

Question 2)

Separation of Power
By 'Montesquieu' And
Modern Political System.

Answer:

Introduction:

Montesquieu was a French philosopher. He wrote spirit of law in 1748. He gave the theory or doctrine of separation of power in the mid of 18th century. According to Montesquieu, "there should be a separation of power between the three major organs of the state." He explained three ^{main} branches of the government and explained that for the proper functioning of the government there should be a separation of power between these branches. His doctrine of 'separation of power' is widely used in today's political system like in US, Pakistan etc. However, there are both positive and

Branches of Government:

According to Montesquieu, there are three main branches of the state — **legislative, Executive and Judiciary**. Each have their domain in which they operate.

According to him, for the proper functioning of the government, any person who is entrusted with any of these three organs must not encroach upon the power confined to other.

Separation of Power Doctrine of Montesquieu:

1- According to Montesquieu, true separation of power between judiciary, legislative and executive advocates adequate amount of liberty. Liberty can only be achieved through separation of power. Political liberty depends upon peace of mind based on the sense of security, which is best promoted by the government through the separation of power.

- If both legislative and executive powers confined to a person or assembly, there would be no separation of power in real sense. Moreover, there would no separation of power, if judicial power is not separate from legislative and executive branch.

- According to Montesquieu, there are three organs of the government, ~~the~~ and each has its sphere of authority.

1. Legislative - that makes laws

2. Executive - it enforces laws, rules and also give punishment to the criminals

3. Judiciary - It interprets the laws and other work.

- His doctrine is of great importance, but Montesquieu had less knowledge about the system of English (British).

- Each has its sphere of work and no one should interfere in the works of other.

- According to him, the power of judicial branch is less ~~important~~ as compared to legislative and executive power, but is still important to keep it separate from

them.

Modern Political System And Montesquieu doctrine —

Montesquieu doctrine of 'separation of power' is of great importance and it is implemented by many political system of today's world.

The best example of Montesquieu doctrine is United States.

In United States, separate of power can be seen clearly. Congress is the legislative body, President is the executive body, while Judiciary — Supreme court and subordinate courts — interpret the laws and do other related work.

And there is coordination between these three branches.

United Kingdom — The House of Lords and Commons form legislative branch, Prime Minister, Crown and Cabinet Ministers form executive branch while judiciary include judges to interpret laws.

However, there is no complete separation of power exists in real sense and there is a coordination ^{process} between these three organs.

Criticism on Montesquieu:

* If complete or full separation of power occurs, it results in a deadlock in the administrative system. Because, if different departments of the same administrative system do not coordinate with each other, then proper and effective functioning is not possible.

* Even in UK there is no complete separation of power. Prime Minister is the head of executive and leader of the Parliament, Lord Chancellor ~~can~~ pretakes functions of all the three branches.

* Laski remarks that all the three branches of government are important and the power of judiciary is not less important as compared

* to legislative and executive powers.

(Question 04)

Social Contract Theory

Answer

Introduction:

Hobbes, Locke and Rousseau - all the three philosophers gave the social contract theory which explains the origin of State and State of Nature. Hobbes was the first to give the theory of social contract. However the central idea of the three were different from each other - Hobbes advocated absolutism while Locke advocated parliament or indirect democracy. Despite the differences, all of these theories provide the framework to understand origin and nature of state and political authority.

Hobbes 'Social Contract Theory':

Hobbes was born in England and it was the time of Spanish attack on England. Thomas Hobbes explained the social contract theory in

• Features of Hobbes Social Contract Theory:

- 1- Nature of Human
- 2- State of Nature
- 3- Nature of Contract
- 4- Sovereign Power
- 5- Advocacy of Absolutism

* Nature of Human:

According to Thomas Hobbes, human, by nature, is brutal, selfish, cunning and narcissist. According to him, "Man is the biggest monster."

* State of Nature:

According to Hobbes, in the state of nature, "there is a war on all against all."

In the state of Nature, the life and property of man have no security. It is a period of brutality and uncertainty.

* Nature of Contract

In order to get rid from the Nature of state, people come forward and contracted with each other."

And, as the result of this contracts a civil society or state created.

~~The contract gave sovereign power~~

* Sovereignty

As per the contract, state came into existence. Absolute sovereignty is the essential characteristic of the state. It has all power and authority; the contract gave absolute sovereignty to the state and people became subordinate to it.

* Advocacy of Absolutism:

In order to advocate the absolute power of the state, Hobbes gave the example of 'Leviathan'. It was a great crocodile who govern all the other creature and protect them. So, in order to control human and to provide ^{them} protection, they should be govern by a single powerful authority - state

Critical Analyses:

According to Thomas Hobbes, man is the biggest monster. He only explained one side nature of man and neglected his cooperative behaviour due to which people lived in a civilization for many years.

Moreover, he did not give any protection to people against an tyrannical and oppressive ruler.

very
varied

Moreover, contract is always bilateral. While, according to Hobbes, only the state is the beneficiary while, people are only subordinate.

In today's modern world, such political authoritarian system does not exist. If it exists, it would end up like in Syria.

People rebelled against oppressive rule of Bashar al-Assad, and its regime toppled down.

Locke's Theory of Social Contract

Locke's views were quite different from Hobbes.

* Locke's View on Human Nature:

According to Locke, human, by nature, are cooperative, sympathetic and simple.

* Locke's view on The State of Nature

In the state of nature, people were equal and free. Equality means not the equality of physical, intellectual or wealth but equality in freedom and rights. However, due to the absence of known and established laws, people interpreted laws as per their desires. In the absence of executive body, people executed laws according to their needs and in the absence of judiciary, there is different interpretation of laws, thus, confusion resulted.

