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(10) Checks and Balance

Q #2

Introduction

Montesquieu was a French philosopher who lived in the Enlightenment Era of Europe. He was inspired from the political system of Britain's constitutional monarchy in which powers were distributed among the institution of Parliament and monarchy.

Some political scientist favour state, some individuals. Montesquieu created a balance between the two. He gave the theory of separation of powers to protect the liberty of individuals and authority of the state through checks and balance.

Separation of Powers: Tripartite Model

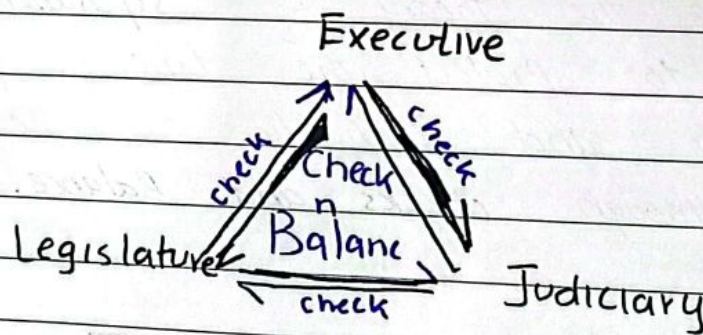
(a) Separation of Powers

The tripartite model of separation of powers suggests that organs of the state i.e. Executive, legislature and Judiciary should be independent in their roles and responsibilities.

Each organ has its separate powers and functions and it cannot interfere in the functions / powers of other organ.

(b) Checks and Balance

In order to avoid the exploitation or misuse of its powers each organ of the state is made responsible to other organ. In other words one organ can keep check on the functions of other organ to see if it is crossing its limits of powers. Checks and Balance is not the interference of one organ in the affairs of other organ but it is a check on its misuse of powers.



For example, Judiciary can check the action i.e. law making of legislature to see if its constitutional and the legislature can check the actions of executive and decide to approve / disapprove i.e. ratify. Similarly Executive can appoint and evaluate

The Judiciary Performance. All three organs / institutions are responsible to one another.

Why Separation of Power Necessary

(a) check abuse of Power

It is important that powers of the powerful are kept in check because as said by a philosopher

"Power corrupts, and absolute power corrupts absolutely"

(b) Protect Liberty of Citizen

The liberty of citizens and the authority of the state are inversely related to each other. Therefore to create a balance, this separation of Powers is necessary to protect both.

(c) Smooth Functioning of State

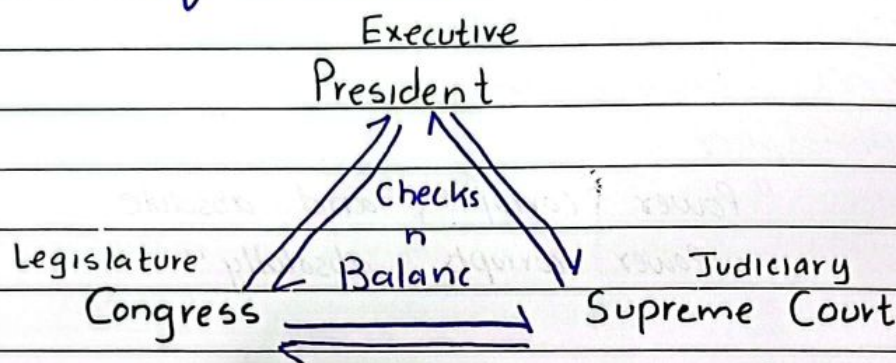
Separation of Powers is a self management mechanism. When there are checks on the individuals within the system and structure, the government functions smoothly.

(d) Bedrock of Democracy

Democracy entails that the

the rights of individuals are protected and constitution is upheld which can be made possible when powers are separated along with checks and balance.

US Political System: Modern Implementation of Separation of Powers.



US - Political System

The US - Political system strictly follows the doctrine of separation of powers. All the three organs are responsible to one another as enshrined by the forefathers of the country;

If men were angels, no government was necessary, if angels were to govern, no control on government was necessary. In framing a constitution that is to be administered by men over

men, difficulty lies in this; You must enable government to control government and oblige government to control itself"

James Madison

Federalist Paper

Separation of Powers in US - Political System

1 Powers of Executive

President has powers of appointing officials, framing foreign policy, and veto a law of congress.

Checks on Executive

President has to consult the legislature to appoint officials. Congress has to ratify a treaty that President signs with foreign countries.

2 Powers of Legislature

Congress has the power of making laws, and confirm appointments of executive.

