

If the judges are not fair and impartial, the innocent may be punished and the guilty may escape punishment. To avoid miscarriage of justice, it is therefore desirable that judges should be impartial and independent. *Secondly*, the judiciary protects the rights of the individual against illegal acts of the government. If the judiciary is not free from the influence of either the legislature or the executive, there will be an end of individual liberty. Judged from this point of view also, the judiciary acts as a bulwark of individual liberty. *Thirdly*, in a federal form of government, an independent and impartial judiciary is indispensable to preserve the balance of power between the general government and the regional governments. So the worth of a democratic government can be judged only by reference to the efficiency of its judicial organisation. It is easy to speak of equal protection under law but law in its application very often becomes discriminatory unless the sitting judges are independent and detached from partisan politics.

Attempts have been made to secure judicial independence by six different methods which are (1) mode of appointment, (2) mode of removal, (3) tenure of office, (4) their qualification, (5) amount of salary paid and (6) separation of the judiciary from the executive.

Factors determining Judicial Independence

1. *Mode of appointment of the Judges*—The independence of the judiciary depends largely on their mode of appointment and practice in this respect differs in different countries. Appointment of the higher judiciary by the executive prevails in the U.S.A., U.K. and in India. The Judges of the Supreme Court of the U.S.A. are appointed by the President with the concurrence of the Senate. As the U.S.A. government is formed on party basis appointment of judges is not always and normally cannot be free from party influence and as a result independence of the judiciary has been impaired in many instances by reason of appointment by the executive who is a confirmed partyman. In England, judges of the House of Lords are appointed by the crown but they are actually appointed by the Prime Minister in consultation with the Lord Chancellor. In India, the judges of the Supreme Court are appointed by the President in consultation with the Chief Justice of India. But the President actually having no discretionary power is not free from the influence of the Prime Minister who, like the American President and the British Prime Minister, is also a confirmed partyman and it is not unlikely that in making judicial appointments, the party leaders should be guided by considerations of party interest.

The judges of many of the states in the U.S.A. are elected by popular votes and in some states elected by the state legislature. The judges of the Supreme Court of the U.S.S.R. and those of the federal tribunal in Switzerland are elected by the legislature.

Thus altogether three principles are followed in the matter of appointment of the judges. The first one is appointment by the executive, the second is election by the people and third election by the legislature. Now the question is : What is the best method of judicial appointment?

According to Dr. Garner, appointment of the judiciary by the head of the executive is the best method inasmuch as under this system judges are appointed only on the basis of qualification and judges elected on merit become usually non-partisan and indifferent to popularity-hunting. Dr. Garner's pleadings for the appointment of the judiciary by the executive stand to reason partially but the

mode cannot be accepted *in toto*. This mode of appointment of judiciary has given rise to great controversy both in the U.S.A. and India and confidence in dispensation of justice has received a severe jolt in both the countries. In the last analysis, if those who seek justice have little confidence in the integrity of the judges, the purpose of dispensation of justice is foiled. Appointment by the executive implies selection by one single person or a small group. This is the most undemocratic method. It is not always true to say that one man or a small coterie always makes his or their selection strictly on merit. Though formally appointed by the executive head of the state, the judiciary under this method is always selected by the President of the U.S.A. and Prime Ministers of the U.K. and India and these dignitaries being essentially involved in party politics for maintaining their position and power, it is only natural that party interest will be their primary consideration. So it is too much to expect strict impartiality from them in making their selection of judges.

The appointment of the judges by the legislature can claim certain advantages. The legislature is a representative body which includes men of different views and different political outlook. Such a body representing all shades of opinion selects the judges after careful and comparative consideration of the qualifications of a judge. The system is better in the sense that the appointment of a judge does not depend on the personal likes or dislikes or whim of one single man. Democracy is a government by discussion and compromise and as such appointment of judges by the legislature is therefore strictly in conformity with democratic principle. Again the judiciary is more closely connected with the legislature rather than with the executive inasmuch as the judiciary is to deal with laws made by the legislature. It is therefore more desirable that the judiciary should be appointed by the legislature. The argument that the system of appointment of judges by the legislature will make the judiciary involved in party politics resulting in the loss of their efficiency is equally applicable to the system of appointment by the executive. In Switzerland, far from impairing the efficiency of the judges, the system of election by the legislature has attained remarkable success and the Swiss people in general have great confidence in their judiciary. In the U.S.S.R., the system of election of the judiciary by the legislature is considered as normal and inevitable due to the existence of a single party.

The system of popular election of judges is looked upon with great disfavour by many writers on the ground that the general mass of the people are not fit to select properly qualified judges. But if the people are trusted with the function of electing their legislators, there is hardly any reason to deny them the right to choose those who will apply laws. It may also be said that one man (the executive) or an assembly of men (Legislature) may be guided by extraneous considerations but the possibility is the least when the selection is made by innumerable persons. Further, it may be said that election of the judiciary by the people is more in keeping with democratic principles.

An examination of the three methods leads us to the conclusion that each mode of appointment has its merits and demerits and if the system of dispensation of justice can in general command the confidence of the people seeking justice, the mode of appointment of judges is a matter of indifference.

2. *Mode of Removal*—The second factor on which judicial independence depends is the mode of their removal. If judges are removable from office on flimsy grounds or if the tenure of their office depends on the whims of one man or a group of men, they cannot be above fear or temptation. Judges who are

subject to fear or temptation cannot make good judges. It is for this reason that the judges once appointed cannot be removed within their fixed term except on ground of proved misconduct and incapacity and that also by different procedure. In the U. K., judges hold office during good behaviour. They are removable only by a joint address to that effect presented to the King by both the Houses of Parliament. So in the U.K., though the judges are appointed by the executive, they are not removable by the executive according to its whim. The judges of the Supreme Court of the U.S.A. cannot be removed by the President. If any judge is to be removed, he is to be impeached, i.e., the House of Representatives will have to prefer the charge and the Senate with the Chief Justice of the Supreme Court as its chairman will try the case. In India, a judge of a Supreme Court or of a High Court may be removed if a resolution to that effect is passed by a two-thirds majority of the members of Indian Parliament with the usual assent of the President. In Switzerland, judges are elected for seven years but there is no bar to their repeated re-election till the age of seventy.

3. *Tenure of Office*—Whatever may be the rank and status of a worker he cannot work with confidence unless he is assured of fixity of tenure of his office. The onerous responsibility of the judges makes it all the more necessary that they should have fixed tenure. Fear of removal makes them amenable to extraneous pressure and is likely to prevent them from carrying on their duties independently. Besides, long and fixed tenure enables the judges to gather experience and add to their knowledge of law. In England and in the U.S.A., the judges hold office during good behaviour. The judges of the Supreme Court of India and those of the State High Courts hold office till they attain the age of 65 and 66 years respectively.

4. *Qualifications*—The qualifications necessary for appointment as a judge is wholly different from those of the legislators or of the executive. The judges should be experts in law, non-partisan in politics and not amenable to the influence of ever-changing public opinion. In private life they should be of good behaviour and lead a clean and honourable life. This is for this reason that in the U.K., U.S.A. and India, judges are appointed from among eminent lawyers. Although the Swiss constitution does not prescribe any legal qualification for appointment as a judge, in practice, however, only men with high legal qualifications are appointed as judges.

5. *Salaries*—It is necessary to give the judges adequate salary in order to attract duly qualified persons to this high and responsible office. If the salary of the judges is not commensurate with their high office, responsibility associated with the office and above all with their high standard of living, the independence expected of them is likely to be impaired. The salary payable to the judges must be such as will enable them to discharge their duties with good grace by keeping themselves above temptation, fear or favour. It is also desirable that the amount of their salary should not be altered to their disadvantage during their term of office.

6. *Separation of the Judiciary from the Executive*—Judicial integrity and independence depend largely on the freedom of the judiciary from executive control. In the absence of this freedom, the judiciary cannot safeguard individual liberty from interference by the executive. This aspect of judicial independence was duly emphasised by the French writer Montesquieu many years ago. The Indian judiciary had practically no independence during British rule in India but

since Independence the judiciary is being gradually made independent of the executive. The procedure of business and appointment in the Supreme Court services are under the control of the Chief Justice of the Court. Expenditures incurred for the maintenance of the Supreme Court are not subject to the annual votes of Parliament which also cannot discuss any matter or judgment of the said Court.

Judicial Review. Judicial review implies the competence of the courts to review executive enforcement of laws and to invalidate the acts of the legislature. If in the opinion of the judges, it appears that laws passed by the legislature are not in consonance with the requirements of the constitution, i.e., when legislative enactments transgress the limit set by the constitution, the judges can declare such laws null and void.

Judicial review is a unique feature of the American political system and this power of the judiciary to review legislative enactments is derived from the power of the Supreme Court to determine "all cases arising under the constitution" as also the provision that "The constitution shall be the Supreme Law of the land". This power of the Judiciary to review executive and legislative acts has further been strengthened by the presence of the "due process of law" clause in the American Constitution by virtue of which the Supreme Court can judge the reasonableness of legislative enactments.

The scope of judicial review in India is very limited in view of the presence of "procedure established by law" clause instead of "due process of law". In India, the Supreme Court exercises this power only in those cases where the constitution has expressly authorised the court to exercise such power. Thus interference with the provisions of Fundamental Rights as laid down in the constitution either by the legislature or the executive will be declared void in certain cases.

The most serious objection against the doctrine of judicial review is that it places the judiciary above the legislature by reducing the latter to a subordinate position. It empowers a group of five or six judges to annul an act passed by a majority of elected representatives of the people. It also stands in the way of progressive legislation.

But Judicial review is an inseparable part of the American political system and there it has been working well and the system is liked by the people.