* Locke's View on the Nature of Contract:

So, in order to address the inconveniences faced by people in the State of Nature, they contracted among themselves and form a civil society.

It was a mutual and social contract.

* Locke's View on State and Government:

According to Locke, State and government are two different things.

Hobbes does not make any difference between state and government.

According to Locke, the rulers and ruled both formed state. While, those who are selected 'to rule', they form government. Thus, state is much important and bigger than government.

* Advocacy to Constitutional Democracy:

According to Locke,

† State must work for the interests of people.

• It cannot be governed arbitrarily.

• Both 'People and Government' are subject to laws. Law is supreme.

Thus, he advocated constitutional democracy.

Critical Analysis:

Locke's theory lacks clarity and consistency. It can be seen (to be applied) to some extent in today's world, but not completely.

Rousseau's concept of Social Contract Theory:

• Nature of man: Human:

He believed that human is born free. He said that, by nature, man is not bad; it is the physical environment that makes man corrupt and bad. Bad social arrangements, unjust laws and despotic government all these create evil. Human made a state to control chaos, but they snatched his liberty.

Aim: In order to regain freedom:

- Go back to stone age, no possible
- To make a social contract

• State of Nature:

According to Rousseau state of Nature has following features:

- State of Nature was a pre-political stage; not a social stage.
- Primitive people was free, healthy, honest and happy.

- It was a stage of liberty, equality and independent.

- Social Institutions began to evolve gradually. Rise of private property created a distinction between rich and poor.

The development of science and civilization made man self-centred.

- **Rousseau's View on Social Contract:**

People made a contract and a public body is established i.e. State. It ended state of Nature.

- In the contract, individuals surrender to the community as a whole. The community consists of all and work for common benefit. No one enjoys special privileges.

- **Concept of Sovereignty by Rousseau:**

General will, sovereign: Under the supreme direction of the General will, everyone becomes part of the individual whole willingly and naturally for his own best advantage. It is the membership of the civil society that lifts the human from the level of brutes.

Thus Rousseau's theory of General Will is connected with the concept of popular sovereignty. According to him, sovereignty is absolute, but it resides in the general will of the people.

Critical Analysis:

Rousseau is considered a prophet of French Revolutionaries. His book "social contract" became a textbook of the French Revolution.

Moreover, his concept of popular sovereignty helped for the development of democracy. Moreover, I think that his concept of General will and the common interest are the important features of every state. I think, Rousseau provides the most political and relevant framework for understanding the legitimacy of political authority in the modern state.

Section-B

Question 7)

Federation and balance of power b/w central and Regional Government.

Answer:

What is Federation?

Federation means "division of power between the central and provincial government."

Evolution of Federalism As a Political System:

The United States was the 1st modern federation in which federal government in principle could exercise federal government within its member states on matters assigned to the federal government.

In US, executive power is exercised by the President, legislative power by the Congress; and judicial power by Supreme and subordinate courts, thus, policed the separation of

power between the branches of the federal government and between the federal government and the states.

Parliamentary federalism first originated in the mid-nineteenth century, with the creation of federations in Switzerland and Canada. Since, 1970s, several democratic states, including UK, Belgium, **Spain**, formally unitary have reconstructed themselves - some of their constituent nationalities enjoy some territorial autonomy.

— Balance of Power b/w Central and Regional Government w.r.t. Pakistan —

In federalism, power is distributed between center and units. Pakistan is also a federal country in which power is distributed between federal government and various provincial units.

In federalism, balance of power is maintained between central and regional governments through the separation of power. It means some areas

are allocated to federal while some areas are given in the jurisdiction of the provinces. And, no-one interfere in the other sphere. For Example, in Pakistan, federal government has power in some key areas like:

- Higher education
- Defense
- Foreign Affairs
- Taxation
- Budget
- Nuclear Energy etc.

While, provincial governments deals with:

- Healthcare
- Education - Provincial education institutions
- Local Government
- Public Interest
- Local Municipalities
- Police etc.

By defining areas to their to federal and regional government, a balance of power is maintained.

* There is also concurrent areas on which both federal and provincial government work collectively, in all federal countries of the world. Like, in US, during election both federal and provincial units work together.

In Pakistan, there exists a concurrent list where both can coordinate.

- Housing
- Census
- Forest
- Environment
- Tourism
- Labour

By defining, concurrent areas, federalism maintain balance and transparency. It makes it clear that they can cooperate in these areas only and **cannot** interfere in other areas.

Question 6)

Direct And Representative Democracy:

Direct Democracy:

- In direct democracy, all laws and policies are made by people.
- Everyone can express their opinion without any restriction.

There is not representative in this case. People can directly influence the policies like through Brexit Referendum.

Representative democracy:

- It is called indirect democracy.
- In this democracy, all laws and policies are made by the elected members or representatives.
- These representative are elected by people through votes and after winning election, they hold the power to make and execute laws.

- In this case, laws for people are made by elected representatives.

Which system offers effective political accountability and citizen participation in the modern world?

In modern world, representative democracy is more popular as compared to direct democracy. In US, Pakistan, UK, India etc. have representative democracy. It offers ~~How?~~ more effective political accountability and citizen partnership in the modern world.

How?

- In representative democracy, if political party is not fulfilling its duties, people do not vote them for the next term.
- Moreover, there is a system of check and balance on the representative ~~system~~ party.
- Parliament is sovereign.

- Parliament is sovereign while in direct it is under the influence of citizens and unable to make laws and enforce them effectively.

- Moreover, in direct democracy, there is a chance of majority rule or tyranny while in representative democracy, representatives mediate between different groups and represent them all, thus, avoiding majority tyranny.