International law. Its Definition and Contents. International law is a body of rules which determine the conduct of civilized states in their mutual dealings with one another. Wheaton, a great authority on International law, defines it as "those rules of conduct which reason deduces as consonant to justice from the nature of the society existing among independent nations; with such definitions and modifications as may be established by general consent." Oppenheim defines it as "the body of customary and conventional rules which are considered legally binding by civilized states in their intercourse with each other." These rules concern the dealings of states in peace and war; they determine the rights and duties of neutral states, the modes of acquisition of territories by state and the diplomatic relation of one state with another. They also define the rights of citizens of one state living within the jurisdiction of another state and the control exercised by state over persons and property on sea and land. International law is a product of modern civilization. Growth of international trade and commerce, the improvements and invention in the domain of science, the rapid development of the means of communication and other like factors have made it possible and necessary for states to come more frequently in contract with one another. Every modern state has a network of relations with other states and is dependent on them. International law is the body of rules which civilized states observe in their dealings with one another.

Prof. Holland has remarked that international law is the vanishing point of jurisprudence. Jurisprudence deals with the science of the law of the state. One of the characteristics of law is that it must be obeyed by all and this obedience to law is enforced by the organised force of the state. In other words, the sanction behind law is the might of the state. But in the case of international law there is no super-state which can enforce international law in the same way in which national laws are enforced. International law therefore cannot come, strictly speaking, within the scope of the science of jurisprudence.

Its Sources. The development of International law, like that of Municipal law, has been influenced by various factors. It is the product of a number of treaties and conventions, of international congresses and conferences, of diplomatic correspondence among states and interpretation of great jurists and statesmen. These factors, coupled with the Roman *jus gentium* which in its turn was based on the law of nature, gave rise to a unique system of law known as International law.

Under the Statute of the International Court of Justice the sources of law are stated clearly as being (a) international conventions, (b) international custom, (c) 'the general principles of law recognized by civilized nations and (d) judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.'

The court however, with the consent of the litigant parties may apply the principles of equity in deciding disputes on any matter.

Is International law properly speaking law?

There is a good deal of controversy regarding the exact nature of International law. Can it be properly called law? According to Austin, law presupposes a determinate authority which will make and enforce law. In the case of International law, it does not represent the will of any single supreme

authority. *Secondly,* it does not impose any obligation upon any state to abide by the principles of international law. A law is no law which can be violated with impunity. There is invariably a punishment for every breach of Municipal law, but in the case of International law, there is no legal sanction to compel enforcement of its rules. There are also no courts with power to enforce it or impose punishment upon its violators. Each state is the ultimate judge in its own case and the ultimate means of settling inter-state dispute is war. International law is honoured more in the breach than in the observance, and as such it is lacking in the essential character of law, namely, that there is no super-state to enforce it. *Lastly,* there are many jurists who are of opinion that International law is a body of rules which are as yet *imperfectly* arranged and are *imperfectly* applied to an *imperfectly* organized family of nations. On these grounds, it is held by many writers that International law should better be treated as rules of international morality, imposed by international public opinion.

As against this view, many writers have sought to prove its legal validity. It is true that International law is more often violated than observed, but Municipal laws are also violated. If breach of Municipal law does not make it invalid, then breach of International law should not also make it invalid. *Secondly,* it is law because every state normally observes its provisions. No state has as yet dared openly violate it. When a state is accused of breach of International law, the accused state, just like an accused person, tries to explain its conduct in a way that will exonerate it from the guilt. This proves that International law is respected by all states. *Thirdly,* it is denied the name of law because there is no legal sanction behind it. The ultimate sanction behind all law is not the force of the state but the force of public opinion. In the case of International law also, a world public opinion is fast growing and is acting as a check on the abritrary exercise of powers by the states. The two leading authorities on International law,—Hall and Oppenheim,—are of opinion that the sanction behind International law is a 'broad-based public opinion'. "The true test of law is its general recognition and observance and that a moral sanction is sufficient, the threat of physical force being unnecessary". Again, threats of war, reprisals and cessation of diplomatic relations are the several means of punishing a state in case of violation of International law. After the Second World War, the Axis partners were heavily penalised for waging unlawful war against the allied powers. Besides, it should be remembered that International law is a law *between* and not *above* nations. It is a law, though a weak law. When the family of nations will be properly organized, International law will be as binding upon civilized states as is Municipal law upon private citizens of a state. Judged by these tests, the rules of International law may properly be called law.

International law—Public and Private.

The scope of international law has increased so enormously that its subject-matter has been divided into two parts, viz., Public International Law and Private International Law. While the former deals with the mutual relations of states when acting in their own interests, the latter is mainly concerned with the application of appropriate national law for deciding any given issue of private law. The rules relating to peace, war and neutrality constitute the main subject-matter of public International law while Private International law grew out of the commercial relations between the subject of different states.

Relation between Municipal law and International law.

Municipal law differs from international law in many respects. *First,* municipal law differs from international law in respect to its sources. Municipal law has its origin in customs and legislations within a particular state while the source of international law is customs and law-making treaties recognised by the family of nations.

Secondly, municipal law is administered and enforced by the sovereign authority of the state but in the case of international law, there is no such super-state to enforce international law.

Thirdly, the two laws differ in respect to the relations they regulate. Municipal law regulates the relations of private individuals living within a state while international law regulates the relation between different states of the family of nations.

Fourthly, the two systems differ as regards their contents. Municipal law which is the law of the sovereign power of a state is supreme over the individuals of a state but international law, in the absence of a common super-state, is a law *'between'* and not *'above'* states which are sovereign.

In spite of these differences, it must be said that as the different members of the family of nations are now recognising international law to be more and more binding upon them in their mutual intercourse with one another, the difference between the two systems is gradually vanishing. The different states now refrain from enacting laws which may come in direct conflict with international law. In England, parliamentary sovereignty has to a great extent been affected by the recognition of international law as a part of the Municipal law of England. In fact, international law today determines broadly the judicial limits of the personal and territorial competence of a state and as such Municipal laws are to be enacted in such a way as to avoid a conflict with international law. The two systems of law are to develop side by side in such a way that the two, instead of being mutually exclusive, become complementary to each other.

Obstacles to the Growth of International Law.

Two great obstacles to the growth of International law are the idea of national sovereignty and the principle of territorial possession of states. The first impeded the growth of International law for a long time in the past by refusing to admit any limitations upon its authority save that which it makes itself. But the growth of democratic ideals and the consciousness of the existence of an international society outside the limits of each state have undermined the notion of national sovereignty. The second obstacle still persists and tends to weaken the effectiveness of International law. But the recognition of the fact that the right of territorial possession of the state is only a right of control necessary for its public service, will go a long way in combating the notion.

What is necessary in removing these hindrances is the creation of an enlightened public opinion on a world basis in order that such opinion might provide the necessary sanction not only behind International institutions like the League of Nations or the United Nations but also behind an international court. The latter in addition to its function of setting disputes must also act as a rallying centre for international public opinion. At any rate, the conviction must be

thoroughly instilled into the minds of men that the state which "is the guardian of order within cannot be the enemy of order without." Only then that International law can be effective.

Law of Nature.

It was the Greek Philosophers who first developed the concept of the law of nature. They maintained that the principle of uniformity pervaded the whole universe and this should be the guiding principle to which all human laws should conform. Human laws based on this principle of uniformity were called 'law of nature'. Both Plato and Aristotle believed that the fundamental principles of right and justice were to be found in nature. Aristotle very often referred to natural law and justice in support of many of his political theories.

The stoics interpreted natural law in the sense of law of reason which, according to them, was fixed and immutable. The defined it as the "manifestation of the single and homogeneous spirit of the world." They held that Nature was the embodiment of universal law and reason which interpreted that Nature was the only source of law. They taught that the general rule of human conduct should be so shaped as to conform to this divine reason which was universal in character.

The legal system of Rome was considerably influenced by the concept of the law of nature. The Romans had their own laws called *jus civili* or civil law which regulated the affairs of the state. But when Rome developed into an empire the necessity for determining the general legal principles which could be applied to the entire empire of Rome was felt. The *jus naturali* of the stoics influenced the formation of the *jus gentium,* the body of rules to be applied to the non-Romans. *Jus gentium* or the law or nations was in reality the law of nature embodying the universal principle of human conduct applicable to all nations. Christianity also adopted the conception of the law of nature which helped inculcate the doctrine of freedom of reilgion and worship.

In the hands of the social contract writers, the concept of the law of nature passed into a state of nature. Hobbes was of opinion that the state of nature was one of mutual strife and warfare. Locke and to a great extent, Rousseau asserted that man was born free and equal and so in modern society also liberty, equality and fraternity are his birthrights. In the modern age, the influence of the law of nature may be traced in the writings of Duguit, Krabbe and others who hold that law is immaculate and must be based upon reason and justice.

Criticism—First, the theory of natural law has been assailed by its critics on the ground that there is no legal sanction behind this law and hence it cannot be enforced. Moral sanction on which it is based cannot prescribe any punishment for breach of such law.

Secondly, it has been pointed out that natural law came to be interpreted as law of reason which could only be an ideal to which all human laws should conform. The state is a human institution and as such it has its limitations. State laws therefore cannot claim the degree of perfection which is believed to be inherent in natural law.

Influence of the Law of Nature—The influence of the law of nature is discernible even nowadays in the domain of law and philosophy. *First,* the development of International law which was formulated in the seventeenth century was the direct outcome of a belief in natural law. International law which regulates the conduct of civilised states is associated with the

name of the Dutch Jurist Hugo Grotius. It is a body of rules which make it incumbent on states to follow these rules under certain circumstances and make it obligatory on the part of the states to follow them on the ground that all states are equally sovereign, and that no state should unnecessarily encroach upon the rights of other, and violate the dominant principle of the law of nature.

Secondly, the judges, in trying cases, often apply the principle of equity, i.e., principle of justice, equality and good conscience which is the stoic ideal.

Thirdly, the system of trial by jury embodies the principle of natural law inasmuch as it is believed that the finding of facts by several persons approaches nearer to truth.

Lastly, the remnant of the doctrine of natural law is to be found in the recognition by every government of the rights of life and property which are ensured to every citizen.

Different Meanings of Natural Law—First, natural law may mean a sequence of cause and effect in natural phenomena. The laws of chemistry, for example, relate to the action and reaction of chemical agents. *Secondly,* it may mean, according to Huxley and Spinoza, the instinctive conduct of human beings. *Thirdly,* it may refer to the rules of conduct which are based on divine will. Laws of nature, in reality, are mere ideals to which human conduct is enjoined to conform.

State and Law.

What is the relation between state and law ? Is the state the parent or the child of law ? In one sense, law is the child of the state because all laws either emanate from the state or at least they require recognition by the state for their validity. The state as the agent of the community formulates and enforces laws with a view to creating an atmosphere in society in which every man gets opportunity to develop all that is good in him. Thus laws are instruments of the state by means of which the state guarantees to its citizens a system of rights, the maintenance of which is the only criterion of the state.

But Duguit, Krabbe and others attribute priority and precedence to law by placing it above the state. According to these writers, law is not only anterior to the state but it also exists independently of the state. The state simply recognises and sustains law. They even go to the length of asserting that even the almighty state is bound by law—its very existence and functions are solely determined by constitutional laws. Looked at from this point of view, the state seems to be the child of law.