Administrative Law and Administrative Courts. In France and in most of the continental states of Europe, a distinction is made between ordinary law and administrative law, between ordinary courts and administrative courts. In English-speaking countries, however, no such general separation is made. It is on the basis of this separation that some modern writers have classified states into two heads—*Common Law states* and *Prerogative states*. In the Common Law states, such as England, the U.S.A., the Dominions, the executive is subject to the rule of law, i.e., the ordinary law of the land and is subject to the jurisdiction of the regular courts. The highest officials are subject to impeachment but if the ordinary officers do any wrong, whether in their official or private capacity, they may be hauled up before the regular courts and enjoined or penalised like anybody else. Thus the executive in such states is not protected by any special law which makes a distinction between acts of an official and those of a private citizen.

Prerogative states are those where the executive is protected by a special system of law known as administrative law. Administrative law was born in

France and later on it was borrowed by other continental countries and incorporated in their legal system. In France and on the continent, there is one system of law for the ordinary citizens and another for the executive officials. Public officials are not amenable to the ordinary tribunals for offences committed in their official capacity. They have a right to be tried by special courts known as administrative courts. Thus it is asserted that in France public officials are a favoured class inasmuch as the legal system maintains the principle of inequality between public officials and private citizens. But the above criticism, as will be immediately shown, is not a fair way of stating the French system of administration of justice.

Principle involved in the English and the French Systems. The principles underlying the two systems rest on the way in which the English-speaking countries and the continental states have sought to protect the citizens against arbitrary acts of government. The principle that the sovereign cannot wrong his subjects and hence is not liable to be sued by them is recognised in all countries. The public service would be hindered and public safety menaced, if a contrary principle is followed. But in actual practice, a nation or state must exercise its powers through public officials who are being human, liable to make mistakes and to do injury to citizens or their property. A strict adherence to the ancient legal maxim that 'the king can do no wrong' may lead to frequent and grave injustices. All states have in a varying degree permitted their public officials to be sued under certain prescribed conditions in order that the citizens may not suffer wrong without redress. The question therefore is whether the state should allow its public officials to be tried by the regular courts in accordance with the general laws of the land or should special courts be provided for dealing with controversies of this character in accordance with special rules.

England and America have solved the problem in one way while France, Italy and other continental states have solved them differently. Their action in both cases may be attributed to the fundamentals of their respective legal systems. The legal system, in English-speaking countries, is based on common law which is essentially equalitarian in principle and as such insists upon equality of all citizens in the eye of law. It is intolerant of any special privilege especially on the part of public officials. Thus in England and America, the officials enjoy no special immunity from the jurisdiction of the regular courts. But in France and on the continent, the legal system is based primarily on Roman law which is not equalitarian in principle. It regards the state as an end in itself and the individual only a means to the perfection of the state. Accordingly, public officials who serve the state are entitled to special consideration in the eye of law. Thus there are two systems of law in France—the administrative law which regulates the relation between private citizens and state officials, and a private law which determines issues between private citizens. The above analysis therefore shows that in English-speaking countries, there is one law and one court both for private citizens and public officials, while on the continent, there is one law and one court for private citizens and a separate law and a separate court for public officials. Law in the former countries is no respecter of persons while in the latter, it is a respecter of persons.

Criticism. The French system is looked upon with great disfavour by Anglo-American critics who point out that administrative law does not and cannot safeguard individual liberty. Under this system, executive officers enjoy special

immunity which keep them outside the jurisdiction of the ordinary law and ordinary courts. It prescribes that a citizen who has been wronged by a state official must seek redress not in the ordinary courts but in a special court set up for that purpose. Besides, the judges in these courts are appointed and are subject to removal by laws not applicable to the case of ordinary judges. Individuals cannot expect justice from these courts, if government policy demands a certain decision. Critics therefore point out that justice under this system is administered with a coloured eye.

The Anglo-American critics have unduly exaggerated the defects of the French legal system. Really speaking, it does not at all deserve the condemnation which it has received in the hands of those critics. It is true that administrative law has provided for immunity of public officials from the jurisdiction of the regular courts, but it should be borne in mind that this immunity does not extend to anything done by them in a personal or non-official capacity. For offences committed in their non-official capacity or for faults arising out of personal negligence in the discharge of official duties, they can be hauled up before ordinary courts of law. In case of conflict regarding the jurisdiction of the courts, it is decided by a Tribunal of Conflict which, by its very composition, commands universal respect and confidence in France. The true test of the merit of a system lies in the extent to which it can meet the needs of the people for whom it is intended. The attitude of the French people towards the system is marked by approbation and confidence. They regard the system as a protection against arbitrary governmental action and therefore a bulwark of their liberty. They are perfectly justified in so regarding it because law-suits are quickly disposed of in these courts which are also cheaper and the procedure is simpler than in ordinary courts. The vastness of the country and the highly centralised system of government in France have made it necessary for her to adopt the system of administrative law. Local officials in France function at a great distance from the seat of the central government and therefore administrative law and administrative courts are necessary to check official abuses on the one hand and to protect individual liberty against governmental encroachment on the other. These laws deal not only with the liability of the state and its subordinate divisions for injuries done to private individuals but also with the rules relating to the validity of administrative decrees and the awarding of damages to private individuals for injuries which arise out of the negligence of public service. With the growth of democracy, the rule of law has been considerably relaxed even in English-speaking countries where a number of special tribunals are set up whenever necessary. The principle of administrative law is thus slowly creeping into the legal system of Common Law states as well, but the distinction is that whereas in France and in continental states, the special courts constitute a regular part of the judicial system, in England and America, they do not form a part of the judicial system. They are established whenever necessary. Garner observes, "It can now be said without possibility of contradiction that there is no other country in which the rights of private individuals are so well protected (as in France) against the arbitrariness, the abuse, and the illegal conduct of the administrative authorities, and where people are so sure of receiving reparation for injuries sustained on account of such conduct."

Relation between the Legislature and the Judiciary

The normal relation between the legislature and the judiciary is that the former makes laws which the latter interprets and applies to specific cases. But

in certain cases, it is found that the relation between the two is marked by the subordination of the one to the other and a good deal of overlapping of powers is also noticed. Thus in many states, the legislature especially, the Upper House, performs some judicial functions. It not only acts as the highest court of appeal but in some cases acts as a court to hear impeachments against high executive officers. The legislature in many cases appoints the judiciary but in the U.S.A., the judges of the Supreme Court are appointed by the executive subject to confirmation by the Senate.

In the U.S.A. and India, the judiciary acts as the custodian of the constitution and in the former country it can declare acts of the legislature as null and void. But in France and in England, the judiciary does not possess this power. The judiciary not only applies law but in the act of application, the judiciary interprets the laws and thereby supplements the existing law. These are called 'Judge-made Laws'.

Relation between the Executive and the Judiciary

Judges are made independent of the control of the executive so that the latter may not interfere with the functions of the former. The executive head is also exempt from the jurisdiction of any court. In France and on the continent, executive officers are not subject to the jurisdiction of ordinary courts. Nevertheless, executive and judicial functions impinge on each other at certain points. *First*, the executive exercises some judicial functions. *Secondly*, the judiciary exercises some administrative power including a certain amount of control over the executive. *Thirdly*, the judiciary is in many cases, appointed by the executive which enjoys the judicial power, viz., prerogative of mercy.

Thus it appears that an absolute separation of powers between the three is neither desirable nor possible. The powers should be so organised and their mutual relation so adjusted as to preclude the possibility of any conflict between them.

SUMMARY

I. *The Executive.* The terms 'executive' includes all the government departments except the legislature and the judiciary.

II. *Classification of the Executive.* The executive may be hereditary or elective, nominal or real and Parliamentary or Non-Parliamentary. Almost all governments have single executive except in Switzerland where the executive is collegial in form.

III. *Mode of choice.* (i) The executive may be a hereditary monarch, (ii) he may be directly elected by the people, or (iii) indirectly elected by the people, or (iv) elected by the legislature.

IV. *Term of the Executive.* The term of the executive should be neither too short nor too long. A four-year term is regarded as the proper tenure of office.

V. *Functions of the Executive.* The executive power includes (i) Diplomatic power, (ii) Administrative power, (iii) Military power, (iv) Judicial power and (v) Legislative power.

BI. *The Judiciary : Its Functions.* The judiciary is to apply law to specific cases. The judiciary also interprets the law and supplements the existing laws. It performs certain other functions of a non-judicial nature. So it is wrong to regard the judiciary as a subordinate branch of the legislature.

II. *Qualifications of Judges.* Judges should be (i) well-versed in law, (ii) impartial and (iii) independent of outside influence.

III. Independence of the Judiciary. Independence of the judiciary is necessary to secure impartial trial of the accused. An independent judiciary is the bulwark of individual liberty. The independence of the judiciary is secured (a) by the proper method of their appointment, (b) making the tenure of their office independent of the control of other organs of the government and (c) by giving them a good salary.

IV. Administrative Law and Administrative Court. The Rule of Law which prevails in England means that all persons, private citizens or public officials, will be regarded as equal in the eye of law. The same law will apply to all persons who are amenable to the same courts of law. Public officials do not enjoy special privileges denied to the private citizens. But in France and in other continental countries, public officials are not amenable to the ordinary courts of law for offences committed in their official capacity. They are tried by a special class of tribunals known as Administrative Courts which apply a special set of laws known as Administrative Law. This law protects public servants from the jurisdiction of ordinary courts and ordinary law of the land.

The defect of the system lies in the fact that it destroys the legal protection of the individual against illegal acts of the state officials. But its chief merit is that it protects individual liberty by clearly distinguishing between a 'fault of service' and 'a personal fault' on the part of the official. "The remedies which the French citizen has against his government are speedier, cheaper and in every way more satisfactory than those Englishmen or Americans possess in relation to their respective governments."

