

## Separation of Power and its Role in Preventing Authoritarianism

### 1) Introduction:

2) Thesis Statement: Separation of power is a political mechanism through which power is distributed among the different branches of the government/state. It protects from tyranny, ensures rule of law, and promotes democratic norms. Its absence leads to tyranny, totalitarianism, and lack of accountability. However, it can be ensured through written constitution, media literacy, and judicial independence.

### 3) How Separation of Power prevent authoritarianism — an overview paragraph:

### 4) Separation of Powers — pillars of the state

- Executive branch — a tool of implementation of policies, governance monitoring — President of USA.
- Legislature branch — makes laws for the state. — congress in the USA.
- Judiciary — ensures Rule of law, fundamental rights. — *Marbury vs Madison* judicial review (1803)
- Free and Independent media — 4<sup>th</sup> pillar of the state.

### 5) Why separation of power mandatory to prevent authoritarianism?

- Ensure check and balance and accountability of each other — Executive vs Legislature vs Judiciary
- Prevent tyranny of any one institution.
- Control misinformation and manipulation of facts. — UK's Media literacy.
- Institutional progress, maintain Good Governance. — ~~the~~ US governmental system.

- e) People's friendly legislature - awareness of masses - 18<sup>th</sup> amendment
- f) Prevent extra-Constitutionalism - judicial review, Rule of law -
- g) Ensures democracy, protects fundamental rights, legal protection, local body system.

## 6) Absence of separation of power - leads to authoritarianism:

- a) tyranny of powerful institutions - Nazism in Germany, Martial laws in Pakistan.
- b) violation of Fundamental Rights - ban Media, lack of accountability - Regime in North Korea
- c) Corrupt institutions, Nepotism, Misinformation, Totalitarianism.

## 7) How to ensure separation of power among institutions?

- a) written constitution - define limitations of all institutions - US constitution
- b) judicial independence - ensures rule of law, judicial review
- c) Independent legislature - explicitly defined role
- d) Media accountability, Public awareness, executive efficiency.

## 8) Conclusion:

"There would be an end to everything, if the same man or same body exercise those three power - legislative, executive, judicial" - (Montesquieu The spirit of the laws). Separation of powers among these three state institutions is mandatory to prevent the tyranny of any one institution, leading to the violation of rule of law and fundamental rights. Separation of power means these three institutions, namely legislative, executive and judiciary work within their domain. Executive implements policies and laws; legislature makes these laws and policies; judiciary oversees both of them, and ensures that every institution should work within their domain. Separation of power is very important among the institutions to ensure check and balance, accountability, institutional progress, good governance, and democratic norms. Moreover, it prevents tyranny of any one institution, extra-constitutionalism, and spread of mis-information. However, separation of power can be achieved through written constitution, judicial independence, and media literacy. Hence, separation of power is the power distribution mechanism among the different branches of the state. It ensures institutional accountability, democratic culture, and fundamental rights. Its deficiency leads to tyranny of any one institution. Nevertheless, it can be maintained through written constitution, independent judiciary, and mass literacy.

Separation of power is a mechanism through which state balance the role of every institutions, preventing extra-constitutionalism and tyranny of any one-institution. This concept was given by Montesquieu in his book "The spirit of laws". This process ensures that every institution should work within their own domain through maintaining check and balance on each other. For Example, in the Youngstown sheet and Tube Co. v. Sawyer case in 1952 in the US, supreme court declared the president Truman <sup>has</sup> exceeded his constitutional limit by issuing executive order about seizing and operating most of the nation's steel mill, declaring that only congress has power to seize the private property. In this way, supreme court of the US prevented the authoritarianism of the president Truman.

Executive branch of the state implements policies and laws. It consists on the President or prime-minister and his cabinet. It ensures good governance, and monitoring and leads the performance of the state institutions. It embowers that every state institution should work within their limits, leading the socio-economic growth and political stability in the country. For Examples President in the US implements the congress-made laws, and maintains good governance in the US. Executive along with congress appoint judges, military officials, and officials to run the country smoothly. So, executive branch ensures good governance, and implements the state laws and policies.

