantive theory does emphasize equally, on how to get just results by applying a just procedure. So, the procedure

itself is not sufficient. We also, need to equally, emphasize on the just outcome. One of the examples, I have used in one of my lectures previously, it is the idea of applying the premise of this rule that treats everyone equally, and it appears to be just. It should work everywhere. We should treat everyone, equally. Now, if a society is not equal, then if, we apply this just rule of treating everyone equally, may not lead to a just outcome. That is everyone will not be on the same level or with the same opportunities, or with the same entitlements or resources. So, treating everyone equally, in an equal society will lead to just outcome. But, treating everyone equally, in unequal society will not lead to a just outcome. Therefore, the substantive theory of justice argues not about a just principle or procedure of justice, but also, a just outcome or a just result of that theory. So, it emphasize on how, to get just result by applying, a just procedure like fair allocation of resources and how a society, ought to work in order to achieve, and also, to maintain justice in the society. Thus, there is Rawls and we will discuss the constant need of re-distribution. In a society, there will always, be the concentration of wealth or resources and inequalities. Now, there is a role of state to device a mechanism, which will constantly, re-distribute the concentration of wealth and resources, and to ensure that everyone should have maximum equality of opportunity. If such, a difference is required, then, it should be for the least disadvantaged people. These are the things which we will discuss. The point in substantive theory is not just to have merely, a procedure of just distribution or a just theory. But also, to focus equally, on a just outcome and more so, that justice is not merely, about formulating a theory or to achieve justice one's and for all, but it is a kind of constant process of maintaining or ensuring justice to everyone, or to every generation in the society. The substantive theory of justice is about fair distribution of goods, and these goods are like wealth, income, and opportunities to all people, despite of their differences in social position and economic status. So, those differences should not be determining in the opportunities available to individuals or resources available to the individuals. It equally emphasizes on the fair principles. So, there is focus on just procedure of distribution. Its objective is to establish a social system by ensuring a fair distribution of goods.

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## Unit-IV : Rights

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### Rights : Natural, Moral and Legal; Rights and Obligations

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Rights are commonly known as social claims that help a person prove their best development, etc. and help them to develop their personal identities. The state never confers rights, it only recognizes them, governments never confer rights, it only gives them protection. Rights arise from society, from specific social conditions, and that is why rights are always social. Rights means the rights of individuals, they only belong to individuals, they exist only for individuals, they are treated by them so that they can fully develop their personal identities. When we talk of the interrelation of the individual and the state, then two things emerge: **first**, what should the person get from the state - it is his right - **second**, what should the person do for the state – these are duties. In short, rights are the favourable conditions and opportunities a person receives under the state which helps him in self-development. According to **Harald J. Laski**, "rights are the conditions of social life without which one cannot normally hope for complete self-development."

According to Ernest Barker, "Rights are the result of the social system of justice upon which the state and its laws are based." In fact, the right is the proof that the person's dignity is not accepted in the state, in which any rights of the individual Are not exist. Nevertheless, certain classes in a state could be denied rights. For example, in the ancient Greek city states, only freemen had civil rights, and there were no rights for slaves, women, and foreigners. Clearly, such a system of rights is not based on a sense of justice. Apart from providing opportunities for full development of personality to the people, the authority also sets some important limits on the activities of the state. The Declaration of Independence made by the founders of the United States, stating that certain rights are non-transferable and the French Declaration of the Rights of Citizens and Men, are two effective political documents of the modern era. These documents accept the concept of rights as one such central concept. On the basis of which political organizations are built. It has been generally accepted that matters related to rights play a central role in the political life of a society. Historically, it is clear that the increasing interest in rights is not limited only to the 17th and 18th centuries but also to the human rights in the 19th century there is a revival of growing interest in the concept. Since 1960, the Civil Rights Movement adopted rights as a major pillar for the reconstruction of society. In recent contemporary debate issues related to women and disadvantaged minorities have come to the central stage. Even in our time, the question of the right to death by will of our own is hotly discussed. Similarly, in at present sexual minority - L.G.B.T. The issue of community rights has added a new dimension to the rights of minorities. Today on the central stage of the discussion of rights, there are discussions related to human rights. The discussion concerning rights has become so fascinating in the present society that the language of rights has become the most powerful language for moral change, not only in the present but also in the near future. In this unit, we will try to understand the various concepts

of rights, under which special importance will be given to natural, moral and legal rights, as well as to highlight the relationship of rights and obligations in this unit. This unit also incorporates the concept of human rights, which remains a subject of debate in the contemporary world. The Comprehensive Declaration of Human Rights of the United Nations in 1948 'propounded a new notion of human rights which was virtually a product of Western countries but which has gradually spread to the countries of Asia and Africa and contemporary political discussion it remains a controversial subject.

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### **Nature of Rights**

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The relationship between the individuals and the states has been an important question of political theory, one that has baffled, if not confused, political philosophers since ages. Political philosophers have debated as to who, whether the state or the individual, is more important and who owes what to whom. Rights are the sum total of those opportunities which ensure enrichment of human personality. They are the basic condition of good life which are recognized by the state. According to **Laski**, 'Rights, in fact, are those conditions of social life without which no man can seek, in general, to be his best'. According to **Salmond**, 'a legal right is an interest recognized and protected by the rule of law an interest to violation of which would be a legal wrong and respect for which is a legal duty.' **Bosanquet** defines it as 'a claim recognized by the society and enforced by the state.' (Homosexuality). According to **Barker**, the development of the capacities of the personality of the individual is the ultimate purpose of the state and the final political value. The law of the state is right and possesses the quality of rightness or justice by virtue of securing and guaranteeing to the greatest possible number of persons, the external conditions necessary for the greatest possible development of the capacities of the individual personality. These secured and guaranteed conditions are called by the name rights '.

On the basis of above definitions, we can draw certain general conclusions regarding the nature of rights.

Firstly, rights in their nature are the result and embodiment of the general system of right on which the state and its laws are based. Rights are a portion of right. Hence one cannot have the rights apart from the notion of right. One cannot have secured and guaranteed rights in the legal sense of the term apart from the law which is based upon the notion of rights. In short, the rights are the demands of the individual from the society which are secured by law and they are the conditions of the development of personality.

Secondly, regarding the sources of rights, the origin of rights is something in the individual himself. Rights flow from the inherent fact of individual's own moral personality and his social nature. In this sense, we can say that rights are natural or human. One cannot possess the rights unless they are secured and enforced by the state. In this sense rights have a source outside man, and the rights now flow from something more than one's personal nature. That is to say, the state is the immediate source of rights. Thus, rights are derived from two sources (I) from the individual personality and the quality of being a condition of its development,

and (II) the state and its laws, and the quality of being secured and guaranteed by the action of law.

Thirdly, the concept of rights is essentially about human relationship in the society. Hence enjoyment of rights involves respectful observation of certain fundamental cannons of social welfare. The rights are never absolute and unlimited and are governed by the society's interest. They impose co moral responsibilities on every individual. While enjoying rights, man must be aware of the similar rights of others. Rights are given equally to all individuals in the society. Whereas privileges and prerogatives are limited to a particular group, class or section of the society, rights are given to all irrespective of birth, caste, creed, economic status, religion etc.

Fourthly, with the socio-economic development, new demands of individuals continue to come into existence which struggle for social recognition. Such demands when recognized by the state through its laws become rights.

And lastly while the rights are claimed universally, a great majority of rights are limited in time and space because they have a reality only in the context of a particular human society. For example, the rights possessed by the Indian people after independence did not exist before and may not be the same in the 21st century. Also the content of a particular right-say right to property-may differ from country to country.

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### **Negative and Positive Rights**

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The concept of rights is a dynamic concept. With the development of social consciousness, rights are subjected to continual review and redefinition. It is interesting to note that rights are always demanded and even granted as the 'rights of man.' But their beneficiaries are usually those classes which articulate this demand because they formulate the demands of rights in a manner best suited and calculated to serve their own interests. However, with the spread of modern consciousness, the concept of rights has been modified in two important directions. It is now admitted that: ( a ) the advantages of rights should not be confined to a tiny class which is placed in a privileged position by virtue of its money and manipulative power; and that (b) rights should not be confined to delimiting the sphere of state activity and authority, but should also prescribe the functions and responsibility of the state so as to make them beneficial to the bulk of society. This trend indicates a shift of focus from negative to positive rights. Negative rights suggest the sphere where the state is not allowed to enter. They suggest the sphere of freedom of individual which shall not be encroached by the state. Positive rights, on the other hand, prescribe the responsibility of the state in securing rights of individuals. They require the state to take positive measures for the protection of the weaker and vulnerable sections or those placed in a vulnerable position. In fact, the negative and positive rights should be treated as parts of a continuum, not as distinct entities.

Broadly speaking, negative rights indicate as to which acts of the individual shall not be restricted by the state. Thus, 'freedom of thought and expression ' implies that the state shall not impose any restriction on individual's thought and expression. So, it comes in the



category of negative rights. But if we say that the state shall provide universal education to promote its citizen' faculty of thought and expression, it will be described as their positive right. In short, positive rights indicate the responsibility of the state to improve the life of its citizens and to help them in their self-development. For example, right to medical care, right to work, right to legal aid, etc. also qualify as positive rights. A capitalist state gives precedence to negative rights while a socialist gives precedence to positive rights. A welfare state aims at combining negative rights with positive rights as far as feasible.

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### **Justification of Rights**

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There are two major contemporary philosophical approaches to explain why the rights should be respected. These two approaches are broadly known as Deontological or the status-based rights and Consequentiality or the instrumental rights.

Status - theories hold that human beings have attributes that make respect for these rights appropriate. On the other hand, Instrumental theories hold that respect for particular rights is a means for bringing about some optimal distribution of interests. Status - theories belong to the tradition of natural rights theories. All natural rights theories agree that there are certain features that humans have by their nature, and which make respect for certain rights justified. The theories, however, differ over precisely which attributes of humans give rise to rights, i.e. whether it is rationality, free will, autonomy, or the ability to regulate one's life in accordance with one's chosen conception of the good life. Natural rights theorists agree that human reason can grasp the fact that it is appropriate to treat human beings with such attributes in certain ways, although they disagree on whether such facts are "self-evident." Natural rights theory reached its high point in the early modern era, in the works of Grotius, Hobbes and especially Locke. On the other hand, the Instrumental theories depict rights as instruments for achieving an optimal distribution of interests. For example, Rawls theory may define the optimal distribution as a fair one: i.e., the distribution that would be chosen from the perspective of an original position. Other contemporary normative theorists such as Ronald Dworkin, and Amartya Sen. have set out systems that give a central role to instrumental rights. On the whole, the two approaches differ sharply over the role of consequences in the justification of rights. Status theorists hold that rights should be respected because it is fitting to do so, and not because of the good consequences that will flow from doing so. For them right are not means for the promotion of good consequences. They are rather, in Nozick's phrase, side constraints on the pursuit of good consequences. The status theory does not allow any rights violation even for the sake of maximizing the non-violation of rights overall. By contrast, within an instrumental theory, good consequences are the justification for promulgating and enforcing rights.

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### **Theories of Rights**

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There are numerous theories of rights which explain the nature, origin and meaning of rights. The theory of natural rights describes rights as nature; the idealistic theory, like the theory of legal rights, relates rights only with the state; the theory of legal rights recognises rights as

legal; the historical theory of rights pronounces rights as products of traditions and customs; the social welfare theory of rights regards rights as social to be exercised in the interest of both the individual and the society.

The concept of rights emerged with the rise of modern state and out of the criticism of the old social and political order. Its tone was radical and in its ultimate employment was revolutionizing. Historically, the demand for the individual rights was made by the rising commercial/middle class which was the product of industrial revolution. It became an accepted ideology of the American and French revolutions and was expressed in the Declaration of independence and the constitutional **Bill of Rights** in America and **Declaration of the Rights of Man** in France. Prominent liberal writers such as Locke, Rousseau, Bentham, J.S. Mill, T. H. Green and Harold Laski, Earnest Barker and a host of others have advocated the rights of the individuals on one ground or the other. In the post-war period, the concept of rights has been further expanded by John Rawls, Robert Nozick, Ronald Dworkin and many others.