QUESTIONS

1. Analyse the functions of the Executive in a modern state. (C. U. 1981)
2. What do you understand by the term 'independence of the judiciary'? Why is it necessary that the judiciary should be independent? What should be their functions and qualifications? (C. U. 1921)
3. What degree of legislative power do you consider it safe and practicable to entrust to the executive? (Gauhati, 1949)
4. What are the political, administrative and legislative functions of the executive? (C. U. 1954)
5. How far do you agree with the view of Laski that "of all methods of (judicial) appointment that of election by the people is without exception the worst". Illustrate your answer. (C. U. Hon. 1957, 1967)
6. Explain the role of the judiciary in a modern state, and indicate the factors on which the independence of the judiciary depends. (C. U. 1961)
7. Summarise the importance and the principal functions of the judicial branch of government. (C. U. 1975)
8. How can the independence of the judiciary be secured? (C. U. 1982)
9. Discuss the functions of the judiciary and indicate the factors that ensure independence of the judiciary. (C. U. 1985)
10. Critically examine the role of the Judiciary in a democratic system. (C. U. Law 1992)

CHAPTER 16

THE THEORY OF SEPARATION OF POWERS

References :

W. F. Willoughby—The Government of Modern States.

Laski—Grammar of Politics, pp. 295-311.

MacIver—The Modern State, Bk. 3, Ch. XII.

Lipson, L.—The Great Issues of Politics, Ch. XI.

Ernest Mandel—The Marxist Theory of the State.

Its Meaning. The various activities of a modern government are usually divided into three parts, viz., legislative, executive and judicial. The legislative function consists mainly in the making of laws, the executive is concerned with the function of enforcing these laws while the judiciary decides how these laws apply in specific cases. Now these three functions may be united in one person or one body, as was generally the case in early days. The theory of separation of powers states that the three departments of the government should be separate from, and independent of, one another. The legislature should be independent of the judicial and executive departments. In the same way, both the executive and judicial departments must be independent of the control of the legislature. The theory implies that each of the organs should be supreme within its own sphere. Where the powers or any two of them are united in the same person or body of persons, there can be no liberty.

Development of the Theory. The theory of separation of powers is no primordial principle born with the state itself. It is a product of modern democracy. But the idea of a three-fold division of state-functions may be traced back to the writings of Aristotle, Cicero and Polybius. Aristotle divided the functions into Deliberative, Magisterial and Judicial. But neither in Greece nor in Rome, there was any clear distinction between these powers. The French writer Bodin was the first to emphasize the necessity of separation of powers and especially urged the separation of judicial functions from the other two. In England, John Locke expressed the view that the separation of powers between the executive and the legislature was essential, short of which making and execution of laws would be in the same hands leading to tyranny. But the first systematic treatment of the theory was made by Montesquieu, another French writer, who made an analytical study of the British constitution and came to the conclusion that "there would be an end of every thing were the same man, or the same body, whether of the nobles or of the people, to exercise those three powers". According to Montesquieu, the British constitution is the best because it safeguards individual liberty, more than any other constitution, by a clearcut separation of powers. He was therefore the first writer to make the theory of separation of powers a doctrine of individual liberty. But Montesquieu was greatly mistaken in his view on the British constitution which is primarily based on the combination of powers rather than on separation. His error was largely due to the fact that he concerned himself only with the principle of the English constitution without any reference to its actual practice. But in spite of its defects, the theory was advocated by many contemporary writers. His viewpoint was further analysed and stressed by the English Jurist Blackstone and the

American writer Hamilton in 'Federalist'. In its practical side, the theory exercised a great influence upon the framers of the French and the American constitutions. In fact, the incorporation of the *Droit Administratif* in the French constitution and the adoption of the Presidential form of government in the United States of America are the direct outcome of the practical influence of the theory. But the theory has lost much of its sacrosanct character in modern times.

Criticism. The theory has been criticised on the ground that absolute demarcation of powers is impossible. In practice, every organ is required to participate in the work of others. "The separation of function need not imply a complete separation of personnel." Even Montesquieu, the most ardent advocate of the theory, did not contemplate an absolute separation of powers as is evident from the example of the British constitution which he chose to illustrate by his theory.

Secondly, an absolute separation of powers does not exist in any of the constitutions. There is hardly any government in which the three organs are completely independent of one another.

U.S.A. The theory in its extreme form was adopted in the constitution of the U.S.A. But even there, the President who is the head of the executive, exercises considerable influence over the legislature by his presidential message and by exercising his partial veto over acts passed by the legislature. The Legislature (the Senate) has certain executive functions, e.g., ratification of treaties and of certain appointments made by the President. The President appoints the judges of the Federal Courts with the advice and consent of the Senate and the Federal Courts also possess great influence on both the legislature and the executive. The Courts have to decide whether legislative or executive acts are *ultra vires*.

England. The organisation of the British government is a standing refutation of the theory of separation of powers as a universal proposition. The Lord Chancellor who is at once a member of the Cabinet, of the House of Lords and the head of the judiciary, invalidates the theory in its application to the British constitution. The members of the executive cabinet are all members of the legislature and responsible to it. The Upper House of the legislature—the House of Lords is also the highest court of appeal. Thus the British constitution, the ideal type according to Montesquieu, illustrates the non-applicability of the theory.

India. In India, there is not only no thorough-going separation of powers but there is a good deal of concentration of authority in the executive. The executive in India, the President and the State Governors, possess an enormous control over the legislature. Some executive officers like the District Magistrates have been vested with judicial functions which are now in the process of being withdrawn. The combinations of the executive and judicial functions in the magistrate led to the violation of the fundamental principle of justice which consists in a sense of security which the accused persons should feel that he is getting justice in the hands of the trying judge. Under the Indian system, where the magistrate was both a prosecutor and a judge, the accused person could not feel secure and the ends of justice were not realised. But the judiciary in India has been made independent of the executive and the legislature. The judges of the Supreme Court and High Courts after they have been appointed by the President, cannot be removed ordinarily either by the legislature or by the

executive, neither can their salary be altered which is not subject to the annual vote of the Parliament.

U.S.S.R. In the communist countries especially in the U.S.S.R. and also in Nazi and Fascist states, the theory of separation of powers is looked upon with great disfavour and hence the notion has been completely expunged from governmental organisation. The communist leaders have absolutely no faith in this doctrine which is condemned by them as one of the many devices by which the powerful capitalist class deceive the proletariat class. The communists point out that it is only with a view to concealing the essentially class character of the government that the party leaders having political power in their hands try to whitewash their conduct by enunciating this high-sounding doctrine. But practically, in all *so-called* democratic countries, key positions are held by the party leaders who run the entire show of the government. So in the U.S.S.R. there is not only no separation of powers, on the contrary there is a good deal of personal union of powers. The government of the U.S.S.R. is a government by a single political party, namely, the communist party and the top-ranking leaders of this party constitute the Politbureau whose members virtually rule the country in different capacities, such as, the members of the Council of Ministers, of the Presidium, of the Supreme Court, etc.

Switzerland. In Switzerland also, the doctrine finds little place in the organisation of the Government. The federal council which is the executive is elected by the legislature which cannot drive them from office. The executive and the legislature act in close co-operation, although they are not dependent on each other. The supreme judiciary is elected by the legislature but it cannot declare acts of the legislature null and void.

Thirdly, government is an organic unity and therefore a rigid separation of powers is practically impossible. As the various parts of the body natural depend on each other, so also there should be inter-dependence and co-operation among the three organs of the body politic. A mere mechanical separation will only lead to chaos and inefficiency. Woodrow Wilson has aptly remarked that "Government is not a machine, but a living thing—no living thing can have its organs offset against each other as checks, and live."

Fourthly, it is argued that separation of powers is necessary for safeguarding individual liberty. The U.S.A. where the theory has been tried is a free country. In England, there is practically no separation of powers but England is also one of the freest countries of the world. The one irresistible conclusion from the above facts is that individual liberty depends on factors other than a mere mechanical separation of powers. Had it not been so, the English people would have been reduced to zero as was remarked by Rousseau. The truth is that the most effective safeguard of Liberty is the vigilance of the people and not mechanical devices like separation of powers.

Fifthly, the theory assumes that the three organs of the government are equal in power. But in practice we find that in every state the legislature is the most important and exercises control over the other organs. It not only makes laws but controls other organs through its power over sources of supply.

Sixthly, the theory is pernicious in practical politics. In the United States, the Constitution provides for the election of the judges in most of the states by the people instead of appointment by the executive or the legislature. Thus the

system has produced serious evils resulting in the loss of efficiency in the popularly elected judges. The people have suffered in order to test a theory.

Lastly, the theory of separation of powers has been rejected by the Marxists. According to Ernest Mandel one the essential characteristics of the organisational principle about the structure of the state found in Marxian thought is as follows : "No distinct separation between the executive and legislative powers. Bodies are needed which enact laws and at the same time enforce them."

Evaluation. The above criticisms lead to one inevitable conclusion, namely, "the strict separation of powers is not only impracticable as a working principle of government, but it is not one to be desired in practice." But there is, on the other hand, the danger involved in the union of powers in the same person or body of persons. The question then is in what sense is the theory true ? As we have already seen, neither did Montesquieu nor James Madison, contemplate a complete separation of powers. What they really contemplated was an *organic* separation of powers as distinct from a *personal* separation. Co-ordination between the heads of different departments is as much necessary in the matter of formulating broad policies as is differentiation necessary between the sub-ordinate staff for working out details. This differentiation leads to specialisation and specialisation secures efficiency in work. Thus the principle of separation of powers is nothing but an application of the economic principle of division of labour to governmental organisation. Interpreted as above, the theory implies that a *partial* separation of powers as opposed to a *complete* separation should be the guiding principle of governmental organisation. Separation of powers does not mean the *separation of the entire functionaries*.