Those writers who place law above the state in order to overemphasize its importance fail to distinguish between state and government. Government is merely an agent of the state through which the state acts. As has been pointed out above, the main function of the state is to maintain a system of rights and lest these rights might be encroached upon by over–government, constitutional laws limit the powers of the government by defining its jurisdiction. Special provision is also made for constitutional remedies, if any of these rights is threatened by governmental interference. The state also reserves the right to change or even to abrogate the constitution. So it is not the state but the government which is subordinate to law.

SUMMARY

I. *Nature and definition.* Law, in political science, means a general rule of external action enforced by a sovereign political authority. The Austinian view of law is untenable inasmuch as it takes a very narrow view of law. Law is based on the common consent of the community. The modern writers interpret law as so many rules of social conduct which must be observed in order to preserve and promote the benefits of social life.

II. *Contents of Law.* Law serves the purpose of a mirror which reflects the popular conception of right and wrong in a particular state. Law is also an active force. It exercises an ethical compulsion in the sense that some men obey law because they consider that it is just and therefore they ought to obey it. Law also exercises a physical compulsion when the moral force fails. There are people who obey law because of the fear of punishment involved in the breach of law. Therefore, a law in order to be effective must have both value and validity.

III. *Essentials of Law.* For the existence of law, there must be (*a*) a sovereign state, (*b*) a body of rules, and (*c*) an authority to enforce the rules.

IV. *Relation between Law and Morality* (*a*) Moral rules deal with all the actions of man, his motive, thought and external conduct while law regulates only the outward acts of man. (*b*) Laws are enforced by the state while moral rules cannot be enforced. Their sanction lies in conscience or public opinion. (*c*) Moral rules follow absolute standards of right and wrong but law follows standards of policy. Thus *Mala prohibita* are acts which are forbidden by law, i.e., they are illegal but not necessarily immoral.

But there is a close connection between Law and Ethics. "Ethics," says Sidgwick, "is connected with Politics so far as well-being of any individual man is bound up with the well-being of his society."

V. *Sources of Law.* The sources of law are custom, religion, adjudication, scientific discussion, equity and legislation. The earliest influences in the evolution of law are custom and religion. The most important and the most prolific source of law in modern times is legislation.

VI. *Classification of Law.* According to the agency through which law is formulated, the divisions of law are Statutes, Ordinances, Common law, Constitutional law, and International law. According to the character of the persons concerned, law may be classified into Municipal law and International law. Municipal law may be divided into Private and Public law. Public law is further subdivided into Constitutional law, Administrative law and Criminal law and Criminal Procedure.

VII. *International Law.* The rules that civilized states observe in their dealings with one another are called International law. It regulates the relation of states in peace and war and defines the position of neutral states.

The question is whether International law is law proper or not. There are two sets of opinion on this point. One view is that it is not law because there is no sovereign power to enforce it. The states decide for themselves whether to obey it or not in a particular case. According to the other view, International law is law because the sanction behind International law is the same as the sanction behind ordinary law, viz., the common will.

VIII. *Obstacles to the growth of International law.* The idea of national sovereignty and the principle of territorial possession of states stand in the way of the growth of International law. These impediments may, however, be removed by creating an enlightened opinion on a world basis. International institutions like the U. N. and international tribunals can help the creation of such public opinion.

IX. *Law of Nature.* The doctrine of Natural law holds that Nature is the embodiment of universal law and human reason which interprets Nature as the sole source of law. The theory was first worked out by the Stoics and later on, the Romans and the Church Fathers.

developed the doctrine. The Roman *jus gentium* came to be identified with the law of Nature. Modern International law was considerably influenced by the *jus gentium.*

Law of Nature cannot be enforced inasmuch as it has no legal sanction behind it. The development of International law, the system of trial by jury, and the principle of equality which judges apply in trying cases are all the practical effects of a belief in natural law.

State and law. The state is regarded as the parent of law because it creates, recognises and enforces law for ensuring better social life. Others maintain that the state is the child of law inasmuch as laws are prior to, and independent of, the state. Even the state is bound to act according to constitutional laws. The truth is that it is not the state but the government which is bound by laws.

QUESTIONS

1. What is law ? What are its sources ? Does "Law exercise both an ethical and a physical compulsion" ? (Nag. 1934)
2. "A law is a command which obliges a person or persons to a course of conduct."—Comment on the definition considering particularly the cases of (*a*) customary law, (*b*) equity, (*c*) International law. (C. U. 1930)
3. What is International law ? How far is it correct to say that during the last few years the concept of International law has received a severe set-back ? (Bombay, 1938)
4. "The safety of the state is its first law and to realise this end it must me above morality." Comment. (C. U. 1938)
5. (a) "International law is only valid for a given state to the degree that it is prepared to accept its substance." (b) "The world has become so interdependent that an unfettered will in any state is fatal to the peace of other states." (Laski). How far do you agree with these two views ? (C. U. 1950, Hons.)
6. Discuss the nature and sanction of law. How far is it correct to use such expressions as 'the laws of Nature', 'laws of morality', and 'International Law' ? (C. U. 1950)
7. "Law is the expression of the general will of the community." Discuss the statement. (C. U. 1955)
8. Discuss the nature and sanction of law. Can International Law be regarded as Law in the strict sense of the term ? Give reasons for your answer. (C. U. 1958)
9. "International law is a law by courtesy, concession and grace." Do you agree with this view ? (C. U. Hons. 1961)
10. What is law ? What are its sources ? What is its relation to morality ? (Gauhati, 1965)
11. "Law is the removal of natural restrictions, not the addition of more." Discuss in the light of this statement the nature of law as it should be in political science. (C. U. B.A., Hons, 1966)
12. Discuss the nature and sources of International law. Explain, in this connection, the proposition—"International law is the vanishing point of jurisprudence." (C. U. B.A. Hons. 1967)
13. Discuss the importance of Natural Law in Political Science. (C. U. Hons. 1955)
14. Discuss the nature and importance of law. Explain the sources of Law with their relative importance. (C. U. 1976)
15. Can International Law be regarded as law in the strict sense of the term ? Give reasons in support of your answer. (C. U. 1983)
16. Discuss in brief the meaning and nature of law. (C. U. 1988)
17. Analyse the nature of law and discuss its different sources. (C. U. 1990)

CHAPTER 8

PEOPLE, NATIONALITY, NATION AND STATE

References:

Zimmern—Nationality and Government, Chs. 2, 3.
Mill—Representative Government, Ch. 16.
Ramsay Muir—Nationalism and Internationalism, Ch. 2.
Burns—Political Ideals, Ch. 8.
Garner—Political Science and Government, Chs. 6, 7.
MacIver—The Modern State, Bk. One, Ch. 4, Sec. II.
Laski—Grammar of Politics, Ch. 6.

People. "A people" says Mackenzie, "is a group of individuals, not necessarily living together, but having a certain unity of traditions or sentiments." A people may not develop any political consciousness. Thus the Jewish people did not for centuries form a state.

Nationality and Nation. The term 'nation' and 'nationality' are often used indiscriminately in popular language. But a distinction must be drawn between the two. The word 'nation' is derived from the Latin word *natio* meaning birth or descent. In its etymological sense, the word 'nation' therefore refers to a group of people descended from the same stock. But in modern political science, the two terms have acquired a new meaning. A nationality is defined as a group of people bound together by identity of race, language, religion or by community of interests, history and tradition, while a nation is a group of men united under the same sovereignty.

A nationality may be defined as a group of persons united together by certain ties, as for example, race, language and literature, ideas, customs and traditions. They possess these characteristics in such a way as to constitute themselves into a coherent unity distinct from other populations. A nation is a nationality when it organises itself into a political body, either independent or desiring to be independent. When a nationality forms an independent political organization, i.e., acquires statehood, it becomes a nation. Thus the difference between nation and nationality rests on the attainment of independent statehood. A nationality invested with political consciousness is a nation, and a nation divested of political consciousness is a nationality.

The term 'nation' has therefore a political significance attached to it, while the basic principle of nationality is a sentiment and as such spiritual. Nationalities cannot be ignored, although they may not have formed distinct states of their own. The British government can ill afford to displease the Scottish people who form an integral part of the British nation, though they constitute a separate nationality. An analysis of the definition of the three terms 'people', 'nationality' and 'nation' indicates that a people becomes a nation as a result of a process of political evolution. When a group of people is inspired by a common sentiment, they gradually develop into a nationality. A nationality becomes a nation as soon as the nationality is invested with a strong political consciousness coupled with the desire to unite under the same sovereignty.

State and Nation.

The essential elements that go to constitute a state are population, territory, government and sovereignty. A state comes into existence where these four elements are present. But a nation is something more than a state. In order to be a nation a state must have the feeling of oneness among its people. A nation is therefore the state looked upon from the point of view of the unity of the people organised in the state. We may conceive of the existence of a state without being a nation. The Austro-Hungarian Empire before the First World War was a state but not a nation. So was the Czarist Empire of Russia. They lacked the feeling of oneness among the people and hence were not nations. But the modern tendency both in theory and practice is to regard statehood dependent on nationhood. The two concepts are not mutually exclusive, rather they are complementary to each other. When a group of people is inspired by the ideals of nationalism, when the members of the group passionately believe that they have a common destiny to reach and a common ideal to realise, they are sure to form a state of their own through which the ideal of the group will be realised. Thus the feeling of oneness is a factor that has exerted a tremendous influence on the formation of new states.

But this does not mean that statehood is absolutely dependent on nationhood. In the absence of sovereignty which is the most essential mark of the state, a people however organised or possessing the essential elements of nationality cannot attain statehood. The status of Germany and that of Japan after the conclusion of the Second World War were cases in point. They continued to be nations, though they ceased to be states. Nationality is a spiritual concept and as such subjective whereas statehood is objective and threfore it has a political significance attached to it.

Conversely, diverse races with diverse languages and religions may be welded into one homogeneous group under one state organisation. The U.S.A. is a case in point. Thus a nation may create a state and a state may also create a nation.

Marks of Nationality. Nationality, as we have seen, is a sentiment which characterises a particular group of men. This sentiment is the outcome of many forces which unite the masses into a homogeneous group. These are the ties of race, language, religion, geographical unity, common political, economic and cultural interests.

(i) *Identity of race* is held by many as a characteristic of most nationality. But recent ethnological researches have proved beyond doubt that there is hardly any race in the world which can claim itself to be the descendants of a single stock. The different races have been so intermixed with one another that it is impossible at this distance of date to separate one from the other. Besides, unity of race does not necessarily lead to the formation of a nationality. The German and the English belong to the same racial stock but they are quite distinct from the national point of view. Conversely, there are many races in the United States, but all of them are united together as 'Americans'. Thus our analysis shows that nationality is not dependent on the racial factor, although the bond of kinship,—or even a mere belief in a common origin considerably influences the growth of the corporate sentiment of nationality.

(ii) *Community of language* immensely contributes to national unity. Language is the vericle of thought and when a people speak in the same language, interchange of ideas and ideals becomes easier than when they speak in different languages. But unity of language, like the unity of race, is not essential. The Swiss people speak in three different languages—German, French and Italian but in spite of their linguistic differences, they live in one state and have developed a strong national consciousness.