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### **Theory of Natural Rights**

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The principle of natural rights is first and foremost among the various theories related to the rights. John Locke, in his article Second Treaties on Civil Government, published in 1690, gave the most effective statement on natural rights. But before that the theory of natural rights had been presented by Thomas Hobbes. His ideas related to natural rights can be understood by her concept called 'natural state'. It refers to the state of human life in the absence of a systematic political institution and government - in other words, the natural state of a human being against artificial condition under a government. According to Hobbs, the natural right he called 'Jas naturalis'.

The natural rights theory propounded by Locke other liberal thinker, declared that all men are born with certain inherent right. Rights inhere in individual human being rather than in society or state. 'God gives them to his children just as he gives them arms, legs, eyes and ears.' Rights, according to this theory, were attributed to the individual as they are the intrinsic property of man. Whatever right are granted to a man as citizen of this or that state, his natural rights go with him where he goes. Natural rights were derived from natural law and were propagated by the social contract theorists like Hobbes, Locke and Rousseau. They assumed that man had certain natural rights before the origin of the state and he surrendered some of them to a superior authority i.e. civil society in order to safeguard the rest of them. Hobbes considered right to life as a natural right. Locke declared right to life, liberty and property as the natural rights. Rousseau has prioritized the rights of Freedom and Equality.

Contemporary political philosophies which continue to believe in the liberal tradition of natural rights include libertarianism, anarcho-capitalism and Objectivism, and include scholars like Ludwig von Mises, Friedrich Hayek, Ayn Rand, and Murray Rothbard. A libertarian view of inalienable rights is laid out in Morris and Linda Tannehill's 'The Market for Liberty', which claims that a man has a right to ownership over his life and, therefore,

also his property, because he has invested time (i.e. part of his life) in it and thereby made it an extension of his life. However, if he initiates force against and to the detriment of another man, he alienates himself from the right to that part of his life which is required to pay his debt: "Rights are not inalienable, but only the possessor of a right can alienate himself from that right - no one else can take a man's rights from him."

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### **Critics of Natural Rights**

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The idea of natural rights was not accepted by the latter political philosophers.

- It was felt that if rights are attributed to the individual absolutely, we cannot resolve the conflict between man and society. For example, in a situation like famine, one man's right to life could be violated by hoarding of food by another man's right to property. That is if the two equally absolute rights conflict, there is no principle upon which this can be solved.
- The most obvious criticism of this theory was what is meant by natural. It is found that the word nature was used in a multi-dimensional sense such as: nature as a whole universe, nature as the non-human part of the universe. In short, the term 'natural' remained vague at the hands of various writers.
- There can be no rights without a law. Rights imply certain duties; they imply social relations on which duties can rest. As was pointed out by Green later on, every right must be justified in terms of ends which the community considers good and that which cannot be attained without rights.
- The theory assumed that one could have rights and obligations independent of society. This was an erroneous view because the question of rights emerges only in the society and in the context of social relationship.

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### **Theory of Legal Right**

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According to this theory, there can be no right in proper sense of the term unless it is so recognized by the state. No rights are absolute, nor are any rights inherent in the nature of man as such.' Rights are relative to the law of the land; hence they vary with time and space. Rights have no substance until they are guaranteed by the state.

Hobbes argued that the only fundamental right of the individual, viz. the right of 'self-preservation', is better maintained by the state than by the individual himself. Hence, man must depend on the state for the maintenance of his rights. He is free to do anything which is not restrained by the state. In other word, man can have no right against the state. Bentham rejected the theory of 'natural rights' which had been advanced by the early liberals. He describes the theory as metaphysical, as a 'hodge-podge' of confusion and absurdity, as 'simple non-sense upon stilts'.

The legal basis of rights implies three things:

- (I) The state defines and lays down a bill of rights. Rights are not prior to the state but state is the source of rights,

- (II) The state lays down a legal framework which guarantees rights. It is the state which enforces the enjoyment of rights,
- (III) As the law creates and sustains rights never the content of the law changes, the substance of rights also changes. The legal theory of rights implies that there is no right where there is no power to secure the object of rights.

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### **Criticism of Legal Right**

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The legal theory of rights was also found deficient by the later writers in certain respects.

- The legal theory did not cover the whole range of rights. It explained the nature of only those rights which had been given legal recognition by the state. It was incomplete because it did not tell whether that which is guaranteed is actually rights or really needed recognition. The theory assumed that what is guaranteed by the state is right.
- The legal theory did not take into consideration the rights of multiple associations in the society. For example, as Laski said, men enjoy rights not merely as members of the state but also a member of the society. He believed that to limit the rights to a single source i.e. the state is to destroy the personality of the individual and not to preserve it.
- The state does not create rights but recognizes, maintains, protects and coordinates them. As Wild remarked, the rights exist whether they are recognized or not. Higher than law is our conception of right and wrong. Rights must have a foundation of right.
- If the state and its laws are accepted as the sole source of rights, then there is no right against the state. The liberal writers like Green and Laski recognized the need to resist the state in certain circumstances. As Laski put it, the obedience to the state is limited and conditional. It is obedience to rights and not might, to justice and not to authority. The material source of rights is the community's sense of justice and not law. Law is nothing but the concretization of the feeling of the community. The legal theory is partly correct in asserting that rights are no rights until they are secured by the state.

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### **Theory of Moral Rights**

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This theory of rights is associated with idealist thinkers, though T. H. Green merged it with liberalism. Laski, like T. H. Green, erects his theory of rights on moral foundations. However, he is seriously concerned with the satisfaction of material needs of the masses. Laski is much ahead of Green in dealing with the maladies of the capitalist system. Thus, Laski holds that rights are not concessions granted by the state. On the contrary, they are superior to the state, because they provide for a standard to judge the state itself. The moral theory associated rights with the achievement of moral freedom of man as member of the society. According to this theory, every right is derived from one basic right - the right to personality. Whether it is right to life, liberty, property, education or health, they are all rooted in and are governed by the development of the personality of the individual. Rights are powers which an individual claims from the society on a moral plane and are recognized and enforced by the state through its law. Legal rights may or may not embody moral rights,

but the ideal is the empowering of all moral rights through law. Such rights vary from time to time and from place in accordance with the moral consciousness of the community. With the growth of moral consciousness, certain rights which were once regarded as natural lose value. Every right that an individual has is dependent on the social judgment of its compatibility with the general well - being.

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### **Rights and Duties**

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It must be emphasised, however that right have corresponding duties as well as obligation. The two are correlated. Rights and duties of citizens are two sides of the same coin. The relationship between them is two fold. Firstly, society functions on the principles of reciprocity. My rights involve a duty, on the part of others to respect my rights and also a duty on my part to respect the similar rights of others. Society works on the principle of, “he who takes gives and he who gives takes”. Indeed, my enjoyment of a particular right has to be conceived in terms of the similar claims of other citizens. My right is integrally related to the right of my fellow human beings. The one cannot exist without the other. A society, in which people care less for their own duties and more for their rights, sooner or later, disintegrates. In their frantic effort for the vindication of their own rights at the expense of fellow human beings, society will be reduced to the status of a jungle in which ultimately the law of might will prevail. In order that everyone enjoys his or her rights it is necessary that we recognise our obligation towards others. We cannot say that we shall be free while others will be bound with their obligation. Such a position is quite untenable and inhuman.

Secondly, logic of rights and duties also implies that if we have certain claims against the state, it is also our responsibility to contribute something towards its enrichment by doing a socially useful work. The state creates those conditions in which we can realise ourselves. In return for this, it is our duty to take advantage of these conditions and give our best to it. The best way in which we can contribute to the social stock is by following duties towards our nation, in recognising our social responsibilities and unscrupulously respecting the similar rights of others. One does not contribute only by being a son of a prime minister or a poet but by being oneself. I may not succeed in my life, but if I have given sufficient indications of sincere efforts to make such contribution, as I am capable of, my job is done. It is a duty of every one of us that we must develop. Our personality so as to be able to contribute our best to society. A citizen should make available valuable judgement on the various issues confronting it. One must pay one's taxes to the state and must refrain from interfering with the similar rights of the other members of the society. So long as the state helps in fostering a climate conducive to happiness of the individuals, the citizens must also help it in maintaining law and order and must honestly perform their public duties. They should leave no stone unturned for strengthening their own country and if need arise must be prepared to defend it at any cost. These obligations by being reciprocal in character do not impose restrictions on the rights of individuals; rather, they give them fuller and greater reality. To think that my rights can be separated from my duties is to be guilty of gross selfishness. It is only by performing a useful function in society that we contribute towards its enrichment. A

state in which citizens care more about their rights and less about their duties remains in a precarious situation. It would lead first to anarchy and then to its disintegration. In order to preserve c my right it is necessary that I must convince my fellow human beings that in granting such a right they would be enabling me to participate in the goof of society. I must show, that so far as the society does not secure me this right, it derogates me from the status of a human being and my capacity to make my contribution to social welfare. It is only in the apprehension of th is equation between individual's function and social well-being by the members of society that a true theory of rights can be constructed and society can be built on stable foundations.

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### **Debate: Human Rights - Universalism or Cultural Relativism**

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As we are aware, the Universal Declaration of Human Rights has been in existence since 1948 when it was adopted by the General Assembly of the United Nations, however, an important issue of the past twenty years has been the conflict between two rival ideologies of human rights popularly known as universalism and cultural relativism. Most contemporary readings on the topic of Human Rights include one or more chapters on cultural relativism. The bulk of the existing literature revolves around a description of western versus non - western philosophies and argues as to which approach better defines human rights. While the Universalism holds that more "primitive" cultures will eventually evolve to have the same system of law and rights as the Western cultures, the cultural relativists hold an opposite, but similarly rigid, viewpoint, that a traditional culture is unchangeable, that cultures have fundamental or essential "properties, particularly their values and beliefs. All questions about the origins or the universality of human rights become questions about their validity. That is to say, if human rights are western, they cannot be universal. Put differently, both the universalists and relativists agree that the key point at issue is whether human rights are essentially linked with western culture but they disagree about the answer.

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### **Human Rights are Universal**

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The Universal Declaration contains three distinct sets or generations of human rights. The first set or generation, known as negative rights, consists of civil and political rights. These include right to life, equality before laws, freedom of speech and religion, freedom of movement and assembly, as well as guarantees against discrimination, slavery and torture. The second set or generation of rights known as positive rights and include a number of social, economic and cultural rights such as right to an adequate standard of living, adequate standard for the health and well - being of himself and of his family, including food, clothing, housing and medical care and necessary social services". In addition," motherhood and childhood are entitled to special care and assistance "and everyone has the right to free education at the elementary level. A third set or generation of human rights involves collective set (also known as group rights) or community rights such as right to development among nations. They were the solidarity among nations and individuals and form a core value

of the declaration. This set of rights is the least developed among the three types of human rights.

Now, the above rights are also called universal rights. The concept of universalism came into prominence after World War II. With the adoption of the Universal Declaration of Human Rights, countries all over the world discussed and negotiated values that would become the basis for human rights. The horrific consequences of World War II left a legacy that great harm could result in allowing individual countries or nations to define and pursue their own values (as was demonstrated by Hitler that German is the most superior race on this earth), a core concept of Human rights included in the Declaration is that those rights belong to everyone, no matter as to what status that person holds in society. This notion of universalism is the basis of human rights. Every individual has a claim to the enjoyment of human rights, wherever the individual may reside. For example, human rights include adequate health care and nutrition for everyone. And the governments have an obligation to provide a framework for ensuring the delivery of these rights even if local cultures consider the procurement of these items a matter for the individual. Human rights are internationally agreed values, stand or rules regulating the conduct of states of their own citizens and toward non-citizens. In the words of the Preamble of the Universal Declaration of Human Rights, these rights are a common standard of achievement for all peoples and all nations. These rules, which the member-states have imposed upon themselves, serve to restrict the freedom of states to act towards their entire population-citizen as well as non-citizen, men as well as women, whites and non-whites, believers and non-believers, married persons and the unmarried etc.

The Universalists argue that at least some moral judgments are universally valid. They generally hold that something like the catalogue of rights enunciated in the Universal Declaration of Human Rights (UDHR) and other international covenants and conventions are universally valid. The universality of human rights derives from claims or arguments held to transcend cultures Modern Universalist theories of human rights can be based on natural law justice, reaction to injustice, dignity and equality of respect and concern. Grounded on ideas of universality, empowerment and human-centeredness, the concept of human rights is considered an appropriate and vitally necessary radical framework for altering international relations and politics, including changing notions of humanitarian intervention.