Conclusion. Thus the theory in its extreme form has lost much of its former importance nowadays. The theory served a very useful purpose at the time when it was invented to act as a check upon the despotism of the king and at a subsequent period, on the legislative tyranny of Parliament. The dangers which threaten modern democracies are partly domination, bureaucratic control and rise of dictatorship and the doctrine is practically of no use against any of these. Then why is separation of powers necessary now ? The reason why there should be some separation of powers is not so much the danger to liberty as the loss of efficiency which their union involves. The work of the legislature is entrusted to a representative body which by the very nature of its composition and function, is unadapted to the task of the executive. It is wholly unsuited to discharge the functions of the judiciary because its members are not selected for their capacity or training as judges and because it is a body which is influenced by outside public opinion. The truth is that the three functions of the government should be entrusted to three different organs in order that each may perform its duties without encroaching upon the sphere of the other. But in the exercise of their powers, the departments should co-operate with one another so that the end of the state may be realised. The real problem is so to organise the three departments that responsibility shall not be divorced from efficiency. "What is needed, in fact, is not separation of functions but their proper articulation, in conformity with the first principle of democracy, that all government is a trust delegated and controlled by the governed."

Separation of Powers Re-defined.

The theory of separation of powers is badly in need of re-orientation in the light of the change that has overtaken the conception of the state. The old idea

of the state as a power-system has given place to that of the state as a welfare system and as such it is necessary that power-politics should be replaced by welfare politics.

The idea of power is associated with force which cannot be the basis of the welfare state whose main concern is service to the people. Therefore the word *power* should be treated as obsolete with reference to the modern state. If that be the case, the whole notion of separation of powers is to be transformed into separation of services. But such a separation of the different services of the welfare state will prove to be the very denial of service to the people, for, welfare cannot be achieved piece-meal. The modern state is a great social service organisation the whole of which is based on planning. Planning implies concentration, co-operation and mutual interdependence of different parts for the ultimate success of the whole. In the modern state, therefore, there is little scope for separation of powers in the sense in which its earlier exponents advocated the theory. But this does not mean that governments will have no check, on the contrary, the executive authority of a state in which most of the powers of a modern government are concentrated should be made to follow certain prescribed methods in the discharge of its varied functions and lastly its activities should be made subject to judicial review.

SUMMARY

1. The theory of separation of powers states that the three organs of the government : legislature, executive and the judiciary should be completely separated from one another for safeguarding individual liberty. The principal advocates of the theory were Montesquieu and Blackstone whose writings exercised great influence on the practical politics of the eighteenth century.

II. The theory is unscientific. Government being an organic unity cannot be split up into water-tight compartments. The organisation of the modern states also proves that it is neither practicable nor desirable. Individual liberty depends on the spirit of the people and not on separation of powers. Some sort of separation is, however, necessary for the sake of efficiency of the departments.

QUESTIONS

1. "The strict separation of powers is not only impracticable as a working principle of government, but it is not one to be desired in practice." Discuss.
(C. U. 1926, 1949, 1961, 1981)
2. Explain the theory of separation of powers. How far has this theory been translated into practice in Great Britain, India and the U.S.A. ?
(C. U. 1925, 1949, 1961)
3. Explain the theory of separation of powers. In what sense and with what limitation is the theory true ? Is it necessary to secure the true liberty of the individual ?
(Punjab, 1941 ; Agra, 1943 ; Pat. 1944)
4. In what sense and with what limitation is the theory of separation of powers true ?
(Gauhati, 1948)
5. How far is it possible and desirable to carry out the principle of separation of powers in the governmental organisation of a state ?
(C. U. 1958)
6. State and criticise the theory of separation of powers.
(Gauhati, 1964, 1965)
7. Critically discuss the theory of the Separation of Powers.
(C. U. Law 1993)

CHAPTER 17

THE ENDS AND FUNCTIONS OF GOVERNMENT

References :

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Various ends of the state. The ancients, especially the Greeks and the Romans, regarded the state as an end in itself, rather than a means to the realisation of particular ends. The idea was that the individual existed for the state, and not the state for the individual. The individuals were considered as parts of the state and in accordance with this notion, all their activities were regulated by the state. The idea of personal rights of individuals apart from the collective rights of society was conspicuous by its absence. The city-state was a unique form of political organisation in which the whole activity and energy of the people,—political, social, religious, cultural—were focussed at one point, namely, the state. The city was described by Greek political philosophers, precisely in terms of a universal partnership,—‘a partnership,’ according to Burke, “in all science ;—a partnership in all art ; a partnership in every virtue and in all perfection.” Aristotle, in his *Politics*, emphasizes the fact that the state is not a mere society, having a common place, established for the prevention of crime and for the sake of exchange. Political society, according to him, exists for the sake of noble actions, and not for mere companionship. The end is a good life—a life of virtue. Hence the end of the state being the comprehensive one of securing a good life for all citizens, no sphere of individual life was considered outside the jurisdiction of the state. The Greek idea of state-paternalism was adopted by the Romans with slight modification. The Romans recognised the rights of the family as against the state.

But the Greek conception of the sphere of the state as a universal partnership was assailed by the rise of papacy who claimed complete independence of the religious life of the state. Thus the growth of Christianity coupled with the fierce spirit of independence of the Teutonic races who could brook no infringement of their personal rights, gradually transformed the conception of the state from an end to a means. Modern political science has, however, rejected the ancient view. It emphasizes the principle that the state is merely a means for the furtherance of human welfare and that it exists for the individual and not the individual for it. The status of the individual has considerably improved in modern democracy. His rights are now recognised by the modern state.

The true Ends of the State. So long as dynastic rules prevailed and the state was looked upon as the private property of the house of the rulers, no systematic theory about the true end of the state could develop. It was only with the growth of democratic ideas that people began to speculate on the end of

the state. Since the rise of liberalism, different theories have been advanced by different writers regarding the end of the state. Thus some suggest order, progress or justice to be the end of the state while others regard happiness, utility, national power or civilisation of mankind to be the true end of the state. Bluntschli attaches great importance to the "General welfare theory". The utilitarian school of philosophers led by Bentham held that the aim of the state was to promote the greatest good of the greatest number and as a matter of fact many of the reforms in the social and political life of England in the latter half of the 19th century were largely due to their teaching. The individualists defined the end of the state as the maintenance of law and order. According to them, the main business of the state is to prevent and not to direct or promote. But the view of the individualists is now held to be a partial one inasmuch as the state is no longer considered as a mere police-man but a universal organisation of mankind calculated to promote the diverse interests of man's life. Other writers have pointed out that the end of the state is progress. But the word *progress* is rather vague unless a definite end of the state is fixed. Many modern writers proclaim that the state is a social service organisation whose main function is to promote the social interests of the people including the rendering of services like public health, maternity services, poor-relief, elevation of the moral character of the people, promotion of economic interests, etc. Most of the modern states undertake the above functions which are considered as essential. But this view is not tenable because it does not make it incumbent on the state either to maintain internal peace and order or to prevent foreign aggression. Each of the above ends may be regarded as partially true but none of them may be said to be a complete conception of the true ends of the state. Prof. Garner classifies the end of the state as follows:—(i) Primary, (ii) Secondary and (iii) Ultimate. According to him, the primary or immediate end of the state consists in the preservation of peace, order, security and justice among the citizens composing the state. The existence of the state can be justified only by its capacity for achieving these ends. In the *second* place, the state must look beyond the need of the individual as such to the larger collective needs of society—the welfare of the group. The state must promote common welfare because this cannot be done by individuals either acting singly or through group efforts. The state must do everything which perfection of national life requires. *Thirdly*, the promotion of civilisation of mankind at large may be considered to be the ultimate and the highest end of the state. This is the Mission-of-civilisation Theory of the German Nationalists. Prof. Burgess also classifies the ends of the state into primary, secondary and ultimate. The establishment of good government, the development of national life and the perfection of humanity are the triple ends of the state.

Welfare Theory or the basis of the Welfare State.

As a result of the long process of historical evolution of the state, not only the structure of the state but also men's ideas about the true end of the state have undergone important modification. The modern state is not only big in its size but it pursues an end which is almost universal in character.

States of the ancient and the medieval ages existed mainly for promoting the interest of the ruling class. The idea of a state having for its aim the welfare of the people was almost unknown at that time. But the growth of democratic ideas which brought in its train the notion of a government of the people, for the people and by the people transformed the age-old conception of the state as a power-

Prof. Garner View regarding function

system into that of a welfare state. The police-state became a welfare state. The war-state became a culture-state.

Two questions are involved in the idea of the welfare state. What is welfare and for whom is this welfare meant? Does this welfare relate to economic, social or spiritual welfare and is it intended for the one or for the few or for all? True welfare implies good for all the people of the state. [A state which makes no distinction between man and man and seeks to promote the material, moral and intellectual development of all its people by providing equal opportunities to all may be said to be a *Welfare State*.] In the words of Plato, the true end of the state is to make all men happy.

If welfare of the people be regarded as the true end of the state no limit can be put to the functions of the state. The function of such a state must extend to all spheres of life which are calculated to promote the general interest of its citizens. Conversely, such a state should withdraw its activities from those spheres where state-intervention is calculated to impede welfare. The state may, in some cases, regulate the economic, social, religious and even the family life of its citizens if such regulation by the state is conducive to the interest of its citizens. A large number of modern states being actuated by this ideal are, in recent times, extending their field of activities in various directions: These states are enacting social and economic laws which were formerly considered as being outside the province of the state. The government of India has enacted laws prohibiting the practice of untouchability in any form, abolishing zamindari and regulating employer-employee relation.

