

2015 P.I Q:6 (20 marks).

Q Discuss in detail the concept of sovereignty and explain its attributes.

Ans

1- Introduction of Sovereignty :

The term "Sovereignty" is derived from latin word superanus means supreme. Sovereignty refers to a supreme and absolute authority within a society. That entity has the absolute power to make decisions, enforce laws and represent the community.

Traditionally, this entity was known to be the state holding power over other associations and institutions of the society as also entailed by Harold J. Laski ; he defined

sovereignty as the modern state is a society, divided into government and its objects, claiming with its allocated physical area, supremacy over all other associations.

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Concept of Sovereignty :

National and international politics today is dominated by the notion of sovereignty and contests over it.

Sovereignty, according to its defendants,

both in theory and practise,
provides order and clarity in
what they call a turbulent and
coherent world.

The etymological meaning of the
sovereignty is supreme or absolute
authority of the state. The
sovereignty entails that the state
is provided with undisputed legal
power to decide the rules and
regulations of the community to
govern the members of that
community. The exercise of the
supreme power by the state is
called sovereignty and the state
is thus called sovereign.

The use of the word sovereignty
as technical term in political science
dated from the work The Republic
by French thinker Jean Bodin in
1576 A.D.

Though in its technical and political
term sovereignty seems to be a
modern concept but it is as
old as Aristotle. Sovereignty
has been differently defined by

different writers. Western philosophers have used the concept to describe the supremacy of state - along with its other associations like government, judiciary and parliament over the people being governed. ~~Aristle~~

Aristotle, for example, has defined the supremacy of state which is same as sovereignty. Thomas Hobbes has described it as

"In exchange of protection offered by government to its people and its role in making society cohesive and at peace through its control over law and order, the state has legitimate claim to sovereignty."

So Jean Bodin has said that the sovereignty means absolute and

perpetual power of commanding in a state and supreme and absolute power over citizens unrestrained by law. Besides it, Hugo Grotius

has defined sovereignty as freedom from foreign control. Many other philosophers have defined the sovereignty but the most acceptable

definition is of John Austin, an English Jurist. He has defined sovereignty as under:

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

3- Origin of Sovereignty: The sovereign state system in Europe had originated as a result of various historical circumstances.

In medieval period, supreme power in Europe was held by religious authority (Church). The popes claimed temporal (political) as well as spiritual power. They commanded armies, made alliances and enemies and even waged wars. 1/10th of annual produce or earnings was given for the support of church.

By 1050, church was the largest landowner of the Europe.

By 16th century, the church was beginning to lose control over state and other societal structures because these were moving in a secular direction due to a variety of reasons included;

- 1- Beginning of industrial revolution.
- 2- Scientific revolution
- 3- Colonization
- 4- Exploration
- 5- Reformation

The main components of this new cultural and political milieu of which the notion of sovereignty was an outcome, were:

- 1- Expanding trade avenues.
 - 2- New forms of manufacturing industries.
 - 3- New developments in art, culture and philosophy.
 - 4- Systemic expansion of scientific and technical base accompanied by the challenge of doctrine religion.
- Precisely, the sovereignty is that absolute power of the sovereign which makes it supreme over all individuals,

groups and associations of a community. Although this notion is widely used in this ~~more~~ modern world but it can be traced back from the end of medieval period.

4- Attributes or characteristics of Sovereignty :

4.1 Sovereignty as an element of the state : Sovereignty is the most universal and paramount element of the state. Sovereignty means supreme power of the state and it makes state independent of other external forces. Sovereignty is that element of state which distinguish it from other associations and institutions of the society.

According to, Garner, following are the attributes of sovereignty :

(i)

(ii) Absolute or illimitability :

The sovereign power is absolute and illimitable both in external ^{as} ~~and~~ well ~~as~~ as in internal arena. There is

no any legal limitation as emphasized by J.W. Garner when he said; "Sovereignty is that element of the state by virtue of which it can not be legally bound except by its own will or limited by any other power than itself."

This reflects that there is no any restraint on the sovereignty of the state internally as well as externally.

(ii) **Permanence** : The sovereign power of the state is permanent. As long as the state maintains its independence, sovereignty lasts. ~~The~~ As also entailed by Rousseau that;

"Sovereignty is absolute, indivisible, permanent and non-transferrable."

The government may be formed or dissolved but the continuity of sovereignty is not affected by such changes. For example, sovereignty does not end with the death or temporal dispossession of power of a particular bearer or reorganisation

of the state but is immediately shifts from one bearer to another as center of gravity shifts from one part of a physical body to another when it undergoes changes.

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Indivisible : Sovereignty of the state is indivisible and thus can not be divided or shared among different individuals or groups.

In every political society, sovereignty resides in a single entity. **Jean**

Bodin, for example, writes as:

"Sovereignty is untrammelled and in undivided power of making laws". This power we call the power of state or legal sovereignty.

The division of sovereignty is the destruction of sovereignty.

Besides, the notion of fragmented, divided, limited and relative

sovereignty is actually the negation of sovereignty. Here it

must be mentioned that the

pluralists have another different notion of sovereignty.

iv, Inalienable : Sovereignty can not be alienated from the state.

These two are inseparable, if because if there is one, another exists spontaneously. Moreover, Sovereignty is that element of the state which makes it a state and if there is an independent state, there must be sovereignty as well.

v, Universality or All-Comprehensiveness
Sovereignty extends to every individual, group, area and institute with a territory and sovereign is free from external forces.

Sovereignty is all-comprehensiveness. A state retaliate any rival inclusion of its territory either by a person or association. However,

it must be mentioned here that the no exception to the universality of sovereignty is extra-territorial jurisdiction given to ambassadors.

But it is also true that the state guarantee the immunity and

extra-territory : to the officials of these ambassadors like ;
UN officials, envoys, ambassadors, and Foreign head of the state etc.

(vi) **Exclusive** : Sovereign power is exclusive internally as well as externally. It is the supreme power internally and is free from external pressure. No one can compete it. It only is competent to the compliance of the members of the community.

(vii) **Unity** : Sovereignty resides only in a single body (the state). The state is the only source of power and the only authority to exercise it in a society. Max Weber, for example, has described sovereignty as under ;
"Legitimate monopoly over the use of force within a given territory" this also reflects that the state is only sovereign authority.

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Thus to conclude, there is no limitation on the sovereign authority because it is absolute authority. It is indivisible thus lays only in the state and these two are inalienable. Sovereignty is perpetual and non-transferable and it is universal as well as exclusive.