(iii) *Religion* was formerly considered to be an important factor that promoted national unity. But with the growth of the spirit of toleration and the rise of religious freedom, the influence of religion on the formation of nationality is definitely on the wane. Nowadays people professing different religious faiths are living side by side in a nation, e.g., the German Catholics and the German Protestants. Religious unity therefore fosters national unity but is not to be considered as an indispensable element.

(iv) *Geographical unity* sometimes contributes to a healthy growth of national feeling. When a people occupy a definite territory local contiguity promotes mutual sympathy and thus develops their national consciousness. But as with other factors, this is also not essential. Nationality is not lost or destroyed by migration. The Jews are regarded as a nationality although they are scattered throughout the world.

(v) *Common subjection and Community of economic and cultural interests* often promote the national sentiment. A common political ideal leads to the creation of a general nationality out of heterogeneous race elements as in Switzerland.

Thus we see that none of the above-mentioned factors is essential to the formation of a nationality. Then we might ask what constitutes nationality? Nationality cannot be exactly defined. Ramsay Muir has aptly remarked, "Its essence is a sentiment, and in the last resort, we can only say that a nation is a nation because its members passionately and unanimously believe it to be so." Race, language, religion, political aspirations—these no doubt stimulate the growth of national sentiment but they are not nationality itself. "Nationality," as Renan says, "is a spiritual sentiment, a condition of mind, a way of feeling, thinking and living which is the outcome of historical development." It "comes from the consciousness of wrongs and oppressions suffered through common subjection during a long period of time to a despotic government, the pride of a common share in great historic struggles and the possession of a common heritage and common traditions expressed in songs and legends." Race, language, religion, etc. are mere physical relationships but nationality is subjective. Burns therefore opines that "Besides mere physical relationship, we have to reckon with the unity of traditions. A common memory and a common ideal—these more than a common blood—make a nation." That is the reason why the Swiss people are a nation in spite of their racial, linguistic and religious differences.

Character of Indian Nationality. Students of political science are often faced with the problem of the character of Indian nation without any satisfactory solution. Most of the Western critics have sought to prove that India is not a nation. India cannot claim identity of race, unity of language or sameness of religion. Besides, as between the communities themselves, the homogeneity or

community of tradition which is the real mark of nationality is here conspicuous by its absence. The two principal communities of India, the Hindus and the Muslims, have not only different traditions, but an influential section of the Muslims was of opinion that the Muslims constituted a separate nation and hence they had a legitimate claim to form a separate state of *Pakistan* as opposed to *Hindusthan.*

It is unfortunate that in discussing the question of Indian nationality, these critics unduly emphasize the importance of the centrifugal forces to the utter neglect of the centripetal. True it is that in India, there are many races, spoken languages and religions but considering the historical antecedents and the size of the country, these diversities may be taken to be natural and inevitable. We admit that religion is striking a discordant note in the political life of the country but such differences existed in the past and still exist in some form or other in many countries. Divergences of race, language and religion exist in the U.S.A. and in Switzerland. If we do not deny to these countries the character of a nation on the score of their diversities of race, language and religion, there is no reason why we should deny it to India. Besides, nationality, as we have seen, is psychological ; it is a peculiar condition of the mind and as such it depends more on spiritual factors than on mere physical basis. A close and careful study of Indian history will reveal that there is a fundamental unity in India even in the midst of her diversities. Even a reactionary body like the Simon Commission did not fail to have been struck by this fundamental unity. The Commission in their report remarked, "It would be a profound error to allow geographical dimensions or statistics of population or complexities of religion, caste and language to belittle the significance of what is called the Indian National Movement." Hinduism, Buddhism, Islam, Christianity, all of them have played their part in time and have contributed to the growth of that sense of national unity which has gathered considerable strength during the course of its historical evolution. The Hindus and the Muhammadans have been living together for a long time in the past. Both the communities in many places have not only common language, but have developed common traits of character and have common economic and cultural interests. The quarrel between them is of recent growth and is the outcome of manipulation by interested parties. Besides, what is important in the formation of a nation is not mere physical relationship like race, language and religion but a common memory in the past and a common ideal in future and it is this spiritual bond of union which has enabled the diverse race elements of the U.S.S.R. to live together under the same sovereignty, thus setting up a new ideal before the world. Such a common memory and common ideal do exist in India. Besides, the common system of education, common laws and common methods of administration prevailing in India during British rule considerably helped the growth of a strong national consciousness throughout the country. What was uppermost in the mind of every Indian was the consciousness that he was bearing the burden of an alien government and his political aspiration was the attainment of political independence. This aspiration of the Indians as a whole received a great impetus from the patriotic wars waged by different subject peoples of the East and the West and particularly by the achievements of the Indian National Army led by Netaji Subhas Chandra Bose. Nationality is a spiritual sentiment and it would be far from truth to say that the feeling does not exist in India. On the contrary the sentiment of nationality is gathering strength day by day and the Indians today are feeling very strongly that they constitute a nation. They are determined to build up a

united state of India based on the principle of justice, equality and freedom for all quite in keeping with her glorious past and an equally glorious future. But in spite of the fundamental unity, the country was divided into two states on the basis of late Mr. Jinnah's 'two nation theory'. The centrifugal force proved stronger than the centripetal one.

The position of India and the status of Indian nationality have changed since the attainment of Independence in 1947. Now that India has combined nationality with independent statehood, it will be wrong to deny to India the character of a full-fledged nation. True it is that there still exist some physical diversities in the form of different races, languages and religions but the Indians of today are of a different make. They are now a free people who have united themselves under the banner of a sovereign Socialist Secular democratic republic which recognises the equal rights of all men irrespective of caste, colour or creed and whose avowed objective is to build up a secular state comprising the Hindus, Buddhists, Muhammadans, Sikhs, Christians who have united together as Indians. Unity in diversity has been the main feature of Indian civilization and this ideal today has found expression through the newly created state of the Indian Union. If the U.S.A. or Switzerland be a nation, then India of today must needs be a nation.

Principle of One Nation, One state : Its Influence on practical Politics. Nationality consists in certain sentiments and ideals which a group of men cherish in common. It is in the last analysis, the consciousness of kinship among one group against the people of another group. The growth of this group sentiment and ideal may therefore be best promoted by giving them scope for establishing an independent political organisation of their own. This explains one of the main characteristics of modern age that people belonging to a particular nationality claim to have their own government organised according to their free will. This tendency of group development implies independent development of each distinct group of sufficient permanence and with enough of tradition. Each such distinct group is to acquire a national character and to have an opportunity for developing its own form of government.

It expresses the ideal "One nation, One state". If states are organised on the basis of this principle, every distinct nationality will have its own independent government and every state will comprise one nationality only. Every nationality will then be in a position to develop on its own line without being unduly influenced by a superior power and much of the quarrels and misunderstanding among different nationalities will die out. J. S. Mill was a staunch upholder of the ideal of mononational states. In his 'Representative Government', he says that, "It is in general a necessary condition of free institutions that the boundaries of governments should coincide in the main with those of nationalities."

Growth of the Principle of 'One nation, One State'.

The principle of nationality therefore produces an integrating as well as a disintegrating tendency. Thus while, on the one hand, it tends to unite a group of men together, it produces, on the other, a separatist tendency. The principle is of comparatively recent origin although in the ancient groups of men, the sentiment of nationality existed in a rather crude form. Ancient unity was fed more by kinship, religion and tribal feeling than by an active desire for political freedom. In the Middle Ages, the feudal system was unfavourable to the growth

of national unity inasmuch as the imperfectly developed feeling of nationality was quite insignificant in comparison with the preponderating interests of the feudal kings. Hence it was not the interests of the nationality rather the interests of the rulers which used to determine the boundaries of states and policies of rulers. The Renaissance which followed feudalism strengthened to some extent the solidarity of the states into which Europe was divided but this solidarity was used more for consolidating the authority of the established dynasties than for substituting the sovereignty of the people for the sovereignty of the ruler.

Of the factors contributing to the growth of the national sentiment, special mention must be made of the great Italian nationalist Machiavelli whose writings kindled the flame of nationalism not only among the Italian people but influenced the nationalist movement in other countries as well. During the whole of the sixteenth and seventeenth centuries, the sentiment of nationality as embodied in the will of a group sought to make its influence felt by the government in every country and in general there were certain forces at work which gave it a new vitality. "The influence of education and general enlightenment," says Garner, "together with the development of political consciousness and love of liberty, were not the least of these."

The *Partition* of Poland in the latter part of the eighteenth century transformed the ideal from a mere sentiment to an active force in practical politics. The fault of Poland was that in an age of dynastic absolutism, she maintained a system of elective monarchy which was forcibly terminated by the rulers of Austria, Prussia and Russia. But the partition succeeded only in destroying the body and not the soul which began to wander in search of a body in which to begin life over again! The flaming fervour of patriotism which inspired the Poles to launch a ceaseless struggle for restoring their independent political existence succeeded in establishing an independent state of their own after the conclusion of the First World War.

The *French Revolution* followed by Napoleonic conquests contributed in no small measure, to the growth of the sentiment of nationality. The French Revolution with its clarion cry of 'Liberty, Equality and Fraternity' made people conscious of their inherent rights while Napoleonic conquests united like groups of people to stand up for their individual as well as their collective rights. But unfortunately the problem of nationality did not receive its due share of attention from the peace-makers who assembled in the Vienna Congress after the defeat of Napoleon.

The old Russian, German, Austro-Hungarian and Turkish empires contained many nationalities whose desire for political freedom was ruthlessly crushed by the sovereign power. But during the nineteenth century, the ideal took a different turn. The spirit of self-determination was so long a sentiment, at times very strong, but since 1848, it became an active force and burst out in the form of several revolutions which helped create the new states of Belgium, Greece, Serbia, and Rumania. The First World War was fought, it is said, to make the world safe for democracy and the right of nationalities acquired a new meaning and a renewed impetus in its application to practical politics.

President Woodrow Wilson stressed the necessity of the application of the principle in the re-organization of states and as a result of the application of the principle to practical politics, new national states sprang up into existence out of the ruins of the old polynational states. Thus the Baltic states of Estonia, Latvia, Lithuania, Finland and the Central European states of Poland, Czecho-Slovakia, Yugo-Slavia came into existence.

But the Versailles peace-makers recognised the claims of the nationalities of Europe but completely ignored those of the down-trodden nations of Asia and Africa. Dissatisfaction is contagious and soon after the outbreak of the Second World War, practically the whole of the East was lit up with fires of nationalism. India, Burma, Ceylon, Indonesia, Egypt and a few others emphatically put forward their claims. Thus the right of a nationality to self-expression and self-development which was so long a monopoly of the civilized whites was extended to the Afro-Asian peoples.

Right of Self-determination.

The sentiment of nationality, as has been pointed out above, involves a separatist tendency which finds expression in the claim of every nation to exercise the **right of self-determination.** Self-determination is therefore the direct outcome of the nationalistic spirit which through centuries of its struggle for active expression at last came to be recognised. The right implies that each nation has an inherent right to be completely independent or at least "to be accorded a large political autonomy" where it forms part of another nation in the same state. In its extreme form the right means that each nationality should form a single state and a state will contain only people of one nationality. "Self-determination". President Wilson observes "is not a mere phrase ; it is an imperative principle of action, which statesmen will henceforth ignore at their peril." Self-determination is essentially based on a democratic ideal inasmuch as it recognises the claim of a group of people to determine its own form of government. The right of self-determination is therefore mainly a problem of reshuffling the existing states on a new national basis and the question is whether it would be practicable or at any rate desirable for all existing states.