Now, the important point to remember here is that this universalistic theory of Human Rights is largely based on Western philosophy and the value it places on the individual. It is a product of Greek philosophy, Christianity and the Enlightenment thinkers which contended that one can use nature or reason to identify basic rights, inherent to every human, which pre-exist society.

Briefly, this doctrine can be stated as:

- (i) All human have rights by virtue of their humanity;
- (ii) A person's rights cannot be conditioned by gender or national or ethnic origin

- (iii) Human rights exist universally as the highest moral rights, so no rights can be subordinated to another person (e.g. a husband) or an institution (e.g. the state), also, it has been the practice of states to accept it, through ratification of international instruments. In other words, they are rights because they are natural or God - given or inherent to humanity. They are so fundamental that there should be no exception to their application.

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### **Human Right and the Problem of Cultural Relativism**

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Since its inception that UDHR has been mired in controversy. There have been theoretical criticisms which include reactionary, communist, communitarian and pragmatist. Politically and ideologically motivated criticisms included socialist, Confucianist, African and religious fundamentalist as well as unaligned criticisms from developing countries. Such criticisms focus on the internal cohesion of the UDHR; problems with interpreting it because of few precise definitions; cultural relativism; globalization and recent changes on the world stage. These criticisms have raised important questions such as - whether human rights criteria deserve the authority they have acquired, whether their claim to universality are justified, or whether they are just another cunning exercise by western imperialism.

**Cultural relativism** is based on the idea that there is no objective or universal standards by which others can be judged. The debate between universalism and relativism is as old as the history of philosophy itself and its discussion of truth. Relativism was introduced, among others, by the Sophist Protagoras. He rejected objective truth by saying in so many words, later quoted by Plato: "The way things appear to me, in that way they exist for me and the way things appear to you, in that way they exist for you".

Relativism as linked to culture appeared late in the work of anthropologists who demonstrated empirically that there exist in the world many different cultures, each equally worthy. However, international law has only recently begun to tackle the issue of cultural relativism, which first emerged after the publication of a book in 1971 by **Adda Bozeman** entitled **The Future of Law in a Multicultural World**. The central themes of the book were:

1. There exist profound differences between western legal theories and cultures and those of Africa, Asia, India and Islam.
2. In order to fully understand a culture, one must be a product of that culture.
3. Even if a culture were to borrow a concept from another culture, that concept's meaning would be filtered through the first culture's unique linguistic-conceptual culture,
4. There can be no universal meaning to a moral value.
5. A universal text on values is a futile exercise.

Similar, Polis and Schwab in their essay Human Rights: a Western Construct with Limited Applicability argued that the Western political philosophy upon which the Charter and the Universal Declaration of Human Rights are based provides only one particular interpretation



of human rights, and that this Western perception may not be successfully applied to non-Western areas due to ideological and cultural differences.

Cultural relativism maintains that there is an irreducible diversity among cultures because each culture is a unique whole with parts so intertwined that none of them can be understood or evaluated without reference to the other parts and to the cultural whole, the so-called pattern of culture. Cultural relativism refers to a view that all cultures are equal and universal values become secondary when examining cultural norms. No outside value is superior to that of the local culture. If the local culture allows female genital mutilation, then the human right prohibiting cruel or degrading treatment shouldn't prevent the genital mutilation. If the culture accepts genital mutilation, then no outside principle should overrule the cultural norm. Relativists hold that "cultures manifest so wide and diverse a range of preferences, morality, motivations, and evaluations that no human rights principles can be said to be self-evident and recognized at all times and all places." There are no absolute values or principles by which any culture or society can be judged apart from those of the culture itself. This brand of cultural relativism must be distinguished from a more thoroughgoing moral relativism: cultural relativists typically do not deny truth or morality, but instead hold that while "for every culture some moral judgments are valid, no moral judgment is universally valid." Cultural relativism argues that each culture or society possesses its own rationality, coherence and set of values and it is in these terms only that one can properly interpret the organization, customs and beliefs (including ideas about human rights) of that culture or society. The cultural relativists typically maintain that there is a fundamental link between the cultural origins of a value or the principle and its validity for that culture.

Against the universalism that is the foundation of human rights; cultural relativism insists that cultural context determines pluralism in human rights, values and practices. Broader culturalism consists of the interrelated approaches of cultural essentialism (or reductionism), cultural determinism and cultural relativism. It turns culture-or cultures-into the trump card in any debate about human rights, or indeed world politics. It emphasizes the uniqueness and exclusivity of each culture. Thus, if human rights are not indigenous to a particular culture, their validity and applicability are in doubt. In Ann Maver's words, human rights are "alien and therefore incompatible" with non-Western cultural or religious traditions." The liberal doctrine of human rights does not speak the people's worldview. Cultural concerns are two sided- upholding one's cultures and traditions but also protection from cultural imperialism. Culture performs multiple roles: culture versus rights, rights to culture, rights as culture, and culture as a way of improving understanding and analysis of rights processes as situated social action.

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## **Conclusion**

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There is no doubt that the Universal Declaration of Human Rights provides a foundation for constructing human rights. It still remains significant with its baseline for setting the human rights agenda in international consciousness and law, and generating further conventions, declarations and changes to the concept of human rights worldwide since its inception. To

acknowledge the universality of human rights, then, is not to deny cultural pluralism or the relativity of values. It is to recognize the normative force of the system of international human rights in the face of cultural relativist challenges - which, in the end, appear to state little more than demands for international legal tolerance of intolerance.

The concept of rights has no meaning unless rights are universal, but rights cannot attain universality without a certain social anchoring. In other words, rights must be founded upon equality of access to economic, social, cultural, civil and political rights. Cultural relativism does not conflict with universality. Cultural relativism is a reply to the cultural uniformity and cultural imperialism that dominant nations want to impose on the rest of the world through globalization. The concept of cultural relativism emerges from the assertion of the right to be different. Universalism in human rights can be infused with cultural sensitivity, with the capacity for diversity, though with an independent moral standard which is not reducible to cultural particularism. So, the debate should not be a contest between the two perspectives, nor bogged down in human rights ancestry, rather, it should be a dialogue. A simple black and white moral argument is certainly not sufficient. As mentioned above neither an extreme nihilistic cultural relativism nor an extreme universalism that permits no reasonable flexibility on cultural grounds will suffice the need is for a broad culturally inclusive universalism. The universal claim of human rights instruments is and must remain self consciously minimalist. Their aim should be to protect human agency and legislate moral, political or cultural conformity. But we must not consider culture or a tradition as one thing, and refusing every concerning certain practices is another. In other words, defending people's rights to their culture is one thing, but using the same culture to rights of one part of the population is paradoxical.

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### Some Useful Books

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- ❖ Talukdar, P.S. (2008) 'Rights', in Bhargava, R. and Acharya, A. (eds), *Political Theory: An Introduction*. New Delhi: Pearson Longman, pp. 88-104.
- ❖ Mckinnon, C. (2003) 'Rights', in Bellamy, Richard and Mason, Andrew (eds), *Political Concepts*. Manchester: Manchester University Press, pp. 16-27.
- ❖ Campbell, T. (2008) 'Human Rights', in McKinnon, C. (ed), *Issues in Political Theory*. New York: Oxford University Press, pp. 194-217.

### Some sample Question from this chapter

- 1) Analyse of the recent debates on the idea of right. Which of these view-points do you agree with and why?
- 2) Examine the idea of natural rights as advanced by John Locke.
- 3) Write a short not on 'Human Right.'
- 4) Trace the evolution right. Give an account of major critiques of natural rights theory.
- 5) Map out major debates on the question of "why should we obey the state"?
- 6) Make a short note on Human Rights and Cultural Relativism

## Unit-V : Democracy

### Lesson-1

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## Democracy: Idea and Practice

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### Outline

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Introduction

Democracy: The Idea

Principles of Democracy

Kinds of Democracy

Democracy: The Practice

Substantive Democracy

Procedural Democracy

Models of Democracy

Classical Democracy

Protective Democracy

Development Democracy

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Indian Democracy: Idea and Practice

Conclusion

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### Introduction

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Democracy has its real origin in Greek: demos meaning people and kratos meaning rule which makes democracy rule of people. The term democracy and concept are firmly rooted in Ancient Greece. Political thinkers such as David Held define it as, "a form of government in which, in contradistinction monarchies and aristocracies, the people rule. Democracy entails a political community in which there is some form of political equality among the people."(Held, 2006) Seeley says, "Democracy is a government in which everybody has a share." According to Bryce, "Democracy is that form of Government in which the ruling power of a state is legally vested, not in any particular class or classes but in the members of the community as a whole." "Democracy", writes Mazzini, "is the government of the best and wisest, for the progress of all and through all." Dicey, "Democracy is a form of government in which the governing body is a comparatively large fraction of the entire nation." Dworkin thinks democracy makes sense as the best form of government because of its care and respect for minorities and for its mistrust of majorities.

Democracy is justified because it guarantees the right of each person to be taken care of and respected; but in practice, the decisions of a democratic majority may infringe that right, with regard to what the liberal theory believes to be required by such a right.

Democracy is a form of government which gives primary importance to people's participation. A democratic government gives its people equal opportunity and is based on individual merit. It gives no place of hereditary privilege. Political philosophers such as Aristotle recognize importance of popular participation in democracy but believed an uncontrolled democracy can take form of 'mob rule'. Even in recent times such threats to democracy have continued to haunt political thinkers. In Spite of such problems democratic sailed through tough times and survived several years in theory as well as practice.

The way democracies are distinguished are many. Most importantly the distinctions are based upon direct popular participation in government, and those that operate through some kind of representative mechanism. The models of democracy based on such differentiation are direct democracy and representative democracy. When seen in modern times, democracy is associated with electoral democracy which is largely called liberal democracy. Liberal democracy is one of the most dominant forms of democracy. Yet, there exist a number of other models of democracy. Democracy, though, many critics C.B. Macpherson writes, in *The Real World of Democracy*, "Democracy used to be a bad word. Everybody who was anybody knew that democracy, in its original sense of rule by the people or government in accordance with the will of the bulk of the people, would be a bad thing - fatal to individual freedom and to all the graces of civilized living. That was the position taken by pretty nearly all men of intelligence from the earliest historical times down to about a hundred years ago. Then, within fifty years, democracy became a good thing." (Macpherson, 1966)

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### **Democracy: The Idea**

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To understand what democracy means, one has to go through the debates around the idea. Democracy has been associated with something good. Bernard Crick writes, "Democracy is perhaps the most promiscuous word in the world of public affairs." (Crick, 1993) The idea of democracy is a very popular one and Crick sees it as a very flexible term as it can mean a lot of things although there is a danger that the meaning can become empty. Democracy can be easily called a system of rule by and for the poor and disadvantaged.

What it aims at giving is an opportunity which is equalizing in nature. It runs in accordance to individual merit. An important feature is that it doesn't rely on hierarchy and privilege for the ruling. Democracy is essentially the idea of welfare and redistribution which aims at resolving social inequalities. On the other hand, it is a system of decision-making which is based on the principle of majority rule but at the same time secures rights and interests of minorities. It does so by placing checks upon the power of the majority. Another such feature is the filling of public offices through popular vote which aims at forming a government. This government serves the interests of the people. In this way democracy calls for participation and links the people to the government. Some of the definitions which are attached to

democracy and are somehow complementary to each other to form an understanding of the idea as explained in Andrew Heywood's book *Politics*. He writes,

- “A system of rule by the poor and disadvantaged
- A form of government in which the people rule themselves directly and continuously, without the need for professional politicians or public officials
- A society based on equal opportunity and individual merit, rather than hierarchy and privilege.
- A system of welfare and redistribution aimed at narrowing social inequalities
- A system of decision making based on the principles of majority rule.
- A system of rule that secures the rights and interests of minorities by placing checks upon the power of the majority
- A means of filling public offices through a competitive struggle for the popular vote
- A system of government that serves the interests of the people regardless of their participation in political life.”

One can safely say that any one of these definitions will not be able to explain what the idea of democracy is but if taken together, they bring out the essence of the idea.