It is the primary function of the welfare state to remove the hindrances to the development of individual personality. Such a state must make adequate arrangement for the security of individual life and property both against internal disorder and aggression from without. But this is not enough. The welfare state must ensure a decent living standard to all in accordance with the principle "there must be sufficiency for all before there is superfluity for the few." Simultaneous development of the body and mind of its citizens should be the main concern of a welfare state. The state should also make provisions for old age, unemployment and unforeseen circumstances. Women should receive the same share of attention from the state as men.

A welfare state should never grudge expenditure for the development of education and cultural life of its people. A true welfare state instead of utilising education to subserve its own policy gives scope for its true development according to the needs of the people. The development of individual personality according to its natural aptitude is impossible where education is controlled by the state. To promote cultural activities of the people, the state should help establish libraries, theatres, cinemas, museums and such other organisations. The state should supplement the activities of these associations but should never try to regulate and control them. Literators and Artists of different classes should be encouraged in the pursuit of their occupations but should not be made subservient to the state. The aim of the welfare state is to develop and not to suppress personality. Inequality of wealth and income aggravates class conflict in a state and retards social progress. A welfare state aims at removing this inequality by means of efficient production and equitable distribution through ideal tax system and regulation of private property.

To promote the economic welfare of the entire mass of its people, a welfare state nationalises either wholly or partly all important sources of national income, such as, agriculture, industry, mines, transport, communication, etc. The govern-

ment of India, with a view to realizing this object, has introduced the system of mixed economy in the field of production.

Lastly, a welfare state is a classless state—it represents all and excludes none. The avowed objective of such a state is to increase the sum-total of the welfare of all its citizens irrespective of caste, colour or creed.

A welfare state seeks to attain its ends by two methods—positive and negative. Positive means include the adoption of such measures as old age and unemployment insurance, workers' compensation, improvement of public health, extension of public education, provision for public housing and negatively, its efforts are directed to the removal of social evils like excessive drinking, gambling, prostitution, black-marketing and other devices of exploitation of man. Above all, the welfare state creates such an atmosphere in society in which every man gets an opportunity to develop his personality to the fullest extent and can feel that he is an equal partner of the state having equal rights and obligations with others.

As a principle, the idea of the welfare state is perhaps the highest ideal for which the state stands but if in framing the ideal, the general mass of the people are given no voice, there is every likelihood that the ideal may be vitiated by class domination and class interest. If the people think that a law enacted by the government is oppressive and burdensome on them, the law cannot be said to be conducive to welfare notwithstanding the fact that the government in enacting that particular law has been guided by consideration of public good. Men demand rights in virtue of being men and not as a gift from the state. A welfare state is the culmination of the growth of the democratic ideal. The true test of the welfare state lies in the extent to which it can elevate the character of its people. J. S. Mill in his essay on 'Liberty' has very significantly emphasized this point. He says, "The worth of a state, in the long run, is the worth of the individuals composing it; and a state which postpones the interest of *their* mental expansion and elevation, to a little more of administrative skill, or of that semblance of it which practice gives, in the details of business; a state which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes—will find that with small men no great thing can really be accomplished;"

Theories of State Function. The state, as we have seen, is the highest political agency for the fulfilment of common needs and the furtherance of the general welfare of society. Now the question is what should be the proper sphere of state activity,—what functions should the state exercise for achieving its ends? There are two conflicting theories regarding the functions of the government, viz., (i) Individualistic or the *Laissez-faire* Theory and (ii) Socialistic Theory. Before discussing the above two theories, let us discuss another theory known as the Anarchist Theory.

Anarchism. The theories regarding the functions of the state swing between two opposite extremes. At one extreme stand the Anarchists who regard the state as a positive evil and a great inequity, at the other, are the Socialists who regard the state as a positive good and an essential institution for promoting the material, moral and intellectual life of man.

The Anarchists fling out the most emphatic challenge to the authority of the state which, according to them, rests solely on coercive power and as such greatly detrimental to the spontaneous development of a man's personality according to

Mechanism

his free will. Anarchism means no rule. The Anarchists argue that all forms of government, democracy not excepted, exact obedience by the threat of force which is the essence of the state. Hence the Anarchists want to bring about the complete abolition of the state in the absence of which will emerge a state of society "in which the rule of each individual by himself is the only government the legitimacy of which is recognised—one in which he is not coerced into co-operation for the defence of his neighbour." The Anarchists want to abolish the state not only because it exercises compulsion upon the individual without his consent but also because of the social injustice and inequality which the state promotes. They condemn the state for fostering by means of propaganda hatred in the minds of its own citizens against the citizens of other states, thus bringing matters to such a pass that war becomes inevitable. They hold the state responsible for the destruction of human race and human peace and progress. Therefore the sooner the state is abolished, the better it is for mankind.

There are two schools of Anarchists who, while agreeing with each other in their unqualified condemnation of the state and in their zeal for its complete destruction, differ in respect to the means to be employed for abolishing the state. The Philosophical Anarchists including intellectuals like Tolstoy and others have inculcated a point of view which, to some extent, stands to reason. They are not opposed to all governments as such but only to those governments which coerce the individual to obedience. They emphatically assert that the state should secure the co-operation of the individual only with his consent and not by the application of force. Quite unlike the Revolutionary school of Anarchists, this school advocates the employment of literary propaganda and argument for convincing the people of the utter uselessness of the state. The other school of Anarchists—the Revolutionary School led by Prince Kropotkin, Bakunin and Proudhon—advocates the use of force for destroying the state. They go to the length of suggesting the assassination of government officials and the destruction of government property by violent and underhand methods.

Evaluation. The Anarchists' doctrine, if closely analysed, will appear to be not only exaggerated but also unjust, and not borne out, by modern trend of social evolution. But the Anarchists have done a distinct service by rightly pointing out some of the gravest omissions and commissions of political institutions in so far as they have failed to prevent force, fraud and negligence of duties towards the governed on the one hand and on the other, they are guilty of fostering social inequity and injustice. The doctrine is valuable from another point of view in so far as it emphasises the supreme importance of the development of the individual which should be the true end of all states. But the Anarchists err by attributing to human nature a perfection which it cannot claim. The Anarchists unduly exaggerate the shortcomings of the government without considering the beneficial results of well-meaning state regulation and control. They forget the fact that all the activities of the government are not directed through compulsion rather a great part of it is in the form of aid, assistance, direction and promotion. It is for these beneficial activities that nowadays the sphere of state-regulation is gradually increasing. Men have learnt to regard the state as the only essential institution which can ensure not only enjoyment of true liberty but also promote the diverse interests of their life.

Individualism. Individualism is a mild form of the doctrine of Anarchism. Unlike the Anarchists, the Individualists regard the state as a necessary evil. According to them, the state exists because crime exists. So long as men are

imperfect, the state cannot altogether be done away with. As the state is essentially an evil, the Individualists seek to restrict the sphere of its activity to the narrowest possible limits. They regard all sorts of restraints as an evil, and every extension of the power of the state as an infringement on individual liberty. The main function of the state is to protect the life, liberty and property of its citizens against violence and fraud. Its main function is thus to prevent and not to direct or promote. The state is, therefore, according to the Individualists, no more than a mere police organisation which must not pretend to promote human happiness by its various activities but should strictly confine itself to what is necessary for the protection of the individual. In short, they point out that the most important duty of the state is to keep itself aloof from social activities. It must leave industry, education and morality alone. They are intolerant of the least interference with the liberty of the individual on any ground whatsoever. The individualists therefore attribute to the state only a negative function, denying altogether its capability of doing good to the individuals.

The doctrine of individualism which came in the wake of Industrial Revolution as a protest against excessive state interference became prominent towards the end of the 18th century. The physiocratic school of economists was the most ardent advocate of a policy of non-interference by the state in economic matters. In England, the doctrine found in Adam Smith, Ricardo and Malthus its ardent supporters, all of whom denounced state interference in economic matters which impede the free play of demand and supply.

J. S. Mill, an ardent advocate of the Individualistic theory, holds that the happiness of the individual varies inversely as the extension of state-authority. He advocates the complete freedom of action of the individual in regard to his self-regarding action, i.e., actions which concern himself alone. The state is justified only in controlling his other regarding actions, i.e., actions which concern others and this control should be exercised only when these actions of the individual are likely to injure others. Herbert Spencer also utilised the biological doctrine of the survival of the fittest in support of the doctrine of Individualism.

Arguments for Individualism. The theory of Individualism has been based on the following grounds : *First*, the Individualists seek to support their theory on the ground of natural justice. The Individualists hold that a man is the best judge of his own ability and interest. He should therefore be given the largest amount of freedom to work out his own salvation. State-interference kills his self-reliance and impairs his energy and capacity for work. The state should leave the individual free to chalk out his own line of action so that he may develop his own faculties and acquire what he wants. *Secondly*, the Darwinian theory of evolution is imported in support of the theory of Individualism. The natural law of the survival of the fittest is impeded by the action of the state. State-intervention acts as a support for the weak and the unfit. But in the absence of state interference, the weak and the unfit will be eliminated in the struggle for existence, leaving only those who are fit to survive. *Thirdly*, the doctrine is supported on economic ground too. The Individualists argue that competition is a much better principle than co-operation and as such, trade and industry will flourish better if left to private initiative. Better results in the sphere of commerce and trade will be ensured by the complete freedom of trade and industry. *Fourthly*, the Individualists base their theory on empirical grounds. Experience shows, the Individualists argue, that the state is not infallible. It miserably failed in the past to give a correct lead to the individual. The laws passed by the state

were often useless or pernicious. *Lastly*, the theory is based upon the ground of state incompetency. The Individualists maintain that the individual knows his interests best and therefore the state is quite incompetent to meet the needs of the individual. A work done by the individual in his own interest will be better done than when done by the state in the spirit of paternalism.