The right of self-determination, however, should not be carried to far. Mill advocated the theory of mono-national states but he admitted that this ideal was not always applicable to practical politics. There are several limitations to the right of self-determination. In the first place, natural barriers like high mountains, roaring oceans and impassable forests may separate one part of the people from the other and prevent their union under a common sovereign. Thus the different nationalities are so intermingled with one another in many states that it is almost impossible to organise each of them into a separate state. But what was considered neither desirable nor practicable a century ago is now considered not only desirable but also practicable under stress of circumstances. Several cases of large scale exchange of population took place during the period after the First World War. An exchange of population was effected between Turkey and Greece at the initiative of the Turkish leader Kemal Ataturk. Exchange of population also took place between Germany and Poland, between Germany and Czecho-Slovakia and in recent years the world witnessed a migration of population on a gigantic scale that preceded and followed the partition of India into Pakistan and Indian Union. *Secondly,* political, economic and cultural unity may, at times, prove stronger than the unity of race or religion. Switzerland is a case in point. *Thirdly,* if the right of self-determination is granted to every nationality without reservation, it will lead to the dismemberment of some of the old existing states of Europe. The unrestricted recognition of this right will create 68 states in Europe in place of the 28 states of today. Thus England and Switzerland, each will be split up into three. The right, if pushed to fantastic extreme, will encourage the emergence of many minor groups called nationalities

as fragments of a nation. The worst form in which the tendency has revealed itself in some countries is that it places exaggerated importance upon the differences between man and man and in this way local institution and provincial history and culture are studied with veneration and declining and moribund languages are revitalised with great zeal with the result that it intensifies group jealousy. Thus the Czechs, Slovaks and Slovense in Czecho-Slovakia, the Jews and Arabs in Palestine and in the Karens in Burma claim the right. The economic and financial problems arising out of undesirable separation have proved almost baffling to both India and Pakistan. *Fourthly,* the creation of small and weak states is likely to aggravate mutual jealousy and to make war more frequent. *Fifthly,* self-determination may be a moral right but not a legal one because this is inconsistent with the true theory of sovereignty. The grant of the right depends not so much on the will of the dissentient nationality as on the sovereign state of which it forms a part. This point was clarified and recognised by a committee of Jurists appointed by the League of Nations on the question of separation of Aaland Islands from Finland in 1920. Lastly, it is not always true to say that mono-national states are better governed than polynational states. On the contrary, backward and incapable people may gain great advantages by coming in contact with an advanced people under the same sovereignty. The achievements of Switzerland containing men of diverse nationalities give a lie direct to Mill's proposition that "Free institutions are next to impossible in a country made up of different nationalities." But the right should be granted in cases of forceful annexation of one state by another. Thus the grant of independence to the Poles, the Czechs, the Irish, the Indians and the Burmese should not be considered as acts of mere concession on the part of the givers but a move in the right direction towards the cause of peace and the advancement of the common civilisation of mankind. The right of self-determination should also be extended to those nationalities which constitute a substantial fraction of the population of a country, although the right is not recognised as a legal right.

Other Rights of Nationalities.

(i) *Right to exist*—The right of self-determination may not always be conceded to all nationalities but all writers agree that nationalities have other important rights which, under no circumstances, should be denied to them. The 'first and most natural' of those rights is the right to exist. The right to exist implies that no attempt, direct or indirect, should be made by the sovereign state either to denationalise them or to suppress the individuality of the nationalities. Every nationality should be allowed to maintain its corporate existence.

(ii) *Right to language*—Common language promotes national unity and therefore it is considered to be a moral right of a nationality to retain and speak in its native language and to use it as a medium of instruction to children and also as the medium of expression in their Literature. But it should be noted that a nationality forming a small proportion of a state cannot claim the use of their language for state purposes.

(iii) *Right to local laws and customs*—A nationality may have a right to preserve its local laws and customs provided such customs and laws are not contrary to the prevailing moral sense or the policy of the state. After the conclusion of the First World War, the League of Nations was authorised to look after the interests of small nationalities through its mandates Commission.

(iv) *Right to Legal and Political equality*—Lastly, the members of a national minority in a state should be accorded legal and political equality. Equal protection under the law, the right to vote and the right to hold public offices, if properly qualified, should be granted to all citizens irrespective of race, religion or nationality. But it should be noted that no claim to special privileges for safeguarding minority interests should be entertained.

Nationalism, Imperialism and Internationalism.

(i) *Nationalism*—Nationalism is usually defined as a sentiment of a nation but in reality, it is more than a mere sentiment. Originating in the gregarious instinct of man and nourished by the rational desire for self-government, nationalism has come to be an active force in practical politics. As Lord Morley remarks, Nationalism "from instinct became idea, from idea, abstract principle, then fervid prepossession; ending where it is today in dogma, whether accepted or evaded." Nationalism promotes the feeling that every man owes his first and last duty to the nation and that the nation-state is the ultimate unit of human organisation. It is this belief in the ultimate unity of a like group of men which led to the disruption of many multi-national states giving rise to too many states on a mono-national basis. Thus it brought freedom to the Italians, the Poles, the Czechs, the Indians and a host of others.

Nationalism is therefore a democratic ideal inasmuch as it is opposed to all those forces which impede the growth of group-personality. If individual liberty is recognised as a precious possession for the fullest development of all that is good in the individual, there is no reason why should not the liberty of a nation be considered so ? If each nation gets the opportunity of perfecting its own system of law, civilization and culture, each will be in a position to contribute its best to enrich the common stock. The world as a whole will be benefited by such mutual give and take. Thus nationalism is a great liberalising force which unifies and elevates and seeks to preserve and promote all that is best in a nation. It breeds self-confidence in a nation and self-confidence is the foundation of constructive activity.

(ii) **Dangers of Nationalism—Imperialism**

Nationalism is a great force which attracts like groups but repels groups that are unlike. It has thus the double aspects of altruism and egoism. The separatist tendency inherent in nationalism has given rise to two serious evils. Within the nation itself, it sometimes reveals itself in the form of a parochial patriotism which accentuates the difference between man and man by placing an exaggerated importance on local institutions, moribund languages and provincial history and culture, the effect of which is that many minor groups, called nationalities, spring into existence as fragments of a nation.

But the most serious evil to which nationalism is a prey has arisen out of modern capitalism. Nationalism developed in an age of self-sufficiency of states finds it difficult to maintain its position when no nation is self-sufficient,—when no nation can either produce or consume all that it requires. The growth of mammoth industries for the production of capital goods, consumer goods and war materials has made it necessary for every state to find out a market or markets where to buy raw materials and to dispose surplus goods for a profit. This economic motive coupled with the desire for more political power led to the

conquests of colonies and dependencies in various guises. Thus the whole of Asia and Africa fell under the greed of nationalism of the West. In the heat of their scramble for colonies, these Western powers indulged in all sorts of mutual recriminations culminating in devastating wars. This form of nationalism derives its justification and support from a ready-made philosophy which teaches people not to defy the state and enjoins upon them the duty of passive obedience to the state. It also seeks to console the unfortunate colonial people by such high-sounding phrases as 'Politically weak and incapable people must submit to the guidance and tutelage of the stronger and more endowed nations.' This is the philosophy which lent countenance to the German push towards the East, the Italian conquest of a part of Africa, the expansion of England throughout the world and the divine mission of Japan. The latest phase in which this form of nationalism has manifested itself is international in its scope and seeks to dominate other nations economically through devices like Lease and Lend, Marshall plan and the like with the knowledge that economic dependence will, in the end, cripple the political freedom of small nations, reducing them to subservient satellite states.

Thus nationalism organised as the nation-state produces what is known as chauvinism or bellicose nationalism. This deserves unqualified condemnation from all. The evil effects of perverted form of nationalism are that it creates hostilities between groups, supports militarism cramps progress and makes a powerful nation more powerful. It produces a feeling that the laws and civilization of one's own country are superior to those of others and may therefore be rightly imposed upon a politically weak and incapable people. This gives rise to what is called imperialism.

Imperialism means a creed which believes in a single system of government, irrespective of different races, countries, civilization and culture. It implies the existence of numerous groups of men using in different lands a uniform system of law and government. The essence of imperialism is 'unification and assimilation'. Imperialism may be justified only when it is helpful to a backward people in their forward march to economic and political progress.

Imperialism is the foster child of aggressive nationalism. In its worst form, as it has revealed itself in the West, it stands for war, forcible domination and ruthless exploitation of the weaker peoples of the world by the stronger. It is a danger to man and a menace to civilization.

The evils of imperialism may, to a great extent, be combated by striking a mean between nationalism and imperialism and this can be effected through *federalism*. Federalism implies the ideal of a decentralised state with independent regional governments. This is the only form of government which can suit the requirements of a big state.

Imperialism and National Liberation Movement.

Excess of any idea, thought or action is suicidal in its nature. When an idea, thought or action is carried to its extreme it produces a reaction equal in intensity and opposite in direction. In the same way, imperialism when it took its worst form received a death-blow not only from within but also from outside. Imperialism breeds mutual distrust, rivalry and recrimination among imperialist powers culminating in devastating wars which cripple the imperialist powers in man power and money and taking advantage of this situation, uprisings and revolts of the colonial people put an end to their imperialistic greed. This is the story behind the fall of all imperialist powers. The imperialist powers may defer the

evil day but they cannot defer it for all times to come. Thus Great Britain and France outlived the consequences of the First World War but they had to stoop to their fate after the Second World War.

National Liberation Movement means the efforts made by a people to free themselves from foreign political and economic domination. It is an united effort on the part of a people for self-expression and self-development against the process of ruthless denationalization, oppression and exploitation of a powerful foreign nation. The struggle for freedom by the Indians to win freedom from British domination is a case in point. Freedom movement is contagious. It has become more so because of the development of the quick means of communication. Thus the French revolution drew its inspiration partly from the American War of Independence, freedom movement in India inspired Burma, Ceylon and some other Asiatic people and above all, the Russian Revolution awakened the exploited people of the whole world to a new political consciousness and a new sense of values.

Liberation Movement in Europe—The old Russian, German, Austro-Hungarian and Turkish Empires contained many oppressed nationalities. The liberation movement by some of these oppressed nationalities succeeded in giving them freedom. These were Belgium, Greece, Serbia and Rumania. The First World War brought freedom to the Baltic States of Estonia, Latvia, Lithuania., Finland and the Central European states of Poland, Czeco-Slovakia, and Yugoslavia. But the greatest national liberation movement took place in Russia in 1917. The Russian Revolution was unique having no parallel in the history of the world. The revolution was directed not against any foreign imperialist power but against the age-old tyranny and stagnation of czarist imperialism. The revolution not only succeeded in destroying the old regime but also in 'creating a new class-less state with a new generation of men with new thoughts and ideas—social, political and economic. The revolution was also international in its impact. The national liberation movement gathered considerable strength during the concluding period of the Second World War. The success of the Russian Revolution of 1917 and the defeat of Germany and Japan by the allied powers mainly through the cooperation of the Soviet Union gave an impetus to the oppressed nationalities of Asia, Africa and Latin America.