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## **Principles of Democracy**

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Dworkin in his book, *Liberalism, Constitution and Democracy*, argues for a good democracy by mentioning three principles:

### **Principle of participation**

Each person has a role offered by the government which allows people to give consensus to the decisions that the government has to take. This role that the people have is not based on their abilities or talents but for all. Therefore in a democracy, people have a role regardless of any differences that means everyone must have a role which ultimately adds to society. Here, the principle of participation explains another feature of democracy and also tries to give justification for it associating democracy with universal suffrage and with a system of representation. With this principle, everybody has a right to hold public office that means they can run for elections. The principle of participation also gives reason to why political liberties of speech and protest are necessary for democracy. Dworkin therefore argues that every person will have a role to do, a person with right to protest will give them a role to be a member of the community yet have differences with it.

### **Interest Principle**

The principle of interest gives the feature of collective decisions which has to reflect the principles of equality. Each and every person has to be treated equally. This will also include that the resources are to be distributed evenly. Dworkin explains, “Along with this principle,

we can say that democracy means “government for and by the people”. Each member of society has to be considered in his integrity and democratic decisions should not affect either his autonomy or dignity. The community has to develop social and economic factors so that no individual is excluded from the community.” Thus the most important point is that no one can be excluded from democracy.

### **Principle of Independence**

Dworkin believes that the principle of independence gives birth to one of the most popular expressions of democracy: “We, the people...”. The concept of ‘we the people’ is closely related with collective action. Independence here means that a government which is democratic cannot impose what it thinks is right to its citizens. Neither can a democratic government tell its subject to judge politics, morality or ethics in their ways, therefore it forwards a kind of independence.

What a democratic government should do is to promote diversity of thought and moral, political and ethics. The list of shoulds does not stop there. The government has a responsibility to promote art and culture. It should work for community to promote values. The safeguard to democracy essentially comes from the right to political liberty. The importance of a constitution becomes inevitable in this case. This is how liberal democracy is associated to constitutionalism. Thus, the principle of Independence in this way is endorsing the principle of liberalism, most importantly tolerance. Tolerance helps bringing respect to sexual and religious diversity. The diversity helps reinforce justice in the community and promote respect. This feature of democracy helps avoid problems of totalitarianism.

All these principles are essential for being the core of democracy. In a way gives people maximum liberty and equality by giving space for criticism. The people do not only have to be tolerated in this system, but tolerance is also encouraged. The principle of equality is special in a democracy. A democratic government does no disparity among the people on the basis of caste, creed, religion and position or status. Some of the important example of this principle has been the abolishment of untouchability in India. Other principles of democracy are popular sovereignty, elections at certain intervals, fundamental rights, rule of law and independence of the judiciary. A state which is democratic state is a welfare state where special attention is given to the welfare of the people as a whole and not to a particular class.

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### **Kinds of Democracy**

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- **Direct Democracy:**

When people express their will for decisions to be taken, this type of government is called direct democracy. It can also be called pure democracy. Here, the people make laws by meeting. Hearn haw writes, “a democratic form of government, in the strict sense of the term, is one in which the community as a whole, directly or immediately, without agents or representatives, performs the functions of sovereignty”.

Democracy which was established in ancient Greek city-states was direct form of democracy. Vajji Sangha during the Buddhist Periods was believed to be Indian form of direct democracy. In today's time it is impossible to think that each person will be able to meet in large meeting to make government decisions. In complex societies direct democracy is impractical. Switzerland has some areas which have such direct democracies; Appenzell, Uri, Unterwalden and Glarus. In such democracies there are no representatives. It is based on popular participation such as Athenian democracy. It was a kind of direct and continuous participation of people.

People in a direct democracy rule themselves By removing the need for a separate class of professional politicians. They use devices which makes them direct democracy, they are:

- (1) Referendum: When people take decisions for important issues or policies like that of amendment of the constitution. These opinions by the people can be compulsory or voluntary.
- (2) Initiative: People can take the initiative to pass a law of their choice. They can do that in a democracy where they can send proposals to the Parliament for passing the law.
- (3) Recall: This device helps recall a representative of the people which they would have chosen for a constituency. United States is one such country which empower their people to do so.
- (4) Plebiscite: This device gives the right to the people to directly vote for an issue. For example, in 1935, the people of Saar were asked for their opinion if they wanted to live in Germany. Similarly, the people of Junagarh were asked to give an opinion whether they wanted to be in India or Pakistan.

The following are the merits of direct democracy as mentioned in Politics by Andrew Heywood:

1. It heightens the control that citizens can exercise over their own destinies, as it is the only pure form of democracy
2. It creates a better informed and more politically sophisticated citizenry, and thus it has educational benefits
3. It enables the public to express their own views and interests without having to rely on self-serving politicians
4. It ensures that rule is legitimate, in the sense that people are more likely to accept decisions that they have made themselves.

#### • **Indirect Democracy**

In an indirect democracy, people elect representatives. It is practically impossible for people of a country to assemble at one place and discuss matters and make law. They elect their representatives at regular intervals. There are a number of ways in which indirect democracy takes form. These include Parliamentary or Cabinet Form, Presidential Form, Unitary

structure and Federal Form. There are many mixed forms of indirect democracy. In a Representative the will of the state is formed not directly by the people, but by their representatives to whom they give the power of decision-making. John Stuart Mill says, “Indirect or representative democracy is one in which the whole people or some numerous portion of them exercise the governing power through deputies periodically elected by themselves”. Bluntschli said, “In the representative democracy the rule is that the people govern through its officials; while it legislates, and controls the administration through its representatives”. England, in the seventeenth century and in France, indirect democracy was established in 1830 and in Italy in 1948. In Germany it was established after the First World War according to Weimar Constitution.

Representative democracy is limited in the sense that popular participation only happens in intervals and is brief. Here, representation is reduced to the act of voting every few years. The public is kept at arm’s length from government. Representative democracy nevertheless qualifies as a form of democracy, even if it is limited. The fact is that voting remains a vital source of popular opinion and their will. It is seen as a form of ‘government for the people’.

The following are the merits of indirect or representative democracy as mentioned in Politics by Andrew Heywood:

1. It offers a practicable form of democracy (direct popular participation is achievable only in small communities)
2. It relieves ordinary citizens of the burden of decision making, thus making possible a division of labour in politics
3. It allows government to be placed in the hand of those with better education, expert knowledge and greater experience.
4. It maintains stability by distancing ordinary citizens from politics, thereby encouraging them to accept compromise.

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### **Democracy: The Practice**

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To understand aspects of modern democratic practices one has to understand the ways in which democracy has taken form. While doing so one will get a gist of what the issues around democracy are about such as representative government, voting systems, the role of parliament, and the increasingly global context of democracy. Procedural democracy is about free and fair elections, fair competition among political parties and political equality. The other form is substantive democracy which is a system of government in which the people will be included into the programmes and for the functioning of the government. It may be possible that a country has procedural democracy, but it lacks the substantive democracy. It is also possible that it may lack both and yet it may present itself as a democracy.

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### **Procedural Democracy**

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The characteristics of a procedural democracy are essentially the procedures such as free and fair elections, fair competition among the political parties and political equality, freedom of



the press. It is essentially a type of democracy where people or citizens of the state have less influence than in a liberal democracy. There lie a number of challenges that procedural democracy comes with:

- 1) It has been seen that procedural democracy has been incapable of generating socio-economic equality.
- 2) It has been largely unable to promote the participation of the greatest possible number of people in government activity
- 3) It has failed in creating mechanisms that pushes the governments to work for the people and not in their personal interest or de facto powers,
- 4) It has also been unable to promote order without intervening in the private life of individuals.

Therefore the idea of substantive democracy is thought about to be a better form of democracy which includes procedure too. In substantive democracy, the functioning of the government or the programmes of the governance reflects the will of the people. Substantive democracy cares about procedure as well as for actual contents of rights.

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### **Substantive Democracy**

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In a substantive democracy representative of the people is elected. This type of democracy functions in the interests of the governed. The state has to function like a democracy, follow its principles and it should not merely be a set up. Thus it is not enough to have procedures. Just to have free, fair elections at regular interval does not suffice. It is to ensure that the decisions are taken through discussions and there is popular participation in decision-making which reflects the will of the people.

It is quite possible that a state has a democratic setup but it may lack the rule of law and civil liberties. There can be a democracy in face where elections are held regularly but they might get rigged and take shape of a dictatorship. Just the mere existence of constitutions does not guarantee that there will be governance with rule of law and with democratic principles. That means, substantial democracy goes beyond procedural democracy. In that sense all substantive democracies are procedural democracies.

One of the most important features of democracy is an independent judiciary. In a democracy where elections occur and there is no civil liberties and independent judiciary then it might as well be not called a democracy at all. In a substantive democracy, the form of democracy is such that it has to follow the principles and not just procedures. It is possible, thus to have a procedural democracy without a substantive form of democracy. Substantive democracy aims at generating socio-economic equality. It tries to promote the participation of the greatest possible number of people in government activities. It helps in creating mechanisms that pushes the governments to work for the people and not in their personal interest or de facto powers. It essentially tries to promote order without intervening in the private life of

individuals. Indian democracy is largely believed to be substantive democracy which fulfills all such claims in practice.

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### **Models of Democracy**

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There exists a number of rival theories and models of democracy having their own versions. Democracies have different forms and mechanisms. The models are as follows:

- **Classical democracy:**

The kind of direct democracy which is discussed above began in Athens in the fourth and fifth century. It was the ideal system of popular participation a government by mass meeting. Each one had a responsibility of public office and decision making.

- **Protective democracy:**

The revived form of democracy in the seventeenth and eighteenth centuries were less mechanic. Democracy took a protective form; the citizen could now protect themselves from the encroachments of the government. Protective democracy is a form of government which is indirect and limited. Accountability is extracted from regular voting process. An important feature of this democracy is constitutional democracy which keeps a check on the government and is run on the principle of individual liberty. It guarantees separation of power in the executive, legislature and judiciary. Protective democracy is compatible with laissez faire capitalism and aims at giving its citizens a scope to live their lives as they wish.

- **Development democracy:**

The focus of this form of democracy is on development of the human individual and the community. The credit of development of this model was Jean Jacques Rousseau. It was a departure from the dominant liberal tradition of democracy. For him, democracy was ultimately a means through which human beings could achieve freedom. In a development democracy, citizens are free only when they participate directly and continuously in shaping the life of their community. It goes beyond the conventional notion of democracy, where elections matter, here radical idea of direct democracy is considered more important.

J.S. Mill's idea of development democracy is a more modest concept democracy compatible with liberal and representative government. For him, the notion should promote the 'highest and harmonious' development of individual capacities. Mill believed that people should develop their capabilities by participating in political life. Thus, by participating in a democracy, people will be actually educating themselves. Mill's idea supports the idea of deliberative democracy and parliamentary democracy.

- **People's democracy:**

This form of democracy was developed in the twentieth century from the communist states. It was essentially developed by the ideas of V.I. Lenin. This theory was dismissive of the liberal or parliamentary democracy. People's democracy was used to signify the importance of people and to designate the goal of social equality which could be brought via common

ownership of wealth. They believe that liberal democracy is only a facade of equality and not real equality. As against this, Leninist democracy is the kind of democracy which was based on 'democratic centralism' and articulates the interests of the poor.

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### **Indian Democracy: Idea and Practice**

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India is the world's largest democracy. The citizens have the right to vote and elect their leaders. It goes irrespective of their religion, caste, color, creed, and gender. Constitution of India essentially sums up democratic principles it forwards; sovereign, socialist, secular and democratic and republic. India became a democratic nation post its independence in the year 1947.

The basic tenets of democracy are that the citizen must be equal. Equality must be present in the individual vote. Each individual vote has equal weight which pushes forward the concept of 'one person one vote'. The U.S. system of government is also a republic, a type of democracy in which election of officials to carry out the will of the people directly whereas in India it is done by indirect voting.

The ideals of democracy in India are the system of adult franchise and indirect participation by the people. People are equal before the law. It is democratic state which is essentially based on equality of opportunity, welfare state, free and fair elections. The Head of the State is elected although indirectly elections periodically. Every citizen has a right to elect representatives to all levels from panchayats, municipal boards, state assemblies and parliament. Indian democracy keeps concepts of participatory democracy and decentralised governance to its core. It is a form of parliamentary democracy. It has both the procedures as well as the values which makes Indian democracy a substantive form of democracy. In this sense, democracy in India is not only about periodic elections, participation but it goes beyond this. Indian democracy is about civil liberties, rights and people's dignity and worth.