Similarly, legislative branch makes law of the state. It is the parliament of the country, whose elected representative legislate laws for the welfare of the masses. It passes budgets, makes constitution, amends constitutions, and forges foreign treaties along with the executive. Its members represent different constituencies, making laws for the development of their constituencies. Likewise, congress in the USA consists of the House of representatives and Senate, making laws, monitoring foreign treaties, and appointing officials with the President. Therefore, legislature develops/creates laws, <sup>passes budget</sup> and monitors the foreign relations of the country.

Moreover, judiciary is another important branch of the state. It ensures rule of law, and <sup>protects</sup> fundamental rights of the people. It is the independent institution of the state, monitoring the performance of executive and legislature. It maintains that every institution of the state should work within the constitutional limits; and if any organization of the country exceeds its limits, judiciary will prevent it by doing it Null and void. For instance, in the Marbury and Madison case, Supreme court striken down the executive order through judicial review, maintaining limits of every institution. Hence, judiciary maintains rule and law and monitors the performance of other branches of the state.

Moreover, media acts as a fourth pillar of the state. It ensures free and fair dissemination of information, developing media literacy among the public. It is a source of accountability for the executive, state institutions, and legislature. It monitors the performance of the institutions, compels them to work within their own sphere, and works for the progress of the state. Social media provides opportunities <sup>to the people</sup> to express their ideas or thoughts through free speech, strengthening democracy and preventing state's autocracy. Geo-News and Youtube channels expose the government's performance, and make them accountable. For example, Panama papers leak exposed many big fishes, and held them accountable. Therefore, media ensures free spread of information, and develops media literacy among the people.

However, separation of power is mandatory to ensure check and balance among the institutions. It establishes accountability of every institution. All state's institutions work within their own defined constitutional limits. No institution surpasses its limit, protecting state from the dead locks. Executive along with legislature appoint judges, while judiciary then monitors the performance of legislature and executives, maintaining balance of power among them. For example, US president along with Congress pass federal budget, and appoint judges, while judges through judicial review monitor the executive performance, and ensure

the legislature must be confined within the constitutional limits. The case of Nixon vs US in 1974, court ensured that president must comply the rule of law in tape recording case. So, separation of power among the institutions is mandatory to secure accountability.

Moving ahead, separation of power prevents the tyranny of any one institution. Every institution has decided written role, and each institution monitor the limitation of other institutions, preventing the tyranny of any one institution. Executive appoints judges with congress; judges monitor the performance of executive and legislature; president veto the congress legislature; judiciary do null and void the executive actions, if contradict<sup>with</sup> the spirit of the constitution. Kennedy vs Sampson (1974) case, in which US president vetoed the Congress decision. Therefore, separation of power protects the state from the tyranny of any one institution, ensuring meritocracy and rule of law.

Likewise, separation of power assures the independency of the institutions, and controls the mis-information and manipulation of the facts. Every institution is free, and works within their own sphere, creating responsible attitude of the institution. It helps institutions to control mis-information, and works with full capacity. It creates media awareness among the public. For Example,

In UK every institution works within their limits on merit, and disseminates free and fair information to the people, making them aware and media literate. Hence, separation of power ensures meritocracy and independency of the institutions, and creates media literacy among the people.

Separation of power enhances institutional progress, and maintains good governance. In separation of power, <sup>mechanism</sup> constitution is written, and demarcates all the limitations and powers of the institution. Every institution draws its power directly from the constitution, which leads to good governance. Institutions have their own mandate and powers, working with their full capacity. For Examples in the US, executive knows its power of veto and implementation of laws; Legislature makes laws; Judiciary oversight them, protecting the state from authoritarianism. So, separation of power ~~enhances~~ boosts organizational performance, and secures efficient administration.

Similarly, Separation of power compels Legislature to develop ~~laws~~ people friendly laws and policies. Parliament knows that their powers are checked by the other branches of government - executive and judiciary, forcing them to work efficiently for the welfare of the people. They make and amend laws that is public's friendly, and ensures smooth governance. It doesnot make laws that hurt the spirit of

the constitution. It raises the <sup>democratic</sup> awareness among the masses. People know their constitutional rights, preventing from the autocratic government. For instance, ~~Government~~ <sup>Parliament</sup> of Pakistan passed 18<sup>th</sup> amendment to devolve powers to the federating units, assuring good governance, and protecting from the ~~tyranny~~ <sup>strict</sup> control of the center. To sum up, separation of power ~~force~~ <sup>urges</sup> parliament to forge legislature that secures the interest of the common people, preventing the authoritarianism.