Liberation Movement in Asia—The first semi organised battle for national liberation was perhaps fought in India in 1875 against British imperialism. The British rulers in India called it 'Sepoy Mutiny' but it was in reality an armed uprising of a colonial people to throw off the British Yoke. Although the mutiny failed and produced little impact outside India it succeeded in uniting the different communities in India and the armed revolt became a source of inspiration to the future liberation movements in India.

National Liberation Movement in India may be said to have begun since 1885, the year in which the Indian National Congress came into existence. But since 1885 to 1917, the year of Mohan Das Karam Chand Gandhi's entry into politics, the liberation movement had practically no activity in achieving the desired goal. It will not be out of place here to make a brief reference to the Boycott movement started mainly in Bengal by Sir Surendranath Banerjee. The movement, though feeble and local in its scope, prepared the people for greater sacrifices and sufferings in future and also succeeded in annuling the partition of Bengal.

Joining Congress, Gandhiji helped to organise the unorganised masses, to forge Hindu-Muslim unity and to awaken the political consciousness of the people. In these respects, he was nearly successful. Gandhian movement was by phases, such as non-violent, non-co-operation, Civil disobedience, violation of Salt law and the like always avoiding the path of violence. But there were dissidents led by Netaji Subhash Chandra Bose. He thought that non-violence was not enough, it must be strengthened and supplemented by the application of force. So Bose took to the violent methods. Within India, his followers caused extreme harassment to the British rulers by terrorist activities. During the Second World War Bose escaped from India, joined the fascist powers and raising an independent liberation army from among Indian prisoners of war at Singapur, he came with his army through Burma and hammered at the gates of India. The British army fled. But the sudden surrender of Japan to the allied powers upset his whole programme. But British rule in India came to its end. India became a sovereign democratic socialistic republic. Now the question is—who brought freedom for India. Whether it is the crushing blow given by Hitler to Britain or Gandhiji's movement or Bose's unique struggle—it is only the future that can tell. Although India is free, yet full social, political and economic freedom for all classes of her people has not been secured. Because of their geographical contiguity to India and at times parts of India, Burma and Ceylon also became free practically without any struggle.

Inspired by the ideals of Soviet communism, China, Vietnam, Korea, Cambodia waged a relentless struggle against imperialism. Peoples Republic of China was established in 1949 by driving out the Japanese invadors and then by defeating the re-actionary forces of Chiang-Kai-Shek, an agent of the Anglo-American bloc. Before that, with the defeat of Japan, Vietnam became free in 1946 and North Korea became an independent socialistic state in 1953 by defeating fascist Japan and imperialist U.S.A. North and South Vietnam subsequently united together to form a one Vietnam. Indonasia also won freedom after a hard struggle against imperialist Holland.

Liberation Movement in Africa—Excepting Ethiopia, practically the whole of the African continent was a victim of European imperialistic greed. The liberation movement in African countries began even before the First World War. The African nations supported the allied powers in both the world wars with tne hope that they would get freedom after the wars, but they were duped both the times. They then realised that freedom would not come as a matter of concession from anybody but it was to be wrested by hard struggle. A relentless struggle against the imperialist powers brought freedom by 1960 to seventeen African nations and the number is on the increase. In 1963, the liberated nations established an organisation of African unity and every year its membership is increasing. Thus Algeria, Angola, Kenya, Nigeria, etc. are no longer in bondage.

Liberation Movement in Latin America—The story of the liberation movement in the countries of Latin America is not the same as in those of Asia and Africa. Most of the states of Latin America like Chili, Peru, Argentina, Cuba, etc. suffer not from political domination but from the ruthless economic exploitation of the U.S.A. which control the entire economic structure of these countries. The U.S.A. buys raw materials from these countries at a low rate but sells its finished goods at a much higher rate in these countries. But things are fast changing in Latin America. The landless cultivators and labourers have been

organised to hasten the end of this American exploitation and hegemony. In Peru, Bolivia, Columbia and more especially in Cuba, people's republics have been formed by driving out the American sponsored governments.

But liberation of a country is meaningless unless it can bring peace, prosperity and progress for all its people. Liberation is necessary for a suppressed people for self-determination and self-development. For these purposes the liberated nation should mainly depend upon its internal resources and avoid as far as possible foreign aid in the manner in which the Soviet state did in the early years of its many-sided development. Too much dependence on foreign capital and foreign technical aid brings in its train foreign control over the economic development of the liberated state. Foreign Capital and technical aid are available only under certain terms and conditions imposed by the lending country upon the borrowing country and it very often happens that the terms and conditions imposed are likely to impair not only the economic freedom but also the political freedom of the borrowing country. It is in this way that most of the liberated states have come under the sphere of influence either of the U.S.A. or of the Soviet Union.

(iii) *Internationalism*—Nationalism may be the first and foremost ideal in the political life of a nation but it is certainly not the last or ultimate ideal for which a nation should strive. The world is inhabited by numerous nations and one nation is separated from the other by reason of its racial, linguistic, religious, cultural and economic differences. These disunities among nations breed mutual jealousy and hatred and finally these lead to armed conflicts among nations resulting in a serious breach of international peace and security. If nations are frequently involved in destructive wars, the possibility of progress in the different fields of national life is hampered and with it the enrichment of the common civilization of mankind by the contribution of individual nation recedes farther and farther. So the ideal of internationalism is a vital necessity for creating an atmosphere of peace and security for all nations. The aim of internationalism is to foster a spirit of friendliness, good neighbourly feeling and cooperation among nations in place of jealousy, hatred and mutual recrimination culminating in armed conflicts which destroy the benefits of civilization already gained. Internationalism does not mean that national sovereignty of states is to be surrendered to a world-organisation but what it really means is that the national state without impairing its sovereign authority should come in contact with one another, should cooperate with one another and decide matters of common interest by common consent. The relationship among nations should be one of friendliness and cooperation not marred by jealousy and armed conflicts. It is only in such an atmosphere that both nationalism and internationalism may grow side by side.

Internationalism is not purely a political ideal but a spiritual or moral ideas as well. It has a lofty aim inasmuch as it seeks to secure peace for all nations and for all times. The object of internationalism consists first in the outlawry of war and secondly in the removal of the disabilities and sufferings of the weak nations of the earth. It preaches the ideal of a federation of world-states based on the principle of universal brotherhood of nations.

Internationalism is promoted by international morality, international law and international trade. Moral laws vary from age to age and from place to place but there are certain common principles of morality which hold good universally in all ages. These common codes of morality regulate to a great

extent, the mutual intercourse of different nations. International law enforces the right of equality among all states and thus paves the way for co-operation between small and big states. International trade brings a state in contact with other states and produces a feeling of mutual inter-dependence among states themselves. It is the idea of sovereign state that militates against the ideal of internationalism.

Internationalism is not hostile to the spirit of nationalism as is generally supposed to be. It implies the idea of a federation of world-states which, at the same time, recognises the inherent rights of every nation to its fullest self-expression and self-development. The essence of internationalism is 'the recognition of their freedom to preserve their distinct languages, culture, etc., in order that all causes of all conflicts among nations may be minimised.' Internationalism does not, therefore, oppose the idea that we belong to ourselves but what it opposes is its perversion, namely, we do not belong to you. It is only the wholesome effects of the right type of education that can lead to a fuller and better understanding among different nations. It is only on the basis of mutual trust and goodwill that the edifice of internationalism can be built.

SUMMARY

Nationality :

Primarily the term 'state' is a political concept, while 'nation' is an ethic concept. Nationality is subjective, while statehood is objective. Nationality is a condition of mind : Statehood is a condition of law.

Nation and Nationality :

Common racial origin, common language or religion or community of economic and political interests are not good tests of the existence of a nation. These are physical conditions which no doubt promote the sentiment of nationalism. A common memory and a common ideal—these more than a common blood—make a nation.

It is very difficult to say to what extent these bonds of unity exist in India. India presents unity in diversity and there are unmistakable signs of a growing national feeling in India and this feeling has succeeded in securing freedom for India.

One Nation, One State :

The principle of nationality was disregarded by the Congress of Vienna (1815) and since then the sentiment had been steadily gathering strength. To-day its claim to form new law-states on national basis is almost irresistible. Every nation tends to organize itself into a state. The principle was accepted by the Versailles Peace Conference after the conclusion of the First World War. After the conclusion of the Second World War, the peoples of the East succeeded in winning their lost freedom.

Right of Self-determination :

The right of every nationality to organize itself into a state is known as the right of self-determination. But this right is not absolute. The creation of too many weak states is likely to disturb international peace. Besides, small nations cannot possibly organize independent states of their own. An independent state of the Welsh people without England and Scotland is almost unthinkable.

Poly-national states are not necessarily weak. On the other hand, there is more popular freedom in poly-national states. Inferior races and old and decaying nations may make progress by living under one government with races intellectually superior. The U.S.S.R. is a case in point.

Nationalism and Internationalism :

Nationalism, in its pure form, implies for one's own country. But when the love which one group of people feels for their country leads them to differentiate their interests from those of other communities, it degenerates into its perverted form. Egoistic nationalism breeds imperialism and prompts one nation to seek its interest at the cost of others. Thus imperialism is the mother of war. Federalism can check the tendency to imperialistic greed of nations by the establishment of a common government at the centre. Internationalism is the highest political ideal inasmuch as it seeks to establish perpetual peace by the avoidance of war and by preventing the domination of the weak by the strong. 'Live and let live' is the ideal of internationalism.

National Liberation Movement :

Many a people of Europe, Asia, Africa and Latin America were victims to the imperialist greed of Western powers of which Great Britain occupied a priority of position. The British overseas colonies and dominions became so vast that at one time the sun never set in the British Empire. The unfortunate colonial people groaned under object poverty due to ruthless exploitation by the colonial power. They lost their political and economic freedom and were subject to oppression and repression. The Russian Revolution, 1917 brought to these oppressed people the first message of deliverance from slavery. During and after the conclusion of the Second World War, struggle for regaining their lost freedom began and ultimately most of the people of these four continents succeeded in wresting freedom from the imperialist powers.

QUESTIONS

1. What is meant by Nationalism ? Is the idea of Nationalism compatible with the existence of an International Order ? Give reasons for your answer. (C. U. Hon, 1952)
2. Discuss the value and limitation of Nationalism as a Political Ideal. (C. U. Hon, 1954, 1982)
3. Discuss the factors that create a sense of unity in a state. (C, U, 1954)
4. (*i*) "The state creates the nation."
   (*ii*) "The Nation creates the State." Discuss. (C. U. 1954)
5. What is meant by the doctrine of self-determination ? Discuss in this connexion the value and limitations of the doctrine. (C. U. 1958, 1961)
6. What are the implications of the Ideal of Nationalism ? How far do you agree with the view that this Ideal is "necessarily wrong and obstructive to progress ?" (C. U. Hon, 1957)
7. What are the essential factors that tend to constitute a group of people into a nation ? How does a nation come into being in a country of diverse nationalities ? (C. U. 1959)
8. Discuss the doctrine of nation-state and indicate the nature of its crisis in the contemporary world. (C. U. B.A. Hons, 1966)
9. Explain fully : "Self-determination is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril". (President Wilson's address to the Congress.) (C. U. B.A. 1968)
10. "Nationalism is a plain highway to Internationalism." Discuss the statement. (C. U. 1973)
11. Distinguish between a state and a nation. What are the principal elements of nationality ? (C. U. 1975)
12. Trace briefly the origin of the ideal of nationalism. (C. U. 1985)
13. Analyse the relation between Nationalism and Internationalism. (C. U. 1982, 1990)
14. Is nationalism contradictory to internationalism ? Give reasons for your answer. (C. U. 1986, 1988)
15. Make out a case for and against the theory of the Right of Self-determination. (C. U. 1994)

CHAPTER 9

CITIZENSHIP

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E. M. White—Philosophy of Citizenship.
V. S. S. Sastri—The Rights and Duties of the Indian Citizen.