Criticism. Individualistic theory of state function has been subjected to a good deal of criticism. *First*, the theory errs by regarding the state as an evil. Some policies or actions of the state may appear to be prejudicial to the interests of the individual but on that account we must not think that the state is utterly incompetent and it has done nothing to promote individual interests. The part played by the modern state in the material, moral and intellectual progress of its citizens will prove the utter hollowness of the assumption that the state is an evil. *Secondly*, the individual is not always the best judge of his interest. He does not always understand what is best for him. In every state, there are illiterate and ignorant masses who do not know the pernicious effects of bad sanitation, unwholesome food and unhealthy recreation. Even educated people sometimes behave in a way prejudicial to their own interests. This conduct on the part of the individual suggests that it is in the interests of the individual that the state should direct and control individual actions. *Thirdly*, the theory of the Individualists is based upon a wrong assumption that the state is hostile to liberty. True liberty cannot exist outside the state. Well-regulated state actions, far from curtailing the liberty of the individuals, help all enjoy liberty through discipline and restraint. Thus it has been well said that "The recognition of political authority is the indispensable condition of liberty." *Fourthly*, the biological argument as advanced by the Individualists is unsound. The state as the highest form of human organisation has a positive as well as a negative duty. The Individualists object to public charity because it helps the weak and the needy. But they forget the fact that if the state is justified in punishing a man for committing theft, it is equally justified in providing employment to the unemployed which is its positive function. Besides, the weak and the incompetent when aided by the state may turn to be better classes of citizens. *Fifthly*, the individualists unduly exaggerate the evils of state regulation and minimise the advantages of co-operation and regulated efforts. State help and state regulation have proved to be of great value to the industrial development of many countries notably of Germany and Japan. *Finally*, with the gradual increase in the complexity of modern society, the necessity for increasing state regulation is constantly being felt in every aspect of a man's life. Thus the practice of modern states invalidates the doctrine of Individualism.

The theory of Individualism is no longer accepted as the true theory regarding the functions of the state. The main defect of the theory lies in the fact that it overlooks the advantages of well-meaning state regulations for promoting the collective interests of the community. But it has done a distinct service to modern political thought by duly emphasizing the importance of individual liberty. The theory rightly points out that the state should not be regarded as omnipotent and infallible and that excessive state paternalism leads to the suppression of the moral and intellectual capacities of the people.

Modern Individualism.

As a protest against the nineteenth century individualism which was intolerant of the least interference of the state with the activities of the individuals,

especially in economic matters, came the absolutist and collectivist theories which made the state omnipotent, omniscient and infallible. As a result of the teachings of these theories, the state grew into a veritable 'Leviathan' with a mystic super-personality attributed to it and extended its long arm over every sphere of human life with the result that individual will was lost in the 'real will' of the almighty state. *Secondly*, the invention of parliamentary government ushered into existence an era of despotism of the few in the name of rule by the majority party so much so that the people were anxious to escape out of this new despotism. *Thirdly*, the huge destruction of life and wealth caused by the two World Wars made people seriously question the utility of the state or at least made people conscious of the fact that the limited state should not be given an unlimited power. *Fourthly*, the gradual extension of the functions of a modern state relating to all spheres of human life has made it necessary for the state to discharge its varied functions through a highly centralised bureaucracy which, by the very nature of its organisation and function, is not at all responsive to public opinion and is the least affected by it.

All the above factors combined have made the modern state a universal compulsory organisation which claims to exercise a paternal control over the individuals. Modern individualism has come as a protest against excessive state-paternalism which has reduced the individual practically to non-entity. So the revival of individualism in a new form is an attempt to redefine the position of the individual in relation to the state. The theory of state-paternalism came as a protest against nineteenth century individualism and the revival of individualism in a modified form is an attempt to counteract the tendency to extreme state-paternalism. So modern individualism may rightly be regarded as a reaction against reaction.

Modern individualism asserts that the present 'over-developed state' which simply pretends to be a man of all work can neither provide satisfactory means for the representation of the popular will nor adequate opportunity to the individual for the fullest development of his personality. Hence the modern individualists, like the pluralists and the guild socialists, emphasize the importance of groups within the State. These groups, consisting of smaller number of men and pursuing limited ends, are far more competent than the state to safeguard the interest of the individual and also to promote the common interests of their members.

The chief exponents of modern individualism are Norman Angell, Graham Wallas and Miss Follett who are all unanimous in their denunciation of the activities of the modern state although they differ with regard to the means by which state-paternalism can be curbed. Norman Angell accuses the modern state for misguiding its citizens by misconstruing the real facts. People are always made to think in terms of national interest at the cost of the interest of humanity at large, the promotion of which can only bring peace and happiness to the individual. He therefore urges the imperative necessity of the establishment of an international society organised on the basis of economic class.

Graham Wallas also denounces the modern state. His principal target of attack is the parliamentary system of government which, in the disguise of democracy, seeks to perpetuate the rule of the few over the many. He proposes to mitigate the evils of modern democracies by the introduction of vocational representation and decentralisation of powers.

Miss Follett in her celebrated work 'The New State' has made an admirable attempt to redefine the position of the individual in the state. While the guild

socialists and most of the pluralists have practically ignored the individual on the one hand and the state on the other, Miss Follett has sought to define the relation between the state, the group and the individual on a rational basis. She emphasises the importance of the group so much so that she regards the group as the only mechanism through which "Man discovers his true nature, and gains his true freedom" but at the same time she asserts that the individual, the group, the state—they are all there to be reckoned with—we cannot ignore or minimise any one. The individual fulfils the diverse interests of his life through group activities and the duty of the state is to unify the activities of the groups. So the individual, the group, the state—all of them are real and have a part to play.

Socialism. Socialism, it has been said, is the antithesis of Individualism. The supporters of the theory regard the state as a positive good and hence contend for a maximum rather than a minimum of government. Socialism came by way of protest against the injustice and incompetence of Capitalism which led to the ruthless exploitation of the propertyless people by the propertied class. Socialism, it should be remembered, does not minimise the importance of individual liberty. It attaches equal importance to individual liberty which is necessary for the fullest development of individual's character. But Socialism differs from Individualism in this that the former maintains that the interests of the individual can be best promoted by maximising the control of the state, while according to the latter, the above ends may be secured by curtailing the functions of the state to the narrowest possible minimum. Thus the two schools of thought differ more in their political methods than in the legitimacy of ends.

Socialism is both an economic and a political doctrine. It seeks to abolish private ownership of the means of production on the ground that such ownership and management lead to social inequalities and incompetence. Hence the Socialists want to promote the common economic, moral and cultural interests of the people by substituting for the present individualistic society, public ownership and public control in the sphere of production and distribution. The present order of society is marked by private ownership of land, mines, factories, railways, etc., the proprietors of which use these means of production for the purpose of making the largest amount of profit for themselves. Under the present capitalist system of production, the decision as to what and how much to produce is decided solely by consideration of private profit, the whole of which is appropriated by a small section of the people. But under socialism, these means of production will be operated by the state with a view to securing the maximum benefit to society. State ownership and state management of production will not only prevent the exploitation of the many by the few but it will also usher in a new order of society where every decision with regard to what and how much to produce will be made by considerations of usefulness of such things to society. The state will maintain a central planning committee which will develop and co-ordinate the different branches of production. The productive forces of the country which are now operated blindly only to promote the private interests of their owners, will, under a socialist state, be operated to serve the best interests of the society as a whole. Thus socialism which grew out of the dissatisfaction against the present social system seeks to reconstruct society economically and politically on a new basis. Socialism which was so long a politico-economic doctrine has assumed great practical importance on account of the communist experiment in the U.S.S.R., the achievements of which have inspired the people of different countries for a change in the existing order of society.

Different forms of Socialism. There are different schools of Socialists, each of whom prescribes definite plans for the realisation of the Socialistic ends of the state.

(1) **Utopian Socialism.** This is the oldest form of Socialism which appeared for the first time in the writings of Plato. Plato, in his *Republic*, describes the state as it ought to be rather than the state as it is. According to Plato, the best form of society is one in which the words 'mine' and 'not mine' are equally applied to the same object. But Plato's scheme of Socialism which advocates equality of wealth was confined only to the ruling classes who would have neither private property nor family life. Plato's *Republic* furnished a basis for many later Socialist writers notable, among whom was Sir Thomas Moore. In his *Utopia* published in 1515, Moore gives us a picture of an ideal state in which there is no private property. Men live under the direction of elected officers who regulate their lives so as to ensure simplicity of habits and sufficiency for all. In France, St. Simon and others also planned their scheme on an ideal basis. In England, Utopian Socialism found in Robert Owen an ardent advocate who drew up a scheme of a new society for the relief of the poor. But all these experiments turned out to be impracticable and therefore without exception were complete failures.

(2) **The Scientific or the Marxian Socialism.** The different schools of modern Socialism derive their strength from the writings of Karl Marx whose classical work *Das Capital* is still regarded as the Bible of the Socialists. The theory of Karl Marx is mainly based on two propositions, viz., the theory of surplus value and the materialistic conception of history. According to Marx, labourers produce more than what they get as their wages from their employers. These capitalist-employers buy the service of labour and produce goods which they sell in the market at a rate higher than the amount spent for the payment of wages and upkeep of the factory. The difference between the exchange value of goods produced and the remuneration paid to the workers for their labour measures 'Surplus value,' the whole of which is appropriated by the Capitalist class as their profit. Thus profit is nothing but legalised robbery. Labour, according to Marx, is the sole cause of value and what is called profit accrues to the employer simply by the process of depriving the labourers of the full value of their labour. Marxian Socialism seeks to root out the evils of modern capitalist system of production.

