

Question Examine Montesquieu's theory of separation of powers. Why he has been called "Aristotle" of eighteen century? Discuss.

Answer Exordium

Montesquieu (1689-1755) was a French philosopher. He is influential on today's US Constitution. He gave concept of 'separation of power'. His aim was to create balance between different institution and check of one institution over the other. He focused on the authority of law, separation of power and check of power. He is considered as the 'Aristotle' of 18th century because he was also realist like him. He also further explained and detailed the Aristotle's concept of 'separation of power'.

Separation of power

Montesquieu based his philosophy on separation of power. He criticized

that all powers must not belong to single entity. One institution is making law, implementing law and even interpreting law. He gave three new institutions

- 1- Executive
- 2- Legislature
- 3- Judiciary

Legislature is responsible for law making in the state. The present example of legislature is parliament in Pakistan.

Executive is responsible for implementing the laws made by legislature. This includes police, army etc.

Judiciary is responsible for interpreting the law. It includes all the courts of the country.

Montesquieu divide the powers among these three institutions. He also created a balance among these by 'check and balance' system. The US constitution is best example of Montesquieu's this model. Every

institution is independent in their own powers but they are also checked by other institution.

⇒ **Legislature's check**

Legislature has power to pass any law and if president veto any law legislature can overthrow that veto by $2/3$ majority. Legislature also select the judges of the supreme court. So, this is the check of legislature on executive and judiciary.

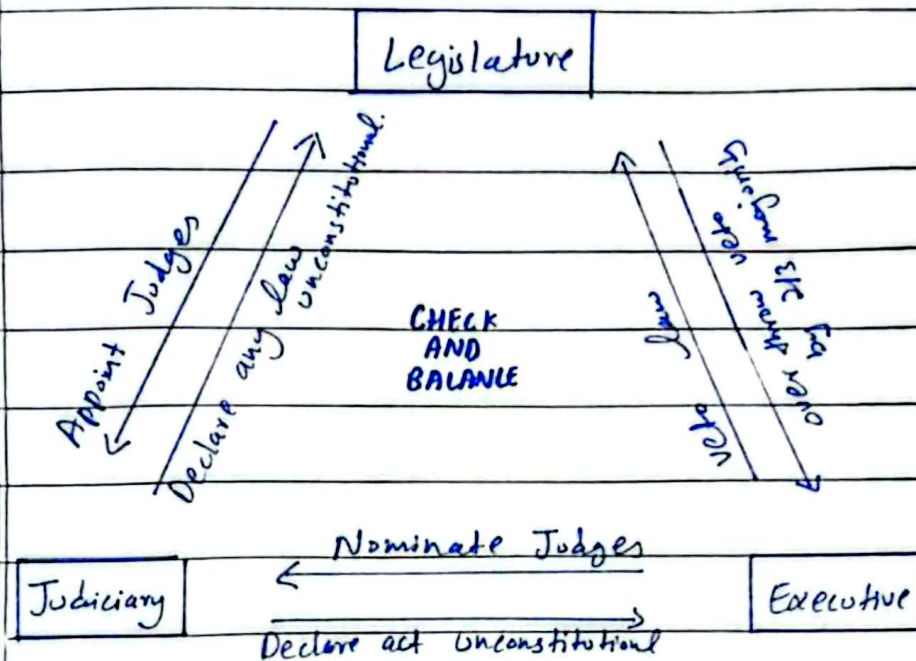
⇒ **Executive's check**

Executive keep check on legislature by veto any law passed by legislature. Executive has the authority to nominate judges of Supreme court. Even though legislature appoint judges but on the nomination of executive.

⇒ **Judiciary's check**

Judiciary can give judicial order and declare any law

as unconstitutional. Also, Judiciary can declare any act of executive as unconstitutional. This is judiciary's check on legislature and executive.



The US constitution of 1787 is practical example of Montesquieu's separation of power. He did not resided all power to in the hands of public. But, he gave them power to revolt and live under law where powers are divided and institutions are independent. To eradicate corruption of power, he added check of one department over the other.

Aristotle of 18th century

He is regarded as 'Aristotle' of 18th century because of similarities with him.

1- Realistic nature

Aristotle was regarded as realist as compared to Plato who was more idealist. Montesquieu is also realist and reality of his ideas in form of US constitution is present in front of world.

2. Separation of power

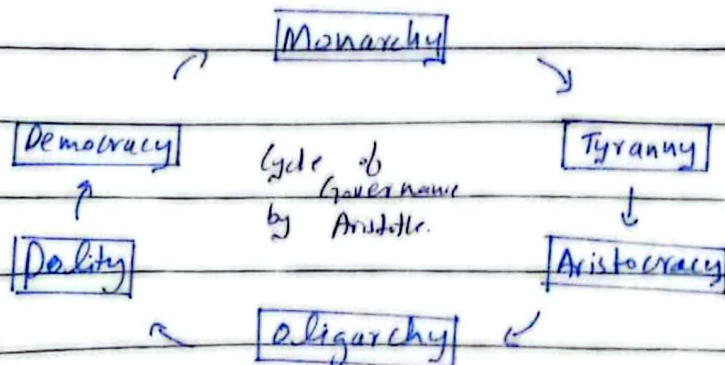
Aristotle separated the power among 'Quality', 'Quantity' and 'polity'. Quality keeps check on lawlessness of quantity. Quantity keeps check on authoritarianism of Quality. Whereas, polity maintains balance between two classes. Aristotle claimed it as best that all three separated their power.

Montesquieu separated power between 'king', 'nobel' and 'masses'. King will also follow rule established

by nobels. He called this form of government as 'elected monarchy'. Nobels will make law and create balance between masses and king. Masses obey the laws and conform to the balance of society between king, nobels and masses. The kingdom of Saudi Arabia before king Suleman was the example of this system. The king was one but nobels make laws, king implement those laws.

3- Form of government

Aristotle gave one form of government which considered as best which is 'polity'. Aristotle also discussed other forms of government. He gave the cycle of governance as well.



Aristotle claims, monarchy decays into tyranny, which will not last for long time. Then, a new system come which will be aristocracy and it is the good form of government. But with time it will be converted into oligarchy which is bad form of governance. Lastly, polity will rule which is good form but time will come when it will be changed into democracy.

Montesque also gave different forms of government. Firstly,

1- Democracy: The ruler will be elected. If few number of rulers than 'aristocratic democracy'.

If large number of law makers than 'authoritative democracy'.

2- Nobility: The three class king, nobels and masses. Nobels will maintain balance between king and masses.

3- Despotism: It is regarded when one individual holds all the power and

remove nobility.

If power snatched by masses it is democracy and if power snatched by king it is despotism.

Exempli gratia, there was nobility in Saudi Arabia but king Sulaiman held all the power from nobels. He turned nobility into despotism.

	Historical example	Present example
Aristocratic democracy	Roman republic	Switzerland USA
Authoritative democracy	Athens	USA
Nobility	Kingdom of Prussia	UK
Despotism	Hitler's Nazi Germany	North Korea, KSA

4- Ideal form

Aristotle regarded polity as best form of government and Montesquieu regarded nobility as best. In both polity and nobels are creating balance among other two classes.

Renouement

Montesquieu's theory is very

influential even today. He based the US constitution by concept of separation of power. He is no doubt the 'Aristotle' of 18th century because there are so much similarities among their views on government. This book, 'The Spirit of the Law' is the evidence of all these points.