Checks on Legislature

Laws passed by congress can be vetoed by President if he finds ~~it~~ ^{them} not suitable. ^{Laws} If can also be struck down by Judiciary

if it finds them unconstitutional

3 Powers of Judiciary

The supreme court has the powers to interpret the laws passed by congress.

Checks on Judiciary

Executive can appoint the Judges of supreme court. Legislature can confirm the appointment.

Conclusion

Theory of separation of Powers is the landmark of Montesque that shaped the political system of modern world. A strict separation of powers along with checks and balance is the necessary element for democracy to function well.

Critical Analysis

Although separation of Powers prevent tyranny of the government and protect liberty of the governed but it creates dead locks in the systems. Policy making becomes a hectic job for the government as it has to go through different stages of approval. It leads to 'government shut down' as seen often in US political system

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Q 4.

Introduction

Social contract is a theory of how authority of the state established and how this authority should be in the future along with the right of individuals.

'A social contract is a contract between the people and the authority'

It is a contract between two parties in which both gains and lose something to establish peace and order in the society.

Social Contract Theory

Social contract theory is put forward by three philosophers i.e. Thomas Hobbs, John Lock and J. Rousseau. All of these three philosophers belong to enlightenment era that started in 17th century. Each of them are discussed one by one:

Thomas Hobbs

Legacy: Monarchy in the world

work: Leviathan

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Hobbes grew up in the era of civil war. Therefore he wanted and preferred peace and order in his social contract.

Hobbes's Social Contract

1 State of Nature

Life in the state of nature (was when there was no state authority) was solitary, short and poor.

'There was war of all against all in state of nature'

2 Human Nature

Man is selfish and cunning. He wants self interest.

3 Social Contract

In the fear of loss of life man enters into a contract where he gave up all his rights and liberty except the right to life

4 Right of Revolt

Man has no right to revolt against the authority unless his life security is at threat.

5 Absolute Monarchy

Hobbes favour the rule of monarch who has absolute power

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over his subject.

6. Security is Important than Liberty
Hobbes suggests to surrender liberty for security of life.

John Lock

Ideology: Liberalism

work: Two Treaties

Focus: Rule of law.

of Government

1 State of Nature

life in the state of nature was golden age but there was one issue in that state, which was the insecurity of property.

2 Human Nature

Human nature is overall good.

3. Social Contract

To remove the drawbacks of state of nature, man enters into a contract where he did not give up all his rights and liberties but some in exchange for the security of his property.

4. Purpose of Government

The purpose of the government is to protect natural rights and

liberty is an inalienable right.

5 Right To Revolt

Man has right to revolt if his life, liberty and Property are not protected.

J. Rosseau

Human Nature

humans are naturally good

- State of Nature

Life in the state of Nature was absolute freedom and happy, but the concept of Private Property made him greedy.

3 Social Contract

People surrender their rights not to an absolute authority or a sovereign but to the community. Rosseau talks about the role of the community which he calls the general will. He says:

" I obey the general will, General will is my will, If I obey my will, I obey myself, it means I am free "

4. Majority Vote

Rousseau's social contract is all about the majority vote. Laws are made by the majority

5. Legislature

Legislature must be composed of whole community, but since for large population it is not possible therefore people would elect their representative to the legislature who would make laws for them.

Rousseau's Social Contract:

The Most Practical and Relevant Framework

The social contract presented by Rousseau is more practical and relevant for understanding the legitimacy of the political authority of in modern states. Following reasons defines why that is the case;

Representative

1. Constitutional Democracy

Rousseau promotes the idea of democracy where there is the rule of people on the people. The people elect their representatives to the legislature who make laws for them. Therefore their

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1. The authority of the legislatures to make laws for the people are legitimized.

2. Equality of Citizens

Every citizen has equal say in the political system prescribed by Rousseau. Every vote counts and agreed the authority of the sovereign.

3. Rule of Law

There is rule of law in the democratic system prescribed in Rousseau's social contract. These laws are made by the people themselves through their representative.

4. No Abuse / Misuse of Power

Authority or the representatives are responsible to the people that why they don't transgress as their authority depends on the general will of the people.

Conclusion

These social contracts put forward by Hobbes, Lock and Rousseau are instrumental in understanding the authority of sovereign and the rights of individuals.

Critical Analysis

The social contract theorists

changed the thinking of the people of Europe and they started to question the divine right of the king. Lock's Theory of Life Liberty and Property was became the part of US constitution and its Political system. ^{These theories} The French, British and American revolutions which to the formation of Republics.

Q 6

Introduction

Democracy is the form of government in which people decides who should rule them. They make their choice through voting for their favorite leader that they wish to become their head of the government. This method of voting for electing a head of government can be categorised in two ways. Direct voting or indirect voting - which makes direct democracy and indirect democracy.

