

Q Why monistic or absolute concept of sovereignty has been abandoned? Analyse legal concept of sovereignty.

Ans

### 1 Introduction

The monistic concept of sovereignty, which concentrates all governing power in a single entity without checks and balances, has largely been abandoned in modern political thought and practice. This shift has occurred due to various reasons, including historical abuses of power, the need for protection of human rights, the evolution of democratic principles, the rise of globalization and the realities of complex diverse societies.

In contrast, the concept of legal sovereignty, which emphasizes the rule of law, constitutional frameworks and the separation of powers, has gained prominence. This analysis explores the reasons for the decline of absolute sovereignty and the rise of legal sovereignty, highlighting its key features and application in contemporary governance.

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## #2 Reasons for Abandoning the Monistic Concept of Sovereignty

2a, Separation of power: reducing the risk of tyranny and abuse of power

Modern democracies are built on the principle of separation of powers, where the government is divided into different branches: executive, legislative, and judicial to prevent any single entity from having absolute power. In monistic sovereignty, the power resides with a single entity which increases the risk of power abuse and tyranny. Therefore, this system ensures checks and balances, reducing the risk of tyranny and abuse of power.

2b, To protect human rights and adherence to legal norms

The absolute concept of sovereignty often conflicts with the protection of human rights. Concentrating power in a single entity can lead to violations of individual rights and freedoms, as seen in the tyrannical reigns of

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leaders like Louis XIV of France and Joseph Stalin of Soviet Union

Therefore, modern political systems prioritize the protection of human rights and adherence to legal norms.

2c, Inclination towards federalism and decentralization to manage diverse societies

Federalism divides governmental powers between central and regional authorities. This allows a more balanced and inclusive approach to governance. This structure acknowledges the complexity and diversity of modern states. In absolute sovereignty, where power concentrates in a single authority leads to inefficiency and the marginalization of regional interests. Hence, many countries are inclined towards federalism and decentralization which allows for better governance and addresses the needs and interests of diverse populations more effectively.

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2d, The rise of globalization and international law

Another reason for the abandoning of absolute sovereignty is the rise of globalization and international law.

The rise of globalization and the development of international law have necessitated a shift away from ~~absolute~~ sovereignty. States are ~~extreme~~ increasingly interdependent and subject to international treaties and agreements, which require them to cede some aspects of sovereignty to international bodies like the United Nations or the European Union. These developments are in contrast with the concept of absolute sovereignty.

That is why, <sup>with</sup> the rise of international law and globalization the absolute sovereignty has largely been abandoned.

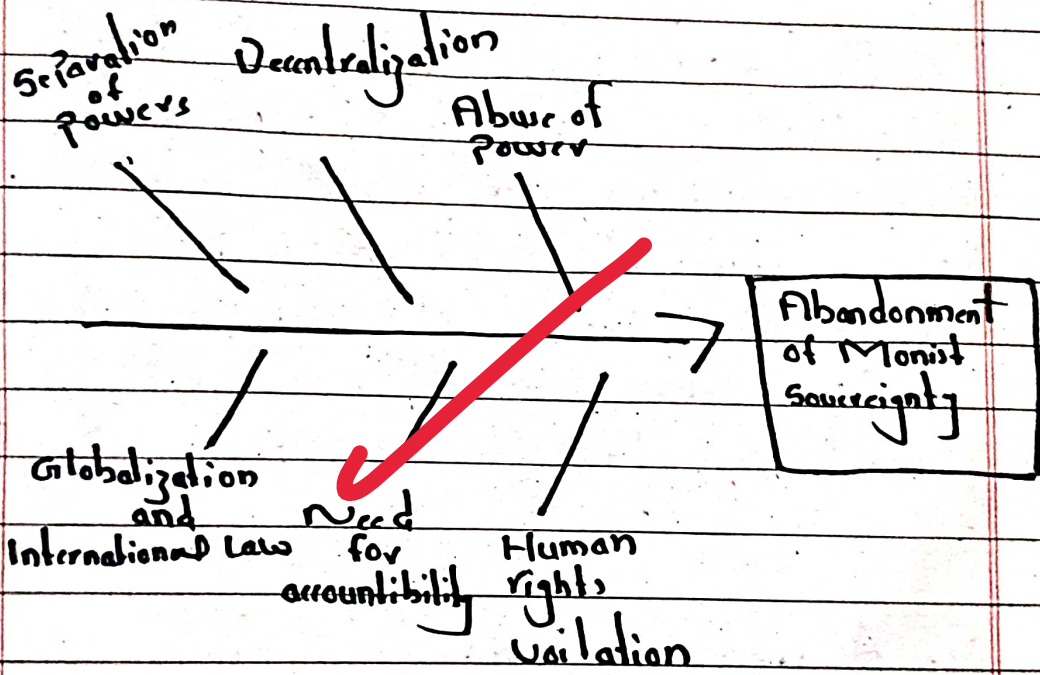
2c, The evolution of democratic principles

Modern political systems emphasize democratic accountability and participation

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Absolute sovereignty often lacks ~~some~~ mechanisms for accountability and public participation. Therefore, with the evolution of democratic principles, absolute sovereignty has been abandoned.



### 3 Analysis of the concept of legal Sovereignty

Legal sovereignty refers to the ultimate authority to create, amend and enforce laws within a given territory. Legal sovereignty is concerned with the rule of law, where the legal system,

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rather than any individual or group holds the supreme authority.

## 4 Key Features of Legal Sovereignty

4a, law is supreme in legal sovereignty

Legal sovereignty upholds the principle that law is supreme. All individuals and institutions, including the government, are subject to the law. This ensures that power is exercised within a legal framework. Hence, in legal sovereignty law is supreme.

4b, Legal sovereignty is embedded in a constitutional framework

The constitution serves as the highest legal authority, outlining the structure of the government, the distribution of powers, and the rights of citizens. It provides the legal basis for the exercise of sovereign power. So, legal sovereignty works in a constitutional framework.

Yes; Legal sovereignty is vested in Parliament

In some systems, such as the UK, legal sovereignty is vested in Parliament. It means that Parliament can make or unmake any law and no other body can override its decisions. This highlights the role of legislative bodies in exercising sovereign power.

Yes, judicial review is a crucial concept of legal sovereignty.

In legal sovereignty, courts have the authority to interpret the constitution and review the legality of government actions. This mechanism ensures that laws and actions are consistent with the constitution and protects against arbitrary use of power.

Add and highlight references against your examples

Yes, legal sovereignty emphasizes separation of powers.

Legal sovereignty often involves a

Separation of power among different branches of government, such as executive, legislative, and judicial. This approach provides checks and balances to control arbitrary use of power.

### 5 Conclusion

Monist sovereignty and legal sovereignty represent two distinct approaches to the concept of sovereignty. Monist sovereignty concentrates power in a single entity, often leading to authoritarian rule, while legal sovereignty emphasizes the rule of law, constitutional frameworks, and the separation of powers to ensure a balance and just exercise of sovereign power. Modern states generally favor legal sovereignty to promote democracy, protect human rights, and maintain the rule of law.