His second proposition is based on the materialistic conception of history. According to him, human society is not static but is constantly moving towards new order according to the needs of new economic conditions. The entire social structure of a country—its political institutions, law, custom, religion and morality are determined largely by the material conditions of life of which the system of production is the main determinant of the political structure. All social and political history is the outcome of the conflict of economic classes. The old order of society was marked by the complete domination by the Capitalist class of the working classes who were ruthlessly exploited by their employers with modern machinery and land in their possession. Thus there is a perpetual conflict of interests between the Capitalists and the labourers. The most prominent feature of modern society is therefore the class-struggle which will terminate only with the overthrow of the Capitalists by the labourers. Marx therefore lays down that the labourers should be organised for securing Parliamentary majority which

will enable them to mould the present capitalist society on a socialist basis. The victory of the working class will be followed by the elimination of the Capitalist from the field of production and a new order of classless society with state-directed industries will emerge out of the old. Marx, however, did not preach any scheme of violence for the seizure of power by the Proletariat. He believed that power would pass on to their hands in the natural course of evolution.

Marxian philosophy has been subjected to a searching criticism in recent times. The materialistic interpretation of history as put forward by Marx is a narrow view which completely ignores the importance of forces like religion, geography, great men, etc., which have played their part in history. *Secondly*, his proposition of a long continued class war is out and out pessimistic and contrary to the fundamental social nature of man. *Thirdly*, the labour theory of value as expounded by Marx is not accepted by modern economists who point out that besides labour, other factors like competition, relation between the conditions of demand and supply must be taken into account in determining the value of a commodity. *Fourthly*, Marx has proved a false prophet with regard to his prediction about evolution and the inevitability of communism. *Lastly*, Marxian communism as a working principle is neither desirable nor practicable. Even in Russia, the communists found it difficult to adhere strictly to the Marxian principles and hence they had to deviate from the ideals in certain important respects.

The different interpretations put upon the doctrine of Karl Marx by different Socialist writers have given rise to two opposite schools of Socialism, viz., *the Evolutionary and the Revolutionary Socialism*. These two schools differ from each other both as regards their aims and methods. The advocates of the Evolutionary school are variously known as Collectivists, State Socialists, while those of the latter as Syndicalists, Guild-Socialists and Communists.

[See also Ch. 5—Maxian Concept of the State.]

(3) **Collectivism.** The school advocates state ownership of industry. It seeks to introduce social and political reforms by constitutional methods without resorting to violent means. The Collectivist programme consists in the gradual and progressive transformation of society from the Capitalistic to the Socialistic basis. The insist upon the abolition of class privileges and enforcement of laws beneficial to the Proletariat class.

(4) **State-socialism.** The doctrine of Collectivism appeared in Germany in the form of State-socialism which regarded the state as the best agency for looking after the interests of the workers. The advocates of this theory do not want a complete socialisation but they require state control only to protect the weak from the strong. As the workers cannot take care of themselves, State-socialism seeks to protect their interests by such legislation as old-age pension, workmen's insurance, and factory legislation.

(5) **Fabian Socialism.** In England, the doctrine of Socialism took a different from known as Fabian Socialism. The Fabian School claims as its supporters some of the great intellectuals of modern England like G. B. Shaw, G. D. H. Cole, Sidney Web and Laski who have given the British labourers a definite economic and political programme. The Fabian School believes that the Socialist programme can be enforced not by violent method but by gradually convincing the people of the benefit of Socialistic type of state. This, they

believe, can be done by literary propaganda. In actual practice, the Socialistic teachings of the Fabian School propagated among the masses mainly through pamphlets and the stage have succeeded in creating an anti-capitalist feeling in England. The Labour party in England has accepted some of the programme of this school, viz., taxation of inherited wealth and unearned income. The Fabian School never undertook any active political work excepting propaganda and with the emergence of the Labour party, this school has practically retired from the field.

(6) **Syndicalism.** In France, Socialistic ideas were crystallised into a novel form known as Syndicalism. The doctrine of Syndicalism has been influenced more by the teachings of Proudhon than by those of Marx. Syndicalism is a form of militant trade unionism with socialistic programme. It is allied with Socialism in the sense that it regards capital as theft and contends for the complete abolition of private ownership of the means of production. It differs from Socialism in this that it regards the state as hostile to the interests of the working classes and hence the Syndicalists advocate the abolition of the state. According to them, the Trade Union is the foundation of the new society and it will regulate not only the economic but also the political and social life of the people. The Syndicalists, unlike the Collectivists, are revolutionary Socialists who want to bring about the downfall of Capitalism by resorting to violent methods, such as, strike, and various other methods of sabotage. Syndicalism is based on three main principles, viz., (a) Labour is the sole source of wealth, (b) the wage-earners have the right to own and control industrial concerns and (c) this they should do by resorting to strikes.

(7) **Guild-Socialism.** It is a form of Socialism which seeks to make a compromise between Syndicalism and Collectivism. It advocates a theory of state ownership of industries but rejects their state management on the ground of the incompetency of the state in regard to management. Thus it differs from Syndicalism in this that it does not propose the abolition of the state. The underlying principle of Guild-Socialism is that it emphasises the importance of different functional groups in a community through which the various interests of the individuals are to be safeguarded. In short, Guild-Socialism advocates *functional democracy* which implies that the trade-guilds which are to assume the direction in industries, should work in conjunction with the various other functional associations which will regulate the many-sided social life of the individuals. Thus it also differs from Syndicalism in this that it recognises, besides trade-guilds, other associations in a community.

(8) **Christian Socialism.** This school regards competition as the source of most of the evils among the working classes and hence it wants to improve the condition of the working classes by introducing co-operative production of workmen's associations.

(9) **Communism.** The form in which Communism has appeared in modern Russia is based entirely on the doctrine of Karl Marx. It is the extreme and violent form of revolutionary Socialism which 'springs from the despair of conquering political power by peaceful means'. It advocates the capture of political power by force and its subsequent employment as an agency to crush the remnant of Capitalism. Communists and Anarchists agree in so far as they regard the abolition of the state as their ultimate aim but Communists differ from the Anarchists

in this that they do not press for the immediate abolition of the state as the Anarchists do. The Communists argue that with the gradual perfection of the individual through communistic organisation of society, 'the state will wither away' in the natural process of evolution. Communism differs from Socialism in this that while Socialism seeks to establish only state ownership of all the means of production and distribution, Communism advocates common ownership of all things and hence it seeks to abolish private property. The aim of Communism is to build up a classless society in which every man will get adequate opportunity for self-development and self-expression and in which "none shall eat who does not earn his bread by the sweat of his own brow." Thus it seeks to prevent the exploitation of one class by another and ensures economic sufficiency for all by enforcing the principle that each shall work according to his capacity and receive back according to his need.

Closely following Marx, Lenin, the maker of modern Russia, states that the attainment of full communism involves two stages, viz., (i) the Revolutionary stage and (ii) the Post Revolutionary stage. The first phase of the Revolution is characterised by the seizure of political power by the Proletariat by the application of force and its subsequent employment to squeeze out from society the last remnant of capitalism. In this stage the state assumes the character of a class state, namely that of the Proletariat who adopts a policy of gradual extension of public ownership by confiscating private ownership. No special privilege is allowed to exist and everybody is made to work in accordance with the principle. "He who would not work neither shall he eat." Everybody is to work according to his ability and everybody to get back according to his work. Money will still act as a medium of exchange in this stage.

The communists believe that with the gradual elimination of the last remnant of capitalism, a new order of society will emerge when everybody will be inspired by such a high sense of social responsibility that each will contribute his best to the social whole, there being no necessity for state compulsion. In this stage, all the productive forces of the state will be so fully developed that everybody may be allowed to get back according to his need. There will be no more necessity of money as a medium of exchange, for everybody acting out of a sense of social responsibility will receive according to his need. The advent of this stage marks the final triumph of communism when the state will no more be considered as a necessity for regulating the activities of men who become self-guiding and above all are inspired by a common consciousness of social good. The state therefore will wither away.

Thus, according to the communists, the overthrow of capitalism alone cannot create communism. For the attainment of full communism conscious and intelligent efforts are to be made.

For a proper appraisal of Russian Communism, one should not lay emphasis only on its initial destructive phase but also take into account its subsequent constructive activities. A new system of education introduced by the Bolshevik leaders ushered into existence a new order of society which ensured to each individual hitherto neglected an honourable position as a useful member of the community. Men and women were given a training which enabled them to rise above their selfish personal happiness. When the human material was properly shaped, the Communist leaders set themselves to the task of economic regeneration of the country on the basis of a number of successive Five-year Plans. The initial difficulties were almost insuperable but the Communist leaders proved far too

strong and in the course of twenty-five years, they succeeded in transforming a very backward country into one of the most advanced countries of the world.

Leninism. Lenin whose real name was Vladimir Ilich Ulyanov was an intellectual, a theoretician and a great revolutionary leader of Russia and is looked upon as the great Pope of communism within his own country and outside. He read too much and perhaps wrote much more to instill the communist creed in the minds of the people at large. It should, however, be noted that Lenin unlike Marx cannot claim to be the prophet of communism. He simply elaborated and interpreted the Marxian doctrine to suit the purpose of bringing about a proletarian revolution in his own country though Russia at that time was not ripe for a proletarian revolution. According to Marx's thesis, the proletarian revolution is possible where the proletariat class forms the majority as a result of excessive industrialisation but in Russia, according to Lenin, even in the absence of a powerful proletarian majority, revolution occurred because imperialistic capitalism was decadent and tottering on its last legs. Thus Lenin supports Marxian thesis supplemented by his own interpretation.

Secondly, in another respect, Lenin broadened the scope of revolution by giving his own interpretation on the method of revolution. Revolutions, according to Marx, need not necessarily and always be violent. Where change of the ruling class is possible without the destruction of the machinery of government, violent method need not be resorted to and in those cases where the ruling class cannot be ousted except through the destruction of the apparatus of state-power, the inevitability of the violent method cannot be avoided. But Lenin builds up his own thesis of inevitability of the violent nature of proletarian revolutions as he witnessed in his own country that the Czars were adamant not to part with an iota of their power to pacify the people.