Definition and Character. The term *citizen* is used in various senses. Literally, it means the resident of a city who enjoys certain privilege of such residence. Thus we speak of citizens of Calcutta or Bombay, meaning those persons who live there and enjoy the rights which are conferred upon them by their membership of the cities. The Greeks and the Romans lived in tiny states called city-states and an inhabitant of a city who had the leisure and ability to actively participate in the functions of the state was called a Citizen. Women, slaves and some others were not regarded as citizens. To the Greeks, citizenship meant far more than the mere membership of a modern state. Citizenship was a function and almost a profession with the Greeks. But modern states have vast area with an equally vast number of population. The word *citizen* is now used in a wide sense. It includes all those who permanently reside in a country and owe permanent allegiance to the state regardless of their political function. Thus the modern conception of citizenship is more extensive but less intensive. The modern state has no exacting conception of citizenship like the ancient city-state. Mr. Justice Miller of the Supreme Court of the U.S.A. says, "Citizens are the members of the political community to which they belong. They are the people who compose the state and who in their associated capacity have established or subjected themselves to the dominion of a government for the protection of their individual as well as their collective rights."

Beneath the literal sense in which the word *citizen* has been defined above, there is a deeper significance associated with it. Modern writers like Laski attribute to it certain qualities which, though not as intensive as the ancient conception, have redeemed the modern citizen from the status of a mere sleeping partner of the state. The citizen in a modern state, according to these writers, is to play his part actively in the life of the community if he seriously deserves the name. His function is to give and take. He must receive all that is necessary to equip himself as a citizen and give back to the community all that promotes common well-being of the community. There is a tendency in modern times to identify citizenship with patriotism. But patrotism is not enough. The citizen must, above all, develop two virtues—virtues of toleration and moderation. Toleration enables the citizen to pay due regard to the opinion of others who do not share his views. It enables him to look upon every question from a disinterested point of view. The loyalty of the citizen to the state should not be allowed to prejudice his attitude towards others. The only thing against which the good citizen should wage a relentless war is injustice and inhumanity. Modern citizenship "is in the nature of a series of concentric circles." A citizen is a member of the family, a member of the village or town in which he lives, a member of the occupation which gives him bread, a member of the country and above all a member of humanity at large. He must adjust his relation to each of these

groups in such a way that his loyalty to one may not come in conflict with that of the other. The rights of a citizen, as has been remarked by an eminent author, seem to be affected by the law of diminishing returns. The emphasis today is more and more on his duties. It is in "the contribution of one's instructed judgment to the public good" that the essence of citizenship lies.

Citizen and Subject. Sometimes a distinction is made between a subject and a citizen. A citizen is defined as one who enjoys full civil and political rights while a subject is one who is not entitled to any political rights. The distinction is not a real one, *first,* because of the fact that the state is sovereign over all ; its control is unlimited over all individuals regardless of their civil and political status. *Secondly,* the word *subject* has been used in history to describe the relation between the absolute king and those whom he ruled. But in modern democracies, such a relationship hardly exists and therefore the employment of the word *subject* is quite unnecessary. But it should be noted here that in spite of the progress of the democratic ideal, the word is still used in connection with those people who have no independent political status, e.g., the Indians before 1947.

Citizen and Elector. A distinction is sometimes made between a citizen and an elector. An elector is a person who has the right to vote. But there may be citizens who are not electors and electors who are not citizens. The son or the wife of a citizen is a citizen but he or she may not be an elector. In the U.S.A., there are many electors in the component states who are not citizens. Citizenship cannot therefore be identified with the right to vote.

Citizen and Alien. An alien is a foreigner who temporarily resides in a state of which he is not a member. A citizen of a state is one who resides in the state and is subject to the state in all matters. Both receive the protection of law in respect of their life and property in the state they inhabit. Both must obey the laws and pay rates and taxes. An alien cannot expect protection when he goes outside the state in which he temporarily resides. But the interests of a citizen will be looked after by the state not only at home but even when he is abroad. A citizen is subject to the laws of conscription while an alien cannot be forced to serve in the army. An alien may be expelled from the state for misconduct but a citizen cannot be expelled from his own state. But the most important point of distinction between the two is that aliens do not enjoy the same political privileges as citizens do. Thus a foreigner in England can buy property, can sue and be sued but he cannot exercise franchise either Municipal or Parliamentary, or hold any office or sit as a juror.

Citizen and National. Sometimes a distinction is also made between a citizen and a national. A citizen is one who enjoys full civil and political rights but a national is one who is a citizen, owes allegiance to the state, is subject to the control of the state both at home and abroad but has no voting right. Nationals therefore constitute that portion of the citizens of a state on whom the state, for some reasons or other, has not conferred the right to vote. The bulk of the population of a modern state, according to this definition, consists of nationals and not citizens.

Modes of Acquisition of Citizenship. There are three principal methods of acquiring citizenship, viz., (*a*) by birth, (*b*) by naturalisation, and (*c*) by the

annexation of foreign territory. Those who are born as citizens are called natural citizens and those who acquire citizenship by formal grant of a state are known as naturalized citizens.

There are two principles by which citizenship by birth may be acquired. One is called *Jus Sanguinis* (rule of blood relation), and the other *Jus Soli* or *Jus Loci* (rule of place of birth). According to *Jus Sanguinis*, the citizenship of a child is determined by the citizenship of his father irrespective of the place of birth. France, Italy and some other states follow this principle. The principle of *Jus Soli* lays down that the citizenship of a child is determined by the place of birth, irrespective of the citizenship of his or her father. The principle of *Jus Soli* is followed by the Argentine Republic. According to this principle, children of citizens born abroad become aliens and children born of alien parents within the territory of the state become citizens. England and the United States, however, follow both the principles. They apply the principle of *Jus Sanguinis* to their own citizens and *Jus Soli* principle to aliens. Thus citizens born abroad of United States are American citizens *Jus sanguinis*, while children born in the United States of alien parents are American citizens *Jus Soli*. This difference in the principles governing citizenship sometimes gives rise to cases of double nationality. Thus, if a child is born of French parents in America, he will be claimed both by France and by America. The position of a citizen with double nationality is anomalous and he may be called upon to serve in the army simultaneously by the two states in times of war. In the interest of the citizen concerned, it is desirable that his nationality should be clearly determined. Very often, the citizen is allowed the option of choosing one nationality, renouncing the other when he attains manhood. Such conflicts are also decided by states by refusing to recognise the status of a person as a citizen, so long as he remains abroad.

The second method of acquiring citizenship is by *naturalisation* which, in its broad sense, includes the conferment of citizenship on a foreigner through the process of *legitimation, adoption, marriage, appointment as a government official, the purchase of real estate* or *annexation of foreign territory* and *grant on application*, i.e., naturalisation proper.

Legitimation is a method by which citizenship is conferred on illegitimate children. A woman by marrying a foreigner loses her former citizenship and acquires the citizenship of her husband. The acceptance of service under a foreign government is regarded by some states as the acquisition of new citizenship. Purchase of land in a state often entitles an alien to apply for citizenship.

A distinction must be drawn between *naturalisation* and *denization* which are provided by the English law of naturalisation. A certificate of naturalisation is granted to a foreigner in accordance with the act of Parliament, while denization is conferred by the Crown by letters patent. A denizen cannot enjoy all the political privileges conferred on the naturalized citizen. He cannot be a member of Parliament or take any grant of land from the Crown. A denizen occupies a position intermediate between a natural-born citizen and an alien.

Conditions of Naturalisation. An alien is admitted as a citizen in a state on his fulfilling certain conditions, which are, of course, not uniform in all states. The general rule is that an alien must reside in a country for a prescribed period of time and he must be of good moral character. The period of residence is five years both in England and in the U.S.A., but the residential qualification is reduced

or not required at all under special circumstances. Working knowledge of the language of the state is sometimes insisted upon.

The effect of naturalisation is that a foreigner is placed on a footing of equality with natural-born citizens. He is entitled to all the civil and political rights enjoyed by a natural-born citizen. But some states make a distinction between a natural-born and a naturalised citizen. In the United States of America, a naturalised citizen cannot hold the offices of the President and the Vice-President. The U.S.A. Government have also enacted laws to the effect that only 'White person and persons of African descent' may apply for naturalisation. Thus the law excludes the Indian, the Chinese and other Asiatic races from being naturalised in the U.S.A. The U.S.A. Government have, however, in recent years, been persuaded to make some relaxation in favour of Indians seeking to be naturalised there, thanks to the untiring efforts of some of the Indian residents in the U.S.A. As a result of this, a limited number of Indians are being every year formally granted U.S.A. citizenship mainly on the basis of long-term residence. Severe restrictions have been imposed on the Indians in the matter of acquiring citizenship by the British Self-governing Dominions. The anti-Indian legislation passed by the Union Government of South Africa is the worst of its type and is wholly unworthy of a civilized government.

Loss of Citizenship. Citizenship may be lost in various ways. A woman loses her citizenship by marrying a foreigner. *Secondly,* acceptance of service under a foreign government may lead to the loss of original citizenship. ***Thirdly,*** desertion from the army of a state may lead to the forfeiture of citizenship. *Fourthly,* a person may lose his original citizenship by long and continued absence from his native state. *Lastly,* a person may voluntarily resign his citizenship of one state and adopt a new one. This is known as *expartriation.*

Hindrances to Good Citizenship. Bernard Shaw remarks, "Liberty means responsibility." The imposition of restraint on liberty means the imposition of duties and conscientious discharge of duties constitutes the essence of citizenship. The principal obstacles to the proper discharge of civic duties are (*a*) indolence, (*b*) private self-interest, and (*c*) party-spirit.

(*a*) *Indolence* is the greatest enemy to the exercise of civic duties. A citizen may lapse into idleness and fail to discharge his duties in connection with public affairs. He may not exercise his voting rights and may not do justice to his duties as a public official. The indolent habit is partly due to the consciousness that he is only one of the many and even if he fails in his duties, there are others who will do the public business. Such indolence should be overcome by every citizen.

(*b*) The second hindrance to good citizenship is the motive of *self-interest* which is very difficult, on the part of many, to overcome. The private interest of a citizen may at times be at variance with the interests of the community. But if the citizen cannot exercise self-control but seeks to promote his own interest, the interest of the community is sure to suffer. Thus very often, citizens sell their votes to unscrupulous candidates who offer them the highest price for their votes and thus help the corruption and degeneration of public life by the election of unworthy men to responsible offices.

(*c*) *Party-spirit* also acts as a serious obstacle to the growth of good citizenship. Political parties have come into existence in the wake of democratic governments. But we must not be blind to their evil influences. True it is that

democracy depends for its success on well-organised party system but the unhealthy rivalry between different parties tends to vitiate the political atmosphere of the country. People are very often misled by political leaders who do not hesitate to adopt underhand means and to betray the cause of the whole nation with a view to promoting their own interests.