Problems with substantive democracy arise when there are problems in the following principles of democracy itself. The issues of communalism, social injustice of caste, subjugation of women and corruption tend to erode democracy. So how do we reach substantialization of democracy? The answer lies in strengthening of formal structures of procedural democracy and to incorporate value in the system. Procedural democracy in India functions well. Elections are held regularly and India has never and there has been no military coup. The institutions in India are autonomous. Institutions such as Election Commission of India and CBI are independent and have public trust. Cultural autonomy can be seen in religious and linguistic minorities' rights to open their educational institutions, and recognising personal laws as legitimate. Proportional representation to minorities and reserved seats for scheduled castes, tribes and OBC and reservation in public service employment and education. Substantive democracy in India is in perils as development promises are not met. India's rank on the Global Hunger Index is low., public health, poverty, farmer suicide and unemployment are some of the issues which pushes forward the claim that only procedures are not enough.

The problem associated with Indian democracy is widespread inequality, unemployment and poverty. Democracy has been often said to be slow with respect to growth. It has been often argued that democracy is not for poor countries and that the pace of development is slow. 'Lee thesis' based on Lee Kuan Yew, who was the former Prime Minister of Singapore, believed that democratic rights should be suspended as well as political freedom should be denied. The sole reason for this authoritative argument is economic growth.

Amartya Sen believes that this thesis is not supported by evidence which is satisfactory and empirical. He says that in poor societies democracy is instrumental in promoting development. The incentive for the ruler is to listen to the people because they have to go through the election process.

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### **Conclusion**

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There is uniqueness in strength of democracy; it has been capable of addressing the challenges of politics. There exists rival opinions of democracy and difference in interests but democratic societies have shown its strength and have come out to be peaceful and stable. Democracies essentially rely on open debate, persuasion and compromise. Dissent in a democracy and acceptance of people with rival views or competing interests are normalized.

Democracy is rooted in ideas like individualism. It gives importance to the principles of equality, citizenship, one person, one vote, pluralism. The dominant form of democracy is liberal western-style democracy, and its spread, sometimes imposed and always encouraged, to the non-western world can be viewed as a form of cultural imperialism. Good government not popular government.

The problem with democracy is that the dictates of wisdom and experience tend to be ignored because the views of the well-educated minority are swamped by those of the less well-educated majority. Being committed to the principle of political equality, democracy cannot cope with the fact that the majority is not always right. This is a particular concern for economic policy, where options, such as raising taxes or cutting government spending, which may best promote long-term economic development, may be ruled out simply because they are unpopular.

Rights of political participation and access to power, especially the right to vote, are universally applicable because they stem from the basic entitlement to shape the decisions that affect one's own life. It gives the right to self-rule. It gives equal access to power and the right to political participation could be viewed as virtues in their own right and as preconditions for the maintenance of all other rights and freedoms. All systems of rule are apt to become tyranny against the people, reflecting the fact that those in power are inclined to place self-interest before the interests of others.

Governments and leaders need to be checked or constrained, and there is no more effective constraint on power than democracy. It deepens tribal, regional or ethnic tensions, and strengthens the tendency towards charismatic leadership, thereby breeding authoritarianism.

Democracy is based on values and assumptions that betray the cultural biases of its western heartland.

### **Learning Outcome**

Students will be able to understand what democracy means and the essence of it. They will be able to make out the difference between direct and representative form of democracy. The chapter also emphasizes on different views of democracy in practice; substantive and procedural. It also gives a gist of Indian democracy.

### **Questions:**

1. What do you understand by democracy? What are the two types?
2. What do you understand by direct democracy? How is it different from representative democracy?
3. What are the various views of democracy? Explain in brief.
4. How is substantive democracy different from procedural democracy?

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## Lesson-2

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### Liberal Democracy and its Critics

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#### Outline

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Introduction

Types of liberal democracy:

Protective Democracy

Developmental Democracy

Criticisms of liberal democracy:

Elite view

Pluralist view

Marxist view

Feminist view

Conclusion

Bibliography

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#### Introduction

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Liberal democracy which is a widely prevalent or acceptable form of democracy is about the idea of liberal democracy. Although, it is not easy, to have universal consensus on any particular model of democracy, such as liberal democracy, however, if a particular model of democracy, which is liberal democracy has come to dominate the thinking of great many numbers of people, particularly, in the west, many in the west thus, treated it as the only, feasible or meaningful form of democracy. This particular model of democracy which we call liberal democracy has dominated the minds and thinking of so many people, particularly, in the west that they consider or think, only, liberal democracy is the meaningful democracy or a feasible forms of democracy. And many thinkers, especially, when the liberal democracy, for a very long time, was challenged by the socialism or Marxist ideals, after the collapse of communism in Russia, one US New Right Theorist, namely, Francis Fukuyama, argued about the end of history. By the end of history, he meant, there is no competing idea, as there is only one idea which triumphs and that is called the liberal democracy. He, argued, the liberal democracy is the only, feasible forms of democracy for the world and there is no competing model of democracy or ideals. So, what is this liberal democracy? A liberal state is based on the principle of limited government. So, the government in a liberal democracy does not have the absolute power and so, it is limited. It exists, to protect the individual life and property, so the state in liberal perspective or government is seen as a necessary, evil. It is seen as limiting the freedom or the movement of the individuals and yet such limiting or curbing individual freedom is regarded as necessary, to maintain order in the society. The government is a

necessary evil, always, liable to become a tyranny. So, government may acquire enormous power and control lives of the people in an authoritarian or in an undemocratic manner. To ensure that the government should not become tyrannical, they talk about checking the government power or putting some balance or check on the power of the government. So, this leads to the support for devices designed to constrain the government, such as, the constitution, bill of rights, independent judiciary and a network of checks and balances among the institutions of government. So, we remember in the state, we have talked about these three organs of modern state; legislature, judiciary and executive. And all these three organs derived their powers from the constitution. And constitution sets limits to their functioning. These three organs exist and function in a way to check each other. The executive should not expand or use its power undemocratically, or unconstitutionally. So, there is a Parliament to check that or a judiciary to ensure the Parliament or executive should not function, besides, the limits set by the constitution or beyond the limits set by the constitution.

The liberal democracy, thus, talks about how to ensure, how a government and state should not become tyrannical. And they do so, by having these mechanisms like constitution, bill of rights, independent judiciary and the network of check and balances among the organs, and the institutions of state. Liberal democracy, moreover, besides, these constitution, judiciary, bill of rights and checks and balances among the institutions, also, respect the existence and promotes a vigorous, healthy civil society, based on the respect for civil liberties and property rights. Thus, the liberal democracy promotes a vibrant or healthy civil society, where freedom of speech and expression is guaranteed, the right to criticize the government is protected, civil liberties and the property rights are also, protected for the ruled. So, this is the broader understanding of the functioning liberal democracy. So, liberal-democratic rule, therefore, typically, co-exists with a capitalist economic order. This is the challenging part of a liberal democracy, where we see all liberal democratic states, also, promotes the capitalist, economic order or a free market economy. Thus, the democratic element or a liberal democracy is the idea of popular consent, as expressed in the practice through act of voting. How this popular consent is exercised in a liberal democracy? It is not done on a day to day basis, as indirect participative model of democracy, which we will discuss later. But it is done through, the periodic elections in a free and fair manner. So, the voting and right to voting ensures the political equality of every member of that society. They come together and participate in the voting, give consent to a political party to form the government. This popular consent in a liberal democracy is thus, ensured through the act of voting. So, liberal democracy is a form of electoral democracy, in which popular election is seen as the only, legitimate source of political authority.

In a liberal democracy, the idea of election and having the election, periodically, in a free and fair manner is therefore, very necessary, for the legitimacy of the government. Nevertheless, the liberal democracy, does not command universal approval or respect. Its principle critics have been two models that we will discuss today, particularly, elitists and the Marxists. It argues, it provides protection to every individual, but elitists will argue that no, it is only, the

few, who is no matter, what the forms of government enjoy or exercise power in the society or the Marxist which believes that liberal democracy is actually, the bourgeois democracy, which protects the interests of capitalists and they work, to enhance or protect the interest of the capitalists against the majority working class in the society. Therefore, we see a kind of thinking or an assumption that the liberal democracy is the only feasible, modes of democracy particularly, in the west. However, it is not universally, accepted as we have seen by the elitists and Marxists who criticize this liberal democracy. And also, because that simultaneous existence of liberal democracy with free market economy, which many people argue works for private profit or works in the interest of those, who already, have property. That makes the liberal democracy, somewhat, problematic for many thinkers and scholars, particularly, those who argued about elitists and the Marxists models of democracy. We must remember that the mere structure of a liberal democracy is no guarantee for achieving the objective of democracy. This we have discussed in the procedural or the substantive notions of democracy as well. It is possible; a country may claim itself, to be a democracy or a liberal democracy in terms of procedure, so there will be a free election. The periodic election, but that procedural nature of its rule does not necessarily, makes it a democracy, because democracy is something, which is more than the procedure. It is about creating a system, where people's will is reflected in every decision the state or system of rule makes. So, a liberal democracy, also, has this challenge of ensuring that democracy is maintained not just in procedure, but in substance, too.

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### **Types of Liberal democracy**

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Liberal democratic governments may differ in both their *kind* and *degree* of democracy. However, the literature too often conflates this distinction, hindering our ability to understand what kinds of governing structures are *more* democratic. To clarify this issue, the article examines two prominent contemporary models of democracy: developmental liberal democracy (DLD) and protective liberal democracy (PLD). While the former takes a 'thicker' approach to governance than the latter, conventional wisdom holds that these systems differ only in kind rather than degree. The article tests this assumption through an empirical comparison of electoral, legislative, and information-regulating institutions in two representative cases: Sweden and the United States. The empirical findings lead us to the conclusion that developmental liberal democracies represent not only a different *kind*, but also a deeper *degree* of democracy than protective liberal democracies. The implications for democracy promotion appear substantial.

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### **Protective Democracy**

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The main theme of classical democracy was the participation of all citizens in the processes of state and the Athenians (where the classical democracy flourished most prominently) believed that they could achieve equality. So the basis of classical democracy was equality in respect of rights and privileges. But the protective democracy highlights a quite different aspect. In the words of Heywood "democracy was seen less as a mechanism through which public could participate in political life, and more as a device through which citizens could



protect themselves from the encroachments of government, hence protective democracy". Here democracy has been viewed as a means at the disposal of individuals which they can use to safeguard their rights and liberties. In the middle Ages and early modern period the autocratic rulers on any flimsy ground and in most of the cases without any ground encroached upon the basic rights and liberties of the citizens and they were absolutely helpless on the face of the steamroller-like administration.

In ancient Greece many had the idea about protection of rights and liberties. Plato thought that the rule of the guardian class could serve the purpose properly.

The origin of democracy as an instrument of protecting human rights and liberties can conveniently be traced to the late seventeenth and early eighteenth centuries. More specifically John Locke is regarded as the great apostle of protective democracy. His civil society based on democratic principles was created through the instrumentality of social contract to protect the right to life liberty and property and ensure pursuance of happiness. Another person who acted behind this type of democracy was James Madison, a key architect of American constitution.

The three stalwarts of utilitarianism were also the important figures of the protective democracy. They were Jeremy Bentham, James Mill and John Stuart Mill. The utilitarianism was forcefully advocated in favour of protective democracy. The leitmotif of utilitarianism was to safeguard right liberty and opportunity and these are basic principles of democracy. These must be protected at any cost and democracy according to them was the best form of government which could guarantee these. Bentham, James Mill and his philosopher son argued that only in democracy all sorts of individual interests could be protected and advanced. Locke, Madison, Bentham, and the Mills-all were in favour of protective democracy and it is an aspect of liberal democracy. In their hands this received the best treatment. In fact, Bentham and the Mills were the representative thinkers of protective democracy.