Thirdly, Marx advocated though not explicitly that leadership of the proletarian movement should arise from the proletariat class. But Lenin with due emphasis advocated that leadership must come from the intellectuals as the proletariat is preoccupied with matters calculated to improve their working conditions.

Fourthly, Marx speaks of two stages of communism, namely, first stage and final stage of communism. The overthrow of the Capitalist class followed by the seizure of power by the proletariat characterised by the dictatorship of the proletariat constitutes the main feature of the initial stage. During this stage, the state-structure though transformed still remains a class-state where in spite of the fact that the means of production are under state control, the worker is to work according to his ability and to get back according to the quantity and quality of his work. Money still acts as a medium of exchange in this stage. It is only in the final stage of communism that the goal of communism, namely, "from each according to his ability, to each according to his needs" is reached. Lenin characterised the first stage of communism as socialism when the means of production, distribution and exchange have been socialised. Communism is characterised by need-based distribution of the fruits of labour.

Lastly, Lenin also elaborated the idea of the "withering away" of the state casually alluded to by Marx. According to Marx and his followers a class-state which is an instrument of exploitation is useless in a classless society where perfect

communism has been established—where public ownership takes the place of private ownership and need-based distribution replaces distribution according to work. Thus with the gradual extension of the principle of communism in all the fields of human relationships, the guardianship of the state becomes superfluous and ultimately the state dies—a natural death without the necessity of being killed.

Thus Lenin was not only a great interpreter of Marx but it was Lenin who extended the scope of application of the Marxian principle suited to the varying conditions of different countries. If Marx may be regarded as a prophet, Lenin may be regarded as a worthy disciple who preached and converted people to this new doctrine. Marx was a theoretician who did not pause to think how far his theory fitted in with actual conditions prevailing in different countries but Lenin was a theoretician as well as a man of action who knew that theories and dogmas in their application must have to be changed according to the needs of time and place and accordingly he did not hesitate to introduce the NEP and to seek alliance with the capitalist countries. He added elasticity to the rigid dogmas as enunciated by Marx and this elasticity bore fruit in time. Lenin's interpretation coupled with his superb organising capacity has succeeded in converting nearly half of the world to communism or in making sympathisers of communism.

Communism after Lenin. Lenin's death in 1924 was followed by a bitter struggle for power between two of his trusted lieutenants, namely, Joseph Stalin and Leon Trotsky. Stalin was the master of the Communist Party of which he became the Secretary-General and in that capacity he had complete control over the party machinery as well as over government. Trotsky was a scholar, a good writer and a brilliant orator. Next to Lenin, he was an important figure in the ruling coterie. In the struggle for power, Stalin came out victorious because in Russia even today the party is superior to the state. Trotsky defeated and humiliated was sent to exile.

Trotsky was a theoretician while Stalin was a man of action who very faithfully interpreted and applied Lenin's principles. Stalin strictly adhered to the principles and policies as laid down by Lenin. At the same time it may also be said that Stalin deviated from Leninism both in theory and practice. Stalin believed that communism could not be saved and spread unless communism is adjusted with the changing needs of time and as such expediency and opportunism were to him better guides than adherence to principles. Guided by the principle of expediency, he followed Lenin in making a temporary compromise with capitalist principle in so far as the New Economic Policy was concerned by concessions made to private enterprise, especially in agriculture. Stalin also realised that situation was not yet ripe for a world revolution and so he was opposed to the idea of a world revolution. His sole aim was to consolidate the position of Russia and to strengthen even by making temporary alliances with capitalist countries. For the time being, he wanted to confine communism to one country and when the time will be ripe, communism would be forced upon other countries. Actuated by the policy of expediency, Stalin sought to make an alliance with the allied powers but when he failed he did not hesitate to make a non-aggression pact with Hitler. The guiding principle of his politics was to safeguard and consolidate communism in Russia at any cost.

Stalin differs from Lenin in one important respect. While Lenin believed in collective dictatorship and actually maintained it, Stalin, on the other hand, established a ruthless personal dictatorship. In spite of some of the serious

limitations of Stalin's policy, it may be said that he was more nationalistic in his outlook and contributed much to the increase in power and prestige of the U.S.S.R.

Next to Stalin, Nikita Khrushchev deserves special mention in view of the fact that he tried to revert back to Leninism from which Stalin veered away. Khrushchev neither a theoretician nor an intellectual was first the Secretary-General of the Communist Party and then the Prime-Minister of the Soviet Union and he is to be remembered for his anti-Stalinist policy. He openly denounced Stalinist cult of personality which was replaced by collective leadership. He introduced new wage and salary policy by which wages and social insurance benefits of workers at the bottom would be increased and correspondingly those at the top would be reduced. He announced that education up to the highest level would be free and available for all. In foreign policy, he advocated a policy of peaceful coexistence with other nations implying that capitalists and communists might live together without being enemies of each other. This announcement of Khrushchev is very significant, for, it brought back good relationship with Yugoslavia but displeased China resulting in a split between the two countries. All communistic principles and programmes centre round the ultimate end of 'withering away of the state'. During the era of Lenin, communism was in its initial or first stage and so the question of disappearance of the state did not arise. Under Stalin, the state instead of being liquidated by the natural process of communism became a more powerful organisation than it was under the Czars. Stalin justified this omniscience of the state on the ground of 'Capitalist encirclement'. So long as fear of attack from outside exists, the state for the realisation of the ultimate goal of communism, cannot and should not wither away. Khrushchev also talked much about the withering away of the state and pointed out that the Soviet state was on the road to withering away as many of the activities which were formerly under state-control were during his regime being carried on by "social organs of economic-cultural self-government". Khrushchev was more afraid of an attack from within the Communist camp than from imperialist powers. Whatever may be the reason behind the non-withering away of the state, it is a fact that the state-machinery with all its functional apparatuses still exists and shows no sign of decay far less complete disappearance. The system of need-based distribution also remains inoperative.

Communism entered a new phase in its career under the leadership of L. Brezhnev who advanced the cause of communism by taking a long stride through a new constitution (1977) towards the communist goal. The dictatorship of one class, namely, that of the proletariat has been transformed into the dictatorship of the whole people consisting of all the people including the intelligentsia, all of whom have united together to form the great socialist state in which "the law of life is the concern of all for the good of each and the concern of each for the good of all." Apart from introducing bold measures for raising living conditions of the people, such as, housing, education, health, recreation and the like, increasing association of the people in the functioning of the government has been ensured by devices like democratic centralism and nation-wide discussion and referendum on important national problems.

In foreign relation, Brezhnevism follows the principle—"Speak softly but carry a stick with you", meaning thereby that the soviet state is equally prepared for friendship and enmity with other states. Firmness of its policy is evident from its involvement in Viet-nameese. Campuchea issues and its presence in the Indian ocean as a counterpoise to the U.S.A. moves to control the region. The virtual

occupation of Afghanistan in the teeth of violent protests from many states including the U.S.A. has proved ineffective. This act seemingly highly aggressive in nature will help maintain peace in Afghanistan as well as in other states far and near.

Difference between Marxian Communism and Russian Communism.

During the initial stage of the Revolution, the Russian Communists, under the leadership of Lenin, tried Communism in its literal form. Private property was abolished and nationalisation was extended to the fields of production, distribution and consumption. The cry was—"all powers to the Soviets consisting of the peasants', workers' and soldiers' deputies." The Communist experiment in Russia was based on the original Marxist ideal. But during the course of its working, the Russian Communists realised the difficulties in the way of the realisation of the Communist ideal in practice. They, therefore, modified their methods and to some extent deviated from Marxist programme. Marxism was essentially international in its scope and implication but Russian Communism under Stalin was apparently nationalistic in its scope. Marxism advocates the complete abolition of private property and private enterprise but Russian Communism had to make a compromise with these institutions, though in a limited sphere. The Stalin constitution of 1936 guaranteed to the Soviet citizens the right to personal property—"in their incomes and savings from work, in their dwelling houses and subsidiary home enterprises, in articles of domestic economy and use and articles of personal use and convenience, as well as the right of citizens to inherit personal property." Again, Russian communism is no longer intolerant of religion which has been given state recognition. Communist Russia is freely coming in contact with non-communist countries—countries which differ fundamentally from its ideologies. She fought against Germany as an ally of capitalist countries like Great Britain and the U.S.A. These are facts which go to prove that she is not thinking in terms of Marxian ideal of international socialism but in terms of her own security, power and progress.

Chinese Communism. Conditions in China in the early twentieth century were in such a state of utter stagnation that she readily swallowed communistic principles as a panacea for all her social evils. Dr. Sun Yat-sen, the great reformer of China, was impressed with Communist principles and began to look with favour upon communism. Thus a Communist society was formed in Peking as early as 1918. Dr. Sun Yat-sen invited leading communist personnel to China to have direct contact with the Communists and Borodin, an astute Communist leader who was deputed to China, succeeded in impressing upon Dr. Sun and other Chinese intelligentsia the efficacy of communism as a means for fighting feudalism and capitalism. The mission of Borodin to China took no time to bear fruit and by 1921, Communist Parties were formed in the principal cities of China. Dr. Sun was fully converted to Russian Communism. Mao Tse-tung, a man of peasant origin, organised the peasantry for the great revolution and Communist principles were sown among the students, teachers, journalists and industrial workers. In this way, a revolutionary programme was set up to fight feudalism and imperialism.

Meanwhile Dr. Sun had died leaving Communism in the half-way. Chiang Kai-shek who succeeded Dr. Sun was a rightist military general and was bitterly opposed to communism in China. Chiang employed all forces at his disposal to wipe out the last remnant of communism in China. This led to a virtual Civil