Remedies. Modern governments are fast drifting towards democratic forms and democracy, for its success, requires a band of alert, intelligent and public-spirited citizens. But the growth of good citizenship is impeded by the hindrances mentioned above. It is therefore essential that these hindrances should be removed. The virtues that go to make a good citizen are *intelligence, self-control* and *conscience.* These must be thoroughly instilled into the citizens. Unless a citizen is inspired by these ideals, he cannot be alive to the responsibilities that devolve upon him both in his capacity as a private citizen and a public official. Bryce suggests a two-fold remedy, viz., (*a*) constitutional reforms and (*b*) development of national character. A reform in the structure of the government, though an external remedy, may go a long way in awakening a civic consciousness in the citizens. Extension of franchise, more frequent elections, introduction of referendum, initiative and recall will make the citizens conscious of their rights and induce them to take increasing interests in public affairs. The development of national character is perhaps the best remedy for removing the hindrances to good citizenship. They should be taught the right ways of thinking and living. It is only the liberalising influence of a system of broad-based education that can improve the faculties of citizens and make them fit for taking their place in the life of the community. Right type of education, by dispelling the mist of ignorance, helps the citizens learn proper civic conduct. "The seed of education will ultimately yield a harvest in the field of politics, though the grain may be slow in ripening." Popular government, in the true sense of the term, does not mean government by the ignorant masses, but it is a government conducted by the intelligent and well-meaning people.

Citizenship in a Federal State.

There are two sets of government—national and regional—in a federal state and it is only natural that citizens in a federal state owe a double allegiance. They are to obey the laws enforced by both the governments and pay the taxes levied by both.

This double citizenship is more prominent in the case of the U.S.A. citizenship than in any other country. In addition to state citizenship which is determined solely by residence, every person has a federal citizenship which can neither be denied nor minimised. In the case of double citizenship where citizens are required to obey two distinct authorities, as in the U.S.A., a question naturally arises as to which of the two is prior and more important. The fourteenth amendment of the U.S.A. constitution has clearly defined the status of the U.S.A. citizens. This amendment has laid down that all inhabitants of the U.S.A. are primarily federal citizens and state citizens only secondarily. The acquisition and loss of federal citizenship are determined by special federal laws while state citizenship can be acquired or lost by mere change of residence.

Citizenship in the Swiss federal republic is dependent primarily on citizenship of a Canton. Any person acquiring the citizenship of a Canton automatically becomes a citizen of the Swiss Republic. So in Switzerland, priority

and importance have been given to Cantonal citizenship while federal citizenship is only secondary.

According to the Weimar constitution of Germany federal citizenship was given priority and precedence over state citizenship.

In the Soviet Union, the citizens are primarily Soviet citizens and the laws governing acquisition and loss of citizenship are framed by the Central Government. The Soviet citizens are local citizens only for electoral purposes.

Citizenship in India is extremely unitary and centralised. In India, no other citizenship excepting Indian citizenship is recognised by the constitution. A person may move from place to place within the country but change of residence will not affect his political status in any respect as in the U.S.A. Laws governing the acquisition and loss of citizenship are enacted solely by the Union government the states having no share in it.

It is claimed on behalf of the Indian system that under the system of single citizenship as it obtains in India, there is hardly any scope for discrimination between citizens in the matter of conferring voting rights or making appointments to govenrment offices. But in countries having a double citizenship, each state may discriminate against the citizens of other states.

SUMMARY

I. *Definition and Character.* A citizen is a member of a body politic and enjoys both civil and political rights attached to such membership. He has also duties to the state. Citizenship now means more than mere membership of a state. A citizen in a modern state is now expected to do some useful services to the community.

II. *Citizen and Subject.* The distinction between the two has lost all practical importance with the growth of the democratic ideal, though the term *subject* is sometimes used to denote the status of a subject people as the Indians before their attainment of independence.

III. *Citizen and Elector.* The two should not be identified. An elector is a voter but he may not be a citizen. The son of a citizen is a citizen but not necessarily an elector.

IV. *Citizen and Alien.* An alien is a foreigner who enjoys full civil rights but not all political rights. A citizen enjoys all civil and political rights and is subject to the state in all matters.

V *Citizen and National.* A citizen is one who enjoys all the rights but a national enjoys all other rights excepting the right to vote.

VI. *Modes of Acquisition of Citizenship.* Citizenship may be acquired by birth, by naturalisation and by the incorporation of foreign territory. The acquisition of citizenship by birth is governed by the *Jus Sanguinis* and the *Jus Soli principles.* According to the former rule, the citizenship of a child is determined by that of his father, according to the latter, place of birth determines the citizenship of a child. The difference in the application of the rules may give rise to double nationality of a citizen who has, of course, the right to renounce one.

VII. Citizenship may also be acquired by naturalisation which includes a variety of methods, *viz.*, marriage, legitimation, purchase of land etc. Naturalisation proper implies the grant of citizenship on a foreigner on his fulfilling certain conditions. A naturalised citizen enjoys almost all the rights of a natural-born citizen.

VIII. *Loss of Citizenship.* Citizenship may be lost by marriage, by long absence, by deserting the army, or by voluntary withdrawal.

IX. *Hindrances to Good Citizenship.* The hindrances to good citizenship are indolence, private self-interest and party-spirit.

X. *Remedies,* These may be removed by the introduction of democratic methods such as compulsory voting, referendum and initiative and also by a proper system of liberal education imparted to citizens.

XI. *Citizenship in a Federal State.* A citizen in a federal state owes a double allegiance —allegiance to the national government at the centre and to the state in which he resides. In the U.S.A, federal citizenship is primary and more important and state citizenship is only secondary and may be acquired or lost by change of residence. In Switzerland, citizenship is primarily Cantonal and a citizen of a Canton automatically becomes a citizen of the federal republic. In the U.S.S.R., the citizens are primarily Soviet citizens, In India more than anywhere else, there is a single citizenship, viz., Indian citizenship which is determined solely by laws enacted by the Union government.

QUESTIONS

1. Differentiate between People, Citizens, Subject and Electors. (C. U, 1925)
2. What do you understand by a citizen ? In what way is the position of citizen superior to that of an alien ? What important differences concerning the acquisition of citizenship exist in the laws of various states ? (C. U. 1930)
3. What are the hindrances to good citizenship ? How can you remove them ?
4. Distinguish between a natural-born and a naturalised citizen. What are the elements of good citizenship ?
5. "Citizens born abroad of United States are American citizens *Jus Sanguinis,* while children born in the United States of aliens are American citizens *Jus Soli.*" Explain the statement and show how conflicts of jurisdiction are adjusted.
6. Name and distinguish between the two principles of determining citizenship by birth. (C. U. 1975)

CHAPTER 10

LIBERTY, EQUALITY AND RIGHT

References :

J. S. Mill—On Liberty.
Laski—Liberty in the Modern State.
Laski—Grammar of Politics, Chs. III, IV.
R. H. Tawney—Equality.
Joad—Liberty Today.
E. Barker—Principles of Social and Political Theory, Ch. IV.

Meaning.

The word liberty has been used in so many senses that it led the famous French writer Montesquieu to remark : "There is no word that admits of more various significations, and has made more different impressions on the human mind, than that of *liberty*." It is therefore necessary to explain the contexts with reference to which the term is generally used.

(a) Natural Liberty. Natural liberty is often identified with the right of an individual to do whatever he likes without any regard to the rights and claims of others. In this sense, liberty means nothing but licence. The doctrine of natural liberty is closely connected with the idea of law of Nature which assumes that Nature is the embodiment of universal law. The general rules of human action are based upon the law of Nature as interpreted by human reason and conscience. Thus the doctrine of natural liberty was considered as conferring some inalienable rights on man and was used as a moral check on the authority of a ruler. The advocates of the theory of natural liberty point out that man is by nature free and they quote Rousseau in support of their theory. "Man is born free ; and everywhere he is in chains." They therefore argue that increasing control of government leads to the curtailment of the original rights of man. But the protagonists of the theory of natural rights forget the fact that even Rousseau had to admit the necessity of creating by means of a contract a civil society where man "gains civil liberty and proprietorship of all he possesses" in exchange of "his natural liberty and unlimited right to everything he tries to get and succeed in getting" in the state of nature. The people may have certain fundamental rights but it would be going too far to assert that liberty of an individual is absolute. This is the most unscientific use of the term *liberty* which implies unrestricted freedom of the individual. Liberty is impossible in a state where there is no restraint.

(b) Civil Liberty. The term is also used to mean civil liberty which implies freedom of action of the individuals in respect to personal action. The state guarantees to the individual certain rights, viz., the possession and use of one's property, religious belief, freedom of thought and expression of opinion. These are rights which the individuals seek to safeguard both against the government and other individuals. Private law of a state protects the civil liberty of an individual from encroachment by other individuals while the liberty of the individual is safeguarded by the public laws of the state from undue interference by

the government. Civil liberty, in English-speaking countries, implies the idea of rule of law but in France and on the Continent, civil liberty is guaranteed by a separate law regulating the conduct of public officials known as the Administrative law. Civil liberty is upheld by all democratic states but in times of war or revolution when the safety of the state is at stake, these may be curtailed or even abrogated.

(c) Political Liberty. It implies the rights of the people to participate in the affairs of the state. Leacock calls it constitutional liberty which denotes the right of having a share or a voice in the administration of the country. The right to vote at elections, the right to hold public office, the right to form political associations, etc. are the items of political liberty. The Indians could not so long enjoy full political liberty as they were under the subjugation of a foreign power though at present they are a free people. Only a truly national government can ensure this type of liberty. But it must be borne in mind that political liberty in the absence of economic equality is held to be a mere myth. In England, more than half the national income is enjoyed by only 10 p.c. of the population and the remaining 90 p.c. have to live upon less than half the national income. In such a country, political devices like universal suffrage, freedom of the press and the like cannot give real freedom to the people who have been reduced to zero as a result of the great disparity of wealth.

(d) Economic Liberty. The late President Roosevelt of the United States of America emphatically stated that the post-war reconstruction of society and government must be based on freedom of speech, freedom of religion, freedom from want and freedom from fear. Economic liberty means not only the right of choosing one's occupation, but also freedom from want and freedom from fear. Prof. Laski has also stressed the importance of securing economic liberty to all. The present system of distribution of wealth enables the few to roll in riches while the majority languish in poverty. If starvation constantly stares a man in the face in spite of hard work, if he is constantly haunted by the fear of unemployment and if his livelihood depends on the whims of an unsympathetic employer, liberty will be meaningless to such a man. It is the duty of the state to ensure to every individual not only a minimum but a decent standard of living. Economic liberty, according to Laski, presupposes a condition of society where 'there must be sufficiency for all before there is superfluity for the few." Economic liberty consists in the right to work, the right to reasonable hours of work and reasonable wages, and the right to unemployment benefits when the state fails to provide employment to its citizens. It also implies a share in determining the conditions of work. Without economic liberty there can be no civil and political liberty.