Protective democracy believes in popular sovereignty. But since people cannot directly take part in the processes of state, they do it through their representatives. Both the popular sovereignty and representative form of government are legitimate. It is the primary duty of the state to protect the rights and liberties of citizens and whether this is properly performed or not people keep a strong vigilance over the functions of state. The authority is accountable to the People and in order to establish it elections are held on a regular basis. There are also other ways of establishing accountability. A very important way of protecting the rights, liberties and distribution of privileges is the division of powers among legislature, executive and judiciary. This is done in all liberal democracies. There is prevalence of constitutionalism. Both the ruler and the ruled are controlled by the principles laid down in constitution. Constitution is the source of power for all and is the guarantor of rights and liberties. There are also measures to prevent the violation of rights and liberties. Organisations associations groups have enough freedom and they always act as friends of citizens and fight against any violation of rights or encroachment on liberty. Competition in

all spheres is a feature of protective democracy. A clear distinction between state and civil society is strictly maintained.

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### **Developmental Democracy**

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J. S. Mill is a prime advocate of developmental democracy. He did not concentrate his attention mainly on the power and function of democracy to protect the rights and liberties but also on its power to develop the faculties of man. J. S. Mill viewed democracy in this light and C. B. Macpherson first drew the attention of political scientists to it. According to Macpherson and Dunn to J. S. Mill (henceforth only Mill) democracy was a very powerful mechanism of moral self-development and highest and harmonious expansion of individual capacities. We are thus in a possession of two elements of development. One is moral self-development and the other is the development of individual capacities. Rousseau prescribed a form of democracy known as direct democracy of the Greek city-state type. His main concern was all-round development of moral qualities of men which were degraded in the midst of the development of art, culture and civilisation. Rousseau's view is quite polemical, but he thought so. By individual capacities Mill meant the argumentative power of men, intellect, reasoning, to understand the distinction between right and wrong and above all the ability to participate in the processes of government. Mill was also indebted to de Tocqueville Democracy in America. It was the conviction of Tocqueville that the increasing intervention of state was bound to curb the freedom of individuals and that would be harmful for progress. The government must keep itself away from the intrusive interference. Mill whole-heartedly subscribed to this contention of de Tocqueville. Like Tocqueville, Mill concluded that if it is not countered, it would become a recipe for capitulation to the dictate of the administrator. In developmental democracy, the state apparatus was accumulating more and more power jeopardising freedom of individuals. The increasing appearance of state on every aspect of social life was making individuals extremely dependent on the state. This threatened both spontaneity and freedom of men. This tendency is against development. Mill did not think that the efficiency and pervasiveness of administration were not helpful for progress of individuals because these are anti-freedom. The ceaseless expansion of administration blocked the free flow of information because the government would try to withhold information for its own sake. To Mill an efficient and scientific administration meant overall control of bureaucracy. But he had no favourable view about it. The greatest shortcoming of bureaucracy is that it is not accountable to the electorate/individuals. This unaccountability encourages it to act in the most irresponsible way. He believed that the ever rising expansion of state activities posed serious danger to mass participation in the governmental process. There is a tendency of government to bring under its fold the maximum number of people — particularly the educated, intelligent and efficient people. Later on the state uses them to support its functions, policies, and various schemes and in this way it grabs the entire society and the whole society becomes stooge of state apparatus.

After considering all the types of government or state Mill drew the conclusion that only the representative form of government was suitable for the realisation of rights and liberties

without which no individual could develop his moral self- development and manifold capacities. In Mill's account a representative form of government was quite equivalent to all types' of freedom and various categories of liberty. In a representative democracy an individual could find a favourable atmosphere for the development of freedoms and rights. Any alternative to representative democracy is direct democracy of the Athenian type. But, Mill argued, such a form of government was not possible for modern state. So representative form of government, in the background of the attainment of right and liberty, was in a sense, quite unparalleled. It would act as a watchdog and from Mill's assessment some people started to call state night-watchman.

In a developmental democracy citizen's involvement is generally found and it is done through the voting mechanism which is held regularly. There is a decentralisation of power. All the powers are extended up to the grass-root level and this enables citizens to participate in the various affairs. Legislature and bureaucracy are separate from each other and the latter has no control over the legislators. However, as specialists the bureaucrats enjoy certain amount of freedom. There are constitutional and legal provisions which guide both the ruler and the ruled as well as all the branches of state administration and judiciary. Special arrangements are available for the promotion of right and liberty. Various social economic rights are given priority. A system of checks and balances exists in developmental democratic system. Representative form of government is the main type of developmental democracy. No other form of government is suitable for developmental democracy. In developmental democracy, it has been observed, popular sovereignty is vested in people. Powers of the government are generally separated from each other which stands in the way of the domination of one department. The rule of law (which means equality before the law and equal protection of law) is the important feature.

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### **Criticisms of liberal democracy**

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From the 1960s the exponents of liberalism and liberal democracy had been clamouring for less and less power of state and more freedom for men. Hayek, Nozick and Rawls are chief among them. And practically in the eighties of the last century there was a spectacular upward movement of liberalism at the helm of which were Thatcher, the former Prime Minister of Britain, and Reagan the ex-President of the United States. But at the beginning of nineties serious thinkers of political science witnessed the revival of Marxist thought in general and Marxist model of democracy and behind this revival there was a clear case of the failure of liberal democracy. Alex Callinicos and several others observed that at least on three fields liberal democracy failed: in the field of political participation liberal democracy has failed to evoke sufficient enthusiasm in the mind of men, accountability of the government is not prominent. The chief feature of democracy is the authority shall be accountable to the people and in most cases this did not happen and in almost all the liberal democracies there was clear erosion of freedom and because of this people could not raise their voice against the policies of the government. Models of democracy which have criticized liberal democracies are as follows:

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## **Elite and pluralist view of democracy**

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One of the most important political ideologies used in the modern era, especially by the Western countries is liberal democracy. A liberal democratic state involves of the goals of both liberalism and democracy. In a liberal democratic model, it is necessary to have some basic criteria on liberal democracy. The four criteria that will be explored in relation to the case study countries are multiple distinct political parties, separation of powers into different branches of government, an idea of equality and lastly secularism.

According to Gordon Smith political parties are, 'summation of pluralist tradition'. This means political parties are very important because of the role they play in society. Pluralists debate that there should be multiple contenders in opposing centres of power as the power should not rest in one group rather be divided and diffused. Political parties represent the public interests. Likewise, multi-party system creates diversity and competition in turn parties make efforts and try out to reach to a larger group of people making their policies relevant. It emphasises different groups of interests within the liberal democratic state which prevents any one group from dominating. As each human being has a different perspective of looking at the world, similarly each party might have a different interpretation on a policy because of the different ideals and values. The main aim of political parties is to capture state power. This pluralist view applies to a country like Russia where they have a multi-party system. It is practically accurate to argue that at the national level Russia has attained at least a semi-pluralistic political system, with a number of national parties and the strong influence of business interests.

On the other hand Elite theory rejects the pluralist theory that power can be diffused and can be divided and spread among different groups of society. Elite theory argues that the power rests in the hands of few, who are wealthy. They assert that the average person cannot be heard because the power is usually concentrated in a few at the top. Democratic elite theorists argued that the decrease in internal party democracy and meeting process did not matter much, so long as competition between parties still gives voters the final power. Elite theory says that a two-party or multi-party system is usually dominated by an elite. For example in a country like USA elite theory works more than the pluralist theory. The United States has two parties unlike the other countries that have a multi-party system. In a multi-party system, political parties usually have specialised agendas which in turn represent their interests like environment, labor or business. But in America with a more generalised system, the two parties have to please a wider range of people to be elected. Consequently, both parties act neither too liberal nor too conservative. Many people agree that the United States has a two-party system but there have been few cases where a third party candidate won an election. Third party candidates have to struggle to get elected. The last time when the country saw a third party presented and elected was in 1860 when Abraham Lincoln became President. In the view of elite theory they agree with the two-party system in the United States as campaigns cost a fortune in this country. In their view the 'wealth buys political power by recruiting capable individuals to serve the interests of the ruling class, and by financing the campaigns

of politicians and the operation of political parties. Political parties are important for keeping the check and balance of power through peaceful means and are thus important in a liberal democracy. 'Without having any form of competition then from an elitist, then there would be only one outcome and that is whatever the elite considers the best then that will be the decision'.

In a country to be liberal democratic state power should be divided among different groups so that state cannot rule the masses on their own and the power is distributed among different factions of government. Pluralism critique of the state suggests a solution to how democracies can be realised in large and complex societies and how to achieve popular power and at the same time limit the power of the state. Pluralism is strictly against the totalitarian government. A pluralist society is one in which the decisions are taken by associations of citizens, acting independently of state. They assume state as a neutral actor which helps control conflicts and negotiations among groups. As all groups do not have equal resources or influence as some of the other groups in society, state does not favour any of the group rather remain neutral. Pluralism prefers a federal system of government in which power is divided among executive, legislature and judiciary. So that there is checks and balances and no one can misuse the power. Madison advocated a simple logic stating that, 'grant independent power to the different branches of government, and each member of that branch will have a personal interest in maintaining that power and preventing the other branches from carrying out their repressive designs'. It means if the power is distributed among different bodies in the government, no person will be able to impose his or her will. Pluralist theory can apply to a country like France where there is a federal system of government although the executive is body is slightly stronger than that of legislature. However all the power does not rest with the executive, power also lies within the two remaining branches of government, the legislative, and the judiciary.

The second critique which describes the state is elite theory. In their view, the separation of power is unimportant within the state because in the end unified elite hold the power. They assert that the elites will always hold power in the society in different forms and their nature will directly determine the properties of society in which they live. The post-war elite theory critique C. Wright Mills argued that important decisions made in United States policy making were most of the times made by unelected power elite. For example, United States has a federal system of government in which power is evenly distributed among the 3 bodies of government, namely legislature, executive and judiciary but there are certain cases where there are power elite makes the decisions. For instance the head of a big American business corporation or even the President or his appointed staff. On the contrary, Marxist theory argues that economy is the most important element in the society and that the society should grow towards a classless structure with an equal distribution of power.

Each citizen should be treated equally irrespective of gender, cast and religion to live in peace. Thus, idea of equality should be present in every country which makes it an important aspect of a liberal democratic country. Marxist Theory can best explain that why there is inequality among countries. Marxists states that unequal distribution of wealth is caused by

exploitation in production as well as distribution of wealth. Capitalism and notion of private property creates class differences and unequal distribution of power. Private property maximises the gap between rich and poor. For instance if a person owns a property, he gets to exploit people who don't which leads to other people working for the person who owns the property and can provide them with money. This form of organisation develops two classes, the bourgeoisie or ruling class who control and profit from the system and the working class who are much more numerous. In Marxist view wealth should be equally distributed among people. Rejecting this theory of Marxism, elite critics argue that economic or social class forces do not determine what happens in society rather elites do. Italian writer Vilfredo Pareto criticises Marxists for overlooking the control of elite. For example in a country like America and Nigeria there is a huge income gap between rich and poor due to capitalism. The wealth is concentrated in the hands of elites which gives an adverse effect on the welfare of citizens. Utter poverty for a large percentage of the people of Nigeria is because of the mismanagement of the economy and widespread corruption by political elites. Therefore both the theories can be applied in the countries like Nigeria and the United States.

All the liberal democratic countries should accept that citizens should not be prevented from practicing their religion and the state is no one to interfere with the religious decisions of citizens or their institutions. Marxist sees religion as a feature only of a class-divided society. The theory argues that whichever class controls the economic production also controls the production and distribution of ideas in society via institutions such as church, education system and the media. For example, France has declared herself as a secular country having divided church and state during the French Revolution. However, over 80% of her citizens claim to be Roman Catholics, on the other hand 10% claim to be Muslim (CIA). In spite of being a secular state France does not allow manifestation of religion in public sphere. In 2004, an anti-religious law passed through legislature that banned the wearing of headscarves, turban, skullcaps, or large crosses in public schools. Therefore looking at this example of France it can be said that the Marxist theory can describe secularism in France as the person who is ruling is passing all the laws which controls all the power in the government and can influence any law in his favour. Moreover this law in the end can lead to divisions in society.

Similarly, Pluralism accepts all the religions in the society and rejects the notion that there can be a single belief in religion or culture. That is, pluralism is a simple recognition of the fact that there are many different faith groups active in the country. Pluralist theory works well in the liberal democratic countries as they demonstrate well about secularism. Pluralist theory works well in religious country like United States which is a multi-cultural society consisting of many religious groups such as Christians, Muslims, Hindus.