Direct Democracy

It is that type of Democracy in which the people directly

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Direct Democracy

It is that type of Democracy in which the people directly

take part in the Policy making through of the country. For example through the referendum the government takes the opinion of the people on a certain policy, law or amendment to law.

Following characteristics of the direct democracy are discussed as follows:

(a) Election of the Head of State

In direct democracy the people elect directly vote for the election of the head of government. This system is usually followed in countries where the government is of presidential form and the election of the president is the election of the president but that is not necessary eg USA. is Presidential but indirect democracy

(b) Referendum on Law Making

The people in direct democracy are directly involved in the process of law making. People vote on any law making. People wish to make. Moreover government can also initiate a referendum

and propose a law. This method is followed in Switzerland where citizens have more power than those in representative democracy. Also - Turkey.

Representative Democracy

Representative democracy is the most common form of democracy.

In this form of democracy people are not directly involved in the making of government and laws but they elect their representatives who make government and make laws on behalf of the people.

Some features of indirect democracy are as follows.

(a) Election of Head of State

People do not elect their head of government but elect those in turn will elect the head of government.

The head of government can be a President i.e. Presidential system or a Prime Minister i.e. Parliamentary system. The people elect or form an electoral college for the election of the President or Prime Minister.

e.g. USA, Pakistan, UK, Bangladesh

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1b) Role of People in Law Making

People are not directly involved in the lawmaking of the country but the legislature that makes law are composed of people who are directly elected by the people. Apart from that the legislature cannot make laws that are injurious to the constitution and the wishes of the people. Their power of law making is restricted and dependent on the will of the people.

Representative Democracy: An Effective System

Representative Democracy is more effective in the modern world because of the following reasons.

Large Population:

Large population is a hurdle in establishing direct democracy where each and every person is involved in the government functioning. If it is possible in Switzerland because it's not a large state like USA, Pakistan or India. This type of democracy was practised in Ancient Rome because there were

small city states with population up to few hundred thousand, or just thousands.

(b) Literacy of the People

It is necessary that all people are literate to vote on a policy / law that is to be made for the people. That's why people elect those who have knowledge about the working of government and laws. The literacy rate of Switzerland is much higher than any state of same size in Asia

Conclusion

Democracy either direct or indirect has difference on the basis of how much political participation of the people are involved. But overall both refers to the government of the people or the people.

Critical Analysis

If the pre-requisites of the ~~states~~ direct democracy are fulfilled then it is the best form of democracy but in reality it is not possible because of

the huge size of states in the modern times.



Q7

Introduction

Federalism is a form of political system in which the centre and its constituent units (states, province or cantons) share powers to run the country. and The concept of Federalism is not very old but the discussion and its prominence started during the formation of constitution of united states.

Evolution of Federalism

The concept and idea of federalism where constituent units of the state has optimum autonomy started in the 16th century in the enlightenment era. It was the time when people were getting awareness of their rights and liberty. These rights could be individual rights and liberty or political rights and liberty. But this concept get more prominence

in the era of Federalist vs. Anti-federalist debate in United States.

Federalist Vs. Anti Federalists

The conflict between those who supported the complete autonomy of the state i.e. Anti Federalists versus those who supported the complete powerful center i.e. Federalist in United States led to creation of two groups that later became two political parties.

Strong Federalism Vs Confederation : ~~A~~ Comprom

Later in the constitution of United States a strong Federal system was developed in which both centre and state were given powers.

Devolution of Powers with Time

As time passed countries in the world passed on some of their powers to their constituent bodies in order to share the burden of the work of government.

Federal System and the Balance of Power between Centre and Regional Governments in Pakistan:-

The constitution of Pakistan described the political system of Pakistan to be federal system in which powers are devolved to provinces on subject mentioned in the constitution.

Role of 18th Amendment

18th Amendment devolved more powers to provinces by removing concurrent list of subject and give residual powers to province.

Power of Tax Collection

Tax collection power has been transferred to provinces which led to the good performance of Revenue collection of Punjab government.

Education

Provinces have the power to legislate on education. Due to which the education system has improved and literacy rate increased.

Integration in the Country

Separation of powers among provinces led to unity among provinces.

Conclusion

Federalism contributes to the balance of power between the centre and the state and fulfills the criteria of democratic norms that every state is equal.

Critical Analysis

Federalism is more advisable and successful in a state that ~~has~~ ^{has} diverse groups / ethnicity / nations of people. That's why it's practical in USA, Pakistan and India and not in United Kingdom.