Additionally, Separation of power halts extra-constitutionalism, through judicial review. Independency of every <sup>state's branch</sup> institution creates check on every state's institution, and forces them to work within their constitutional limits. If any institution tries to cross this limit or boundary, judiciary or other institution stops its way. For example, during ~~tanjuddin~~ <sup>tanjuddin</sup> case, ~~Smith~~ <sup>Supreme</sup> high court did null and void the governor general's decision of dissolving assembly, and declared as un-constitutional. Similarly, parliament oversees and ensures the actions of Prime Minister must be compile with the spirit of the constitution. So, separation of power prevents institutions from extra-constitutional steps, and maintains rule of law.

Moreover, separation of power ensures democracy, and protects fundamental rights

of the people. This protects legal rights of the people and devolves power to local body system. People elect legislature and executive, and protect their sovereignty. It develops people's trust on the institutions, strengthening the state's organizations. People take part in elections, and <sup>make them</sup> accountable. For Example, in the European countries, people take part in elections, and elect their representatives, and monitor their performance in far to five years. Therefore, separation of power promotes democratic culture, and ensures legal rights of the people.

Contrarily, absence of separation of power leads the world towards tyranny of the one institution. If check and balance mechanism becomes weaker, it will cause the dominant role of the powerful institution. This institution breaks all laws, and compromises the sovereignty of other institutions. It undermines the independence of judiciary, and makes legislature a rubber stamp. It creates <sup>own</sup> laws and constitutions to enhance its rule. For Example, Nazi in Germany and Ayub Khan in Pakistan established totalitarian rule, and undermined the sovereignty of elected representatives and judiciary. To sum up, absence of separation of power causes oppression of the powerful institution, leading the country towards anarchy.

Similarly, lack of this mechanism violates the <sup>people's</sup> fundamental rights, and hurts the accountability mechanism. Powerful institution curbs legislature and judiciary, compromising the

the rule of law and accountability principles. It bans media, arts, literature, and compels people to follow their particular ideology, making dissent impossible. For Example, North Korean regime under Kim Jon un creates a authoritarian regime that undermines the freedom of people. In short, absence of separation of power pushes the country towards totalitarian regime.

Likewise, absence of separation of power makes institutions corrupt, and forges nepotism. Absence of accountability leads the country towards end of meritocracy, and weakens of the institutions. Every institution involves in corruption and mal-practices, hurting the state's sovereignty. Authoritarian regimes propagate false propaganda and mis information to extend their rule. For instance, <sup>Emperor</sup> Hirohito in Japan forges corruption under their authoritarian rule in Japan. Therefore, absence of this mechanism diverts the country towards corruption and nepotism.

However, separation of power can be ensured through defining limitations of all institutions through written constitution. Constitution must be written, and clearly defined the powers of all institutions, making them compel to work within their limits. For instance

the constitution of the US defines the powers of all the state's organizations. Similarly, it can also be maintained through judicial independence. Judiciary must be neutral and free to control any extra-constitutional misadventure. Such as supreme court of the USA did in Marbury vs Madison case through judicial review. Hence, separation of power must be maintained through written constitution and independent judiciary.

Last but not the least, separation of power can be achieved through independent legislature and public awareness. Aware public should be in better position to hold politicians and bureaucrats accountable, making smooth administrative efficiency. Similarly, free media <sup>helps</sup> public to oversee the performance of the institutions, and makes them accountable. In USA, the CNN is independently reporting the political scandals, ensuring separation of power. Therefore, it could be achieved through independent legislature and media literacy.

To sum up, separation of power is a mechanism through which power is distributed among the various branches of the state. Executive branch implements the laws, which is made up by the legislature. Similarly, judiciary enforces rule of law through judicial review. However, separation of power prevents authoritarianism through ensuring check and balance among the institutions, securing from the tyranny of any one institution.

controlling manipulation of facts, enhancing democratic culture, and avoiding extra-judicial activities. However, absence of these mechanisms leads the state towards tyranny, violation of fundamental rights, and corruption. Nevertheless, separation of power can be attained through written constitution, rule of law, independent judiciary, and media literacy of the people.

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