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### **Marxist View of Democracy**

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The Marxist view of democratic politics is rooted in class analysis. In this view, political power cannot be understood narrowly in terms of electoral rights, or in terms of the ability of groups to articulate their interests by lobbying and campaigning. Rather, at a deeper level,

political power reflects the distribution of economic power and, in particular, the unequal ownership of productive wealth. The Marxist critique of liberal democracy thus focuses upon the inherent tension between democracy and capitalism; that is, between the political equality that liberal democracy proclaims and the social inequality that a capitalist economy inevitably generates. Liberal democracies are thus seen as ‘capitalist’ or ‘bourgeois’ democracies that are manipulated and controlled by the entrenched power of a ruling class. Marxism thus offers a distinctive critique of pluralist democracy. Power cannot be widely and evenly dispersed in society as long as class power is unequally distributed. Indeed, in many respects, the Marxist view parallels the elitist critique of pluralism. Both views suggest that power is ultimately concentrated in the hands of the few, the main difference being whether the few is conceived of as a ‘power elite’ or as a ‘ruling class’. However, significant differences can also be identified. For instance, whereas elitists suggest that power derive from a variety of sources (education, social status, bureaucratic position, political connections, wealth and so on), Marxists emphasize the decisive importance of economic factors; notably, the ownership and control of the means of production. Modern Marxists, however, have been less willing to dismiss electoral democracy as nothing more than a sham. Eurocommunists, for example, abandoned the idea of revolution, embracing instead the notion of a peaceful, legal and democratic ‘road to socialism’

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### **Feminist View of Democracy**

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Feminists have taken issue with liberal democracy on a number of counts, including the conditions necessary to achieve political equality and the importance to be attached to political participation. Issues are raised under the rubric of citizenship, earlier and continuing arguments for a more actively participatory democracy, and questions associated with representing social heterogeneity and group difference. The argument throughout is that while liberal democracy has signally failed to deliver on its promises to women, it does not help to address these failings in terms of giving up on liberal democracy.

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### **Conclusion**

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There are a number of rival models of democracy, each offering its own version of popular rule. Classical democracy, which is based on the political system of Ancient Athens, is defended on the grounds that it alone guarantees government by the people. Protective democracy gives citizens the greatest scope to live their lives as they choose. Developmental democracy has the virtue that, in extending participation, it widens liberty and fosters personal growth. People’s democracy aims to achieve economic emancipation, rather than merely the extension of political rights. There is considerable controversy about how liberal-democratic systems work in practice. Pluralists praise the system’s capacity to guarantee popular responsiveness and public accountability. Elitists highlight the tendency for political power to be concentrated in the hands of a privileged minority. Corporatists draw attention to the incorporation of groups into government. The New Right focuses on the dangers of ‘democratic overload’. And Marxists point to tensions between democracy and capitalism.

Growing global interdependence has stimulated interest in whether democracy can, and should, operate at a global or cosmopolitan level, either through the construction of some kind of world parliament, or through a global civil society. However, major obstacles stand in the way of cosmopolitan democracy, with many rejecting the idea as unfeasible in principle.

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**Learning Outcomes:** Students will be able to understand the liberal strand of democracy. They will easily distinguished liberal form of democracy to other forms of democracy. Liberal view is further analysed with its two different types; protective and developmental. Students will also be able to find critique of liberal democracy in spite of liberal democracy being the dominant form of democracy.

### **Questions:**

1. What do you understand by liberal democracy? What are the two main fragments of liberal democracy?
2. What do you mean by liberal democracy? Write an essay on liberal democracy critically.
3. What are the different views/alternatives of democracy other than liberal democracy?



## Lesson-3

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# Multiculturalism and Toleration

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### Structure

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Introduction

Multiculturalism

Meaning

Multiculturalism: In Practice

Stages of Multiculturalism

Critiques of Multiculturalism

Identity, Difference and Tolerance

Conclusion

Learning outcome

Questions

Bibliography

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### Introduction

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The issue of dealing with cultural diversity has become a topic of contemporary political theory. The moral, legal and the political claims that are made in the name of diversity namely peoples' ethnicity, religion, language and nationality has become the issue that dominates political theory. (Kymlicka, 2001) Governments are dealing with cultural diversity and nationalistic claims which were not written much about but were too important to be left ignored. Governments have acknowledged demands for recognition and protection for minorities. The demand also includes political autonomy inside states boundaries as well as in the international society.

The demands have also opened up debate in political theory which we will discuss in this chapter.

In the 1980s the focus of political theorists shifted to cultural and group rights, which was because of rise in Eastern Europe's nationalism, right after the fall of Berlin wall in 1989.

The political activism in the areas of religion and the increase of Muslim immigrants in Europe brought a sudden interest in the groups which now lets minorities protect and preserve their customs and practices like language and rituals.

These groups have interested political theorists of both liberal and non-liberal traditions. They now argue whether groups can or should have rights, should they have recognition.

Questions raised also include if these groups have been granted rights and what rights were granted.

The challenge with the notion of multiculturalism and tolerance (which is the basic premise on which liberalism stands) as we have discussed above, have given birth to issues in political theory. These issues range from the role of state, rights of women, education and even the matters of citizenship.

A detailed discussion of what multiculturalism stands for and the question is that do we need toleration and how much becomes important issues. The chapter will try to discuss such issues in detail.

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### **Multiculturalism: Meaning**

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‘Multiculturalism’ as a term has its use when we talk about it in terms of political theory, but not by very long. It can be seen along with the concept of nationalism which is an older idea but widely discussed one. The idea of multiculturalism only came about in the 1970s, in Canada and then in Australia when it was used to describe a new public policy in the concept of federalism.

In the new policies which came in such states largely tried to promote assimilation of minorities and immigrants which was aimed at promoting policies of integration of cultures and accepting difference and diversity. It was in the 1980s that multiculturalism entered America. It was largely found in the discussions about public education.

Nathan Glazer talks about multiculturalism as a term which describes American society well. According to Bridge, American education needs to report to diversity and needs to accept it (Glazer, 1997). In such a way, multiculturalism is responding to ethnic diversity. He also talks about multiculturalism as the “position that rejects assimilation and the ‘melting pot’ image as an imposition of the dominant culture, and instead prefers such metaphors as the ‘salad bowl’ or the ‘glorious mosaic’, in which each ethnic and racial element in the population maintains its distinctiveness” (Glazer, 1997).

The definition talking about multiculturalism as a single position misses the point that there are many different position and views of multiculturalism and it is differently understood by different people. Multiculturalism requires changes to social and political institutions to make people from cultures comfortable and to ice them preserve their respective customs and language.

It also requires greater social transformation. This transformation has to transform modern society itself where racism has been eliminated. This social transformation has to be nurtured and not repudiated. Social transformation has to be tolerated. Tolerance becomes the key in some ways. We will discuss tolerance and difference later in the chapter.

Drawing from the above discussion multiculturalism can be seen as a way of embracing diversity. A question then arises how this diversity can be embraced. The diversity has to be accepted via away of accommodation but what would be the principles on which the society

be based on. If in a multicultural society, diversity can exist, where language and religion are not a basis of discrimination and there is no subordination to or by a single group or dominant group, then there is a demand for unity amongst them which will make their coexistence possible.

An ideal situation is a world where we aspire to a borderless world. An ideal world is a world where people could move freely. It will be futile to imagine an ideal world which is not restricted by any boundaries. But even an ideal society will have to restrict themselves to some basic rules and institutions. In a multicultural society, it has to decide to accept some language as their official language, define itself as a nation, keep a criterion for membership and then set controls for determining who may join it. This way we observe multiculturalism in practice.

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### **Multiculturalism: In Practice**

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The concern of managing cultural diversity was subsequently resolved in the 1990s. This was precisely when political theorists began to consider principles on which multicultural society will be based. And it was only then that notion of multiculturalism was discussed, defended and criticized.

Multiculturalism can be viewed in four distinct ways.

1. **Demographic reality:** Globalization has impacted talent flow. It resulted in people forcefully being migrated as well as unification of those who were separated. The phenomenon is occurring at a slow pace where there is less immigration like South Korea.
2. **Immigrant integration:** It is defined as a philosophy which aims at accommodation of diversity which can be seen in the presence of ethno cultural diversity. It is largely necessitated by the people of the states who are hosts dealing with people who have immigrated or are just different, thus accepting difference.
3. **New Policies:** The most important way is of government making policies. Multiculturalism becomes a way by which the government can make policies depending on what these governments think about the notion.
4. **Narratives and attitudes:** Governments can facilitate multiculturalism signalling towards multiculturalism. These decisions of policy mainly build narratives which then builds the opinion for countries to make the policies, there by politicians influencing policy making becomes normal.

These four points find further references in the successes of multiculturalism in accommodating diversity. Whereas the migrants essentially lead to assimilation into host society culture on the other hand, it can be observed that strong cultural maintenance by immigrants and weak cultural acceptance by host society essentially leads to separation and marginalization. When host societies are rather accepting of ethnic minority culture, the idea of cultural maintenance will essentially lead to positive outcomes. It is better that the society

has immigrant integration because it can also be of economical advantages for the host country.

Now, this state of affairs is only talking about culturalism created in the current scenario of footloose population or to say migration. But there exists diversity in boundaries itself. Here, resolving conflicts and managing diversity becomes difficult.

Firstly, the idea of multiculturalism has been understood and practiced differently in different countries. The following is the advantages and disadvantages of multiculturalism in many countries.

1. Canada: French speaking people and English-speaking people have united quite nicely in the country. It is a matter of pride for Canadians. On the other hand, South Korea which is a largely homogeneous country has symbolized multiculturalism as being modern South Korea hopes to be compared with other western countries such as Canada in such matter.
2. Weaknesses: Multiculturalism can create fault lines. It does so by creating differences and separateness based on religion or ethnicity. It can also create differences that can be created via rights for eg. Mauritius. Countries in Europe have also led to the promotion of separation via multiculturalism such as Germany Netherlands and Denmark. Here the ethnic minorities have no contact with the native country people or the majority. This essentially results in less or no integration and thus less economic opportunity for the immigrants.
3. Successes: Australia and Canada have successfully promoted multiculturalism and tolerance. Inclusion in such countries attracts skilled workers. Resulting in an incoming of foreign capital and international students which is essentially helpful in boosting their economies. It is observed that Canadian exports projected a growth by ten percent annually when compared to exports of other countries.
4. Obstacle to Equality: Western societies that give importance to value human rights and fair treatment and maintenance of practices of different cultures are enriched with multiculturalism. In similar vein, these countries affront to gender equality. On the other hand, there is a tendency that when a host country rejects values and culture, there is hostility towards immigrants and mostly Muslims which becomes an obstacle to equality.
5. Positive outcomes: Countries that embrace multiculturalism show more positiveness. There is integration of ethnic minority immigrants. On the other hand, states that are not multicultural and have poorer ethnic minority integration are seen to experience a lot of backlash from its citizens.

Secondly, an ideological character which tends more to indicate how we would ideally like things showcases the current debate on multiculturalism. They often seem to acquire cases of the approaches of policy as well as political philosophy. (Kymlicka 1995) There is a clash

between a 'policy-oriented conception' of multiculturalism and the 'empirical recognition of diversity'. This is the reason that the contemporary debate on multiculturalism appears to be a central concern for normative aspects. This attempt to reconstruct an ideal condition for a respectful co-existence with difference and the subtle presupposing of what multiculturalism indicates is simply that it aims at stability. Thus, multiculturalism often ends up seeing differences as something to be accommodated and tries to transform them into something unalterable and necessary.

In analysing the notion of multiculturalism in people's life, the tendency to solve difference was identified much earlier but much was said against it because difference was considered good. Therefore, there was a constant struggle to reject the accommodation of diversity owing to the theories which promoted difference on the terms of respect. Acknowledging of difference wouldn't then mean to homogenise but to respect and coexist.

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## **Stages of Multiculturalism**

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### **1. Multiculturalism as Communitarianism:**

Communitarians have criticized liberalism where liberals have believed that individuals are to be set free to pursue their own notions of good life. According to Liberals, individuals have heights and they should have primary liberties over community and collective good life. Now, communitarians criticize liberals by believing that community is more important than individual they reject the idea that individual is 'prior' to the community. The value of good of the community can't be credited to individuals according to communitarians. They acknowledge collective good and thus set stage for multiculturalism which purities forward for idea of group rights.