(e) National Liberty. National liberty implies the independence of a nation from outside control. When a country is free from foreign control, it can enjoy national liberty. It is only national liberty which can ensure political liberty to the citizens. As India so long did not enjoy national liberty, the Indians could not enjoy full civil and political liberty. Political liberty is thus intimately connected with, and dependent on national liberty.

Contradiction in the Nation of Liberty.

Liberty is thus a composite concept which signifies the difference in status of the individual in relation to society. The principal forms of liberty are civil,

political and economic and each form denotes a number of privileges which an individual enjoys under a particular relationship. Thus while civil liberty enables an individual to enjoy freedom of action in respect to personal action, political liberty confers upon a man the right to participate in the affairs of the state. Economic liberty implies the right of a person to have a share in the determination of his wages and the conditions of his work.

Thus civil liberty is personal inasmuch as it is claimed by the individual in his capacity as an individual. Political liberty is public because it is claimed by the individual in his capacity as a citizen. Lastly, economic liberty is enjoyed by an individual in the capacity of a worker. The complex character of liberty will be apparent from the fact that a person in his capacity as an individual is not always different from a person either as a citizen or a worker. Yet the three forms may come in conflict with one another. The quarrel between law and liberty may be reconciled but the intra-liberty quarrel is incapable of a satisfactory solution. Freedom of speech and freedom of the press are important civil liberty but they may be curtailed or even withdrawn if in the opinion of the government, these civil liberties are calculated to undermine law and order in the country. In this specific case, civil liberty of a person or group of persons come in direct conflict with the political liberty of another group which constitutes the government. In the same way, civil liberty and economic liberty may quarrel with each other and conflicts between these two forms of liberty have become a prominent feature of modern industrial life. The employer's civil liberty to employ labour on dictated wages and condition of work is very often challenged by the economic liberty of the labourer which consists in the right to have some share in the determination of wages and other conditions of work. A quarrel between civil and economic liberty unless mutually resolved may invite the intervention of the guardian of political liberty, i.e., the government which may resolve or aggravate the quarrel or itself may be involved in it.

Law, Liberty and Authority. Having discussed the different aspects of liberty, let us now examine its true nature and significance. The word *liberty* is derived from the Latin word *liber* meaning free. In popular sense, liberty means unrestricted freedom to do as one likes. But this is a serious misconception of liberty. The unrestricted power of a person to do as he likes is fraught with dangerous consequences. It will usher in a regime of licence for the more powerful few and no liberty for the many weak. In order that all may enjoy liberty, it is necessary that some restraints must be placed on the freedom of actions of every person. John Stuart Mill in his famous essay *On Liberty,* explains the principle thus "the only freedom which deserves name is that pursuing our own good in our own way so long as we do not attempt to deprive others of their or impede their efforts to obtain it." Liberty therefore in its nature involves restraint because the liberty of one cannot be the negation of liberty of another. Thus liberty in the true sense of the term means the freedom of action granted to the individual by the state on condition of his allowing others to enjoy the same liberty.

Thus conceived, liberty is not incompatible with the authority of the state nor is liberty always in inverse ratio to the amount of state legislation. Liberty is possible only in an ordered state. The state, by defining and setting limits to the liberty of each, helps secure and guarantee liberty to all. The state makes laws which place restraint on the absolute freedom of action of individuals. Law therefore converts licence into liberty. Had there been no law and no authority

to make and enforce law, there would be no liberty for all but only for the favoured or the powerful few. Liberty, as has been pointed out by an eminent writer, is a social conception and as such it cannot exist without social restraint. These restraints are formulated and enforced by the state in the form of so many rules of our social conduct by which liberty is made available to all members of society. The state has been vested with sovereign power for the purpose of exacting obedience to its laws which are agencies for protecting the liberty of its citizens. Thus conceived sovereignty and liberty are not contradictory terms. The state is therefore the guardian of liberty inasmuch as laws are sustained by the state. The state confers liberty upon its citizens by means of its laws and protects it also with the help of laws. Thus law protects and promotes individual liberty in three different ways. *First,* law protects the liberty of the individual from invasion by others and *secondly,* it prevents individual liberty from being unduly interfered with by the authority of the government. Private law of the state defines and regulates the rights enjoyed by the citizens against one another while public law protects the rights which the citizens enjoy as against the state. *Thirdly,* law creates and fosters certain conditions of social life which are conducive to the fullest development of the personality of the individual. Thus modern civilised states enact factory laws, laws regarding sanitation, education and health, all of which are calculated to promote the real liberty of the individual. So it is said that *law is the condition of liberty.*

Liberty in the Modern State. Liberty, as has been said above, "is the eager maintenance of that atmosphere in which men have the opportunity to be their best selves." Now the extent to which citizens in a modern state enjoy liberty depends on the sincere effort made by the state to create and maintain that atmosphere in society in which men are in a position to be their best selves, i.e., to develop their personality according to their natural aptitude.

In countries where democracy has been replaced by dictatorship, liberty of the individual becomes the first victim. Dictatorship is essentially based on force and by the application of force, it suppresses all fundamental rights of citizens including freedom of thought and expression, freedom of movement and correspondence, and freedom of association without which the development of the personality of the individual is impossible. Instead of creating an atmosphere in which men get free scope for development, dictatorship creates an atmosphere of fear, suspicion and intrigue which tend to dwarf the mind and intellect of its citizens who are ultimately reduced to the position of slaves. Leaving aside the case of dictatorship which does not even pretend to be either the guardian or the promoter of liberty, let us turn to modern democracies which claim to be welfare states—a term which has very recently come into vogue although it has as yet no clear-cut definition. In almost all democracies, the fundamental rights of the citizens, civil political and economic, have found place in the sanctuary of the constitution and have been zealously guarded and protected. But whenever any of these fundamental rights guaranteed by the constitution comes in conflict with the power that be, the government does not hesitate to suspend or even to abrogate these rights in order to maintain its power, position and prestige. Besides, in almost all democracies, young or old, the executive has become so powerful that it can ride roughshod over the rights of the people.

Theoretically, it cannot be denied that citizens in a modern democracy have been given full freedom of thought and expression but the question is can they make them effective. Can they bring the pressure of their opinion to bear

upon the power that be? There is not only a strong opinion on a national basis in every country but also a very strong international opinion against the manufacture and use of atom and hydrogen bombs but has this opinion been able to stop this suicidal practice of the powerful governments of the world. The democratic states have adopted so many un-democratic devices by means of which they can influence public opinion in their favour or can stifle it altogether.

Lastly, modern governments, democratic or dictatorial, are based on, and supported by, political parties. Party propaganda through the agencies of the Press, Platform, the Radio and the T. V. has not only stifled the growth of an independent public opinion in a state but has induced people to swallow the opinion which the party in power chooses to supply. Modern democracies claim to be welfare-states and on the basis of this claim, the state exercises a sort of paternal control over the citizens by regulating all the aspects of their life, public as well as private. In such a mechanical atmosphere, freedom of thought and expression cannot possibly grow. The process of regimentation of social life may have its beautiful aspect but when it is made to subserve the interest of the ruling coterie, it is likely to defeat the end of the state.

Liberty and Equality. The ideals of liberty and equality are the foundations of modern democracy. But really they are the two aspects of the same thing. We have already examined the nature of liberty; let us now discuss what is meant by equality and its relation to liberty.

In the popular sense of the term, equality means that all men are equal and are therefore entitled to equality of income and treatment. But this is a wrong use of the term. Equality does not mean identity. It does not mean that all men are equal or that they should be made equal. No two men are alike in any respect, either in body or mind. Men are born with different capacities and aptitudes and therefore it would be wrong to equalise them. Equality, in its true sense, means that equal opportunities should be given to all, irrespective of race, influence or wealth. The state should make no discrimination between man and man. It should grant equal civil and political rights to all. Equality therefore implies equal treatment by the state. In its negative aspect, it means absence of special privileges. The existence of special privileges for the few means a negation of the principle of equality.

In its positive aspect, equality means that the state should provide adequate opportunities for all so that every one is able to develop his ability to the fullest extent. Equality implies an order of society in which none will enjoy special privilege by reason of his birth or status in society and none will be deprived of his right to receive an education according to his aptitude. In short, equality does not mean identity of treatment; what it really means is equal opportunities for all.

Thus conceived, there can be no antagonism between the ideals of liberty and equality. True liberty cannot exist in the absence of equality. Similarly, equality is impossible without liberty. Civil liberty is secured to all only when all are equal in the eye of law, when the law of a country makes no distinction between man and man. The recognition of equal political status of all citizens —rich or poor—is the first condition of political liberty. The principle of 'one man, one vote' is an accepted dogma which helps secure the political liberty of all citizens. As Bentham says, "In the division of power and of happiness, at which democracy aims, each must count for one, and no one for more than one." Equality is thus the basis of liberty.

Origin of the Ideal of Equality and its Application to Modern States.

The movement to equalitarianism took considerable time to grow. In the past, men lived under conditions of utter inequality which was recognised as natural and inevitable. Citizenship, in ancient times, was confined to a leisured privileged class. Later on, the advocates of natural inequality of men harnessed the services of newly developed sciences, such as, biology, eugenic and social psychology in support of their doctrine. The doctrine of equality had to be developed by its advocates on the basis of the similarities between man and man to counteract the prevailing practice of inequality.

The stoic philosophers were the first to release the idea of equality which was subsequently supplemented and strengthened by the Roman jurists. Christianity spread the idea of universal brotherhood of man. The doctrine of equality received a great impetus from the philosophies inculcated by Locke, Voltaire, Rousseau, Jefferson and Tom Paine. The American, the French and the Russian Revolutions also marked a great step in the direction of equality. Thus inequality as a fact in the past has almost become a fiction in modern times.

The claim to equality in the face of inescapable inequalities of men is based on historical as well as on moral ground. As it has been pointed out by Prof. Ritchi, the doctrine of equality is the direct descendant of its opposite number, viz., inequality which existed in the ancient societies in the form of citizens and slaves, nobles and commons. The principle of equality therefore arose out of the protest of the many against the privileges of the few.

Judged from the ethical point of view, the ideal of equality has its origin in the fact that all men are equal in so far as they possess rationality and in this respect man is more like a man than he is like beast. Man can look before and after and this separate him from the animal world and connects him with his fellow-beings. In actual life, it may be that one man is mentally and morally far inferior to his neighbour owing to lack of opportunity for developing his rationality to the fullest extent, but is it not the moral duty of his more rational fellow-men to pull him up to their level ? At least, the common interest of humanity demands that all men should think rationally and act rationally, for, when men learn to think and act on right lines, the causes of all conflicts between man and man, between nation and nation will be removed.

Granted the principle of equality is recognised by modern societies, the question is how far the ideal has been realised in modern states. Equality is a condition precedent to liberty which has been defined by Laski as "the eager maintenance of that atmosphere in which men have the opportunity to be their best selves." The opportunity must therefore be made available to all to the extent to which it is necessary for men to be their best selves. Equality interpreted in terms of opportunity, implies equality not in one aspect but in all aspects of social life. In other words, it implies social, political, legal and economic equality.

Social equality—It implies the idea that no man should suffer from any disability by reason of his birth or no one should enjoy a special privilege on account of his pedigree. The division of society into so many castes, each distinguished from the other not only by dress, drink and manner of living but also by the range of privileges possessed by one and denied to others, is a negation of the principle of equality. A caste system based purely on hereditary principle without any reference either to function or merit militates against the