### **2. Multiculturalism within the framework of liberalism**

A justification within liberalism which was revised with critical engagement multiculturalism as an idea which joins the notion of autonomy and equality and talk about cultural membership will Kymlicka was one of the theorists who developed the liberal theory of multiculturalism. Kymlicka develops the theory in two books. In his first book, he writes with the Rawkian framework talking about justice and sees cultural membership as a notion of 'good' which people will want and are necessary. In the book, liberalism, community and culture (1989), Kymlicka mention about the 'primary good'.

Kymlicka in his second book, Multicultural citizenship (1995) moves beyond Raulsian framework and includes Margalit and Joseph Kaz's understanding of national self determination. Tejh focus was on autonomy and its condition of having opinions to choose from. According to Kymlica, culture has a 'choice' nature as it provides options which are meaningful. This would mean that with a cultural group, a person can have a connection between self-respect and respecting the group. Membership to the group gives choices to the member and self-respect.

The state cannot be neutral with reference to culture and all law which aims at solving the problem of discrimination, but they are not always successful at making minority groups equal. State thus supports certain group one's other groups and on the others hand they cannot establish one language for official uses or public schooling but they have to stop racial discrimination.

### **3. Multiculturalism as response to nation-building**

Going beyond liberalism and republicanism and focusing on the historical injustices and to the minority group, is important, especially the post-colonial perspective. The idea of indigenous sovergenity gives way to the understanding of minority's claim historical background not giving equality as well as equal sovereign status to these groups. This also meant dispossession of the group's land and removal of their culture and practices.

Now, the stage has authority one aboriginal peoples and it has to give right to protect its legitimacy of doing so. The state gives rights of self-governance and special rights. State has a character and history of being oppression which makes it dangerous that state is interesting into the internal matters of groups.

The postcolonial perspective goes beyond liberal and republican understanding of multiculturalism. The goal is to be models which are developing, constitutional and they recognize cultural distinctness.

Parekh argues that liberal theory is unable to give an impartial framework between the communities. They should be model of intercultural dialogued. In which political values of equality and justice gives rise to cross cultural dialogue.

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### **Critique of multiculturalism**

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1. Cosmopolitan view: Theories of multiculturalism are premised on the important view of culture. They are not distinct, self-contained wholes; rather they have long interacted and influenced one another. They have done so through wars, imperialism, trade, and migration. They live within cultures that are already cosmopolitan, characterized by cultural hybridity. This hybridity can be observed in many parts of the world. To aim at protecting a culture there is a risk of giving advantage to one version of that culture which may be considered pure or supreme. This cripples people's ability to adapt to changes in such circumstances.

Cultures are interactive and overlapping theorist who believe in multiculturalism are often said to maintain that individuals belong to different cultures and the 'options' which was discussed before, becomes important only when it is shared. There can be many sources available to people like ethnic and historical.

2. Toleration as indifference and not as accommodation:

This criticism is aimed at liberal multicultural theories of accommodation in particular and stems from the value of freedom of association and conscience. If we take these

ideas seriously and accept both ontological and ethical individualism as discussed above, then we are led to defend not special protections for groups but the individual's right to form and leave associations.

Chandran Kukathas says that there are no group rights but only individual rights. By granting cultural groups rights, the state oversteps its role, which is to secure civility, and risks undermining individual rights of association. States should not pursue cultural integration or engineering but rather a politics of indifference toward minority groups. One limitation of such an approach is that groups that do not themselves value toleration and freedom of association, including the right to dissociate or exit a group, may practice internal discrimination against group members, and the state would have little authority to interfere in such associations. A politics of indifference would permit the abuse of vulnerable members of groups tolerating.

3. Politics of Recognition: A third challenge to multiculturalism views it as a form of a politics of recognition. This diverts attention from the politics of redistribution. It can be distinguished between these modes of politics: a politics of recognition challenges status inequality and the remedy it seeks is cultural and symbolic change and on the other hand a politics of redistribution challenges economic inequality (Fraser, 1997).

Working class mobilization tilts toward the redistribution end of the spectrum, and claims for exemption from generally applicable laws and the movement for same-sex marriage are on the recognition end. In the U.S. critics who view themselves as part of the progressive left worry that the rise of the cultural left with its emphasis on multiculturalism and difference turns the focus away from struggles for economic justice.

4. Universalist Ideal of Equality: This relates to the issue of the liberal multiculturalists' understanding of what equality requires. Brian Barry argues for a Universalist ideal of equality. Whereas in contrast to the group-differentiated ideal of equality defended by Kymlicka, Barry believes that religious and cultural minorities should be held responsible for bearing the consequences of their own beliefs and practices, just as members of the dominant culture are held responsible for bearing the consequences of their beliefs. Barry thinks that special accommodations are owed to people with disabilities, but he believes religious and cultural affiliations are different from physical disabilities: the former do not constrain people in the way that physical disabilities do.

A physical disability supports a strong prima facie claim to compensation because it limits a person's opportunities to engage in activities that others are able to engage in. In contrast, religion and culture may shape one's willingness to seize an opportunity, but they do not affect whether one has an opportunity. He argues that egalitarian justice is only concerned with ensuring a reasonable range of equal opportunities, not with ensuring equal access to any particular choices or outcomes (Barry, 2001)

5. Postcolonial Critique: Some postcolonial theorists are critical of multiculturalism and the contemporary politics of recognition for reinforcing, rather than transforming, structures of colonial domination in relations between settler states and indigenous communities. State recognition of self-government rights and other forms of accommodation are important steps toward rectifying historical injustices and transforming structural inequalities between the state and indigenous communities.

Coulthard's analysis redirects attention to the importance of evaluating and challenging the structural and psycho-affective dimensions of colonial domination, but by arguing that indigenous peoples should let go from settler-states and settler societies may play into the neoliberal turn toward the privatization of dependency and to risk reinforcing the marginalization of indigenous communities at a time when economic and other forms of state support may be critical to the survival of indigenous communities.

6. Feminist Critique of Multiculturalism: Some of the most oppressive group norms and practices revolve around issues of gender and sexuality, and it is feminist critics who first called attention to potential tensions between multiculturalism and feminism (Okin, 1999). These tensions constitute a genuine dilemma if one accepts both that group-differentiated rights for minority cultural groups are justifiable, as multicultural theorists do, and that gender equality is an important value, as feminists have emphasized.

By giving special protections and accommodations to minority groups engaged in patriarchal practices may help reinforce gender inequality within these communities. It has been analyzed in the scholarly literature include conflicts over arranged marriage, the ban on headscarves, the use of cultural defenses in criminal law, accommodating religious law or customary law within dominant legal systems, and self-government rights for indigenous communities that reinforce the inequality of women.

Many feminist critics have emphasized, granting external protections to minority groups may sometimes come at the price of internal restrictions. They may be different sides of the same coin: for example, respecting the self-government rights of Native communities may entail permitting sexually discriminatory membership rules enacted by the leaders of those communities. Whether multiculturalism and feminism can be reconciled within liberal theory depends in part on the empirical premise that groups that seek group-differentiated rights do not support patriarchal norms and practices. If they do, liberal multiculturalists would in principle have to argue against extending the group right or extending it with certain qualifications, such as conditioning the extension of self-government rights to Native peoples on the acceptance of a constitutional bill of rights.



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## Identity, Difference and Tolerance

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Toleration is the social virtue. It is a political principle allowing for the peaceful coexistence of individuals and groups. These groups may hold different views, they may practice different ways of life, or even have different characters within the same society. Toleration is required in situations where social differences exist and more so if these do not coexist harmoniously. Tolerance then becomes pretty basic for social order and peace, hence bringing out an establishment of link between toleration and difference.

There can be different views by which differences can be accommodated. The following are the four different conceptions of toleration:

1. The view of tolerance as a moral virtue.
2. The liberal views of toleration according to the perfectionist.
3. The liberal view of neutralist perspective.
4. Toleration as recognition.

First, according to a conception of tolerance as moral virtue, within political philosophy, as the disposition leading to the suppression with others, disliked or disapproved behavior, which is considered important both by the tolerator and by the tolerated. If tolerance is to be defined as a virtue, differences need to have the features of disliking the potential tolerator. Only then the proper differences will be tolerated when it will be moral and not non-moral. In order to be seen as a virtue, tolerance should be the overcoming of one's feeling of dislike or disapproval for higher moral reasons such as respect for others and their autonomy. Attitudes such as racism and practices such as slavery or torture, which are universally acknowledged to be morally wrong and unjust, cannot be subjects for toleration. Being tolerant with reference to these practices is not a virtue, but a moral wrong.

Moving on to the second and third arguments of the liberal tradition, toleration can be construed as a political principle. Liberalism includes two strands which bear on the conception of toleration: neutralist or political liberalism, represented by John Rawls and perfectionist liberalism outlined by Joseph Raz. The neutralist argument starts from pluralism as a problematic fact, and then goes on to generalizing the model of political toleration which provided the solution to the religious wars of early modern Europe. Political toleration works for peace and civil coexistence, demarcating between matters pertaining to the political order and public affairs and matters concerning issues that are irrelevant to order and peace. The latter realm defines the private sphere, where the state has no business, hence no reason to intervene with coercive action. The principle of toleration therefore relies on the public/private divide, and properly applies to private–personal questions, while in the public domain it requires the principle of state neutrality. If toleration is the suspension of the political power of interference in an individual's religious and moral views, neutrality means not favoring any such views, or their holders, over others in the public sphere.

Finally, toleration as recognition thus acknowledges different identities as its proper subjects and points out that cultural contrast are invariably fueled and examined by asymmetries in social standing, status, respect of different groups struggling to improve their status, or alternatively, resisting any such change. Focusing on the power relationship between groups, however, does not automatically solve the cases of incompatibility sometimes arising between certain cultural practice and legal norms or individual rights. The hotly debated issue of headscarves at state schools in France; practices concerning arranged marriages; various demands of exemption of state mandatory education for children; up to perhaps the most controversial issue, female genital mutilation, are all instances of incompatibility.

Toleration as recognition is less concerned with the principled defense of liberal values than with effective just treatments of people; hence it shares the view that the approach to hard cases should always be contextual, careful in the interpretation of the claims at issue and of the positions of the various parties involved. Moreover, toleration as recognition makes a distinction between the symbolic recognition of a collective identity, implying its public visibility and legitimate presence in the “normal” range of the open society, and the actual acceptance of specific practices and claims. Toleration as recognition is aimed not at a mosaic society or at the preservation of cultures as endangered species, but at making people, whatever their differences and identities, feel at ease with themselves, and at ease with their choice to identify or not with certain differences.

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### **Conclusion**

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A tolerant society might not match the ideal of a multiculturalist society and it may not be a very comfortable society either against the views of some images of a tolerant society as one at ease with itself. It is therefore easy to exercise toleration in relation to things we do not much care about; but when we really do care, toleration is difficult. There is a tendency to approve of toleration as it does not require us to tolerate what we disapprove of. This is because we are not really being challenged in any deep or fundamental way that enables us to be not merely tolerant but even to talk cheerfully of mutual recognition, openness, dialogical engagement and the celebration of cultural diversity, while more or less subtly wagging our finger at others, but exempting ourselves. However, in so far as different cultures and ways of life are deeply committed to beliefs and practices that are mutually antagonistic, particularly when they are bound up with ideas of right and wrong, a measure of disparagement, condescension or even hostility may be a normal concomitant of such commitments. And in our enthusiasm for something supposedly better we should not lose sight of the continuing role that the traditional conception of toleration is still needed to fulfil.

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### **Learning Outcome**

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This chapter makes the students familiar with the meaning and scope of multiculturalism. The text not only conveys the advantages of multiculturalism, it also talks about its criticism and disadvantages. The text also includes issues of recognition and pluralism and sums up with a detailed discussion about theory of tolerance and differences.

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## Questions

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1. What do you understand about multiculturalism? Do you agree with the way multiculturalism accommodates differences?
2. What are the stages of development of multiculturalism?
3. Write in brief a critical evaluation of multiculturalism and tolerance?
4. What do you understand about tolerant society?

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